

111TH CONGRESS  
1ST SESSION

# S. 2914

To provide for the establishment of the United States Employee Ownership Bank, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2009

Mr. SANDERS (for himself, Mr. LEAHY, Mr. BROWN, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide for the establishment of the United States Employee Ownership Bank, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Em-  
5 ployee Ownership Bank Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) between December 2007 and October 2009,  
9 payroll employment in the United States fell by  
10 8,200,000;

1           (2) between January 2000 and October 2009,  
2           the manufacturing sector lost 5,617,000 jobs;

3           (3) as of October 2009, fewer than 12,000,000  
4           workers in the United States were employed in the  
5           manufacturing sector, the fewest number of factory  
6           jobs since March 1941;

7           (4) at the end of 2008, the United States had  
8           a trade deficit of more than \$695,936,000,000, in-  
9           cluding a record-breaking \$268,039,800,000 trade  
10          deficit with China;

11          (5) preserving and increasing decent paying  
12          jobs must be a top priority of Congress;

13          (6) providing loan guarantees, direct loans, and  
14          technical assistance to employees to buy their own  
15          companies will preserve and increase employment in  
16          the United States; and

17          (7) just as the United States Export-Import  
18          Bank was created in 1934 in the midst of the Great  
19          Depression, as a way to increase United States jobs  
20          through exports, the time has come to establish the  
21          United States Employee Ownership Bank within the  
22          Department of the Treasury to preserve and expand  
23          jobs in the United States.

24 **SEC. 3. DEFINITIONS.**

25          In this Act—

1           (1) the term “Bank” means the United States  
2 Employee Ownership Bank, established under sec-  
3 tion 4;

4           (2) the term “eligible worker-owned coopera-  
5 tive” has the same meaning as in section 1042(e)(2)  
6 of the Internal Revenue Code of 1986;

7           (3) the term “employee stock ownership plan”  
8 has the same meaning as in section 4975(e)(7) of  
9 the Internal Revenue Code of 1986; and

10          (4) the term “Secretary” means the Secretary  
11 of the Treasury.

12 **SEC. 4. ESTABLISHMENT OF UNITED STATES EMPLOYEE**  
13 **OWNERSHIP BANK WITHIN THE DEPART-**  
14 **MENT OF THE TREASURY.**

15 (a) ESTABLISHMENT OF BANK.—

16           (1) IN GENERAL.—Before the end of the 90-day  
17 period beginning on the date of enactment of this  
18 Act, the Secretary shall establish the United States  
19 Employee Ownership Bank, to foster increased em-  
20 ployee ownership of United States companies and  
21 greater employee participation in company decision  
22 making throughout the United States.

23           (2) ORGANIZATION OF THE BANK.—

24           (A) MANAGEMENT.—The Secretary shall  
25 appoint a Director to serve as the head of the

1 Bank, who shall serve at the pleasure of the  
2 Secretary.

3 (B) STAFF.—The Director may select, ap-  
4 point, employ, and fix the compensation of such  
5 employees as are necessary to carry out the  
6 functions of the Bank.

7 (b) DUTIES OF BANK.—The Bank is authorized to  
8 provide loans, on a direct or guaranteed basis, which may  
9 be subordinated to the interests of all other creditors—

10 (1) to purchase a company through an em-  
11 ployee stock ownership plan or an eligible worker-  
12 owned cooperative, which shall be at least 51 percent  
13 employee owned, or will become at least 51 percent  
14 employee owned as a result of financial assistance  
15 from the Bank;

16 (2) to allow a company that is less than 51 per-  
17 cent employee owned to become at least 51 percent  
18 employee owned;

19 (3) to allow a company that is already at least  
20 51 percent employee owned to increase the level of  
21 employee ownership at the company; and

22 (4) to allow a company that is already at least  
23 51 percent employee owned to expand operations  
24 and increase or preserve employment.

1 (c) PRECONDITIONS.—Before the Bank makes any  
2 subordinated loan or guarantees a loan under subsection  
3 (b)(1), a business plan shall be submitted to the bank  
4 that—

5 (1) shows that—

6 (A) not less than 51 percent of all interests  
7 in the company is or will be owned or controlled  
8 by an employee stock ownership plan or eligible  
9 worker-owned cooperative;

10 (B) the board of directors of the company  
11 is or will be elected by shareholders on a one  
12 share to one vote basis or by members of the  
13 eligible worker-owned cooperative on a one  
14 member to one vote basis, except that shares  
15 held by the employee stock ownership plan will  
16 be voted according to section 409(e) of the In-  
17 ternal Revenue Code of 1986, with participants  
18 providing voting instructions to the trustee of  
19 the employee stock ownership plan in accord-  
20 ance with the terms of the employee stock own-  
21 ership plan and the requirements of that section  
22 409(e); and

23 (C) all employees will receive basic infor-  
24 mation about company progress and have the

1 opportunity to participate in day-to-day oper-  
2 ations; and

3 (2) includes a feasibility study from an objective  
4 third party with a positive determination that the  
5 employee stock ownership plan or eligible worker-  
6 owned cooperative will generate enough of a margin  
7 to pay back any loan, subordinated loan, or loan  
8 guarantee that was made possible through the Bank.

9 (d) TERMS AND CONDITIONS FOR LOANS AND LOAN  
10 GUARANTEES.—Notwithstanding any other provision of  
11 law, a loan that is provided or guaranteed under this sec-  
12 tion shall—

13 (1) bear interest at an annual rate, as deter-  
14 mined by the Secretary—

15 (A) in the case of a direct loan under this  
16 Act—

17 (i) sufficient to cover the cost of bor-  
18 rowing to the Department of the Treasury  
19 for obligations of comparable maturity; or

20 (ii) of 4 percent; and

21 (B) in the case of a loan guaranteed under  
22 this section, in an amount that is equal to the  
23 current applicable market rate for a loan of  
24 comparable maturity; and

25 (2) have a term not to exceed 12 years.

1 **SEC. 5. EMPLOYEE RIGHT OF FIRST REFUSAL BEFORE**  
 2 **PLANT OR FACILITY CLOSING.**

3 Section 3 of the Worker Adjustment and Retraining  
 4 Notification Act (29 U.S.C. 2102) is amended—

5 (1) in the section heading, by adding at the end  
 6 the following: “**; EMPLOYEE STOCK OWNERSHIP**  
 7 **PLANS OR ELIGIBLE WORKER OWNED CO-**  
 8 **OPERATIVES**”; and

9 (2) by adding at the end the following:

10 “(e) **EMPLOYEE STOCK OWNERSHIP PLANS AND EL-**  
 11 **IGIBLE WORKER-OWNED COOPERATIVES.**—

12 “(1) **GENERAL RULE.**—If an employer orders a  
 13 plant or facility closing in connection with the termi-  
 14 nation of its operations at such plant or facility, the  
 15 employer shall offer its employees an opportunity to  
 16 purchase such plant or facility through an employee  
 17 stock ownership plan (as that term is defined in sec-  
 18 tion 4975(e)(7) of the Internal Revenue Code of  
 19 1986) or an eligible worker-owned cooperative (as  
 20 that term is defined in section 1042(c)(2) of the In-  
 21 ternal Revenue Code of 1986) that is at least 51  
 22 percent employee owned. The value of the company  
 23 which is to be the subject of such plan or cooperative  
 24 shall be the fair market value of the plant or facility,  
 25 as determined by an appraisal by an independent  
 26 third party jointly selected by the employer and the

1 employees. The cost of the appraisal may be shared  
2 evenly between the employer and the employees.

3 “(2) EXEMPTIONS.—Paragraph (1) shall not  
4 apply—

5 “(A) if an employer orders a plant closing,  
6 but will retain the assets of such plant to con-  
7 tinue or begin a business within the United  
8 States; or

9 “(B) if an employer orders a plant closing  
10 and such employer intends to continue the busi-  
11 ness conducted at such plant at another plant  
12 within the United States.”.

13 **SEC. 6. REGULATIONS ON SAFETY AND SOUNDNESS AND**  
14 **PREVENTING COMPETITION WITH COMMER-**  
15 **CIAL INSTITUTIONS.**

16 Before the end of the 90-day period beginning on the  
17 date of enactment of this Act, the Secretary of the Treas-  
18 ury shall prescribe such regulations as are necessary to  
19 implement this Act and the amendments made by this Act,  
20 including—

21 (1) regulations to ensure the safety and sound-  
22 ness of the Bank; and

23 (2) regulations to ensure that the Bank will not  
24 compete with commercial financial institutions.



1 **SEC. 7. COMMUNITY REINVESTMENT CREDIT.**

2 Section 804 of the Community Reinvestment Act of  
3 1977 (12 U.S.C. 2903) is amended by adding at the end  
4 the following new subsection:

5 “(1) ESTABLISHMENT OF EMPLOYEE STOCK OWNER-  
6 SHIP PLANS AND ELIGIBLE WORKER-OWNED COOPERA-  
7 TIVES.—In assessing and taking into account, under sub-  
8 section (a), the record of a financial institution, the appro-  
9 priate Federal financial supervisory agency may consider  
10 as a factor capital investments, loans, loan participation,  
11 technical assistance, financial advice, grants, and other  
12 ventures undertaken by the institution to support or en-  
13 able employees to establish employee stock ownership  
14 plans or eligible worker-owned cooperatives (as those  
15 terms are defined in sections 4975(e)(7) and 1042(e)(2)  
16 of the Internal Revenue Code of 1986, respectively), that  
17 are at least 51 percent employee-owned plans or coopera-  
18 tives.”.

19 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to the Sec-  
21 retary to carry out this Act, \$500,000,000 for fiscal year  
22 2010, and such sums as may be necessary thereafter.

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