

EXTENSIONS OF REMARKS

INTRODUCTION OF LEGISLATION TO PROVIDE TAX-ADVANTAGED STOCK OPTIONS TO NON-HIGHLY COMPENSATED EMPLOYEES

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 31, 1997

Mr. HOUGHTON. Mr. Speaker, today I am introducing the Employee Stock Option Act of 1997, a bill designed to provide tax-advantaged stock options for more moderately paid employees. The legislation will enable these employees to participate meaningfully in their company's success.

BACKGROUND

There is a growing concern about the wage gap. The perception is that there is a widening in the gap between the compensation of executives who are given stock options and regular employees. Much of executive compensation is made in the form of stock options. They have been profitable because of a rising stock market. Furthermore, many executives have earned substantial awards during a period of poor performance or and at times when others were being laid off.

How can we address this wage gap issue without imposing Government mandates, etc. at the upper end? There is presently a \$1 million limit on the tax deductibility of nonperformance based executive compensation for a publicly-traded corporation. The limit can be exceeded if compensation is based on performance goals or stock options tied to the market, therefore this limit has not slowed the increase in total compensation of executives during the past few years.

This Employee Stock Option Act of 1997 takes a different approach. Rather than putting a lid on the top, it gives a lift to the bottom. This legislation will benefit employees, whose hard work has enhanced the companies overall performance. In other words, employees through a broad-based stock option program ought to be able to build their wealth beyond what they would ordinarily receive from a salary. Furthermore, this act would give employees with limited disposable income the luxury of cashing in the option to pay education cost, putting a down payment on a home, or maintaining savings for the future.

PROPOSAL

Provides a special stock option provision for employee stock options [ESO's], if companies offered at least 50 percent of the total options under the special stock option provision in a given year to non-highly compensated employees [NHCE's].

The idea is to provide a simple stock option approach for all employees. Such an option could be easily converted into cash, with minimum taxes, and would therefore put funds immediately in the employees' pockets. Of course, it is recognized that some holding period of the option or stock is appropriate for consistent tax policy.

This proposal would encourage employee participation in the growth of the enterprise

and provide a tangible benefit through an increase in the stock price.

DETAILS

A new subsection (e) would be added to Internal Revenue Code section 422. The new subsection would provide that highly compensated employees could be awarded stock options, up to a new dollar limitation of \$200,000, if half or more of the options granted in a particular year go to non-highly compensated employees, [NHCE's]. Under current law, section 422(d) mandates a dollar limitation of \$100,000. It is believed that raising the cap for these special options will encourage corporations to grant more options to lower level employees as further explained below.

NHCE's comprise those employees who are not defined in section 414(q) as a "highly compensated employee", the latter being an employee who generally earns \$80,000 or more, adjusted annually for cost-of-living changes. Amount increased under H.R. 3448.

If the employee either holds the subsection (e) option for 2 years or holds the stock for at least a 1-year period, then no income would be recognized by the employee upon grant or exercise of the option. Upon sale, any gain would be treated as a long-term capital gain and could be eligible for the new reduced capital gain rate of 20 percent if the employee holds the stock longer than 18 months, otherwise it would be subject to the current maximum rate of 28 percent or treated as ordinary income if that resulted in a lesser tax. The present law requires a holding period of at least 2 years from date of grant and 1 year for the stock, so it is necessary to add a provision to cover the subsection (e) options as the option could be exercised after 2 years and the stock immediately sold.

In addition, the excess of the fair market value at exercise of the subsection (e) option shares over the option price, would not be subject to the alternative minimum tax [AMT], as under current law. This exception would only apply to the new subsection (e) options. Although the current AMT on incentive stock options normally might not apply to individual NHCE's because of the annual exemption, this exception would eliminate the burden of complexity and recordkeeping requirements related to such calculations. This change would also encourage corporations to make greater use of the stock options for employees and executives.

If the employer offers subsection (e) options to employees who qualify as NHCE employees, and such options represent at least 50 percent of the total subsection (e) options granted to all employees in a given year, then highly compensated paid employees could receive the identical tax benefit as the NHCE's. This test would be applied on a yearly basis. The combination of first, a shorter minimum holding period of 1 year, second, elimination of the AMT, and third, raising the annual cap, all applicable only to subsection (e) stock options, should be a powerful incentive for corporations to offer these options to regular employees in order to be able to offer them to executives.

It is anticipated that a cashless exercise system would be used for exercising such the NHCE options. This is not unlike the system widely used today.

The current rules regarding corporate deductibility and disqualifying dispositions would apply, except for changes in the holding period. For example, if the employee exercises the option, and disposes of the stock in 9 months from date of grant, then the employee has ordinary income as compensation, and the employer is entitled to a deduction for the same amount. However, in cases where the option is held for 2 years or more before exercise or holds the stock 1 year or longer after exercise, then the gain at exercise is not deductible by the employer.

Other provisions applicable to the current incentive stock option plans, and identical to those in section 422(b), would also apply to subsection (e) stock options. Generally the provisions are:

An option plan approved by the shareholders is required.

Option price no less than the fair market value at date of grant.

Option granted with 10 years from the date plan is adopted.

Option period no longer than the shorter of 10 years or 1 year after termination of employment.

Option not transferable except at death, etc.

Grantee does not own stock possessing more than 10 percent of the voting power.

In addition, non-employee directors, independent contractors, and consultants would be ineligible to receive subsection (e) stock options.

It is not the intention of this proposal to change the provisions relating to incentive stock options under section 422, other than adding a new special option under section 422 (e), or employee stock options under section 423.

The proposal is not limited to publicly-traded companies, although that is where the wage gap issue has been highlighted because of the compensation information available to the public. Private companies should be able to participate as well.

I urge my colleagues to join me in support of this legislation.

A TRIBUTE TO HAROLD
MALKMES—1997 CITIZEN OF THE
YEAR

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 31, 1997

Mr. FORBES. Mr. Speaker, I rise today in this hallowed Chamber to join the Patchogue-Medford Youth & Community Services of Patchogue, Long Island as they honor Mr. Harold Malkmes, of Stony Brook, Long Island, as 1997 Citizen of the Year.

A native of Port Jefferson, on Suffolk County's north shore, Harold Malkmes has served

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the residents of Brookhaven for the past 31 years as the town's superintendent of highways. During his tenure, Mr. Malkmes has dedicated himself to maintaining the safest possible system of roads, instituting many innovative programs, including ones that successfully alleviated severe drainage problems throughout the town.

Perhaps the most significant of Mr. Malkmes innovations is the development of the Brookhaven Town composting program and ecology education site, located in the town's Holtsville community. Nationally recognized for its cooperative work with the Boy and Girl Scouts, 4H Clubs and senior citizens, this ground-breaking program uses hands-on exhibits and demonstrations that teach the importance of recycling, reusing, and preserving our precious natural resources.

A graduate of the State University of New York at Farmingdale with a degree in horticulture, Mr. Malkmes was imbued with his love for Long Island's natural environment as a youth working in his family's florist business. Today, Mr. Malkmes sponsors the Holtsville Explorer Post that works with youth who are interested in the field of ecology and developed the "Help Save the Wildlife" program that allows residents, students, church groups, and schools to sponsor the care and keeping of an animal at the Holtsville Zoo. Mr. Malkmes also developed the Ecology Site Outreach Showmobile, allowing the ecological education program to travel to local schools and visit kindergarten and third grade classes that are unable to visit the zoo.

These are just a few of the reasons, Mr. Speaker, that I ask my colleagues in the U.S. House of Representatives to join me honoring Harold Malkmes, a dedicated public servant who has done so much more than fulfill his duties of office. His dedication and tireless efforts for the residents of Brookhaven Town, Long Island—particularly its youth—should serve as an example to all of us who are called to public service. Congratulations, Harold.

TRIBUTE TO EUGENE COPPOLA

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 31, 1997

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention Mr. Eugene Coppola as he is honored by the Fidelity as their 1997 Man of the Year on Saturday, November 1, 1997. He has earned this prestigious honor by becoming a driving force behind the Fidelity's magnanimous and numerous charitable efforts.

The Fidelity was founded in 1939 as an organization to help inner city youth. It has grown in the ensuing decades and can now claim over 100 members. As an organization, the Fidelity owns a 3½ acre camp in North Haledon. Each summer, they administer a summer camp for children with Down's syndrome. In addition, they assist other camps that utilize their facilities, including a camp from Paterson that supports children with cerebral palsy.

For early two decades, Eugene has played a vital and integral role in directing the charitable deeds of the Fidelity. He has been a

member for over 17 years. Eugene has also demonstrated a unique capacity to lead, serving as president of the Fidelity and sitting on the board of trustees for several years.

Eugene has born and raised in Paterson, attending Public School No. 18 and Eastside High School. He went on to earn a bachelor's degree in business administration from Seton Hall University. A resident of Franklin Lakes, Eugene and his wife, Stephanie, are the proud parents of two children, Victoria and Michael.

However, the story of Eugene's success neither begins nor ends with his involvement with the Fidelity. Eugene also serves the community in a multitude of other capacities. As a member of the Most Blessed Sacrament Church in Franklin Lakes, he is the treasurer and a board member of the Catholic Charities of Passaic and Sussex Counties. Eugene is a trustee for the IBEW 1158 Pension and Welfare Fund, a position he has held for the past decade. He has been the president of the Mount Joseph's Children's Center in Totowa. In addition to his charity work with the Fidelity, Eugene supports the Deborah Heart Center, the Sloan Kettering Cancer Center, and the National Kidney Foundation.

Mr. Speaker, I ask that you join me, our colleague, Mr. Coppola's family, and the Fidelity in recognizing Mr. Eugene Coppola as the Fidelity's Man of the Year for 1997.

IN HONOR OF THE 40TH ANNIVERSARY OF EAST COAST WAREHOUSE AND 43D ANNIVERSARY OF SAFEWAY TRUCKING

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 31, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to two outstanding corporations, East Coast Warehouse & Distribution and Safeway Trucking Corp. On November 2, 1997, Mr. Roy A. Lebovitz will help celebrate these two milestones—the 40th anniversary of East Coast Warehouse and the 43d anniversary of Safeway Trucking—with an enjoyable evening of dinner and dancing at the Holiday Inn North's Grant Ballroom in Newark, NJ.

East Coast Warehouse & Distribution was incorporated nearly 40 years ago on December 11, 1957. East Coast Warehouse grew from its beginnings with 125 thousand square feet of warehouse space and 25 employees to have more than 1.4 million square feet of space and more than 200 employees.

Mr. Roy A. Lebovitz, who was born in Newark, NJ on December 14, 1932, became the corporation president, and vice president of the sister company, Safeway Trucking Corp. on March 10, 1962. He graduated with a bachelor's degree in business administration from Upsala College in 1955. Mr. Lebovitz and his lovely wife Barbara were married on February 21, 1959. They have five children, Amy, Sheri, Jane, Beth, and Marc, and five grandchildren. Mr. Lebovitz served in the U.S. Army from 1955 to 1957 prior to beginning his work for Safeway Trucking and East Coast Warehouse. Mr. Lebovitz also founded successful warehousing operations in Texas and Canada, employing an additional 130 staffers along the way.

Over the years, these corporations have created partnerships with the residents of the

community of Union County. The leadership and commitment of the administration, office staff and aides, warehouse staff, supervisors and managers, and all corporation drivers have contributed to this great American success story.

It is a great pleasure to honor and recognize the outstanding dedication and service of Mr. Roy A. Lebovitz; and East Coast Warehouse and Safeway Trucking, on their anniversaries.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. WALTER H. CAPPS, REPRESENTATIVE FROM THE STATE OF CALIFORNIA

SPEECH OF

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 1997

Ms. WOOLSEY. Mr. Speaker, on a truly sad day for this Chamber and for this country, I rise to honor our colleague, WALTER CAPPS, a leader, a role model, and a friend.

WALTER represented the people of Santa Barbara with energy, zeal, and honor. I admired WALTER for his principles and for the solid direction of his moral compass. WALTER was a member who didn't just talk about values and principles. He lived them. And for this, WALTER was a role model to us all.

Working with him as part of the California delegation taught me so much about the kind of leader and the kind of person that we all strive to be. He gave his heart and soul to the service of the people of his district, to the people of California, and to the people of our Nation. He was a great thinker, a great philosopher, and a great man. I will never forget WALTER's generous spirit and warm heart.

WALTER dedicated his life to solving problems and resolving conflicts. And even without his physical presence, his spirit lives on in the Halls of this Chamber.

LESS FEDERAL BUREAUCRACY AND MORE COMMUNITY PARTICIPATION

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 31, 1997

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, as we debate the merits of various federal programs, I urge colleagues to keep in mind the benefits of less Federal bureaucracy and more community participation. We all recognize how much money is lost or wasted between the Federal level and the actual local people who we are trying to help. The best form of support we can give Americans is the power to do for themselves. This can be achieved by empowering communities closest to problems to have the most autonomy in deciding how to meet the challenges that face them. On this point, I want to share the thoughts of Krista Kafer of Colorado.

Studying physics taught me a thing or two about government. In an engine, large gears move slowly but with great force. Small gears move with greater speed but less force.