

United States Senate

WASHINGTON, DC 20510

December 20, 2010

The Honorable Hilda Solis
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Solis:

As strong supporters of strengthening and expanding worker-ownership opportunities and Employee Stock Ownership Plans (ESOPs), we have seen firsthand the direct benefits that ESOP companies provide in Vermont. Growth in these high-performing companies has benefitted the employee owners, their companies, and our communities.

We have introduced legislation in the Senate that would authorize the Labor Department to begin a program to promote employee ownership, including the ESOP model. We have appreciated the opportunity to work with Labor Department officials on drafting and improving this legislation.

Recently several Vermont ESOP companies contacted us expressing concern over a proposed Labor Department regulation that would redefine the fiduciary relationship between investment/appraisal advisors and their clients (U.S. Department of Labor, Employee Benefits Security Administration, "Definition of the Term Fiduciary," *Federal Register*, Friday, October 22, 2010, page 65263.)

The Vermont ESOPs maintain that an automatic classification of ESOP appraisers as fiduciaries would increase significantly their cost to comply with the federal mandate for annual independent valuations. These small businesses already face high costs of maintaining an ESOP and repurchasing shares of departing vested employee-owners. Additional financial burdens could negatively impact their ability to expand their businesses and hire new employees.

Due to the concerns expressed by these employers in our state, we respectfully request that the Labor Department take the following steps to help clarify the intent and details of your proposed regulation:

- Extend the public comment period for at least 30-days beyond the current January 20, 2011, deadline in order to give the ESOP community a greater opportunity to evaluate and comment on the possible impacts of the proposal;
- Hold a meeting with representatives from the Vermont ESOP community and the Vermont congressional delegation to review and explain the proposal; and
- Conduct an open meeting to take public testimony on the proposal.

Thank you in advance for your consideration of these requests. We look forward to hearing from you soon.

Sincerely,



PATRICK LEAHY
United States Senator



BERNIE SANDERS
United States Senator