To reform the labor laws of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Scott of South Carolina (for himself, Mr. Cramer, Mr. Cassidy, Ms. Lumis, Mr. Braun, Mr. Johnson, Mr. Thune, Mrs. Hyde-Smith, Mr. Hagerty, Mr. Budd, Mr. Tuberville, Mr. Crapo, and Mr. Risch) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To reform the labor laws of the United States, 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 “Employee Rights Act”.

5 SEC. 2. ENHANCED EMPLOYEE RIGHTS.

6 Section 9(a) of the National Labor Relations Act (29
7 U.S.C. 159(a)) is amended by striking “designated or se-
8 lected for the purposes of collective bargaining” and in-
serting “for the purposes of collective bargaining selected by secret ballot, in an election conducted by the Board,”.

SEC. 3. EMPLOYEE PRIVACY.

(a) Notice of Rights and Protections; Voter Registration Lists.—Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

“(h)(1) Whenever the Board directs an election under section 9(c) or approves an election agreement, the employer of employees in the bargaining unit shall, not later than two business days after the Board directs such election or approves such election agreement, provide a voter list to a labor organization that has petitioned to represent such employees. Such voter list shall include the names of all employees in the bargaining unit and not more than one additional form of personal contact information for the employee (such as a telephone number, an email address, or a mailing address) chosen by the employee in writing. The voter list shall be provided in a searchable electronic format generally approved by the Board unless the employer certifies that the employer does not possess the capacity to produce the list in the required form. Not later than nine months after the date of enactment of the Employee Rights Act, the Board shall promulgate regulations implementing the requirements of this paragraph.
“(2) It shall be an unfair labor practice for an employer to violate any requirement under paragraph (1).”.

(b) LABOR ORGANIZATION USE OF PERSONAL INFORMATION.—Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended—

(1) in paragraph (6), by striking “; and” and inserting a semicolon;

(2) in paragraph (7), by striking “8(b).” and inserting “8(b); and”; and

(3) by adding at the end the following:

“(8) to fail to protect the personal information of an employee received for an organizing drive, to use such information for any reason other than a representation proceeding, or to use such information after the conclusion of a representation proceeding.”.

(c) RIGHT NOT TO SUBSIDIZE LABOR ORGANIZATION NONREPRESENTATIONAL ACTIVITIES.—Title I of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 411 et seq.) is amended by adding at the end the following:

“SEC. 106. RIGHT NOT TO SUBSIDIZE LABOR ORGANIZATION NONREPRESENTATIONAL ACTIVITIES.

“No employee’s labor organization dues, fees, assessments, or other contributions shall be used or contributed
to any person, organization, or entity for any purpose not
directly related to the labor organization's collective bar-
gaining or contract administration functions on behalf of
the represented unit employee unless the employee mem-
ber, or nonmember required to make such payments as
a condition of employment, authorizes such expenditure in
writing, after a notice period of not less than 35 days.
An initial authorization provided by an employee under
the preceding sentence shall expire not later than 1 year
after the date on which such authorization is signed by
the employee. There shall be no automatic renewal of an
authorization under this section.”.

SEC. 4. EMPLOYMENT RELATIONSHIPS.

(a) Amendments to the Fair Labor Standards
Act of 1938 to Harmonize the Definition of Em-
ployee.—

(1) Definition of employee.—Section
3(e)(1) of the Fair Labor Standards Act of 1938
(29 U.S.C. 203(e)(1)) is amended by inserting be-
fore the period the following: “, as determined under
the usual common law rules”.

(2) Definition of employ.—Section 3(g) of
203(g)) is amended by inserting “an employee” after
“permit”.
(b) Clarification of Joint Employment.—

(1) National labor relations act.—Section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)) is amended—

(A) by striking “The term ‘employer’” and inserting “(A) The term ‘employer’”; and

(B) by adding at the end the following:

“(B) An employer may be considered a joint employer of the employees of another employer only if each employer directly, actually, and immediately, and not in a limited and routine manner, exercises significant control over the essential terms and conditions of employment of the employees of the other employer, such as hiring such employees, discharging such employees, determining the rate of pay and benefits of such employees, supervising such employees on a day-to-day basis, assigning such employees a work schedule, position, or task, or disciplining such employees.”.

(2) Fair labor standards act of 1938.—Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) is amended—

(A) by striking “‘Employer’ includes” and inserting “(1) ‘Employer’ includes”; and
(B) by adding at the end the following:

“(2) An employer may be considered a joint employer of the employees of another employer for purposes of this Act only if each employer meets the criteria set forth in section 2(2)(B) of the National Labor Relations Act (29 U.S.C. 152(2)(B)) except that, for purposes of determining joint-employer status under this Act, the terms ‘employee’ and ‘employer’ referenced in such section shall have the meanings given such terms in this section.”.

(c) Provision of Technical Assistance.—Notwithstanding any other provision of law, under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), the National Labor Relations Act (29 U.S.C. 151 et seq.), or any other Federal law, none of the following may be construed, alone or in combination with any other factor, as establishing an employer and employee relationship between a franchisor (or any employee of the franchisor) and a franchisee (or any employee of the franchisee):

(1) The franchisor (or any employee of the franchisor) provides the franchisee (or any employee of the franchisee) with, or requires such franchisee (or any employee of the franchisee) to use, a handbook, or other training, on sexual harassment, human trafficking, workplace violence, discrimina-
tion, or opportunities for apprenticeships or scholar-
ships.

(2) The franchisor (or any employee of the
franchisor) requires the franchisee (or any employee
of the franchisee) to adopt a policy on sexual harass-
ment, human trafficking, workplace violence, dis-
crimination, opportunities for apprenticeships or
scholarships, child care, or paid leave, including a
requirement for such franchisee (or any employee of
the franchisee) to report to the franchisor (or any
employee of the franchisor) any violations or sus-
pected violations of such policy.

SEC. 5. TRIBAL SOVEREIGNTY.

Section 2 of the National Labor Relations Act (29
U.S.C. 152), as amended by section 4(b)(1), is further
amended—

(1) in paragraph (2)(A), by inserting “or any
Indian Tribe, or any enterprise or institution owned
and operated by an Indian Tribe and located on its
Indian lands,” after “subdivision thereof,”; and

(2) by adding at the end the following:

“(15) The term ‘Indian Tribe’ means any In-
dian Tribe, band, nation, pueblo, or other organized
group or community which is recognized as eligible
for the special programs and services provided by
the United States to Indians because of their status
as Indians.

“(16) The term ‘Indian’ means any individual
who is a member of an Indian Tribe.

“(17) The term ‘Indian lands’ means—

“(A) all lands within the limits of any In-
dian reservation;

“(B) any lands title to which is either held
in trust by the United States for the benefit of
any Indian Tribe or Indian or held by any In-
dian Tribe or Indian subject to restriction by
the United States against alienation; and

“(C) any lands in the State of Oklahoma
that are within the boundaries of a former res-
ervation (as defined by the Secretary of the In-
terior) of a Federally recognized Indian Tribe.”.