110TH CONGRESS	\mathbf{C}	
1st Session	5.	

To amend the Internal Revenue Code of 1986 to provide that corporate tax benefits based upon stock option compensation expenses be consistent with accounting expenses shown in corporate financial statements for such compensation.

IN THE SENATE OF THE UNITED STATES

Mr. Levin 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 based upon stock option compensation expenses be consistent with accounting expenses shown in corporate financial statements for such compensation.
 - 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 "Ending Corporate Tax
 - 5 Favors for Stock Options Act".

1	SEC. 2. CONSISTENT TREATMENT OF STOCK OPTIONS BY
2	CORPORATIONS.
3	(a) Consistent Treatment for Wage Deduc-
4	TION.—
5	(1) In General.—Section 83(h) of the Internal
6	Revenue Code of 1986 (relating to deduction of em-
7	ployer) is amended—
8	(A) by striking "In the case of" and in-
9	serting:
10	"(1) IN GENERAL.—In the case of", and
11	(B) by adding at the end the following new
12	paragraph:
13	"(2) STOCK OPTIONS.—In the case of property
14	transferred to a person in connection with the exer-
15	cise of a stock option, any deduction by the employer
16	related to such stock option shall be allowed only
17	under section 162(q) and paragraph (1) shall not
18	apply.".
19	(2) Treatment of compensation paid with
20	STOCK OPTIONS.—Section 162 of such Code (relat-
21	ing to trade or business expenses) is amended by re-
22	designating subsection (q) as subsection (r) and by
23	inserting after subsection (p) the following new sub-
24	section:
25	"(q) Treatment of Compensation Paid With
26	STOCK OPTIONS —

1	"(1) IN GENERAL.—In the case of compensa-
2	tion for personal services that is paid with stock op-
3	tions, the deduction under subsection $(a)(1)$ shall
4	not exceed the amount the taxpayer has treated as
5	an expense with respect to such stock options for the
6	purpose of ascertaining income, profit, or loss in a
7	report or statement to shareholders, partners, or
8	other proprietors (or to beneficiaries), and shall be
9	allowed in the same period that the accounting ex-
10	pense is recognized.
11	"(2) Special rules for controlled
12	GROUPS.—The Secretary shall prescribe rules for the
13	application of paragraph (1) in cases where the
14	stock option is granted by a parent or subsidiary
15	corporation (within the meaning of section 424) of
16	the employer corporation.".
17	(b) Consistent Treatment for Research Tax
18	CREDIT.—Section 41(b)(2)(D) of the Internal Revenue
19	Code of 1986 (defining wages for purposes of credit for
20	increasing research expenses) is amended by inserting at
21	the end the following new clause:
22	"(iv) Special rule for stock op-
23	TIONS.—The amount which may be treated
24	as wages for any taxable year in connec-
25	tion with the issuance of a stock option

1	shall not exceed the amount allowed for
2	such taxable year as a compensation de-
3	duction under section 162(q) with respect
4	to such stock option.".
5	(c) Application of Amendments.—The amend-
6	ments made by this section shall apply to stock options
7	exercised after the date of the enactment of this Act, ex-
8	cept that—
9	(1) such amendments shall not apply to stock
10	options that were granted before such date and that
11	vested in taxable periods beginning on or before
12	June 15, 2005,
13	(2) for stock options that were granted before
14	such date of enactment and vested during taxable
15	periods beginning after June 15, 2005, and ending
16	before such date of enactment, a deduction under
17	section 162(q) of the Internal Revenue Code of 1986
18	(as added by subsection (a)(2)) shall be allowed in
19	the first taxable period of the taxpayer that ends
20	after such date of enactment,
21	(3) for public entities reporting as small busi-
22	ness issuers and for non-public entities required to
23	file public reports of financial condition, paragraphs
24	(1) and (2) shall be applied by substituting "Decem-
25	ber 15, 2005" for "June 15, 2005", and

1	(4) no deduction shall be allowed under section
2	83(h) or section 162(q) of such Code with respect to
3	any stock option the vesting date of which is
4	changed to accelerate the time at which the option
5	may be exercised in order to avoid the applicability
6	of such amendments.
7	SEC. 3. APPLICATION OF EXECUTIVE PAY DEDUCTION
8	LIMIT.
9	(a) In General.—Subparagraph (D) of section
10	162(m)(4) of the Internal Revenue Code of 1986 (defining
11	applicable employee remuneration) is amended to read as
12	follows:
13	"(D) STOCK OPTION COMPENSATION.—
14	The term 'applicable employee remuneration'
15	shall include any compensation deducted under
16	subsection (q), and such compensation shall not
17	qualify as performance-based compensation
18	under subparagraph (C).".
19	(b) Effective Date.—The amendment made by
20	this section shall apply to stock options exercised or grant-

21 ed after the date of the enactment of this Act.