

112TH CONGRESS  
1ST SESSION

# S. 1843

To amend the National Labor Relations Act to provide for appropriate designation of collective bargaining units.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2011

Mr. ISAKSON (for himself, Mr. ALEXANDER, Ms. AYOTTE, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CORKER, Mr. DEMINT, Mr. ENZI, Mr. GRAHAM, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. JOHANNES, Mr. JOHNSON of Wisconsin, Mr. LEE, Mr. LUGAR, Mr. MCCAIN, Mr. PAUL, Mr. RISCH, Mr. SHELBY, Ms. SNOWE, Mr. THUNE, and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the National Labor Relations Act to provide for appropriate designation of collective bargaining units.

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 “Representation Fair-  
5 ness Restoration Act”.

1 **SEC. 2. AMENDMENT TO THE NATIONAL LABOR RELATIONS**  
2 **ACT.**

3       Section 9(b) of the National Labor Relations Act (29  
4 U.S.C. 159(b)) is amended by striking the first sentence  
5 and inserting the following: “In each case, prior to an elec-  
6 tion, the Board shall determine, in order to ensure to em-  
7 ployees the fullest freedom in exercising the rights guaran-  
8 teed by this Act, the unit appropriate for the purposes  
9 of collective bargaining. Unless otherwise stated in this  
10 Act, excluding acute health care facilities, the unit appro-  
11 priate for purposes of collective bargaining shall consist  
12 of employees that share a sufficient community of interest.  
13 In determining whether employees share a sufficient com-  
14 munity of interest, the Board shall consider (1) similarity  
15 of wages, benefits, and working conditions; (2) similarity  
16 of skills and training; (3) centrality of management and  
17 common supervision; (4) extent of interchange and fre-  
18 quency of contact between employees; (5) integration of  
19 the work flow and interrelationship of the production proc-  
20 ess; (6) the consistency of the unit with the employer’s  
21 organizational structure; (7) similarity of job functions  
22 and work; and (8) the bargaining history in the particular  
23 unit and the industry. To avoid the proliferation or frag-  
24 mentation of bargaining units, employees shall not be ex-  
25 cluded from the unit unless the interests of the group  
26 sought are sufficiently distinct from those of other employ-

1 ees to warrant the establishment of a separate unit.  
2 Whether additional employees should be included in a pro-  
3 posed unit shall be based on whether such additional em-  
4 ployees and proposed unit members share a sufficient  
5 community of interest, with the exception of proposed ac-  
6 cretions to an existing unit, in which the inclusion of addi-  
7 tional employees shall be based on whether such additional  
8 employees and existing unit members share an over-  
9 whelming community of interest and the additional em-  
10 ployees have little or no separate identity.”.

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