

Congress of the United States
Washington, DC 20515

September 5, 2013

The Honorable Thomas Perez
Secretary
United States Department of Labor
200 Constitution Avenue
Washington, DC 20210

Dear Secretary Perez,

As members of the House Committee on Education and the Workforce, we would like to congratulate you on your recent confirmation as Secretary of the Department of Labor (DOL). As we continue Congress's mission to create a climate that fosters job growth, we hope to work with you to enact meaningful, bipartisan workforce policies.

As part of that goal, we are writing today to voice our support for employee ownership through employee stock ownership programs, or "ESOPs." The National Center for Employee Ownership estimates that nearly 11,000 ESOPs cover over 10 million employees across the United States. For over 30 years, Congress and the DOL shared in the support of ESOPs as employee benefit plans that are advantageous to the employers, stockholders, and employees.

The evidence supporting the success of ESOPs is substantial. The 2012 Annual Economic Performance Survey conducted by the Employee Ownership Foundation found that over 93% of companies reported that utilizing an ESOP was "a good business decision that helped the company." More than 70% of respondent companies indicated that the ESOP positively affected the overall productivity of employees, increased profitability, and increased revenue. That survey supports a study Douglas Kruse and Joseph Blasi of Rutgers performed a decade earlier, which determined that when a company switches from a non-ESOP benefits model to an ESOP annual growth was 2.4% higher than previous annual growth rates.

Employees likewise benefit from working for companies that participate in an ESOP. The average ESOP company contributed \$4,443 per active participant compared to companies participating in defined-benefits programs, which contributed an average of \$2,533 per participant each year. Similarly, employees of ESOP companies are likely to make higher average wages and experience a much more stable job market. During the 2010 recession, employees of ESOP companies were laid off at a rate that was four times less than in conventionally-owned companies. With advantages for both employers and employees, we believe that Congress and the DOL should continue to encourage participation in ESOPs.

However, in recent years we have grown increasingly concerned that the DOL no longer shares our support of ESOPs. After a 33-year history of support for employee ownership

models, the DOL took steps to change the landscape of ESOPs on October 22, 2010 when the Employee Benefits Security Administration (EBSA) proposed a regulation to redefine “fiduciary” under Title I of ERISA to include appraisers of private company stock.

The attempted redefinition was concerning. At a July 26, 2011 hearing of the Committee on Education and the Workforce’s Subcommittee on Health, Employment, Labor, and Pensions, we both raised objections to the necessity of defining such appraisers as fiduciaries. From the late 1980s to 2009, only five lawsuits involving bad appraisals of ESOP stock were levied. Since the hearing, the EBSA has brought ten such lawsuits. That uptick seems to be an attempt to justify another attempt to promulgate this regulation. When viewed under the light of increasing reports of the DOL antagonizing ESOP companies during investigations and audits, we hope you understand our concerns that the DOL no longer shares Congress’s belief that ESOPs are valuable options for companies to utilize and for employees to participate in.

For over three decades, Congress has supported ESOPs from both sides of the aisle. With consistent evidence throughout that time indicating that both employers and employees benefit from employee ownership models, it is easy to understand why Congress has incentivized ESOP participation through the tax code. We hope that with your leadership, the Department of Labor will once again share the vision of Congress; a positive climate for employee stock ownership programs will ensure that our economy enjoys the fruits of a productive and stable workforce.

Sincerely,



Todd Rokita
Member of Congress



Dave Loebsack
Member of Congress