

112TH CONGRESS  
1ST SESSION

# H. R. 972

To amend the National Labor Relations Act to ensure the right of employees to a secret ballot election conducted by the National Labor Relations Board.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2011

Mr. ROE of Tennessee (for himself, Mr. KLINE, Mr. WILSON of South Carolina, Ms. FOXX, Mr. HUNTER, Mr. THOMPSON of Pennsylvania, Mr. WALBERG, Mr. DESJARLAIS, Mr. HANNA, Mr. ROKITA, Mr. BUCSHON, Mr. GOWDY, Mrs. NOEM, Mrs. ROBY, Mr. HECK, Mr. ROSS of Florida, Mr. KELLY, Mr. PRICE of Georgia, Mr. JORDAN, and Mr. MULVANEY) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the National Labor Relations Act to ensure the right of employees to a secret ballot election conducted by the National Labor Relations Board.

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 “Secret Ballot Protec-  
5 tion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) the importance of a secret ballot election  
2 has been recognized by the United States for over  
3 100 years;

4           (2) the fundamental democratic right to choose  
5 by secret ballot is the only method that ensures a  
6 choice free of coercion, intimidation, irregularity, or  
7 illegality;

8           (3) the recognition of a labor organization by  
9 way of a private agreement, rather than a secret bal-  
10 lot election supervised by a neutral third party,  
11 threatens an employee's right, codified in the Na-  
12 tional Labor Relations Act, to choose whether or not  
13 to be represented by a labor organization; and

14           (4) preserving workers' right to choose whether  
15 or not to be represented by a labor organization  
16 through a secret ballot election is important to the  
17 strength of the national economy.

18 **SEC. 3. NATIONAL LABOR RELATIONS ACT.**

19 (a) RECOGNITION OF REPRESENTATIVE.—

20           (1) IN GENERAL.—Section 8(a)(2) of the Na-  
21 tional Labor Relations Act (29 U.S.C. 158(a)(2)) is  
22 amended by inserting before the colon the following:  
23 “or to recognize or bargain collectively with a labor  
24 organization that has not been selected by a major-  
25 ity of employees in a unit appropriate for such pur-

1 poses in a secret ballot election conducted by the  
2 National Labor Relations Board in accordance with  
3 section 9”.

4 (2) APPLICATION.—The amendment made by  
5 paragraph (1) shall not apply to collective bar-  
6 gaining relationships that were recognized before the  
7 date of enactment of this Act.

8 (b) ELECTION REQUIRED.—

9 (1) IN GENERAL.—Section 8(b) of the National  
10 Labor Relations Act (29 U.S.C. 158(b)), as amend-  
11 ed by subsection (c) of this section, is amended—

12 (A) by striking “and” at the end of para-  
13 graph (6);

14 (B) by striking the period at the end of  
15 paragraph (7) and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(8) to cause or attempt to cause an employer  
18 to recognize or bargain collectively with a represent-  
19 ative of a labor organization that has not been se-  
20 lected by a majority of employees in a unit appro-  
21 priate for such purposes in a secret ballot election  
22 conducted by the National Labor Relations Board in  
23 accordance with section 9.”.

24 (2) APPLICATION.—The amendment made by  
25 paragraph (1) shall not apply to collective bar-

1       gaining relationships that were recognized before the  
2       date of enactment of this Act.

3       (c) SECRET BALLOT ELECTION REQUIRED.—Section  
4       9(a) of the National Labor Relations Act (29 U.S.C.  
5       159(a)), is amended—

6             (1) by inserting “(1)” after “(a)”;

7             (2) by inserting after “designated or selected”  
8       the following: “by a secret ballot election conducted  
9       by the National Labor Relations Board in accord-  
10      ance with this section”; and

11            (3) by adding at the end the following:

12            “(2) The secret ballot election requirement of  
13      paragraph (1) shall not apply to collective bar-  
14      gaining relationships that were recognized before the  
15      date of enactment of the Secret Ballot Protection  
16      Act.”.

17       (d) CONFORMING AMENDMENTS.—Section 9(c)(1) of  
18      such Act (29 U.S.C. 159(c)(1)) is amended—

19            (1) in subparagraph (A)—

20            (A) in clause (i), by striking “and that  
21      their employer declines to recognize their rep-  
22      resentative as the representative defined in sec-  
23      tion 9(a)” and inserting “by a representative”;  
24      and

1                   (B) in clause (ii), by striking “section  
2                   9(a);” and inserting “subsection (a),”; and  
3                   (2) in subparagraph (B), by striking “alleging”  
4                   and all that follows through “defined in section  
5                   9(a)”.

6 **SEC. 4. REGULATIONS.**

7                   Not later than 6 months after the date of the enact-  
8                   ment of this Act the National Labor Relations Board shall  
9                   review and revise all regulations promulgated before such  
10                  date to implement the amendments made in this Act to  
11                  the National Labor Relations Act.

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