To amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.
Mr. Hastings of Florida, Ms. Kaptur, Ms. Eddie Bernice Johnson of Texas, Mr. Carson of Indiana, Mr. Adler of New Jersey, Mr. Meek of Florida, Ms. Kilroy, Mr. Ryan of Ohio, Mr. Massa, Mr. Foster, Mr. Towns, Mr. Ortiz, Ms. Roybal-Allard, Ms. Velázquez, Mr. Rush, Mr. Hodes, Mr. Clyburn, Mr. Boswell, Mr. Mollohan, Mr. Michaud, Mr. Kissell, Mr. Pascrell, Mr. Melancon, Mr. Becerra, Mr. Delahunt, Ms. Wasserman Schultz, Mr. Inslee, Mr. Pallone, Mr. Bocchieri, Mr. McHugh, Mr. Driehaus, Mr. Honda, Mr. Clay, Mr. Oberstar, Mr. Tonko, Ms. Waters, Mr. Schauer, Mr. Visclosky, Mr. Miller of North Carolina, Mr. Rangel, Mr. Space, Mr. Lucán, Mr. Crowley, Ms. Moore of Wisconsin, Mr. Stark, Ms. Jackson-Lee of Texas, Ms. Schwartz, Mr. Baca, Mr. Pastor of Arizona, Mr. Fattah, Mr. Hoyer, Mr. Larson of Connecticut, Ms. Watson, Ms. Loretta Sanchez of California, Mr. Price of North Carolina, Mr. Sires, Mr. Smith of New Jersey, Mr. Larsen of Washington, Ms. Fudge, Mr. Meeks of New York, Ms. Norton, Mr. Thompson of Mississippi, Mr. Baird, Ms. Kosmas, Mr. Dicks, Mr. Bishop of Georgia, Mr. Heinrich, Mr. Courtney, Mr. Teague, Mr. Murtha, Ms. Harman, Mr. Van Hollen, Mr. LoBiondo, Mr. Reyes, Mr. Himes, Mr. Obey, Mr. Boucher, Mr. Kanjorski, Mr. Holden, Mr. Salazar, Mr. Arcuri, Mrs. Diahlekemper, Mr. Skelton, Mr. Altmire, Mr. Connolly of Virginia, Mr. Gonzalez, Mr. Rodriguez, Mr. Moran of Virginia, Mr. Kagen, Ms. Markey of Colorado, Ms. DeGette, Mr. Pierluisi, Ms. Herseth Sandlin, Ms. Speier, Mr. Thompson of California, Mr. Donnelly of Indiana, Mr. Watt, Mr. Sablan, Mr. Sestak, Ms. Berkley, Mr. Davis of Alabama, Mr. Faleomavaega, Mr. Polis of Colorado, Mr. Perlmutter, Mr. Costa, and Ms. Titus) introduced the following bill; which was referred to the Committee on Education and Labor.

A BILL

To amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

1. Be it enacted by the Senate and House of Representa-

2. tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Employee Free Choice Act of 2009”.

SEC. 2. STREAMLINING UNION CERTIFICATION.

(a) IN GENERAL.—Section 9(c) of the National Labor Relations Act (29 U.S.C. 159(c)) is amended by adding at the end the following:

“(6) Notwithstanding any other provision of this section, whenever a petition shall have been filed by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a majority of employees in a unit appropriate for the purposes of collective bargaining wish to be represented by an individual or labor organization for such purposes, the Board shall investigate the petition. If the Board finds that a majority of the employees in a unit appropriate for bargaining has signed valid authorizations designating the individual or labor organization specified in the petition as their bargaining representative and that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the Board shall not direct an election but shall certify the individual or labor organization as the representative described in subsection (a).

“(7) The Board shall develop guidelines and procedures for the designation by employees of a bargaining representative.
representative in the manner described in paragraph (6).

Such guidelines and procedures shall include—

“(A) model collective bargaining authorization language that may be used for purposes of making the designations described in paragraph (6); and

“(B) procedures to be used by the Board to establish the validity of signed authorizations designating bargaining representatives.”.

(b) CONFORMING AMENDMENTS.—

(1) NATIONAL LABOR RELATIONS BOARD.—Section 3(b) of the National Labor Relations Act (29 U.S.C. 153(b)) is amended, in the second sentence—

(A) by striking “and to” and inserting “to”; and

(B) by striking “and certify the results thereof,” and inserting “, and to issue certifications as provided for in that section,”.

(2) UNFAIR LABOR PRACTICES.—Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended—

(A) in paragraph (7)(B) by striking “, or” and inserting “or a petition has been filed under section 9(c)(6), or”; and

(B) in paragraph (7)(C) by striking “when such a petition has been filed” and inserting
“when such a petition other than a petition
under section 9(e)(6) has been filed”.

SEC. 3. FACILITATING INITIAL COLLECTIVE BARGAINING
AGREEMENTS.

Section 8 of the National Labor Relations Act (29
U.S.C. 158) is amended by adding at the end the fol-
lowing:

“(h) Whenever collective bargaining is for the pur-
pose of establishing an initial agreement following certifi-
cation or recognition, the provisions of subsection (d) shall
be modified as follows:

“(1) Not later than 10 days after receiving a
written request for collective bargaining from an in-
dividual or labor organization that has been newly
organized or certified as a representative as defined
in section 9(a), or within such further period as the
parties agree upon, the parties shall meet and com-
mence to bargain collectively and shall make every
reasonable effort to conclude and sign a collective
bargaining agreement.

“(2) If after the expiration of the 90-day period
beginning on the date on which bargaining is com-
menced, or such additional period as the parties may
agree upon, the parties have failed to reach an
agreement, either party may notify the Federal Me-
mediation and Conciliation Service of the existence of
a dispute and request mediation. Whenever such a
request is received, it shall be the duty of the Service
promptly to put itself in communication with the
parties and to use its best efforts, by mediation and
conciliation, to bring them to agreement.

“(3) If after the expiration of the 30-day period
beginning on the date on which the request for me-
diation is made under paragraph (2), or such addi-
tional period as the parties may agree upon, the
Service is not able to bring the parties to agreement
by conciliation, the Service shall refer the dispute to
an arbitration board established in accordance with
such regulations as may be prescribed by the Serv-
ice. The arbitration panel shall render a decision set-
tling the dispute and such decision shall be binding
upon the parties for a period of 2 years, unless
amended during such period by written consent of
the parties.”.

SEC. 4. STRENGTHENING ENFORCEMENT.

(a) INJUNCTIONS AGAINST UNFAIR LABOR PRACT-
ICES DURING ORGANIZING DRIVES.—

(1) IN GENERAL.—Section 10(l) of the National
Labor Relations Act (29 U.S.C. 160(l)) is amend-
ed—
(A) in the second sentence, by striking “If, after such” and inserting the following:

“(2) If, after such”; and

(B) by striking the first sentence and inserting the following:

“(1) Whenever it is charged—

“(A) that any employer—

“(i) discharged or otherwise discriminated against an employee in violation of subsection (a)(3) of section 8;

“(ii) threatened to discharge or to otherwise discriminate against an employee in violation of subsection (a)(1) of section 8; or

“(iii) engaged in any other unfair labor practice within the meaning of subsection (a)(1) that significantly interferes with, restrains, or coerces employees in the exercise of the rights guaranteed in section 7;

while employees of that employer were seeking representation by a labor organization or during the period after a labor organization was recognized as a representative defined in section 9(a) until the first collective bargaining contract is entered into between the employer and the representative; or
“(B) that any person has engaged in an unfair labor practice within the meaning of subparagraph (A), (B), or (C) of section 8(b)(4), section 8(e), or section 8(b)(7);

the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred.”.

(2) CONFORMING AMENDMENT.—Section 10(m) of the National Labor Relations Act (29 U.S.C. 160(m)) is amended by inserting “under circumstances not subject to section 10(l)” after “section 8”.

(b) REMEDIES FOR VIOLATIONS.—

(1) BACKPAY.—Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by striking “And provided further,” and inserting “Provided further, That if the Board finds that an employer has discriminated against an employee in violation of subsection (a)(3) of section 8 while employees of the employer were seeking representation by a labor organization, or during the period after a labor organization was recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract was entered into
between the employer and the representative, the Board in such order shall award the employee back pay and, in addition, 2 times that amount as liquidated damages: Provided further,”.

(2) Civil penalties.—Section 12 of the National Labor Relations Act (29 U.S.C. 162) is amended—

(A) by striking “Any” and inserting “(a) Any”; and

(B) by adding at the end the following:

“(b) Any employer who willfully or repeatedly commits any unfair labor practice within the meaning of subsections (a)(1) or (a)(3) of section 8 while employees of the employer are seeking representation by a labor organization or during the period after a labor organization has been recognized as a representative defined in subsection (a) of section 9 until the first collective bargaining contract is entered into between the employer and the representative shall, in addition to any make-whole remedy ordered, be subject to a civil penalty of not to exceed $20,000 for each violation. In determining the amount of any penalty under this section, the Board shall consider the gravity of the unfair labor practice and the impact of the unfair labor practice on the charging party, on other
persons seeking to exercise rights guaranteed by this Act,
or on the public interest.”.