

119TH CONGRESS
1ST SESSION

S. _____

To amend the Employee Retirement Income Security Act of 1974 to permit employee stock ownership plan participants to benefit from the full amount of beneficial ownership that can be accrued in the plan while also fully realizing the benefits of saving for retirement in a defined contribution plan.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To amend the Employee Retirement Income Security Act of 1974 to permit employee stock ownership plan participants to benefit from the full amount of beneficial ownership that can be accrued in the plan while also fully realizing the benefits of saving for retirement in a defined contribution plan.

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 “Employee Ownership
5 Fairness Act of 2025”.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) While Congress permitted the creation of
4 employee stock ownership plans (ESOPs) in the Em-
5 ployee Retirement Income Security Act of 1974,
6 these plans are not just a retirement plan for their
7 participants.

8 (2) The legislative history of ESOPs indicate
9 that ESOPs were intended to help the economy at
10 a time when bank financing was difficult for compa-
11 nies to obtain, with the Joint Committee on Tax-
12 ation categorizing the ESOP provisions of the Tax
13 Reform Act of 1984 as “Incentives for Investment
14 and Continued Economic Growth”.

15 (3) ESOPs empower workers to gain ownership
16 of their enterprise, thereby aligning the incentives
17 for owners and workers and affording workers an
18 economic stake in the company’s success.

19 (4) ESOPs serve as a mechanism of finance
20 whereby workers who otherwise would not have the
21 means can acquire the businesses where they work.

22 (5) ESOP employees who run successful, profit-
23 able companies are often unable to make full use of
24 their defined contribution plans as a result of their
25 company’s success accruing to their ESOP balance,

1 thereby causing their other plan contributions to ex-
2 ceed the annual cap.

3 (6) Unlike defined contribution plans where the
4 amount contributed is determined by the employee,
5 ESOP contributions reflect growth in the company
6 and its value rather than planned contributions by
7 the employee or employer. This is why the vast ma-
8 jority of ESOPs also sponsor a defined contribution
9 plan, such as a qualified cash or deferred arrange-
10 ment under section 401(k) of the Internal Revenue
11 Code of 1986, which facilitates the diversification of
12 workers' retirement savings.

13 (7) Sections 404 and 415 of the Internal Rev-
14 enue Code impose limits on benefits and contribu-
15 tions under qualified retirement plans. These limits
16 impede the ability for ESOP employees to diversify
17 their retirement savings and make their own retire-
18 ment savings contributions and often require their
19 employers to deny matching contributions they
20 would otherwise receive.

21 **SEC. 3. ESOP AMENDMENTS.**

22 (a) ERISA.—Subtitle B of title III of the Employee
23 Retirement Income Security Act of 1974 (29 U.S.C. 1221
24 et seq.) is amended by adding at the end the following:

1 **“PART 3—SPECIAL RULES FOR EMPLOYEE STOCK**
2 **OWNERSHIP PLANS**

3 **“SEC. 3033. SPECIAL RULES FOR EMPLOYEE STOCK OWNER-**
4 **SHIP PLANS.**

5 “For purposes of the Internal Revenue Code of 1986,
6 with respect to an employee stock ownership plan (as de-
7 fined in section 407(d)(6))—

8 “(1) for purposes of applying section
9 404(a)(3)(A) of the Internal Revenue Code of 1986,
10 the contributions taken into account for purposes of
11 clause (i) thereof shall not include—

12 “(A) contributions of employer stock; or

13 “(B) contributions made to repay loans
14 used to acquire employer securities;

15 “(2) the limitations of section 404 of such Code
16 shall be applied separately to such plan and any
17 other defined contribution plan of the employer;

18 “(3) in determining annual additions under sec-
19 tion 415(c)(2) of such Code, employer contributions
20 under subparagraph (A) thereof are determined
21 without regard to—

22 “(A) contributions of employer stock; or

23 “(B) contributions made to repay loans
24 used to acquire employer securities; and

25 “(4) for purposes of section 415 of such Code,
26 forfeitures allocated to accounts under the plan shall

1 not be taken into account as annual additions (as
2 defined in section 415(c)(2) of such Code).”.

3 (b) IRC.—

4 (1) IN GENERAL.—Subparagraph (A) of section
5 404(a)(3) of the Internal Revenue Code is amended
6 by adding at the end the following new clause:

7 “(vi) EXCEPTION FOR ESOPS.—In the
8 case of an employee stock ownership plan
9 (as defined in section 4975(e)(7)), the con-
10 tributions taken into account for purposes
11 of clause (i) shall not include—

12 “(I) contributions of employer
13 stock, or

14 “(II) contributions made to repay
15 loans used to acquire employer securi-
16 ties.”.

17 (2) SEPARATE DETERMINATION OF LIMITA-
18 TIONS.—Subsection (a) of section 404 of the Inter-
19 nal Revenue Code is amended by adding at the end
20 the following new paragraph:

21 “(13) SEPARATE DETERMINATION FOR
22 ESOPS.—In the case of an employee stock ownership
23 plan (as defined in section 4975(e)(7)), this section
24 shall be applied separately to such plan and any
25 other defined contribution plan of the employer.”.

1 (3) DETERMINATION OF ANNUAL ADDITIONS.—

2 The second sentence of paragraph (2) of section
3 415(c) of the Internal Revenue Code is amended—

4 (A) by striking “457(e)(16)) without re-
5 gard” and inserting “457(e)(16)) and without
6 regard”, and

7 (B) by inserting “, and in the case of an
8 employee stock ownership plan (as defined in
9 section 4975(e)(7)), employer contributions
10 under subparagraph (A) are determined without
11 regard to contributions of employer stock or
12 contributions made to repay loans used to ac-
13 quire employer securities” before the period at
14 the end.

15 (4) SPECIAL RULE.—Section 415 of the Inter-
16 nal Revenue Code of 1986 is amended by adding at
17 the end the following new subsection:

18 “(o) SPECIAL RULE FOR ESOPS.—In the case of an
19 employee stock ownership plan (as defined in section
20 4975(e)(7)), forfeitures allocated to accounts under the
21 plan shall not be taken into account as annual additions.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to plan years beginning after the
24 date of the enactment of this Act.