The ESOP Association
Advocacy Kit

Winter 2012

REALLY WANT TO HELP?
INVITE YOUR MEMBER OF CONGRESS
TO VISIT YOUR ESOP COMPANY!!

Remember: YOU ARE THE ANSWER

"Since its inception in 1978, The ESOP Association has represented the interests of all corporations that sponsor employee stock ownership plans, or ESOPs. The ESOP Association provides advocacy and educational services on behalf of its members. Corporate membership in The ESOP Association is open to all ESOP companies; our members range from closely held businesses to large public companies, and include both C and S corporations, across all industries. The ESOP Association welcomes all corporate members and pledges that our advocacy and educational initiatives will continue to serve the entire ESOP community."

Table of Contents

INTRODUCTION
Salient Facts About Second Session 112th Congress

The November 2010 national Congressional elections resulted in a significant number of new members of Congress, House and Senate. In the 112th Congress, the Republicans' control the House of Representatives, and the Democrats have less control of the Senate, where, due to a procedural quirk, 60 votes, not 50, are needed to pass major legislation. On major issues in 2011, such as debt reduction and major tax law changes, Congress was more often than not gridlocked, with sharp partisan rhetoric.

But, the key question for ESOP advocates, right, left, middle of the road, Republican, Democrat, or Independent is – given the seemingly intractable positions in Congress, what does all this mean for ESOPs in 2012, the Second Session of the 112th Congress?

The best answer to this question is summarized in a speech in November by Association President J. Michael Keeling to the Las Vegas Conference and Trade Show. Go to http://esopassociationblog.org/tag/j-michael-keeling-speech-from-2011-las-vegas-conference-and-trade-show/ to read this speech. To listen to speech click
Part I
http://www.youtube.com/watch?v=S1cP-bu4xFk&list=UUDd2X4AoWSp2vXKjJXkZlTQ&index=3&feature=plcp
Part II
http://www.youtube.com/watch?v=wL1KTcGC4Xk&list=UUDd2X4AoWSp2vXKjJXkZlTQ&index=2&feature=plcp
Part III
http://www.youtube.com/watch?v=vw335mBwxhA&list=UUDd2X4AoWSp2vXKjJXkZlTQ&index=1&feature=plcp

The essence of the speech is that issues that are not on the front page of newspapers, or on the 24-7 cable news channels – left wing or right wing – Congress makes decisions in small groups, with some cooperation between Democrats and Republicans, and their staffs. Furthermore ESOPs are still, unfortunately, a small issue in the scheme of the U.S. economy. But the positive aspect of the fact is the ESOP community can still build a foundation of supporters by taking advantage of the promotion of pro-ESOP legislative proposals, among the Republicans and Democrats. Also, the foundation can be strengthened by having members of Congress openly oppose any regulation proposed by a federal agency that is negative to ESOP creation and operation.

For example, see the Congressional Visit Kit to have an outline how to be most effective protecting your company's ESOP.

But central to the Vegas remarks are ESOP advocates have to continue, with persistence, to expose their ESOP companies to their members of Congress, with visits to their company. (See the Congressional Company Visit Kit: Practical Steps for Unparalleled Results, at www.esopassociation.org/pdfs/Congressional_visit_kit.pdf

And, we need to expose members of Congress to the overwhelming evidence that employee owners were four times more likely to keep their jobs during the Great Recession then non-employee owners. See http://esopassociationblog.org/tag/general-social-survey-results/

No matter how the move for major tax reform – it will be 2013/2014 before Congress considers general tax increase proposals — the foundation to protect ESOPs must be <u>laid</u> <u>now,</u> with Congresspeople learning first hand about ESOP companies in their districts and state by visiting your ESOP company, and having more members of Congress join as co-sponsors of H.R. 1244 and S. 1512.

DOCUMENT 1

Your Government Relations Challenges

Winter 2012

The ESOP Association has for over 34 years vigorously promoted laws to encourage the creation of employee ownership through ESOPs and to facilitate the operation of the ESOP to benefit corporations sponsoring ESOPs and ESOP participants. Similarly, over the past 34 years, the Association has vigorously urged Congress to defeat proposals that would impact ESOP companies and their employees negatively. This Advocacy Kit for the Association's members primarily urges members of the House to co-sponsor pro-ESOP legislation; H.R. 1244, and S. 1512, which is similar to H.R. 1244.

This kit also updates the Association's campaign to stop any Department of Labor proposal that would make it more likely that aggressive plaintiff attorney's would sue privately-held ESOP companies, would increase the costs of operating and creating ESOPs, and thus make sustainability of ESOPs less likely. (ESOP advocates recall in late 2010, DOL proposed that all appraisers of private ESOP stock be ERISA fiduciaries. Along with other employee focused groups the Association vigorously protested the proposal. In particular, Senate Kelly Ayotte (R-NH) introduced S. 1232 to stop the specific ESOP provision of the proposed regulation. DOL withdrew the proposal on September 19, 2011; but DOL leadership promised a new proposal in the first quarter of 2012. *All ESOP supporters must be ready to renew a pro-ESOP campaign if the new DOL proposal is negative to ESOP creation and operation and ESOP participants.*

Following are background documents on the Association's agenda, and suggested documents to send/leave or give Members of Congress and their staff, whether mailing a letter, visiting a DC Congressional Office, or even better, after hosting a member of Congress at an ESOP company site.

Document 2
Evidence of Negative ESOP Thinking in Department of Labor

The atmosphere for ESOPs in the Department of Labor [DOL] has turned negative towards employee ownership in the ESOP model. (DOL enforces all ERISA laws governing ESOPs except those arising exclusively in the Internal Revenue Code.)

An example of this atmosphere was the proposed 2010 regulation to mandate that <u>all</u> persons who appraise the ESOP shares of a private company ESOP be ERISA fiduciaries to the ESOP.

While protests about the DOL October 22, 2010, proposal resulted in DOL pulling that proposal, DOL has promised to issue a new similar proposal in early 2012. So, the smart thing for the ESOP community is to be ready to spring into action as it did in 2011 if the re-issued proposal negatively impacts ESOPs. Why? Because, if the appraisers are an ERISA fiduciary, the impact on the ESOP plan sponsor will be significant.

First and foremost, the fee charged by an appraiser would increase, as the appraiser will pass along costs, and its increased risk to lawsuits if a fiduciary to the ESOP. Secondly, whereas currently the appraisal is to be independent, some have speculated, especially in a transaction establishing an ESOP, the appraiser would have to recommend a share price as low as possible thus leading an exiting shareholder not to sell to the ESOP. And foremost, it is felt that should ESOP share value decline, aggressive private sector litigators would sue the appraisal company and the ESOP company for performing a faulty valuation.

It is crucial therefore, that the men and women who are leaders and employees of ESOP companies be ready for any <u>new</u> negative DOL proposal.

Following is a list of the tools The ESOP Association will provide to ESOP advocates should DOL put forward again a negative proposal.

Document 2a
What to Expect as Tools to Stop Negative DOL Proposal, if Issued in 2012

Expect suggestions to Members of House Education and Workforce Committee, to U.S. Senators, with copies of enclosures proving ESOPs are more productive, more profitable, and more sustainable providing locally controlled jobs, along with specific reasons to oppose any negative DOL proposed regulation in 2012.

To Read History of DOL's Negative 2010 Proposal, and Explanation Of Its Potentially Devastating Impact on ESOPs See These ESOP Association Postings Click on the below

http://esopassociationblog.org/government-affairs-information/government-affairs-department-of-labor-proposed-regulation-on-the-definition-of-a-fiduciary/

DOCUMENT 2b

“Call to Action” to Stop Possible Negative DOL Proposal
With Regards to ESOPs

If DOL issues in 2012 a revision of its 2010 proposal to make all appraisers of private ESOP company stock ERISA fiduciaries that harms ESOP creation and operation, you will receive “Calls to Action” to protest the DOL proposal with your member of Congress via e-mails, the Association’s blog, LinkedIn, Facebook, and this Advocacy Kit, on the web, will be updated within days.

DOCUMENT 3

Bi-partisan Group of Senators Introduces and Sponsors Pro-Private Company ESOP Promotion Bill S. 1512

On September 6, 2011, three members of the U.S. Senate introduced S. 1512, the "Promotion and Expansion of Private Employee Ownership and Expansion of Private Employee Ownership and Expansion of Private Employee Ownership Act of 2011." All three are members of the Senate Committee on Finance, which has jurisdiction over all ESOP tax instances.

They were: Senators Ben Cardin (D-MD), Pat Roberts (R-KS), and Olympia Snowe (R-ME).

Since September 6, seven Senators have joined their colleagues in sponsoring S. 1512. They are Senators Bernie Sanders (I-VT), Jerry Moran (R-KS), Mary Landrieu (D-LA), Roy Blunt (R-MO), Patrick Leahy (D-VT), Amy Klobuchar (D-MN), and Sheldon Whitehouse (D-RI).

As more ESOP advocates contact their Senators, we expect other sponsors. (The ESOP Association will write you when a Senator from your state joins his/her colleagues taking the pro-ESOP position. Also, the Association will list Senators who have taken pro-ESOP positions on its website.)

Summary of S. 1512's substantive provisions are:

1. 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.

2. 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.

3. 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.

DOCUMENT 3a

Current List of Sponsors of S.1512
"The Promotion and Expansion of Private
Employee Ownership Act of 2011"

Original Group

Sen. Ben Cardin (D-MD)
Sen. Pat Roberts (R-KS)
Sen. Olympia Snowe (R-ME)

Joined as Sponsors Since September 6

Sen. Roy Blunt (R-MO)
Sen. Mary Landrieu (D-LA)
Sen. Patrick J. Leahy (D-VT)
Sen. Jerry Moran (R-KS)
Sen. Bernie Sanders (I-VT)
Sen. Amy Klobuchar (D-MN)
Sen. Sheldon Whitehouse (D-RI)

Consider Sending These Senators a "Thank You" Letter

DOCUMENT 3b

Suggested Sample Letter to U.S. Senators Who Are **Not** Sponsors of S. 1512

Dear Senator [________________________________]:

On September 6th, a bi-partisan group of Senators introduced S. 1512, 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 Senators Cardin, Roberts, and Snowe. Since introduction Senators Landrieu, Moran, Sanders, Blunt, Leahy, Klobachur, and Whitehouse have joined them in co-sponsoring S. 1512.

Enclosed is a brief summary of the legislation.

We would respectfully ask that you review the provision of S. 1512 and consider co-sponsoring S. 1512.

ESOPs sponsor 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. The 2010 General Social Survey evidences convincingly that employee owners were <u>four</u> <u>times</u> <u>less</u> <u>likely</u> to be laid off during the Great Recession than employees without ownership in the companies where they work. See also enclose summary of evidence supporting our assertive.

Please contact [Name] [anyone at Name of Company] 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.

Sincerely yours,

Name

Enclosures: Summary of S. 1512
Background Documents on ESOPs

Summary of Substantive Provisions of S. 1512

1. 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.

2. 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.

3. 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 & Corporate Performance

1. The Employee Ownership Foundation released convincing evidence in February 2012 from the most prestigious social survey in the U.S., the General Social Survey (GSS), that showed employees in the U.S. who had employee stock ownership were *four times less likely to be laid off during the Great Recession than employees without employee stock ownership.*

Specifically, the 2010 GSS, funded primarily by the National Science Foundation and conducted by the National Opinion Research Center at the University of Chicago, found that 3% of employees with employee stock ownership, which include the ESOP model and other forms of employee ownership, were laid off in 2009-2010 compared to a 12% rate for employees without employee stock ownership.

In addition, the 2010 GSS data indicated that 13% of the employees with employee stock ownership intended to leave their companies in the coming months whereas the rate was 24% for employees without employee stock ownership. This indicates significantly lower expected turnover for workers with employee stock ownership.

Additionally, the survey found that employee ownership rates remained stable since 2006 with 17.4% of individuals reporting they owned company stock. About 19 million U.S. citizens own stock in the companies in which they work.

The Employee Ownership Foundation provided significant funding for the supplemental series of questions on shared capitalism in the survey. Shared capitalism is defined as broad-based employee, current or deferred, stock compensation programs, such as ESOPs (employee stock ownership plans), stock purchases, stock options, gain sharing, profit sharing, and bonus programs. The shared capitalism series of questions were developed and analyzed by well-known employee ownership researchers, Professor Joseph Blasi and Professor Douglas Kruse (School of Management and Labor Relations at Rutgers University) who submitted an application for their inclusion in the GSS. The researchers are continuing to analyze these and other related data from the Survey to shed light on the role of employee stock ownership in the U.S. economy.

2. In the new book, *Shared Capitalism at Work: Employee Ownership, Profit and Gain Sharing, and Broad-Based Stock Options*, edited by Douglas L. Kruse, Richard B. Freeman, and Joseph R. Blasi, the editors list some take away findings on shared capitalism. The book identifies employee stock ownership plans (ESOPs) as a primary model of shared capitalism in the U.S. Below are the summarized findings.

- Shared capitalism is a significant part of the U.S. economic model. 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 is most effective when combined with employee involvement and decision-making and with other advanced personnel and labor policies.
- Shared capitalism improves the performance of 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 is most effective when combined with employee involvement and decision-making and with other advanced personnel and labor practices.

- Shared capitalism complements other labor policies and practices. Forms with shared capitalism compensation are more likely to have other worker-friendly labor policies and practices. Combinations of shared capitalist pay and other policies, such as devolving decision-making to employees, wage at or above the market rate, and lower supervisory monitoring, produce the largest benefits for workers and firms.
- The risk of shared capitalism investments in one's employer is manageable. Portfolio theory suggests employee ownership can be part of an efficient portfolio as long as the overall portfolio is properly diversified. 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.

Shared Capitalism at Work: Employee Ownership, Profit and Gain Sharing, and Broad-Based Stock Options, edited by Douglas L. Kruse, Richard B. Freeman, and Joseph R. Blasi, The University of Chicago Press, National Bureau of Economic Research, 2010. Above information can be found on page 12.

3. 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.

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 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 average ESOP company contributed $4,443 per active participant; in comparison to a non-ESOP company with a defined contribution plan which contributed on average $2,533 per active participant. This study found that on average ESOP companies contributed over 75% more to their ESOPs than other companies contributed to their primary plan.

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

Finally, 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, 92.21%, declared that creating employee ownership through an ESOP (employee stockownership plan) was "a good decision that has helped the company."

4. 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 firm could be expected to have an almost $9 million annual sales advantage over its non-ESOP counterpart. Sales per employee is the total of a company's sales divided by the number of employees, and is a commonly used measure of a company's productivity. Highlights of the study include: 1.) Using standard statistical methods, it was found that the average sales advantage for the ESOP firms in the study was $44,500, or an average of an 8.8% sales per employee advantage over their non-ESOP counterparts in the same industry and of the same size; 2.) It was found that firms that ask for non-management employee input into innovation in work processes have a greater employee-owned advantage in sales per employee; 3.) Kramer's research indicates the sales per employee advantage for the 50% plus ESOP companies compared to non-ESOP companies is less for larger employers. The Employee Ownership Foundation providing funding for the research and The ESOP Association contributed membership information to the study. A total of 328 ESOP firms and over 2,000 matching non-ESOP firms were included in the study.

5. 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 in the Center for Organizational Dynamics, Graduate Division, School of Arts and Sciences at the University of Pennsylvania, confirms what the Association has been saying for years, that employee-owned companies experience increased productivity, profitability, and longevity. To download the study, "Effects of ESOP Adoption and Employee Ownership: Thirty Years of Research and Experience," please visit the University of Pennsylvania's Library Digital Archive - http://repository.upenn.edu/od_working_papers/2/. The research was possible thanks to a generous, unrestricted donation to the University by ESOP Association member company, Alliance Holdings Inc. of Willow Grove, PA. Alliance is also a significant donor to the Employee Ownership Foundation, which gives significant donations to the University of Pennsylvania's Center for Organizational Dynamics Program.

6. 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 non-ESOP companies* and followed the 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. Also, it is substantially more probable that ESOP companies have other retirement-oriented benefit plans than comparable non-ESOP companies, such as defined benefit plans, 401(k) plans, and profit sharing plans.

7. Research done by the Washington State Department of Community, Trade and Economic Development of over 100 Washington not publicly-traded ESOP companies compared to 500 not publicly-traded non-ESOP companies showed that the ESOP companies paid better benefits, had twice the retirement income for employees, and paid higher wages than their non-ESOP counterparts. Wealth and Income Consequences of Employee Ownership: A Comparative Study from Washington State, Kardas, Peter A.,

Scharf, Adria L., Keogh, Jim, November, 1998.

8. In 1995, Douglas Kruse of Rutgers University examined several different studies between ESOPs and productivity growth. Kruse found through an analysis of all studies that "positive and significant coefficients [are found] much more often than would be expected if there were no true relation between ESOPs and productivity." Kruse concludes that "the average estimated productivity difference between ESOP and non-ESOP firms is 5.3%, while the average estimated pre/post-adoption difference is 4.4% and the post-adoption growth rate is 0.6% higher in ESOP firms. Kruse cites two studies as part of his research: Kumbhakar and Dunbar's 1993 study of 123 public firms and Mitchell's 1990 study of 495 U.S. business units in public firms. Both reports found significant positive effects of greater productivity and profitability in the first few years after a company adopted an ESOP.

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

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

DOCUMENT 4

Bi-partisan Group Introduces
Pro-Private Company ESOP Promotion Bill in House of Representatives
H.R. 1244

On March 29th, six members of the House of Representatives Committee on Ways and Means, introduced H.R. 1244, the "Promotion and Expansion of Private Employee Ownership Act of 2011."

Three of the six are Republicans: they are Congressmen Reichert (WA); Boustany (LA); and Paulsen (MN). The three Democrats are Congressmen Kind (WS); Blumenauer (OR); and Pascrell (NJ). Since its introduction 64 House members have co-sponsored H.R. 1244.

As more ESOP advocates contact their U.S. Representatives, we expect other sponsors. (The ESOP Association will write you when someone from your state joins his/her colleagues taking the pro-ESOP position. Also, the Association will list members of Congress who have taken pro-ESOP positions.)

Summary of H.R. 1244's subsection provisions are:

1. 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.

2. 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.

3. 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.

4. 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.

DOCUMENT 4a

Current List of Sponsors of H.R. 1244
The Promotion and Expansion of Private
Employee Ownership Act of 2011

Original Group:

Rep. David G. Reichert (R-8th-WA)
Rep. Earl Blumenauer (D-3rd-OR)
Rep. Charles W. Boustany, Jr. (R-7th-LA)
Rep. Ron Kind (D-3rd-WI)
Rep. Bill Pascrell, Jr. (D-8th-NJ)
Rep. Erik P. Paulsen (R-3rd-MN)

Joined as Sponsors Since March 29th*

Rep. Todd W. Akin (R-2-MO)
Rep. Rodney Alexander (R-5-LA)
Rep. Rick Berg (R-ATL-FL)
Rep. Leonard L. Boswell (D-3-IA)
Rep. Bruce L. Braley (D-1-IA)
Rep. Vern Buchanan (R-13-FL)
Rep. Russ Carnahan (D-3-MO)
Rep. Andre Carson (D-7-IN)
Rep. Emanuel Cleaver (D-5-MO)
Rep. Joe Courteny (D-2-CT)
Rep. John A. Culbertson (R-7-TX)
Rep. Danny K. Davis (D-7-IL)
Rep. Robert J. Dold (R-10-IL)
Rep Michael G. Fitzpatrick (R-8-PA)
Rep. Rodney P. Frelinghuysen (R-11-NJ)
Rep. Jim Gerlach (R-6-PA)
Rep. Bob Goodlatte (R-6-VA)
Rep. Sam Graves (R-6-MO)
Rep. Gene Green (D-29-TX)
Rep. Raul M. Grijalva (D-7-AZ)
Rep. Maurice Hinchey (D-22-NY)
Rep. Randy Hultgren (R-14-WI)
Rep. Lynn Jenkins (R-2-KS)
Rep. Timothy V. Johnson (R-15-IL)
Rep. Adam Kinzinger (R-11-IL)
Rep. David Loebsack (D-2-IA)
Rep. Blaine Luetkemeyer (R-9-MO)
Rep. Donald A. Manzullo (D-16-IL)
Rep. Kenny Marchant (R-24-TX)
Rep. Betty McCollum (D-4-MN)
Rep James P. McGovern (D-3-MA)
Rep. Michael H. Michaud (D-2-ME)
Rep. Jeff Miller (R-1-FL)
Rep. Gwen Moore (D-4-WI)
Rep. James P. Moran (D-8-VA)
Rep. Richard E. Neal (D-2-MA)
Rep. Kristi L. Noem (R-ATL-SD)
Rep. William L. Owens (D-23-NY)
Rep. Gary C. Peters (D-9-MI)
Rep. Joseph R. Pitts (R-16-PA)
Rep. Todd Russell Platts (R-19-PA)
Rep. Denny Rehberg (R-ATL)
Rep. Reid J. Ribble (R-8-WI)
Rep. David Rivera (R-25-FL)
Rep. Ileana Ros-Lehtinen (R-18-FL)
Rep. Peter J. Roskam (R-6-IL)
Rep. Janice D. Schakowsky (D-9-IL)
Rep. Aaron Schock (R-18-IL)
Rep. Allyson Y. Schwartz (D-8-PA)
Rep. James F. Sensenbrenner, Jr. (R-5-WI)
Rep. Pete Sessions (R-32-TX)
Rep. Lee Terry (R-2-NE)
Rep. Glenn Thompson (R-5-PA)
Rep. Patrick J. Tiberi (R-12-OH)
Rep. Joe Walsh (R-8-IL)
Rep. Timothy J. Walz (D-1-MN)
Rep. Peter Welch (D-ATL-VT)
Rep. Kevin Yoder (R-3-KS)

As of February 14, 2012

DOCUMENT 4b

Suggested Sample Letter to House Ways and Means Members
Who Are Not Co-Sponsors

Dear Representative [________________________]:

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 then, your Ways and Means colleague Marchant, Tiberi, Roskam, Berg, Buchanan, Jenkins, Neal, and Schock have co-sponsored. 58 other members of the House has co-sponsored as well.

Enclosed is a brief summary of the legislation.

We would respectfully ask that you review the provision of H.R. 1244 and consider joining with your colleagues as a co-sponsor.

ESOPs sponsor 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. The 2010 General Social Survey evidences convincingly that employee owners were four times less likely to be laid off during the Great Recession than employees without ownership in the companies where they work. See also enclose summary of evidence supporting our assertive.

Please contact [Name] [anyone at Name of Company] 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.

Sincerely yours,

Name

Enclosures: Summary of H.R. 1244
Background Documents on ESOPs

Summary of Substantive Provisions of H.R. 1244

1. 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.

2. 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.

3. 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.

4. 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 & Corporate Performance

1. The Employee Ownership Foundation released convincing evidence in February 2012 from the most prestigious social survey in the U.S., the General Social Survey (GSS), that showed employees in the U.S. who had employee stock ownership were *four times less likely to be laid off during the Great Recession than employees without employee stock ownership.*

Specifically, the 2010 GSS, funded primarily by the National Science Foundation and conducted by the National Opinion Research Center at the University of Chicago, found that 3% of employees with employee stock ownership, which include the ESOP model and other forms of employee ownership, were laid off in 2009-2010 compared to a 12% rate for employees without employee stock ownership.

In addition, the 2010 GSS data indicated that 13% of the employees with employee stock ownership intended to leave their companies in the coming months whereas the rate was 24% for employees without employee stock ownership. This indicates significantly lower expected turnover for workers with employee stock ownership.

Additionally, the survey found that employee ownership rates remained stable since 2006 with 17.4% of individuals reporting they owned company stock. About 19 million U.S. citizens own stock in the companies in which they work.

The Employee Ownership Foundation provided significant funding for the supplemental series of questions on shared capitalism in the survey. Shared capitalism is defined as broad-based employee, current or deferred, stock compensation programs, such as ESOPs (employee stock ownership plans), stock purchases, stock options, gain sharing, profit sharing, and bonus programs. The shared capitalism series of questions were developed and analyzed by well-known employee ownership researchers, Professor Joseph Blasi and Professor Douglas Kruse (School of Management and Labor Relations at Rutgers University) who submitted an application for their inclusion in the GSS. The researchers are continuing to analyze these and other related data from the Survey to shed light on the role of employee stock ownership in the U.S. economy.

2. In the new book, *Shared Capitalism at Work: Employee Ownership, Profit and Gain Sharing, and Broad-Based Stock Options*, edited by Douglas L. Kruse, Richard B. Freeman, and Joseph R. Blasi, the editors list some take away findings on shared capitalism. The book identifies employee stock ownership plans (ESOPs) as a primary model of shared capitalism in the U.S. Below are the summarized findings.

- Shared capitalism is a significant part of the U.S. economic model. 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 is most effective when combined with employee involvement and decision-making and with other advanced personnel and labor policies.
- Shared capitalism improves the performance of 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 is most effective when combined with employee involvement and decision-making and with other advanced personnel and labor practices.
- Shared capitalism complements other labor policies and practices. Forms with shared capitalism compensation are more likely to have other worker-friendly labor policies and

practices. Combinations of shared capitalist pay and other policies, such as devolving decision-making to employees, wage at or above the market rate, and lower supervisory monitoring, produce the largest benefits for workers and firms.
- The risk of shared capitalism investments in one's employer is manageable. Portfolio theory suggests employee ownership can be part of an efficient portfolio as long as the overall portfolio is properly diversified. 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.

Shared Capitalism at Work: Employee Ownership, Profit and Gain Sharing, and Broad-Based Stock Options, edited by Douglas L. Kruse, Richard B. Freeman, and Joseph R. Blasi, The University of Chicago Press, National Bureau of Economic Research, 2010. Above information can be found on page 12.

3. 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.

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 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 average ESOP company contributed $4,443 per active participant; in comparison to a non-ESOP company with a defined contribution plan which contributed on average $2,533 per active participant. This study found that on average ESOP companies contributed over 75% more to their ESOPs than other companies contributed to their primary plan.

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

Finally, 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, 92.21%, declared that creating employee ownership through an ESOP (employee stockownership plan) was "a good decision that has helped the company."

4. 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 firm could be expected to have an almost $9 million annual sales advantage over its non-ESOP counterpart. Sales per employee is the total of a company's sales divided by the number of employees, and is a commonly used measure of a company's productivity. Highlights of the study include: 1.) Using standard statistical methods, it was found that the average sales advantage for the ESOP firms in the study was $44,500, or an average of an 8.8% sales per employee advantage over their non-ESOP counterparts in the same industry and of the same size; 2.) It was found that firms that ask for non-management employee input into innovation in work processes have a greater employee-owned advantage in sales per employee; 3.) Kramer's research indicates the sales per employee advantage for the 50% plus ESOP companies compared to non-ESOP companies is less for larger employers. The Employee Ownership Foundation providing funding for the research and The ESOP Association contributed membership information to the study. A total of 328 ESOP firms and over 2,000 matching non-ESOP firms were included in the study.

5. 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 in the Center for Organizational Dynamics, Graduate Division, School of Arts and Sciences at the University of Pennsylvania, confirms what the Association has been saying for years, that employee-owned companies experience increased productivity, profitability, and longevity. To download the study, "Effects of ESOP Adoption and Employee Ownership: Thirty Years of Research and Experience," please visit the University of Pennsylvania's Library Digital Archive - http://repository.upenn.edu/od_working_papers/2/. The research was possible thanks to a generous, unrestricted donation to the University by ESOP Association member company, Alliance Holdings Inc. of Willow Grove, PA. Alliance is also a significant donor to the Employee Ownership Foundation, which gives significant donations to the University of Pennsylvania's Center for Organizational Dynamics Program.

6. 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 non-ESOP companies* and followed the 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. Also, it is substantially more probable that ESOP companies have other retirement-oriented benefit plans than comparable non-ESOP companies, such as defined benefit plans, 401(k) plans, and profit sharing plans.

7. Research done by the Washington State Department of Community, Trade and Economic Development of over 100 Washington not publicly-traded ESOP companies compared to 500 not publicly-traded non-ESOP companies showed that the ESOP companies paid better benefits, had twice the retirement income for employees, and paid higher wages than their non-ESOP counterparts. Wealth and Income Consequences of Employee Ownership: A Comparative Study from Washington State, Kardas, Peter A., Scharf, Adria L., Keogh, Jim, November, 1998.

8. In 1995, Douglas Kruse of Rutgers University examined several different studies between ESOPs and productivity growth. Kruse found through an analysis of all studies that "positive and significant coefficients [are found] much more often than would be expected if there were no true relation between ESOPs and productivity." Kruse concludes that "the average estimated productivity difference between ESOP and non-ESOP firms is 5.3%, while the average estimated pre/post-adoption difference is 4.4% and the post-adoption growth rate is 0.6% higher in ESOP firms. Kruse cites two studies as part of his research: Kumbhakar and Dunbar's 1993 study of 123 public firms and Mitchell's 1990 study of 495 U.S. business units in public firms. Both reports found significant positive effects of greater productivity and profitability in the first few years after a company adopted an ESOP.

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

DOCUMENT 4c

Members of House Ways and Means

*Already Sponsored H.R. 1244

(Consider Saying "Thank You" to these House Members)

Below are Members of House Ways and Means Committee with their office building listed. All are U.S. House of Representatives. To send letters use the address below. City, state and zip are the same for all. (Washington, DC 20515) ***Means they have already sponsored H.R. 1244.

Rep. Dave Camp (R-MI-4th), Chairman, 341 Cannon House Office Building
Rep. Sander Levin (D-MI-12th), Ranking Member, 1236 Longworth House Office Building
*Rep Rick Berg (R-ND-ATL), 323 Cannon House Office Building
Rep. Shelley Berkley (D-NV-1st), 405 Cannon House Office Building
Rep. Diane Black (R-TN-6th), 1511 Longworth House Office Building
*Rep. Earl Blumenauer (D-OR-3rd), 1502 Longworth House Office Building
*Rep. Charles W. Boustany, Jr. (R-LA-7th), 1431 Longworth House Office Building
Rep. Kevin Brady (R-TX-8th), 301 Cannon House Office Building
*Rep. Vern Buchanan (R-FL-13th), 221 Cannon House Office Building
Rep. Joseph Crowley (D-NY-7th), 2404 Rayburn House Office Building
Rep. Geoff Davis (R-KY-4th), 1119 Longworth House Office Building
Rep. Lloyd Doggett (D-TX-25th), 201 Cannon House Office Building
*Rep. Jim Gerlach (R-PA-6th), 2442 Rayburn House Office Building
*Rep. Lynn Jenkins (R-KS-2nd), 1122 Longworth House Office Building
Rep. Sam Johnson (R-TX-3rd), 1211 Longworth House Office Building
*Rep. Ron Kind (D-WI-3rd), 1406 Longworth House Office Building
Rep. John B. Larson (D-CT-1st), 1501 Longworth House Office Building
Rep. John Lewis (D-GA-5th), 543 Cannon House Office Building
*Rep. Kenny Marchant (R-TX-24th), 1110 Longworth House Office Building
Rep. Jim McDermott (D-WA-7th), 1035 Longworth House Office Building
*Rep. Richard E. Neal (D-MA-2nd), 2208 Rayburn House Office Building
Rep. Devin Nunes (R-CA-21st), 1013 Longworth House Office Building
*Rep. Bill Pascrell, Jr. (D-NJ-8th), 2370 Rayburn House Office Building
*Rep. Erik Paulsen (R-MN-3rd), 127 Cannon House Office Building
Rep. Tom Price (R-GA-6th), 403 Cannon House Office Building
Rep. Charles B. Rangel (D-NY-15th), 2354 Rayburn House Office Building
Rep. Tom Reed (R-NY-29th), 1037 Longworth House Office Building
*Rep. Dave G. Reichert (R-WA-8th), 1730 Longworth House Office Building
*Rep. Peter J. Roskam (R-IL-6th), 227 Cannon House Office Building
Rep. Paul D. Ryan (R-WI-1st), 1233 Longworth House Office Building
*Rep. Aaron Schock (R-IL-18th), 328 Cannon House Office Building
Rep. Adrian Smith (R-NE-3rd), 503 Cannon House Office Building
Rep. Mike Thompson (D-CA-1st), 231 Cannon House Office Building
*Rep. Pat Tiberi (R-OH-12th), 106 Cannon House Office Building
Rep. Becerra Xavier (D-CA-31st), 1226 Longworth House Office Building

As of January 1, 2012.

DOCUMENT 4d

Suggested Sample Letter to House Members **Not** on Ways and Means

Dear Representative [__________________________________]:

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 56 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 provision of H.R. 1244 and consider co-sponsoring H.R. 1244.

ESOPs sponsor 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. The 2010 General Social Survey evidences convincingly that employee owners were <u>four</u> <u>times</u> <u>less</u> <u>likely</u> to be laid off during the Great Recession than employees without ownership in the companies where they work. See also enclose summary of evidence supporting our assertive.

Please contact [Name] [anyone at Name of Company] 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.

Sincerely yours,

Name

Enclosures: Summary of H.R. 1244
Background Documents on ESOPs

Summary of Substantive Provisions of H.R. 1244

1. 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.

2. 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.

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1. The Employee Ownership Foundation released convincing evidence in February 2012 from the most prestigious social survey in the U.S., the General Social Survey (GSS), that showed employees in the U.S. who had employee stock ownership were *four times less likely to be laid off during the Great Recession than employees without employee stock ownership.*

Specifically, the 2010 GSS, funded primarily by the National Science Foundation and conducted by the National Opinion Research Center at the University of Chicago, found that 3% of employees with employee stock ownership, which include the ESOP model and other forms of employee ownership, were laid off in 2009-2010 compared to a 12% rate for employees without employee stock ownership.

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Additionally, the survey found that employee ownership rates remained stable since 2006 with 17.4% of individuals reporting they owned company stock. About 19 million U.S. citizens own stock in the companies in which they work.

The Employee Ownership Foundation provided significant funding for the supplemental series of questions on shared capitalism in the survey. Shared capitalism is defined as broad-based employee, current or deferred, stock compensation programs, such as ESOPs (employee stock ownership plans), stock purchases, stock options, gain sharing, profit sharing, and bonus programs. The shared capitalism series of questions were developed and analyzed by well-known employee ownership researchers, Professor Joseph Blasi and Professor Douglas Kruse (School of Management and Labor Relations at Rutgers University) who submitted an application for their inclusion in the GSS. The researchers are continuing to analyze these and other related data from the Survey to shed light on the role of employee stock ownership in the U.S. economy.

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6. 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 non-ESOP companies* and followed the 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. Also, it is substantially more probable that ESOP companies have other retirement-oriented benefit plans than comparable non-ESOP companies, such as defined benefit plans, 401(k) plans, and profit sharing plans.

7. Research done by the Washington State Department of Community, Trade and Economic Development of over 100 Washington not publicly-traded ESOP companies compared to 500 not publicly-traded non-ESOP companies showed that the ESOP companies paid better benefits, had twice the retirement income for employees, and paid higher wages than their non-ESOP counterparts. Wealth and Income Consequences of Employee Ownership: A Comparative Study from Washington State, Kardas, Peter A.,

Scharf, Adria L., Keogh, Jim, November, 1998.

8. In 1995, Douglas Kruse of Rutgers University examined several different studies between ESOPs and productivity growth. Kruse found through an analysis of all studies that "positive and significant coefficients [are found] much more often than would be expected if there were no true relation between ESOPs and productivity." Kruse concludes that "the average estimated productivity difference between ESOP and non-ESOP firms is 5.3%, while the average estimated pre/post-adoption difference is 4.4% and the post-adoption growth rate is 0.6% higher in ESOP firms. Kruse cites two studies as part of his research: Kumbhakar and Dunbar's 1993 study of 123 public firms and Mitchell's 1990 study of 495 U.S. business units in public firms. Both reports found significant positive effects of greater productivity and profitability in the first few years after a company adopted an ESOP.

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

DOCUMENT 5
How to Learn Who Is "My" Member of Congress

If you don't know who your Member of Congress is, there is a very easy way to find out.

To locate your Representative in the United States House of Representatives, visit the House of Representatives website at http://www.house.gov/ and near the top of the page, you'll see a box that says "Find Your Representative." In the box provided, enter your zip code and hit go. It will bring up a new page that lists your Representative. To visit your Representative's website, click on the name.

To find your Members of Congress through The ESOP Association's website, visit http://www.esopassociation.org/, and click on the Government Affairs link located at the top of the page. In the Government Affairs section, click on the Capitol Links button on the left hand side of the page. On the Capitol Links page, you will find links to the U.S. House of Representatives.

Each state has two Senators, and this information is found at http://www.senate.gov, go to box on right hand side of home page labeled, "Find Your Senators" And of course you can use The ESOP Associations home page as set for above, but click U.S. Senate under Capitol Links button.

DOCUMENT 6
Write, E-Mail, Fax, or Telephone:
Which One?

Since the advent of email, and since the Anthrax attack on Congress in 2001, when a “call to action” goes out to ESOP advocates, the question is always asked by the ESOP advocate of the national office—“Should I send a letter, an email, a fax, or should I telephone?”

There is no “best” answer, and which will be the most effective in terms of timeliness, and getting through to the decision maker depends on circumstances.

But what is <u>wrong</u> is to assume that an email is the best way to communicate to a member of Congress and his or her staff, as data indicates that the over hundreds of millions of emails received each year by the Congress is overwhelming, and have an impact only if, repeat, ***<u>only if,</u>*** the sender of the email has received (1) a specific request to send to a specific person in the Congressional office the email; or (2) a prior line of communications using emails was established ***<u>prior to</u>*** taking action on the matter that is the subject of the “call to action”.

If the matter is not time sensitive, in order words, the Congress and the members of Congress will not be asked to take action soon, a letter is suitable if the sender has no prior relationship with the member of Congress and the staff member.

Whether email, or fax, or letter, is always effective to follow up with a telephone call to the staff person who is responsible for briefing the member of Congress on tax, and ERISA laws.

Please note, the sample letters can become a script for a telephone presentation, and are obviously suitable for use as an email, or a faxed letter or memo.

Any questions never hesitate to call, or email, an ESOP Association staff member who works on Government Relations matters, 202.293.2971.

Document 7

Follow-Up: How Do We Make Sure Our Voice Is Heard?

Key to making sure a message is heard by a member of Congress is follow-up. Whether you communicated to your member of Congress via letter, email, fax, or phone call, you have to contact her or his office again, and often again.

Let's do a little role playing.

Assume you written your member of Congress urging him or her to convey concern to the Secretary of Labor about the negative proposal to increase the costs of private ESOP company ESOP transactions and operations. Wait about two weeks after your written communication, and then call that office – telephone number, Congressional switchboard is 202-224-3121, which will connect you to any office in the Capitol Hill complex – yes, it is old fashioned, real person operator service – or you can look up a member of Congress's direct phone number on the web – using www.esopassociation.org, government relations, capital links, or go direct to www.house.gov, or www.senate.gov, and use prompts to find your member of Congress home page.

The person answering the telephone will not be responsible for the Representative's/Senator's legislative staff work 99% of the time. So, you should ask to speak to the staff person who handles tax and/or ERISA issues for the Representative/Senator. Chances are high that you will be placed into that person's voice mail, and what you say initially would be the same whether the person takes the call, or you get that person's voice mail. Sample statement: "Yes, I am xxxxxxx, and I am calling about a proposed reg by the Department of Labor that will have a negative impact on [Name of Company] employee stock ownership plan. I wrote/called/fax'd/email'd our concerns on [date], and am following up to learn if Representative/Senator xxxxx has had a chance to review our concerns/position. I look forward to hearing from you."

If by chance you are talking to the staff person who handles tax and/or ERISA issues, more likely the person will say, "We have not had a chance to review this matter."

In this case say, "Okay. Do you mind if I touch base with you in about 10 working days to learn Representative/Senator xxxxxx's reaction to our request?"

At some point, whether it takes two calls, three calls, or even five calls, you will be given some kind of answer.

Once you have an answer consider strategizing with the national office of the Association by calling or emailing Michael Keeling, President, at 202.293.2971 or Michael@esopassociation.org.

But in the rare case where the staff person, or the Member wants to be cantankerous about ESOPs, or to argue with you, you have plenty of ammo in the enclosures in this advocacy kit, plus your own ESOP story to rebut each and every point someone cynical about ESOPS can make.
Remember, persistence wins the day, not brilliance, 90% of the time. Or, it was the tortoise that won the race, not the hare.

Also remember, any question, any time, contact The ESOP Association, government relations for consultation to make sure your voice is heard on behalf of your ESOP and your ESOP participants.

Document 8
"Be On Your Toes"

As obvious, this winter advocacy kit talks about "future" government action.

When will you know action of importance to ESOPs is just around the corner?

Simple, keep an eye on www.esopassociation.org for news –Home Page, be on the outlook for e-bulletins from The ESOP Association, but most important follow breaking news, 24-7, 365 on our blog at http://esopassociationblog.org/