119TH CONGRESS
1ST SESSION

# S. 1727

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.

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IN THE SENATE OF THE UNITED STATES

MAY 13, 2025

Mr. CASSIDY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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# 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.

*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 "Employee Ownership Fairness Act of 2025".

**SEC. 2. FINDINGS.**

Congress finds as follows:

(1) While Congress permitted the creation of employee stock ownership plans (ESOPs) in the Employee Retirement Income Security Act of 1974, these plans are not just a retirement plan for their participants.

(2) The legislative history of ESOPs indicate that ESOPs were intended to help the economy at a time when bank financing was difficult for companies to obtain, with the Joint Committee on Taxation categorizing the ESOP provisions of the Tax Reform Act of 1984 as ''Incentives for Investment and Continued Economic Growth''.

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

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

(5) ESOP employees who run successful, profitable companies are often unable to make full use of their defined contribution plans as a result of their company's success accruing to their ESOP balance,

thereby causing their other plan contributions to exceed the annual cap.

(6) Unlike defined contribution plans where the amount contributed is determined by the employee, ESOP contributions reflect growth in the company and its value rather than planned contributions by the employee or employer. This is why the vast majority of ESOPs also sponsor a defined contribution plan, such as a qualified cash or deferred arrangement under section 401(k) of the Internal Revenue Code of 1986, which facilitates the diversification of workers' retirement savings.

(7) Sections 404 and 415 of the Internal Revenue Code impose limits on benefits and contributions under qualified retirement plans. These limits impede the ability for ESOP employees to diversify their retirement savings and make their own retirement savings contributions and often require their employers to deny matching contributions they would otherwise receive.

**SEC. 3. ESOP AMENDMENTS.**

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

## “PART 3—SPECIAL RULES FOR EMPLOYEE STOCK OWNERSHIP PLANS

### “SEC. 3033. SPECIAL RULES FOR EMPLOYEE STOCK OWNERSHIP PLANS.

‘‘For purposes of the Internal Revenue Code of 1986, with respect to an employee stock ownership plan (as defined in section 407(d)(6))—

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

‘‘(A) contributions of employer stock; or

‘‘(B) contributions made to repay loans used to acquire employer securities;

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

‘‘(3) in determining annual additions under section 415(c)(2) of such Code, employer contributions under subparagraph (A) thereof are determined without regard to—

‘‘(A) contributions of employer stock; or

‘‘(B) contributions made to repay loans used to acquire employer securities; and

‘‘(4) for purposes of section 415 of such Code, forfeitures allocated to accounts under the plan shall not be taken into account as annual additions (as defined in section 415(c)(2) of such Code).''.

(b) IRC.—

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

''(vi) EXCEPTION FOR ESOPS.—In the case of an employee stock ownership plan (as defined in section 4975(e)(7)), the contributions taken into account for purposes of clause (i) shall not include—

''(I) contributions of employer stock, or

''(II) contributions made to repay loans used to acquire employer securities.''.

(2) SEPARATE DETERMINATION OF LIMITATIONS.—Subsection (a) of section 404 of the Internal Revenue Code is amended by adding at the end the following new paragraph:

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

(3) DETERMINATION OF ANNUAL ADDITIONS.—The second sentence of paragraph (2) of section 415(c) of the Internal Revenue Code is amended—

(A) by striking "457(e)(16)) without regard" and inserting "457(e)(16)) and without regard", and

(B) by inserting ", and in the case of an employee stock ownership plan (as defined in section 4975(e)(7)), employer contributions under subparagraph (A) are determined without regard to contributions of employer stock or contributions made to repay loans used to acquire employer securities" before the period at the end.

(4) SPECIAL RULE.—Section 415 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

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

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

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