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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend the Fair Labor Standards Act of 1938 to protect worker access to employer equity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MACKENZIE introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Fair Labor Standards Act of 1938 to protect worker access to employer equity, 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 “Valuing Employee
5 Stock Today Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Worker Economic Opportunity Act of
9 2000 (Public Law 106–202) amended section 7(e) of

1 Fair Labor Standards Act of 1938 (29 U.S.C.
2 207(e)) by adding a new paragraph (8) to such sec-
3 tion 7(e) to exempt any value or income derived
4 from employer-provided grants or rights provided
5 pursuant to a stock option, stock appreciation right,
6 or bona fide employee stock purchase program from
7 the determination of an employee’s regular rate for
8 purposes of calculating such employee’s overtime
9 compensation.

10 (2) The lack of explicit mention of restricted
11 stock units in paragraph (8) of section 7(e) of Fair
12 Labor Standards Act of 1938 (29 U.S.C. 207(e)), as
13 added by the Worker Economic Opportunity Act of
14 2000 (Public Law 106–202), was not an intentional
15 exclusion from such paragraph (8), but a reflection
16 that this type of equity award was not commonly
17 used as of the date of enactment of the Worker Eco-
18 nomic Opportunity Act of 2000 (Public Law 106–
19 202).

20 (3) Congress clearly established in the Joint
21 Statement of Legislative Intent accompanying the
22 Worker Economic Opportunity Act of 2000 (Public
23 Law 106–202) that such Act was designed to be
24 broad and flexible enough “to accommodate a wide
25 variety of [employee equity] programs” and to “be

1 flexible and forward-looking” and interpreted con-
2 sistent with its purpose “to encourage employers to
3 provide opportunities for equity participation to em-
4 ployees”.

5 (4) In the years since 2000, restricted stock
6 units have become a highly common form of equity
7 for both salaried and hourly employees that, con-
8 sistent with the Joint Statement of Legislative In-
9 tent accompanying the Worker Economic Oppor-
10 tunity Act of 2000 (Public Law 106–202), allow em-
11 ployees to share in the future success of their com-
12 panies through a mechanism that may not otherwise
13 be available to rank-and-file workers.

14 (5) Restricted stock units should qualify for the
15 exemption from regular rate determinations under
16 paragraph (8) of section 7(e) of the Fair Labor
17 Standards Act of 1938 (29 U.S.C. 207(e)(8)) be-
18 cause such paragraph would have explicitly men-
19 tioned restricted stock units as qualifying for such
20 exemption had restricted stock units been a common
21 form of employer-provided equity compensation as of
22 the date of enactment of the Worker Economic Op-
23 portunity Act of 2000 (Public Law 106–202).

1 **SEC. 3. CLARIFICATION OF THE EMPLOYER EQUITY EXEMP-**
2 **TION FROM REGULAR RATE DETERMINA-**
3 **TIONS.**

4 (a) CLARIFICATION.—Section 7(e)(8) of the Fair
5 Labor Standards Act of 1938 (29 U.S.C. 207(e)(8)) is
6 amended—

7 (1) in the matter preceding subparagraph (A),
8 by striking “or bona fide employee stock purchase
9 program” and inserting “bona fide employee stock
10 purchase program, or restricted stock unit pro-
11 gram”; and

12 (2) in subparagraph (C), by striking “exercise”
13 and inserting “exercise or acceptance”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date that is 90 days
16 after the date of enactment of this Act.