



**Statement by The ESOP Association
to the
U.S. Senate Health, Education, Labor and Pensions Committee
on Hearing Titled
“Empowering Workers by Expanding Employee Ownership”
July 24, 2025**

Introduction

The ESOP Association is the largest employee-owner organization in the world with an active membership of more than 3,400 ESOP companies and professional service providers such as lawyers, accountants, and plan fiduciaries. The ESOP Association conducts and funds academic research, provides more than 160 annual conferences and events attended by nearly 15,000 individuals, and advocates on behalf of employee owners and their businesses to federal and state lawmakers.

The ESOP Association strongly supports the legislation under consideration today, and thanks Chairman Cassidy and members of the Senate Health, Education, Labor and Pensions (HELP) Committee for their longstanding bipartisan commitment to advancing employee ownership, which is shown to help workers, businesses, and communities alike. Chairman Cassidy and Ranking Member Bernie Sanders have both been supporters of ESOPs, indicating the degree to which ESOPs have been a resounding success. However, expanding employee ownership requires additional policy actions, several of which are the subject of today’s important hearing.

ESOP Background

While employee ownership in a variety of forms has existed for a long time, Congress formalized ESOPs as a Qualified Retirement Program (QRP) in ERISA in 1974.¹ Today, ESOPs are the largest form of employee ownership in the United States, including nearly 11 million workers nationwide, with more than 6,500 companies representing nearly \$2 trillion in wealth. Employee-owned companies can be found in all 50 states and represent a wide and diverse range of businesses. ESOPs are substantially found in the manufacturing, construction, professional services, and finance and insurance sectors.

Fifty years of objective data, research, and independent studies show that ESOPs improve business performance, enhance employee engagement, and strengthen local economies. Studies

¹ <https://www.esopassociation.org/what-is-an-esop>

consistently show employee-owned companies are more resilient following economic downturns, provide greater job security, and offer workers meaningful wealth-building opportunities. The wealth they generate stays in local communities and is especially impactful for addressing wealth disparities and fostering local economic growth². Also, a significant majority of small business owners lack formal business succession plans, which ESOPs can help alleviate by helping keep jobs and wealth in local communities.³ These tremendous benefits – to workers, businesses, and communities alike – are why Congress has strongly supported ESOPs and employee ownership in a longstanding and bipartisan way.

ESOP Legislation Under Consideration by the Senate HELP Committee

Several bills that relate to ESOPs are under consideration for today's hearing, including: legislation to address the problems employee owners experience with the contribution limits in sections 404 and 415 of the Internal Revenue Code; legislation to expand the ERISA Advisory Council at the U.S. Department of Labor to include seats for the employee ownership community; and legislation to help provide much-needed regulatory certainty for ESOP transactions and companies.

S. 1727, the Employee Ownership Fairness Act of 2025

This legislation 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. The bill 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.

Problems Under Existing Law

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.

² https://assets-tea.s3.us-east-2.amazonaws.com/assets/public/2025-03/10%20Best%20Things%20About%20ESOPs_The%20ESOP%20Association.pdf

³ https://assets-tea.s3.us-east-2.amazonaws.com/assets/public/2021-09/1UnitedStatesESOPAssociation_ProjectEquity_June2021.pdf

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 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.

S. 1727 Solves the Issue

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.

S.1728, the *Employee Ownership Representation Act of 2025*

This legislation would add two representatives of employee ownership organizations to the ERISA Advisory Council at the U.S. Department of Labor. This long-overdue addition will ensure that the voices of America's employee-owners are heard in the regulatory process governing retirement security.

ESOPs Lack Representation

Although ESOPs are regulated under the Employee Retirement Income Security Act (ERISA), ESOPs have never had dedicated representation on the ERISA Advisory Council. With more than 6,500 ESOPs across all 50 states affecting over 14 million people and representing nearly \$2 trillion in wealth, the absence of employee ownership voices on the Council has left a glaring gap in both perspective and regulatory action at the Department. In fact, in 65 ERISA Advisory Council reports issued since 2000, ESOPs were mentioned only six times, and overwhelmingly those mentions are passing and non-substantive. This lack of attention is despite reports from the Council on several subjects that affect ESOPs or could be addressed by employee ownership.

Consequences

This lack of representation has real consequences. There has been no voice to speak up against the Employee Benefits Security Agency's history of overly aggressive and targeted investigations

against ESOPs, no voice to share the desperate need for regulatory clarity for ESOPs which has been denied for 50 years, and no voice to express how contribution limits unintentionally affect employee owners' retirement savings. These are just some of the issues that have had a chilling effect on the formation of new ESOPs, potentially depriving millions of American workers of the opportunity to build wealth through employee ownership.

S. 1728 Creates Fairness for the Employee Ownership Community

By adding two representatives from employee ownership organizations, the *Employee Ownership Representation Act* ensures that the Council includes experts with real-world experience in broad-based ownership and its benefits. These representatives can help shape fair policies aligned with the bipartisan Congressional intent to promote employee ownership as a tool for economic resilience and prosperity.

The Retire through Ownership Act

This essential legislation strengthens employee ownership by providing legal and regulatory clarity that will reduce barriers to the creation and operation of employee stock ownership plans (ESOPs). By ensuring that fiduciaries may in good faith rely on the professional work product of independent expert business appraisers who utilize the well-established valuation practices as described in IRS Revenue Ruling 59-60, this bill will help protect employee owners, encourage more businesses to consider transitioning to employee ownership, and ultimately expand access to the proven benefits of ESOPs.

Problems Stemming from a Lack of Regulatory Guidance

Without clear legislative or regulatory guidance, ESOP fiduciaries have been required to operate under a cloud of uncertainty and potential liability, even when they are acting prudently and in good faith by hiring qualified, independent business valuation experts. As this guidance is currently non-existent, the *Retire Through Ownership Act* would create certainty by reducing uncertainties for fiduciaries, plan beneficiaries, and the courts by clearly explaining that an ESOP plan fiduciary may in good faith rely on appraisals based on the longstanding and well-accepted principles and methodologies of IRS Revenue Ruling 59-60.

IRS Revenue Ruling 59-60 Has a Long and Well-Considered History

For more than 60 years, both government officials and private sector business appraisers have successfully relied on the guidance of this IRS ruling 59-60. Furthermore, IRS ruling 59-60 is well understood and broadly accepted, and it recognizes the myriad factors a professional business appraiser should consider in forming a valuation for closely held businesses. By properly aligning ERISA with long-existing valuation guidance, this legislation prevents the development of multiple competing, or even conflicting, processes or procedures within federal policy, thereby limiting the risk of conflicting interpretations by courts or regulators.

Conclusion

The ESOP Association strongly supports these bills and appreciates the bipartisan effort that has gone into their drafting and introduction. The Association urges Congress to move forward on them in order to promote employee ownership nationwide, so that more American workers can gain the many benefits of ownership.