Keeping Your ESOPs Strong: What We Need To Do!

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.”
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Why Speak Up?

ESOP advocates need to continue to be “on their toes”, as accepting as the gospel truth what the media proclaims as the “truth” can lead to nasty surprises if and when Congress decides to send to a President, next year, or even three to four years from now, a tax reform bill. Keep in mind, a tax reform bill eliminates, or reduces, special tax laws that favor certain behavior by certain taxpayers.

ESOP tax laws are considered in the category of special tax laws that favor ESOP companies, ESOP employees, and those who sell stock to enable a company create an ESOP.

(Also note, that despite overwhelming evidence that in the vast majority of ESOPs are more profitable, more productive, providing sustainable jobs while building more than adequate retirement savings for ESOP participants, there is still a clique of law professors, who of course have no credentials for doing objective research of economic or social policy, that have published in many law journal articles since 1990 that imply ESOPs are a national scandal, cheating average pay employees out of their retirement security in order to enrich men and women selling their stock to an ESOP. These voices, hidden in publications that have a limited readership, will dominant discussion about ESOPs unless women and men who are participants in ESOPs stand up for what their companies do, and how they do it. In other words, you need to stand up and voice the truth about ESOPs.)

Since 1990, The ESOP Association primary advocacy strategy has been premised on executing the view that the best defense is a good offense. Thus our community has staved off negative views of ESOP law for over 28 years, and has seen the enactment of positive ESOP law permitting S corporations to sponsor ESOPs beginning in 1998.

The offense consists of having a pro-ESOP bill introduced in Congress so that the ESOP community can have members of Congress declare for ESOPs by co-sponsoring the pro-ESOP legislation. Often the “ask” is done with the very impressive company visits by members of Congress.

Again, sitting on the sidelines because people on cable TV hoot and holler that our Congress is full of do nothing jerks can mean your ESOP could be diminished, or better put, your ESOP account diminished, if and when the tax laws are reviewed and possibly altered, and you sat on the sidelines.
What Are You Selling, and How Do You Make the Sell?

It does not serve the ESOP cause well if the goal is to convert a member of Congress to the ESOP advocate status to let him or her visit you or your employee owner colleagues, and do no more than pat employee owners on their backs.

It is true that it is sometimes unrealistic to expect a member of Congress to “buy” into the ESOP agenda based on his or her first experience. (If your member of Congress is already on the list of ESOP advocates, meaning he or she have publicly done something that is evidence of a pro-ESOP position that is part of the public record, then having a visit is super important to reinforce that member’s view that being for ESOPs is a good political posture to have.)

Please note the update or current Congressional work to enact a new Federal income tax code.

**But, as always, the most powerful story is your company’s story; tell it; make it front and center; you and your fellow employee owners make the difference.**

Ignore the Media’s Advice to Ignore Tax Reform Developments

Do not be lulled into thinking there is no need to persuade members of Congress not to degrade, or eliminate ESOP tax benefits because the media says that Congress may not pass a tax reform bill in 2017 or 2018.

The media may be right! But so what?

Since 1921, when the Congress enacted the first Internal Revenue Code, every 30 to 40 years or so, the Congress sends to the President a new tax code. And this massive re-write of the tax code is not really done in one year, but takes shape over 2, 3, or even 4 years. So in the next two to four years a new tax code will become law, whether 2018, 2019, or 2020.

The new law, again proven by history, will seek to lower tax rates while not increasing the Federal deficit by offsetting lower tax revenue from lower tax rates by eliminating or reducing special tax laws that benefit certain tax payers. (The laws are called tax loopholes, tax preferences, tax benefits, depending on a person’s viewpoint.)

ESOPs have special tax benefits that encourage the creation and operation of ESOPs.

The ESOP tax benefits will be considered for elimination or reduction when Congress re-writes the tax laws to lower tax rates. (Just as the Republicans on Ways and Means did in 2014 and decided not to alter special tax laws for ESOPs in a proposal released by then Chair Dave Camp.)

Key to having ESOPs protected in the tax reform processes is to build open public support of ESOPs among as many members of Congress as possible.

**The Tactic:** Have members of Congress show their support by sponsoring pro-ESOP bills.
As stated before the Association’s agenda is to persuade as many members of the House as possible, to sponsor pro-ESOP legislation similar to last Congresses H.R. 2092, the “Promotion and Expansion of Private Employee Ownership Act of 2017”, and/or H.R. 2387, the “Work Act”.

For background, see

- List of Current Members of House Who Are “ESOP Advocates”.
- Bullet points explaining ESOP Tax Proposal in House, H.R. 2092 provision; and
- Suggested letter, or e-mail to members of House of Representatives, or staff, asking members of the House to sponsor H.R. 2092.
- Bullet points explaining H.R. 2387 the “Work Act”.
- Suggested letter, or e-mail to members of the House of Representatives.
- Additional points you may include in letter/e-mail or conversation in person or via telephone with a House member or her/his staff.
### House Advocates

*Co-Sponsors of Last Congress’s Pro ESOP Bill, H.R. 2096
This Congress’s Bill Number is H.R. 2092
Co-Sponsors of H.R. 2092: Two ** by Name

<table>
<thead>
<tr>
<th>State</th>
<th>Representative/Delegates</th>
</tr>
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| Alabama   | Congressman Robert B. Aderholt (R-4)*
              | Congressman Bradley Byrne (R-1)*
| Arizona   | Congressman Raul Grijalva (D-3)
              | Congresswoman Kyrsten Sinema (D-9)*
| Arkansas  | Congressman Eric A. "Rick" Crawford (R-1)
              | Congressman Steve Womack (R-3)
| California| Congresswoman Julia Brownley (D-26)*
              | Congressman Ken Calvert (R-42)*
              | Congressman Sam Farr (D-20)
              | Congresswoman Janice Hahn (D-44)
              | Congressman Michael Honda (D-17)
              | Congressman Stephen Knight (R-25)*
              | Congresswoman Barbara Lee (D-13)
              | Congresswoman Gloria Negrete McLeod (D-35)
              | Congressman Dana Rohrabacher (R-48)
              | Congressman Edward Royce (R-39)*
              | Congresswoman Linda T. Sanchez (D-38)*
              | Congressman Adam Schiff (D-28)*
              | Congressman Brad Sherman (D-30)
              | Congressman Mike Thompson (D-5)**
              | Congressman Juan Vargas (D-51)
| Colorado  | Congressman Mike Coffman (R-6)*
              | Congressman Jared Polis (D-2)**
| Connecticut| Congressman Joe Courtney (D-2)
              | Congressman John Larson (D-1)
| Florida   | Congressman Bill Posey (R-8)
              | Congressman Vern Buchanan (R-16)
              | Congresswoman Ileana Ros-Lehtinen (R-27)
| Georgia   | Congressman John Lewis (D-5)
              | Congressman Austin Scott (R-8)
              | Congressman David Scott (D-13)*
| Guam      | Congresswoman Madeleine Bordallo (D)
| Idaho     | Congressman Michael Simpson (R-2)*
| Illinois  | Congressman Danny K. Davis (D-7)*
              | Congressman Rodney Davis (R-13)*
              | Congressman Luis V. Gutierrez (D-4)*
              | Congressman Randy Hultgren (R-14)*
              | Congresswoman Robin Kelly (D-2)*
              | Congressman Adam Kinzinger (R-16)**
              | Congressman Mike Quigley (R-6)**
              | Congresswoman Janice Schakowsky (D-9)**
| Indiana   | Congressman Larry Bucshon (R-8)
              | Congressman Andre Carson (D-7)
              | Congressman Luke Messer (R-6)*
              | Congressman Todd Rokita (R-4)*
              | Congresswoman Jackie Walorski (R-2)**
| Iowa      | Congressman Rod Blum (R-1)*
              | Congressman Steve King (R-4)**
              | Congressman David Loebsack (D-2)**
              | Congressman David Loebsack (D-3)**
Kansas
Congresswomen Lynn Jenkins (R-2)**
Congressman Roger W. Marshall (R-1)**
Congressman Kevin Yoder (R-3)**

Kentucky
Congressman Andy Barr (R-6)
Congressman Brett Guthrie (R-2)

Louisiana
Congressman Ralph Abraham (R-5)*

Maine
Congresswoman Chellie Pingree (D-1)**

Maryland
Congressman C.A. Dutch Ruppersberger (D-2)

Massachusetts
Congressman James McGovern (D-2)
Congressman Richard Neal (D-1)**

Michigan
Congressman John Conyers, Jr. (D-13)*
Congressman Bill Huizenga (R-2)*
Congressman Sander Levin (D-9)
Congressman Tim Walberg (R-7)

Minnesota
Congressman Keith Ellison (D-5)*
Congressman Tom Emmer, (R-6)*
Congresswoman Betty McCollum (D-4)
Congressman Richard M. Nolan (D-8)*
Congressman Erik Paulsen (R-3)**
Congressman Collin Peterson (D-7)*
Congressman Timothy Walz (D-1)*

Missouri
Congressman Emanuel Cleaver (D-5)
Congressman Sam Graves (R-6)*
Congresswoman Vicky Hartzler (R-4)*
Congressman Billy Long (R-7)
Congressman Blaine Luetkemeyer (R-3)
Congressman Jason T. Smith (R-8)*
Congresswoman Ann Wagner (R-2)*

Nebraska
Congressman Adrian Smith (R-3)

Nevada
Congressman Mark E. Amodei (R-2)*

New Hampshire
Congresswoman Ann M. Kuster (D-2)*

New Jersey
Congressman Rodney P. Frelinghuysen (R-11)
Congressman Frank Pallone, Jr. (D-6)
Congressman Bill Pascrell, Jr. (D-9)**

New York
Congressman Richard L. Hanna (R-22)
Congressman Brian Higgins (D-26)**
Congressman John Katko (R-24)*
Congresswoman Carolyn Maloney (D-12)*
Congressman Tom Reed (R-23)*
Congressman Jose Serrano (D-15)
Congresswoman Louise McIntosh Slaughter (D-25)*

North Carolina
Congressman Walter Jones, Jr. (R-3)
Congressman Robert Pittenger (R-9)*

North Dakota
Congressman Kevin Cramer (R-At Large)**

Ohio
Congresswoman Joyce Beatty (D-3)*
Congressman Steve Chabot (R-1)*
Congressman David P. Joyce (R-14)*
Congresswoman Marcy Kaptur (D-9)
Congressman Robert E. Latta (R-5)
Congressman James B. Renacci (R-16)*
Congressman Steve Stivers (R-OH)*
Congressman Patrick Tiberi (R-12)**
Congressman Michael Turner (R-10)

Oklahoma
Congressman Frank Lucas (R-3)
Oregon
Congressman Earl Blumenauer (D-3)**
Congresswoman Suzanne Bonamici (D-1)**
Congressman Greg Walden (R-2)

Pennsylvania
Congressman Lou Barletta (R-11)**
Congressman Robert A. Brady (D-1)*
Congressman Ryan A. Costello (R-6)*
Congressman Brian K. Fitzpatrick (R-8)**
Congressman Mike Kelly (R-3)*
Congressman Tom Marino (R-10)**
Congressman Patrick Meehan (R-7)*
Congressman Tim Murphy (R-18)
Congressman Joseph Pitts (R-16)
Congressman Glenn Thompson (R-5)**

South Carolina
Congressman James Clyburn (D-SC)

South Dakota
Congresswoman Kristi Noem (R-At Large)**

Tennessee
Congresswoman Diane Black (R-6)*
Congressman John Duncan, Jr. (R-2)

Texas
Congressman Kevin Brady (R-8)
Congressman Michael K. Conaway (R-11)*
Congressman John Culberson (R-7)
Congressman Blake Farenthold (R-27)*
Congresswoman Kay Granger (R-12)*
Congressman Gene Green (D-29)
Congresswoman Eddie Bernice Johnson (D-30)
Congressman Sam Johnson (R-3)
Congressman Ruben Hinojosa (D-15)
Congressman Kenny Marchant (R-24)*
Congressman Pete Olson (R-22)
Congressman Ted Poe (R-2)
Congressman Pete Sessions (R-32)*
Congressman Lamar Smith (R-21)*
Congressman William Thornberry (R-13)
Congressman Roger Williams (R-25)*

Utah
Congressman Rob Bishop (R-1) *

Vermont
Congressman Peter Welch (D-At Large)**

Virginia
Congressman Gerald E. Connolly (D-VA)
Congressman Randy Forbes (R-4)
Congressman Bob Goodlatte (R-6)**

Washington
Congressman Derek Kilmer (D-6)**
Congressman Rick Larsen (D-2)*
Congressman David Reichert (R-8)**
Congresswoman Cathy McMorris Rodgers (R-5)*

West Virginia
Congressman David McKinley (R-1)

Wisconsin
Congressman Glenn Grothman (R-6)*
Congressman Ron Kind (D-3)**
Congresswoman Gwen Moore (D-4)**
Congressman Mark Pocan (D-2)*
Congressman Reid Ribble (R-WI)
Congressman Paul Ryan (R-1)
Congressman James Sensenbrenner (R-5)
ESOP Proposal in House
H.R. 2092
“Promotion and Expansion of Private Employee Ownership Act of “2017”

H.R. 2092 will:

- Permitted owners of S stock to sell the stock to an ESOP and defer the capital gains tax on his/her gain if the proceeds are reinvested in the equities of U.S. operating corporations as owners of C corporations stock have done under IRC 1042 since 1984;

- Permitted lenders to S corporations with 50% or more ownership through an ESOP to exclude 50% of the interest from the loan, if used to acquire stock for the ESOP;

- Established an office in the Department of Treasury to provide technical assistance to S corporations with ESOPs;

- Provided that a small business, S or C, eligible for one of the many programs provided by the Small Business Administration to remain eligible for SBA programs if the company became owned 50% or more by and ESOP, and the workforce remains the same or nearly the same as before the establishment of the 50% ownership by employees through the ESOP.
DOCUMENT 2B
Suggested Statement or Handout to a House Member
Who Sponsored Pro-ESOP Proposal
In 2015/2016

“[I][We] appreciate you sponsoring H.R. 2096 in the last Congress that would have encouraged the
creation and operation of ESOPs. [I][We] take special note that your endorsement of broad-based
ownership in our capitalistic economy was evidenced by you in the prior Congress. This Congress the
same proposal is H.R. 2092. It was introduced April 25, by 8 members of the Ways and Means
Committees’ Representatives Reichert, Kind, Paulsen, Neal, Tiberi, Pascrell, Jenkins, and Blumenauer.

With the impressive bi-partisan support in the last Congress of H.R. 2096, [I][We] respectfully ask that
you consider co-sponsoring H.R. 2092. Here is a one-page summary of the impressive macro-data
evidencing ESOPs in the vast majority of instances are more productive, providing sustainable jobs
while building impressive account balances for employees.

Again, we thank you for supporting a pro-ESOP agenda last Congress: H.R. 2096 and for considering
H.R. 2092.”

Handout:
Summary of Data from Research of
ESOP Companies Performance

Suggested Statement or Handout to a House Member
Who Is an ESOP Advocates, But
Did Not Sponsor Pro-ESOP Proposal in 2015/2016

“[I][We] appreciate you having taken public position supporting employee ownership through the
ESOP model in prior Congresses. H.R. 2092 is pro-ESOP bill, was introduced on April 25, by 8
members of the Ways and Means Committee: Reichert, Kind, Paulsen, Neal, Tiberi, Pascrell, Jenkins,
and Blumenauer. We respectfully request you consider sponsoring pro-ESOP legislation when
introduced. Here is a one-page summary of the impressive macro-data evidencing ESOPs in the vast
majority of instances are more productive providing sustainable jobs while building impressive
account balances for employees, and data evidencing employee stock owned companies represent
retention of American jobs better than conventionally-owned companies.

In sum, ESOPs are good for America, our communities, and all employees.

Again, we thank you for supporting a pro-ESOP agenda.”

Handout:
Summary of Data from Research of
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“On April 15, 2017, a bi-partisan group of Ways and Means members introduced H.R. 2092, the Promotion and Expansion of Private Employee Ownership Act of 2017. This modest legislation would have continued Congressional policies to encourage employee ownership through an employee stock ownership plan or ESOP, model, especially by S corporations.

[I][We] respectfully request you consider sponsoring H.R. 2092. Here is a one-page summary of the impressive macro-data evidencing ESOPs in the vast majority of instances are more productive providing sustainable jobs while building impressive account balances for employees, and data evidencing employee stock owned companies are less likely – 4 to 8 time – to lay off employees than conventionally-owned companies.

In sum, ESOPs are good for America, our communities, and all employees.

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.”

Handout:
Summary of Data from Research of ESOP Companies Performance
Employee Owner Impact Corporate Performance Positively
Overwhelming Evidence ESOP Companies More Productive,
More Profitable, and More Sustainable, Providing Locally Controlled Jobs

- During the Great Recession, employee stock owned companies laid off employees at a rate of less than 3%, whereas conventionally owned companies laid off at a rate greater than 12%. (All General Social Surveys since 2002 evidence the same no matter what the state of economy is: employee stock owned companies lay off employees at a much lesser rate than conventionally owned companies. (Recent book: “How Did Employee Ownership Firms Weather the Last Two Recessions?”, Kurtulus and Kruse, Upjohn Institute provides and explains the data.). **Refer to chart.**

- Because employees of ESOP companies were four times more likely to retain jobs during the Great Recession, Federal government recognized savings of over $14 billion in 2010 compared to tax payments foregone by laid off employees of conventionally owned companies; in other words for every $1 in tax expenditures to promote employee stock ownership, the Federal government collected $13 in taxes. (Data Source: 2010 General Social Survey analyzed by National Center for Employee Ownership.)

- According to 2014 General Social Survey, 13% of employees of employee stock-owned companies were thinking of seeking employment elsewhere, whereas 24% of the employees of conventionally-owned companies were considering leaving their current job.

- More than half of the ESOP companies have two retirement savings plan (primarily a 401(k)), whereas more than half of all companies have no retirement income savings plan. (Analysis of forms 5500, and Bureau of Labor Statistics by the National Center for Employee Ownership, funded by the Employee Ownership Foundation.)

- The average ESOP company (less than 200 employees) has sales $9 million more per year than its non-employee owned comparable competition. (June 2008 Dissertation, Dr. Brent Kramer, CUNY.)

- A study of 1100 ESOP companies over eleven years compared to 1100 comparable conventional owned companies evidenced the 1100 ESOP companies had better sales, more employment, and were more likely over the period to remain independent businesses by 16%. (Most detailed study of ESOP companies by Dr. Joseph Blasi, and Dr. Douglas Kruse, tenured professors, Rutgers University School of Labor and Management, 1999.)
Employee Stock Ownership a Proven Best Policy to Preserve American Jobs

Job Security and Firm Survival. The GSS results show that both actual layoffs (Figure 1.2) and the perceived likelihood of layoffs (Figure 1.3) are lower for employee-owners than for nonowners. As we can see in Figure 1.2, in each year, workers who participated in employee ownership programs indicated a lower incidence of losing their jobs than workers who were not employee owners. For example, in 2002, 3.0 percent of employee owners reported being laid off from their jobs in the past year compared to 9.2 percent of non–employee owners.

Figure 1.2 Layoffs and Employee Ownership

![Figure 1.2 Layoffs and Employee Ownership](image)

NOTE: Layoff information based on the GSS variable laidoff, which indicates whether the employee was laid off from his or her main job at any time in the past year. Figure illustrates mean response by employee ownership.

SOURCE: Data are from the GSS on employees at private firms.

The above is from “How Did Employee Ownership Firms Weather the Last Two Recessions?”—Employee Ownership, Employment Stability, and Firm Survival: 1999-2011”, page 12. Kurtulas, Associate Professors of Economics, University of Massachusetts, Amherst; and Kruse, Distinguished Professor of Economics, Rutgers University. Published by Upjohn Institute for Employment Research, Kalamazoo, Michigan.
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- A study of 1100 ESOP companies over eleven years compared to 1100 comparable conventional owned companies evidenced the 1100 ESOP companies had better sales, more employment, and were more likely over the period to remain independent businesses by 16%. (Most detailed study of ESOP companies by Dr. Joseph Blasi, and Dr. Douglas Kruse, tenured professors, Rutgers University School of Labor and Management, 1999.)
Employee Stock Ownership a Proven Best Policy to Preserve American Jobs

Job Security and Firm Survival. The GSS results show that both actual layoffs (Figure 1.2) and the perceived likelihood of layoffs (Figure 1.3) are lower for employee-owners than for nonowners. As we can see in Figure 1.2, in each year, workers who participated in employee ownership programs indicated a lower incidence of losing their jobs than workers who were not employee owners. For example, in 2002, 3.0 percent of employee owners reported being laid off from their jobs in the past year compared to 9.2 percent of non–employee owners.

Figure 1.2 Layoffs and Employee Ownership

NOTE: Layoff information based on the GSS variable laidoff, which indicates whether the employee was laid off from his or her main job at any time in the past year. Figure illustrates mean response by employee ownership.

SOURCE: Data are from the GSS on employees at private firms.

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On May 4, 2017, Congressman Polis introduced H.R. 2387, the “Work Act”.*

H.R. 2387 will:

Authorize in the Department of Labor’s Employment and Training Administration (ETA) to make grants to agencies or departments of state government, state supported universities, or colleges, or non-profit institutions, to provide outreach to inform interested parties about employee ownership and employee participation programs. State centers would be eligible under prescribed criteria for ETA’s making a grant. Grants to a qualified entity would be up to $300,000 annually in FY 18, and increase up to $400,000 in FY 22.

General Explanation Why H.R. 2387 Should Become Law:

1. The evidence for federal programs to expand employers, employees, and the general public knowledge about the positive impact employee ownership through the ESOP model has had on the economy, on communities, and on job retention benefitting employee owners is very impressive.

2. Having state-based programs to promote more employee ownership will move the United States in a positive direction. Since the late 1980’s, the few state programs and the few state employee ownership centers, now in existence, have evidenced results that have created more employee ownership, the majority of the time, via the ESOP model.

*H.R. 2387 has three co-sponsors as of the date this document was prepared: Congressman Mark Pocan (D-WI), John Delaney (D-MD), and Frank Pallone, Jr. (D-NJ).
“[I][We] appreciate you open support of ESOPs and employees ownership in prior Congresses. This Congress a pro-employee ownership proposal is the “Work Act”, introduced by Congressman Polis on May 4, H.R. 2387.

[I][We] respectfully ask that you consider co-sponsoring H.R. 2387. Here is a one-page summary of the impressive macro-data evidencing ESOPs in the vast majority of instances are more productive, providing sustainable jobs while building impressive account balances for employees.

Again, we thank you for supporting a pro-ESOP agenda last and respectfully ask you to consider co-sponsoring H.R. 2387.”

Handout:
Summary of Data from Research of ESOP Companies Performance

Suggested Statement to House Members Who Are ESOP Advocates

“[I][We] appreciate you open support of ESOPs and employees ownership in prior Congresses. This Congress a pro-employee ownership proposal is the “Work Act”, introduced by Congressman Polis on May 4, H.R. 2387.

[I][We] respectfully ask that you consider co-sponsoring H.R. 2387. Here is a one-page summary of the impressive macro-data evidencing ESOPs in the vast majority of instances are more productive, providing sustainable jobs while building impressive account balances for employees.

Again, we thank you for supporting a pro-ESOP agenda last and respectfully ask you to consider co-sponsoring H.R. 2387.”

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Summary of Data from Research of ESOP Companies Performance

*Listed on House Advocates Document 2A*
“Congressman Polis introduced H.R. 2387 on May 4, the “Work Act”. It would help fund state centers or state agencies that promote and help companies establish broad-base employee ownership, such as ESOPs. We respectfully ask that you consider co-sponsoring H.R. 2387.”
As stated before the Association’s agenda is to persuade as many members of the Senate as possible, to sponsor pro-ESOP legislation S. 1589, the “Promotion and Expansion of Private Employee Ownership Act of 2017.”

For background, see

- List of Current Senators Who Are “ESOP Advocates”.


- Bullet points explaining prior ESOP Proposal in Senate, S. 1589 from last Congress, provision; and

II. Ask for support S. 1081 the “Work Act of 2017”

- Ask for support of the Senate, or staff, asking Senators to sponsor S. 1081.

- Bullet points explaining S. 1081.
Senate Advocates

*Already Co-Sponsors of Pro-ESOP Bill, S. 1589
Promotion of Private Employee Ownership Act of 2017

2 Co-Sponsors of Last Congress’s Same Pro-ESOP Bill,
Promotion of Private Employee Ownership Act

1 Co-sponsor of S. 1081, the “Work Act”

Arkansas
Senator John Boozman (R-AR)
Senator Tom Cotton (R-AR)

Arizona
Senator John McCain (R-AZ)

Connecticut
Senator Richard Blumenthal (D-CT)

Georgia
Senator Johnny Isakson (R-GA)

Idaho
Senator Michael Crapo (R-ID)
Senator James E. Risch (R-ID)

Iowa
Senator Joni Ernst (R-IA)
Senator Charles Grassley (R-IA)

Kansas
Senator Jerry Moran (R-KS)
Senator Pat Roberts (R-KS)

Kentucky
Senator Mitch McConnell (R-KY)
Senator Rand Paul (R-KY)

Louisiana
Senator William Cassidy (R-LA)

Maine
Senator Susan M. Collins (R-ME)
Senator Angus S. King, Jr. (I-ME)

Maryland
Senator Ben Cardin (D-MD)

Massachusetts
Senator Elizabeth Warren (D-MA)

Michigan
Senator Gary C. Peters (D-MI)
Senator Debbie Stabenow (D-MI)

Minnesota
Senator Al Franken (D-MN)
Senator Amy Klobuchar (D-MN)

Missouri
Senator Roy Blunt (R-MO)
Senator Claire McCaskill (D-MO)

Montana
Senator Steve Daines (R-MT)
Senator Jon Tester (D-MT)

New Hampshire
Senator Jeanne Shaheen (D-NH)
Senator Margaret Hassan (D-NH)

New Jersey
Senator Robert Menendez (D-NJ)

New York
Senator Kirsten E. Gillibrand (D-NY)

North Carolina
Senator Richard Burr (R-NC)

North Dakota
Senator Heidi Heitkamp (D-ND)
Senator John Hoeven (R-ND)
Ohio
Senator Sherrod Brown (D-OH)*
Senator Rob Portman (R-OH)*

Oregon
Senator Ron Wyden (D-OR)

Pennsylvania
Senator Robert P. Casey, Jr. (D-PA)*
Senator Pat Toomey (R-PA)²

Rhode Island
Senator Jack Reed (D-RI)²
Senator Sheldon Whitehouse (D-RI)*

South Dakota
Senator John Thune (R-SD)*

Utah
Senator Orrin Hatch (R-UT)

Vermont
Senator Patrick Leahy (D-VT)¹&²
Senator Bernard Sanders (I-VT)¹&²

Washington
Senator Maria Cantwell (D-WA)*

West Virginia
Senator Shelley Moore Capito (R-WV)

Wisconsin
Senator Tammy Baldwin (D-WI)*

Wyoming
Senator Michael B. Enzi (R-WY)
ESOP Proposal in Senate
“Promotion and Expansion of Private Employee Ownership Act of 2017, S. 1589

S. 1589 will:

- Permit owners of S stock to sell the stock to an ESOP and defer the capital gains tax on his/her gain if the proceeds are reinvested in the equities of U.S. operating corporations as owners of C corporations stock have done under IRC 1042 since 1984;

- Establish an office in the Department of Treasury to provide technical assistance to S corporations with ESOPs;

- Provide that a small business, S or C, eligible for one of the many programs provided by the Small Business Administration referred to as 8A preference programs to remain eligible for SBA 8A programs if and when the company becomes owned 50% or more by an ESOP, and the workforce remains the same or nearly the same as before the establishment of the 50% ownership by employees through the ESOP.

General Explanation Why this Congress’s Bill, Same as last Congress’s S. 1589, Should Become Law

1. There was ample macro-data evidencing that the benefits our ESOP provides to [name of company] is also the case in the vast majority of privately-held ESOP companies in America.

2. S. 1589 is a modest proposal that would have not cost significant tax revenues, and would have built even larger account balances for retired employee owners, who would have paid more taxes on their ESOP distributions than the targeted tax expenditure for ESOPs in S. 1589. For example, more ESOPs would be created, certain existing ESOP small businesses would qualify for SBA loans, and all S ESOP private companies could access Treasury experts on the complex rules governing S ESOPs.

3. In short S. 1589 will address the growing concerns of individual access to ownership, equitable distribution of our nation’s capitalism, in companies that are more productive, more profitable, and more sustainable providing locally controlled jobs.

4. Data since 2002 through 2014 evidences ESOPs are an excellent “jobs” policy. See Attached Evidence.
Employee Stock Ownership a Proven Best Policy to Preserve American Jobs

Job Security and Firm Survival. The GSS results show that both actual layoffs (Figure 1.2) and the perceived likelihood of layoffs (Figure 1.3) are lower for employee-owners than for nonowners. As we can see in Figure 1.2, in each year, workers who participated in employee ownership programs indicated a lower incidence of losing their jobs than workers who were not employee owners. For example, in 2002, 3.0 percent of employee owners reported being laid off from their jobs in the past year compared to 9.2 percent of non–employee owners.

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“[I][We] appreciate you sponsoring S. 1589 that would have encourage the creation and operation of ESOPs. [I][We] take special note that your endorsement of broad-based ownership in our capitalistic economy was evidenced by you in the prior Congress.

With the impressive bi-partisan support of S. 1589, [I][We] believe that Congress should follow your lead and seriously consider making the provisions be the law. Here is a one-page summary of the impressive macro-data evidencing ESOPs in the vast majority of instances are more productive, providing sustainable jobs while building impressive account balances for employees.

Again, we thank you for supporting a pro-ESOP agenda: S. 1589, and respectfully ask you to consider sponsoring the same bill when it is re-introduced in the next few weeks.”

Handout:
Employee Stock Ownership:
Best Jobs Policy
Employee Stock Ownership a Proven Best Policy to Preserve American Jobs

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Figure 1.2 Layoffs and Employee Ownership

![Bar chart showing layoffs and employee ownership from 2002 to 2014.](image)

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“Last Congress, you joined a bi-partisan group of your colleagues in co-sponsoring S. 1212, the Promotion and Expansion of Private Employee Ownership Act of 2015. On July 19, this year, Senators Roberts and Cardin introduced the same bill, S. 1589, the Promotion and Expansion Act of 2017 and 21 of their Senate colleagues joined them.

We respectfully ask that you co-sponsor this legislation again. Your support, which is appreciated, would be, we believe, a factor in expanding more ownership by more Americans of our economy.

We thank you for your consideration.”

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![Graph showing percentage of layoffs for employee owners and non-employee owners from 2002 to 2014.](image)

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Suggested Statement, Letter, or Handout to a Senator Who Is Not an ESOP Advocate

“A bi-partisan group of Senators have introduced S. 1589, the Promotion and Expansion of Private Employee Ownership Act of 2017, on July 19, 2017. 23 Senators have already sponsored this pro-ESOP bill. This modest legislation would continue Congressional policies to encourage employee ownership through an employee stock ownership plan or ESOP, model, especially by S corporations.

[I][We] respectfully request you consider sponsoring S. 1589 pro-ESOP legislation endorsed by the bi-partisan current Senate sponsors. Here is a one-page summary of the impressive macro-data evidencing ESOPs in the vast majority of instances are the best jobs policy.

In sum, ESOPs are good for America, our communities, and all employees.

We appreciate your considering our request.”

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Document 4E
Enclosure for 4B, 4C, and 4D

Employee Owner Impact Corporate Performance Positively
Overwhelming Evidence ESOP Companies More Productive,
More Profitable, and More Sustainable, Providing Locally Controlled Jobs

- During the Great Recession, employee stock owned companies laid off employees at a rate of less than 3%, whereas conventionally owned companies laid off at a rate greater than 12%. (All General Social Surveys since 2002 evidence the same no matter what the state of economy is: employee stock owned companies lay off employees at a much lesser rate than conventionally owned companies. (Recent book: “How Did Employee Ownership Firms Weather the Last Two Recessions?”, Kurtulus and Kruse, Upjohn Institute provides and explains the data.). Refer to chart.

- Because employees of ESOP companies were four times more likely to retain jobs during the Great Recession, Federal government recognized savings of over $14 billion in 2010 compared to tax payments foregone by laid off employees of conventionally owned companies; in other words for every $1 in tax expenditures to promote employee stock ownership, the Federal government collected $13 in taxes. (Data Source: 2010 General Social Survey analyzed by National Center for Employee Ownership.)

- According to 2014 General Social Survey, 13% of employees of employee stock-owned companies were thinking of seeking employment elsewhere, whereas 24% of the employees of conventionally-owned companies were considering leaving their current job.

- More than half of the ESOP companies have two retirement savings plan (primarily a 401(k)), whereas more than half of all companies have no retirement income savings plan. (Analysis of forms 5500, and Bureau of Labor Statistics by the National Center for Employee Ownership, funded by the Employee Ownership Foundation.)

- The average ESOP company (less than 200 employees) has sales $9 million more per year than its non-employee owned comparable competition. (June 2008 Dissertation, Dr. Brent Kramer, CUNY.)

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An important part of the 2017 Association agenda is to persuade as many members of the Senate to consider co-sponsor S. 1081.

**Note: Following are Documents for Senators Visiting Your Company**

- S. 1081, Sanders, Gillibrand, The Work Act
- Suggested statement to a Senator to co-sponsor S. 1081.
- Additional points you may include in your conversation in-person with a Senate member.
S. 1081, The Work Act
By Senators Sanders and Gillibrand

On May 10, 2017, Senators Sanders and Gillibrand introduced S. 1081, the “Work Act”.

S. 1081 will:

Authorize in the Department of Labor’s Employment and Training Administration to make grants to agencies or departments of state government, state supported universities, or colleges, or non-profit institutions, to provide outreach to inform interested parties about employee ownership and employee participation programs. State centers would be eligible under prescribed criteria for ETA’s making a grant. Grants to a qualified entity would be up to $300,000 annually in FY 18, and increase up to $400,000 in FY 22.

General Explanation Why S. 1081 Should Become Law:

1. The evidence for federal programs to expand employers, employees, and the general public knowledge about the positive impact employee ownership through the ESOP model has had on the economy, on communities, and on job retention benefitting employee owners is very impressive.

2. Having state-based programs to promote more employee ownership will move the United States in a positive direction. Since the late 1980’s, the few state programs and the few state employee ownership centers now in existence have evidenced results that have created more employee ownership, the majority of the time, via the ESOP model.
“We respectfully ask that you consider co-sponsoring the “Work Act”, by Senators Sanders and 5 other Senate members.

In states with programs to assist the creation of employee stock ownership, the evidence is that those states have more employee-owned companies.

Based on the overwhelming data that employee-owned companies are more stable, more productive, and maintain jobs better than conventionally-owned companies, we respectfully ask you to consider co-sponsoring S. 1081”
Employee Owner Impact Corporate Performance Positively
Overwhelming Evidence ESOP Companies More Productive,
More Profitable, and More Sustainable, Providing Locally Controlled Jobs

- During the Great Recession, employee stock owned companies laid off employees at a rate of less than 3%, whereas conventionally owned companies laid off at a rate greater than 12%.
  (All General Social Surveys since 2002 evidence the same no matter what the state of economy is: employee stock owned companies lay off employees at a much lesser rate than conventionally owned companies. (Recent book: “How Did Employee Ownership Firms Weather the Last Two Recessions?”, Kurtulus and Kruse, Upjohn Institute provides and explains the data.). Refer to chart.

- Because employees of ESOP companies were four times more likely to retain jobs during the Great Recession, Federal government recognized savings of over $14 billion in 2010 compared to tax payments foregone by laid off employees of conventionally owned companies; in other words for every $1 in tax expenditures to promote employee stock ownership, the Federal government collected $13 in taxes. (Data Source: 2010 General Social Survey analyzed by National Center for Employee Ownership.)

- According to 2014 General Social Survey, 13% of employees of employee stock-owned companies were thinking of seeking employment elsewhere, whereas 24% of the employees of conventionally-owned companies were considering leaving their current job.

- More than half of the ESOP companies have two retirement savings plan (primarily a 401(k)), whereas more than half of all companies have no retirement income savings plan. (Analysis of forms 5500, and Bureau of Labor Statistics by the National Center for Employee Ownership, funded by the Employee Ownership Foundation.)

- The average ESOP company (less than 200 employees) has sales $9 million more per year than its non-employee owned comparable competition. (June 2008 Dissertation, Dr. Brent Kramer, CUNY.)

- A study of 1100 ESOP companies over eleven years compared to 1100 comparable conventional owned companies evidenced the 1100 ESOP companies had better sales, more employment, and were more likely over the period to remain independent businesses by 16%. (Most detailed study of ESOP companies by Dr. Joseph Blasi, and Dr. Douglas Kruse, tenured professors, Rutgers University School of Labor and Management, 1999.)
Employee Stock Ownership a Proven Best Policy to Preserve American Jobs

**Job Security and Firm Survival.** The GSS results show that both actual layoffs (Figure 1.2) and the perceived likelihood of layoffs (Figure 1.3) are lower for employee-owners than for nonowners. As we can see in Figure 1.2, in each year, workers who participated in employee ownership programs indicated a lower incidence of losing their jobs than workers who were not employee owners. For example, in 2002, 3.0 percent of employee owners reported being laid off from their jobs in the past year compared to 9.2 percent of non–employee owners.

**Figure 1.2 Layoffs and Employee Ownership**

![Bar chart showing percentage laid off in previous year by employee ownership status from 2002 to 2014.](chart)

NOTE: Layoff information based on the GSS variable *laidoff*, which indicates whether the employee was laid off from his or her main job at any time in the past year. Figure illustrates mean response by employee ownership. SOURCE: Data are from the GSS on employees at private firms.

*The above is from “How Did Employee Ownership Firms Weather the Last Two Recessions?”—Employee Ownership, Employment Stability, and Firm Survival: 1999-2011”, page 12. Kurtulas, Associate Professors of Economics, University of Massachusetts, Amherst; and Kruse, Distinguished Professor of Economics, Rutgers University. Published by Upjohn Institute for Employment Research, Kalamazoo, Michigan.*
Advocate Against Department of Labor’s Harassment of ESOP Sponsors and ESOP Service Providers

400% Increase in Lawsuits Against ESOP Companies!

Abusive Subpoenas!

- Unexplained, unjustified lawsuits against ESOP companies. From 1976 until 2010, DOL averaged 1.5 lawsuits a year with ESOP sponsors as defendants. Since October 2010, the number has averaged 4.5 lawsuits a year, a 400% increase!

- Abuse of subpoenas. Despite a 1964 Supreme Court ruling (United States v. Powell, 379 U.S. 48 (1964), and in clear violation of the Employee Benefits Security Administration’s Enforcement Manuel that made clear an administered subpoena must be:
  - Relevant to an investigation and the agency does not already have the agency the information sought; (United States v. Powell, 379 U.S. 48 (1964) and
  - Subpoenas must not be so broad(s) to require unneeded documents and (2) investigations issuing the subpoena must completely justify all of the documents listed in the identification of records. (EBSA Enforcement Manual Administrative Subpoenas, Par. 5.g-i.).

Prior to 2016, DOL investigates/audits of ESOP companies complied with the Supreme Court’s 1964 decision cited above, and the EBSA Policy Manual cited above, and sought company documents relating only to specific, narrowly tailored issues arising in the investigation/audit.

Now: DOL investigators issue subpoenas without seeking information informally.

The subpoenas are incredibly broad, seeking information not relevant to the investigation, and sometimes even seeking information the ESOP company has already provided, DOL.

The subpoenas target the ESOP company, the ESOP fiduciaries plus all service providers: attorneys, appraisers, leaders, etc., etc.

DOL has started investigating trustees, lawyers, etc. that are not tied to any particular ESOP transaction or any other relationship with the company under investigation.

Cost to ESOP companies and service providers to comply has run in to the hundreds of thousands of dollars, lowering the value of employees’ account because of the impact lowering share price.

DOL is not acing in the “best interest” of ERISA/ESOP plan participants by unreasonable action resulting in lower share price, and low retirement savings.”
If Your Senator or Representative Serves on the Senate or House Committees that Oversees the Department of Labor Operations or Appropriates Money for The Department of Labor and is an ESOP Advocate Consider Mentioning and Leaving the Following Handout With the Senator or with Her/His Staff and with the Representative or Her/His Staff

Senate ESOP Advocates Who Serve on a Committee Overseeing Department of Labor:

**Senators:**

Sen. Tammy Baldwin (WS)
Sen. Richard Burr (NC)
Sen. Dr. William Cassidy (LA)
Sen. Susan Collins (ME)
Sen. Mike Enzi (WY)
Sen Al Franken (MN)
Sen. Johnny Isakson (GA)
Sen. Rand Paul (KY)
Sen. Bernie Sanders (VT)
Sen. Pat Roberts (KS)
Sen. Sheldon Whitehouse (RI)
Sen. Todd Young (IN)

Senate ESOP Advocates Who Serve on Subcommittee Approving Each Year Appropriations for Department of Labor:

Sen. Baldwin (WI)
Sen. Roy Blunt (MO)
Sen. Shelley Moore Capito (WV)
Sen. Jerry Moran (KS)
Sen. Patty Murray (WA)
Sen. Jack Reed (RI)
Sen. Jeanne Shaheen (NH)
House ESOP Advocates Who Serve on Committee Overseeing Department of Labor:

**Representatives:**

Rep. Suzanne Bonamici (OR-1<sup>st</sup>)
Rep. Bradley Byrne (AL-1<sup>st</sup>)
Rep. Joe Courtney (CT-2<sup>nd</sup>)
Rep. Virginia Fox (NC-5<sup>th</sup>)
Rep. Glenn Grothman (WI-6<sup>th</sup>)
Rep. Raul Grijalva (AZ-3<sup>rd</sup>)
Rep. Luke Messer (IN-6<sup>th</sup>)
Rep. Jared Polis (CO-2<sup>nd</sup>)
Rep. Todd Rokita (IN-4<sup>th</sup>)
Rep. Glenn Thompson (PA-5<sup>th</sup>)

House ESOP Advocates Who Serve on Subcommittee That Appropriates Many Each Year for DOL:

Rep. Rosa DeLauro (CT-3<sup>rd</sup>)
Rep. Barbara Lee (CA-13<sup>th</sup>)
Rep. Martha Roby (AL-2<sup>nd</sup>)
Rep. Michael Simpson (ID-2<sup>nd</sup>)
Rep. Steve Womack (AR-3<sup>rd</sup>)
Say to Staff or member on preceding list:

“We share evidence DOL’s agency, the Employee Benefits Security Administration (EBSA) has taken unnecessary enforcement actions against ESOPs, since 2010, that is extremely different than the ESOP community’s relationship with the Department of Labor from 1976 until 2010. We respectfully ask you to bring this concern to DOL officials as they appear before your Committee’s Oversight of its upcoming reauthorization, and appropriations hearings.”
Special Points to Include, as you wish in verbal, or written (letter or e-mail) exchange with your Representatives (s) or her/his staff:

- As evidenced in [name of your company] employee stock ownership plans are benefiting [name of company], our employees, and [name of your city or town.]

- There is ample macro-data evidencing that the benefits our ESOP provides to [name of company] is also the case in the vast majority of privately-held ESOP companies in America.
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.
Since email has become the most common method of communication, 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.

Every member of Congress and her/his staff prioritizes communications for his/her constituents, and tends to overlook communications that are not from “voters” in their Congressional district.

With the popularity of electronic communications, primarily e-mails, Congressional offices have developed procedures to ensure an e-mail from a constituent is routed to a staff person, whose responsibility is to work with the Congressperson or the topic the constituent is interested in. Thus, if an ESOP advocate emails her/his Congressperson about, say S. 1212, or H.R. 2096, that e-mail will be placed in the staff person responsible for tax and/or retirement income savings.

A letter, personalized is still handled with good attention if from a constituent; however it clearly does not reach the Congress person’s office quickly.

But, not effective is a communication you, the constituent did not compose on your PC, iPad, or IPhone, but instead “signed” at the request of a “lobbying” group. So, take the suggested pro-ESOP messages in the Advocacy Kit, and we urge you to write your own e-mail, or letter, on your, or your company’s letterhead. And see Document 8 for the next step in effective lobbying.

Whether email, or fax, or letter, it 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.
**Follow-Up Steps:** Under the theory that one does not grow Congressional support overnight, but cultivates it month after month, and year after year, the host of a Congressional visit should take every opportunity to renew, or exchange greetings with the member and/or her or his staff.

For example, let’s assume you are in DC in the near future. Try to drop by the office of the member of Congress that visited your company at some other time during the Conference, or the day before if you arrive early. If the member of Congress has not signed on to the anticipated pro-ESOP legislation, it is a perfect time to make inquiry about the review process again.

For example, let’s assume your company is having a grand celebration, or opening a new building, or marking a milestone—invite the member of Congress to the event, thinking ahead of time of those periods of the year that the member of Congress might be in her or his state or Congressional district.

For example, let’s assume you read in the newspaper, or received a notice that the member of Congress was going to have a town hall meeting in your community, or near your community, or conduct the new, popular telephone town hall meeting, when thousands can call-in and ask, and listen, to their member of Congress answer. Make a point to attend, or call, and before the formal Q&A period, or after the close, make a point to go up to the member of Congress and shake hands, reminding her or him of his visit. Don’t forget, if the member of Congress local staff person is with him, the same person who came to your company, shake that person’s hand as well, and exchange pleasantries, expressing appreciation once again for the visit. (Avoid town hall meetings until the health care debate ends.)

(Nothing is more powerful than that staff person to say in the car as they drive away, “You know, those ESOP people sure are nice.”)

**Conclusion**

HAVING A MEMBER OF CONGRESS BECOME AN ESOP CHAMPION IS NOT A ONE TIME EFFORT. ON THE OTHER HAND, THE FIRST ONE TIME EFFORT SHOULD BE A VISIT TO THE ESOP COMPANY, AS IT IS THE MOST EFFECTIVE LOBBYING TOOL IN THE ESOP ADVOCATES KIT. THE DATA FROM THE PAST 34 YEARS PROVES THIS STATEMENT AS A FACT. BUT IF THE VISIT IS NOT ARRANGED (SEE COMPANY VISIT KIT ON WEB), VISITING THE MEMBER OF CONGRESS IN D.C., OR DISTRICT/STAFF OFFICE IS A POSITIVE FIRST STEP.
As obvious, this spring 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 days a year on our blog at http://esopassociationblog.org/