

119TH CONGRESS
2D SESSION

H. R. 9792

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 HOUSE OF REPRESENTATIVES

JULY 20, 2026

Mr. PERRY introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Employee Ownership
3 Fairness Act of 2026”.

4 **SEC. 2. FINDINGS.**

5 Congress finds as follows:

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

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

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

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

25 (5) ESOP employees who run successful, profit-
26 able companies are often unable to make full use of

1 their defined contribution plans as a result of their
2 company's success accruing to their ESOP balance,
3 thereby causing their other plan contributions to ex-
4 ceed the annual cap.

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

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

1 **SEC. 3. ESOP AMENDMENTS.**

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

5 **“PART 3—SPECIAL RULES FOR EMPLOYEE STOCK**
6 **OWNERSHIP PLANS**

7 **“SEC. 3033. SPECIAL RULES FOR EMPLOYEE STOCK OWNER-**
8 **SHIP PLANS.**

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

12 “(1) for purposes of applying section
13 404(a)(3)(A) of the Internal Revenue Code of 1986,
14 the contributions taken into account for purposes of
15 clause (i) thereof shall not include—

16 “(A) contributions of employer stock; or

17 “(B) contributions made to repay loans
18 used to acquire employer securities;

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

22 “(3) in determining annual additions under sec-
23 tion 415(c)(2) of such Code, employer contributions
24 under subparagraph (A) thereof are determined
25 without regard to—

26 “(A) contributions of employer stock; or

1 “(B) contributions made to repay loans
2 used to acquire employer securities; and

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

7 (b) IRC.—

8 (1) IN GENERAL.—Subparagraph (A) of section
9 404(a)(3) of the Internal Revenue Code is amended
10 by adding at the end the following new clause:

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

16 “(I) contributions of employer
17 stock, or

18 “(II) contributions made to repay
19 loans used to acquire employer securi-
20 ties.”.

21 (2) SEPARATE DETERMINATION OF LIMITA-
22 TIONS.—Subsection (a) of section 404 of the Inter-
23 nal Revenue Code is amended by adding at the end
24 the following new paragraph:

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

6 (3) DETERMINATION OF ANNUAL ADDITIONS.—
7 The second sentence of paragraph (2) of section
8 415(c) of the Internal Revenue Code is amended—

9 (A) by striking “457(e)(16)) without re-
10 gard” and inserting “457(e)(16)) and without
11 regard”; and

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

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

23 “(o) SPECIAL RULE FOR ESOPS.—In the case of an
24 employee stock ownership plan (as defined in section

1 4975(e)(7)), forfeitures allocated to accounts under the
2 plan shall not be taken into account as annual additions.”.

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

