

# **Testimony of Senator John Ensign**

## **Before the Subcommittee on Securities and Investment**

**November 12, 2003**

As Chairman of the Senate Republican High Tech Task Force, I have had an opportunity to listen recently to many technology companies small and large. At the top of their list of concerns is the accounting treatment of stock options. I want to thank my Colleague Senator Mike Enzi for bringing us together today to take a serious look at the failure by FASB to take into consideration the impact of this issue and others on small business.

As the founder and owner of a small business – a veterinary clinic in Las Vegas – as well as a member of the Small Business Committee, I have a unique appreciation of the challenges small businesses face. Nowhere is the success and value of stock options more apparent than for small businesses. Stock option plans reflect America's best business values—the willingness to take risks and work hard to be successful and the vision to develop new entrepreneurial companies and technologies, and broadening ownership and participation among all employees.

It is the number one issue for the technology community – companies small and large - because stock options are valuable incentives for productivity and growth. They also help start-up companies recruit and retain workers—an essential tool in a struggling economy. There is a direct linkage to innovation – if you motivate and give employees ownership in a venture – they work harder and great invention and productivity occurs.

My legislation was designed to send a strong message to the SEC and FASB that if they are bound and determined to move forward, they at least need to consider the wide-ranging implications and address the serious pitfalls with current valuation models. I do not believe that Congress should be in the business of legislating accounting standards.

I have been clear from day one that I hoped that FASB would take notice, and not proceed down this dangerous path. I hoped that we would never have to pass a bill related to stock options. However, given the jobs at stake, given the market cap at risk we cannot stand idly by. I call on Chairman Herz today to stop the march down this dangerous path.

Improve disclosure – move this information front and center where investors will take notice. But please do not confuse and mislead investors with a valuation method that just will not work. There is too much at stake here.

If we are really serious about helping shareholders make informed decisions – improve disclosure and address excessive executive stock option grants. But do not threaten stock options for rank and file employees. These broad based employee stock option plans are the lifeblood of innovation and should not be extinguished.

It must be understood that there is no workable model for expensing stock options. Why risk destroying growth without a workable model available to accurately expense stock options. Not only is the plan wrong, it is not doable.

The stated goal of those who favor expensing of options has been to increase transparency for investors and provide them with a better financial picture of companies. The current proposals on the table at FASB would do exactly the opposite.

Speaking of creating jobs, spurring innovation and growing business, guess who the newest proponent of stock options is. None other than the Chinese Government. Indeed, a recent article in Industry week said:

“multi national companies...employ scientists and engineers in several foreign countries...China is aggressively pursuing such individuals by offering incentives such as tax benefits, world-class housing and extensive stock options”

Here we are facing a flight of high-tech jobs from the United States, and the Chinese are speeding up the flight by attracting high-tech workers with stock options. To proceed without addressing these concerns would be reckless. We need to inspire confidence to get this economy moving, not needlessly mislead and scare investors with flawed valuation models.

The moratorium my legislation proposes will allow for the careful examination of the economic impact expensing could have on our economy, the difficult question of how to value options and whether enhanced reporting requirements might make expensing unnecessary. Mr. Chairman – I fear that unless we hear otherwise from Mr. Herz today that they are going to abandon this misguided effort that we will need to pass a bill. I know neither of us wants to have to do that, but this issue is too important, and too much is at stake.

I am confident that our colleagues in the House and Senate will rise to the occasion and support legislation if FASB does not heed the serious message of concern from small business and the technology community at large

Thank you for inviting me to appear before you today.