

118TH CONGRESS  
1ST SESSION

# H. R. 3383

To amend the Small Business Investment Act of 1958 to establish an employee equity investment facility, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2023

Mr. PHILLIPS (for himself, Mr. MOORE of Utah, Ms. HOULAHAN, Mr. JOHNSON of South Dakota, Ms. TOKUDA, Mr. FITZPATRICK, Mr. POCAN, and Mr. MEUSER) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Investment Act of 1958 to establish an employee equity investment facility, and for other purposes.

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 Equity In-  
5 vestment Act of 2023”.

6 **SEC. 2. EMPLOYEE EQUITY INVESTMENT FACILITY.**

7 (a) DEFINITIONS.—Section 103 of the Small Busi-  
8 ness Investment Act of 1958 (15 U.S.C. 662) is amend-  
9 ed—

1           (1) in paragraph (19), by striking “and” at the  
2           end;

3           (2) in paragraph (20), by striking the period at  
4           the end and inserting a semicolon; and

5           (3) by adding at the end the following:

6           “(21) the term ‘covered investment’ means,  
7           with respect to an investment in a covered small  
8           business concern—

9                   “(A) the provision of capital to finance the  
10                   sale of an ownership interest of a covered small  
11                   business concern, including a covered small  
12                   business concern created as a result of a cor-  
13                   porate divestiture, to an employee stock owner-  
14                   ship plan or eligible worker-owned cooperative if  
15                   such sale results in—

16                           “(i) the employee stock ownership  
17                           plan or eligible worker-owned cooperative,  
18                           respectively, holding a majority interest of  
19                           the outstanding stock of the covered small  
20                           business concern; and

21                                   “(ii) with respect to such a sale to an  
22                                   employee stock ownership plan, the ap-  
23                                   pointment of an independent trustee for  
24                                   the transaction; or

1           “(B) the provision of capital to finance a  
2 covered small business concern if—

3                   “(i) an employee stock ownership plan  
4 or eligible worker-owned cooperative holds  
5 a majority interest of the outstanding  
6 stock of the covered small business con-  
7 cern, prior to and immediately following  
8 the provision of capital; and

9                   “(ii) the provision of capital does not  
10 reduce the percentage of stock of the cov-  
11 ered small business concern held by the  
12 employee stock ownership plan or eligible  
13 worker-owned cooperative (as applicable),  
14 excluding any synthetic equity;

15           “(22) the term ‘covered small business con-  
16 cern’—

17                   “(A) means a small business concern; and

18                   “(B) with respect to an employee equity  
19 investment company that is not a Protege  
20 EEIC, includes an entity that is not more than  
21 300 percent larger than the size standards es-  
22 tablished for categorizing a business concern as  
23 a small business concern under section 3(a) of  
24 the Small Business Act (15 U.S.C. 632(a));

1           “(23) the term ‘eligible worker-owned coopera-  
2           tive’ has the meaning given that term in section  
3           1042(c) of the Internal Revenue Code of 1986;

4           “(24) the term ‘employee equity investment  
5           company’ means a small business investment com-  
6           pany—

7                   “(A) that identifies at the time of applica-  
8                   tion for licensure under section 301 an intent to  
9                   be licensed as an employee equity investment  
10                  company; and

11                  “(B) for which—

12                          “(i) not less than 75 percent of the  
13                          total capital managed by the investment  
14                          firm shall be invested in covered invest-  
15                          ments;

16                          “(ii) not less than 50 percent of the  
17                          total capital managed by the investment  
18                          firm shall be invested in covered invest-  
19                          ments described in paragraph (21)(A);

20                          “(iii) covered investment returns are  
21                          obtained from debt, synthetic equity, or a  
22                          combination thereof, including returns ob-  
23                          tained from cash interest, payment-in-kind  
24                          interest, and stock warrants; and

1                   “(iv) any investment that is not a cov-  
2                   ered investment is an investment in a  
3                   small business concern;

4                   “(25) the term ‘employee stock ownership plan’  
5                   has the meaning given that term in section 4975(e)  
6                   of the Internal Revenue Code of 1986;

7                   “(26) the term ‘independent trustee’ means a  
8                   trustee that—

9                   “(A) is in the profession of serving as a fi-  
10                  duciary for employee stock ownership plans;

11                  “(B) has never—

12                   “(i) performed services for or on be-  
13                   half of any party selling an ownership in-  
14                   terest in the covered small business con-  
15                   cern to the employee stock ownership plan  
16                   involved in the transaction the trustee is  
17                   considering; or

18                   “(ii) been a director, officer, or em-  
19                   ployee of the covered small business con-  
20                   cern;

21                  “(C) has not performed services for or on  
22                  behalf of the covered small business concern at  
23                  any time during the 5-year period ending on the  
24                  date of execution of the transaction the trustee  
25                  is considering, unless such services solely con-

1           sisted of acting as a fiduciary of an employee  
2           benefit plan (including an employee stock own-  
3           ership plan) under the Employee Retirement  
4           Income Security Act of 1974 (29 U.S.C. 1001  
5           et seq.);

6           “(D) has not performed services related to  
7           the transaction the trustee is considering, for or  
8           on behalf of—

9                   “(i) the employee equity investment  
10                   company that is preparing to or has al-  
11                   ready allocated capital to the covered small  
12                   business; or

13                   “(ii) any other entity that is struc-  
14                   turing or financing the transaction for any  
15                   party other than the employee stock owner-  
16                   ship plan; and

17           “(E) does not have a familial or corporate  
18           relationship (such as a parent-subsidiary rela-  
19           tionship) to any person or entity described in  
20           subparagraph (B), (C), or (D);

21           “(27) the term ‘independent financial advisor’  
22           means a financial or valuation advisor that—

23                   “(A) is in the profession of serving as a fi-  
24                   nancial or valuation advisor for transactions in-  
25                   volving employee stock ownership plans;

1 “(B) has never—

2 “(i) performed services, including a  
3 preliminary valuation, for or on behalf of—

4 “(I) any party selling an owner-  
5 ship interest in the covered small  
6 business concern to the employee  
7 stock ownership plan involved in the  
8 transaction the advisor is evaluating;  
9 or

10 “(II) the covered small business  
11 concern, unless the services were pro-  
12 vided solely to an existing employee  
13 stock ownership plan sponsored by the  
14 covered small business concern; or

15 “(ii) been a director, officer, or em-  
16 ployee of the covered small business con-  
17 cern;

18 “(C) has not performed services related to  
19 the transaction the advisor is evaluating, includ-  
20 ing a preliminary valuation, for or on behalf  
21 of—

22 “(i) the employee equity investment  
23 company that is preparing to or has al-  
24 ready allocated capital to the covered small  
25 business; or

1           “(ii) any other entity that is struc-  
2           turing or financing the transaction for any  
3           party other than the employee stock owner-  
4           ship plan; and

5           “(D) does not have a familial or corporate  
6           relationship (such as a parent-subsidary rela-  
7           tionship) to any of person or entity described in  
8           subparagraph (B) or (C);

9           “(28) the term ‘non-EEIC company’ means a  
10          small business investment company that—

11           “(A) is licensed under section 301;

12           “(B) is selected to receive leverage from  
13          the facility established under section 321; and

14           “(C) is not an employee equity investment  
15          company;

16          “(29) the term ‘outstanding stock’ means  
17          shares of stock, including synthetic equity;

18          “(30) the term ‘Protege EEIC’ means an entity  
19          licensed under section 301 as an employee equity in-  
20          vestment company and selected in accordance with  
21          section 322(c)—

22           “(A) for which the managers of the firm  
23          have a documented record of successful busi-  
24          ness experience; and



1           “(B) that has an investment track record  
2           that does not meet the requirements to be li-  
3           censed under section 301; and

4           “(31) the term ‘synthetic equity’ has the mean-  
5           ing given that term in section 409(p)(6) of the In-  
6           ternal Revenue Code of 1986.”.

7           (b) EMPLOYEE EQUITY INVESTMENT FACILITY.—  
8           Part A of title III of the Small Business Investment Act  
9           of 1958 (15 U.S.C. 681 et seq.) is amended by adding  
10          at the end the following:

11       **“SEC. 321. EMPLOYEE EQUITY INVESTMENT FACILITY.**

12           “(a) DEFINITION OF FACILITY.—In this section, the  
13           term ‘facility’ means the facility established under sub-  
14           section (b).

15           “(b) ESTABLISHMENT.—The Administrator, acting  
16           through the Associate Administrator of the Office of In-  
17           vestment and Innovation of the Administration, shall es-  
18           tablish and carry out a facility to provide leverage to li-  
19           censed employee equity investment companies and non-  
20           EEIC companies for the purpose of encouraging covered  
21           investments.

22           “(c) APPLICATION.—

23           “(1) IN GENERAL.—An investment firm desir-  
24           ing to participate in the facility shall submit to the  
25           Administrator an application—

1           “(A) to be licensed to participate in the fa-  
2           cility as an employee equity investment com-  
3           pany (including as a Protege EEIC); or

4           “(B) to be selected to participate as a non-  
5           EEIC company.

6           “(2) ROLLING BASIS.—The Administrator shall  
7           accept applications under paragraph (1) on a rolling  
8           basis.

9           “(3) ELECTRONIC SUBMISSIONS.—The Admin-  
10          istrator shall allow an applicant under this section to  
11          electronically submit any document required by this  
12          section and to provide an electronic signature for  
13          any signature that is required on such a document.

14          “(4) APPLICATION PROCESS.—An investment  
15          firm shall identify an intent to be licensed as an em-  
16          ployee equity investment company at the time the in-  
17          vestment firm applies to be licensed as a small busi-  
18          ness investment company under section 301.

19          “(d) PROVISIONAL APPROVAL.—The Administrator  
20          may provide provisional approval for a license to partici-  
21          pate in the facility as an employee equity investment com-  
22          pany for a period not to exceed 1 year to an investment  
23          firm submitting an application under subsection (c)—

24                 “(1) that does not meet the minimum private  
25                 capital requirements under section 302 necessary for

1       licensing under section 301 at the time of applica-  
2       tion;

3               “(2) that states an intent to more effectively  
4       raise capital commitments in private markets with a  
5       license; and

6               “(3) that states an intent to more precisely re-  
7       quest the desired amount of leverage contingent on  
8       securing capital from private market investors.

9       “(e) COMBINED LEVERAGE.—The Administrator  
10      may not provide leverage to employee equity investment  
11      companies and non-EEIC companies under the facility in  
12      a total amount that is more than \$5,000,000,000 for a  
13      fiscal year. Not more than 20 percent of such total amount  
14      may be provided to non-EEIC companies.

15      “(f) TRANSACTION REQUIREMENTS.—

16               “(1) IN GENERAL.—With respect to a covered  
17      investment described in section 103(21)(A) involving  
18      a sale to an employee stock ownership plan, an inde-  
19      pendent trustee for the employee stock ownership  
20      plan shall be appointed before the execution of the  
21      covered investment for a period of time that is suffi-  
22      cient for the independent trustee to fully evaluate  
23      the proposed transaction.

24               “(2) FAIRNESS OPINION.—An independent  
25      trustee appointed under paragraph (1) shall obtain

1 a fairness opinion on the proposed covered invest-  
2 ment from an independent financial advisor, which  
3 shall evaluate whether the price, terms, and cost of  
4 financing of the proposed covered investment are fi-  
5 nancially fair to the employee stock ownership plan.

6 “(g) PROHIBITIONS.—

7 “(1) FINANCING.—

8 “(A) IN GENERAL.—An employee of a cov-  
9 ered small business concern may not provide  
10 personal financing of any kind for a covered in-  
11 vestment, including through a wage concession  
12 or rollover of a retirement plan.

13 “(B) EXCEPTIONS.—Subparagraph (A)  
14 shall not apply to—

15 “(i) financing provided by an em-  
16 ployee for the sale of an ownership interest  
17 held by the employee in a covered small  
18 business concern; or

19 “(ii) employee capital contributions or  
20 membership fees paid by members of an el-  
21 igible worker-owned cooperative, if such  
22 amounts are reasonable and customary  
23 and not used for the purchase of the cov-  
24 ered small business concern.

1           “(2) CONTROL.—An employee equity invest-  
2           ment company or non-EEIC company shall not exer-  
3           cise control over a covered small business concern in  
4           which the employee equity investment company or  
5           non-EEIC company, respectively, has made a cov-  
6           ered investment.

7           “(h) EMPLOYEE ALLOCATIONS.—With respect to a  
8           covered investment described in section 103(21)(A) made  
9           by an employee equity investment company that involves  
10          an employee stock ownership plan, the employee stock  
11          ownership plan shall include a requirement that in the  
12          event of a sale to a third party of the covered small busi-  
13          ness concern in which the covered investment is made, the  
14          proceeds that the employee stock ownership plan receives  
15          from the sale shall be distributed as though all shares of  
16          stock held by the employee stock ownership plan prior to  
17          the sale were fully allocated.

18          “(i) RECIRCULATION OF SHARES.—

19                 “(1) SHARE COUNT.—With respect to a covered  
20                 investment described in section 103(21)(A) made by  
21                 an employee equity investment company that in-  
22                 volves an employee stock ownership plan, the num-  
23                 ber of shares held by the employee stock ownership  
24                 plan on the final date of each plan year shall not be  
25                 less than the number of shares held by the employee

1 stock ownership plan on the execution date of the  
2 covered investment.

3 “(2) LIMITATION.—The requirements under  
4 paragraph (1) shall apply only with respect to the  
5 period during which the employee equity investment  
6 company has an interest in the covered small busi-  
7 ness concern.

8 “(3) EXCEPTION.—The requirement under  
9 paragraph (1) may be waived by the independent  
10 trustee for the applicable employee stock ownership  
11 plan.

12 “(j) INDEPENDENT TRUSTEES.—With respect to a  
13 covered investment described in section 103(21)(A) made  
14 by an employee equity investment company that involves  
15 an employee stock ownership plan, the employee stock  
16 ownership plan shall have an independent trustee during  
17 the period that the employee equity investment company  
18 has an interest in the covered small business concern.

19 “(k) SMALLER ENTERPRISES.—

20 “(1) IN GENERAL.—Except as provided in para-  
21 graph (2), section 303(d) shall not apply to em-  
22 ployee equity investment companies.

23 “(2) PROTEGEE EEICS.—Section 303(d) shall  
24 apply to a Protegee EEIC.

1       “(1) PROCEDURES RELATED TO A SALE OF A COV-  
2   ERED SMALL BUSINESS CONCERN.—

3           “(1) IN GENERAL.—Subject to paragraph (2),  
4   an employee equity investment company shall re-  
5   quire as a condition of making a covered investment  
6   described in section 103(21)(A) involving an em-  
7   ployee stock ownership plan that—

8           “(A) before any stock sale or the execution  
9   of any corporate matter listed in section  
10   409(e)(3) of the Internal Revenue Code of  
11   1986, the employee stock ownership plan  
12   shall—

13           “(i) appoint an independent trustee  
14   for the transaction; and

15           “(ii) require that the independent  
16   trustee obtain a fairness opinion from an  
17   independent financial advisor, which shall  
18   evaluate whether the price, terms, and cost  
19   of financing of the proposed covered invest-  
20   ment are financially fair to the employee  
21   stock ownership plan; and

22           “(B) the employee stock ownership plan  
23   requires that—

24           “(i) in addition to the corporate mat-  
25   ters listed in section 409(e)(3) of the In-

1           ternal Revenue Code of 1986, each partici-  
2           pant or beneficiary in the employee stock  
3           ownership plan is entitled to direct the em-  
4           ployee stock ownership plan as to the man-  
5           ner in which voting rights under securities  
6           of the employer which are allocated to the  
7           account of such participant or beneficiary  
8           are to be exercised with respect to the ap-  
9           proval or disapproval of any stock sale;

10           “(ii) the requirements of section  
11           409(e)(3) of the Internal Revenue Code of  
12           1986 and clause (i) of this subparagraph  
13           shall be met using the procedures de-  
14           scribed in section 409(e)(5) of the Internal  
15           Revenue Code of 1986;

16           “(iii) unless the parties agree other-  
17           wise, with respect to unallocated shares,  
18           the independent trustee shall be directed to  
19           vote or tender such unallocated shares in  
20           the same proportion as allocated shares for  
21           which the independent trustee has received  
22           voting or tender instructions from partici-  
23           pants in the employee stock ownership  
24           plan; and



1           “(iv) with respect to allocated shares  
2           that the independent trustee does not re-  
3           ceive voting or tender instructions from  
4           participants in the employee stock owner-  
5           ship plan, the independent trustee shall  
6           have voting discretion over such shares.

7           “(2) VOTING DISCRETION.—Nothing in para-  
8           graph (1)(B) shall limit the ability of an inde-  
9           pendent trustee to exercise voting discretion in ac-  
10          cordance with the fiduciary obligations of the inde-  
11          pendent trustee under the Employee Retirement In-  
12          come Security Act of 1974 (29 U.S.C. 1001 et seq.).

13          “(3) LIMITATION.—The requirements under  
14          paragraph (1) shall apply only with respect to the  
15          period during which the employee equity investment  
16          company has an interest in the covered small busi-  
17          ness concern.

18          “(m) REPORTS.—In addition to the reporting re-  
19          quirements in 310(b), each employee equity investment  
20          company (including each Protege EEIC licensed to oper-  
21          ate as an employee equity investment company) and each  
22          non-EEIC company that has outstanding leverage received  
23          from the facility shall submit to the Administrator an an-  
24          nual report, which shall include, for the year covered by  
25          the report, the following information, disaggregated by

1 covered investments made under subparagraph (A) and  
2 (B) of section 103(21):

3 “(1) Whether the covered investment was made  
4 with respect to an employee stock ownership plan or  
5 eligible worker-owned cooperative.

6 “(2) For an employee stock ownership plan—

7 “(A) the effective date of the plan;

8 “(B) the number of active plan partici-  
9 pants;

10 “(C) the number of employees of the cov-  
11 ered small business concern for which the em-  
12 ployee stock ownership plan is established;

13 “(D) the total value of employer securities,  
14 as determined by an independent appraiser  
15 hired by the independent trustee of the em-  
16 ployee stock ownership plan;

17 “(E) the total plan assets;

18 “(F) the total contributions during the  
19 plan year;

20 “(G) the total distributions during the plan  
21 year;

22 “(H) the median account asset balance;

23 and

1           “(I) demographic information of plan par-  
2           ticipants, disaggregated by race, gender, and  
3           State.

4           “(3) For an eligible worker-owned coopera-  
5           tive—

6                   “(A) the number of member-owners;

7                   “(B) the number of employees of the cov-  
8           ered small business concern for which the eligi-  
9           ble worker-owned cooperative is established;

10                   “(C) the total value of employer securities;

11                   “(D) the aggregate assets of all member-  
12           ship accounts of the cooperative;

13                   “(E) the median membership account bal-  
14           ance; and

15                   “(F) demographic information of member-  
16           ship base, disaggregated by race, gender, and  
17           State.

18           “(n) IMPLEMENTATION MILESTONES.—

19                   “(1) IN GENERAL.—Not later than 180 days  
20           after the date of enactment of this section, the Ad-  
21           ministrator shall begin accepting applications to be  
22           licensed to participate in the facility as an employee  
23           equity investment company (including as a Protege  
24           EEIC).

1           “(2) EXCLUSION OF LEVERAGE.—Not later  
2 than 1 year after the date of enactment of this sec-  
3 tion, the Administrator shall begin excluding from  
4 the calculation of outstanding leverage, as described  
5 in section 303(b)(2)(F), covered investments de-  
6 scribed in clause (iii) of such section.

7           “(3) LICENSE TIMELINE.—Not later than 1  
8 year after the date of enactment of this section, the  
9 Administrator shall approve the first tranche of li-  
10 censes to participate in the facility as an employee  
11 equity investment company (including as a Protege  
12 EEIC) with respect to applicants that satisfy the ap-  
13 plicable eligibility criteria.

14           “(o) SUNSET.—

15           “(1) DEFINITION.—In this subsection, the term  
16 ‘sunset date’ means the first day of the twentieth  
17 calendar year that begins after the date on which  
18 the Administrator approves the first license to par-  
19 ticipate in the facility as an employee equity invest-  
20 ment company (including as a Protege EEIC).

21           “(2) TERMINATION OF AUTHORITY.—On and  
22 after the sunset date, the Administrator may not li-  
23 cense an entity to participate in the facility as an  
24 employee equity investment company (including as a

1 Protege EEIC) or select an entity to participate in  
2 the facility as a non-EEIC company.

3 “(3) CONTINUED PARTICIPATION BY EXISTING  
4 ENTITIES.—Nothing in paragraph (2) shall be con-  
5 strued to prohibit—

6 “(A) an employee equity investment com-  
7 pany from continuing to draw leverage on and  
8 after the sunset date that was committed to the  
9 entity through the facility before the sunset  
10 date; or

11 “(B) a non-EEIC company from con-  
12 tinuing to receive an exclusion in the calculation  
13 of outstanding leverage by the Administrator,  
14 as described in section 303(b)(2)(F), for cov-  
15 ered investments described in clause (iii) of  
16 such section made to a covered small business  
17 before the sunset date.

18 “(4) APPLICATION.—The Administrator shall  
19 not consider paragraph (2) as a factor in the deci-  
20 sion to license an entity to participate in the facility  
21 as an employee equity investment company (includ-  
22 ing as a Protege EEIC) or to select an entity to par-  
23 ticipate in the facility as a non-EEIC company be-  
24 fore the sunset date.”.

1           (c) EMPLOYEE EQUITY INVESTMENT COMPANY PRO-  
2 CEDURES.—Title III of the Small Business Investment  
3 Act of 1958 (15 U.S.C. 681 et seq.) is amended—

4           (1) in section 301(c) (15 U.S.C. 681(c)), by  
5 striking paragraph (3) and inserting the following:

6           “(3) MATTERS CONSIDERED.—

7           “(A) IN GENERAL.—In reviewing and proc-  
8 essing any application under this subsection,  
9 the Administrator—

10           “(i) shall determine whether—

11           “(I) the applicant meets the re-  
12 quirements of subsections (a) and (c)  
13 of section 302; and

14           “(II) the management of the ap-  
15 plicant is qualified and has the knowl-  
16 edge, experience, and capability nec-  
17 essary to comply with this Act;

18           “(ii) shall take into consideration—

19           “(I) the need for and availability  
20 of financing for small business con-  
21 cerns in the geographic area in which  
22 the applicant is to commence busi-  
23 ness;

1                   “(II) the general business reputa-  
2                   tion of the owners and management of  
3                   the applicant; and

4                   “(III) the probability of success-  
5                   ful operations of the applicant, includ-  
6                   ing adequate profitability and finan-  
7                   cial soundness;

8                   “(iii) shall not take into consideration  
9                   any projected shortage or unavailability of  
10                  leverage; and

11                  “(iv) shall give first priority to an ap-  
12                  plicant that is located in an underlicensed  
13                  State with below median financing, as de-  
14                  termined by the Administrator.

15                  “(B) ADDITIONAL MATTERS CONSIDERED  
16                  FOR EMPLOYEE EQUITY INVESTMENT COMPA-  
17                  NIES.—

18                  “(i) INVESTMENT TRACK RECORD.—  
19                  Except as provided in clause (ii), an appli-  
20                  cant for a license to operate as an em-  
21                  ployee equity investment company shall  
22                  submit to the Administrator proof that the  
23                  managers of the applicant have a track  
24                  record of managing investments, including  
25                  structured investments, realized or unreal-

1            ized, in an employee stock ownership plan  
2            or eligible worker-owned cooperative.

3            “(ii) ADVISORY REQUIREMENT.—An  
4            applicant that does not have an investment  
5            track record described in clause (i) or that  
6            is a Protege EEIC shall submit to the Ad-  
7            ministrator evidence that the applicant has  
8            retained or will retain a legal, accounting,  
9            or financial advisory firm with at least 5  
10           years of experience in structuring employee  
11           stock ownership plans or eligible worker-  
12           owned cooperatives.

13           “(iii) LIMITATION.—The Adminis-  
14           trator may not reject an applicant for a li-  
15           cense to operate as an employee equity in-  
16           vestment company solely because the appli-  
17           cant lacks a sufficient track record in real-  
18           ized investments if the applicant dem-  
19           onstrates an otherwise successful invest-  
20           ment track record that includes unrealized  
21           covered investments.”; and

22           (2) in section 303(b)(2) (15 U.S.C.  
23           683(b)(2))—

24           (A) in subparagraph (A), in the matter  
25           preceding clause (i), by striking “The max-



1           imum” and inserting “Except as provided oth-  
2           erwise in this paragraph, the maximum”; and

3           (B) by adding at the end the following—

4           “(E) EMPLOYEE EQUITY INVESTMENT  
5           COMPANIES.—

6           “(i) IN GENERAL.—Except as pro-  
7           vided in subparagraph (G), the maximum  
8           amount of outstanding leverage made  
9           available to any 1 employee equity invest-  
10          ment company may not exceed the lesser  
11          of—

12                   “(I) 100 percent of the private  
13                   capital of such company; or

14                   “(II) \$350,000,000.

15          “(ii) MULTIPLE LICENSES UNDER  
16          COMMON CONTROL.—The maximum  
17          amount of outstanding leverage made  
18          available to 2 or more employee equity in-  
19          vestment companies that are commonly  
20          controlled (as determined by the Adminis-  
21          trator) and not under capital impairment  
22          may not exceed \$700,000,000.

23          “(F) NON-EEIC COMPANY EMPLOYEE  
24          OWNERSHIP INVESTMENTS.—

1           “(i) IN GENERAL.—A non-EEIC com-  
2           pany may access leverage from the facility  
3           established under section 321 in addition  
4           to any leverage such non-EEIC company is  
5           otherwise eligible to receive solely for the  
6           purpose described in clause (ii) and subject  
7           to the limitation under clause (iv).

8           “(ii) PURPOSE.—The purpose de-  
9           scribed in this clause is for the purpose of  
10          making covered investments described in  
11          section 103(21)(B) (excluding synthetic eq-  
12          uity).

13          “(iii) OUTSTANDING LEVERAGE.—  
14          Subject to the limitation under clause (iv),  
15          in calculating the outstanding leverage of a  
16          non-EEIC company for purposes of sub-  
17          paragraphs (A)(ii) and (B), the Adminis-  
18          trator shall exclude the amount of leverage  
19          outstanding to covered small business con-  
20          cerns for a covered investment described in  
21          section 103(21)(B) (excluding synthetic eq-  
22          uity) made by such non-EEIC company.

23          “(iv) LIMITATION.—The amount of le-  
24          verage provided under clause (i) that is ex-

1                   cluded under clause (iii) may not exceed  
2                   \$50,000,000.

3                   “(G) PROTEGE EEICS.—The maximum  
4                   amount of outstanding leverage made available  
5                   under the facility established under section 321  
6                   to any 1 Protege EEIC may not to exceed the  
7                   lesser of—

8                               “(i) 100 percent of the private capital  
9                               of the Protege EEIC; or

10                              “(ii) \$100,000,000.”.

11           (d) CONFORMING AMENDMENT.—Section 308(g) of  
12 the Small Business Investment Act of 1958 (15 U.S.C.  
13 687(g)) is amended by adding at the end the following:

14           “(4) In its annual report for the year ending on De-  
15 cember 31, 2023, and in each succeeding annual report  
16 made pursuant to section 10(a) of the Small Business Act,  
17 the Administration shall include full and detailed aggre-  
18 gate data regarding—

19                   “(A) employee stock ownership plans created by  
20                   an employee equity investment company, including—

21                               “(i) the total number of active plan partici-  
22                               pants;

23                               “(ii) the total number of employees of the  
24                               covered small business concerns with such em-  
25                               ployee stock ownership plans;

1           “(iii) the total value of employer securities,  
2           as determined by the independent appraisers  
3           hired by the independent trustee of each em-  
4           ployee stock ownership plan;

5           “(iv) the total plan assets;

6           “(v) the total contributions during the plan  
7           year;

8           “(vi) the total distributions during the plan  
9           year;

10          “(vii) the median account asset balance;  
11          and

12          “(viii) demographic information of plan  
13          participants, disaggregated by race, gender,  
14          State;

15          “(B) eligible worker-owned cooperatives created  
16          by employee equity investment companies, includ-  
17          ing—

18               “(i) the number of member-owners;

19               “(ii) the total number of employees of the  
20               covered small business concern with such eligi-  
21               ble worker-owned cooperatives;

22               “(iii) the total value of employer securities;

23               “(iv) the assets of all membership ac-  
24               counts;

1           “(v) the median membership account bal-  
2           ance; and

3           “(vi) demographic information of member-  
4           ship base, disaggregated by race, gender, and  
5           State; and

6           “(C) non-EEIC companies that received lever-  
7           age from the facility, including—

8           “(i) the total amount of such leverage ex-  
9           cluded by the Administrator pursuant to section  
10          321(e)(3)(C);

11          “(ii) the number of employee stock owner-  
12          ship plans and eligible worker-owned coopera-  
13          tives that received capital from a non-EEIC  
14          company during the year covered by the report;  
15          and

16          “(iii) the geographic location of each em-  
17          ployee stock ownership plan and eligible worker-  
18          owned cooperative described in clause (ii).”.

19 **SEC. 3. PROTEGE EEIC PROGRAM.**

20          Part A of title III of the Small Business Investment  
21          Act of 1958 (15 U.S.C. 681 et seq.), as amended by sec-  
22          tion 2, is further amended by adding at the end the fol-  
23          lowing:

1 **“SEC. 322. PROTEGE EEIC PROGRAM.**

2 “(a) ESTABLISHMENT.—The Administrator shall es-  
3 tablish a program to be known as the ‘Protege EEIC Pro-  
4 gram’ under which a manager with substantial experience  
5 in operating small business investment companies may  
6 enter into a written agreement approved by the Adminis-  
7 trator to provide guidance and assistance to a Protege  
8 EEIC with respect to—

9 “(1) applying for a license for the Protege  
10 EEIC to operate as an employee equity investment  
11 company; and

12 “(2) management of the employee equity invest-  
13 ment company after licensure.

14 “(b) APPLICATION.—After entering into a written  
15 agreement described in subsection (a), the Protege EEIC  
16 shall apply for a license under section 301.

17 “(c) SELECTION.—The Administrator may grant a li-  
18 cense to a Protege EEIC to operate as an employee equity  
19 investment company under section 301 based on the in-  
20 vestment track record of one or more of the managers that  
21 have entered into a written agreement described in sub-  
22 section (a) with the applicant Protege EEIC.

23 “(d) REQUIREMENTS FOR MANAGERS.—If a manager  
24 enters into a written agreement described under sub-  
25 section (a)—

1           “(1) the manager may hold a minority financial  
2 interest in the employee equity investment company  
3 that is to be managed by the Protege EEIC;

4           “(2) the otherwise applicable maximum amount  
5 of outstanding leverage that may be made available  
6 to any one licensed company of the manager under  
7 section 303(b)(2)(A) shall be increased by  
8 \$17,500,000; and

9           “(3) the otherwise applicable maximum amount  
10 of outstanding leverage that may be made available  
11 to any two or more licensed companies that are com-  
12 monly controlled by the manager under section  
13 303(b)(2)(B) shall be increased by \$35,000,000.”.

14 **SEC. 4. OFFICE OF EMPLOYEE OWNERSHIP.**

15           Part A of title III of the Small Business Investment  
16 Act of 1958 (15 U.S.C. 681 et. seq.), as amended by sec-  
17 tion 3, is further amended by adding at the end the fol-  
18 lowing:

19 **“SEC. 323. OFFICE OF EMPLOYEE OWNERSHIP.**

20           “(a) ESTABLISHMENT.—There is established in the  
21 Administration an Office of Employee Ownership (in this  
22 section referred to as the ‘Office’) which shall be respon-  
23 sible for—

1           “(1) developing expertise in employee stock  
2 ownership plans and eligible worker-owned coopera-  
3 tives; and

4           “(2) assisting small business concerns in proc-  
5 esses relating to a sale of such concerns to an em-  
6 ployee stock ownership plan or eligible worker-owned  
7 cooperative.

8           “(b) DUTIES.—The Office shall—

9           “(1) provide outreach and educational materials  
10 to small business investment companies about the  
11 facility established under section 321;

12           “(2) maintain and publish a list of legal, ac-  
13 counting, or financial advisory firms with at least 5  
14 years of experience in structuring employee stock  
15 ownership plans or eligible worker-owned coopera-  
16 tives;

17           “(3) establish a Small Business Employee Own-  
18 ership and Cooperatives Promotion Program to offer  
19 technical assistance and training to employee-owned  
20 business concerns (as defined in section 21(c)(3)(U)  
21 of the Small Business Act (15 U.S.C. 648(c)(3)(U))  
22 on the transition to employee ownership;

23           “(4) coordinate with small business develop-  
24 ment centers on implementing the requirements re-  
25 lating to employee-owned business concerns under



1 section 21(c)(3) of the Small Business Act (15  
2 U.S.C. 648(c)(3)); and

3 “(5) coordinate with leaders in the field, as de-  
4 termined by the Administrator, to develop outreach  
5 and educational materials on employee ownership in  
6 multiple languages.”.

7 **SEC. 5. MODIFYING UNCONDITIONAL OWNERSHIP AND**  
8 **CONTROL REQUIREMENTS FOR CERTAIN EM-**  
9 **PLOYEE-OWNED SMALL BUSINESS CON-**  
10 **CERNS.**

11 (a) REPORT ON OWNERSHIP AND CONTROL  
12 THROUGH AN EMPLOYEE STOCK OWNERSHIP PLAN OR  
13 ELIGIBLE WORKER-OWNED COOPERATIVE RELATING TO  
14 SET-ASIDE PROCUREMENT.—

15 (1) DEFINITIONS.—In this subsection—

16 (A) the term “Administrator” means the  
17 Administrator of the Small Business Adminis-  
18 tration;

19 (B) the term “eligible worker-owned coop-  
20 erative” has the meaning given that term in  
21 section 1042(c) of the Internal Revenue Code of  
22 1986; and

23 (C) the term “employee stock ownership  
24 plan” has the meaning given that term in sec-

1           tion 4975(e) of the Internal Revenue Code of  
2           1986.

3           (2) SENSE OF CONGRESS.—It is the sense of  
4   Congress that—

5           (A) employee stock ownership plans and el-  
6           igible worker-owned cooperatives have unique  
7           ownership structures that create barriers to ac-  
8           cessing set-aside procurement programs due to  
9           unconditional ownership and control require-  
10          ments; and

11          (B) the ownership structures of an em-  
12          ployee stock ownership plan or an eligible work-  
13          er-owned cooperative should not prevent an oth-  
14          erwise eligible entity from accessing set-aside  
15          procurement programs.

16          (3) STUDY AND REPORT.—

17          (A) STUDY.—The Administrator, in coordi-  
18          nation with stakeholders, including women-  
19          owned small business third-party certifiers and  
20          relevant Federal agencies, shall study and rec-  
21          ommend alternatives to unconditional ownership  
22          and control requirements for employee stock  
23          ownership plans and eligible worker-owned co-  
24          operatives that would enable access to set-aside  
25          procurement programs.

1 (B) REPORT.—Not later than 180 days  
2 after the date of enactment of this Act, the Ad-  
3 ministrator shall submit to Congress the rec-  
4 ommendations developed under subparagraph  
5 (A) and a plan to implement the recommenda-  
6 tions for all set-aside procurement programs,  
7 including identifying any applicable statutory  
8 changes necessary to implement such rec-  
9 ommendations.

10 (b) RULEMAKING.—Not later than 180 days after the  
11 submission of the report required under subsection  
12 (a)(3)(B), the Administrator of the Small Business Ad-  
13 ministration shall issue or revise any applicable rules to  
14 carry out the recommendations formed in the report.

15 (c) GRACE PERIOD.—

16 (1) SMALL BUSINESS CONCERNS OWNED AND  
17 CONTROLLED BY SOCIALLY AND ECONOMICALLY DIS-  
18 ADVANTAGED INDIVIDUALS.—Section 8(a) of the  
19 Small Business Act (15 U.S.C. 637(a)) is amended  
20 by adding at the end the following:

21 “(22) CONCERNS OWNED BY EMPLOYEE STOCK  
22 OWNERSHIP PLANS OR ELIGIBLE WORKER-OWNED  
23 COOPERATIVES.—

24 “(A) IN GENERAL.—For the purposes of  
25 determining ownership and control of a concern

1 under this subsection for award of a contract  
2 through a competition restricted to small busi-  
3 ness concerns owned and controlled by socially  
4 and economically disadvantaged individuals, any  
5 interest in such concern held by an employee  
6 stock ownership plan or an eligible worker-  
7 owned cooperative shall be treated in the same  
8 manner as an interest held by the socially and  
9 economically disadvantaged individuals upon  
10 whom eligibility is based if—

11 “(i) such concern was a socially and  
12 economically disadvantaged small business  
13 concern prior to the sale to an employee  
14 stock ownership plan or an eligible worker-  
15 owned cooperative; and

16 “(ii) the chief corporate officer and a  
17 majority of the board of directors of such  
18 concern are socially and economically dis-  
19 advantaged individuals.

20 “(B) APPLICABILITY.—The requirements  
21 of subparagraph (A) shall apply for the 2-year  
22 period beginning on the date on which the ma-  
23 jority of the stock of such concern was acquired  
24 by an employee stock ownership plan or eligible  
25 worker-owned cooperative.”.

1 (d) SMALL BUSINESS CONCERNS OWNED AND CON-  
2 TROLLED BY WOMEN.—Section 8(m) of the Small Busi-  
3 ness Act (15 U.S.C. 637(m)) is amended by adding at the  
4 end the following:

5 “(9) CONCERNS OWNED BY EMPLOYEE STOCK  
6 OWNERSHIP PLANS OR ELIGIBLE WORKER-OWNED  
7 COOPERATIVES.—

8 “(A) IN GENERAL.—Notwithstanding any  
9 other provision of law, for the purposes of de-  
10 termining ownership and control of a concern  
11 under this subsection for award of a contract  
12 through a competition restricted to small busi-  
13 ness concerns owned and controlled by women,  
14 any interest in such concern held by an em-  
15 ployee stock ownership plan or an eligible work-  
16 er-owned cooperative, shall be treated in the  
17 same manner as an interest held by the women  
18 upon whom eligibility is based if—

19 “(i) such concern was a small busi-  
20 ness concern owned and controlled by  
21 women prior to the sale to an employee  
22 stock ownership plan or an eligible worker-  
23 owned cooperative; and

1                   “(ii) the chief corporate officer and a  
2                   majority of the board of directors of such  
3                   concern are women.

4                   “(B) APPLICABILITY.—The requirements  
5                   of subparagraph (A) shall apply for the 2-year  
6                   period beginning on the date on which the ma-  
7                   jority of the stock of such concern was acquired  
8                   by an employee stock ownership plan or eligible  
9                   worker-owned cooperative.”.

10           (e) SMALL BUSINESS CONCERNS OWNED AND CON-  
11 TROLLED BY SERVICE-DISABLED VETERANS.—Section 36  
12 of the Small Business Act (15 U.S.C. 657f) by adding at  
13 the end the following:

14           “(j) CONCERNS OWNED BY EMPLOYEE STOCK OWN-  
15 ERSHIP PLANS OR ELIGIBLE WORKER-OWNED COOPERA-  
16 TIVES.—

17           “(1) IN GENERAL.—Notwithstanding any other  
18           provision of law, for the purposes of determining  
19           ownership and control of a concern under this sec-  
20           tion for award of a contract through a competition  
21           restricted to small business concerns owned and con-  
22           trolled by service-disabled veterans, any interest in  
23           such concern held by an employee stock ownership  
24           plan or an eligible worker-owned cooperative, shall  
25           be treated in the same manner as an interest held

1 by the service-disabled veterans upon whom eligi-  
2 bility is based if—

3 “(A) such concern was a small business  
4 concern owned and controlled by service-dis-  
5 abled veterans prior to the sale to an employee  
6 stock ownership plan or an eligible worker-  
7 owned cooperative; and

8 “(B) the chief corporate officer and a ma-  
9 jority of the board of directors of such concern  
10 are service-disabled veterans.

11 “(2) APPLICABILITY.—The requirements of  
12 paragraph (1) shall apply for the 2-year period be-  
13 ginning on the date on which the majority of the  
14 stock of such concern was acquired by an employee  
15 stock ownership plan or eligible worker-owned coop-  
16 erative.”.

17 (f) DEFINITIONS.—Section 3 of the Small Business  
18 Act is amended by adding at the end the following:

19 “(gg) EMPLOYEE STOCK OWNERSHIP PLAN.—In this  
20 Act, the term ‘employee stock ownership plan’ has the  
21 meaning given that term in section 4975(e)(7) of the In-  
22 ternal Revenue Code of 1986 (26 U.S.C. 4975(e)(7)).

23 “(hh) ELIGIBLE WORKER-OWNED COOPERATIVE.—  
24 In this Act, the term ‘eligible worker-owned cooperative’

- 1 has the meaning given that term in section 1042(c) of the
- 2 Internal Revenue Code of 1986.”.

○