

108TH CONGRESS
1ST SESSION

S. 979

To direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, to require a study on the economic impact of broad-based employee stock option plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 1, 2003

Mr. ENSIGN (for himself, Mrs. BOXER, Ms. CANTWELL, Mr. CRAPO, Mr. CRAIG, Mr. ALLEN, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. REID, Mr. ALLARD, Mr. BURNS, Mr. WARNER, Mr. BENNETT, Mr. SMITH, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To direct the Securities and Exchange Commission to require enhanced disclosures of employee stock options, to require a study on the economic impact of broad-based employee stock option plans, 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 “Broad-Based Stock
5 Option Plan Transparency Act of 2003”.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 Congress finds that—

3 (1) innovation and entrepreneurship, particu-
4 larly in the high technology industry, helped propel
5 the economic growth of the 1990s, and will continue
6 to be the essential building blocks of economic
7 growth in the 21st century;

8 (2) broad-based employee stock option plans en-
9 able entrepreneurs and corporations to attract qual-
10 ity workers, to incentivize worker innovation, and to
11 stimulate productivity, which in turn increase share-
12 holder value;

13 (3) broad-based employee stock options plans
14 that expand corporate ownership to rank-and-file
15 employees spur capital formation, benefit workers,
16 and improve corporate performance to the benefit of
17 investors and the economy;

18 (4) concerns raised about the impact of em-
19 ployee stock option plans on shareholder value raise
20 legitimate issues relevant to the current level of dis-
21 closure and transparency of those plans to current
22 and potential investors; and

23 (5) investors deserve to have accurate, reliable,
24 and meaningful information about the existence of
25 outstanding employee stock options and their impact
26 on the share value of a going concern.

1 **SEC. 3. IMPROVED EMPLOYEE STOCK OPTION TRANS-**
2 **PARENCY AND REPORTING DISCLOSURES.**

3 (a) ENHANCED DISCLOSURES REQUIRED.—Not later
4 than 180 days after the date of enactment of this Act,
5 the Securities and Exchange Commission (in this Act re-
6 ferred to as the “Commission”) shall, by rule, require, for
7 each company required to file periodic reports under sec-
8 tion 13(a) or 15(d) of the Securities Exchange Act of
9 1934 (15 U.S.C. 78m, 78o(d)), that such reports include
10 detailed information regarding stock option plans, stock
11 purchase plans, and other arrangements involving an em-
12 ployee acquisition of an equity interest in the company,
13 particularly with respect to the dilutive effect of such
14 plans, including—

15 (1) a discussion, written in “plain English” (in
16 accordance with the Plain English Handbook pub-
17 lished by the Office of Investor Education and As-
18 sistance of the Commission), of the dilutive effect of
19 stock option plans, including tables or graphic illus-
20 trations of such dilutive effects;

21 (2) expanded disclosure of the dilutive effect of
22 employee stock options on the earnings per share
23 number of the company;

24 (3) prominent placement and increased com-
25 parability of all stock option related information;
26 and

1 (4) a summary of the stock options granted to
2 the 5 most highly compensated executive officers of
3 the company, including any outstanding stock op-
4 tions of those officers.

5 (b) EQUITY INTEREST.—As used in this section, the
6 term “equity interest” includes common stock, preferred
7 stock, stock appreciation rights, phantom stock, and any
8 other security that replicates the investment characteris-
9 tics of such securities, and any right or option to acquire
10 any such security.

11 **SEC. 4. EVALUATION OF EMPLOYEE STOCK OPTION PLANS**
12 **TRANSPARENCY AND REPORTING DISCLO-**
13 **SURES AND REPORT TO CONGRESS.**

14 (a) STUDY AND REPORT.—

15 (1) STUDY.—During the 3-year period following
16 the date of issuance of a final rule under section
17 3(a), the Commission shall conduct a study of the
18 effectiveness of the enhanced disclosures required by
19 section 3 in increasing transparency to current and
20 potential investors.

21 (2) REPORT.—Not later than 180 days after
22 the end of the 3-year period referred to in paragraph
23 (1), the Commission shall transmit a report of the
24 results of the study conducted under paragraph (1)
25 to the Committee on Financial Services of the House

1 of Representatives and the Committee on Banking,
2 Housing, and Urban Affairs of the Senate.

3 (b) MORATORIUM ON NEW ACCOUNTING STANDARDS
4 RELATED TO STOCK OPTIONS.—During the period begin-
5 ning on the date of enactment of this Act and ending 60
6 days after the date of transmission of the report required
7 under subsection (a)(2), the Commission shall not recog-
8 nize as generally accepted accounting principles for pur-
9 poses of enforcing the securities laws any accounting
10 standards related to the treatment of stock options that
11 the Commission did not recognize for that purpose before
12 April 1, 2003.

13 **SEC. 5. STUDY ON THE ECONOMIC IMPACT OF BROAD-**
14 **BASED EMPLOYEE STOCK OPTION PLANS**
15 **AND REPORT TO CONGRESS.**

16 (a) STUDY.—

17 (1) IN GENERAL.—The Secretary of Commerce
18 shall conduct a study and analysis of broad-based
19 employee stock option plans, particularly in the high
20 technology and any other high growth industries.

21 (2) CONTENT.—The study and analysis re-
22 quired by paragraph (1) shall include an examina-
23 tion of—

24 (A) the impact of such plans on expanding
25 employee corporate ownership to workers at a

1 wide-range of income levels, with a particular
2 focus on rank-and-file employees;

3 (B) the role of such plans in the recruit-
4 ment and retention of skilled workers; and

5 (C) the role of such plans in stimulating
6 research and innovation;

7 (D) the impact of such plans on the eco-
8 nomic growth of the United States; and

9 (E) the role of such plans in strengthening
10 the international competitiveness of companies
11 organized under the laws of the United States.

12 (b) REPORT.—Not later than 1 year after the date
13 of enactment of this Act, the Secretary of Commerce shall
14 submit a report on the study and analysis required by sub-
15 section (a) to—

16 (1) the Committee on Energy and Commerce
17 and the Committee on Financial Services of the
18 House of Representatives; and

19 (2) the Committee on Commerce, Science, and
20 Transportation and the Committee on Banking,
21 Housing, and Urban Affairs of the Senate.

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