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

IN THE SENATE OF THE UNITED STATES

Mr. Van Hollen (for himself, Mr. Rubio, Ms. Baldwin, Mr. Young, Mrs. Shaheen, and Mr. Braun) introduced the following bill; which was read twice and referred to the Committee on ______

A BILL

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

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 Equity Investment Act of 2023”.

SEC. 2. EMPLOYEE EQUITY INVESTMENT FACILITY.

(a) DEFINITIONS.—Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended—
(1) in paragraph (19), by striking “and” at the end;

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

(3) by adding at the end the following:

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

“(A) the provision of capital to finance the sale of an ownership interest of a covered small business concern, including a covered small business concern created as a result of a corporate divestiture, to an employee stock ownership plan or eligible worker-owned cooperative if such sale results in—

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

“(ii) with respect to such a sale to an employee stock ownership plan, the appointment of an independent trustee for the transaction; or
“(B) the provision of capital to finance a covered small business concern if—

“(i) an employee stock ownership plan or eligible worker-owned cooperative holds a majority interest of the outstanding stock of the covered small business concern, prior to and immediately following the provision of capital; and

“(ii) the provision of capital does not reduce the percentage of stock of the covered small business concern held by the employee stock ownership plan or eligible worker-owned cooperative (as applicable), excluding any synthetic equity;

“(22) the term ‘covered small business concern’—

“(A) means a small business concern; and

“(B) with respect to an employee equity investment company that is not a Protege EEIC, includes an entity that is not more than 300 percent larger than the size standards established for categorizing a business concern as a small business concern under section 3(a) of the Small Business Act (15 U.S.C. 632(a));
"(23) the term ‘eligible worker-owned cooperative’ has the meaning given that term in section 1042(c) of the Internal Revenue Code of 1986;

"(24) the term ‘employee equity investment company’ means a small business investment company—

“(A) that identifies at the time of application for licensure under section 301 an intent to be licensed as an employee equity investment company; and

“(B) for which—

“(i) not less than 75 percent of the total capital managed by the investment firm shall be invested in covered investments;

“(ii) not less than 50 percent of the total capital managed by the investment firm shall be invested in covered investments described in paragraph (21)(A);

“(iii) covered investment returns are obtained from debt, synthetic equity, or a combination thereof, including returns obtained from cash interest, payment-in-kind interest, and stock warrants; and
“(iv) any investment that is not a covered investment is an investment in a small business concern;

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

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

“(A) is in the profession of serving as a fiduciary for employee stock ownership plans;

“(B) has never—

“(i) performed services for or on behalf of any party selling an ownership interest in the covered small business concern to the employee stock ownership plan involved in the transaction the trustee is considering; or

“(ii) been a director, officer, or employee of the covered small business concern;

“(C) has not performed services for or on behalf of the covered small business concern at any time during the 5-year period ending on the date of execution of the transaction the trustee is considering, unless such services solely con-
sisted of acting as a fiduciary of an employee
benefit plan (including an employee stock own-
ership plan) under the Employee Retirement
et seq.);

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

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

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

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

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

“(A) is in the profession of serving as a fi-
nancial or valuation advisor for transactions in-
volving employee stock ownership plans;
“(B) has never—

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

“(I) any party selling an ownership interest in the covered small business concern to the employee stock ownership plan involved in the transaction the advisor is evaluating; or

“(II) the covered small business concern, unless the services were provided solely to an existing employee stock ownership plan sponsored by the covered small business concern; or

“(ii) been a director, officer, or employee of the covered small business concern;

“(C) has not performed services related to the transaction the advisor is evaluating, including a preliminary valuation, for or on behalf of—

“(i) the employee equity investment company that is preparing to or has already allocated capital to the covered small business; or
“(ii) any other entity that is structuring or financing the transaction for any party other than the employee stock ownership plan; and

“(D) does not have a familial or corporate relationship (such as a parent-subsidiary relationship) to any of person or entity described in subparagraph (B) or (C);

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

“(A) is licensed under section 301;

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

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

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

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

“(A) for which the managers of the firm have a documented record of successful business experience; and
“(B) that has an investment track record that does not meet the requirements to be licensed under section 301; and

“(31) the term ‘synthetic equity’ has the meaning given that term in section 409(p)(6) of the Internal Revenue Code of 1986.”.

(b) EMPLOYEE EQUITY INVESTMENT FACILITY.—

Part A of title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding at the end the following:

“SEC. 321. EMPLOYEE EQUITY INVESTMENT FACILITY.

“(a) DEFINITION OF FACILITY.—In this section, the term ‘facility’ means the facility established under subsection (b).

“(b) ESTABLISHMENT.—The Administrator, acting through the Associate Administrator of the Office of Investment and Innovation of the Administration, shall establish and carry out a facility to provide leverage to licensed employee equity investment companies and non-EEIC companies for the purpose of encouraging covered investments.

“(c) APPLICATION.—

“(1) IN GENERAL.—An investment firm desiring to participate in the facility shall submit to the Administrator an application—
“(A) to be licensed to participate in the facility as an employee equity investment company (including as a Protege EEIC); or

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

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

“(3) ELECTRONIC SUBMISSIONS.—The Administrator shall allow an applicant under this section to electronically submit any document required by this section and to provide an electronic signature for any signature that is required on such a document.

“(4) APPLICATION PROCESS.—An investment firm shall identify an intent to be licensed as an employee equity investment company at the time the investment firm applies to be licensed as a small business investment company under section 301.

“(d) PROVISIONAL APPROVAL.—The Administrator may provide provisional approval for a license to participate in the facility as an employee equity investment company for a period not to exceed 1 year to an investment firm submitting an application under subsection (e)—

“(1) that does not meet the minimum private capital requirements under section 302 necessary for
licensing under section 301 at the time of applica-

tion;

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

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

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

“(f) TRANSACTION REQUIREMENTS.—

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

“(2) FAIRNESS OPINION.—An independent
trustee appointed under paragraph (1) shall obtain
a fairness opinion on the proposed covered investment from an independent financial advisor, which shall evaluate whether the price, terms, and cost of financing of the proposed covered investment are financially fair to the employee stock ownership plan.

“(g) Prohibitions.—

“(1) Financing.—

“(A) In general.—An employee of a covered small business concern may not provide personal financing of any kind for a covered investment, including through a wage concession or rollover of a retirement plan.

“(B) Exceptions.—Subparagraph (A) shall not apply to—

“(i) financing provided by an employee for the sale of an ownership interest held by the employee in a covered small business concern; or

“(ii) employee capital contributions or membership fees paid by members of an eligible worker-owned cooperative, if such amounts are reasonable and customary and not used for the purchase of the covered small business concern.
“(2) CONTROL.—An employee equity investment company or non-EEIC company shall not exercise control over a covered small business concern in which the employee equity investment company or non-EEIC company, respectively, has made a covered investment.

“(h) EMPLOYEE ALLOCATIONS.—With respect to a covered investment described in section 103(21)(A) made by an employee equity investment company that involves an employee stock ownership plan, the employee stock ownership plan shall include a requirement that in the event of a sale to a third party of the covered small business concern in which the covered investment is made, the proceeds that the employee stock ownership plan receives from the sale shall be distributed as though all shares of stock held by the employee stock ownership plan prior to the sale were fully allocated.

“(i) REIRCULATION OF SHARES.—

“(1) SHARE COUNT.—With respect to a covered investment described in section 103(21)(A) made by an employee equity investment company that involves an employee stock ownership plan, the number of shares held by the employee stock ownership plan on the final date of each plan year shall not be less than the number of shares held by the employee stock ownership plan prior to the sale.
stock ownership plan on the execution date of the covered investment.

“(2) LIMITATION.—The requirements under paragraph (1) shall apply only with respect to the period during which the employee equity investment company has an interest in the covered small business concern.

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

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

“(k) SMALLER ENTERPRISES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), section 303(d) shall not apply to employee equity investment companies.

“(2) PROTEEGEE EEICS.—Section 303(d) shall apply to a Protege EEIC.
“(l) Procedures Related to a Sale of a Covered Small Business Concern.—

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

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

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

“(ii) require that the independent trustee obtain a fairness opinion from an independent financial advisor, which shall evaluate whether the price, terms, and cost of financing of the proposed covered investment are financially fair to the employee stock ownership plan; and

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

“(i) in addition to the corporate mat-
ters listed in section 409(e)(3) of the In-
ternal Revenue Code of 1986, each partici-
participant or beneficiary in the employee stock
ownership plan is entitled to direct the em-
ployee stock ownership plan as to the man-
ner in which voting rights under securities
of the employer which are allocated to the
account of such participant or beneficiary
are to be exercised with respect to the ap-
proval or disapproval of any stock sale;

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

“(iii) unless the parties agree other-
wise, with respect to unallocated shares,
the independent trustee shall be directed to
vote or tender such unallocated shares in
the same proportion as allocated shares for
which the independent trustee has received
voting or tender instructions from partici-
pants in the employee stock ownership
plan; and
“(iv) with respect to allocated shares that the independent trustee does not receive voting or tender instructions from participants in the employee stock ownership plan, the independent trustee shall have voting discretion over such shares.

“(2) VOTING DISCRETION.—Nothing in paragraph (1)(B) shall limit the ability of an independent trustee to exercise voting discretion in accordance with the fiduciary obligations of the independent trustee under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

“(3) LIMITATION.—The requirements under paragraph (1) shall apply only with respect to the period during which the employee equity investment company has an interest in the covered small business concern.

“(m) REPORTS.—In addition to the reporting requirements in 310(b), each employee equity investment company (including each Protege EEIC licensed to operate as an employee equity investment company) and each non-EEIC company that has outstanding leverage received from the facility shall submit to the Administrator an annual report, which shall include, for the year covered by the report, the following information, disaggregated by
covered investments made under subparagraph (A) and (B) of section 103(21):

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

“(2) For an employee stock ownership plan—

“(A) the effective date of the plan;

“(B) the number of active plan participants;

“(C) the number of employees of the covered small business concern for which the employee stock ownership plan is established;

“(D) the total value of employer securities, as determined by an independent appraiser hired by the independent trustee of the employee stock ownership plan;

“(E) the total plan assets;

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

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

“(H) the median account asset balance; and
“(I) demographic information of plan participants, disaggregated by race, gender, and State.

“(3) For an eligible worker-owned cooperative—

“(A) the number of member-owners;

“(B) the number of employees of the covered small business concern for which the eligible worker-owned cooperative is established;

“(C) the total value of employer securities;

“(D) the aggregate assets of all membership accounts of the cooperative;

“(E) the median membership account balance; and

“(F) demographic information of membership base, disaggregated by race, gender, and State.

“(n) IMPLEMENTATION MILESTONES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall begin accepting applications to be licensed to participate in the facility as an employee equity investment company (including as a Protege EEIC).
“(2) Exclusion of leverage.—Not later than 1 year after the date of enactment of this section, the Administrator shall begin excluding from the calculation of outstanding leverage, as described in section 303(b)(2)(F), covered investments described in clause (iii) of such section.

“(3) License timeline.—Not later than 1 year after the date of enactment of this section, the Administrator shall approve the first tranche of licenses to participate in the facility as an employee equity investment company (including as a Protege EEIC) with respect to applicants that satisfy the applicable eligibility criteria.

“(o) Sunset.—

“(1) Definition.—In this subsection, the term ‘sunset date’ means the first day of the twentieth calendar year that begins after the date on which the Administrator approves the first license to participate in the facility as an employee equity investment company (including as a Protege EEIC).

“(2) Termination of authority.—On and after the sunset date, the Administrator may not license an entity to participate in the facility as an employee equity investment company (including as a Protege EEIC).
Protege EEIC) or select an entity to participate in
the facility as a non-EEIC company.

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

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

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

“(4) APPLICATION.—The Administrator shall
not consider paragraph (2) as a factor in the deci-
sion to license an entity to participate in the facility
as an employee equity investment company (includ-
ing as a Protege EEIC) or to select an entity to par-
ticipate in the facility as a non-EEIC company be-
fore the sunset date.”.
(c) EMPLOYEE EQUITY INVESTMENT COMPANY PROCEDURES.—Title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended—

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

“(3) MATTERS CONSIDERED.—

“(A) IN GENERAL.—In reviewing and processing any application under this subsection, the Administrator—

“(i) shall determine whether—

“(I) the applicant meets the requirements of subsections (a) and (c) of section 302; and

“(II) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this Act;

“(ii) shall take into consideration—

“(I) the need for and availability of financing for small business concerns in the geographic area in which the applicant is to commence business;
“(II) the general business reputation of the owners and management of the applicant; and

“(III) the probability of successful operations of the applicant, including adequate profitability and financial soundness;

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

“(iv) shall give first priority to an applicant that is located in an underlicensed State with below median financing, as determined by the Administrator.

“(B) ADDITIONAL MATTERS CONSIDERED FOR EMPLOYEE EQUITY INVESTMENT COMPANIES.—

“(i) INVESTMENT TRACK RECORD.— Except as provided in clause (ii), an applicant for a license to operate as an employee equity investment company shall submit to the Administrator proof that the managers of the applicant have a track record of managing investments, including structured investments, realized or unreal-
ized, in an employee stock ownership plan
or eligible worker-owned cooperative.

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

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

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

(A) in subparagraph (A), in the matter
preceding clause (i), by striking “The max-
imum” and inserting “Except as provided otherwise in this paragraph, the maximum”; and

(B) by adding at the end the following—

“(E) EMPLOYEE EQUITY INVESTMENT COMPANIES.—

“(i) IN GENERAL.—Except as provided in subparagraph (G), the maximum amount of outstanding leverage made available to any 1 employee equity investment company may not exceed the lesser of—

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

“(II) $350,000,000.

“(ii) MULTIPLE LICENSES UNDER COMMON CONTROL.—The maximum amount of outstanding leverage made available to 2 or more employee equity investment companies that are commonly controlled (as determined by the Administrator) and not under capital impairment may not exceed $700,000,000.

“(F) NON-EEIC COMPANY EMPLOYEE OWNERSHIP INVESTMENTS.—
(i) IN GENERAL.—A non-EEIC company may access leverage from the facility established under section 321 in addition to any leverage such non-EEIC company is otherwise eligible to receive solely for the purpose described in clause (ii) and subject to the limitation under clause (iv).

(ii) PURPOSE.—The purpose described in this clause is for the purpose of making covered investments described in section 103(21)(B) (excluding synthetic equity).

(iii) OUTSTANDING LEVERAGE.—Subject to the limitation under clause (iv), in calculating the outstanding leverage of a non-EEIC company for purposes of subparagraphs (A)(ii) and (B), the Administrator shall exclude the amount of leverage outstanding to covered small business concerns for a covered investment described in section 103(21)(B) (excluding synthetic equity) made by such non-EEIC company.

(iv) LIMITATION.—The amount of leverage provided under clause (i) that is ex-
cluded under clause (iii) may not exceed $50,000,000.

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

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

“(ii) $100,000,000.”.

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

“(4) In its annual report for the year ending on December 31, 2023, and in each succeeding annual report made pursuant to section 10(a) of the Small Business Act, the Administration shall include full and detailed aggregate data regarding—

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

“(i) the total number of active plan participants;

“(ii) the total number of employees of the covered small business concerns with such employee stock ownership plans;
“(iii) the total value of employer securities, as determined by the independent appraisers hired by the independent trustee of each employee stock ownership plan;

“(iv) the total plan assets;

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

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

“(vii) the median account asset balance; and

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

“(B) eligible worker-owned cooperatives created by employee equity investment companies, including—

“(i) the number of member-owners;

“(ii) the total number of employees of the covered small business concern with such eligible worker-owned cooperatives;

“(iii) the total value of employer securities;

“(iv) the assets of all membership accounts;
“(v) the median membership account balance; and

“(vi) demographic information of membership base, disaggregated by race, gender, and State; and

“(C) non-EEIC companies that received leverage from the facility, including—

“(i) the total amount of such leverage excluded by the Administrator pursuant to section 321(e)(3)(C);

“(ii) the number of employee stock ownership plans and eligible worker-owned cooperatives that received capital from a non-EEIC company during the year covered by the report; and

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

SEC. 3. PROTEGE EEIC PROGRAM.

Part A of title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.), as amended by section 2, is further amended by adding at the end the following:
“SEC. 322. PROTEGE EEIC PROGRAM.

“(a) Establishment.—The Administrator shall establish a program to be known as the ‘Protege EEIC Program’ under which a manager with substantial experience in operating small business investment companies may enter into a written agreement approved by the Administrator to provide guidance and assistance to a Protege EEIC with respect to—

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

“(2) management of the employee equity investment company after licensure.

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

“(c) Selection.—The Administrator may grant a license to a Protege EEIC to operate as an employee equity investment company under section 301 based on the investment track record of one or more of the managers that have entered into a written agreement described in subsection (a) with the applicant Protege EEIC.

“(d) Requirements for Managers.—If a manager enters into a written agreement described under subsection (a)—
“(1) the manager may hold a minority financial interest in the employee equity investment company that is to be managed by the Protege EEIC;

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

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

SEC. 4. OFFICE OF EMPLOYEE OWNERSHIP.

Part A of title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et. seq.), as amended by section 3, is further amended by adding at the end the following:

“SEC. 323. OFFICE OF EMPLOYEE OWNERSHIP.

“(a) Establishment.—There is established in the Administration an Office of Employee Ownership (in this section referred to as the ‘Office’) which shall be responsible for—
“(1) developing expertise in employee stock ownership plans and eligible worker-owned cooperatives; and

“(2) assisting small business concerns in processes relating to a sale of such concerns to an employee stock ownership plan or eligible worker-owned cooperative.

“(b) DUTIES.—The Office shall—

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

“(2) maintain and publish a list of legal, accounting, or financial advisory firms with at least 5 years of experience in structuring employee stock ownership plans or eligible worker-owned cooperatives;

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

“(4) coordinate with small business development centers on implementing the requirements relating to employee-owned business concerns under
section 21(c)(3) of the Small Business Act (15 U.S.C. 648(e)(3)); and

“(5) coordinate with leaders in the field, as determined by the Administrator, to develop outreach and educational materials on employee ownership in multiple languages.”.

SEC. 5. MODIFYING UNCONDITIONAL OWNERSHIP AND CONTROL REQUIREMENTS FOR CERTAIN EMPLOYEE-OWNED SMALL BUSINESS CONCERNS.

(a) Report on Ownership and Control Through an Employee Stock Ownership Plan or Eligible Worker-owned Cooperative Relating to Set-aside Procurement.—

(1) Definitions.—In this subsection—

(A) the term “Administrator” means the Administrator of the Small Business Administration;

(B) the term “eligible worker-owned cooperative” has the meaning given that term in section 1042(c) of the Internal Revenue Code of 1986; and

(C) the term “employee stock ownership plan” has the meaning given that term in sec-
tion 4975(e) of the Internal Revenue Code of 1986.

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

(A) employee stock ownership plans and eligible worker-owned cooperatives have unique ownership structures that create barriers to accessing set-aside procurement programs due to unconditional ownership and control requirements; and

(B) the ownership structures of an employee stock ownership plan or an eligible worker-owned cooperative should not prevent an otherwise eligible entity from accessing set-aside procurement programs.

(3) STUDY AND REPORT.—

(A) STUDY.—The Administrator, in coordination with stakeholders, including women-owned small business third-party certifiers and relevant Federal agencies, shall study and recommend alternatives to unconditional ownership and control requirements for employee stock ownership plans and eligible worker-owned cooperatives that would enable access to set-aside procurement programs.
(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress the recommendations developed under subparagraph (A) and a plan to implement the recommendations for all set-aside procurement programs, including identifying any applicable statutory changes necessary to implement such recommendations.

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

(c) GRACE PERIOD.—

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

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

“(A) IN GENERAL.—For the purposes of determining ownership and control of a concern
under this subsection for award of a contract through a competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals, any interest in such concern held by an employee stock ownership plan or an eligible worker-owned cooperative shall be treated in the same manner as an interest held by the socially and economically disadvantaged individuals upon whom eligibility is based if—

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

“(ii) the chief corporate officer and a majority of the board of directors of such concern are socially and economically disadvantaged individuals.

“(B) APPLICABILITY.—The requirements of subparagraph (A) shall apply for the 2-year period beginning on the date on which the majority of the stock of such concern was acquired by an employee stock ownership plan or eligible worker-owned cooperative.”.
(d) Small Business Concerns Owned and Controlled by Women.—Section 8(m) of the Small Business Act (15 U.S.C. 637(m)) is amended by adding at the end the following:

“(9) Concerns owned by employee stock ownership plans or eligible worker-owned cooperatives.—

“(A) In general.—Notwithstanding any other provision of law, for the purposes of determining ownership and control of a concern under this subsection for award of a contract through a competition restricted to small business concerns owned and controlled by women, any interest in such concern held by an employee stock ownership plan or an eligible worker-owned cooperative, shall be treated in the same manner as an interest held by the women upon whom eligibility is based if—

“(i) such concern was a small business concern owned and controlled by women prior to the sale to an employee stock ownership plan or an eligible worker-owned cooperative; and
“(ii) the chief corporate officer and a majority of the board of directors of such concern are women.

“(B) Applicability.—The requirements of subparagraph (A) shall apply for the 2-year period beginning on the date on which the majority of the stock of such concern was acquired by an employee stock ownership plan or eligible worker-owned cooperative.”.

(e) Small Business Concerns Owned and Controlled by Service-disabled Veterans.—Section 36 of the Small Business Act (15 U.S.C. 657f) by adding at the end the following:

“(j) Concerns Owned by Employee Stock Ownership Plans or Eligible Worker-owned Cooperatives.—

“(1) In General.—Notwithstanding any other provision of law, for the purposes of determining ownership and control of a concern under this section for award of a contract through a competition restricted to small business concerns owned and controlled by service-disabled veterans, any interest in such concern held by an employee stock ownership plan or an eligible worker-owned cooperative, shall be treated in the same manner as an interest held
by the service-disabled veterans upon whom eligi-

bility is based if—

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

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

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

(f) DEFINITIONS.—Section 3 of the Small Business
Act (15 U.S.C. 632) is amended by adding at the end the
following:

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

“(hh) ELIGIBLE WORKER-OWNED COOPERATIVE.—
In this Act, the term ‘eligible worker-owned cooperative’
has the meaning given that term in section 1042(c) of the Internal Revenue Code of 1986.”