



The ESOP Association

Advocacy Kit

Spring Summer 2010



**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 111 th Congress
Document 1:	Your Government Relations Challenges Spring 2010
Document 2:	Evidence of Negative ESOP Thinking in U.S. House of Representatives
Document 3:	Sample Letter from ESOP Company To Members of Members of House Ways and Means Committee, U.S. House of Representatives
Document 3a:	Enclosures to Include with Letters to Members of Congress
Document 4:	Members of House Ways and Means Committee and Addresses
Document 5:	Sample Letter from ESOP Company To Oppose Limiting Employee Ownership Through ESOPs To Members of U.S. House of Representatives Who Are Not Members of House Ways and Means Committee
Document 5a:	Enclosures to Include with Letters to Members of Congress
Document 6:	S. 1612: Improving ESOP Law and Promoting ESOP Creation, By Senator Blanche Lincoln, Senator Mary Landrieu: Why It Would Be Good for the ESOP Community
Document 7:	Sample Letter from ESOP Company to Senators To Co-Sponsor S. 1612
Document 7a:	Enclosures to Include with Letters to Members of Congress
Document 8:	H.R. 5207: Improving ESOP Law and Promoting ESOP Creation, By Congressman Charles W. Boustany, Jr. (R-LA-7) and Congressman Earl Pomeroy (D-ND-ATL). Why It Would Be Good for the ESOP Community
Document 9:	Sample Letter from ESOP Company to Representatives To Co-Sponsor H.R. 5207
Document 9a:	Enclosures to Include with Letters to Members of Congress
Document 10:	How to Learn Who is My Member of Congress
Document 11:	Write, Email, Fax, or Telephone: Which One?
Document 12:	Follow Up: So How Do We Make Sure Our Voice Is Heard?
Document 13:	Be “On Your Toes”

INTRODUCTION

Salient Facts About 111th Congress

While it was good news that the several negative ESOP ideas that surfaced in the 110th Congress, from 2007 through 2008, were never seriously considered by Congress, the 111th Congress, which convened in January 2009, has big picture developments that may mean very difficult days ahead.

Everyone knows that on January 20, 2009, a new Administration took over the Executive Branch of the US government. Led by President Barack Obama, this Democratic Party group of officials faced a severe, almost depression-like economy, had a commitment to reform the US health care system, and committed to expanding government efforts to fund alternative energy industries.

No matter whether one supports the Obama Administration's actions in these areas, all agree that those actions have resulted in trillions of dollars of new, or proposed spending, which President Obama says will balloon the Federal deficit, which he promises to address as soon as the economic crisis is over, health care reform is in place, and the nation has begun to develop a large and sustainable non-oil and gas energy supply network.

In the 1980s, Congress faced a similar deficit problem. The response was to enact new taxes nearly every year, under the rhetoric of closing tax loopholes for corporations and individuals.

The same approach will be expected in the years 2010 through 2013, at least.

Unfortunately some in the Administration and some tax experts advising Congress consider ESOP tax law benefits to be corporate and/or individual tax loopholes, to be closed—in other words, repealed.

But in place, as laid out in this Advocacy Kit, is the plan, with the tools, to build support for current, and even better ESOP laws, among the elected members of Congress, in both the House and the Senate.

Do you want to keep ESOP laws good for your company, your account, and your colleagues? If you do, read and take action as set forth on the following pages.

DOCUMENT 1
Your Government Relations Challenges
Spring 2010

The ESOP Association has for over 30 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 the employee ESOP participants. Similarly, over the past 30 plus years, the Association has vigorously urged Congress to defeat legislative proposals that would impact ESOP companies and their employees negatively. This Advocacy Kit for the Association's members spells out reasons for the current ESOP Association campaign to

- make sure no negative ESOP proposal in the 111th Congress becomes law; and
- build a foundation for the support of pro-ESOP Legislation in the Senate: S. 1612, S. 2909, S. 2914; and in the House: H.R. 5207, H. Con. Res. 204, H.R. 692, and H.R. 3586.

Following are background documents on the Association's agenda, and suggested documents to leave with Members of Congress and their staff.

Document 2

Evidence of Negative ESOP Thinking in U.S. House of Representatives

The atmosphere for ESOPs in the House of Representatives, which traditionally writes 80% of the U.S. tax laws through its Ways and Means Committee, presents a challenge for ESOP advocates.

For example, key tax staff personnel to the House Ways and Means Committee continue to say, or sometimes imply, that when the Committee begins to review the tax code, either in a total effort to reform the tax code, or in an effort to raise revenues to reduce the Federal deficit, ESOPs tax benefits in general will be “on the table”, and certainly a proposal to limit S ESOPs will be “on the table”.

“On the table” is an insider term used around the tax committees of Congress meaning that a tax benefit will be challenged with possibility of repeal, or reduction. Specifically, reference is made to a proposal made in late 2007 in the 110th Congress by the Chair of the House Ways and Means Committee, Charles Rangel [D-NY] to eliminate, for all practical purposes, non-cash executive deferred compensation in an S corporation with an ESOP. In the past three months, four articles in academic journals have recommended **repeal** of all ESOP tax benefits. For the past 18 months, both a report from the Treasury Department, the Congressional Budget Office, and a prominent think tank with Democratic party leadership have recommended repeal of all ESOP tax benefits.

Another example, it is reported that influential tax experts have said that perhaps “after 35 years, it is time to pull the plug on the ESOP experiment as they have not delivered benefits as hoped in the mid-70s”. (*Tax Notes’s* Shelf Project article titled “Repeal Tax Incentives for ESOPs,” appeared in the October 19, 2009 issue of *Tax Notes*.)

It is crucial therefore that the ESOP community interacts with the men and women who are members of Congress directly, preferably by having these men and women visit an ESOP company. [See the Association’s Congressional Visit Kit, Spring Summer 2010.].

In general the visit, or other forms of communications should tell the ESOP company’s history, emphasizing why the ESOP was created, the role the company plays in the community, backed up with the overwhelming data provided in this document that ESOP companies consistently outperform non-ESOP companies, and a request that consideration be given to supporting, or even proposing pro-ESOP legislation as Senator Blanche Lincoln (D-AR) has done in the U.S. Senate and Congressman Charles W. Boustany, Jr. (R-LA-7) and Congressman Earl Pomeroy (D-ND-ATL) in the House.

DOCUMENT 3
Sample Letter from ESOP Company
To Members of Members of House Ways and Means Committee,
U.S. House of Representatives

The Honorable [Name]
U.S. House of Representatives
Washington, DC 20515

Dear Representative [Name]:

As a company that makes its employees owners through an employee stock ownership plan, or ESOP, we are aware that your membership on the House Ways and Means Committee requires you to express your views, and to cast votes on laws that affect the employee owners of [name of company].

We are aware of a variety of ideas floated in recent years that labeled ESOP law as corporate loopholes, that can be eliminated to pay for corporate tax rate cuts, or to lower the Federal deficit.

In response to these incorrect assertions, we respectfully ask you to review two things.

One, the truth is ESOPs have a thirty-year plus record that proves that ESOP companies are high performing companies compared to non-ESOP companies, that create wealth and equity stakeholds for average pay employees, and solid research continues to validate these claims. See enclosures, also noting ESOP companies, while a small percentage of U.S. companies are a high percentage of the "Best Places to Work" lists.

Two, H.R. 5207, the ESOP Promotion and Improvement Act of 2010 has been introduced by Congressman Earl Pomeroy (D-ND-ATL) and Congressman Charles W. Boustany, Jr. (R-LA-7). A summary of the bill has been included and we respectfully ask that you and your staff review this proposal and consider co-sponsoring the legislation. In addition, other pro-ESOP legislation has been introduced: H.R. 692 by Dana Rohrabacher, H. Con. Res. 204 by Congressman Maurice Hinchey, and H.R. 3586 by Congressman Ron Kind.

[If desired, here write about how the ESOP arrangement has benefited your company.]

We finally ask that as you face difficult issues in the 111th Congress, you be willing to hear our view of ESOPs, and what our ESOP means for us, plus considering the enclosures, and joining others in co-sponsoring pro-ESOP legislation.

Sincerely,

[Name of Company Person(s)/ or More Effective, Names of Many Employee Owners]

Enclosures

DOCUMENT 3a

**ENCLOSURES TO INCLUDE WITH LETTERS
TO MEMBERS OF CONGRESS –**

**Data and Research on Employee Ownership
Through ESOPs**

Summary of
Congressman Charles W. Boustany, Jr. (R-LA-7) and
Congressman Earl Pomeroy (D-ND-ATL) Pro-ESOP Bill
H.R. 5207 - Improving ESOP Law and Promoting ESOP Creation

**Why H.R. 5207, the ESOP Promotion and Improvement Act Of 2010
If Enacted Would Be Good for the ESOP Community**

- H.R. 5207 improves the 1042 ESOP tax deferred rollover provisions by permitting sellers to the ESOP of an S corporation to utilize the ESOP tax benefit referred to as the tax deferred rollover, or the so-called 1042 treatment. The bill also makes needed clarifications and technical amendments to the section 1042 provision related to how proceeds from a sale to an ESOP may be reinvested, and who are not permitted to participate in a 1042 ESOP.
- H.R. 5207 would clarify that dividends paid by C corporations on ESOP stock are not a preference item in calculating the corporate alternative minimum tax.
- H.R. 5207 would repeal the punitive 10% penalty tax on S corporations distributions from current earnings, also referred to as dividends, that are passed through to ESOP participants in cash.
- H.R. 5207 would eliminate a bias against majority owned ESOP companies by making clear that a non-ESOP small businesses currently eligible for any Small Business Administration program is still eligible for the SBA program if becoming a majority owned ESOP company with the same characteristics it had before becoming a majority owned ESOP company. (A majority owned ESOP company is 50% plus owned by the ESOP on behalf of the employees.)



Employee Ownership and Corporate Performance

1. 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.

2. In January 2007, the co-operative relationship between The ESOP Association 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. Stephen 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.

3. In 2009, the Employee Ownership Foundation, conducting its 18th Annual Economic Performance Survey, found that a very high percentage of companies, 88.2%, declared that creating employee ownership through an ESOP (employee stockownership plan) was “a good decision that has helped the company.” In addition, the EPS asked companies to indicate their performance in 2008, relative to 2007. Approximately 50.4% of respondents indicated a better performance in 2008 than 2007, 9.4% indicated a nearly identical performance, and 39.7% indicated a worse performance. Around 57.9% indicated that revenue increased while 42.1% indicated revenue did not increase. In terms of profitability, 50.4% indicated that profitability did increase and 49.6% indicated that profitability did not increase in 2008. Finally, in 2009, 88.5% of companies responding to the survey indicated they outperformed the three major stock indices in 2008 including the Dow Jones Industrial Average, the NASDAQ Composite, and the S&P 500. This survey was conducted in the summer of 2009 among corporate members of The ESOP Association. The results are based on 429 responses.

4. 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.

5. 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.

6. Research conducted by Professor Hamid Mehran, while he served on the faculty of the J.L. Kellogg Graduate School of Management, Northwestern University, of nearly 400 publicly traded companies with significant ESOPs both before and after the adoption of the ESOP, compared to non-ESOP companies in similar lines of businesses, showed that the rate of return for the ESOP companies was 2.7% higher, 60% of the ESOP companies experienced share price increases upon announcement of the ESOP program, and 82% indicated that the ESOP had a positive impact on business results.

7. 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.

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. In addition, the report cited three studies that analyzed "the market reaction to announcements of ESOPs which found significant positive returns to firms which implemented ESOPs as part of a broader employee benefit or wage concession plan." The three studies are: Chang's 1990 "Employee Stock Ownership Plans and Shareholder Wealth: An Empirical Investigation," Dhillon and Ramirez' 1994 "Employee Stock Ownership and Corporate Control," and Gordon and Pound's 1990 "ESOPs and Corporate Control." citation at (202) 293-2971 or E-mail: esop@esopassociation.org.

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 4,000 ESOP companies are majority-owned by the ESOP.
- Approximately 2,500 are 100% owned by the ESOP.
- About 2% of ESOP companies are unionized.
- While ESOPs are found in all industries, more than 25% of them are in the manufacturing sector.
- At least 75% of ESOP companies are or were leveraged, meaning they used borrowed funds to acquire the employer securities held by the ESOP trustee.
- A majority of ESOP companies have other retirement 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 \$800 billion at the end of 2006.

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
Members of House Ways and Means Committee,
U.S. House of Representatives

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)

Rep. Sander M. Levin (D-MI) Chairman, 1236 Longworth House Office Building
Rep. Xavier Becerra (D-CA), 1119 Longworth House Office Building
Rep. Shelley Berkley (D-NV), 405 Cannon House Office Building
Rep. Earl Blumenauer (D-OR), 2267 Rayburn House Office Building
Rep. Charles W. Boustany, Jr. (R-LA), 1117 Longworth House Office Building
Rep. Kevin Brady (R-TX), 301 Cannon House Office Building
Rep. Ginny Brown-Waite (R-FL), 414 Cannon House Office Building
Rep. Dave Camp (R-MI), 341 Cannon House Office Building
Rep. Eric Cantor (R-VA), 329 Cannon House Office Building
Rep. Joseph Crowley (D-NY), 2404 Rayburn House Office Building
Rep. Artur Davis (D-AL), 208 Cannon House Office Building
Rep. Danny K. Davis (D-IL), 2159 Rayburn House Office Building
Rep. Geoff Davis (R-KY), 1108 Longworth House Office Building
Rep. Lloyd Doggett (D-TX), 201 Cannon House Office Building
Rep. Bob Etheridge (D-NC), 1533 Longworth House Office Building
Rep. Dean Heller (R-NV), 125 Cannon House Office Building
Rep. Wally Herger (R-CA), 242 Cannon House Office Building
Rep. Brian M. Higgins (D-NY), 431 Cannon House Office Building
Rep. Sam Johnson (R-TX), 1211 Longworth House Office Building
Rep. Ron Kind (D-WI), 1406 Longworth House Office Building
Rep. John B. Larson (D-CT), 106 Cannon House Office Building
Rep. John Lewis (D-GA), 343 Cannon House Office Building
Rep. John Linder (R-GA), 1026 Longworth House Office Building
Rep. Jim McDermott (D-WA), 1035 Longworth House Office Building
Rep. Kendrick B. Meek (D-FL), 1039 Longworth House Office Building
Rep. Richard E. Neal (D-MA), 2208 Rayburn House Office Building
Rep. Devin Nunes (R-CA), 1013 Longworth House Office Building
Rep. Bill Pascrell Jr. (D-NJ), 2464 Rayburn House Office Building
Rep. Earl Pomeroy (D-ND), 1501 Longworth House Office Building
Rep. Charles B. Rangel (D-NY), 2354 Rayburn House Office Building
Rep. David G. Reichert (R-WA), 1730 Longworth House Office Building
Rep. Peter J. Roskam (R-IL), 507 Cannon House Office Building
Rep. Paul Ryan (R-WI), 1113 Longworth House Office Building
Rep. Linda T. Sanchez (D-CA), 1222 Longworth House Office Building
Rep. Allyson Y. Schwartz (D-PA), 330 Cannon House Office Building
Rep. Fortney "Pete" Stark (D-CA), 239 Cannon House Office Building
Rep. John S. Tanner (D-TN), 1226 Longworth House Office Building
Rep. Mike Thompson (D-CA), 231 Cannon House Office Building
Rep. Patrick J. Tiberi (R-OH), 113 Cannon House Office Building
Rep. Chris Van Hollen (D-MD), 1707 Longworth House Office Building
Rep. John Yarmuth (D-KY), 435 Cannon House Office Building

DOCUMENT 5
Suggested Sample Letter from ESOP Company
To Members of U.S. House of Representatives Who Are **Not**
Members of House Ways and Means Committee

The Honorable [Name]
U.S. House of Representatives
Washington, DC 20515

Dear Representative [Name]:

As a company that makes its employees owners through an employee stock ownership plan, or ESOP, we are very interested in what the Congress and the House Ways and Means Committee does with regard to ESOP Law.

ESOPs have a thirty-year plus record proving that ESOP companies are high performing companies compared to non-ESOP companies, that create wealth and equity stakeholds for average pay employees. [See enclosures.]

[If desired, here write about how the ESOP arrangement has benefited your company.]

We are aware that the Congress will still have to deal with many tax issues in the 111th Congress; we want to ensure you and your staff have knowledge of the positive, 35 year plus, record of employee stock ownership through ESOPs in companies like [name your company].

We also bring to your attention H.R. 5207, the ESOP Promotion and Improvement Act of 2010 has been introduced by Congressman Charles W. Boustany, Jr. (R-LA-7) and Congressman Earl Pomeroy (D-ND-ATL). A summary of the bill has been included and we respectfully ask that you and your staff review this proposal and consider co-sponsoring the legislation

Because of all of the above, we respectfully ask that as legislative proposals are unveiled in the final months of the 11th Congress, we be able to ask you to convey our feelings about those impacting ESOPs to your colleagues on Ways and Means.

It is important, we believe, to continue a policy in our nation to encourage broad-base ownership of our nation's corporations in order to have a more fair and equitable ownership in our nation's free enterprise economy.

Sincerely,

[Name of Company Person(s)/ or More Effective, Names of Many Employee Owners]

Enclosures

DOCUMENT 5a

**ENCLOSURES TO INCLUDE WITH LETTERS
TO MEMBERS OF CONGRESS –**

**Data and Research on Employee Ownership
Through ESOPs**

Summary of
Congressman Charles W. Boustany, Jr. (R-LA-7) and
Congressman Earl Pomeroy (D-ND-ATL) Pro-ESOP Bill
H.R. 5207 - Improving ESOP Law and Promoting ESOP Creation

**Why H.R. 5207, the ESOP Promotion and Improvement Act Of 2010
If Enacted Would Be Good for the ESOP Community**

- H.R. 5207 improves the 1042 ESOP tax deferred rollover provisions by permitting sellers to the ESOP of an S corporation to utilize the ESOP tax benefit referred to as the tax deferred rollover, or the so-called 1042 treatment. The bill also makes needed clarifications and technical amendments to the section 1042 provision related to how proceeds from a sale to an ESOP may be reinvested, and who are not permitted to participate in a 1042 ESOP.
- H.R. 5207 would clarify that dividends paid by C corporations on ESOP stock are not a preference item in calculating the corporate alternative minimum tax.
- H.R. 5207 would repeal the punitive 10% penalty tax on S corporations distributions from current earnings, also referred to as dividends, that are passed through to ESOP participants in cash.
- H.R. 5207 would eliminate a bias against majority owned ESOP companies by making clear that a non-ESOP small businesses currently eligible for any Small Business Administration program is still eligible for the SBA program if becoming a majority owned ESOP company with the same characteristics it had before becoming a majority owned ESOP company. (A majority owned ESOP company is 50% plus owned by the ESOP on behalf of the employees.)



Employee Ownership and Corporate Performance

1. 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.
2. In January 2007, the co-operative relationship between The ESOP Association 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. Stephen 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.
3. In 2009, the Employee Ownership Foundation, conducting its 18th Annual Economic Performance Survey, found that a very high percentage of companies, 88.2%, declared that creating employee ownership through an ESOP (employee stockownership plan) was “a good decision that has helped the company.” In addition, the EPS asked companies to indicate their performance in 2008, relative to 2007. Approximately 50.4% of respondents indicated a better performance in 2008 than 2007, 9.4% indicated a nearly identical performance, and 39.7% indicated a worse performance. Around 57.9% indicated that revenue increased while 42.1% indicated revenue did not increase. In terms of profitability, 50.4% indicated that profitability did increase and 49.6% indicated that profitability did not increase in 2008. Finally, in 2009, 88.5% of companies responding to the survey indicated they outperformed the three major stock indices in 2008 including the Dow Jones Industrial Average, the NASDAQ Composite, and the S&P 500. This survey was conducted in the summer of 2009 among corporate members of The ESOP Association. The results are based on 429 responses.

4. 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.
5. 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.
6. Research conducted by Professor Hamid Mehran, while he served on the faculty of the J.L. Kellogg Graduate School of Management, Northwestern University, of nearly 400 publicly traded companies with significant ESOPs both before and after the adoption of the ESOP, compared to non-ESOP companies in similar lines of businesses, showed that the rate of return for the ESOP companies was 2.7% higher, 60% of the ESOP companies experienced share price increases upon announcement of the ESOP program, and 82% indicated that the ESOP had a positive impact on business results.
7. 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.
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. In addition, the report cited three studies that analyzed "the market reaction to announcements of ESOPs which found significant positive returns to firms which implemented ESOPs as part of a broader employee benefit or wage concession plan." The three studies are: Chang's 1990 "Employee Stock Ownership Plans and Shareholder Wealth: An Empirical Investigation," Dhillon and Ramirez' 1994 "Employee Stock Ownership and Corporate Control," and Gordon and Pound's 1990 "ESOPs and Corporate Control." citation at (202) 293-2971 or E-mail: esop@esopassociation.org.

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 4,000 ESOP companies are majority-owned by the ESOP.
- Approximately 2,500 are 100% owned by the ESOP.
- About 2% of ESOP companies are unionized.
- While ESOPs are found in all industries, more than 25% of them are in the manufacturing sector.
- At least 75% of ESOP companies are or were leveraged, meaning they used borrowed funds to acquire the employer securities held by the ESOP trustee.
- A majority of ESOP companies have other retirement 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 \$800 billion at the end of 2006.

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 6

Senator Blanche Lincoln's Pro-ESOP Bill, S. 1612 Improving ESOP Law and Promoting ESOP Creation

Why S. 1612, the ESOP Promotion and Improvement Act Of 2009 If Enacted Would Be Good for the ESOP Community

- It will repeal the punitive 10% penalty tax on S corporations' distributions from current earnings, also referred to as dividends, paid on ESOP stock that are passed through to ESOP participants in cash.
- It will clarify that dividends paid by C corporations on ESOP stock are not a preference item in calculating the corporate alternative minimum tax.
- It will (a) permit sellers of stock to the ESOP of an S corporation to utilize the ESOP tax benefit referred to as the tax deferred rollover, or the 1042 treatment. (b) Permit proceeds received from a 1042 transaction to be invested in mutual funds consisting of operating U.S. corporation securities. (c) Redefine what is a 25% or more owner for purposes of IRC 1042 to be 25% or more ownership of voting stock, or 25% or more ownership of all stock of the corporation, not 25% of any class of stock.
- It will permit an SBA certified small business eligible for SBA programs to continue its eligibility after becoming majority-owned by an ESOP if employee demographics remain the same.

DOCUMENT 7
Sample Letter to Members of U.S. Senate

The Honorable [Name of Senator]
U.S. Senate
Washington, DC 20510

Dear Senator [Name]:

[Name of your company] has employee ownership of [X%] of the company through an employee stock ownership plan, or ESOP. We established our ESOP in [year]. Our company is [privately-held] [publicly-traded] and is a [C][S] corporation. *[In one or two sentences, set forth why the ESOP is important to your company, and how it benefits the employees of your company.]*

This letter respectfully asks that you seriously consider co-sponsoring S. 1612, the ESOP Promotion and Improvement Act of 2009, introduced August 6, 2009 by your colleague Senator Blanche Lincoln, joined by Senator Mary Landrieu, Senator Mike Crapo, Senator Patrick J. Leahy, Senator Sheldon Whitehouse, and Senator Maria Cantwell, Senator Saxby Chambliss, Senator Johnny Isakson, Senator Bernard Sanders. We enclose a brief synopsis of S. 1612's provisions, which are modest, but needed, and which would have little, or no impact on overall Federal revenues.

As an ESOP company, we have followed with great interest the growing national discussion about fairness in the free enterprise system, about growing disparities in income, about productivity, and about making the workplace a better place to be. There is ample evidence over the past 35 years that broad-based employee ownership through ESOPs addresses all of these issues in a positive manner in the vast majority of instances where employees are owners, of all, or some of the enterprise where they work. We also enclose a summary of this data.

To make our point vivid for you, we would welcome your learning more about [Name of Company] and our experience with employee ownership through an ESOP.

So again, we ask that you consider co-sponsoring S. 1612, the ESOP Promotion and Improvement Act of 2009.

Sincerely,

[Name of Company Person[s]]

DOCUMENT 7a

**ENCLOSURES TO INCLUDE WITH LETTERS
TO MEMBERS OF CONGRESS –**

**Data and Research on Employee Ownership
Through ESOPs**

Summary S. 1612
Senator Blanche Lincoln's Pro-ESOP Bill,
S. 1612 Improving ESOP Law and Promoting ESOP Creation

**Why S. 1612, the ESOP Promotion and Improvement Act Of 2009
If Enacted Would Be Good for the ESOP Community**

- It will repeal the punitive 10% penalty tax on S corporations' distributions from current earnings, also referred to as dividends, paid on ESOP stock that are passed through to ESOP participants in cash.
- It will clarify that dividends paid by C corporations on ESOP stock are not a preference item in calculating the corporate alternative minimum tax.
- It will (a) permit sellers of stock to the ESOP of an S corporation to utilize the ESOP tax benefit referred to as the tax deferred rollover, or the 1042 treatment. (b) Permit proceeds received from a 1042 transaction to be invested in mutual funds consisting of operating U.S. corporation securities. (c) Redefine what is a 25% or more owner for purposes of IRC 1042 to be 25% or more ownership of voting stock, or 25% or more ownership of all stock of the corporation, not 25% of any class of stock.
- It will permit an SBA certified small business eligible for SBA programs to continue its eligibility after becoming majority-owned by an ESOP if employee demographics remain the same.



Employee Ownership and Corporate Performance

1. 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.
2. In January 2007, the co-operative relationship between The ESOP Association 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. Stephen 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.
3. In 2009, the Employee Ownership Foundation, conducting its 18th Annual Economic Performance Survey, found that a very high percentage of companies, 88.2%, declared that creating employee ownership through an ESOP (employee stockownership plan) was “a good decision that has helped the company.” In addition, the EPS asked companies to indicate their performance in 2008, relative to 2007. Approximately 50.4% of respondents indicated a better performance in 2008 than 2007, 9.4% indicated a nearly identical performance, and 39.7% indicated a worse performance. Around 57.9% indicated that revenue increased while 42.1% indicated revenue did not increase. In terms of profitability, 50.4% indicated that profitability did increase and 49.6% indicated that profitability did not increase in 2008. Finally, in 2009, 88.5% of companies responding to the survey indicated they outperformed the three major stock indices in 2008 including the Dow Jones Industrial Average, the NASDAQ Composite, and the S&P 500. This survey was conducted in the summer of 2009 among corporate members of The ESOP Association. The results are based on 429 responses.

4. 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.
5. 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.
6. Research conducted by Professor Hamid Mehran, while he served on the faculty of the J.L. Kellogg Graduate School of Management, Northwestern University, of nearly 400 publicly traded companies with significant ESOPs both before and after the adoption of the ESOP, compared to non-ESOP companies in similar lines of businesses, showed that the rate of return for the ESOP companies was 2.7% higher, 60% of the ESOP companies experienced share price increases upon announcement of the ESOP program, and 82% indicated that the ESOP had a positive impact on business results.
7. 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.
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. In addition, the report cited three studies that analyzed "the market reaction to announcements of ESOPs which found significant positive returns to firms which implemented ESOPs as part of a broader employee benefit or wage concession plan." The three studies are: Chang's 1990 "Employee Stock Ownership Plans and Shareholder Wealth: An Empirical Investigation," Dhillon and Ramirez' 1994 "Employee Stock Ownership and Corporate Control," and Gordon and Pound's 1990 "ESOPs and Corporate Control." citation at (202) 293-2971 or E-mail: esop@esopassociation.org.

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 4,000 ESOP companies are majority-owned by the ESOP.
- Approximately 2,500 are 100% owned by the ESOP.
- About 2% of ESOP companies are unionized.
- While ESOPs are found in all industries, more than 25% of them are in the manufacturing sector.
- At least 75% of ESOP companies are or were leveraged, meaning they used borrowed funds to acquire the employer securities held by the ESOP trustee.
- A majority of ESOP companies have other retirement 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 \$800 billion at the end of 2006.

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 8

Congressman Charles W. Boustany, Jr. (R-LA-7) and
Congressman Earl Pomeroy (D-ND-ATL) Pro-ESOP Bill
H.R. 5207 - Improving ESOP Law and Promoting ESOP Creation

Why H.R. 5207, the ESOP Promotion and Improvement Act Of 2010 If Enacted Would Be Good for the ESOP Community

- H.R. 5207 improves the 1042 ESOP tax deferred rollover provisions by permitting sellers to the ESOP of an S corporation to utilize the ESOP tax benefit referred to as the tax deferred rollover, or the so-called 1042 treatment. The bill also makes needed clarifications and technical amendments to the section 1042 provision related to how proceeds from a sale to an ESOP may be reinvested, and who are not permitted to participate in a 1042 ESOP.
- H.R. 5207 would clarify that dividends paid by C corporations on ESOP stock are not a preference item in calculating the corporate alternative minimum tax.
- H.R. 5207 would repeal the punitive 10% penalty tax on S corporations distributions from current earnings, also referred to as dividends, that are passed through to ESOP participants in cash.
- H.R. 5207 would eliminate a bias against majority owned ESOP companies by making clear that a non-ESOP small businesses currently eligible for any Small Business Administration program is still eligible for the SBA program if becoming a majority owned ESOP company with the same characteristics it had before becoming a majority owned ESOP company. (A majority owned ESOP company is 50% plus owned by the ESOP on behalf of the employees.)

DOCUMENT 9

Sample Letter to Members of U.S. House of Representatives

The Honorable [Name of Representative]
U.S. House of Representatives
Washington, DC 20515

Dear Congressman/Congresswoman [Name]:

[Name of your company] has employee ownership of [X%] of the company through an employee stock ownership plan, or ESOP. We established our ESOP in [year]. Our company is [privately-held] [publicly-traded] and is a [C] [S] corporation. *[In one or two sentences, set forth why the ESOP is important to your company and how it benefits the employees of your company.]*

This letter respectfully asks that you seriously consider co-sponsoring H.R. 5207, the ESOP Promotion and Improvement Act of 2010, introduced by your colleagues Congressman Charles W. Boustany, Jr. (R-LA-7) and Congressman Earl Pomeroy (D-ND-ATL). We enclose a brief synopsis of H.R. 5207's provisions which are modest, but needed, and which would have little, or no impact, on overall Federal revenues.

As an ESOP company, we have followed with great interest the growing national discussion about fairness in the free enterprise system, about growing disparities in income, about productivity, and about making the workplace a better place to be. There is ample evidence over the past 35 years that broad-based employee ownership through ESOPs addresses all of these issues in a positive manner in the vast majority of instances where employees are owners, of all, or some of the enterprise where they work. We also enclose a summary of this data.

To make our point vivid for you, we would welcome your learning about [Name of Company] and our experience with employee ownership through an ESOP.

So again, we ask that you consider co-sponsoring H.R. 5207, the ESOP Promotion and Improvement Act of 2010.

Sincerely,

[Name of Company Person[s]]

DOCUMENT 9a

**ENCLOSURES TO INCLUDE WITH LETTERS
TO MEMBERS OF CONGRESS –**

**Data and Research on Employee Ownership
Through ESOPs**

Summary of
Congressman Charles W. Boustany, Jr. (R-LA-7) and
Congressman Earl Pomeroy (D-ND-ATL) Pro-ESOP Bill
H.R. 5207 - Improving ESOP Law and Promoting ESOP Creation

**Why H.R. 5207, the ESOP Promotion and Improvement Act Of 2010
If Enacted Would Be Good for the ESOP Community**

- H.R. 5207 improves the 1042 ESOP tax deferred rollover provisions by permitting sellers to the ESOP of an S corporation to utilize the ESOP tax benefit referred to as the tax deferred rollover, or the so-called 1042 treatment. The bill also makes needed clarifications and technical amendments to the section 1042 provision related to how proceeds from a sale to an ESOP may be reinvested, and who are not permitted to participate in a 1042 ESOP.
- H.R. 5207 would clarify that dividends paid by C corporations on ESOP stock are not a preference item in calculating the corporate alternative minimum tax.
- H.R. 5207 would repeal the punitive 10% penalty tax on S corporations distributions from current earnings, also referred to as dividends, that are passed through to ESOP participants in cash.
- H.R. 5207 would eliminate a bias against majority owned ESOP companies by making clear that a non-ESOP small businesses currently eligible for any Small Business Administration program is still eligible for the SBA program if becoming a majority owned ESOP company with the same characteristics it had before becoming a majority owned ESOP company. (A majority owned ESOP company is 50% plus owned by the ESOP on behalf of the employees.)



Employee Ownership and Corporate Performance

9. 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.

10. In January 2007, the co-operative relationship between The ESOP Association 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. Stephen 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.

11. In 2009, the Employee Ownership Foundation, conducting its 18th Annual Economic Performance Survey, found that a very high percentage of companies, 88.2%, declared that creating employee ownership through an ESOP (employee stockownership plan) was “a good decision that has helped the company.” In addition, the EPS asked companies to indicate their performance in 2008, relative to 2007. Approximately 50.4% of respondents indicated a better performance in 2008 than 2007, 9.4% indicated a nearly identical performance, and 39.7% indicated a worse performance. Around 57.9% indicated that revenue increased while 42.1% indicated revenue did not increase. In terms of profitability, 50.4% indicated that profitability did increase and 49.6% indicated that profitability did not increase in 2008. Finally, in 2009, 88.5% of companies responding to the survey indicated they outperformed the three major stock indices in 2008 including the Dow Jones Industrial Average, the NASDAQ Composite, and the S&P 500. This survey was conducted in the summer of 2009 among corporate members of The ESOP Association. The results are based on 429 responses.

12. 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.
13. 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.
14. Research conducted by Professor Hamid Mehran, while he served on the faculty of the J.L. Kellogg Graduate School of Management, Northwestern University, of nearly 400 publicly traded companies with significant ESOPs both before and after the adoption of the ESOP, compared to non-ESOP companies in similar lines of businesses, showed that the rate of return for the ESOP companies was 2.7% higher, 60% of the ESOP companies experienced share price increases upon announcement of the ESOP program, and 82% indicated that the ESOP had a positive impact on business results.
15. 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.
16. 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. In addition, the report cited three studies that analyzed "the market reaction to announcements of ESOPs which found significant positive returns to firms which implemented ESOPs as part of a broader employee benefit or wage concession plan." The three studies are: Chang's 1990 "Employee Stock Ownership Plans and Shareholder Wealth: An Empirical Investigation," Dhillon and Ramirez' 1994 "Employee Stock Ownership and Corporate Control," and Gordon and Pound's 1990 "ESOPs and Corporate Control." citation at (202) 293-2971 or E-mail: esop@esopassociation.org.

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 4,000 ESOP companies are majority-owned by the ESOP.
- Approximately 2,500 are 100% owned by the ESOP.
- About 2% of ESOP companies are unionized.
- While ESOPs are found in all industries, more than 25% of them are in the manufacturing sector.
- At least 75% of ESOP companies are or were leveraged, meaning they used borrowed funds to acquire the employer securities held by the ESOP trustee.
- A majority of ESOP companies have other retirement 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 \$800 billion at the end of 2006.

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 10

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 11

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 wrong 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, only if, 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 prior to taking action on the matter that is the subject of the “call to action”.

If the matter is not time sensitive, in other 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. It is taking letters about two weeks to be tested for anthrax, and then delivered to a Congressional office.

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 12

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 have written your member of Congress who is not on the Ways and Means Committee urging her or him to contact her or his colleagues on Ways and Means about your concerns about a proposal such as the 2007 proposal known as Section 3701 of H.R. 3970, or a Senate office asking for support of S. 1612. Wait about two weeks after your written communication, and then call that office—telephone number, general switchboard is 202.224.3121, which will connect you to any office in the Capitol Hill complex—yes it is an 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, or go direct to www.house.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 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. 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 S. 1612, the ESOP Promotion and Improvement Act of 2009 [or H.R. 5207, S. 2909, S. 2914, H.R. 692, H.R. 3586, H. Con. Res. 204]. 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 13

“Be On Your Toes”

As obvious, this fall advocacy kit talks about “future” positive or negative legislation.

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, and be on the outlook for e-bulletins from The ESOP Association.