



July 22, 2025

The Honorable Bill Cassidy
United States Senate
455 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Cassidy,

The ESOP Association is proud to endorse S.1727, the *Employee Ownership Fairness Act of 2025*, legislation that would ensure employee owners at companies owned fully or partially by an Employee Stock Ownership Plan (ESOP), particularly those long-tenured employee owners nearing retirement age, can fully benefit from defined contribution retirement plans such as 401(k) plans. We commend your leadership in introducing this important legislation and continuing Congress's longstanding bipartisan support for expanding ESOPs and employee ownership.

The *Employee Ownership Fairness Act of 2025* addresses a crucial problem in the way ESOP contributions are counted toward annual retirement plan contribution limits that can force after-the-fact "claw-backs" from employee owner 401(k) retirement plan contributions. Under existing law, Sections 404 and 415 of the Internal Revenue Code treat mandatory company contributions to ESOPs the same as individual 401(k) plan contributions made by the employee. This limitation has the unintended consequence of penalizing individual employees who are saving for their retirement because the company where they work has been successful and is growing in value. Specifically, in years when an ESOP company succeeds so that its stock value increases substantially, the ESOP account contributions, especially for longer-tenured employees who have accumulated meaningful account share balances, can unintentionally exceed annual contribution limits. The consequence is that ESOP companies must then "claw-back" the employee's personal 401(k) contribution and company match for their prior year in order to prevent exceeding the annual aggregate cap. This creates both a tax liability for the employee and unfairly lowers the amount of an employee's personal wages that can be saved in the retirement fund.

Notably, this type of occurrence is commonplace in ESOP companies, and disproportionately impacts average employee owners who have been long-serving employees of the ESOP company. Ironically, because these caps exist, companies that cannot make full contributions must instead make dividend payments of excess company revenue rather than making the

The International Employee Ownership Center

200 Massachusetts Avenue, NW • Suite 410 • Washington, D.C. 20001

Phone: (202) 293-2971 • **Fax:** (202) 293-7568 • **E-mail:** esop@esopassociation.org • **Website:** www.esopassociation.org

employee's desired payments to a retirement account. Because dividend payments are made based upon shares owned, this most often results in a "have and have not" situation where more senior executives, who tend to hold more shares, receive larger dividend payments, while average employees have their retirement contributions refunded and subjected to tax. It is a seriously undesirable situation for every ESOP company and creates confusion and frustration for employees while seeding distrust and running counter to the positive culture ESOPs are known for.

The *Employee Ownership Fairness Act of 2025* would fix this structural issue by ensuring ESOP contributions are not counted toward Sections 404 and 415 contribution limits. This is analogous to the way private business owners accumulate equity in their business without that increase in value being subject to retirement contribution limits over the course of their career. By allowing ESOP and non-ESOP retirement contributions to be evaluated separately, Congress can eliminate an unfair disincentive that negatively affects retirement savings and limits employee ownership and the array of benefits it provides.

This legislation is a common-sense solution to ensure employee-owners can save their own income in defined contribution retirement plans, create diversity in their retirement savings, and build financial security.

For these reasons, The ESOP Association strongly supports the *Employee Ownership Fairness Act* and urges Congress to swiftly pass this vital legislation. If you have any questions, please contact Greg Facchiano, Vice President of Government Relations and Public Affairs, at (202) 293-2971 or gfacchiano@esopassociation.org.

Thank you for your leadership and continued support for ESOPs and employee ownership.

Sincerely,

A handwritten signature in dark ink, appearing to read "James J. Bonham", with a long, sweeping horizontal line extending to the right.

James J. Bonham
President & CEO
The ESOP Association

About The ESOP Association

The ESOP Association is the largest organization in the world supporting employee-owned companies, the nearly 11 million U.S. employee owners who participate in employee stock ownership plans (ESOPs), and the professionals who serve them. We conduct and fund academic research, provide education and technical assistance, and represent the ESOP community before federal and state lawmakers.