

111TH CONGRESS
2D SESSION

S. 3893

To establish the Emergency Trade Deficit Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2010

Mr. DORGAN (for himself and Mr. BROWN of Ohio) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish the Emergency Trade Deficit Commission, 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. FINDINGS.**

4 Congress makes the following findings:

5 (1) The United States has run persistent trade
6 deficits since 1978, and many of such trade deficits
7 since 2000 have been especially large.

8 (2) There appeared to be some improvements in
9 the United States trade balance in 2009, but this
10 was during a time of global economic crisis, and the

1 reduction in the United States trade deficit appears
2 to be attributable to a shrinking demand in the
3 United States for imports rather than an increase in
4 United States exports.

5 (3) Many of the trade deficits are structural,
6 with the same countries, year after year. In 2009,
7 the United States continued to have significant mer-
8 chandise trade deficits with the People's Republic of
9 China (\$226,800,000,000), the European Union
10 (\$60,500,000,000), Japan (\$44,700,000,000), and
11 Mexico (\$47,500,000,000), notwithstanding the
12 overall decline in the United States trade deficit. In
13 fact, in 2009, China accounted for 44 percent of the
14 United States merchandise trade deficit.

15 (4) While the United States has one of the
16 most open borders and economies in the world, the
17 United States faces significant tariff and nontariff
18 trade barriers with its trading partners.

19 (5) The causes and consequences of the United
20 States trade deficit must be documented and rec-
21 ommendations must be developed to expeditiously
22 address structural imbalances in the trade deficit.

23 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

24 (a) ESTABLISHMENT.—There is established a com-
25 mission to be known as the Emergency Trade Deficit

1 Commission (in this Act referred to as the “Commis-
2 sion”).

3 (b) MEMBERSHIP OF COMMISSION.—

4 (1) COMPOSITION.—The Commission shall be
5 composed of 11 members, of whom—

6 (A) 3 members shall be appointed by the
7 President, of whom—

8 (i) 1 shall be appointed to represent
9 labor interests;

10 (ii) 1 shall be appointed to represent
11 small businesses; and

12 (iii) 1 shall be appointed to represent
13 manufacturing interests;

14 (B) 2 members shall be appointed by the
15 President pro tempore of the Senate upon the
16 recommendation of the majority leader of the
17 Senate, after consultation with the chairperson
18 of the Committee on Finance of the Senate;

19 (C) 2 members shall be appointed by the
20 President pro tempore of the Senate upon the
21 recommendation of the minority leader of the
22 Senate, after consultation with the ranking
23 member of the Committee on Finance of the
24 Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives, after consultation with the chairperson of the Committee on Ways and Means of the House of Representatives; and

(E) 2 members shall be appointed by the minority leader of the House of Representatives, after consultation with the ranking member of the Committee on Ways and Means of the House of Representatives.

(2) QUALIFICATIONS OF MEMBERS.—

(A) PRESIDENTIAL APPOINTMENTS.—Of the members appointed under paragraph (1)(A), not more than 1 may be an officer, employee, or paid consultant of the executive branch.

(B) OTHER APPOINTMENTS.—Members appointed under subparagraph (B), (C), (D), or (E) of paragraph (1) shall be individuals who—

(i) have expertise in economics, international trade, manufacturing, labor, environment, or business, or have other pertinent qualifications or experience; and

(ii) are not officers or employees of the United States.

1 (C) OTHER CONSIDERATIONS.—In appoint-
2 ing members of the Commission, every effort
3 shall be made to ensure that the members—

4 (i) are representative of a broad cross-
5 section of economic and trade perspectives
6 within the United States; and

7 (ii) provide fresh insights in identi-
8 fying the causes and consequences of the
9 United States trade deficit and developing
10 recommendations to address structural
11 trade imbalances.

12 (c) PERIOD OF APPOINTMENT; VACANCIES.—

13 (1) IN GENERAL.—Members shall be appointed
14 not later than 60 days after the date of the enact-
15 ment of this Act and each appointment shall be for
16 the life of the Commission.

17 (2) VACANCIES.—Any vacancy in the Commis-
18 sion shall not affect its powers, but shall be filled in
19 the same manner in which the original appointment
20 was made.

21 (d) MEETINGS.—

22 (1) IN GENERAL.—The Commission shall meet
23 at the call of the chairperson.

24 (2) INITIAL MEETING.—Not later than 30 days
25 after the date on which all members of the Commis-

1 sion have been appointed, the Commission shall hold
 2 its first meeting.

3 (e) CHAIRPERSON AND VICE CHAIRPERSON.—The
 4 members of the Commission shall elect a chairperson and
 5 vice chairperson from among the members of the Commis-
 6 sion.

7 (f) QUORUM.—A majority of the members of the
 8 Commission shall constitute a quorum for the transaction
 9 of business.

10 (g) VOTING.—Each member of the Commission shall
 11 be entitled to 1 vote, which shall be equal to the vote of
 12 every other member of the Commission.

13 **SEC. 3. DUTIES OF THE COMMISSION.**

14 (a) IN GENERAL.—The Commission shall be respon-
 15 sible for—

16 (1) examining the causes and consequences of
 17 the United States trade deficit; and

18 (2) making recommendations with respect to
 19 addressing and reducing structural trade imbal-
 20 ances, including with respect to the United States
 21 merchandise trade deficit, in order to promote sus-
 22 tainable economic growth that provides broad-based
 23 income and employment gains.

24 (b) CAUSES OF UNITED STATES TRADE DEFICIT.—
 25 In examining the causes of the United States trade deficit

1 under subsection (a)(1), the Commission shall, among
2 other things—

3 (1) identify and assess the impact of macro-
4 economic factors, including currency practices, for-
5 eign government purchases of United States assets,
6 and savings and investment rates, including savings
7 rates of foreign state-owned enterprises, on United
8 States bilateral trade imbalances and global trade
9 imbalances;

10 (2) with respect to countries with which the
11 United States has significant, persistent sectoral or
12 bilateral trade deficits, assess with respect to the
13 magnitude and composition of such trade deficits—

14 (A) the impact of tariff and nontariff bar-
15 riers maintained by such countries and the lack
16 of reciprocal market access as a result of such
17 barriers;

18 (B) the impact of investment, offset, and
19 technology transfer requirements by such coun-
20 tries;

21 (C) any impact due to the failure of such
22 countries to adhere to internationally recognized
23 labor standards, including the extent to which
24 any such failure affects conditions of competi-
25 tion with the United States or the ability of

1 consumers in such countries to buy United
2 States goods and services;

3 (D) any impact due to differences in levels
4 of environmental protection and enforcement of
5 environmental laws between such countries and
6 the United States, including the extent to which
7 such differences affect conditions of competition
8 with the United States;

9 (E) policies maintained by such countries
10 that assist manufacturers in such countries, in-
11 cluding the impact of such policies on manufac-
12 turers in the United States; and

13 (F) the impact of border tax adjustments
14 by such countries;

15 (3) examine the impact of free trade agree-
16 ments on the United States trade deficit;

17 (4) examine the impact of investment flows
18 both into and out of the United States on the
19 United States trade deficit, including—

20 (A) the impact of the relocation of produc-
21 tion facilities overseas on the United States
22 trade deficit, including by reviewing major do-
23 mestic plant closures over an appropriate rep-
24 resentative period to determine how much of

1 the production terminated as a result of such
2 closures was relocated offshore;

3 (B) the impact of United States outbound
4 investment on the United States trade deficit
5 and on standards of living and production in
6 the United States;

7 (C) the impact of foreign direct investment
8 in the United States on the United States trade
9 deficit and on standards of living and produc-
10 tion in the United States; and

11 (D) the impact of United States bilateral
12 investment treaties, including bilateral invest-
13 ment treaties under negotiation, on the United
14 States trade deficit;

15 (5) examine the role and impact of imports of
16 oil and other energy products on the United States
17 trade deficit; and

18 (6) assess the extent to which United States
19 foreign policy interests influence United States eco-
20 nomic and trade policies.

21 (c) CONSEQUENCES OF UNITED STATES TRADE
22 DEFICIT.—In examining the consequences of the United
23 States trade deficit under subsection (a)(1), the Commis-
24 sion shall, among other things—

1 (1) identify and, to the extent practicable,
2 quantify the impact of the trade deficit—

3 (A) on the overall domestic economy of the
4 United States; and

5 (B) with respect to different sectors of the
6 economy of the United States, on manufac-
7 turing capacity, the number and quality of jobs,
8 wages, and health, safety, and environmental
9 standards;

10 (2) assess the effects the trade deficits in the
11 areas of manufacturing and technology have on the
12 defense production and innovation capabilities of the
13 United States; and

14 (3) assess the impact of significant, persistent
15 trade deficits, including sectoral and bilateral trade
16 deficits, on United States economic growth.

17 (d) RECOMMENDATIONS.—In making recommenda-
18 tions under subsection (a)(2), the Commission shall,
19 among other things—

20 (1) identify specific strategies for achieving im-
21 proved trade balances with those countries with
22 which the United States has significant, persistent
23 sectoral or bilateral trade deficits;

24 (2) identify United States trade policy tools, in-
25 cluding enforcement mechanisms, that can be more

1 effectively used to address the underlying causes of
2 structural trade deficits;

3 (3) identify domestic and trade policies that can
4 enhance the competitiveness of United States manu-
5 facturers domestically and globally, including those
6 policies of the United States and other countries
7 that have been successful in promoting competitive-
8 ness;

9 (4) address ways to improve the coordination
10 and accountability of Federal departments and agen-
11 cies relating to trade; and

12 (5) examine ways to improve the adequacy of
13 the collection and reporting of trade data, including
14 identifying and developing additional databases and
15 economic measurements that may be needed to prop-
16 erly assess the causes and consequences of the
17 United States trade deficit.

18 **SEC. 4. REPORT.**

19 (a) REPORT.—Not later than 16 months after the
20 date of the enactment of this Act, the Commission shall
21 submit to the President and the Committee on Finance
22 of the Senate and the Committee on Ways and Means of
23 the House of Representatives a report that contains—

24 (1) the findings and recommendations of the
25 Commission under section 3; and

1 (2) any recommendations for administrative
2 and legislative actions as the Commission considers
3 necessary.

4 (b) SEPARATE VIEWS.—Any member of the Commis-
5 sion may submit additional findings and recommendations
6 as part of the report required by subsection (a).

7 **SEC. 5. POWERS OF COMMISSION.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (b), the Commission may hold such hearings, sit and act
10 at such times and places, take such testimony, and receive
11 such evidence as the Commission considers advisable to
12 carry out this Act.

13 (b) HEARINGS.—The Commission shall hold not less
14 than 7 public hearings—

15 (1) 1 or more of which shall be held in Wash-
16 ington, District of Columbia; and

17 (2) not less than 4 of which shall be held in dif-
18 ferent regions of the United States.

19 (c) INFORMATION FROM FEDERAL AGENCIES.—The
20 Commission may secure directly from any Federal depart-
21 ment or agency such information as the Commission con-
22 siders necessary to carry out this Act. Upon request of
23 the chairperson of the Commission, the head of a depart-
24 ment or agency shall furnish such information to the Com-
25 mission.

1 (d) POSTAL SERVICES.—The Commission may use
2 the United States mails in the same manner and under
3 the same conditions as other Federal departments and
4 agencies.

5 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

6 (a) COMPENSATION OF MEMBERS.—

7 (1) MEMBERS WHO ARE NOT FEDERAL EM-
8 PLOYEES.—Each member of the Commission who is
9 not an officer or employee of the Federal Govern-
10 ment shall be compensated at a rate equal to the
11 daily equivalent of the annual rate of basic pay pre-
12 scribed for level IV of the Executive Schedule under
13 section 5315 of title 5, United States Code, for each
14 day (including travel time) during which such mem-
15 ber is engaged in the performance of the duties of
16 the Commission.

17 (2) MEMBERS WHO ARE FEDERAL EMPLOY-
18 EES.—All members of the Commission who are offi-
19 cers or employees of the United States shall serve
20 without compensation in addition to the compensa-
21 tion received for their services as officers or employ-
22 ees of the United States.

23 (b) TRAVEL EXPENSES.—The members of the Com-
24 mission shall be allowed travel expenses, including per
25 diem in lieu of subsistence, at rates authorized for employ-

ees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of duties of the Commission.

(c) STAFF.—

(1) IN GENERAL.—Except as provided in paragraph (2), the chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—The chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

1 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any
2 employee of the Federal Government may be detailed to
3 the Commission without reimbursement, and such detail
4 shall be without interruption or loss of civil service status
5 or privilege.

6 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
7 TENT SERVICES.—The chairperson of the Commission
8 may procure temporary and intermittent services under
9 section 3109(b) of title 5, United States Code, at rates
10 for individuals that do not exceed the daily equivalent of
11 the annual rate of basic pay prescribed for level V of the
12 Executive Schedule under section 5316 of such title.

13 **SEC. 7. TERMINATION OF COMMISSION.**

14 The Commission shall terminate 30 days after the
15 date on which the Commission submits its report under
16 section 4(a).

17 **SEC. 8. GOVERNMENT ACCOUNTABILITY OFFICE AUDIT.**

18 Not later than 180 days after the date on which the
19 Commission terminates under section 7, the Comptroller
20 General of the United States shall—

21 (a) complete an audit of the financial books and
22 records of the Commission; and

23 (b) submit to the President and Congress a report
24 on the audit.

1 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated \$2,000,000
3 to the Commission to carry out this Act.

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