Insight

An End to AI Competition? Senator Sanders' Plan

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Executive Summary

- Senator Bernie Sanders (I-VT) introduced the American AI Sovereign Wealth Fund Act, a sweeping legislative proposal that would levy a tax equal to a 50-percent equity stake in artificial intelligence (AI) and advanced robotics firms with gross receipts exceeding $200 million – likely expanding beyond the industry's leading firms.
- The proposed legislation builds on a growing, bipartisan narrative – shared by President Donald Trump – suggesting that direct government stakes in these firms could both benefit taxpayers and encourage more responsible management of these companies.
- Injecting the federal government into the boardroom promises to create a perverse set of incentives, ultimately robbing consumers and businesses of new products while dampening the current rapid pace of innovation.

Introduction

The rapid ascent of artificial intelligence (AI) has sparked a growing public backlash – in part, over anxiety about potential job displacement and the perceived concentration of wealth. Seizing the moment, Senator Bernie Sanders (I-VT) introduced the American AI Sovereign Wealth Fund Act, a sweeping proposal that would impose a tax equal to a 50-percent equity stake in AI and advanced robotics firms with gross receipts exceeding $200 million – likely expanding beyond the industry's leading firms.

The legislation comes just weeks after Senator Sanders penned an opinion piece in *The New York Times* previewing his idea for the United States to take equity stakes in AI companies.

The proposed legislation builds on a growing, bipartisan narrative – shared by President Donald Trump – suggesting that government involvement in these firms could both benefit taxpayers and encourage more responsible management of these companies.

Injecting the federal government into the boardroom promises to create a perverse set of incentives that could rob consumers and businesses of new products while slowing the current rapid pace of innovation.

American AI Sovereign Wealth Fund Act

Senator Sanders introduced the American AI Sovereign Wealth Fund Act just weeks after penning an opinion piece in which he called for the United States to take equity stakes in AI companies.

The legislation would create an excise tax on what is called "systemically important AI activity" in the amount of 50 percent of all outstanding equity interest to be remitted to the Department of the Treasury. Fulfilling this tax, however, cannot come from the existing stock of equity. To satisfy the mandate, the equity interest remitted to Treasury "shall be equity interests newly issued by the applicable AI company."

How it works in practice is not as straightforward. A company with 100 outstanding equity shares cannot simply transfer 50 shares to Treasury. Instead, the firm must mint 100 new shares and hand them to Treasury, doubling the total amount of shares outstanding to 200. Moreover, this tax would be applicable to all classes of shares and any new equity issuance from the company. While the government's stake would be permanently fixed at 50 percent, creating new shares would dilute existing shareholders, effectively shrinking the ownership share. To enforce this, the legislation would preempt company bylaws that determine how new shares are issued, overriding corporate boards or shareholder votes typically required to issue new equity. The government would also ignore repurchased or redeemed shares when calculating the amount to be remitted.

The legislation would subject to the tax firms with more than $200 million in gross receipts engaged in "trade or business" activities related to AI data centers, AI computing infrastructure, AI services, and companies researching, producing, or manufacturing advanced robotics.

To collect the equity interest tax, the legislation would establish the American A.I. Sovereign Wealth Fund within the Treasury managed by Independent Commission for Democratic AI – consisting of seven commissioners appointed by the president and confirmed by the Senate – to manage the fund and exercise all voting and governance rights attached to the equity interests. The legislation instructs the commission to work with the Secretary of Labor to

"effectively promote the goals of worker welfare, public safety, fair competition…environmental sustainability, and financial solvency."

The commission would also designate individuals to represent the fund on the board of directors at each of the AI companies in which the fund holds an equity interest. These representatives are required to advance the goals of the commission, "even where doing so conflicts with the financial interests of the company or its other equity holders." Furthermore, the representatives – as well as agreeing non-government board members – are immune from liability for advancing these goals. In other words, they cannot be held liable by shareholders for what could traditionally be thought of as a breach of fiduciary duty.

Effects on Competition

The proposal would advance the ongoing displacement of markets for state-directed capitalism. Beginning with the acquisition of a "golden share" in Nippon/U.S. Steel as a condition of the merger, the Trump Administration has taken direct equity positions in more than a dozen companies. The creation of a sovereign wealth fund and accompanying mandates outlined in the Sanders legislation makes it clear that these equity stakes can, and will likely, be used to advance political agendas rather than serving a traditional corporate board's role in promoting the interest of the company, its shareholders, and its customers.

As American Action Forum (AAF) has previously discussed, government equity stakes would likely poison the well of innovation. Allocating capital based on the merits of new ideas and technologies would be replaced by the government picking winners and losers. It would also likely translate into regulatory capture and corporate cronyism. Firms could use the government's board position to advocate for regulatory barriers to prevent new competitors from entering the market or provide an inside track to government contracts.

Competing on the merits for customers would also be compromised. Firms seeking contracts with AI firms may change their criteria from "who has the best product?" to "who has the best relationship with the White House?"

The commission and representatives would be mandated to promote government objectives, even when those objectives conflict with typical business operations. This could have undue influence on the entire corporate board. For instance, fear of potential government retribution could lead non-government board members to change their stances on corporate proposals, potentially to the detriment of the firm, its customers, or even the taxpayers.

Furthermore, broad government investment in the across the AI sector would introduce a structural hazard of common ownership – an arrangement which is generally illegal under

federal law. The Sanders' legislation confers on federal company representatives a common agenda, which would translate to similar voting patterns in each of these individual companies. The potential for this activity is why Congress created Section 8 of the Clayton Act – which prohibits individuals from serving as an officer or director of two competing firms, known as interlocking directorates. A government agent in boardrooms across the entire AI industry could lead to widespread coordination, despite the legislation prohibiting the commission from using its voting or governance rights to "coordinate" competitive conduct of such companies. It is unclear how such a provision would be enforced when the mandated goals of each representative are the same.

Conclusion

The expansive scope of Senator Sanders' American AI Sovereign Wealth Fund Act and the trend of government-corporate joint enterprises is cause for concern. In an industry as dynamic as AI, the danger of government dictates could create a perverse set of incentives that undermine competition, slow innovation, and rob consumers and businesses of new products.