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STATE SECTORAL BARGAINING ACT

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF _____ :

Section 1. Legislative Findings and Purpose.

The Legislature finds that:

1. Income inequality in the United States is among the highest in the developed world, precarious employment has risen, and wage growth has stagnated, especially for low-wage workers, despite rapid growth in productivity. Among the causes of wage stagnation includes the decline of unionized workplaces.
2. Unionization and collective bargaining benefit workers by increasing wages, providing better benefits, and improving working conditions. While collective bargaining provides workers a voice in their workplace, it also benefits employers by improving productivity and predictability, increasing worker morale and retention, reducing workplace conflict, and creating a more stable and positive relationship between workers and employers.
3. Despite this, union density and collective bargaining coverage under the existing system of Employer-Level Bargaining is alarmingly low, and the existing system of collective bargaining is ill-positioned to address fissured workplaces, complex employment relationships, and industry-wide challenges such as automation and the use of artificial intelligence.
4. Sectoral Bargaining is intended to complement and strengthen employer-level collective bargaining, not to replace, undermine, or derogate those rights. Nothing in this Act shall be construed to diminish any right to organize, bargain collectively, or engage in concerted activity guaranteed by the National Labor Relations Act or any other applicable federal or state law, and Sectoral Bargaining agreements shall function as a floor upon which employer-level collective bargaining agreements may improve.
5. The State has a legitimate and substantial interest to displace labor market competition by authorizing and supervising Sector- and industry-wide standard-setting processes to improve the long-term economic health of this State, improving workforce quality, promoting workplace democracy, and encouraging employers to invest in workers without facing downward pressure from non-unionized workplaces.

The purpose of this Act is to increase worker power and self-determination and improve wages and working conditions by establishing a mechanism for sectoral bargaining in which employers, including public employers, and workers may jointly propose minimum industry standards under active state supervision. This

44 mechanism will exist alongside traditional Employer-Level Bargaining. This
45 mechanism will have the effect of displacing some labor market competition, which
46 is necessary to meet the goals of the act.

47 **Section 2. Definitions.**
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- 49 1. **“Covered Employer”** means any entity, including a Public Employer,
50 operating in a Sector with respect to any Covered Worker whose performance
51 is not completely free from the entity's control or direction.
- 52 2. **“Covered Employer Representative”** means one or multiple
53 representatives of Covered Employers that are certified by the State Labor
54 Standards Board to bargain on behalf of Covered Employers and may include
55 representatives from Employer Associations as defined below.
- 56 3. **“Covered Worker”** means an employee or other worker whose performance
57 is not completely free from the control or direction of a Covered Employer,
58 regardless of their classification or status, less and who works in a Sector
59 that has been petitioned for by a Union or Worker Organization that has
60 been certified by the State Labor Standards Board to bargain on behalf of
61 Covered Workers, excluding any worker who acts in a managerial capacity or
62 who has the authority to suspend and discharge other workers.
- 63 4. **“Covered Worker Representative”** means one or multiple representatives
64 of Unions or Worker Organizations that are certified by the State Labor
65 Standards Board to bargain on behalf of Covered Workers.
- 66 5. **“Employer Association”** means an organization of multiple Covered
67 Employers, often in the same Sector, that has representatives certified as
68 Covered Employer Representatives to bargain collectively with Covered
69 Worker Representatives at the sectoral level.
- 70 6. **“Employer-Level Bargaining”** means collective bargaining which takes
71 place between an individual Union and an individual employer at the unit
72 level, at one or more worksites, or at the enterprise-level of the company.
- 73 7. **“Individual Employment Contract”** means an employment contract
74 between an employer and an individual worker that is not reached through
75 collective bargaining.
- 76 8. **“Labor Standards Board” or “Board”** means the State Labor Standards
77 Board established in Section 3.
- 78 9. **“Public Employer”** means the State or any political subdivision or
79 jurisdiction thereof, any wholly owned state government corporation, but
80 shall not include the United States.
- 81 10. **“Sector”** means a group of workers and their associated employers and
82 representatives who share one or more of the following criteria: industry,
83 occupation, product line, service line, geography, key job characteristics like
84 skills or certifications, or another clear and distinct common interest.
- 85 11. **“Sectoral Bargaining”** means collective bargaining that takes place
86 between one or more representatives of Covered Workers and one or more
87 representatives of Covered Employers.

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- 88 **12. "Sectoral Minimum Standard"** means a standard established by an
89 agreement negotiated via Sectoral Bargaining or by the State Labor
90 Standards Board as set forth in Section 8.
- 91 **13. "Sectoral Prevailing Wage and Fringe Benefit Rate"** means a wage and
92 fringe benefit floor established by the Board, derived from collective
93 bargaining agreements covering at least 30 percent of Covered Workers in a
94 Sector, and determined to be just, reasonable, and protective against wage
95 suppression within that Sector.
- 96 **14. "Union"** means a labor organization that Covered Workers can form, join, or
97 assist to negotiate with their employers regarding wages, hours, and other
98 terms and conditions of employment.
- 99 **15. "Worker Organization"** means an organization that is not a Union that
100 organizes workers or engages in concerted activities with workers for their
101 mutual aid or protection, whose activities are free from employer
102 establishment, domination, control, support, and/or interference.

105 **Section 3. State Labor Standards Board.**

- 106
- 107 1. **Creation.** This Act hereby establishes an independent public agency known
108 as the State Labor Standards Board.
- 109 2. **Composition.** The Board shall consist of:
- 110 a. The Commissioner/Secretary of Labor or designee, who shall serve as
111 Chair.
- 112 b. Five additional members appointed by the Governor, including at
113 least:
- 114 i. Two persons selected from the general public;
- 115 ii. Two members with experience leading, organizing, or providing
116 services to workers as an officer, agent, or staff member of a
117 labor union, except that one may instead have experience
118 leading a Worker Organization or providing services to low-wage
119 workers as an officer, agent or staff member of a Worker
120 Organization; and
- 121 iii. One member with experience negotiating collective bargaining
122 agreements or working with labor organizations on behalf of an
123 employer.
- 124 3. **The Board's Role.** The Board shall implement, administer, and actively
125 supervise Sectoral Bargaining arrangements pursuant to this Act. In
126 carrying out its duties, the Board shall act on behalf of the State and exercise
127 its authority to review, approve, and disapprove Sectoral Minimum

128 Standards and to ensure that the displacement of market competition serves
129 the State’s goals of advancing labor peace and the public interest.

130 **a. General powers.** The Board shall have the power to resolve
131 disputes about duties, obligations, or requirements included within
132 this Act. It shall also have the power to monitor and enforce
133 compliance with the Act itself, to determine violations and remedies
134 related to those violations, and to determine any other matter arising
135 under this Act. In performing its duties, the Board may:

- 136 i. Conduct hearings and independent investigations or other fact-
137 finding processes;
- 138 ii. Issue administrative subpoenas to facilitate these investigations
139 or proceedings;
- 140 iii. Conduct independent research with the assistance of qualified
141 experts;
- 142 iv. Hire staff or consultants as reasonably needed to provide
143 expertise related to the preservation of competitive markets and
144 the maintenance of fair labor markets and working conditions;
- 145 v. Promulgate rules and regulations to implement the Act;
- 146 vi. Issue fines and fees as part of its enforcement activities.

147 **b. Support services.** The Board will, directly or indirectly, offer
148 services that:

- 149 i. provide general information about rights and obligations in
150 relation to Sectoral Bargaining agreements in order to
151 understand the requirements to become a bargaining party, the
152 content requirements for a proposed agreement, and the overall
153 bargaining process;
- 154 ii. provide information about what services are available for
155 persons (including Unions, Worker Organizations, Covered
156 Workers, Covered Employers, and Employer Associations) who
157 have disputes or conflicts related to Sectoral Bargaining
158 relationships;
- 159 iii. support bargaining parties throughout the process of bargaining
160 to ensure that it is constructive and efficient, including access
161 (at no cost) to independent financial experts to assess inability
162 to pay claims and independent technologists to assess assertions
163 about use of AI or other workplace technology; and
- 164 iv. assist parties in resolving any conflict in relation to bargaining
165 for the terms of a Sectoral Bargaining agreement, including by

166 offering mediation services or requiring submission to binding
167 arbitration, if necessary; however, nothing prevents the
168 bargaining parties from using private alternate dispute
169 resolution services, prior to potentially being directed.

170 **c. Review of actions that displace competition.** Where Covered
171 Workers and their representatives or Covered Employers and their
172 representatives take joint action that has the potential to displace
173 market competition, the Board has the power to examine the
174 appropriateness of the joint action and whether that action facilitates
175 the goals of this Act. During its examination, the Board may account
176 for current market conditions, including degrees of market
177 concentration in all related markets.

178 i. Joint actions that may merit investigation include, but are not
179 limited to: exclusion of an employer from an Employer
180 Association or Sectoral Bargaining negotiation; negotiation over
181 subjects of bargaining that may influence market conditions
182 outside of the labor market and collusive activity between
183 employers unrelated to Sectoral Bargaining.

184 ii. Where joint action between Covered Workers and their
185 representatives is covered or arguably covered by an existing
186 exception to the antitrust laws, the Board shall presume that
187 the joint action is lawful and furthers the purposes of the Act
188 unless clear evidence is presented to the contrary.

189 iii. Where joint action between Covered Workers and their
190 representatives arguably violates anti-competitive laws, the
191 Board shall make referrals to [relevant state agencies] or the
192 state Attorney General, as appropriate.

193 194 195 196 **Section 4. Funding**

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198 **1. Employer assessment.** To support the regulatory oversight activities of the
199 State Labor Standards Board and recover the cost of regulatory oversight,
200 enforcement, and administration, which shall supplement any funding from
201 general appropriations, each entity registered to do business in the State [cite
202 to business registration code] with one or more workers shall pay an annual
203 Administrative Labor Standards Assessment that is to be collected alongside
204 any business registration or renewal. Monies in the Fund shall be used solely

- 205 to support the regulatory oversight, enforcement, and administrative
206 activities of the State Labor Standards Board and shall not lapse to the
207 general fund at the end of any fiscal year.
- 208 **2. Amount of assessment:** The initial annual assessment shall be set at
209 \$[reserved] per Covered Worker.
- 210 **3. Adjustments.** On July 1 of each year after the passage of this Act, the Chair
211 of the Board may adjust the assessment amounts as needed, including but
212 not limited to increasing the assessment by the cumulative change in the
213 Consumer Price Index over the preceding year, effective upon registrations
214 and renewals as of each August 1.
- 215 **4. Exemptions.** Public Employers shall be exempt from this assessment.
- 216 **5. Use of Funds.** All revenue from the assessment shall be deposited into the
217 State Labor Standards Board Fund and used for its oversight,
218 administration, enforcement, or otherwise to advance the protection of
219 Covered Workers and implementation of this Act.
- 220 **6. Transparency.** Each year, the Board shall provide a publicly accessible
221 accounting of its use of funds.
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224 **Section 5. Covered Worker Rights**

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226 Covered Workers shall have the right to self-organization; to form, join, or assist
227 Unions, Worker Organizations, and other labor organizations; to bargain
228 collectively through representatives of their own choosing at both the sectoral and
229 employer levels; to engage in other concerted activities for the purpose of collective
230 bargaining, Sectoral Bargaining, or other mutual aid or protection. [These rights
231 apply to all Covered Workers to the extent the worker is not covered by the
232 National Labor Relations Act.]

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236 **Section 6. Worker Representation, Petitions and Thresholds**

237 **1. Petition(s) to Establish Sector.**

- 238 a. A Union or Worker Organization may file with the Board a petition
239 requesting recognition of a Sector for purposes of Sectoral Bargaining.
- 240 b. The petition(s) shall identify:
- 241 A. the proposed Sector;
- 242 B. the approximate number of Covered Workers; and
- 243 C. evidence of support sufficient to meet the thresholds set forth in
244 this Section.
- 245 c. The Board shall review the petition(s) to determine whether the
246 proposed Sector constitutes a reasonable and administratively

247 workable sector for collective bargaining. The Board shall determine
248 any petition proposing a Sector defined by the North American
249 Industry Classification System code to be reasonable. The Board may
250 solicit up to 30 days of public comment from the date upon which the
251 petition is filed, and shall approve the petition unless it determines
252 that the proposed unit is unreasonable and administratively
253 unworkable or that the petition is contrary to the Act.

254 d. The Board may issue guidance for defining sectors to ensure that
255 Sector definitions are clearly communicated to Covered Workers.

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257 **2. Initial Access Threshold.**

258 a. Where a Petitioner seeks initial access to workers before requesting
259 recognition, the Board shall review the request under the standard
260 established under Section 6(1) to determine whether the sector
261 constitutes a reasonable and administratively workable sector for
262 collective bargaining.

263 b. If the requirements of Section 6(1) are met, upon a showing to the
264 Board by the Petitioner that it represents or has demonstrated support
265 from at least 200 workers, or 5% of the workers in the proposed sector,
266 whichever constitutes fewer workers, the Petitioner shall be granted
267 Initial Access Rights as provided in this subsection.

268 c. Initial Access Rights shall include:

269 A. access to reasonable worker contact information, limited to
270 names, primary work locations, available employer-assigned
271 electronic addresses, and non-work email addresses and phone
272 numbers in the employers' possession.

273 B. a requirement that employers within the Sector provide all
274 Covered Workers with notice, delivered electronically where
275 available and additionally by worksite posting, within 3 days of
276 the granting of initial access rights, informing them of:

- 277 i. the threshold having been met;
- 278 ii. the workers' rights under this Act to engage in sectoral
279 bargaining;
- 280 iii. the identity and contact information for the Petitioner;
281 and
- 282 iv. an explanation of the process and potential scope of
283 Sectoral Bargaining under this Act;

284 C. a requirement that employers provide a reasonable opportunity
285 for the Petitioner or its designee to conduct "Know Your Rights"

286 education for workers during paid time, not to exceed two hours
287 per calendar year unless otherwise mutually agreed; and
288 D. any reasonable worksite and digital access consistent with the
289 First and Fifth Amendments and workplace security needs as
290 ordered by the Board.

291 d. Access under Subsections C and D shall be subject to the following
292 conditions:

293 A. A Covered Worker Representative must give at least one-hour
294 written notice to the Covered Employer prior to accessing its
295 physical property.

296 B. The Covered Employer will receive \$1.00 from the State for each
297 hour of access granted to Covered Worker Representative as just
298 compensation for the access rights.

299 C. A Covered Worker Representative and a Covered Employer may
300 agree to provide more access to the Covered Worker
301 Representative than the access provided by right under this
302 section by the Board.

303 D. Nothing herein shall diminish any rights to access property as
304 otherwise provided by law.

305 **3. Formal Representation Threshold.**

306 a. Designation as Sectoral Representative. Upon demonstrating
307 representation or support from 1,000 workers in the sector, or 25% of
308 the Sector workforce, whichever constitutes fewer workers, the
309 Petitioner shall be designated a Covered Worker Representative for
310 purposes of sectoral bargaining under this Act.

311 b. Certification by the Board.

312 A. Upon designation under paragraph 3(a), the Board shall certify
313 the Petitioner as a Covered Worker Representative.

314 B. The Board shall authorize Sectoral Bargaining to commence
315 when there is at least one Covered Worker Representative and
316 one Covered Employer Representative, or at such time as the
317 Board determines that Covered Workers and Covered
318 Employers are adequately represented.

319 c. The Board shall promulgate all necessary regulations to: (i) establish
320 the approximate size of a Sector and the level of support necessary
321 from the Sector to designate Sector Representative(s), (ii) promote
322 integrity and fairness in all related proceedings, and (iii) ensure that
323 all related proceedings provide due process for workers and their
324 employers.

325 **4. Covered Worker Representatives**

- 326 a. The Board shall certify all eligible Covered Worker Representatives
327 and safeguard their rights to participate fully in Sectoral Bargaining.
- 328 b. A Petitioner shall be the exclusive Covered Worker Representative for
329 the Sector if no other Union or Worker Organization represents or
330 provides services to workers within the Sector, or if any such Union or
331 Worker Organization does not wish to serve as a Covered Worker
332 Representative.
- 333 c. The Petitioner shall coordinate with any Union or Worker
334 Organization representing or providing services to workers within the
335 Sector to determine their interest in serving as a Covered Worker
336 Representative and, where interest exists, to reach agreement on
337 proportional representation.
- 338 d. The Board shall certify additional Covered Worker Representatives
339 upon agreement of the parties, provided such agreement is not
340 contrary to the Act.
- 341 e. Should the Petitioner and any other Unions or Worker Organizations
342 fail to reach agreement, or should the Petitioner fail to coordinate with
343 other potential worker representatives, the Board shall determine
344 whether other Unions or Worker Organizations should be certified
345 based on their proportional representation of workers in the Sector.
- 346 f. A Covered Worker Representative shall have the right to:
- 347 A. participate fully at the bargaining table, including the right to
348 introduce subjects of bargaining;
- 349 B. vote on proposed bargaining positions, tentative agreements,
350 and impasse declarations, with voting weight proportional to its
351 share of represented workers;
- 352 C. challenge proportional-representation determination upon a
353 showing of material error or significant change in membership;
354 and
- 355 D. submit independent data, proposals, and testimony before the
356 Board.
- 357 g. **Petitioner's Rights.** Nothing in this subsection shall diminish the
358 Petitioner's rights as a Covered Worker Representative, except that its
359 voting share shall be proportional to its demonstrated representation.

362 **Section 7. Employer Representation.**

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- 364 **1. Employer Associations.** Multiple Covered Employers in a Sector or
365 industry may enter voluntarily into Employer Associations for the purpose of

366 Sectoral Bargaining with Covered Worker Representatives in the same
367 Sector.

368 a. Articles of association. The Employer Association shall draft
369 document(s) setting forth the following:

370 i. Sectoral Bargaining purpose. The purpose of the association is to
371 represent Covered Employers in Sectoral Bargaining with
372 Covered Worker Representatives in Sectoral Bargaining over
373 terms involving or growing out of a labor dispute, and to
374 facilitate compliance with any resulting sectoral agreement.

375 ii. Competition compliance policy. The affirmatively expressed
376 policy to displace labor market competition stated in Section 1 of
377 the Act does not immunize any member(s) of the Employer
378 Association or the Employer Association itself from liability
379 under federal and state antitrust law for their conduct in
380 markets outside the labor market covered by the Sectoral
381 Bargaining agreement.

382 1. All members must abide by federal and state antitrust
383 rules and agree that no member shall share sensitive,
384 firm-specific information that may facilitate price-fixing,
385 market allocation, or other antitrust violations.

386 2. Employers are prohibited from using the association to
387 facilitate collusion or engage in exclusionary conduct in
388 markets outside the labor market covered by the Sectoral
389 Bargaining agreement. The association may not
390 recommend, discuss, or collectively impose wage ceilings.

391 iii. Membership criteria. The procedures for joining or leaving the
392 association and the criteria to define eligibility for membership.

393 iv. Governance. The processes for selecting a governing body, such
394 as a board of directors, and the responsibilities of that body. The
395 governing body must provide proportional representation to all
396 employer members and may not be dominated by any one
397 employer.

398 v. Finances and dues. How the association shall be funded
399 consistent with state policy expressed in this Act and state and
400 federal antitrust law.

401 vi. Screening. Each employer shall appoint their own
402 representative to the association, and members shall not engage
403 in discussions or decisions pertaining to business or commercial
404 strategy and downstream pricing, output, or other market
405 conditions.

406 vii. Transparency. All meetings, agenda items, and meeting minutes
407 of Employer Associations must be maintained for a period of 4
408 years [or state law statute of limitations, if longer] and made
409 available for antitrust proceedings.

410 b. Registration. Employer Associations may register with the State Labor
411 Standards Board at any time, including before, after, or while a
412 petition from a Union or Worker Organization is pending before the
413 Board, provided they provide their Articles of Association. The Board
414 shall review and approve the registration if the Articles of Association
415 comply with the Act.

416 **2. Certification of Employer Association as a Covered Employer**
417 **Representative.**

418 a. An employer association that has registered with the Board may apply
419 to the Board for certification as a Covered Employer Representative
420 after the Board has approved the establishment of a Sector under
421 Section 6(1). To be certified, the Employer Association must
422 demonstrate that it represents employers operating in a significant
423 portion of the sector.

424 i. The State Labor Standards Board is authorized to promulgate
425 standards for Covered Employer Representatives.

426 ii. Should the association's application be rejected, the association
427 shall not have the status of Covered Employer representative.

428 **3. Additional employer representatives.**

429 a. Any individual employer may request to participate as a Covered
430 Employer Representative provided that the employer is not a member
431 of an Employer Association that is a Covered Employer
432 Representative.

433 b. The Board shall certify additional Employers as Covered Employer
434 Representatives if the employer represents workers in the sector, and
435 representation shall be based on their proportional representation of
436 workers in the sector.

437 c. The Board shall safeguard the right of all Covered Employer
438 Representatives to participate fully in Sectoral Bargaining.

439 d. An Employer Association shall be the exclusive Covered Employer
440 Representative for the Sector if no other employer or employer association
441 represents or provides services to workers within the sector, or if any such
442 Employer or employer association does not wish to serve as a Covered Employer
443 Representative.

444 **4. Rights.** A Covered Employer Representative shall have the right to:

445 a. participate fully at the bargaining table, including the right to
446 introduce subjects of bargaining;

447 b. vote on proposed bargaining positions, tentative agreements, and
448 impasse declarations, with voting weight proportional to its share of
449 workers employed in the Sector;

450 c. challenge a proportional-representation determination upon a showing
451 of material error or significant change in workforce composition; and

452 d. submit independent data, proposals, and testimony before the Board.

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5. **Oversight.** A Covered Employer Representative shall be subject to periodic, random auditing or other review by the State Labor Standards Board to ensure the State's active supervision of labor market conditions consistent with achieving the Act's purposes. Covered Employers and Covered Worker Representatives may also petition the Board to review Employer Association conduct. The Board shall investigate potential anticompetitive behavior among the covered employer representatives, making referrals to [relevant state agency] or the state Attorney General, as appropriate.
 6. **Voting shares.** Each Covered Employer Representative, whether Employer Association or individual employer, will have representation on the Bargaining Committee on a proportional basis to their share of the sector, that is, based on the total number of Covered Workers they or their members represent versus the total number of Covered Workers in the sector, provided that any employer that is a member of multiple Employer Associations may have each worker counted only once.
 7. **State-designated employer representatives.** If a Sector is represented by one (or multiple) Covered Worker Representative(s), but lacks a Covered Employer Representative, the State Labor Standards Board may designate employer representative(s) to bargain on behalf of employers in the sector.
 - a. The State Labor Standards Board should account for the following potential differences when appointing representatives for a sector:
 - i. Size of business;
 - ii. Age of business;
 - iii. Market share;
 - iv. Geography;
 - v. Other unique constraints or advantages.
 - b. The State Labor Standards Board may select representatives by issuing a Request for Proposals for employers or employer organizations, to serve as a Covered Employer Representative. If no Proposals are received within 30 days and thereafter approved, the Board may appoint and certify an employer or Employer Association as the Covered Employer Representative(s).

487 **Section 8. Sectoral Bargaining**

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1. **Duty to bargain in good faith.** The bargaining parties have a duty to bargain in good faith with one another under this Act in order to reach a sectoral bargaining agreement.
 - a. A duty to bargain in good faith means that the parties must establish and maintain a productive, responsive and communicative relationship; provide access to property and information relevant to Covered Workers' employment; not, whether directly or indirectly, do

496 anything to mislead or deceive each other; and submit to alternate
497 dispute resolution, if necessary.

498 b. Employers that are or will be covered by any Sectoral Bargaining
499 agreement have the obligation to respect workers' rights of free speech,
500 association and assembly, as well as rights to organize and collectively
501 bargain free from any employer interference, coercion, restraint and/or
502 retaliation.

503 c. The parties are required to bargain in good faith until reaching a
504 tentative Sectoral Bargaining agreement, which will then be subject to
505 a ratification vote pursuant to Section 9. If the parties cannot reach a
506 tentative Sectoral Bargaining agreement within 6 months, upon
507 request by either party, the Board shall order alternative dispute
508 resolution. If those efforts do not produce an agreement within 3
509 months, either party may seek a determination to fix terms as outlined
510 in Section 8(5).

511 2. **Initiation.** Bargaining for a Sectoral Bargaining agreement is initiated by
512 one or more Covered Worker Representatives(s) or by one or more Covered
513 Employer Representative(s) after certification by the Board. Entering into, or
514 bargaining for, a collective agreement in accordance with the collective
515 bargaining provisions of the National Labor Relations Act (NLRA) or related
516 state law does not prevent the initiation, bargaining, and conclusion of
517 Sectoral Bargaining for a Sectoral Bargaining agreement that would apply to
518 a party to any employer-level agreement under the NLRA or related state
519 law.

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521 3. **Content.** Each Sectoral Bargaining agreement must specify the following:

522 a. Dates. The agreement must include the date that its terms come into
523 force and the date that the agreement terminates. A Sectoral
524 Bargaining agreement must apply for a period that is no less than 3
525 years, but no more than 5 years; and must specify a commencement
526 date, which must apply to each provision of the agreement and a date
527 on which it expires, which must apply to each provision in the
528 agreement. Upon expiration, all provisions will remain in full force
529 and effect until such time as a new agreement becomes effective.

530 b. Coverage. The agreement must describe with sufficient clarity the
531 work or type of work and each class of worker or type of class that is
532 covered by the agreement.

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534 c. Terms in Sectoral Bargaining agreements.

535 i. The bargaining parties are required to reach agreement on each
536 of the following subjects, but need not resolve every issue within
537 each subject:

538 1. Wages;

539 2. Benefits, including health care and retirement;

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3. The displacement of, reduction in, or material change to, any job classification due to artificial intelligence or other workplace technology;
 4. The monitoring or surveillance of workers through artificial intelligence or other workplace technology;
 5. The use of artificial intelligence or other workplace technology in employment decisions, including hiring, discipline, and discharge; and
 6. Other terms and conditions of employment, such as paid and unpaid leave; health and safety; scheduling; job security, and discipline and discharge, including just-cause protections and due-process requirements.
- ii. Without obligation to agree, the bargaining parties may also discuss:
1. an alternate dispute resolution process, including binding arbitration;
 2. access to Covered Workers, including the use of the employers' electronic systems and real property access; and
 3. any other terms put forth by the petitioner at the time of the petition filing or by either party during the bargaining process.
- d. Covered parties' collusion, market allocation, or bargaining over pricing, output, or competitive conditions that directly impact downstream product or service markets outside the labor market is prohibited.
- e. The bargaining parties shall not include any language that would impede, interfere, or coerce Covered Workers from engaging in concerted activity for the purpose of collective bargaining or other mutual aid or protection.
- f. Employer-level agreements. The existence of a Sectoral Bargaining agreement does not relieve a Covered Employer of the obligation to bargain collectively with a labor or Worker Organization representing its employees.
4. **Dispute Resolution.** One or more matters relating to bargaining for a Sectoral Bargaining agreement may be resolved through alternative dispute resolution, including mediation or arbitration, or referred to the Board by any bargaining party to assist, directly or indirectly, in resolving coverage and/or bargaining participation issues, and/or other difficulties in concluding the agreement.
- a. Where a matter is referred to the Board, the Board may resolve disputes in connection with the process of bargaining for a Sectoral Bargaining Agreement, including:

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- i. Resolving disputes concerning whether a worker or employer is a Covered Worker or Covered Employer in relation to a Sector or a Sectoral Bargaining Agreement.
 - ii. Resolving disputes over whether a topic can or must be included in a proposed Sectoral Bargaining agreement;
 - iii. Resolving disputes over matters related to bargaining; and
 - iv. Resolving disputes over what constitutes compliance with the Sectoral Bargaining Agreement and/or the Act.

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- b. A matter may not be referred to the Board unless the referring party demonstrates that extensive efforts (including private alternate dispute resolution services) have failed to resolve the dispute or six months have elapsed without producing an agreement.
 - c. The Board has authority to issue orders to facilitate agreement, and may direct the parties to engage in further private or Board-provided mediation and/or arbitration, including binding arbitration.
 - d. If the Board gives a directive to the parties, the parties must comply with the directive and act in good faith to reach a resolution of their differences.

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5. **Fixing terms.** Where the bargaining parties have been unable to reach agreement and all other methods of resolution, including mediation and arbitration, have been attempted without a Sectoral Bargaining Agreement resulting, a party may apply to the Board for a determination to fix the terms of a proposed agreement.

608 The Board may make such a determination only where it is satisfied that:

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- a. The bargaining parties have, for a reasonable period, attempted all reasonable alternatives to reach agreement, including where the proposed agreement has been subject to at least two ratification processes without ratification; and
 - b. A majority of votes cast by eligible Sector workers are in favor of the Board fixing the terms.

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Notwithstanding the above, where the Board determines that a party has bargained in bad faith in a manner that is deliberate, serious, and sustained, the Board may fix the terms of a proposed agreement without a worker vote.

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In all cases, the Board shall notify Sector workers of relevant dates, milestones, and any final agreement prior to its implementation.

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622 6. **Determining Covered Workers.** Each Covered Employer within a Sector
623 that is subject to Sectoral Bargaining shall be required to submit to the
624 Board an updated list of active Covered Workers from the initiation of
625 Sectoral Bargaining on a quarterly basis through final ratification. Such lists
626 shall be examined for accuracy, consolidated and provided to the Covered
627 Worker Representative by the Board. The Covered Worker Representative
628 may challenge the authenticity of the lists if reasonable suspicion exists (such
629 as employer manipulation of a list, worker suppression, or falsification).
630 Following ratification, Covered Employers shall be required to submit
631 updated lists to the Board quarterly or upon request of the Board. The
632 Covered Worker Representative may ask the Board for updated lists from
633 Covered Employers as needed to enforce the terms of the Sectoral Bargaining
634 Agreement.

635 a. Covered Worker lists provided shall include the following information
636 if available: name, primary work location, language preference, date of
637 hire, date of separation if the worker has left this employment, and
638 relevant contact information, primary residential address, available
639 employer-assigned electronic addresses and phone numbers, and non-
640 work email addresses and phone numbers in the employers'
641 possession.

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643 7. **Sectoral Bargaining Agreement as Floor.**

644 a. All employers operating within a covered sector shall provide wages,
645 benefits, and working conditions no less favorable in the aggregate
646 than the Sectoral Minimum Standards established under this Act,
647 whether or not the employer is party to any agreement. Collective
648 bargaining agreements reached via Employer-Level Bargaining and
649 individually negotiated employment contracts or agreements shall be
650 construed and applied consistent with the foregoing requirement.

651 b. For purposes of this section, compliance shall be assessed on the basis
652 of the overall value of wages, benefits, and working conditions taken
653 together such that a more generous provision in one component may
654 offset a less generous provision in another, provided the aggregate is
655 no less favorable than the sectoral minimum standards. Nothing in
656 this section shall be construed to prohibit employer-level bargaining
657 from establishing wages, benefits, and working conditions more
658 favorable than the sectoral minimum standards., but may provide
659 more generous wages and benefits or more protective working
660 conditions.

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Section 9. Ratification.

1. **Opportunity to Review.** In order to meet the self-determination objectives of this act, all workers within a defined Sector shall have an opportunity to review a proposed sectoral agreement and exercise their right to vote.
 - a. Within 10 days of the parties submitting the tentative Sectoral Bargaining agreement for ratification, the Board shall publish the agreement on its website with a link to the agreement on the Board's home page.
 - b. Within 15 days of the parties submitting the tentative Sectoral Bargaining agreement for ratification, the Board shall transmit the proposed text of the agreement to all covered workers in the Sector.
2. **Ratification Vote.** Once the bargaining parties reach a tentative Sectoral Bargaining agreement, the agreement will be submitted to the Board to hold a ratification vote.
 - a. The Board shall hold a ratification vote for all workers in the Sector within 60 days of the parties submitting the tentative Sectoral Bargaining agreement for ratification.
 - b. Unless it otherwise directs, the Board will supervise all ratification votes. All ratification votes shall be by secret ballot and may be conducted by mail, in person, or through secure electronic means that reasonably protect the anonymity of voters, without imposing procedural requirements beyond what is necessary to ensure a fair and secure vote. Absentee ballots will not be permitted.
 - c. All Covered Workers within a given Sector will be eligible to vote. All Covered Workers will be notified of the ratification vote, their right to vote, and the voting procedure at least 10 days prior to opening voting.
 - d. The Board will provide the parties the names of eligible voters at least 30 days prior to opening voting. Any challenges for good cause to voter eligibility must be received 5 days prior to opening voting. The Board must conduct the election, and the ballots of such challenged voters shall be impounded. The Board will resolve ballot challenges within 10 days of the election only if the outcome would be impacted given the number of challenged ballots.
 - e. Upon the conclusion of the vote, the tally of ballots shall be provided to the parties.
3. **Voting Eligibility and Dispute Resolution Process**

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- a. Eligible voters include those Covered Workers currently being compensated, those otherwise being compensated during bargaining, and seasonal workers from last season or those expected to return to work. Eligible voters shall also include Covered Workers who are on strike or locked out, laid off subject to recall rights, or whose discharge is the subject of an unfair labor practice charge.
 - b. Within seven days of the tally of ballots, a party may file objections to the conduct of the election or conduct affecting the election results together with a description of the evidence supporting the objections. The Board will commence a hearing to resolve the objections and any potentially outcome-determinative challenges to ballots within 14 days after the tally or as soon thereafter as practicable. The Board will issue a final decision as to the objection within 30 calendar days of the original filing.
4. **Ratification of Sectoral Bargaining Agreement.** A sectoral bargaining agreement will apply to all Covered Workers and Covered Employers within a given sector if a simple majority of ballots cast by Covered Workers is in favor of ratifying the agreement.
5. **Ratified standards.** A ratified standard shall remain in force until it is replaced by a new standard ratified by a majority of ballots cast by Covered Workers.
6. **Approval.** The bargaining parties must submit a ratified or arbitrator-ordered Sectoral Bargaining agreement to the Board for final approval.
- c. Once the bargaining parties submit such a Sectoral Bargaining agreement, the Board will review the agreement to determine whether it contains a term or terms that are contrary to law, or that are inconsistent with this Act. The Board will provide written justification for such actions, strike any such term or terms, approve the rest of the agreement, and consider it in full force and effect.
7. **Publication.** Each Sectoral Bargaining Agreement will be placed on the Board's public website. Each order of the Board will be placed on the Board's public website.

738 **Section 10. Alternative Process: Prevailing Wage and Fringe**
739 **Benefit Rate Setting Through Employer-Level Collective**
740 **Bargaining Agreements.**
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- 1. Petition for Sectoral Prevailing Wage and Fringe Benefit Rate Determination.**
 - a. A labor organization or organizations that are a party to a collective bargaining agreement(s) (CBA(s)) with an employer or group of employers within a Sector may file a petition with the Board requesting the creation of a Sectoral Prevailing Wage and Fringe Benefit Rate for all Covered Workers in that Sector based on the wage rates and fringe benefit rates provided in their CBA(s).
 - b. The petition shall identify the proposed sector, describe the boundaries of the Sector consistent with this Act, and provide evidence that:
 1. One or more CBAs within the Sector (i) cover at least 30 percent of all Covered Workers in that sector or (ii) establish wage and fringe benefit rates for the largest number of Covered Workers in the Sector; and
 2. The labor organization(s) party to the CBA(s) consent to the proposed Sectoral Prevailing Wage and Fringe Benefit Rate.
 - 2. Access rights.** A labor organization or organizations requesting the creation of a Sectoral Prevailing Wage and Fringe Benefit Rate for all Covered Workers in that Sector may secure initial access rights subject to the thresholds, rights, and conditions listed under Section 6(2).
 - 3. Determination of Coverage.** For purposes of this section, Covered Workers include all Covered Workers performing work within the petitioned-for Sector as defined under this Act. The Sectoral Prevailing Wage and Fringe Benefit Rate, if established, shall be a floor.
 - 4. Board Review and Approval.**
 - a. The Board shall approve a petition for a Sectoral Prevailing Wage and Fringe Benefit Rate if it finds that:
 - i. The petition satisfies the requirements of this section, including the 30-percent coverage threshold and consent of the labor organization(s) party to the CBA(s);
 - ii. The wage provisions proposed for the Sectoral Prevailing Wage and Fringe Benefit Rate establish a wage floor that is just, reasonable, and consistent with promoting fair competition within the Sector; and
 - iii. The Sectoral Prevailing Wage and Fringe Benefit Rate would protect covered employees from wage suppression or substandard wage competition within the Sector,
 - b. Additional Considerations. In determining whether the Sectoral Prevailing Wage and Fringe Benefit Rate is just and reasonable, the Board may consider:
 - i. Prevailing wage rates and compensation practices within the sector;
 - ii. Regional cost-of-living variations where relevant;

- 785 iii. The economic conditions of the sector, including trends in
786 profitability, productivity, and labor supply;
787 iv. The potential impact of the sectoral prevailing wage and fringe
788 benefit rate on small employers and on maintaining high-road
789 competition; and
790 v. Any input received through a public comment process or
791 stakeholder consultation conducted by the Board.

792 **5. Overlapping Petitions for Sectoral Prevailing Wage and Fringe**
793 **Benefit Rates**

- 794 a. Covered Workers may be included in multiple petitions for sectoral
795 prevailing wage and fringe benefit rates.
796 b. Covered Workers included in multiple Board-approved Sectoral
797 Prevailing Wage and Fringe Benefit Rate agreements shall be
798 compensated based on the wage and fringe benefit rates that result in
799 the highest total compensation.
800 c. If presented with petitions containing overlapping Covered Workers,
801 the Board may, if the overlap involves greater than 50 percent of
802 Covered Workers in a single petition, choose to reject the petition
803 containing fewer Covered Workers.
- 804 **6. Decision and Publication.** The Board shall issue a written decision stating
805 the basis for approval or denial within 30 days of receiving a petition. If
806 approved, the Sectoral Prevailing Wage and Fringe Benefit Rate shall be
807 published by the Board and shall take effect on the date specified in the
808 Board's order, no later than 90 days after the written decision is issued.

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810 **Section 11. Compliance and Enforcement.**

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- 812 **1. Monitoring.** The Board shall have the authority to seek and obtain property
813 access and information from Covered Employers in order to monitor
814 compliance with the Sectoral Bargaining agreement and Sectoral Prevailing
815 Wage and Fringe Benefit Rate. Covered Worker Representatives may seek
816 and obtain property access and information from Covered Employers for
817 compliance monitoring purposes where the Board determines that such
818 access is reasonably necessary for that purpose.
- 819 **2. Actions.** Any Covered Worker, Covered Employer, Covered Worker
820 Representative, or Covered Employer Representative that alleges that they
821 or those they represent have been affected by non-observance or non-
822 compliance of the agreement, Sectoral Prevailing Wage and Fringe Benefit
823 Rate, or any provision of this Act may take action against another by:
- 824 a. In the case of Covered Workers and Covered Worker Representatives,
825 engaging in collective action, including strikes, work stoppages,
826 slowdowns, picketing, boycotts, and concerted refusals to work, subject

- 827 to any limitations incorporated in a bargaining agreement or
828 embedded in the National Labor Relations Act to the extent applicable;
829 b. Seeking enforcement through the mediation and arbitration provisions
830 of the Sectoral Bargaining agreement; and
831 c. Applying to the Board or the courts for any order, determination,
832 direction, declaration, or requirement, including those related to
833 bargaining, compliance, breach, penalties, or fines.

834 **3. Compliance.**

- 835 a. Where the parties choose or the Board orders, resolution of non-
836 observance or non-compliance of the agreement through arbitration, an
837 arbitrator may impose a final and binding arbitration order. Those
838 affected by the failure of any entity to comply with a compliance order
839 of an arbitrator may apply to the court for enforcement.
840 b. The court, upon filing by an affected Covered Worker, Covered
841 Employer, Covered Worker Representative, or Covered Employer
842 Representative that an arbitration decision being violated, shall have
843 the power to order compliance.
844 c. Where the court makes a compliance order under this section, it may
845 then adjourn the proceedings, without imposing any penalty or fine or
846 making a final determination, to enable the compliance order to be
847 complied with while the proceedings are adjourned.
848 d. The Board, upon motion of an affected Covered Worker, Covered
849 Employer, Covered Worker Representative, or Covered Employer
850 Representative, or upon its own motion, shall have the power to order
851 compliance when any entity that is or will be covered by the Sectoral
852 Bargaining agreement or sectoral prevailing wage and fringe benefit
853 rates has not observed or complied with any directive or order of the
854 Board, arbitrator, or a court or any provision of the agreement.
855 e. Where the initial venue chosen is the Board, those affected by the
856 failure of any entity to comply with a compliance order made by the
857 Board, may apply to the court for enforcement.

858 **4. Penalties, Fines and Enforcement**

860 An action for the recovery of a penalty or fine under this Act must be commenced
861 within 12 months after the earlier of the date on which the cause of action first
862 became known to the person bringing the action, or the date on which it should
863 reasonably have become known, except that actions based upon violations of the
864 sectoral prevailing wage and fringe benefit rates must be commenced within 3
865 years.

866 **5. Jurisdiction and Forum.**

- 867 a. Where arbitration has been authorized by the Board or agreed to by
868 the parties, arbitration shall be the primary forum for claims involving

869 breach of a Sectoral Bargaining agreement or Sectoral Prevailing
870 Wage and Fringe Benefit Rate. An arbitrator may assess penalties and
871 fines consistent with this section.

872 b. Any Covered Worker, Covered Employer, Covered Worker
873 Representative or Covered Employer Representative shall have a
874 private right of action in court for breach of a Sectoral Bargaining
875 agreement or breach of a Sectoral Prevailing Wage and Fringe Benefit
876 Rate as a contract claim, regardless of whether arbitration is available.
877 However, where a party has commenced arbitration proceedings with
878 respect to a particular breach claim, neither party may simultaneously
879 pursue a court action arising from the same breach.

880 c. The Board shall have primary jurisdiction over statutory claims under
881 this Act, including violations of the duty to bargain in good faith and
882 employers' obligations to respect workers' rights of free speech,
883 association, assembly, organizing, and collective bargaining free from
884 interference, coercion, restraint, and retaliation. A party aggrieved by
885 a Board determination may seek court enforcement or review pursuant
886 to this Act.

887 6. **Court Authority.** Where a court determines that a breach has occurred, it
888 may order those in breach to take any specified action or cease any specified
889 activity to prevent further non-compliance, and shall specify a time within
890 which the order is to be obeyed. The court may impose a penalty or fine
891 consistent with this section.

892 7. **Board Authority.** The Board has injunctive authority and may issue
893 arbitration orders and other orders to facilitate agreement and compliance
894 with the agreement, sectoral prevailing wage and fringe benefit rates, and
895 the Act, including but not limited to orders governing Union and Worker
896 Organization access to employer information and property pursuant to this
897 Act.

898 8. **Penalties and Fines.** Penalties and fines under this Act may be issued
899 against any entity covered by the Act and, in the case of Employers or
900 Covered Employer Representatives, shall not exceed [\$X,000] per worker per
901 day. No covered entity shall be subject to cumulative penalties exceeding this
902 amount across all forums for the same breach. On July 1 of each year
903 following passage of this Act, the Chair of the Board may adjust the per-
904 worker penalty amount to reflect the cumulative change in the Consumer
905 Price Index over the preceding year, effective as to penalties issued on or
906 after August 1 of that year.

907 a. In determining an appropriate penalty or fine, the Board or court shall
908 consider:

909 the nature and extent of the breach;

910 whether the breach was intentional, inadvertent, or negligent;

911 the nature and extent of any loss or damage suffered by any covered
912 worker, labor organization, or Worker Organization, or any gain made
913 or loss avoided by the entity in breach;

914 whether the entity in breach has paid compensation, reparation, or
915 restitution, or taken other steps to mitigate the effects of the breach;
916 and

917 whether the entity in breach has previously been found by the Board or
918 a court to have engaged in similar conduct.

919 b. In any proceeding for a penalty or fine, the Board or court may require
920 payment of the total amount claimed or any other amount consistent
921 with this Act, dismiss the action, or order payment by installments
922 where the financial position of the paying entity requires it.

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926 **Section 13. Severability.**

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928 1. The provisions of this Act are separate and severable and operate
929 independently from one another. If any provision of this Act is held to be
930 invalid or unenforceable by its terms, or as applied to any person, party,
931 entity or circumstance, or stayed pending further agency action, the provision
932 must be construed so as to continue to give the maximum effect to the
933 provision permitted by law, unless such holding be one of utter invalidity or
934 unenforceability, in which event the provision will be severable from this Act
935 and will not affect the remainder thereof. If this Act is held to be invalid as to
936 any category of Covered Workers for any reason, it shall remain operative
937 with respect to all other Covered Workers.

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939 **Section 14. Effect.**

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941 [Reserved]