

Gekas	Lucas (KY)	Royce
Gephhardt	Luther	Rush
Gibbons	Maloney (CT)	Ryan (WI)
Gilchrest	Maloney (NY)	Ryun (KS)
Gillmor	Manzullo	Sabo
Gilman	Markey	Salmon
Gonzalez	Martinez	Sanchez
Goode	Mascara	Sanders
Goodlatte	Matsui	Sandlin
Goodling	McCarthy (MO)	Sanford
Gordon	McCarthy (NY)	Sawyer
Goss	McCullum	Saxton
Graham	McCrery	Scarborough
Granger	McDermott	Schaffer
Green (TX)	McGovern	Schakowsky
Green (WI)	McHugh	Scott
Greenwood	McInnis	Sensenbrenner
Gutknecht	McIntyre	Serrano
Hall (OH)	McKeon	Sessions
Hall (TX)	McKinney	Shadegg
Hansen	McNulty	Shaw
Hastings (FL)	Meehan	Shays
Hastings (WA)	Meek (FL)	Sherman
Hayes	Meeks (NY)	Sherwood
Hayworth	Menendez	Shimkus
Hefley	Metcalf	Shows
Herger	Mica	Shuster
Hill (IN)	Millender-	Simpson
Hill (MT)	McDonald	Sisisky
Hilleary	Miller (FL)	Skeen
Hilliard	Miller, Gary	Skelton
Hinchey	Miller, George	Slaughter
Hinojosa	Minge	Smith (MI)
Hobson	Mink	Smith (NJ)
Hoefel	Moakley	Smith (TX)
Hoekstra	Mollohan	Smith (WA)
Holden	Moore	Snyder
Holt	Moran (KS)	Spence
Hooley	Moran (VA)	Spratt
Horn	Morella	Stabenow
Hostettler	Murtha	Stark
Houghton	Nadler	Stearns
Hoyer	Napolitano	Stenholm
Hulshof	Neal	Strickland
Hunter	Nethercutt	Stump
Hutchinson	Ney	Stupak
Hyde	Northup	Sununu
Inslee	Norwood	Tanner
Isakson	Nussle	Tauscher
Istook	Oberstar	Tauzin
Jackson (IL)	Obey	Taylor (MS)
Jackson-Lee (TX)	Olver	Taylor (NC)
Jefferson	Ortiz	Terry
Jenkins	Ose	Thomas
John	Owens	Thompson (CA)
Johnson (CT)	Oxley	Thompson (MS)
Johnson, E. B.	Packard	Thornberry
Johnson, Sam	Pallone	Thune
Jones (NC)	Pascrell	Thurman
Jones (OH)	Pastor	Tiahrt
Kanjorski	Paul	Tierney
Kaptur	Payne	Toomey
Kasich	Pease	Towns
Kelly	Pelosi	Traficant
Kildee	Peterson (MN)	Turner
Kilpatrick	Peterson (PA)	Udall (CO)
Kind (WI)	Petri	Udall (NM)
King (NY)	Phelps	Upton
Kingston	Pickering	Vento
Kleckza	Pickett	Viscosky
Klink	Pitts	Vitter
Knollenberg	Pombo	Walden
Kolbe	Pomeroy	Walsh
Kucinich	Porter	Wamp
Kuykendall	Portman	Waters
LaFalce	Price (NC)	Watkins
LaHood	Pryce (OH)	Watt (NC)
Lampson	Quinn	Watts (OK)
Lantos	Radanovich	Waxman
Largent	Rahall	Weiner
Larson	Ramstad	Weldon (FL)
Latham	Rangel	Weldon (PA)
LaTourette	Regula	Weller
Lazio	Reyes	Wexler
Leach	Reynolds	Weygand
Lee	Riley	Whitfield
Levin	Rivers	Wicker
Lewis (CA)	Rodriguez	Wilson
Lewis (GA)	Roemer	Wolf
Lewis (KY)	Rogan	Woolsey
Linder	Rogers	Wu
Lipinski	Rohrabacher	Wynn
LoBiondo	Ros-Lehtinen	Young (FL)
Lofgren	Rothman	
Lowey	Roukema	
	Royal-Allard	

NOT VOTING—13

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□

## PERSONAL EXPLANATION

Mr. KENNEDY of Rhode Island. Mr. Speaker, on May 3, 2000, I was unavoidably detained and consequently missed four votes. Had I been here I would have voted: "Yes" on the passage of H. Con. Res. 295; "yes" on the passage of H. Con. Res. 304; "yes" on the passage of S. 1744; "yes" on the passage of H.R. 1509.

□

## SUPPORTING A NATIONAL CHARTERS SCHOOLS WEEK

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 310.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 310, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 397, nays 20, not voting 17, as follows:

[Roll No. 137]

YEAS—397

Abercrombie	Boehlert	Costello	Hunter	Orey	Thompson (CA)
Ackerman	Boehner	Cox	Hutchinson	Ortiz	Thompson (MS)
Aderholt	Bonilla	Coyne	Hyde	Ose	Thornberry
Allen	Bono	Cramer	Inslee	Owens	Thune
Andrews	Borski	Crane	Isakson	Oxley	Thurman
Archer	Boswell	Crowley	Istook	Packard	Tiahrt
Armey	Boucher	Cubin	Jackson (IL)	Pallone	Toomey
Baca	Boyd	Cunningham	Jackson-Lee	Pascarella	Traficant
Bachus	Brady (PA)	Danner	(TX)	Pastor	Turner
Baird	Brady (TX)	Davis (FL)	Jefferson	Paul	Udall (CO)
Baker	Brown (FL)	Davis (IL)	Jenkins	Pease	Udall (NM)
Baldacci	Brown (OH)	Davis (VA)	John	Pelosi	Upton
Baldwin	Bryant	Deal	Johnson (CT)	Peterson (MN)	Vento
Ballenger	Burr	Defazio	Johnson, E. B.	Peterson (PA)	Vitter
Barcia	Burton	DeGette	Johnson, Sam	Petri	Walden
Barr	Buyer	Delahunt	Jones (NC)	Phelps	Walsh
Barrett (NE)	Callahan	DeLauro	Jones (OH)	Pickering	Wamp
Barrett (WI)	Calvert	DeMint	Kanjorski	Pickett	Waters
Bartlett	Camp	Deutsch	Kaptur	Pitts	Watkins
Barton	Campbell	Diaz-Balart	Kelly	Pombo	Watt (NC)
Bass	Canady	Dickey	Kennedy	Pomeroy	Watts (OK)
Bateman	Cannon	Dicks	Kildee	Porter	Waxman
Becerra	Capps	Dingell	Kilpatrick	Portman	Weiner
Bentsen	Cardin	Dixon	Kind (WI)	Price (NC)	Weldon (FL)
Bereuter	Castle	Doggett	King (NY)	Pryce (OH)	Weldon (PA)
Berkley	Chabot	Dooley	Kingston	Quinn	Weller
Berman	Chambliss	Doyle	Kleczka	Radanovich	Wexler
Berry	Chenoweth-Hage	Dreier	Klink	Rahall	Weygand
Biggert	Clayton	Duncan	Knollenberg	Ramstad	Whitfield
Bilbray	Clement	Dunn	Kolbe	Rangel	Wicker
Bilirakis	Clyburn	Edwards	Kuykendall	Regula	Wilson
Bishop	Coble	Ehlers	LaFalce	Reyes	Wolf
Blagojevich	Collins	Ehrlich	LaHood	Reynolds	Woolsey
Bliley	Combest	Emerson	Lampson	Riley	Wu
Blumenauer	Condit	Engel	Lantos	Rodriguez	Wynn
Blunt	Cooksey	English	Larson	Roemer	Young (FL)

## NAYS—20

Bonior	Kucinich	Scott
Capuano	Lee	Serrano
Carson	McDermott	Slaughter
Clay	Mink	Tierney
Conyers	Olver	Towns
Hilliard	Payne	Visclosky
Hinchey	Rivers	

## NOT VOTING—17

Coburn	Filner	Myrick
Cook	Gutierrez	Souder
Cummings	Kasich	Velazquez
DeLay	Largent	Wise
Doolittle	Lucas (OK)	Young (AK)
Evans	McIntosh	

□ 1252

Ms. CARSON changed her vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. DOOLITTLE. Mr. Speaker, on rollcall No. 137, I was inadvertently detained. Had I been present, I would have voted "yea."

□

## WORKER ECONOMIC OPPORTUNITY ACT

Mr. GOODLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2323) to amend the Fair Labor Standards Act of 1938 to clarify the treatment of stock options under the Act.

The Clerk read as follows:

S. 2323

*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 "Worker Economic Opportunity Act".

## SEC. 2. AMENDMENTS TO THE FAIR LABOR STANDARDS ACT OF 1938.

(a) EXCLUSION FROM REGULAR RATE.—Section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)) is amended—

(1) in paragraph (6), by striking "or" at the end;

(2) in paragraph (7), by striking the period and inserting ";" or"; and

(3) by adding at the end the following:

"(8) any value or income derived from employer-provided grants or rights provided pursuant to a stock option, stock appreciation right, or bona fide employee stock purchase program which is not otherwise excludable under any of paragraphs (1) through (7) if—

"(A) grants are made pursuant to a program, the terms and conditions of which are communicated to participating employees either at the beginning of the employee's participation in the program or at the time of the grant;

"(B) in the case of stock options and stock appreciation rights, the grant or right cannot be exercisable for a period of at least 6 months after the time of grant (except that grants or rights may become exercisable because of an employee's death, disability, retirement, or a change in corporate ownership, or other circumstances permitted by regulation), and the exercise price is at least 85 percent of the fair market value of the stock at the time of grant;

"(C) exercise of any grant or right is voluntary; and

"(D) any determinations regarding the award of, and the amount of, employer-provided grants or rights that are based on performance are—

"(i) made based upon meeting previously established performance criteria (which may include hours of work, efficiency, or productivity) of any business unit consisting of at least 10 employees or of a facility, except that, any determinations may be based on length of service or minimum schedule of hours or days of work; or

"(ii) made based upon the past performance (which may include any criteria) of one or more employees in a given period so long as the determination is in the sole discretion of the employer and not pursuant to any prior contract."

(b) EXTRA COMPENSATION.—Section 7(h) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(h)) is amended—

(1) by striking "Extra" and inserting the following:

"(2) Extra"; and

(2) by inserting after the subsection designation the following:

"(1) Except as provided in paragraph (2), sums excluded from the regular rate pursuant to subsection (e) shall not be creditable toward wages required under section 6 or overtime compensation required under this section."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this Act.

(d) LIABILITY OF EMPLOYERS.—No employer shall be liable under the Fair Labor Standards Act of 1938 for any failure to include in an employee's regular rate (as defined for purposes of such Act) any income or value derived from employer-provided grants or rights obtained pursuant to any stock option, stock appreciation right, or employee stock purchase program if—

(1) the grants or rights were obtained before the effective date described in subsection (c);

(2) the grants or rights were obtained within the 12-month period beginning on the effective date described in subsection (c), so long as such program was in existence on the date of enactment of this Act and will require shareholder approval to modify such program to comply with section 7(e)(8) of the Fair Labor Standards Act of 1938 (as added by the amendments made by subsection (a)); or

(3) such program is provided under a collective bargaining agreement that is in effect on the effective date described in subsection (c).

(e) REGULATIONS.—The Secretary of Labor may promulgate such regulations as may be necessary to carry out the amendments made by this Act.

The SPEAKER pro tempore (Mr. QUINN). Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from New York (Mr. OWENS) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in strong support of S. 2323, the Worker Economic Opportunity Act. The Department of Labor, in a recent opinion letter, has jeopardized a successful and popular new trend in employment, and they did it not because of any fault of theirs but because they interpreted the Labor Standards Act of 1938, which is what I have said

over and over again, year after year, we are trying to run businesses, labor and management, based on rules and regulations that were written back in the 1930s, when it was a manufacturing economy only and men only. We cannot do that in the 21st century.

Well, of course, if they had followed through, we would have eliminated the very popular stock option for hourly employees.

I want to thank the gentleman from New York (Mr. OWENS) and the gentleman from Indiana (Mr. ROEMER) and the gentleman from Wisconsin (Mr. KIND), among others, for helping us develop the bipartisan resolution. I want to certainly thank the gentleman from California (Mr. CUNNINGHAM), who has worked tirelessly to help bring about this resolution, as well as our subcommittee chair, the gentleman from North Carolina (Mr. BALLENGER).

The Worker Economic Opportunity Act reflects a consensus reached among the bill's chief sponsors in the House and the Senate committees of jurisdiction and the Department of Labor. The other body passed it 95 to nothing; and to further explain the consensus we have reached, I am going to include into the RECORD a statement of legislative intent which is substantially identical to what was the legislative intent presented in the other body by Senators MCCONNELL, DODD, JEFFORDS, and ENZI.

I urge my colleagues to vote for the Worker Economic Opportunity Act.

STATEMENT OF LEGISLATIVE INTENT REGARDING S. 2323, THE WORKER ECONOMIC OPPORTUNITY ACT

## I. INTRODUCTION AND PURPOSE

The purpose of S. 2323, the Worker Economic Opportunity Act, is to allow employees who are eligible for overtime pay to continue to share in workplace benefits that involve their employer's stock or similar equity-based benefits. More working Americans are receiving stock options or opportunities to purchase stock than ever before. The Worker Economic Opportunity Act updates the Fair Labor Standards Act to ensure that rank-and-file employees and management can share in their employer's economic well being in the same manner.

Employers have provided stock and equity-based benefits to upper level management for decades. However, it is only recently that employers have begun to offer these programs in a broad-based manner to non-exempt employees. Historically, most employees had little contact with employer-provided equity devices outside of a 401(k) plan. But today, many employers, from a broad cross-section of industry, have begun offering their employees opportunities to purchase employer stock at a modest discount, or have provided stock options to rank and file employees; and they have even provided outright grants of stock under certain circumstances.

The Federal Reserve Board of Governors recently estimated that 17 percent of large firms have introduced a stock options program and 37 percent have broadened eligibility for their stock option programs in the last two years.<sup>1</sup> The Employment Policy Foundation estimates between 9.4 million and 25.8 million workers receive benefits

<sup>1</sup>Footnotes at end of article.