

116TH CONGRESS
1ST SESSION

S. 1661

To provide for the establishment of the United States Employee Ownership Bank, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23 (legislative day, MAY 22), 2019

Mr. SANDERS (for himself, Mrs. GILLIBRAND, Ms. HASSAN, Mrs. SHAHEEN, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide for the establishment of the United States Employee Ownership Bank, 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 “United States Em-
5 ployee Ownership Bank Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) between January 2000 and January 2019,
9 the manufacturing sector lost 4,458,000 jobs;

1 (2) as of January 2019, only 12,826,000 work-
2 ers in the United States were employed in the manu-
3 facturing sector, a lower number than in December
4 1941;

5 (3) at the end of 2018, the United States had
6 a trade deficit of \$621,000,000,000, including a
7 record \$419,162,000,000 trade deficit with China;

8 (4) preserving and increasing decent paying
9 jobs must be a top priority of Congress;

10 (5) providing loan guarantees, direct loans, and
11 technical assistance to employees to buy their own
12 companies will preserve and increase employment in
13 the United States; and

14 (6) the time has come to establish the United
15 States Employee Ownership Bank to preserve and
16 expand jobs in the United States through Employee
17 Stock Ownership Plans and worker-owned coopera-
18 tives.

19 **SEC. 3. DEFINITIONS.**

20 In this Act—

21 (1) the term “Bank” means the United States
22 Employee Ownership Bank established under section
23 4;

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

4 (3) the term “employee stock ownership plan”
 5 has the meaning given the term in section
 6 4975(e)(7) of the Internal Revenue Code of 1986;
 7 and

8 (4) the term “Secretary” means the Secretary
 9 of the Treasury.

10 **SEC. 4. ESTABLISHMENT OF UNITED STATES EMPLOYEE**
 11 **OWNERSHIP BANK WITHIN THE DEPART-**
 12 **MENT OF THE TREASURY.**

13 (a) ESTABLISHMENT OF BANK.—

14 (1) IN GENERAL.—Not later than 90 days after
 15 the date of enactment of this Act, the Secretary
 16 shall establish the United States Employee Owner-
 17 ship Bank to foster increased employee ownership of
 18 United States companies and greater employee par-
 19 ticipation in company decisionmaking throughout
 20 the United States.

21 (2) ORGANIZATION OF THE BANK.—

22 (A) MANAGEMENT.—The Secretary shall
 23 appoint a Director to serve as the head of the
 24 Bank, who shall serve at the pleasure of the
 25 Secretary.

1 (B) STAFF.—The Director appointed
2 under subparagraph (A) may select, appoint,
3 employ, and fix the compensation of such em-
4 ployees as are necessary to carry out the func-
5 tions of the Bank.

6 (b) DUTIES OF BANK.—The Bank shall provide di-
7 rect loans and loan guarantees, which may be subordi-
8 nated to the interests of all other creditors—

9 (1) to purchase a company through an em-
10 ployee stock ownership plan or an eligible worker-
11 owned cooperative, which shall be not less than 51
12 percent employee-owned, or will become not less
13 than 51 percent employee-owned as a result of fi-
14 nancial assistance from the Bank;

15 (2) to allow a company that is less than 51 per-
16 cent employee-owned to become not less than 51 per-
17 cent employee-owned;

18 (3) to allow a company that is already not less
19 than 51 percent employee-owned to increase the level
20 of employee ownership at the company; and

21 (4) to allow a company that is already not less
22 than 51 percent employee-owned to expand oper-
23 ations and increase or preserve employment.

24 (c) PRECONDITIONS.—Before the Bank makes any
25 subordinated loan or guarantees a loan under subsection

1 (b)(1), the company to which the loan or loan guarantee
2 would be provided shall submit to the Bank a business
3 plan that—

4 (1) shows that—

5 (A) not less than 51 percent of all interests
6 in the company is or will be owned or controlled
7 by an employee stock ownership plan or an eli-
8 gible worker-owned cooperative;

9 (B) the board of directors of the company
10 is or will be elected by shareholders on a 1
11 share to 1 vote basis, or by members of the eli-
12 gible worker-owned cooperative on a 1 member
13 to 1 vote basis, except that shares held by the
14 employee stock ownership plan will be voted ac-
15 cording to section 409(e) of the Internal Rev-
16 enue Code of 1986, with participants providing
17 voting instructions to the trustee of the em-
18 ployee stock ownership plan in accordance with
19 the terms of the employee stock ownership plan
20 and the requirements of that section 409(e);
21 and

22 (C) all employees of the company shall re-
23 ceive basic information about company progress
24 and have the opportunity to participate in day-
25 to-day operations; and

1 (2) includes a feasibility study from an objective
 2 third party with a positive determination that the
 3 employee stock ownership plan or eligible worker-
 4 owned cooperative will generate enough of a margin
 5 to pay back any loan, subordinated loan, or loan
 6 guarantee that was made possible through the Bank.

7 (d) TERMS AND CONDITIONS FOR LOANS AND LOAN
 8 GUARANTEES.—Notwithstanding any other provision of
 9 law, a loan that is provided or guaranteed under this sec-
 10 tion shall—

11 (1) bear interest at an annual rate, as deter-
 12 mined by the Secretary—

13 (A) in the case of a direct loan under this
 14 section—

15 (i) that is sufficient to cover the cost
 16 of borrowing to the Department of the
 17 Treasury for obligations of comparable ma-
 18 turity; or

19 (ii) of 4 percent; and

20 (B) in the case of a loan guaranteed under
 21 this section, in an amount that is equal to the
 22 current applicable market rate for a loan of
 23 comparable maturity; and

24 (2) have a term of not longer than 12 years.

1 **SEC. 5. EMPLOYEE RIGHT OF FIRST REFUSAL BEFORE**
 2 **PLANT OR FACILITY CLOSING.**

3 Section 3 of the Worker Adjustment and Retraining
 4 Notification Act (29 U.S.C. 2102) is amended—

5 (1) in the section heading, by inserting “; **EM-**
 6 **PLOYEE STOCK OWNERSHIP PLANS OR ELIGI-**
 7 **BLE WORKER-OWNED COOPERATIVES**” after
 8 “**LAYOFFS**”; and

9 (2) by adding at the end the following:

10 “(e) **EMPLOYEE STOCK OWNERSHIP PLANS AND EL-**
 11 **IGIBLE WORKER-OWNED COOPERATIVES.**—

12 “(1) **IN GENERAL.**—

13 “(A) **OPPORTUNITY TO PURCHASE.**—Ex-
 14 cept as provided in paragraph (2), if an em-
 15 ployer orders a plant or facility closing in con-
 16 nection with the termination of the operations
 17 of the employer at that plant or facility, the
 18 employer shall offer the employees of the em-
 19 ployer an opportunity to purchase that plant or
 20 facility through an employee stock ownership
 21 plan (as that term is defined in section
 22 4975(e)(7) of the Internal Revenue Code of
 23 1986) or an eligible worker-owned cooperative
 24 (as that term is defined in section 1042(c)(2) of
 25 the Internal Revenue Code of 1986) that is not
 26 less than 51 percent employee-owned.

1 “(B) DETERMINATION OF VALUE.—The
2 value of the company that is to be the subject
3 of a plan or cooperative described in subpara-
4 graph (A) shall be the fair market value of the
5 plant or facility, as determined by an ap-
6 praisal—

7 “(i) conducted by an independent
8 third party jointly selected by an employer
9 described in that subparagraph and the
10 employees of that employer; and

11 “(ii) the cost of which may be shared
12 evenly between the employer and the em-
13 ployees.

14 “(2) EXEMPTIONS.—Paragraph (1) shall not
15 apply—

16 “(A) if an employer orders a plant closing,
17 but will retain the assets of that plant to con-
18 tinue or begin a business within the United
19 States; or

20 “(B) if an employer orders a plant closing
21 and that employer intends to continue the busi-
22 ness conducted at that plant at another plant
23 within the United States.”.

1 **SEC. 6. REGULATIONS ON SAFETY AND SOUNDNESS AND**
 2 **PREVENTING COMPETITION WITH COMMER-**
 3 **CIAL INSTITUTIONS.**

4 Not later than 90 days after the date of enactment
 5 of this Act, the Secretary shall prescribe such regulations
 6 as are necessary to implement this Act and the amend-
 7 ments made by this Act, including regulations to ensure—

8 (1) the safety and soundness of the Bank; and

9 (2) that the Bank will not compete with com-
 10 mercial financial institutions.

11 **SEC. 7. COMMUNITY REINVESTMENT CREDIT.**

12 Section 804 of the Community Reinvestment Act of
 13 1977 (12 U.S.C. 2903) is amended by adding at the end
 14 the following:

15 “(e) ESTABLISHMENT OF EMPLOYEE STOCK OWNER-
 16 SHIP PLANS AND ELIGIBLE WORKER-OWNED COOPERA-
 17 TIVES.—In assessing and taking into account, under sub-
 18 section (a), the record of a financial institution, the appro-
 19 priate Federal financial supervisory agency may consider
 20 as a factor capital investments, loans, loan participation,
 21 technical assistance, financial advice, grants, and other
 22 ventures undertaken by the institution to support or en-
 23 able employees to establish employee stock ownership
 24 plans or eligible worker-owned cooperatives (as those
 25 terms are defined in sections 4975(e)(7) and 1042(c)(2)
 26 of the Internal Revenue Code of 1986, respectively), that

1 are not less than 51 percent employee-owned plans or co-
2 operatives.”.

3 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated to the Sec-
5 retary to carry out this Act, \$500,000,000 for fiscal year
6 2020, and such sums as may be necessary for each fiscal
7 year thereafter.

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