



Statement Submitted for the Record

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**HOUSE EDUCATION & WORKFORCE SUBCOMMITTEE ON
HEALTH, EMPLOYMENT, LABOR, AND PENSIONS
HEARING ON**

“Examining the Policies and Priorities of the Employee Benefits Security Administration”

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Thank you to Chairman Allen, Ranking Member DeSaulnier, and members of the subcommittee for holding this hearing on the role of the Employee Benefits Security Administration (EBSA) and the agency’s current work and policy priorities. We appreciate the opportunity to submit comments about recent changes at EBSA and ways the Department of Labor (DOL) can fairly regulate employee stock ownership plans (ESOPs) and encourage employee ownership as an important retirement savings option for American workers.

ESCA’s exclusive mission is to promote and protect S corporation ESOPs and the benefits they provide to the employees who own them. ESCA represents these privately held, ESOP-owned companies in all 50 states. Our members operate across a spectrum of industries, including heavy manufacturing, defense contracting, construction, engineering, health care, and retail stores. There are currently more than 4,100 S corporation ESOPs with about 850,000 active employee-owners and more than 1.2 million total participants. Across all the years of available data on S ESOPs, the number of companies has increased by 48 percent, but the number of employees covered by S ESOPs increased even faster—by a remarkable 371 percent.

In 2023 alone—the most recent year for which data is available—the National Center for Employee Ownership (NCEO) found that S corporation ESOPs held \$209 billion in total assets, S corporations contributed \$6.6 billion to those retirement plans, and the plans distributed an astonishing \$12.1 billion in retirement payments to their employee-owners.

S corporation ESOPs are a relatively recent phenomenon. They were created in 1996 by Congress to encourage long-term employee ownership of private industry, enable workers to

benefit from their labor, and create a path for building meaningful retirement savings through this employer-provided benefit. It is undeniable that today, nearly 30 years later, S corporation ESOPs are doing exactly that. Private employee-owned companies, a disproportionate number of which are 100 percent owned by their employees, are a remarkable success story—a bright spot amid economic recessions, private sector employment beset by stagnant wages, and too little financial room for regular working Americans to save for retirement.

Congress' enthusiasm and the general growing interest in S corporation ESOPs are attributable to the compelling evidence that expanding the availability of S corporation ESOPs for more companies and their employees would boost the retirement savings of working Americans. It would also create more good jobs, increase corporate productivity, create beneficial economic ripple effects in communities, keep companies intact and on U.S. soil, and help more companies grow and succeed because corporate incentives in S corporation ESOPs align clearly with the economic interests of the employees who own them.

How EBSA Can Continue to Encourage Employee Ownership

ESCA appreciates many of the changes happening at EBSA, especially when it comes to regulation and litigation priorities. In particular, we want to thank DOL for recently removing ESOPs from the national enforcement initiative that had been in place for two decades. As a result of this meaningful change, it appears EBSA is no longer unfairly targeting ESOP companies for enforcement. We also appreciate DOL and EBSA taking steps to address the litigation risk that ESOP companies and other types of employer-sponsored retirement plans have been facing due to the barrage of plaintiff class action lawsuits. The threat of litigation has been a financial and administrative challenge for employee-owned companies who are serious about following the rules established by Congress and DOL, and it has created an environment less friendly to the creation of new ESOPs and opportunities for new employee-owners. ESCA greatly appreciates EBSA and DOL officials and staff for their willingness to partner with the S corporation ESOP community to make employee ownership a safe and accessible option for American workers.

Conclusion

Mr. Chairman and subcommittee members, on behalf of ESCA's 230+ member companies and their 325,000 employee-owners located across the country, we thank you for holding this hearing and coordinating with ESOP regulators to reduce the administrative burden of creating and operating an ESOP and to ensure employee-owned companies are treated fairly. ESCA welcomes future opportunities to collaborate with the committee and EBSA on policies that encourage private, employee ownership and enhance the American dream at work.