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November 1, 2011

Congressman Bob Goodlatte
2240 Rayburn HOB
Washington, DC 20515

Re: H.R. 1244

Dear Congressman Goodlatte:

Gala Industries of Eagle Rock, VA, sponsors an Employee Stock Ownership Plan, or ESOP. Our ESOP makes employees of Gala Industries beneficial owners of our stock.

On March 29th, a bi-partisan group of Ways and Means members introduced H.R. 1244, the Promotion and Expansion of Private Employee Ownership Act of 2011. This modest legislation would continue Congressional policies to encourage employee ownership through an Employee Stock Ownership Plan (or ESOP) model, especially by S-corporations.

The original sponsors are Representatives Reichert, Kind, Boustany, Blumenauer, Paulsen, and Pascrell. Since introduction, 40+ members of the House have joined efforts to promote private company employee ownership.

Enclosed is a brief summary of the legislation. We would respectfully ask that you review the provisions of H.R. 1244 and ***consider co-sponsoring H.R. 1244***.

ESOPs sponsored by privately-owned corporations have a very positive 35+ year track record of providing locally controlled jobs that provide significant benefits in a high performing company. See also an enclosed summary of evidence supporting our assertive.

Please feel free to contact me for any questions. Or, if you wish, you or your staff may ask the representative of The ESOP Association to visit your office for a full dialogue of questions you may have.

ESOPs are good for employees, companies, and our community!!

Sincerely,

Steven W. King

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Enclosures

Summary of H.R. 1244

Section 1: Title, "Promotion and Expansion of Private Employee Ownership Act of 2011"

Section 2: Findings, The bill sets forth Congressional findings regarding the importance of fostering employee ownership of S corporations through ESOPs and Congress' intent to preserve the S corporation ESOP structure in the Internal Revenue Code.

Section 3: The bill would extend the gain deferral provisions of Internal Revenue Code Section 1042 to sales of employer stock to S corporation ESOPs. Section 3 of the bill would apply to sales of stock after the date of enactment of the bill.

Section 4: The bill would add a new section 200 to the Internal Revenue Code, which would allow banks to deduct 50% of the interest income received on loans made to an ESOP or an S corporation sponsoring an ESOP to purchase S corporation stock for the ESOP. Section 200 would apply only if the ESOP owns more than 50% of the stock of the S corporation after such purchase. Section 4 of the bill would apply to interest accrued on loans made after the date of enactment of the bill.

Section 5: The bill would mandate the establishment of an "S Corporation Employee Ownership Assistance Office" by the Department of Treasury to foster increased employee ownership of S corporations. The S Corporation Employee Ownership Assistance Office would be required to provided education and outreach to inform people about the possibilities and benefits of employer ownership of S corporations and would provide technical assistance for companies that may be interested in forming an S corporation ESOP. The Department of Treasury would be required to establish the S Corporation Employee Ownership Assistance Office within 90 days after the date of enact of the bill.

Section 6: The bill would permit an SBA certified small business, C or S, to be eligible for SBA programs to maintain its eligibility after becoming majority-owned by an ESOP, if employee demographics remain the same. Since the passage of ERISA in 1974, SBA has taken the unfair position that when a small business is eligible for SBA programs becomes majority owned by an ESOP, it is no longer eligible for SBA programs, even though the workforce remains the same or nearly the same. Such a position has had unfair results such as a minority-owned, SBA eligible company with a 100% minority workforce is no longer deemed to be so after ESOP majority ownership.

Employee Ownership and Corporate Performance

1. In the book, *Shared Capitalism at Work: Employee Ownership, Profit and Gain Sharing, and Broad-Based Stock Options*, edited by Joseph R. Blasi, Douglas L. Kruse, of Rutgers University, and Richard B. Freeman of Harvard University, the editors set forth findings on shared capitalism. The book identifies ESOPs as a primary model of shared capitalism in the U.S. Below are the summarized findings.
    - Shared capitalism can increase wealth for workers at lower and middle income levels.
    - Shared capitalism improves the performance of firms. It is associated with greater attachment, loyalty, and willingness to work hard; lower chance of turnover; worker reports that co-workers work hard and are involved in company issues; and worker suggestions for innovations.
    - Shared capitalism improves worker well-being. It is associated with greater participation in decision-making; higher pay, benefits, and wealth; greater job security, satisfaction with influence at the workplace, trust in the firm, and assessment of management; and better labor management relations practices.
    - Shared capitalism complements other labor policies and practices. Firms with shared capitalism compensate more and are likely to have other worker-friendly labor policies and practices.
    - The risk of shared capitalism investments in one's employer is manageable. Portfolio theory suggests employee ownership can be part of an efficient portfolio. Most workers have modest amounts of employee ownership within the ranges suggested by portfolio theory. Less risky forms of shared capitalism such as cash profit sharing and stock options where workers are paid market wages, or company stock is not financed by worker savings, can be prudently combined with riskier forms where workers purchase stock.

2. In August 2010, The ESOP Association and the Employee Ownership Foundation released the results of a survey conducted among the Association's 1,400 corporate members which confirmed positive benchmarks for ESOPs. The eye-opening statistics of the 2010 survey are the increase in age of the ESOP and account balances. In 2010, the average age of the ESOP was reported to be 15 years, demonstrating ESOP companies are sustainable. In addition, the average account balance has risen dramatically to $195,222.65; a high figure compared to most data tracking defined contribution plans which correlates with the age of ESOPs participating in this year's survey. And approximately 90% of members reported having retirement savings plans in addition to the ESOP including the use of 401(k) plans, pension plans, stock purchase plans, and stock options. In terms of motivation and productivity, 84% of respondents agree that the ESOP improved motivation and productivity. The Company Survey is conducted every five years and was last completed in 2005. Prior to 2005, the survey was completed in 2000.

3. Also in September 2010, the Employee Ownership Foundation released the results of an extensive study it funded that evidenced that ESOPs provide more employee benefits than non-ESOP companies. The study, which reviewed data from the Department of Labor Form 5500 on defined contribution retirement plans, found: ESOP companies have at least one plan, the ESOP, but more than half (56%) have a second retirement savings/defined

contribution plan, likely a 401(k) plan. In comparison, the Bureau of Labor statistics reports that only 47% of companies have some sort of defined contribution plan which shows that an ESOP company is more than likely to have two defined contribution plans than the average company is to have one plan.

The project was done by the National Center for Employee Ownership (NCEO).

4. Also, in the summer of 2011, the Employee Ownership Foundation released its 20th Annual Economic Performance Survey (EPS), that evidenced a very high percentage of companies, 92%, declared that creating employee ownership through an ESOP was "a good decision that has helped the company."

5. In June 2008, Brent Kramer, a doctoral candidate at the City University of New York, now Ph.D., submitted a study, *Employee Ownership and Participation Effects on Firm Outcomes*, that "provides strong evidence that majority employee-owned businesses have a significant advantage over comparable traditionally-owned businesses in sales per employee." The average advantage, $44,500, means that a typical 200 person ESOP businesses could be expected to have an almost $9 million annual sales advantage over its non-ESOP counterpart.

6. In January 2007, the co-operative relationship between the Employee Ownership Foundation and the University of Pennsylvania's Center for Organizational Dynamics led to an important new and "fresh" study of the effectiveness of ESOPs and employee ownership as uncovered in 30 years of scholarly research on the issue. The study, "Effects of ESOP Adoption and Employee Ownership: Thirty Years of Research and Experience," authored by Dr. Steven F. Freeman, Affiliated Faculty and Visiting Scholar School of Arts and Sciences, University of Pennsylvania, confirms that employee-owned companies experience increased productivity, profitability, and longevity.

7. The most comprehensive and significant study to date of ESOP performance in closely held companies was conducted by Dr. Joseph R. Blasi and Dr. Douglas L. Kruse, professors at the School of Management and Labor Relations at Rutgers University, and funded in part by the Employee Ownership Foundation. The study, which paired *1,100 ESOP companies* with *1,100 comparable closely-held non-ESOP companies* and followed the closely-held businesses for *over a decade*, reported overwhelmingly positive and remarkable results indicating that ESOPs appear to increase sales, employment, and sales/employee by about 2.3% to 2.4% over what would have been anticipated, absent an ESOP. In addition, Drs. Blasi and Kruse examined whether ESOP companies stayed in business longer than non-ESOP companies and found that 77.9% of the ESOP companies followed as part of the survey survived as compared to 62.3% of the comparable non-ESOP companies. According to Drs. Blasi and Kruse, ESOP companies are also more likely to continue operating as independent companies over the course of several years.

8. In 1995, the U.S. Department of Labor released a study entitled "The Financial and Non-Financial Returns to Innovative Workplace Practices: A Critical Review." This study found that companies that seek employee participation, give employees company stock, and train employees, can positively affect American corporations' bottom lines.

ESOP Facts and Figures

- There are approximately 11,500 ESOPs in place in the U.S., covering 10 million employees (10% of the private sector workforce).
- These employees draw in excess of 3% of their total compensation from ESOP contributions.
- The growth of ESOP formation has been influenced by federal legislation. While the rapid increase in new ESOPs in the late 1980s subsided after Congress removed certain tax incentives in 1989, the overall number has remained steady with new plans replacing terminated ESOPs. Currently, it is estimated that there are approximately 11,500 ESOPs in place in the U.S. However, there is no precise way to measure this figure accurately since the overwhelming majority of ESOP companies are privately held and do not file public reports with the SEC.
- About 330 ESOPs - 3% - are in publicly traded companies. However, these companies employ just under 50% of the nation's 10 million employee owners.
- An estimated 7,000 of the 11,500 companies have ESOPs that are large enough to be a major factor in the corporation's strategy and culture.
- Approximately 4,500 ESOP companies are majority-owned by the ESOP.
- Approximately 3,000 are 100% owned by the ESOP.
- About 2% of ESOP companies are unionized.
- While ESOPs are found in all industries, over 20% of them are in the manufacturing sector.
- At least 70% of ESOP companies are or were leveraged, meaning they used borrowed funds to acquire the employer securities held by the ESOP trustee.
- An overwhelming majority of ESOP companies have other retirement and/or savings plans, such as defined benefit pension plans or 401(k) plans, to supplement their ESOP.
- Of the 11,500 employee-owned companies nationwide, fewer than 2% were financially distressed when they established their ESOP.
- Total assets owned by U.S. ESOPs is estimated to be $901 billion at the end of 2007.

For additional information about ESOPs or The ESOP Association, please visit the website at www.esopassociation.org, call 1-866-366-3832, or email esop@esopassociation.org