107TH CONGRESS
2D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. LEVIN (for himself, Mr. MCCAIN, Mr. FITZGERALD, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in a corporation's financial statements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ending the Double Standard for Stock Options Act''.

SEC. 2. REQUIREMENTS FOR CONSISTENT TREATMENT OF STOCK OPTIONS BY CORPORATIONS.

(a) CONSISTENT TREATMENT FOR TAX DEDUCTION.—Section 83(h) of the Internal Revenue Code of 1986 (relating to deduction of employer) is amended—

(1) by striking ''In the case of'' and inserting: ''(1) IN GENERAL.—In the case of'', and

(2) by adding at the end the following new paragraph:

''(2) SPECIAL RULES FOR PROPERTY TRANSFERRED PURSUANT TO STOCK OPTIONS.—

''(A) IN GENERAL.—In the case of property transferred in connection with a stock option, the deduction otherwise allowable under paragraph (1) shall not exceed the amount the taxpayer has treated as an expense for the purpose of ascertaining income, profit, or loss in a report or statement to shareholders, partners, or other proprietors (or to beneficiaries). In no event shall such deduction be allowed before the taxable year described in paragraph (1).

''(B) SPECIAL RULES FOR CONTROLLED GROUPS.—The Secretary shall prescribe rules for the application of this paragraph in cases where the stock option is granted by a parent

or subsidiary corporation (within the meaning of section 424) of the employer corporation.''.

(b) CONSISTENT TREATMENT FOR RESEARCH TAX CREDIT.—Section 41(b)(2)(D) of the Internal Revenue Code of 1986 (defining wages for purposes of credit for increasing research expenses) is amended by inserting at the end the following new clause:

''(iv) SPECIAL RULE FOR STOCK OPTIONS AND STOCK-BASED PLANS.—The term 'wages' shall not include any amount of property transferred in connection with a stock option and required to be included in a report or statement under section 83(h)(2) until it is so included, and the portion of such amount which may be treated as wages for a taxable year shall not exceed the amount of the deduction allowed under section 83(h) for such taxable year with respect to such amount.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property transferred and wages provided on or after the date of the enactment of this Act.