Employees and Ownership

Trends, Characteristics, and Policy Implications of
State Employee Ownership Legislation

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Preface

The focus of this study is on legislation passed at the state level or what states have done concerning employee ownership. There are three kinds of employee ownership legislation in the United States. The benefits and availability of these benefits vary by the type of legislation. At the federal level there are two types of employee ownership legislation. The first type is legislation that makes resources and services available to all takers. This kind of employee ownership legislation has primarily been federal tax legislation. There have been 19 pieces of federal legislation encouraging and promoting employee ownership primarily through the tax code. The benefits provided by tax breaks are available to all that would take advantage of them. There is an extensive body of knowledge concerning the use of federal tax breaks.

The second kind of federal legislation is federal programs where responsibility for the operation of the program has been delegated to the states. The benefits are available to those states that choose to implement the program. The Job Training Partnership Act (JTPA), Title III and the Workforce Investment Act provide resources for preliminary feasibility studies for those states that choose to implement the program. Thirteen states have taken advantage of these resources. Nearly half of the states of these states have state employee ownership programs

The third type of employee ownership legislation is legislation that states choose to pass on their own. At the state level, 28 states have passed employee ownership legislation. Compared to what is known about employee ownership legislation (and its benefits) at the federal level, much less is known about the benefits available at the state level. Legislation at the state level has manifested itself in a variety of forms from simple policy statements to extensive programs set up to assist potential employee-owners at all stages of an employee buyout. This study provides an overview of the variety of employee ownership legislation at the state level.

This study is of importance because it provides information that could benefit those most often unaware of the benefits available at the federal and state level. This includes primarily employees and retiring owners, but also economic development departments, attorneys, employee ownership practitioners, policymakers, and policy entrepreneurs. The information provided here can help expand the set of alternatives available to potential employee owners and the various groups that serve them.

For example, for employees, in a number of different situations, such information can help save their jobs. In the case of shutdown, if Dislocated Worker Unit (DWU) personnel, or the employees to be impacted by a closing plant, are unaware of the resources available from the federal government the plant will most likely shutdown when it possibly could have been saved. Job retention is also of importance to economic development departments and policymakers. An added benefit is that employee ownership anchors capital in the community, which reduces some of the uncertainty of economic development created by capital flight. For retiring owners, employee ownership provides a tax break to the retiring owner and allows the business to remain open. Much more is known about the benefits provided by federal legislation than the benefits provided by state legislation. For attorneys, this resource can provide additional information to retiring owners, employees to be impacted by possible plant closure, and business entrepreneurs, among others, about the advantages and benefits of employee ownership available at the state level.

This study is more than just an update of the original studies that eventually led to the founding of the Ohio Employee Ownership Center at Kent State University (formerly Northeast Ohio Employee Ownership Center) in 1987. This study not only updates the previous study, but it greatly expands upon the themes presented in the earlier study. The data for this study was collected over a two-year period of time. The first step was to review the original study done concerning states' employee ownership legislation (Ivancic and Logue 1986) and data that had been collected by the Ohio Employee Ownership Center (OEOC) over the years since that study.

It was obvious from such a review that much had changed and there was need for an update of the original study. After all this information had been organized (and reorganized), a Lexis-Nexis search of state employee ownership and worker cooperative legislation was done. The next step was to mail letters to state government departments that may/are/were involved in state employee ownership programs requesting more information about their programs, for example annual reports and any other information persons in these departments could offer. Thirty letters were sent and there were 8 responses (27% response rate). The response rate was quite low due to the fact that a number of programs had ended; policies lapsed, were repealed, or not utilized.

To increase the number of contacts, attempts were made to reach these agencies and departments via telephone and electronic mail. Similar efforts were used to contact people formerly associated with employee ownership programs. When necessary, follow up calls was made to collect more information than was contained in return letters. Nineteen electronic mail letters were sent and there were 12 responses (63% response rate). 26 phone calls were made with 18 responses (69% response rate). A second and third Lexis-Nexis search, was done in February 1998 and March 1999, respectively, to keep as current as possible concerning any new legislation.

The following study is the culmination of this work.

I. Employee Ownership as Public Policy

Introduction

Twenty-five years ago the concept of employee ownership was virtually unknown in this country. But that has changed. An estimated 11,090 companies employing more than 7 million Americans are at least partially employee owned.[1] Perhaps 2,500 of these, employing at least one and a half million workers, are majority owned. Most of these are profitable companies sold to their employees by retiring owners, bought by their employees to avoid other purchasers, or the companies partially acquired by their employees through company contributions to Employee Stock Ownership Plans (ESOPs). In Ohio, only a handful--perhaps 5% of the majority employee-owned firms-were acquired by their employees to avert shutdown.[2] Nationally, it is estimated that only 1 to 2% of employee owned firms were acquired to avert shutdown.[3]

Employee ownership owes its current success not to utopian aspirations but to the tax code. Since ESOPs were first mentioned in the Regional Rail Reorganization Act of 1973, nineteen federal laws have been passed affecting them. The most notable was the Employee Retirement and Income Security Act of 1974 (ERISA), which established tax deductibility of employer contributions to ESOPs. Since then a number of other measures have established regulations for ESOPs and expanded their tax advantages.[4] Resources for employee ownership are also available through JTPA and the Workforce Investment Act.

Twenty-eight states have passed employee ownership legislation since 1974. The type, and amount, of legislation has varied from nothing more than a simple policy declaration encouraging employee ownership to legislation providing for the encouragement, promotion, and facilitation of employee ownership. The allocation of resources to and utilization of various types of programs, established by state legislation, has also varied greatly from state to state. The apparent function of the legislation also appears to have varied by state, and over time.

Current law makes ESOPs beneficial to practically everyone.[5] Employee shares are first taxable when sold, generally at retirement when income and taxes are lower. Company contributions are deductible: and until 1996 commercial lenders were permitted to deduct half the interest on ESOP loans from their income; and businessmen who sell closely held companies to their employees are permitted to defer capital gains taxes by rolling their capital gains over into other corporate equities. In 1996, ESOPs became eligible to become tax-free by electing to be treated as an S corporation.[6] These tax advantages have made ESOPs the primary form for employee ownership. So while there have been modest expansions in the other forms of employee ownership such as production cooperatives,[7] ESOPs have become one of the most rapidly growing forms of ownership over the last two decades.

It is important to note at the outset, that employee ownership is not a panacea for all the ills afflicting industrial states. As one employee ownership proponent points out “for every success, in the 1970s and early 1980s, half a dozen or more buyouts failed.”[8] These failures were more often due to the lack of timely and accurate information rather than due to market conditions.[9] However, as stated in one business editorial “it is aone concept that can raise both corporate competitiveness and employee wealth without gumming up the free market.”[10]

States have sought to promote employee ownership as an alternative to plant shutdowns and as a strategy for broadening ownership of capital. However, employee ownership as a means to prevent shutdown is more often promoted for political motives rather than economic realities.[11] That being said, it is a form of ownership that seems to be highly compatible with keeping jobs where people are and protecting state and local economies against the capricious decisions of distant conglomerates and multinational corporations.

State and local communities, as the economy becomes more globalized have become more focused on methods of job retention and creation. This point is quite clear in the economic development literature. As accurately stated by one economic development practitioner:

> "As the rate of capital and labor mobility accelerates, and the global competition for investment tightens, local communities become more vulnerable to external decisions that can dramatically influence their economic well-being. The complexity and rapidity of these economic changes threaten the stability of local revenue sources…. This revenue imperative-the effort to increase the stability of the local revenue base-prompts many local officials to seek new types of economic activity to provide more local jobs."[12]

Employee ownership provides an alternative strategy that can greatly reduce the risk and uncertainty associated with capital flight. Research has shown that employee ownership not only helps retain jobs but can create jobs. Employee ownership not only benefits the employees of the employee-owned firm but the community at large. Firms build relationships with other local firms that often tend to be customers and suppliers. Local firms are not only dependent on the local consumer but other local businesses. In light of this complex relationship, the closing of a business not only impacts the employees of the closing firm but other local firms with which the closing firm did business.[13] Implementation of employee ownership at a closing plant allows these relationships to continue.

What is to come!

This study covers several aspects of employee ownership legislation and states' role in utilizing employee ownership as an economic development strategy. Section II presents a review of employee ownership studies, specifically regarding performance and productivity. The evidence suggests that increased productivity at employee-owned firms is correlated to the age of the ESOP. Earlier studies also suggest that not all types of employee ownership are equal. Section III examines trends associated with the passage of employee ownership legislation since 1974. Particular attention is paid to the amount of legislation, the type, and the location of the states where the legislation passed. Section IV presents an overview of state employee ownership legislation passed to date. Section V presents an overview of the Ohio program and a proposal for a model state policy program [or strategy] based on the overall analysis. This model is built on the success of earlier policies while at the same time attempting to correct for earlier policy failures. Section VI provides a synopsis of the paper and speculates on the future of employee ownership as an effective economic development strategy.

II. Review of Employee Ownership Performance Literature

Introduction

There has been only one in-depth study concerning the effectiveness of state employee ownership policy efforts.[14] However, there have been several exploratory studies done on state employee ownership legislation.[15] One field of employee ownership that has received much more attention, and is the primary focus of this review, are performance comparisons of employee owned firms with traditional firms and the impact of worker participation.

Concerning the performance of employee-owned firms compared with conventional firms, the literature is much more extensive. There have been at least 25 such studies since the 1970s. This literature will be presented in three parts. First, studies done prior to the 1987 General Accounting Office study will be discussed. Second, the findings of the General Accounting Office study on employee ownership will be presented. The GAO study provides a convenient dividing point for two reasons. First, chronologically, it was done at the midway point between passage of the Employee Retirement and Income Security Act of 1974 and the present. Second and more importantly, it cast serious doubt on the validity of earlier studies leading to more rigorous studies concerning employee ownership. The third part will focus on studies conducted after the General Accounting Office study.

Employee Ownership Program Evaluation

In 1990, the National Center for Employee Ownership (NCEO) did an evaluation of the state employee ownership programs that were in operation at the time. For the purpose of this of this review the focus will be on the key findings of the Ohio employee ownership program.[16] The study found all the state programs were involved in outreach and networking. The Ohio program published a semi annual newsletter, put on an annual conference, and created a network of Ohio employee-owned companies. The annual conference was (and still is) the largest state conference on employee ownership. Ohio's Employee Owned Network was deemed the largest and most successful project of its kind.

It was also found that the state programs were also involved with providing technical assistance to some degree. According to the study, the Ohio program appears to provide the right services to businesses and labor unions. The quality of these services was also found to be quite high. It was also found that the formation rates for employee ownership companies, in Ohio, grew faster than the national rate since the Ohio program was established. The relative rate of employee ownership plan after the establishment of the Ohio program increased by 18%, and for only private companies the rate increased by 45%. Lastly, state programs were also involved in research on employee ownership. Concerning the research function the most extensive research on employee ownership within particular states has been conducted by employee ownership programs.[17] Ohio's program was found to be the most research intensive during this time.

Before the GAO Study

Concerning early studies of employee ownership, there was substantial evidence presented that firms with significant employee ownership outperform "conventional" firms in a narrow economic sense.[18] There were few studies disputing the evidence of these findings.[19] Studies show that companies with employee stock ownership plans (ESOPs) had twice the productivity increases of comparable firms.[20] An analysis for the New York Stock Exchange estimated that productivity in the U.S. would increase by 20% if American companies made a serious effort to involve employees in decision-making at all levels and reward them with the gains from this effort.[21] One study found that employee ownership by itself was not necessarily related to increased productivity. However, employee ownership firms coupled with employee participation were found to have higher productivity than do employee-owned firms without employee participation.[22]

The evidence suggests that employee ownership is often more conducive to higher rates of employment growth than are traditional firms. One study, in particular, reached the dramatic result that, in companies where employees own a majority of the stock; *three times* as many new jobs are created per year as in conventional firms.[23] In addition, employee ownership seems correlated with greater worker satisfaction. Another benefit suggested by early studies is the increased performance and value of stock of employee-owned firms compared to conventional firms. A 1985 study projected on the basis of the performance of 147 ESOPs that the average employee making the median wage of $18,000 in 1983 would acquire a share worth $31,000 in ten years and $120,000 in twenty. The former figure exceeds the net worth of one half of American families; the latter exceeds the net worth of all but the top fifth of families for 1985.[24]

An examination of ESOPs in Ohio in 1985-86 found that not all ESOPs are equally beneficial.[25] Many companies, it was found, made small or irregular contributions to their plans in effect limiting the benefit to employees. Employee participation also appeared to be quite limited. The benefits ascribed to ESOPs in the early studies (see above) were not as likely to materialize under such conditions. The authors concluded that most benefits ascribed to ESOPs in the literature are not necessarily the consequence of merely establishing an ESOP. In the few firms that were characterized by high employee ownership, large contributions made to their plans, and high employee participation were found to be more to likely to reap the potential benefits than were firms that did not have these characteristics.

A similar study done in Michigan also found that employee ownership had a positive impact on companies in several different ways.[26] It was found that there was an increase in opportunities for employee involvement in decision making. It was also found that there was either stable or increased productivity since the introduction of employee ownership. The higher the level of employee participation the more likely there would be increased productivity. Lastly, it was found that democratically structured firms were more likely to report greater increases in productivity than firms without such structures in place were. This was also found to be true of majority owned firms compared to minority owned firms.

The evidence from studies done prior to the GAO study suggest that employee-owned firms have higher levels of productivity compared with traditional firms. The evidence suggests that this is especially true for employee-owned firms with higher levels of levels of employee participation. It was found during this time, however, that there was very little worker participation in employee-owned firms-even in majority employee-owned firms. One researcher noted, given the evidence that employee-owned firms with greater participation seem to out perform employee-owned firms without such structures, that "legislation mandating significant worker participation in employee-owned firms would be a move toward a more efficient and a more just society."[27]

The General Accounting Office Study

The United States General Accounting Office administered the most extensive study done on employee ownership during this time.[28] This study was important for two reasons. First, this study raised a number of questions about the validity of earlier employee ownership studies. Specifically, it called into question the representativeness of the samples of employee-owned companies used in earlier studies. Unlike earlier studies, the GAO was able to draw on a much more representative sample of ESOP companies. Second, the study called into question the assumption that employee ownership, by itself, was enough to bring about increases in productivity and profitability.

Employee ownership was evaluated against both its explicit and implicitly stated goals. Concerning the goal of broadening ownership, the study found that ESOP plans do broaden ownership to a very limited degree. In 1983, ESOP assets accounted for less than 1% of the total stock outstanding. Concerning the goal that ESOPs can be an alternative mechanism for financing capital growth, there was little evidence that ESOPs were utilized to finance capital growth.

Although not explicitly stated in federal legislation as a goal, the study examined the productivity of ESOP companies compared with traditional firms. The study found that there was little evidence to support the claim that the establishment of an ESOP contributes to either profitability of productivity. Furthermore, the study found that there was limited employee participation at employee-owned firm. However, it was found that participation was the only factor that contributed to increased performance among employee-owned firms.

After GAO Study

Studies done after the GAO study studies find similar results to the pre-GAO studies, but not necessarily with as dramatic results. These later studies suggest that employee-owned firms have comparable profitability with conventional firms of similar size but there was not necessarily a relationship between increased sales and employee ownership.[29] Later studies provide more evidence concerning the relationship between employee ownership and employee participation.[30] Employee ownership has been criticized by some for not exhibiting greater change once an ESOP is in place.[31] In response to these critics, one author notes “they [the critics] make the theoretical assumption that because companies are employee owned, they will therefore be expected to have higher levels of employee participation.”[32]

A comparison of the differences between ESOPs, producer co-ops, and traditional firms, found that co-ops seem to have equal of greater job satisfaction than do both ESOPs and traditional firms. This seems linked to the level of worker participation. It was found that there is a lower rate of turnover at ESOPs than at traditional firms. It was also found that ESOPs and producer co-ops were characterized by lower levels of absenteeism than were traditional firms. The author notes that these results have important policy implications because, currently, the federal government, as well as several state governments, has policies that give preferential treatment to ESOPs, but not necessarily to co-ops. Furthermore, virtually all of the preferential tax treatments go to financial aspects of employee ownership. Worker participation, on the other hand, gets little, if any, public policy support or any tax incentives. The author suggests that some minimal level of participation be required.[33]

A similar study found that employee ownership was tied to greater satisfaction when employees perceived that they were more involved. Psychological ownership, or perceived control, was considered a more important factor than actual control. The evidence suggests that increased value of ownership as well as higher levels of perceived influence seemed to have a greater impact on organizational commitment than did lower levels of perceived influence. Salary was not correlated to employee attitude but was correlated with the financial value of the ESOP. Workers who left the firm often felt they had less influence than those who stayed, despite the fact that they were owners. For those who stay, perceived employee influence may be of more value than the financial aspects, which are normally not realized till the worker retires.[34]

The effectiveness of employee ownership and participation on productivity is contingent on various factors. One study found that increased productivity appears linked to employee participation in decision making (albeit restricted participation). This is contingent, however, on the level of return employees enjoy. When employees have no control rights, increasing employee return rights can have either negative or positive effects on productivity. This is contingent on the nature of the agency problem, unionization, and other factors. Increases in productivity are dependent on the level of control, with moderate to dominant control found to be best, the amount of profit to be shared, and the justification for the type of control implemented.[35]

Not all forms of employee participation, however, have been found to be of equal benefit. Comparing different types of employee participation,[36] one study found that the most effective approaches to employee ownership were *self-directed work teams* and *gainsharing programs*. [37] The evidence seems to demonstrate that these two forms of participation general produce significant improvements in both productivity and employee attitudes. The least effective types of participation were *worker councils/employee representatives* and *quality circles*. Quality of worker life programs, employee ownership, and job enrichment were considered intermediate in terms of effectiveness. The effectiveness of employee ownership varied depending on whether other forms of participation were introduced.

Comparing managerial buyouts (MBO) with employee buyouts (EBO), one study found several interesting characteristics. Prior to buyouts, relative to MBOs, EBOs firms usually had a lower value of assets per employee, poorer stock price performance, and lower leverage. EBOs were also more likely to have overfunded pension plans, more likely to be under takeover pressure, and have less ownership by officers and directors. After the buyout, however, cash-reducing compensation changes were reported by only 2.6% of MBOs compared to 56% of EBOs. EBOs were as highly leveraged as MBOs but tended to use a higher proportion of bank debt. It was also found that EBOs had a lower percentage of third party and institutional investors and employees fail to obtain substantial control rights early in EBOs. Lastly, EBOs did not appear to differ from MBOs with regard to employment growth or long-term outcomes.[38]

Comparing firms' performance for pre- and post-employee ownership, it was found that employee ownership seems linked to improved performance within the individual firm over time. The majority of employee-owned firms, in one study, had improved growth and sales rates from their pre-ESOP to their post-ESOP period.[39] A similar study found that both ESOP and profit-sharing plans increased productivity. The productivity effects increased with the age of the plans. The rate of relative growth in output, for publicly held firms, was about 1.8% for ESOPs and 3.8% for profit-sharing plans.[40]

One study examining the impact of ESOPs on wealth and income in Washington found that ESOP companies have significantly higher pay than did traditional firms.[41] Furthermore, employees at ESOP companies had at least one retirement plan where as workers at traditional firms were much less likely to have any form of retirement plan. In terms of equality of economic opportunity, it was found that that employees at ESOPs than employees in traditional firms. However, there was greater economic inequality within ESOPs. The benefits of employee ownership were greatest for the highest paid employees while there appeared to be little benefit for the lowest paid employees. Employee ownership, it was concluded does not necessarily bring about economic equality. However, unionization was found to diminish the gap between the highest and lowest paid workers in ESOP companies.

The effect of employee ownership seems to vary from firm to firm. One study attempted to assess the effect of employee ownership, profit sharing, and gainsharing on high tech firms. The evidence suggests that there is a positive link between employee ownership, profit sharing, and gainsharing on productivity. However, the study found that the positive effect varied depending on the particular industry, type of plan, and even human resource practices.

Summary and Implications

Although the majority of studies suggest that employee ownership seems related to increased productivity, the results have become more diverse as more (and better) studies are done. Increased productivity appears linked to the age of the ESOP and may also be contingent on the level of employee participation. The evidence appears to suggest that some forms of employee participation are more effective than are others. Employee participation appears to be the one constant factor attributable to increased productivity. Furthermore, employee ownership, it was found does not necessarily entail economic equality. Employees at employee-owned firms, however, are more likely to have higher wages than employees in traditional firms. The evidence seems to indicate that these results do vary depending by industry type. Given the mixed results concerning employee ownership and performance, one researcher contends that “further research is [still] clearly needed to determine what aspects of worker ownership, if any, are conducive or nonconducive to productivity.”[42]

It appears that research on employee ownership has had little influence on state policy and policy makers. The research suggests that employee ownership can help retain jobs, yet there is scant mention of employee ownership as a job retention or job creation strategy. The business community at-large seems to be much more aware of employee ownership research. But like state policy makers, many in the private sector (business leaders, consultants, attorneys) are unaware of the benefits available at the state level.

Given the research findings, there is one primary implication for future policies. The one factor, consistent through the research, is that when employee ownership is coupled with employee participation, employee-owned firms outperform their conventional counterparts. Not only does higher levels tend to bring about improved productivity but increased job satisfaction. It seems logical then that requirements of participation should be tied to financial assistance for employee buyouts. The effectiveness of employee ownership programs indicates that such programs should also be part of future policies.

III. A Survey of Employee Ownership Legislation at the State Level in the 1990s

Introduction

The number of employees involved in some form of employee ownership, as illustrated in Section I, has been on the rise over the last two decades. This has been due, in part, to increased state involvement. This seems to be particularly true of states with proactive employee ownership programs such as Michigan, New York, Ohio, Oregon, and Washington. A variety of different types of legislation concerning employee ownership have been passed over the last 25 years at the state level. The purpose of the following section is twofold. First, there will be an examination of the trends associated with the passage of employee ownership legislation. Second, there will be an overview of the state legislation concerning employee ownership.

Trends in Employee Ownership Legislation

An examination of legislation passed at the state-level to promote, encourage, and facilitate employee ownership over this time period revealed several distinct, yet overlapping, trends. The first trend was one of enthusiasm with regard to employee ownership. There appeared, at the time, to be a coordinated effort to pass such legislation, as well as a subsequent "bandwagon effect," evident by a desire of some states not to be left out. This trend began in the late 1970s and peaked in the mid-1980s. The second trend began in the mid-1980s and was characterized by retrenchment by state government. State employee ownership legislation, in a number of states, sunset and were not renewed because the established programs were often not utilized. In several states programs were established but resources were not allocated to implement these programs. The third and final trend was characterized by sporadic passage of employee ownership legislation in the United States during the 1990s. The passage of such legislation appears linked to isolated events rather than any coordinated efforts to pass such legislation.

Trend One

Between 1974 and 1986, 12 states passed state policies promoting employee ownership. Figure 1 illustrates the first trend of enthusiasm marked by the number of state policies passed concerning employee ownership in the 1980s, especially between 1980 and 1985. During this time 10 states passed state policies regarding employee ownership. During the 1980s Pennsylvania also promoted employee ownership but without specific legislation to do so.[43] Between 1986 and 1994, only 2 states passed state policies promoting employee ownership. The last state policy promoting employee ownership was passed in 1989. During this same period a number of state policies have lapsed, or been repealed. States in the Northeast represent the greatest proportion of
states with state policies concerning employee ownership. In the time period before 1980 only 2 states passed state policies. In 1995 and 1998, Virginia and North Carolina, respectively, passed state policies promoting employee ownership. This legislation will be discussed more below in trend three.

Employee ownership legislation, particularly states establishing employee ownership programs, was primarily passed in states with Democratic leadership (Ohio, New York, Michigan, Massachusetts). The primary objectives of employee ownership legislation, during this time appears, geared toward the broadening of ownership and avoidance of plant shutdown. Regarding broadening of ownership, this objective is obvious given the phrasing of a number of policy declarations passed during the early 1980s. Delaware and Maryland are examples of broad state policy declarations. Delaware and Maryland provide an example of this objective. Delaware's policy declaration for example, states that it is the policy of the state to encourage the broadened ownership of capital through the use of ESOPs.[44] Maryland's policy declaration states that it is the policy of the state "to encourage the broadened ownership of capital and that ESOPs were an important means of reaching that goal."[45]

Figure 1
State Policy Declarations passed concerning Employee Ownership

1970s	*1980s*	*1990s*
Minnesota (1974)	Maryland (1980)	Virginia (1995)
Michigan (1974)	Delaware (1981)	North Carolina (1998)
	Illinois (1982)	
	California (1983)	
	New Jersey (1983)	
	New York (1983)	
	Wisconsin (1983)	
	Hawaii (1985)	
	Washington (1985)	
	Oregon (1987)	
	Montana (1989)	

Cooperative legislation also fits with in this goal of broadening the ownership of capital.

Regarding the avoidance of plant closure, New York's policy provides an example of this objective. New York's policy states that "the general welfare is directly dependent on the economy and plant closures are a problem. The purpose of this act is to encourage employees of these plants to continue them as employee-owned enterprises thereby retaining jobs."[46] Michigan's policy also displays evidence of this objective. It states that "there exists in this state [Michigan] the continuing need for programs to alleviate and prevent conditions of unemployment, and the legislature finds that it is accordingly necessary to assist and retain local industrial and commercial enterprises, including employee-owned corporations, to strengthen and revitalize the economy of this state and its municipalities.[47]

The federal government also had this as a policy objective with the passage of the Economic Dislocation and Worker Adjustment Act (EDWAA) and the Worker Adjustment and Retraining Notification Act (WARN).[48] This legislation provided states that choose to implement the program with resources for preliminary feasibility studies.

Figure 2
States which no longer have Policy Declaration or Program

States that no longer have policy declarations	*States with declaration but no program*
Delaware	California
Minnesota	Hawaii
New Jersey	Illinois
Montana	

Michigan[1]

Oregon

Washington[1]

Note: [1] There is a limited state program in operation through James Houck at Michigan Jobs Commission and James Keogh at the Washington State Department of Community, Trade and Economic Development. Furthermore, the Ohio (Ivancic and Logue 1986) and Oregon (Bell and Callicrate 1989) studies done in the mid to late 1980s differ in opinion whether Michigan actually had a state policy.

Several states, during the 1980s, funded employee ownership programs. These states included Michigan (1988), New York (1987), Ohio (1988), Oregon (1989), and Pennsylvania (1990). Some state programs, for example Massachusetts and Washington, were established within existing departments. There were also several states that had services provided within existing programs (or departments), including states such as California, Montana, Delaware, Maryland, and Maine. Several states also intended to fund state employee ownership programs, such as Hawaii, Illinois (twice) and New Jersey. At present, there are 4 states with employee ownership programs still in operation: Maine, Massachusetts, New York, and Ohio. It is important to note that these programs operate in varying degrees. Furthermore, several states still offer, in a very limited capacity, employee ownership related services (Michigan and Washington).

Trend Two

The second trend of retrenchment becomes obvious in Figure 2. This figure illustrates the number of states whose policies included provisions on state programs that were either not implemented or have been drastically cut in recent years. It also displays the states that no longer have state policies concerning employee ownership on the books. In three states, state policies have either been repealed or the legislation has sunset. Eight states had state policies with provisions for employee ownership programs to be established separately or as part of existing departments. Five of these states have no state employee ownership program in operation and/or do very little to encourage employee ownership. Two states, Michigan and Washington have limited programs still in operation. Funding for several state programs began to diminish during this time and a number of state programs, such as in Massachusetts, were defunded entirely.[49] There is also evidence that, in the late 1980s, funding for the establishment of employee ownership programs in New Jersey and Hawaii were not authorized by their respective state legislatures.

In California, services were to be provided by the Department of Commerce (now the Department of Trade and Commerce). However, there was virtually no demand for these services given the lack of a business culture conducive to [accepting of] employee ownership. There was no knowledge of requests made concerning employee ownership at either the Department of Trade and Commerce or the Department of Economic Development.[50]

In Hawaii, although a state policy was passed in 1985, the state legislature did not authorize the funds necessary for the operation of the state program.[51] Illinois' original employee ownership legislation was repealed in 1992, but new legislation established a task force to "study the scope and effectiveness of current and past efforts by and within the state of Illinois to encourage and assist with ownership succession and recommend any changes."[52] The task force recommended a state-sponsored program but no action has yet taken place.

Montana's program was never really implemented. It was to operate within existing state departments. Several resource guides were acquired and one company received assistance but, for the most part, people interested in employee ownership were, and still are, referred to experts in the private sector. According to an employee at the Department of Commerce, Montana's state policy and accompanying legislation was expected to be repealed, and was, by the state legislature in 1999.[53]

Both Oregon and Washington had operating state programs into the 1990s, but programs were discontinued due to budget cuts.

Oregon's program, run by the Community Economic Stabilization Corporation (CESCO), closed in June 1995. The Oregon Economic Development Department (OEDD) had subcontracted CESCO and was cut after the OEDD received a 33% budget-cut in 1995 from the Republican-run state legislature. While in operation, CESCO had put on seminars regarding employee ownership and had provided other information dissemination functions. CESCO's relation with the state had made it difficult for CESCO to justify its existence. This was due to the types of firms referred to CESCO as possibilities for employee ownership. Most of the companies were either from the timber industry (a diminishing industry) or were not viable businesses. The goals of promoting employee ownership and job retention also had to compete with Oregon's attempt to attract more industry to the state, primarily from the high technology sector. CESCO also had difficulty promoting succession planning to retiring owners due to the complexity of ESOP law and the limited number of resources available to deal with this complexity. In other words, CESCO had very few success stories. According to the former executive director, most of the employee-owned businesses in Oregon could have done just as well without the benefit or help of a state program.[54]

The Washington program closed in June 1997. This was due to a budget formula cap that was passed several years ago that led to the eventual budget cuts at the Department of Community, Trade, and Economic Development. While in operation, there was an average of 60 requests annually for information and assistance. There have been sporadic employee ownership deals that have been performed ad hoc (without an employee ownership program in place).[55]

Pennsylvania established a program in 1991 (legislation passed in 1990) and it was in operation till 1995. In 1997, there was a bill drafted similar to the Ohio state program, but there is little political support, or commitment for such a program.[56]

Trend Three

The third trend, beginning in the 1990s, is characterized by sporadic passage of employee ownership legislation due more to state conditions, rather than any type of concerted effort to pass such legislation. Legislation passed in 1990s include updates of previous legislation in California and Massachusetts, ESOP exemption from securities regulations in Nebraska in 1990, cooperative legislation in Texas (1991) and Delaware (1996), eligibility for use of job training funds to include employee-owned companies in Iowa (1992), and loan guarantees in Maine (1997). People in states that once had state employee ownership legislation have also expressed interest in employee ownership: Delaware and New Hampshire.

A major development during this time, and possibly the beginnings of a new trend, is the investigation of employee ownership as an instrument to privatize various government functions.[57] This policy objective appears to have replaced the earlier policy objectives of broadening of ownership and avoidance of plant shutdown. The Virginia Competition Act of 1995 was the first policy declaration with such a policy objective. The Commonwealth Competition Council, for the state legislature formally investigated the viability of employee ownership as a method of privatizing government function in

Virginia, in 1997. North Carolina passed a similar piece of legislation in 1998.

Concluding Remarks

The first trend appears to be the result of earlier federal legislation as well as being one of several strategies to compensate for declining industries, and subsequent job loss, primarily within heavy industry, in the Northeast. This logic also applies to the Northwest, especially Oregon, which experienced huge job loss due to a declining timber industry during the 1980s. It also appears to have been an attempt to broaden the ownership of capital.

Certain problems that would manifest themselves during the second trend can find their origins in the first trend. Ivancic and Logue, concerning employee ownership in some states, discovered that "They don't care if it's a good idea. A state passes a law and then all the others copy it," as was observed by a state employee from New Jersey.[58] States that did not consider what had worked and what had failed concerning employee ownership were unable to avoid such bandwagon policymaking. One study found that there were three elements that were consistently among statutes successfully implemented. First, the successful laws were clearly written and required specific action. Second, an early effort was made to increase the knowledge of the personnel charged with implementing the statute. Finally, the agencies in question had a structure and composition that facilitated activity.[59]

It is evident that the phrasing of a law is not as nearly as important as the subsequent implementation efforts.[60] The primary reason for "failure" of employee ownership programs has been a lack of sufficient resources, if any resources at all, to implement the program and a lack of demand for such services. Insufficient implementation is not the only factor that has hampered the objectives of employee ownership legislation and programs. Other factors have also impacted efforts to promote, encourage, and facilitate employee ownership. The trend of fiscal conservatism to reduce government expenditures, at the federal, state, and local level, has had a profound impact on employee ownership programs and other efforts to promote employee ownership. This current trend to reduce government expenditures has for the most part been carried out by Republican-led state legislatures/governors but Democrats have also been quite active in cutting costs.

A lack of awareness by business, potential employee owner groups, as well as government agencies in some states manifested itself in a lack of demand for such services. The actual demand for such services may actually have been in decline prompting policy makers to discontinue funding employee ownership programs.[61] In some states, like California, the business culture has not been conducive to employee ownership. It is also evident that the business owners, in some states, like Oregon, have been very suspicious of employee ownership due, in great part, to the complexity of the process of implementing employee ownership.

Virginia's investigation of employee ownership as a means to privatize government services and functions could be the beginning of a new trend concerning employee ownership. If subsequent action is to succeed in Virginia, those in charge of implementation must be wary of past efforts. Although the vast majority of employee buyouts occur in the private sector much can still be learned and applied to similar projects in the public sector. Virginia is, in essence, a laboratory, and other states will certainly pay close attention to Virginia's success or failure with regard to this legislation. If successful, Virginia may become a model for privatization of government services and functions via employee ownership. North Carolina was be the first state to follow Virginia's lead and depending on the success of Virginia and North Carolina other states might also pass similar legislation.

IV. Summary of State Employee Ownership Legislation

Introduction

The purpose of the following section is provide, primarily, an overview of the types of employee ownership that have been passed at the state level. Where information pertaining to the implementation of the states' employee ownership legislation is known it is provided. The types of legislation passed by states can be placed within the following categories: Increasing awareness, facilitating employee ownership, technical assistance, financial assistance, and encouraging employee ownership. The following summation will describe the state experience concerning the implementation of employee ownership legislation. The following discussion should provide insight into the advantages and limitations of the various types of employee ownership programs.

Increasing Awareness: State Policies, Education, and Interdepartmental Awareness

One of the first steps to promoting employee ownership is the passage of a state policy declaration concerning employee ownership (see Figure 3). State policy declarations concerning employee ownership has varied from state to state. Some of the policy declarations that have been passed were very broad in scope, while others were quite specific. California and New York are examples that illustrate specific policy declarations. The California policy declaration reads "The legislature finds and declares that the formulation of employee-owned businesses and the participation of employees in the management of businesses in this state will promote the stabilization of local economies, anchor business activity, and increase productivity."[62] New York's policy declaration, like California's policy, was also quite specific. It states that "the general welfare is directly dependent on the economy and plant closures are a problem. The purpose of this act is to encourage employees of these plants to continue them as employee-owned enterprises thereby retaining jobs."[63]

Delaware and Maryland are examples of broad state policy declarations. Delaware's policy declaration states that it is the policy of the state to encourage the broadened ownership of capital through the use of ESOPs.[64] Maryland in a similar vein declared that it was the policy of the state "to encourage the broadened ownership of capital and that ESOPs were an important means of reaching that goal."[65]

Virginia, in 1995, and North Carolina, in 1998, each passed state policies promoting employee ownership. These policies differed from past state declarations. Unlike earlier state policies, these two policy declarations did not necessarily promote a broadening of capital ownership. These policies, on the other hand, promoted employee ownership as a means of privatizing government functions and services.

State policies to provide for education concerning employee ownership were often passed along with state declarations and/or would follow in subsequent legislation. Two types of awareness could be promoted depending the type of legislation: employee and business community, interdepartmental, or both. Legislation providing for educational programs for business and employee communities included literature and seminars on various aspects of employee ownership. Public education has been done in a variety of ways.

Some states, such as Hawaii, Montana, and Michigan collected materials on employee ownership and set up resource centers. The number of resources collected varied from state to state. Seminars have also been conducted by state programs or by local ESOP Association chapters. Some states were only able to collect a few materials while others were able to put together more extensive libraries.

Figure 3
State Policy Declarations Concerning Employee Ownership

Minnesota (1974)	Wisconsin (1983)
Michigan (1974)	Hawaii (1985)
Maryland (1980)	Washington (1985)
Delaware (1981)	Oregon (1987)
Illinois (1982)	Montana (1987)
California (1983)	Virginia (1995)
New Jersey (1983)	North Carolina (1998)
New York (1983)	

States, such as Michigan, New York, Ohio, and Maryland have produced pamphlets and brochures with information about employee ownership and the services provided by the state program. New York has put together a packet of useful information for the potential employee owner. The packet includes information on the work of the program, its consultants, and services. It also includes a directory of ESOP companies for the state of New York and a listing of private sector companies that can assist with succession planning. Due to a lack of interdepartmental communication in some states, the available brochures or literature did not always make it into the hands of interested parties. This was the case in Maryland in the mid 1980s.[66]

Interdepartmental education programs required reporting such as annual reports. Actual reporting on employee ownership programs has varied dramatically from no reporting to detailed reports on the activities of the program. Michigan, until 1990, produced quite detailed reports. Most other states have not allocated sufficient resources to adequately perform this function. As is the case of California, in the waste conscious 1990s, mandatory department and agency reporting is no longer required.[67] This could be case in an increasing number of states making concrete information about the impact of employee ownership legislation more difficult to collect.

Other methods of interdepartmental awareness include training programs. When the Michigan and New York programs were started, for example, there were training sessions to educate relevant state employees about the basics of employee ownership. States passing legislation that provided for educational programs and interdepartmental awareness are displayed in Figure 4.

Figure 4

Educational programs	*Interdepartmental awareness*
Michigan (1979)	Michigan (1979)
Illinois (1982,[1] 1995)	Maryland (1980)[1]
New York (1983)	Delaware (1981)[1]
New Hampshire (1983)	New Jersey (1983)
Hawaii (1985)	California (1983)
Indiana (1986)[2]	New Hampshire (1983)

Washington (1987)
Oregon (1987 and 1988)
Ohio (1988)
1996)
California (1989)
Montana (1989)
(1985)
Massachusetts (1990)

Wisconsin (1984)
Pennsylvania (1984) [1]
Massachusetts (1984, 1990,
Hawaii (1985)
Washington
Ohio (1988)
Virginia (1995)
North Carolina

[1] Legislation sunset or repealed.
[2] These educational programs were done without specific legislation.

State Policies Promoting Education and Interdepartmental Awareness

Facilitating Employee Ownership

There was also legislation that was aimed at facilitating employee ownership. There were several forms this legislation could take. A listing of the states with legislation enacted to facilitate employee ownership in listed Figure 5. The first was plant closure and notification legislation. Six states had passed notification legislation. Hawaii, Maine, and Wisconsin all require advance notice of plant shutdown. All three states have size class exemptions and Maine requires one week of severance pay per year of service for workers with more than three years tenure. However, the penalties for noncompliance are relatively low in Maine ($500 per establishment) and Wisconsin ($50 per employee). The penalty for noncompliance is higher in Hawaii (three months' wages

Figure 5
State Policies Facilitating Employee Ownership

Recognition of Cooperatives
Massachusetts (1982)
Maine (1983)
New York (1983)
Connecticut (1984)
Hawaii (1985)
Missouri (1985)
Vermont (1985)
Wisconsin (1985)
Washington (1987)
Pennsylvania (1988)
Ohio (1988)
Minnesota (1989)
Texas (1991)
Delaware (1996)

Notification
Michigan (1979)
Maryland (1979)[1]
New York (1983)
Wisconsin (1983)
Hawaii (1983)
Massachusetts (1984)
Missouri (1986)

ESOP Securities Exemptions
Minnesota (1974)
Maryland (1979)
California (1982)
Oregon (1987)
Montana (1989)
Nebraska

(1990)

Tax Credit
Minnesota (1974)

Maryland (1979)
West Virginia (1983)
California (1989)

[1] This legislation would later be considered unconstitutional by the Maryland State Supreme Court.

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and benefits per laid-off worker).[68] Individual notification legislation has been replaced/ superseded/ or operate parallel with the Worker Adjustment and Retraining Notification (WARN) Act. Despite there being federal notification legislation, there is little incentive for owners to give notice.[69]

Tax credits for contributions to ESOPs were another way of facilitating employee ownership. Other financial benefits included that public utility companies would not be required to pass tax savings to consumers or tax credits such as in New Hampshire. ESOPs in several states were also exempted from state securities regulations. Maine established a reduced registration fee. The last form this type of legislation took was legal recognition of employee cooperatives. This has taken place in thirteen states.

In Michigan, Economic Development Account managers meet with over 4,000 business annually. Clients that have interest in employee ownership receive follow-up technical assistance and referral to private sector providers for detailed plan implementation. The Michigan Jobs Commission responds to 25 to 50 requests annually from clients requesting information and assistance on employee ownership. The Workforce Transition Unit provides preliminary feasibility study assistance to any company in crisis that may benefit from an employee buyout option.[70]

Providing Technical Assistance

Legislation may also have provisions providing for technical assistance. Technical assistance can be categorized in the following areas: providing actual assistance, providing help in finding assistance, providing financing for assistance, providing actual funds for assistance. The types of technical assistance that may be provided include feasibility studies, training and advice (financial, marketing, managerial, operational, accounting, and legal), and locating financial assistance. For state legislation providing for technical assistance see Figure 6.

Figure 6

Actual Assistance
Michigan (1979)
Illinois (1982,[1] 1995)
California (1983)
New Hampshire (1983)
New Jersey (1983)[1]
New York (1983)
Wisconsin (1983)
Massachusetts (1984, 1989)
Washington (1985)
Oregon (1988)
Ohio (1988)
Minnesota (1989)

Help in Finding Assistance
Illinois (1982)[1]
New York (1983)
Ohio (1988)

Financing for Assistance
Illinois (1982)[1]
California (1983)
West Virginia (1983)[1]
Pennsylvania (1984)
Oregon (1985, 1987)

Montana (1989)

Actual Funds for Assistance
New Hampshire (1983)
New Jersey (1983)[1]
Massachusetts (1984)
Wisconsin (1985)
Connecticut (1985)
Hawaii (1987) [2]

[1] These states' legislation are no longer in effect.
[2] In the case of Hawaii, the resources necessary for technical assistance was never allocated by the state legislature. This may also be the case in a number of states but this information is not known.

State Policies Providing Technical Assistance

In the case of a number states that no longer have state-sponsored employee ownership programs, technical assistance for preliminary feasibility studies is also available through EDWAA (Economic Dislocation and Worker Adjustment Assistance, Job Training Partnership Act: Title III). Other resources such as job search and retraining are also available through JTPA. These resources are being utilized in varying degree by the states. For example, preliminary feasibility studies have been conducted by 13 of the 50 states.[71]

Providing Financial Assistance

There are a variety of types of financial assistance available. As displayed in Figure 7, these include interest rate subsidies, below market interest rates, loan guarantees, loans. There are also a variety of methods of financing. As shown in Figure 8, these included issuance of revenue bonds, local non-profits, revolving or trust funds, and direct assistance from government agency.

Connecticut has the capacity, if necessary, to provide technical and financial assistance for employee buy-outs, but this program was put "to bed," so to speak, after the buy-out of Estonian Copper & Brass in the early 1990s.[72] California has legislation regarding technical and financial assistance but given the business culture in California, that is not conducive to employee ownership, these resources have been under utilized. As of 1990, 4 groups had been assisted, but it was unknown if any groups had been assisted since that time.

Figure 7
State Policies Providing Financial Assistance, by Type

Interest Rate Subsidies
New Jersey (1983)
Connecticut (1985)

Below Market Interest Rates
Illinois (1982)

Loan Guarantees
New Jersey (1983)
West Virginia (1983)
Pennsylvania (1984)

Loans
Wisconsin (1983)

New Jersey (1983)	West Virginia (1983)
New York (1983)	New Hampshire (1983)
Michigan (1985)	Pennsylvania (1984)
	Connecticut (1986)
	Indiana (1986)
	Hawaii (1987)
	Maine (1997)

Maine's newest legislation authorized the Financial Authority of Maine (FAME) to grant $1 million in loan guarantees for employee buyouts. The legislation was the result of a Maine state legislator attending a seminar on employee ownership.[73] A major community development corporation, Coastal Enterprise, Inc., also provides many of same services that are provided by state programs in other states.[74]

In California, revenue bonds are generally limited to $10 million for any one use and carry somewhat below market interest rates.[75] The issuance of revenue bonds is contingent on two main points. The project first must serve the public interest, Second, be an employee-owned corporation which is (a) an employee cooperative or (b) an ESOP, pursuant to ERISA stock issued in the beginning is fully vested in 5 years, voting rights in accordance with IRC 409A(e).[76] In many cases, as in California, a maximum amount has been placed on the amount of financing available from the state.

Figure 8
Method of Financing

Issuance of Revenue Bonds	*Local Non-Profits*
California (1982)	New York (1983)
Michigan (1985)	Pennsylvania (1984)
Illinois (1995)	Michigan (1985)
	Oregon (1985)
Revolving or Trust Funds	
New Hampshire (1983)	
Massachusetts (1984)	*Direct assistance from Government Agency*
Michigan (1985)	New Jersey (1983)

Hawaii for example, according to the legislation, can provide a loan or loan guarantee of $1.5 million. In reality, though, the necessary financial resources for financial assistance were not allocated by the Hawaii state legislature.[77]

Some states, such as Ohio, have no special lending program for employee buyouts, but make copious use of broader state lending for ESOPs. In these cases, the state does not want to allocate funds that must be used for a specific function. To avoid having funds that can not be used for other functions some states have not established specific lending mechanisms for employee buyouts. To avoid this problem, Connecticut, in 1988, consolidated 6 funds, including the Employee Ownership Trust Fund, into the Connecticut Growth Fund.[78]

Encouraging Employee Participation

Employee ownership and employee participation is not synonymous. The level of employee participation varies from firm to firm. It can range from one-person one vote to ESOPs where employees own stock in the plant but do not say in decision making. Research suggests higher levels of employee participation normally translates into higher productivity. Figure 9 displays state legislation in this category.

There have been several methods for encouraging participation. One way has been recognition of cooperatives. Another has been to make financing contingent on certain participant requirements. A third method has been to define employee ownership.

Figure 9
State Policies Encouraging Employee Participation

Legal Recognition of Cooperative Structure
Massachusetts (1982)
Maine (1983)
New Hampshire (1983)
Connecticut (1984)
Missouri (1985)
New York (1985)
Wisconsin (1985)
Washington (1987)
Minnesota (1989)
Texas (1991)
Delaware (1996)

Financing contingent on Participation Requirements
California (1982)
New Jersey (1983)

Definition of Employee Ownership Specified
Michigan (1979)
Illinois (1982)
New York (1983)
Pennsylvania (1984)
Ohio (1988)
Massachusetts (1990)

Special Requirements on Voting Rights
Massachusetts (1981)

Recognition of cooperatives is one area of employee ownership legislation that has been less effected by the second trend (of retrenchment) discussed in the introduction. From 1982 to 1991, One state passed cooperative legislation nearly every year during this time. Delaware was the most recent state to pass cooperative legislation, doing so in 1996. Examples of financing being contingent on participant requirements, include

California's 1982 law requiring companies to fit the definition of ESOP as defined in federal legislation. New Jersey's 1983 legislation requires that companies receiving financial assistance become 100% employee-owned. For the purpose of state assistance, some states have defined employee ownership. Four states have such legislation. Employee ownership is defined, in these cases, as firms that own and control a majority of the company.

Concluding Remarks

There has been a large amount of employee ownership legislation passed over the last twenty-five years. The amount and type of legislation that has been passed has varied greatly from state to state. States in the Northeast and Northwest have passed the greatest amount of employee ownership legislation. It should be evident, however, that the passage of legislation does not guarantee that the legislation will be implemented or used. Employee ownership legislation is merely symbolic unless sufficient resources are allocated for implementation and program operation.

If resources are allocated, it is necessary that there are skilled and committed personnel operating the programs. The type of personnel operating the program can be more important to the success of a program when resources are lacking. Massachusetts is prime example of a program that continued to operate, without state funding, due to the hard work and perseverance of its personnel. States that established state programs were more successful in their implementation of employee ownership legislation. One of the primary functions of state programs has been information dissemination. When potential clients know about specific programs, it is much more likely these programs will be utilized. State programs were also more likely to utilize available federal funds for various program functions, such as feasibility studies. What a successful employee ownership program should look like is the focus of the next section.

V. The Ohio State Employee Ownership Program and Model State Program

Ohio Employee Ownership Program

The 1998 annual report, to the Ohio Legislature, provides the most recent information regarding the functioning and operation of a successful employee ownership program. To follow is a brief summary of the report. Since its inception in 1988, the Ohio Employee Ownership Assistance Program has assisted more than over 10,500 employees in buying all or part of 47companies. The majority of these employees would otherwise have become unemployed due to plant shutdown or corporate downsizing. The cost per job saved through the Ohio Employee Ownership program was $129 per job.

In 1997, the Ohio Employee Ownership Center (OEOC) received requests for information or assistance from over 45 firms employing approximately 9000 workers. Thirty-nine of these firms were contemplating employee ownership to avoid shutdown, plan for business succession, or to deal with divestiture of a parent corporation. About half of these 39 firms received repeated, in-depth consultations. Eight firms, employing 925, implemented Employee Stock Ownership Plans. Fifteen firms were still consideration employee ownership and are working with the program.

The program also encourages cooperative workplace practices in employee-owned firms. This development of cooperative workplace practices is facilitated through Ohio's Employee-Owned Network. In 1998, the Network ran fifteen programs/seminars providing useful information for employee-owned firms. Topics were aimed at employees from the shop floor to the CEOs, with topics ranging from accounting and financing to safety. Over 60 employee-owned firms participate in this program annually. In 1998, 450 employee owners partook in these programs.

A similar program was run to provide useful information about succession planning for retiring owners and other potential employee owners.[79] This program is run in conjunction with the Greater Cleveland Growth Association's Council of Smaller Enterprises (COSE).

The OEOC has also put on a yearly conference on employee ownership. It is the largest regional conference of its kind. Over 300 people have attended each of the last two conferences. The OEOC is also involved in research as means to increase the available knowledge of employee ownership and disseminated this information to the public and potential employee owners. This research has also provided a venue for improving the manner in which the OEOC assists potential employee owners.

The OEOC also administers the JTPA Title III preliminary feasibility studies for the state of Ohio. The function of these assessments is to ascertain the feasibility of an employee buyout for plants that will be shutdown. In 1997, four studies were done. As a result of the four studies, three plants (employing 105) were consequently bought by their employees allowing the plant to stay open. In 1998, one plant, which had closed in 1997, was bought by employees and reopened in 1998 as a result of the feasibility study. The plant now employs twenty.

A Model State Program

What should a model program look like? First, employee ownership programs should disseminate information about employee ownership and provide assistance with succession planning. This can be particularly useful for retiring owners. Providing information on succession planning can prevent job loss when a firm closes because such a plan was not in place. New York's succession planning strategy could be a model for future programs. Their succession-planning program is tied to their small business succession program. When succession planning is coupled with a small business program it can provide small business owner's with various succession planning options, such as employee ownership. It can also provide future small business owners with an alternative (employee ownership) as a means of establishing a new business. Ohio's program is a good example of information dissemination. It produces a biannual newsletter about employee ownership. The various seminars on succession planning and other aspects of employee ownership, especially financial training can be of great value to employee owners.

Second, employee ownership programs can be a valuable resource to employee-owned firms and potential employee owners. Ohio's Employee-Owned Network is an excellent example of such a resource. The Network provides training that meets the particular needs of the employee-owned firm. Although there is debate about the importance of worker participation, such a resource, though not necessarily a guarantee for success, can create a employee ownership culture (within a firm) that, according to the available research, can make the firm more effective and productive.

Third, employee ownership programs should provide financial and technical assistance. State programs should provide either actual assistance or assist potential employee owners in finding available financial resources. States can pass legislation providing, for example, loan guarantees for the purpose of employee buyouts. Given the complexity of ESOP law, technical assistance must also be made available either directly through the state program or in the private sector.

Forth, employee ownership can provide an alternative to plant shutdown. Given that the Workforce Investment Act does not contain specific language providing for preliminary feasibility studies, states may have to take up the slack.[80] The preliminary feasibility program has proven to be a cost-effective program where it has been utilized. Without such studies, viable plants may be shutdown that otherwise could have been kept open. Coupled with an early warning system, like in New York and Pennsylvania, preliminary feasibility studies can save jobs at viable firms, either through an employee buyout or buyout by some outside party.

In conclusion, employee ownership can be a useful economic development tool. With an employee ownership program, best coupled with a small business program and staffed with well-skilled personnel, it can be an effective economic development strategy. It helps to anchor capital in the community reducing the uncertainty of economic development officials concerning capital flight. Furthermore, employee-owned firms tend to more productive than conventional firms that can generate more tax income for the community and tend to lead to increased job creation. Employee ownership can also provide an alternative to plant shutdown for viable firms. Thus, an effective employee ownership program can save, and in many cases, create new jobs.

VI. Conclusions and Recommendations

As should be evident from this examination of employee ownership as an economic development strategy, it is not a panacea. Part of this is due to the fact that some states have not put much effort (if any) into implementation of state programs or legislation. Employee ownership is not a viable alternative in all situations either. If a plant is not economical viable, employee ownership will not save it. Employee ownership works best when it is implemented in a healthy business. There are also problems that need to be corrected, such as exclusion of unionized workers, voting rights, and the complexity of the tax code pertaining to ESOPs, to name a few.

Employee ownership can, however, provide a number of functions with regard to economic development, such as job creation and retention. Research has shown that employee ownership is more likely to create new jobs then are traditional firms. Employee ownership also serves as a means of job retention. Since employee ownership anchors capital in the community it also reduces the uncertainty of economic development created by the fear of capital flight. Employee ownership research has shown leads to greater job security since employee-owned firms are less likely to layoff workers during economic downturns.

As a result of anchoring capital in the community, one proponent concludes that employee-owned firms should have a higher local multiplier effect. This is due to fact that employee-owned firms often do more of their purchasing locally, and of course, employee owners' purchasing power is more closely tied to the community than that of conventional shareholders. Furthermore, profits are not siphoned off to distant corporate headquarters.[81]

Successful implementation of employee ownership legislation is necessary for states to meet these policy objectives. There is one primary characteristic of those states that have successful implemented employee ownership legislation. The establishment of a state program greatly increases the likelihood that employee of successful implementation. State programs have provided a variety of important functions that increase the probability of utilizing employee ownership as an economic development strategy.

First, through information dissemination, these programs have increased the likelihood that potential clients will know about the program. There are numerous resources available to the potential employee owner. These include resources from both the federal and state government. However, research has shown that potential employee owners (and even state officials) are often unaware of the resources available to them. Through networking and other educational programs potential clients are made aware of the types of programs available and the potential benefits of employee ownership. Educational programs, in New York and Ohio, have provided a vital function particularly with regards to information on succession planning.

Second, these programs have also contributed to the success of established employee-owned firms by providing specific training and other assistance. Different skills are often needed for the successful operation of the employee-owned firm. Research has shown that establishing an ESOP does not necessarily entail increased productivity and profitability. It often necessary that employee owners need specialized training in for example accounting and financial management.

Other technical assistance that has been provided by state programs is assistance with establishing democratic decision making structures. Research suggests that employee-owned firms with greater employee participation are more likely to have increased profitability and productivity. The Ohio Employee Owned Network, through the use of training seminars and retreats, provides continued skills training and assistance to employee-owned firms.

Third, state programs have also been more likely to draw on other sources of funding, such as from JTPA for preliminary feasibility studies, as well as from private foundations. Research has shown that states with programs are more likely to utilize these resources in greater quantity and with greater success. JTPA can be a valuable funding resource for potential employee owners and is a cost effective job retention strategy for states that have chosen to utilize the program.

Fourth, these programs, through their continuing research of employee ownership, have increased the knowledge pertaining to employee ownership. For the continued success of employee ownership it is important that research is done to discover what has worked and what has not. State programs have conducted most of the research that has been done on employee ownership. This research can be a valuable resource for potential employee owners, economic development departments, and policy makers.

Employee ownership works. Employee ownership can lead to increased productivity and profitability, especially if there is a high level of employee participation. In addition to available federal benefits, twenty-eight states have passed legislation encouraging, facilitating and/or promoting employee ownership. State employee ownership programs increase the likelihood of successful implementation of both federal and state employee ownership legislation. In the absence of state programs, available resources are often under-utilized. Lastly, employee ownership, though not a cure all, can provide a variety of functions to various groups, from business start to succession planning to keeping a closing plant open.

Appendix I. Major Federal Legislation Concerning Employee Ownership

Regional Rail Reorganization Act of 1973. Employee Stock Ownership plans (ESOPs) first mentioned in federal legislation.

Employee Retirement and Income Security Act of 1974 (ERISA) created the statutory framework for ESOPs, permitted them to borrow, and established tax deductibility of employer contributions.

The Tax Reduction Acts of 1975 and 1976, which created TRASOPs (a particular form of ESOPs, which received tax, credits and which were phased out in favor of PAYSOPS after 1981).

The Revenue Act of 1978, among other provisions, required pass-though of voting rights on ESOP stock to employees and provision of a put option (i.e. a company guarantee to repurchase stock at fair market value) when there is no public market for the stock for leveraged ESOPs.

The Small Business Ownership Act of 1980 authorized the Small Business Administration (SBA) to provide loan guarantees to ESOPs and liberalized SBA rules on loans.

The Economic Recovery Tax Act of 1981 replaced TRASOPs with PAYSOPs, another form of ESOP with tax credit (maximum annual contribution: one-half of 1% of payroll; PAYSOP tax credits were abolished in 1986), and broadened to the "put" requirement to all ESOPs.

The Deficit Reduction Act of 1984, among other provisions, deferred capital gains on sales of closely held businesses to ESOPs or co-ops (provided gains are reinvested in stock within 12 months), eliminated double taxation of dividends paid to ESOP shares, and enabled lenders to deduct 50% of interest income from loans to ESOPs.

The 1986 Tax Reform Act left the existing ESOP tax breaks in place; they became more attractive because many other corporate tax advantages were reduced or eliminated. 1986 Act added a tax benefit for estates: 50 percent of the proceeds of estate sales to ESOPs are deductible from the estate for tax purposes.

The 1989 Revenue Reconciliation Act repealed the 50% sellers tax exclusion. It also restricted commercial lending institution's eligibility for loan interest income deductions with regard to ESOP loans. It also placed a three-year waiting period to qualify for tax deferral for business owners selling 30% or more of the company to employees.

The Small Business Job Protection Act of 1996 repealed the provision that that qualified lenders to ESOPs could exclude 50 % of the interest income from ESOP loans. Employee deferrals to tax-qualified plans, such as 401(k) plans and cafeteria plans, will no longer reduce the definition of eligible pay for purposes of determining whether an individual plan participant received an excess contribution. Also as part of the Act, ESOPs will be allowed to own stock in Subchapter S corporations after December 31, 1997. To take affect December 31, 1999, contributions to defined benefit pension plans will no longer have to combined with the contributions to defined contribution plans when calculating whether a company is exceeding contribution limits for all ERISA plans.

The Taxpayer Relief Act of 1997 permits Subchapter S corporations to sponsor an ESOP. Unlike provision for C corporation, The ESOP rollover will not apply, contributions limited to 15% of pay in all plans, interest payments on ESOP loans will count toward the contribution limits, and dividends will not be deductible. The Act also made technical corrections to provisions of the Small Business Job Protection Act of 1996 that allowed S corporations to be owned by ESOPs. S corporations will not be required to offer participants the right to receive distributions in the form of employee stock. Distributions may be made in cash. The S corporation ESOP will not be subject to income tax on its share of the net income of the S corporation or on the gains realized upon the disposition of employer stock. The maximum tax rate on long-term capital gains was reduced thereby creating opportunity for increased tax savings for certain lump sum distributions of plan benefits in the form of employer stock.

Appendix II. Summary of Specific Employee Ownership Legislation by State

This appendix provides a summary of statutes concerning employee ownership for each state discussed in this study. Following each entry is a citation referring to the compiled law or source of the information. Furthermore, for statutes that have either been repealed or sunset they are designated "repealed." To facilitate comparison between state laws statutes have been categorized accordingly:[82]

INCREASING AWARENESS
- Policy declaration
- Educational programs (employees and business community)
- Interdepartmental awareness (annual reports and evaluations)
- State employee ownership programs

FACILITATING EMPLOYEE OWNERSHIP
- Method of notification
- Tax credits for contributions to ESOPs
- Other financial advantages
- ESOP exemptions from securities regulations
- Legal recognition of employee cooperatives

PROVIDING TECHNICAL ASSISTANCE
- Provide actual assistance
- Provide help in finding assistance
- Provide financing for assistance
- Provide actual funds for assistance
- Types of assistance
  - -Feasibility studies
  - -Training and advice: financial, marketing, managerial, operational, accounting, and legal
  - -Locating financial assistance

PROVIDING FINANCAIL ASSISTANCE
- Types of financial assistance
  - Interest rate subsidies
  - Below market interest rates
  - Loan guarantees
  - Loans
- Method of financing
  - Issuance of revenue bonds
  - Local non-profits
  - Revolving or Trust funds
  - Direct assistance from government agency

ENCOURAGING PARTICIPATION
- Financing contingent of participation requirements
- Legal recognition of cooperative structure
- Definition of employee ownership specified
- Special requirements on voting rights in ESOPs

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California

INCREASING AWARENESS
Policy declaration: 1983
The legislation declares that encouraging a transition to employee ownership, in cases of plant closings, can prevent unemployment, increase productivity, and maintain businesses to benefit employees and community. (In the notes of Government §15330 and Cal Corp Code §14200)

Update of this legislation in the 1990s. "The state must meet the competitive challenges of the 1990s and provide sufficient employment opportunities for its population, and the mature sectors of the state's industrial base must be retrained and revitalized." (Government §15340-15344. See also Cal Gov Code §91502.1, Cal Corp Code §14200.)

Education programs: 1989.
Passed legislation directing the Department of Commerce to provide legislation to provide education and outreach regarding employee ownership. (AB 1482 became Part 6 of Div. 3 of Title 1) Such activities include seminars, workshops, and conferences. A library of resources is also to be made available. Contract out to do the following: public education, research, and technical assistance.

Interdepartmental awareness: 1983
The Department of Commerce is responsible for continual evaluation of policies affecting economic development (Government §15330)

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1983
(Government §91500).

ESOP exempt from securities regulations: 1982
Employee Stock Ownership plans are exempt from securities regulations provided that (a) it meets the requirements of IRC §401 and (b) employees do not make contributions. (Corporations §25102)
See also cal Rev & Tax Code §24611(b).

State tax law: 1988
Measure adopted conforming California tax law to federal ESOP tax law (IRS Code §1042). However this does to S-corporations (Rev & Tax Code §24611 (b)).

Employees seeking a buy out may not be denied unemployment benefits. (NCEO)[1]
(See Cal Unemp Ins Code Government §10527).

PROVIDE TECHNICAL ASSISTANCE
Provide Actual Assistance: 1983
The Department of Commerce is responsible for coordinating federal, state and local relationship.
-responding to inquiries
-assisting in the formation of employee-owned corporations at the request of employees (of closing and closed businesses) by providing technical assistance, information and access to sources of financing. (Government §15330, also see Government §15344)

Funding for technical assistance: 1983
The responsibilities of the Department shall be permissive in the absence of state funds, unless state funds are authorized. (Government §15330)

1990 Amendment of California Unemployment Code § 10527 provides for coordination and special services plan (of Federal Job Training Partnership Act) to include provisions to facilitate employee ownership (SB 1033) (Amended Stats 1990: Ch 1667§17)

PROVIDING FINANCIAL ASSISTANCE
Issuance of Revenue Bonds: 1982
The authorities may provide alternative financing (issuance of revenue bonds) for the transfer of ownership of closed or closing businesses. The project must (1) serve the public interest, (2) be an employee-owned corporation which is (a) an employee cooperative or (b) an ESOP, pursuant to ERISA, stock issued in the beginning is fully vested in 5 years, voting rights in accordance with IRC §409A(e). (Government §91502)

Revenue bonds are generally limited to $10,000,000 for any one use and carry somewhat below market interest rates. (NCEO)

ENCOURAGING EMPLOYEE PARTICIPATION
Financing contingent on participate requirements: 1982
Alternate financing (revenue bonds) is available for employee-owned corporations which are majority-owned by a majority of employees in either:
A. An employee stock ownership (ESOP)
 -pursuant to ERISA
 -all stock issued at the formation shall be fully vested within 5 years
 -voting rights in accordance with IRC §409A(e)
B. A worker-owned cooperative (Government §91502)

Connecticut

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1984
Corporation law establishes the one-person one vote nature of cooperatives. The cooperative can, establish its own membership requirements (provided they are employees), decide how to allocate earnings, and have internal accounting systems. The system avoids workers taking an equity position in the company and allows the use of the word "cooperative" in the name to qualify for federal tax incentives. (C.G.S.A. §33-418f et seg.)

PROVIDING TECHNICAL ASSISTANCE
Provide actual funds for assistance: 1985
Discretionary support for planning grants to distressed areas and special grants for projects involving closed or closing facilities. (Public Acts 85-50)

Administrative program started by the Department of Economic Development (1984) to assist buy out using existing funds for assistance for feasibility studies and partial support for buy outs. (NCEO).

PROVIDING FINANCIAL ASSISTANCE
Interest Rate Subsidies: 1985
The Commissioner of Economic Development administers a fund to be used by employees for the purchase of actual business. Eight million dollars was appropriated for this purpose (1985). Interest rates subsidy cannot exceed 5% relative to any loan for expenses related to purchase. (Public Acts 85-159 and 85-469)

Loans: 1986
A 1986 act broadened the fund's scope to permit it to make direct loans to employee groups for purchase of the operations or stock.

In 1988, consolidation of 6 funds, including the Employee Ownership Trust Fund, into the Connecticut Growth Fund took place. (Title 32 Ch. 579 Sec 32-23u)

ENCOURAGING EMPLOYEE PARTICIPATION
Legal recognition of cooperative structure: 1984
Cooperatives must be controlled on a one member one-vote basis. Only employees may be members. Cooperatives can apportion earnings and losses on the basis of members' work. (C.G.S.A. §33-418f et seq.)

Delaware

INCREASING AWARENESS
Policy Declaration: 1981
It is the policy of the state to encourage the broadened ownership of capital through the use of ESOPs. (29 Del. C. §6508 (c)). Repealed.

Interdepartmental Awareness: 1981
State agencies must report annually on what they have done to comply with policy and explain why. (29 Del. C. §6508 (c)). Repealed.
FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1996
Delaware's Workers Cooperative Act. (6 Del. C. §1401)

ENCOURAGING EMPLOYEE PARTICIPATION
Legal recognition of cooperative structure: 1996
Voting shall be one member one vote.
Delaware's Workers Cooperative Act. (6 Del. C. §1401)

Hawaii

INCREASING AWARENESS
Policy declaration: 1985
It is the policy of the state to encourage employee ownership. (Employee Stock Ownership Act of 1985) (HRS @226-103)

Interdepartmental awareness: 1985

The Department of Planning and Economic Development will conduct a study and hold a conference to develop a plan for implementing the project. (NCEO)

Educational programs: 1987
Work Program for 1988: continue to inform businessmen, labor unions, legislators, and academicians about the advantages and pitfalls of employee ownership and participation through work place decision making; Continue to develop library holdings; Continue program of outreach. (Report to Fourteenth Legislature, 1987, State of Hawaii, Employee Stock Ownership Advisory Committee, 1988)

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1985
Recognition of cooperatives. (§2 of part 1 of ESOP program chapter)

Method of notification: 1983
The legislature finds that there is a need for employment and training assistance for dislocated workers in Hawaii and that there is a need to protect employees from the effects of unexpected and sudden layoffs or terminations resulting from closings, plant closures, partial plant closures, and relocations. HRS § 394B-1.

PROVIDING TECHNICAL ASSISTANCE
Provide actual funds for assistance: 1987
Shall provide funds for assistance.

PROVIDING FINANCIAL ASSISTANCE
Loans: 1987
ESOP Loan program: Loans available for
-feasibility studies
-professional studies
Financial assistance (max. loan or guarantee $1,500,000).

Employee ownership groups eligible if
-threatened with shut downs or lay-off
-healthy plants but would like to convert to employee ownership.
-job creation/retention plans
-owner retirement

OTHER
In 1987 an amendment was passed which stated that proceeds of group life and disability insurance of individual employees may be paid to the employer if the monies are to be used to repurchase employee securities distributed to deceased or disabled employees from an employee ownership plan. (Rhode Island has a similar law).

In 1988 Employee Stock Ownership Advisory Committee changed to the Employee Ownership and Participatory Advisory Committee.

Illinois

INCREASING AWARENESS
Policy declaration: 1982
An act has been passed to encourage the employees of a plant that is closing or in danger of closing to acquire businesses with the consent of the owners and continue to operate them as employee-owned

cooperatives which are 60% owned and controlled by employees. This act will strengthen the economy and retain jobs. (48 §1302)

Educational Programs: 1982, 1995
Department of Commerce and Community Affairs shall initiate educational programs relating to employee-owned enterprises. (1982: 48 §1304)

State employee ownership program: 1995
A 1995 act created the Center for Business Ownership Succession and Employee Ownership. It states that "there is created within the Department of Commerce and Community Affairs the Center for Business Ownership Succession and Employee Ownership. The purpose of the Center is to foster greater awareness of the most effective techniques that facilitate business ownership succession and employee ownership with an emphasis on the retention and creation of job opportunities." (§20 ILCS 609/2)

Several of the functions of the Center are (1) to develop and disseminate materials to promote effective business ownership succession and employee ownership strategies, (2) plan, organize, sponsor, or conduct conferences and workshops on business ownership succession and employee ownership issues and network and contract with local economic development agencies, business organizations, and professional advisors to accomplish the goals of the Center. (§20 ILCS 609/2)

It is important to note that this Center is yet to be established.

Company Participation: 1982
The present owners must give written consent before loans are approved. (48 §1302)

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1982, 1995
The Department of Commerce and Community Affairs shall assist in, dealings with other parts of the government, streamline application process, receive complaints, develop proposals and conduct investigations. (1982: 48 §1304)

Provide counseling to individual companies and referral services to provide professional advisors expert in the field of business ownership succession and employee ownership. (1995: §20 ILCS 609/2.)

Provide help in finding assistance: 1982
The department shall assist in obtaining managerial, technical, and financial assistance. (48 §1304)

Provide financing for technical assistance: 1982
Technical, engineering, legal, and financial services are in included in "project cost." (48 §1303)

PROVIDING FINANCIAL ASSISTANCE
Below market interest rates: 1982
The Employee-Owned Enterprise Council and the Illinois Development Finance Authority can approve loans not exceeding 50% of the project cost. The Authority will pay for loan closing services by a financial institution. The loan must be repaid in 13 years, interest rate cannot be less 70% of the prime, and repayment may begin up to 3 years after the effective date. (48 §1306-§1311)

$500,000 was authorized for the start of this program (1982). (NCEO)

A 1994 amendment allowed for the Authority to enter into agreements or arrangements with federal or state agencies to carry out the purposes of this act. (20 ILCS 3503/7)

Issuance of revenue bonds: 1995
(§20 ILCS 3505/7)

ENCOURAGING EMPLOYEE PARTICIPATION
Definition of employee ownership specified: 1982
An employee-owned enterprise is a business controlled and at least 60% owned by its employees. (48 §1303)

A 1993 amendment established a task force to "study the scope and effectiveness of current and past efforts by and within the state of Illinois to encourage and assist with ownership succession and recommend any necessary changes." (House Bill 1746)

<u>Indiana</u>

PROVIDING FINANCIAL ASSISTANCE
Loan guarantees: 1986
Indiana has no specific legislation regarding employee ownership but they do have a program to assist employee buyouts through existing state business assistance programs. The Indiana Labor and Management Council also carries out workshops and seminars on employee ownership. The Employment Development Commission guarantees loans of up to 90% for buildings and land, and up to 70% for machinery for employee-owned companies. (1986)

<u>Iowa</u>

OTHER
Service available under Job Training Partnership Program will also be made available to assisting employee-owned business and employee ownership groups. Services include: on the job training, classroom training, work experience and remedial education, job search assistance, and tuition assistance. (7B.4 (subsection 9)): (1992)

<u>Maine</u>

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1983
Corporation law establishes the one-person one vote nature of cooperatives. the cooperative can establish its own membership requirements (provided they are employees), decide how to allocate earnings, and have internal accounting systems. The system avoids workers taking an equity position in company because each person controls own vote and earnings are allocated on the basis of work and seniority. It allows the use of "cooperative" in name to qualify for federal tax incentives. (13 §1970-1984)

ESOP exemptions from securities regulations: 1983
The registration fee for cooperative securities $10.00. (13 §1974)

PROVIDING FINANCIAL ASSISTANCE
Loans: 1997
Encourages employee stock ownership by creating a program whereby the Finance Authority of Maine

must reserve a specified amount of its moral obligation to insure up to 90% of payments with respect to loans to employees to purchase an ownership interest in the business by which they are employed. (PL 217)

ENCOURAGING EMPLOYEE PARTICIPATION
Legal recognition of cooperative structure: 1983
Cooperative must be controlled on a one member one-vote basis. Only employees may be members. Cooperatives can apportion earnings and losses on the basis of members' work. (13 §1977-1983)

Maryland

ENCOURAGE PARTICIPATION
Policy declaration: 1980
"Maryland Broadened Ownership Act" declared it the policy of The state to encourage the broadened ownership of capital and that ESOPs were important means of reaching that goal. (41 §14J)

Interdepartmental awareness: 1980
State agencies involved with economic development shall report annually on the steps that they have taken to encourage the broadened ownership of capital. (41 §14J)

FACILITATING EMPLOYEE OWNERSHIP
Method of notification: 1979
Corporations must give a twenty-day advance notice when taking over another corporation for the purpose of allowing an employee buy out instead. (Corporations and Associations §11-803)

Other Advantages to contributing to an ESOP: 1979
Public utilities with ESOPs are not required to pass on tax credits through to their consumers. (House Bill 270, 1979)

ESOP exemption from securities regulations: 1979
Employee Stock Ownership Plans are exempt from securities regulations. (Corporations and Associations §11-602)

Massachusetts

INCREASING AWARENESS
Interdepartmental awareness: 1984
The economic monitoring group shall prepare and update a state economic data book which contains statistical profiles of the state and its regions. (M.G.L.A. c.23A §45)
-Annual reporting to legislature: 1990
-Annual reporting on Industrial Services Program: 1996

Educational programs: 1990
Established Commission on Employee Involvement and Ownership. 1990-1991: $1 million earmarked for funding of employee buyout feasibility studies. To provide legal and marketing assistance and educational services.

State employee ownership program: 19
Established Commission on Employee Involvement and Ownership.

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1982
Corporation law establishes the one-person one vote nature of cooperatives. The cooperative can establish its own member requirements (provided they are employees), decide how to allocate earnings, and have internal accounting systems. The systems avoids workers taking an equity position in company because each person controls own vote and earnings are allocated on the basis of work and seniority. It allows the use of "cooperative" in name to qualify for federal tax incentives. (M.G.L.A. c. 157A §1-11)

Method of notification: 1984
The Industrial Service Program shall oversee an early warning system to identify plant closures by collecting and analyzing declining growth rates, companies subject to competition in low wage counties, changes in ownership, layoff and employment patterns, and state tax payments. (M.G.L.A. c.23D §4(d))
Employee or Massachusetts residents are given the first chance to buy a closing facility. (M.G.L.A. c.23D §6)

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1984
In cases of plant closures, displaced employees may be eligible for reemployment assistance benefits (supplementing unemployment benefits) while participating in a retraining program (subject to appropriation). this program will provide counseling, placement, training and other services deemed necessary to reemploy workers. (M.G.L.A. c.151A §71D)

Provide funds for assistance: 1984
If a distressed business is unable to pay for a feasibility study and other governmental agencies cannot provide the service quickly the director may contract with private consultants for the services. (M.G.L.A. c.23D §5)

Technical Assistance Fund established: 1989
Fund for contracting with private consultants for feasibility studies. (M.G.L.A. c.23D §5: amendment)

PROVIDING FINANCIAL ASSISTANCE
Various methods of assistance including a trust fund: 1984

Employees of Massachusetts residents are given first chance to buy a closing plant. The Industrial Service Program shall provide the same assistance in purchasing the business that other interested buyers have available to them. Financing is available for businesses likely to experience a large loss of employment. This financing is available through a trust (the economic stabilization trust) for high risk financing to implement change of ownership, corporate restructuring or a turnaround plan for an economically viable, but troubled business which faces large employment loss. (M.G.L.A. c.23D §11)

1989 amendments established the Employee Ownership Revolving Trust Fund, Start-up employee involvement program grants, and high risk financing. (M.G.L.A. c.23D §5 & 11)

ENCOURAGING EMPLOYEE PARTICIPATION
Specifications on voting rights of ESOPs: 1981
Corporations cannot directly or indirectly vote any share of their own stock. Voting rights of stock intended to be an Employee Stock Ownership plan may not be limited. (M.G.L.A. c.156B §41)

Legal recognition of cooperative structure: 1982
Cooperatives most be controlled on a one member one-vote basis. Only employees may be members. Cooperatives can apportion earnings and losses on the basis of members' work. (M.G.L.A. c.157A §6-10)

Definition of employee ownership specified: 1990
Employee owned businesses are defined as a cooperative organized and operated pursuant to the Employee Cooperative Act, Chapter 157A of the General Laws, or by a partnership of at least three persons which is owned or controlled by the partners on a cooperative basis, whereby the partners vote on partnership matters in a one-person, one-vote basis and the ratio of partners to non-partners is no less than one to one, or a business, the ownership of which is represented by shares and the governing body of which is elected by holders of shares in which fifty percent of the class of voting shares having the greatest combination voter power and dividend rights and more than fifty percent of the shares are owned by (1) not less than seventy (70) percent of the employees of such an enterprise, (2) an employee stock ownership plan maintained by such an enterprise, or (3) a combination of the foregoing.

Michigan

INCREASING AWARNESS
Policy declaration 1974
There exists in this state [Michigan] the continuing need for programs to alleviate and prevent conditions of unemployment, and the legislature finds that it is accordingly necessary to assist and retain local industrial and commercial enterprises, including employee-owned corporations, to strengthen and revitalize the economy of this state and its municipalities. MSA § 5.3520(2)

Educational programs: 1979
The Department of Labor and the Department of Commerce shall establish a program to assist and inform local government, business, and labor of available programs. (M.C.L.A. §450.751)

State employee ownership program: 1988
Establishment of the Center for Employee Ownership and Gainsharing
Provide information on designing and implementing employee ownership programs.

Interdepartmental awareness: 1979
One year after the law was initiated a report shall be submitted to the legislature describing the program; in two years a report shall be submitted on jobs saved.

FACILITATING EMPLOYEE OWNERSHIP
Method of notification: 1979
The Department of Labor encourages business considering relocation or closing to give notice of their decision as early as possible to the department, employees and community. (M.C.L.A. §450.751)

Legal recognition of cooperatives: 1979
(M.C.L.A. §450.99)

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1979
The Department of Labor can
-do feasibility studies
-provide technical assistance
-coordinate governmental agencies
-assist in locating funding (M.C.L.A. §450.751)
Some of these functions were also carried out by the Center for Employee Ownership and Gainsharing: 1988

PROVIDING FINANCIAL ASSISTANCE
Issuance of industrial revenue bonds: 1985
An authorization for municipalities to issue revenue bonds to acquire industrial buildings (including employee-owned corporations) for economic development. (Public Act 153)

Local non-profits: 1985
Economic Development Corporations are authorized to issue tax exempt bonds to promote local economic development (money can be used for loans to employee-own corporations.) (Public Act 153)

Below market interest rates from a revolving fund: 1985
Employee Owned Revolving Fund used for buying and fixing facilities. Up to 30% of the fund can be used for working capital loans. Loans may not be used for financing speculation, financing employee-owned corporations that have relocated, or refinancing a debt. Priority is given to the most feasible and the projects that create the most jobs. Interest rates cannot be less than 6% of the current U.S. Treasury rate or the maximum rate permitted. The Department can make loans repayable after other loans have been paid. (Public Act 217)

In 1986, an act allowed for the assistance of healthy companies.

ENCOURAGING EMPLOYEE PARTICIPATION
Definition of employee ownership specified: 1979
Employee ownership means:
-Management rights are represented by voting stock which may be owned only by the employees of the operation, a non-profit CDC or an ESOP any portion of which is owned by not less than 50% of the employees.
-The operation shall be controlled by a board of directors which is selected by the shareholders on a basis of 1 vote per shareholder.
-This includes cooperatives described in §450.99 of M.C.L.A.
-This also includes businesses which not less than 3/4 of each class of voting security is owned by an ESOP trust set up under IRC §4975(e) (7), only if the plan requires pass through of voting rights on voting securities as they are vested in individual participation employee accounts. (M.C.L.A. §450.751)

Minnesota

INCREASING AWARENESS
Policy declaration: 1974
It is the intention of the legislature in defining and allowing for ESOPs that it will benefit all the people of Minnesota by 1) renewing a sense of human worth 2) recognizing the interdependency of human effort 3) providing direct economic advantage 4) reducing differences in the interests of labor and capital 5) relieving a primary cause of social tension. (In the notes of M.S.A. §290.01)

FACILITATING EMPLOYEE OWNERSHIP
ESOP exemption from securities regulations: 1974
Any interest in a common trust fund in connection with an employee's savings, pension profit sharing or similar benefit plan is exempt from securities regulations. (M.S.A. §80A.15)

Tax credits for contributions to ESOPs: 1974
Owners who might otherwise contribute stock to charitable organizations have the alternative of giving it to their employees. Qualified ESOPs are charitable organizations under state inheritance and gift tax laws. They can deduct up to 30% of covered payroll. Other persons will receive a charitable deduction, according to IRC §404 or §408K, for their contributions to an ESOP. (M.S.A. §290.26 subdiv.2) repealed

Individual retirement account exemption. Any individual retirement account that is exempt from taxation under the provisions of section 408 of the Internal Revenue Code shall also be exempt from taxation under the provisions of this chapter. (M.S.A. §290.26 subdiv.6)

Legal recognition of cooperatives: (1989)
(M.S.A. §308A.001-.985)
PROVIDE TECHNICAL ASSISTANCE
Provide actual funds for assistance
Grants for pre-feasibility studies for closing and dislocated workers and alternates to plant closures. (M.S.A. §268.9771-978: 1989).

OTHER
1993: Legislation allowing law firms to have employee ownership.

Missouri

FACILITATING EMPLOYEE OWNERSHIP
Method of notification: (1986)
Department of Economic Development: business locating outside side to be furnished information and alternative by request; determine if employee ownership is feasible and assist in implementing alternatives (620.020 RS MO).

Legal recognition of employee cooperatives: (1985)
(§357.010-.190)

ENCOURAGING EMPLOYEE PARTICIPATION
Legal recognition of cooperative structure: (1985)
(§357.010-.190)

Montana

INCREASING AWARENESS
Policy declaration: 1989
(SB 215/Mont Code Anno @90-5-302 through -305) Repealed

Educational programs: 1989
Compile and provide information about employee ownership. Conduct seminars, workshops, and conferences to increase awareness (at least 1 seminar annually). Repealed

FACILITATING EMPLOYEE OWNERSHIP
ESOP exemption from securities regulations: 1989

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1989
Information, training, and technical assistance provided within existing programs. Repealed

Montana's policy declaration, education programs, and provision of technical assistance were repealed on February 16, 1999. (Senate Bill 4)

Nebraska

FACILITATING EMPLOYEE OWNERSHIP
Exemption of ESOPs from securities registration: 1990
(§8-1110 subsect.11)

New Hampshire

INCREASING AWARENESS
Interdepartmental awareness: 1983
The Community Development Finance Authority must make an annual report. (R.S.A. 162-L:8)

Educational programs: 1983
The Authority is responsible for community education. (R.S.A. 167-L:7)

FACILITATING EMPLOYEE OWNERSHIP
Other financial advantages: 1983
Taxpayers who contribute to the Community Development Finance Authority and purchase common stock from CDFC equal to or greater than the Authority sum may credit 75% of the purchase price. (R.S.A. 162-L:10)

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1983
The Authority shall provide technical assistance to people forming CDCs and employee-owned cooperatives; including organizational development, economic development, financial planning or packaging, training in accounting and legal practices, market research, and development of grant and other applications.

Provide funds for assistance: 1983
The Authority may award grants to fund their operating costs or other costs like planning and feasibility studies. (R.S.A. 162-L:7)

PROVIDING FINANCIAL ASSISTANCE
Loans through a community development finance company. 1983
The Community Development Finance Company may purchase capital participation instruments (common or preferred capital stock, convertible securities, evidence of a long term or short term indebtedness, warrants, subscriptions, royalties, and any other lawful derivation of the foregoing) if an employee ownership project meets the following requirements:
-helps target areas
-conform to environmental, zoning, etc., laws
-benefit public/maintain primary employment
-have a reasonable expectation of success
-sufficient capital for the project is not provided by private industry
-CDFC thinks that it is needed because funding is unavailable
-it is feasible
-CDFC cannot own more than 49% of the voting stock in any enterprise
-total investment by the CDFC cannot exceed 25% of its investments
-a majority of the board members shall be from the target community
-the project cannot increase employment (R.S.A. 162-L:6)

ENCOURAGING EMPLOYEE PARTICIPATION
Definition of an employee cooperative specified: 1983
An employee cooperative is a corporation in which the power to elect at least 2/3 of the corporation's directors is held by the employees and in which such elections are held one person, one vote.

New Jersey

INCREASING AWARENESS
Policy declaration: 1983
The Department of Labor issued a report finding that ESOPs can offer an indispensable method of keeping jobs threatened by closings. It found that the state should publicize the value of ESOPs; the Commissioner of Commerce and Economic Development shall disseminate information about the usefulness of ESOPs to avert closings and refinance successful businesses. (N.J.S.A. 52:27H-92)

Interdepartmental awareness: 1983
The Commissioner shall submit an annual report. (N.J.S.A. 52:27H-97)

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1983
The Commissioner will give advise to employer or employee groups as to (1) procedures for establishing an ESOP, (2) available federal, state, and local assistance, (3) available private sector consultants or associations who can do analysis of potential profitability. (N.J.S.A. 52:27H-94)

Provide funds for assistance: 1983
In the event of a closure or pending closure the commissioner may request a municipality for the funds for a benefit/cost analysis of the potential profitability of the establishment of an ESOP. (N.J.S.A. 52:27H-95)

PROVIDING FINANCIAL ASSISTANCE
Direct assistance: 1983
Loan guarantees, interest subsidies or below market interest rate loans may be granted if the Commissioner determines that 100% purchase of the business through an ESOP will have a reasonable chance of creating benefits to the public. (N.J.S.A. 52:27H-96)

ENCOURAGING EMPLOYEE PARTICIPATION
Financing contingent on participation requirements: 1983
One hundred percent of the business must be purchased through an ESOP for any financial assistance. (N.J.S.A. 52:27H-96)

New York

INCREASING AWARENESS
Policy declaration: 1983
The legislature declares the general welfare is directly dependent on the economy and plant closures are a problem. The purpose of this act is to encourage employees of these plants to continue them as employee-owned enterprises thereby retaining jobs. (Public Authorities §1836a)
Educational programs: 1983
The department of Commerce shall cooperate with the Job Development Authority to initiate educational programs. (Commerce §104a)

State employee ownership program:

FACILITATING EMPLOYEE OWNERSHIP
Method of notification: 1983
The Department and Authority shall identify businesses that are in danger of being permanently closed or relocated which results in loss of jobs and increasing unemployment. They shall provide the information

regarding the option of employee ownership. (Commerce §104a)

Legal recognition of cooperatives: 1985
(Similar to Massachusetts cooperative law)

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1983
In cooperation with the Authority, the Department shall assist and counsel employee-owned enterprises, receive complaints and suggestions, conduct research projects and streamline application process. (Commerce §104a)

Provide help in finding assistance: 1983
The Department, in cooperation with the Authority, shall assist finding available managerial, technical, and financial assistance. (Commerce §104a)

PROVIDING FINANCIAL ASSISTANCE
Local non-profit: 1983
The employee ownership association may apply to a local CDC for n employee ownership assistance loan. Loan application must include group history and membership, plant history, financial and marketing projections, estimated jobs saved or lost, total cost, and a detailed financial statement of funding partner. Loan preferences given to projects with higher level of funding partners, directly save jobs, stimulate private sector and are least speculative. If the Authority approves the loan, it cannot exceed 40% of the cost, repayment secured by a mortgage shall not be a "junior encumbrance" by more than 50% and other loans cannot exceed 80% of cost. The state requires that loans be paid back. (Public Authorities §1836 and §1810)
J.D.A. loans are generally based on revenue bonds and are not subject to federal income tax. These loans therefore can be made at somewhat below market interest rates. (NCEO)

ENCOURAGING EMPLOYEE PARTICIPATION
Definition of employee ownership specified: 1983
An employee-owned enterprise means that employees are represented on the board of directors and employee control a majority of voting stock or if the business is held in trust which controls a majority of voting stock where trustees are elected by employees. (Public Authorities §1836)

Legal recognition of cooperative structure: 1985
(Similar to Massachusetts cooperative law)

North Carolina

INCREASING AWARENESS
Policy declaration: 1998
"North Carolina Government Competition Act of 1998". N.C. Gen. Stat. § 143-701
This piece of legislation is virtually identical to the Virginia Competition Act of 1995.

Ohio

INCREASING AWARENESS
Educational programs: 1988

Develop, collect, and disseminate information useful to individuals and organizations throughout the state in undertaking or promoting the establishment and successful operation of employee-owned corporations (§ 122.083, originally H.B. 676)

Interdepartmental awareness: 1988
Publication of the availability of the employee ownership assistance program and services to local governments and business and labor organizations and shall coordinate his efforts with such groups and other state agencies in obtaining information relating to the possible relocation of operations or closing of a business establishment. (§ 122.133(B)

The director of development shall prepare and submit a report to the governor and the general assembly annually on the services and activities of the employee ownership assistance program for the preceding calendar year. (§ 122.136)

State employee ownership program: 1988
Employee Ownership Assistance Act (§ 122.133)

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of cooperatives:
House Bill 600 effective 1998 (repealed 1729.30-34, which concerned worker-owned cooperatives.

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1988
Assist in the evaluation of the feasibility and economic vitality of employee-owned corporation proposals received in this program. Provide technical assistance and counseling services to individuals who seek to form an employee-owned corporation. Provide assistance and counseling in the operation of an employee-owned corporation; (§ 122.13)

Types of assistance: 1988
-Feasibility studies (§ 122.13)
-Training and advice: financial, marketing, managerial, operational, accounting,
and legal. (§ 122.13)
-Locating financial assistance: Assist individuals in obtaining financing for the purchase and operation of an employee-owned corporation; (§ 122.13)

ENCOURAGING PARTICIPATION
Definition of employee ownership specified: 1988
"Employee-owned corporation" defined as “a business operation controlled by a board of directors that is selected by the shareholders on a basis of one vote per shareholder and in which the management rights are represented by voting stock that is owned only by employees of the operation, a nonprofit community development corporation, or an employee-owned stock ownership plan any portion of which is owned by not less than twenty per cent of those employees. An ‘employee-owned corporation’ also includes a business operation in which not less than fifty per cent of each class of voting security is owned by an employee stock ownership trust established under an employee stock ownership plan as defined in 26 U.S.C.A. 4975 (e)(7), if the employee stock ownership plan requires pass-through of voting rights on voting securities as the securities are allocated to individual participating employee accounts. (§ 122.13)

Legal recognition of cooperative structure
House Bill 600 effective 1998 (repealed 1729.30-34, which concerned worker-owned cooperatives.

Oregon

INCREASING AWARENESS
Policy declaration: 1987
Employee Ownership Opportunity Act: State policy to encourage employee ownership and extend business assistance to employee owned enterprises (ORS §285A.273).

Educational awareness: 1987
Legislation directed EDD to provide education services and to conduct research. (S.B. 701)

State employee ownership program: 1987
(ORS §285A.273)

FACILITATING EMPLOYEE OWNERSHIP
ESOP exemptions from securities registration: 1987

PROVIDING TECHNICAL ASSISTANCE
Providing financing for assistance: 1985, 1987
The Economic Stabilization and Conversion fund is created by the Economic Development Commission for the purpose of making grants to non-profit corporations whose purpose is providing financing for feasibility studies. Priority is given to depressed area.

PROVIDING FINANCIAL ASSISTANCE
Local non-profit corporations: 1985
The corporations described above shall be for the purposes of partially financing buyouts. Not more than 50% of the buyout can be financed in this manner. $2 million was appropriated for the program. (S.B. 666)

Pennsylvania

INCREASING AWARENESS
Intra-departmental awareness: 1984
The Secretary of the Department of Commerce shall submit a report on March 1 of every year the program is in existence to the legislature. (73 P.S. §396.8)

State employee ownership program: 1990
Employee-Ownership Assistance Program Act: 1990. Repealed

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1988
(15 P.S. §7102)

PROVIDING TECHNICAL ASSISTANCE
Provide financing for technical assistance: 1984
The Department can advance funds to local administrative agencies for loans to employees of a plant facing closure, existing firms considering conversion to employee ownership, and existing firms with employee ownership for feasibility studies, professional services. These contracts are approved by the Department. The project must provide future growth and can only be for 50% of the project (no more than $100,000). If the plant is purchased the entire amount of the loan shall be paid with interest in a lump sum. If not, the applicant must submit a final report on the feasibility of repaying the loan. (73 P.S. §396.4)

PROVIDING FINANCIAL ASSISTANCE
Local non-profits: 1984
The Department can advance funds to a local administrative agency for loans and loan guarantees to employee ownership groups facing closure, or substantial layoff (no more than 1 year after feasibility study) for land capital and working capital (stock), in the absence of private financing. Loans shall not exceed 25% of the project (a maximum of $1,500,000 per firm). Loan guarantees shall not exceed 25% of the total loan value. Interest rates shall be at or above the rate on bonds to fund the act. A significant equity investment is required by the employee ownership group equal to at least 10% of the project cost (this may be wage concessions) and including 2/3 of the members. A feasibility study is required. Applications are evaluated on jobs saved, ability to repay, evidence of other private financial commitments and that employees are a significant portion of the community. (73 P.S. §396.5)

ENCOURAGING EMPLOYEE PARTICIPATION
Definition of employee ownership specified: 1984
Employee ownership is:
(A) A corporation in which the employees own the stock of the corporation through an ESOP as defined in IRC §4975(e)(7). Voting rights should pass through on corporate matters according to the requirements of IRC §409a(e).
Plan must be pursuant to ERISA.
(B) A worker-owned cooperative within the same meaning of IRC §1381 through §1388.
An enterprise that is organized in a manner involving substantial employee participation determined by the secretary. (73 P.S. §396.2)

Participation requirements for A, B, C:
1) A majority of voting rights are held by employees and all of the employees who have stock are entitled to vote. A majority of employees must control the majority of shares.
2) A majority of the board of directors are elected by employees.

Texas

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1991
Texas Cooperative Association Act (Article 1396-50.01, sect 1-46)

ENCOURAGING EMPLOYEE PARTICIPATION
Legal recognition of cooperative structure: 1991
One member one vote. (Article 1396-50.01, sect 16)

Vermont

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of cooperatives: 1985
11 V.S.A. §981-1081 (-1092). (Similar law to those of Massachusetts, Connecticut, Maine)

ENCOURAGING EMPLOYEE PARTICIPATION
Legal recognition of cooperative structure: 1985
11 V.S.A. §981-1081 (-1092). (Similar law to those of Massachusetts, Connecticut, Maine)

Virginia

INCREASING AWARENESS
Policy declaration: 1995
The Virginia Competition Act of 1995. This act created the Commonwealth Competition Council (§ 9-342.). The Commonwealth Competition Council shall examine and promote methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector by a competitive contracting program, and advise the Governor, the General Assembly, and executive branch agencies of the Council's findings and recommendations.
A study was done by the Commonwealth Corporation to assess the viability of privatization of government functions through the development of employee stock ownership plans. (Joint Resolution 284); (§ 9-342)

Interdepartmental awareness
The Council shall annually by December 1 report its findings and recommendations to the Governor, the General Assembly and the Small Business Commission created pursuant to § 9-336. The Council may make interim reports to the Governor, the General Assembly, and the Small Business Commission as it deems advisable. (§ 9-349)

Washington

INCREASING AWARENESS
Policy declaration: 1985
The legislature declares it to be policy of the state to encourage the broadening of the base of capital ownership among a wider number of citizens and encouraging the use of ESOPs as one means to accomplish this. (46.63A RCW)

Interdepartmental awareness: 1985
The Director of Community Development shall report within one year on the department's study of the use of ESOPs for providing the partial or total acquisition of facilities which would be closed without employee ownership. (43.63A RCW)
Educational awareness: 1987
(43.63A RCW)

State employee ownership program: 1987
(43.63A RCW)

FACILITATING EMPLOYEE OWNERSHIP
Legal recognition of employee cooperatives: 1987
(23.78.010) Employee Cooperative Corporations.

PROVIDING TECHNICAL ASSISTANCE
Develop a plan: 1985
The Department of Community Development shall develop a plan to encourage and assist the formulation of ESOPs in cases of closings. (43.63A RCW)

Employee ownership initially targeted buyouts to plant closures, now also targeting retiring owners.

1987 legislation also created a special provision allowing companies to register under rules similar to Massachusetts.

West Virginia

FACILITATING EMPLOYEE OWNERSHIP
Tax credits for contributions to ESOPs: 1983
Manufacturers may deduct contributions to an employee stock ownership plan from gross income reportable under "business and occupation" tax. An ESOP means a plan as defined in IRC §5975(7)(e). A qualified contribution is the amount of employer contributions during the taxable year to an ESOP which are deductible by the corporation for federal income tax purposes under IRC §404(10)(a). (Business and Occupational tax §11-13-3a)

PROVIDING TECHNICAL ASSISTANCE
Providing financing for assistance: 1983
The Governor's Office of Community and Industrial Development may advance funds for technical assistance to develop or improve existing businesses facing a shutdown or layoff, an employee-owned firm, or a company considering conversion to employee ownership. Technical assistance loan may be used for feasibility studies or professional services. If the enterprise is not purchased within a year the applicant must submit a report on the feasibility of repaying the loan. (§5B-5(1) through §5B-5(3)) Repealed

PROVIDING FINANCIAL ASSISTANCE
Loans and loan guarantees: 1983
Following a positive feasibility study, the Office can advance funds for loans and loan guarantees to employee ownership groups to purchase land, buildings, machinery, equipment, and working capital. Applications are evaluated on the basis of jobs retained, ability to repay, prior financial commitment, and evidence of need and percentage of the local workforce employed by the firm. (§5B-5(4) through §5B-5 (7)) Repealed

Wisconsin

INCREASING AWARENESS
Policy Declaration: 1983
The Department of Development shall cooperate with the University of Wisconsin Small Business development Center, the University Center for Cooperatives, the board of vocational, technical, and adult education, the university of Wisconsin extension, the Community Development Finance Authority and the Council on Economic Adjustment in collecting and disseminating information regarding employee ownership and promote the appropriate establishment of such businesses. (W.S.A. 560.07)

Interdepartmental awareness: 1983

The Council on Economic Adjustment must report annually including an evaluation of employee-owned businesses. (W.S.A. 15.157(5))

FACILITATING EMPLOYEE OWNERSHIP
Method of notification: 1983
The Council on Economic Adjustment shall develop a method of identifying businesses subject to a change of ownership or closing, and create a system of informing owners and employees about employee ownership. (W.S.A. 15.157(5))

Legal recognition of employee cooperatives: 1985
(W.S.A. 185.01-185.985)

PROVIDING TECHNICAL ASSISTANCE
Provide actual assistance: 1983
The council of Economic Adjustment shall coordinate technical, educational and financial assistance to those interested in employee ownership. The council shall also facilitate state agency initiatives in providing assistance. (W.S.A. 15.157(5))

The University of Wisconsin in cooperation with all agencies mentioned above and the board of education shall create educational programs to provide management training and technical assistance in management, business operations and governmental relations. (W.S.A. 36.25)

Provide funding for technical assistance: 1985
The department may administer loans to existing businesses for a feasibility study. If the business is not purchased the group shall submit a final report on the feasibility of repaying the loan. (W.S.A. 560.16)

PROVIDING FINANCIAL ASSISTANCE
Loans through local community development corporation: 1983
The Community Development Finance Authority is to stimulate investment in blighted and impoverished areas and encourage employee ownership. (W.S.A. 233.01)

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[1] These estimates are from the National Center for Employee Ownership’s September/October 1998 *Employee Ownership Report* XVIII (5). These estimates include ESOPs and stock bonus plans. For a critical assessment of these figures see D.J.B. Mitchell 1995, “Profit sharing and employee ownership: Policy implications,” *Contemporary Economic Policy* 13(2): 16-25, and R.T. Kauffman and R. Russell 1995, “Government support for profit sharing, gainsharing, ESOPs, and TQM,” *Contemporary Economic Policy* 13(2): 38-48.

[2] According to Logue (1998) an estimated 5% of ESOPs in Ohio were set up to avoid shutdown or job loss versus 58% set up to buy stock from an existing owner. Corporate divestitures were a primary reason for another 10%, and 10% were set up to finance company expansion. (For this and other Ohio study results, see J. Logue and J. Yates, editors, *The Real World of Employee Ownership* (Ithaca: Cornell University Press, forthcoming).

[3] Corey Rosen, National Center for Employee Ownership (NCEO).

[4] Since ESOPs were first mentioned in the Regional Rail Reorganization Act of 1973, 19 federal laws have been passed affecting them. For an overview of major federal legislation concerning employee ownership see Appendix I. For a discussion of federal legislation from between 1973 and 1989, also see K. Swaine 1993, “Public policy and employee ownership: Designing economic institutions for a good society,” *Policy Sciences* 26(4): 289-315.

[5] Though beneficial, like most aspects of American tax and pension law, Employee Stock Ownership Plans are highly complex. For a near definitive treatment of ESOPs and their intricacies see R.W. Smiley and R..J. Gilbert 1989, *Employee Stock Ownership Plans: Business Planning, Implementation, Law and Taxation* (New York: Prentice Hall) and the subsequent updated yearbooks.

[6] An S corporation, unlike C corporations, generally is not subject to federal income tax at the corporation level. A C corporation, on the other hand, is subject to federal income tax at two levels. First at the corporate level, and after the after-tax corporate earnings have been distributed to shareholders, at the shareholder level. For a discussion of these tax changes in the IRS code, See D. Ackerman 1998, “ESOPs and S corporations,” *Journal of Employee Ownership Law and Finance* 10(1).

[7] A production cooperative is where each employee owns an equal share and has an equal voice and conventional companies where all employees (and no one but employees) own shares.

[8] D. Bell, C. Ivancic, and J. Logue 1992, “Rustproofing the rustbelt: Promoting employee ownership as public policy,” in F. Lindenfelt and L. Krimmerman (eds.) *When Worker’s Decide* (Philadelphia: New Society), 68-75.

[9] Lack of sufficient time and inadequate (let alone accurate) information are oft-cited reasons for why employee buyouts have failed to materialize. See J. Portz 1995, “Plant closings and advance-notice laws: Putting the pieces together,” *Economic Development Quarterly* 9(4): 356-371, and J. Logue, R. Glass, and J. Grummel 1999, “State use of JTPA funds for preliminary ESOP feasibility studies,” *Journal of Employee Ownership Finance and Law* 11(2): 41-64.

[10] Anonymous 1996, “A new l,ook at employee ownership,” *Business Week* 3467 (March 18): 124.

[11] J. Logue 1987, “Toward a model state program to encourage employee ownership,” *New Policy Approaches to Current Employment Problems* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research).

[12] S.E. Clarke and G.L. Gaile 1989, “Moving towards entrepreneurial state and local development strategies: Opportunities and barriers,” *Policy Studies Journal* 17:575.

[13] J.P. Blair and R. Premus 1993, “Location theory,” in R.D. Bingham and R. Mier (eds.) *Theories of Economic Development: Perspectives from Across the Disciplines* (London: Sage).

[14] National Center for Employee Ownership 1990, “Program evaluation and needs assessment for Northeast Ohio Employee Ownership Center,” (Oakland, CA: National Center for Employee Ownership).

[15] These include “Employee ownership and participation: Progress report to the fourteenth and fifteenth legislature,” (Hawaii State Department of Business and Economic Development 1987, 1989); C. Ivancic and J. Logue 1986, *Employee Ownership and the States: Legislation, Implementation, and Models* (Kent, OH: Kent Popular Press); C. Bell and R. Callicate 1989, *Employee Ownership Programs in the United States* (Portland, OR: Community Economic Stabilization Corporation); and “Report of the Secretary of Administration and the Commonwealth Competition Council on methods to privatize appropriate state government functions through the development of employee-owned companies (ESOPs), Senate Document No. 12 (1998). The Hawaii, Ohio, and Oregon studies are overviews of state employee ownership legislation. These studies, to differing degrees, assessed the utility of employee ownership programs. The purpose of the Virginia study was to assess if employee ownership would be an option for privatization of various government services. This study also provided an overview of state and federal employee ownership legislation.

[16] The other state programs evaluated included Massachusetts, Michigan, New York, Oregon, and Washington.

[17] These studies include have been limited to the impact of employee ownership within states with employee ownership programs. These studies include, but are certainly not limited to C. Ivancic and J. Logue 1986, *Employee Ownership and the States: Legislation, Implementation, and Models* (Kent, OH: Kent Popular Press); J. Logue and C. Rogers 1989, *Employee Stock Ownership Plans in Ohio* (Kent, OH: Kent Popular Press); and J. Logue and K. Thomas 1994, *Employee Ownership: A Competitiveness Strategy in Northeast Ohio’s Manufacturing Sector* (Cleveland, OH: Inter-Institutional Urban Research Consortium); C. Bell and R. Callicate 1989, *Employee Ownership Programs in the United States* (Portland, OR: Community Economic Stabilization Corporation); Michigan Center for Employee Ownership & Gainsharing 1989, *A Study of Employee Ownership in Michigan* (Lansing, MI: Governor’s Office for Job Training); G. Winther and R. Marens 1997, “Participatory democracy may go a long way: Comparative growth performance of employee ownership firms in New York and Washington states,” *Economic and Industrial Democracy* 18(3): 393-422; P. Kardas, A. L. Scharf, and J. Keogh, “Wealth and income consequences of employee ownership: A comparative study from Washington state,” paper presented at the Shared Capitalism Conference in Washington D.C., May 22-23, 1998; and P. Kardas, K. Gale, R. Marens and G. Winther 1994, Employment and

sales growth in Washington state employee ownership companies: A comparative analysis," *Journal of Employee Ownership Law and Finance* 6(2).

[18] For an in-depth review of employee ownership performance studies done between 1967 and 1991, see M. Conte 1992, "Does employee ownership affect performance? A review of 20 years of the major research," (unpublished manuscript), University of Baltimore: Center for Business and Economic Studies.

[19] See R.J. Long 1981, "The effects of formal employee participation in ownership and decision making on perceived and desired patterns of organizational influence: A longitudinal study," *Human Relations* 34: 551-623, and U.S. Government Accounting Office, Program Evaluation and Methodology Division 1987, "Employee stock ownership plans: little evidence of effects on corporate performance," (U.S. GAO/PEMD -88-1).

[20]T. March and D. McAllister 1981, "ESOP Tables," *Journal of Corporation Law* 6 (3), 610-613.

[21]This 1982 study is discussed in C. Rosen and W. Foote Whyte 1986, "Encouraging employee ownership: The role of government," in *Employee Ownership: A Legislative Guide* (Arlington, VA: National Center for Employee Ownership).

[22] U.S. Government Accounting Office, Program Evaluation and Methodology Division 1987, "Employee stock ownership plans: little evidence of effects on corporate performance," (U.S. GAO/PEMD -88-1).

[23]C. Rosen and K. Klein 1983, "Characteristics and Performance of Majority Employee Owned Firms," *Monthly Labor Review* (August), 15-19.

[24]J. Feldman and C. Rosen 1985, *Employee Benefits in Employee Stock Ownership Plans: How Does the Average Worker Fare?* (Arlington, VA: National Center for Employee Ownership).

[25] J. Logue and C. Rogers 1989, *Employee Stock Ownership Plans in Ohio: Impact on Company Performance and Employment* (Kent, OH: Northeast Employee Ownership Center).

[26] Michigan Center for Employee Ownership & Gainsharing 1989, *A Study of Employee Ownership in Michigan* (Lansing, MI: Governor's Office for Job Training).

[27] P.M. Rooney 1988, "Worker participation in employee-owned firms," *Journal of Economic Issues* 22(2): 456.

[28] U.S. Government Accounting Office, Program Evaluation and Methodology Division 1987, "Employee stock ownership plans: little evidence of effects on corporate performance," (U.S. GAO/PEMD -88-1).

[29] See J. Blasi, M. Conte, and D. Kruse 1996, "Employee stock ownership and corporate performance among public companies," *Industrial and Labor Relations Review* 50(1): 60-79; L. Bell and D. Kruse 1995, "Evaluating ESOPs, profit sharing and gainsharing plans in U.S. industries: Effects on worker and company performance," (U.S. Department of Labor: The Office of the American Workforce); and G. Winther and R. Marens 1997, "Participatory democracy may go a long way: Comparative growth performance of employee ownership firms in New York and Washington states," *Economic and Industrial Democracy* 18(3): 393-422. Studies for employee-owned firms in Ohio have found similar results. See for example J. Logue and C. Rogers 1989, *Employee Stock Ownership Plans in Ohio* (Kent, OH: Kent Popular Press); and J. Logue and K. Thomas 1994, *Employee Ownership: A Competitiveness Strategy in Northeast Ohio's Manufacturing Sector* (Cleveland, OH: Inter-Institutional Urban Research Consortium).

[30] For a discussion of the debate concerning employee ownership and employee participation see K. Swaine 1993, "Public policy and employee ownership: Designing economic institutions for a good society," *Policy Sciences* 26(4): 289-315.

[31] L.S. Grunberg, S. Moore, and E. Greenberg 1996, "The relationship of employee ownership and participation to workplace safety," *Economic and Industrial Democracy* 17(2): 221-241.

[32] P.A. Kardas 1997, "Employee ownership, participation and workplace safety: A response," *Economic and Industrial Democracy* 18(4): 621-633.

[33] P.M. Rooney 1992, "ESOPs, producer co-ops, and traditional firms: Are they different?" *Journal of Economic Issues* 26 (2): 593-603.

[34] A.A. Buchko 1992, "Employee ownership, attitudes, and turnover: An empirical assessment," *Human Relations* 45(7): 711-733. A similar conclusion was reached in G. Winther and R. Marens 1997, "Participatory democracy may go a long way: Comparative growth performance of employee ownership firms in New York and Washington states," *Economic and Industrial Democracy* 18(3): 393-422.

[35] A. Ben-Ner and D. Jones 1995, "Employee participation, ownership, and productivity: a theoretical framework," *Industrial Relations* 34(4): 532-554.

[36] Seven forms of employee participation were compared: quality of work life, quality circles, gainsharing, worker councils and employee representatives, job enrichment, self-directed work teams, and employee ownership.

[37] For a discussion of various types of employee participation, see J.L. Cotton 1997, "Does employee involvement work? Yes, sometimes," *Journal of Nursing Care Quality* 12(2): 33-45.

[38] S. Chaplinsky, G. Niehaus, and L. van de Gucht 1998, "Employee buyouts: Causes, structures, and consequences," *Journal of Finance Economics* 48(3): 283-332.

[39] J. Blasi, M. Conte, and D. Kruse, 1996, "Employee stock ownership and corporate performance among public companies," *Industrial and Labor Relations Review* 50(1): 60-79.

[40] S.C. Kumbhakar and A.E. Dunbar 1993, "The elusive ESOP-productivity link," *Journal of Public Economics* 52(2): 273-283.

[41] P. Kardas, A.L. Scharf, and J. Keogh, "Wealth and income consequences of employee ownership: A comparative study from Washington state," paper presented at the Shared Capitalism Conference in Washington D.C., May 22-23, 1998. See also Y. Onaran 1992, "Workers as owners: An empirical comparison of intra-firm inequalities at employee-owned and conventional companies," *Human Relations* 45(11): 1213-1235.

[42] C. Doucialiagos 1995, "Participation and productivity in labor-managed and participatory capitalist firms: A meta-analysis," *Industrial and Labor Relations Review* 49(1): 72.

[43] C. Ivancic and J. Logue 1986, *Employee Ownership and the States: Legislation, Implementation, and Models* (Kent, OH: Kent Popular Press).

[44] 29 Del. C. 6508 (c).

[45] §41 14J.

[46] Public Authorities 1836a.

[47] MSA § 5.3520(2).

[48] Both pieces of legislation were amendments to the Job Training Partnership Act (JTPA).

[49] The program in Massachusetts continued to operate without state funding for several years during the early 1990s. It began to receive state funding again in the late 1990s.

[50] Phone conversation with Mitch Zak, California Department of Trade and Commerce, November 14, 1997; Diana Bonar, California Department of Economic Security, February 9, 1998; and Don Migge, California Department of Economic Security, February 23, 1998.

[51] Letter from Dr. Naya, Hawaii Department of Business, Economic Development, and Tourism, December 9, 1997.

[52] House bill 1746.

[53] Phone conversation, David Ellenbaas (former employee ownership services person), Montana Department of Commerce, March 13, 1998. Montana's employee ownership legislation was repealed by the state legislature in February 1999 (Senate Bill 4).

[54] Phone conversation, Lee Lancaster, former executive Director of CESCO, February 13, 1998.

[55] Phone conversation, James Keogh, Washington Department of Community, Trade, and Economic Development, February 9, 1998.

[56] Phone conversation, Bob Erickson, Steel Valley Authority, February 16, 1998.

[57] Report of the Secretary of Administration and the Commonwealth Competition Council on Methods to Privatize Appropriate State Government Functions through the Development and Promotion of Employee-Owned Companies. Senate Document #12 (1998).

[58] C. Ivancic and J. Logue 1986, *Employee Ownership and the States: Legislation, Implementation, and Models* (Kent, OH: Kent Popular Press): 22.

[59] C. Ivancic and J. Logue 1986, *Employee Ownership and the States: Legislation, Implementation, and Models* (Kent, OH: Kent Popular Press).

[60] The actual phrasing of a piece of legislation is less important to the success of a policy than the planning and resources that are involved in the implementation of a policy. For an excellent example of this see J.L. Pressman and A. Wildavsky 1973, *Implementation*, (Berkeley, CA: University of California Press).

[61] According to A. Bernstein (1996), the number of employees at companies with ESOPs increased by only 11% between 1988 and 1993 compared to the 66% increase in the number of employees at companies with ESOP between 1983-1987. A.

Berstein, "Why ESOP deals have slowed to a crawl," *Business Week* (Mar 18, 1996), 101-102. S. Kaufman (1997) notes that the number of firms implementing ESOPs has slowly been on the rise since the recession in the early 1990s. S. Kaufman, "ESOPs appeal on the increase," *Nation's Business* (June 1997), 43-44.

[62] California Government Code §91502.

[63] Public Authorities 1836a.

[64] 29 Del. C. 6508 (c).

[65] §41 14J.

[66]C. Ivancic and J. Logue 1986, *Employee Ownership and the States: Legislation, Implementation, and Models* (Kent, OH: Kent Popular Press).

[67]Phone conversation, Mitch Zak, California Department of Commerce, November 14, 1997.

[68] R.G. Ehrenberg and G.H. Jakubson 1988, *Advance Notice Provisions in Plant Closing Legislation*. Kalamazoo (MI: W.E. Upjohn Institute for Employment Research). See also M. Howland 1988, *Plant Closings and Worker Displacement: The Regional Issues* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research); O.M. Levin-Waldman 1992, *Plant Closure, Regulation, and Liberalism: The Limits to Liberal Public Philosophy* (NY: University Press of America); R. Koppel and A. Hoffman 1996, "Dislocation Policies in the USA: What should we be doing?" *Annals of the American Academy of Political and Social Science* 544(March 1996); and R.B. McKenzie (ed.) 1984, *Plant Closings: Public or Private Choices?* (Washington DC: Cato Institute). For discussion and analysis of the impact of worker dislocation see L. Jacobsen, R. LaLonde, and D. Sullivan 1993, *The Costs of Worker Dislocation* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research) and B.G. Lall (ed.) 1985, *Economic Dislocation and Job Loss* (NY: New York State School of Industrial and Labor Relations).

[69] J. Portz 1995, "Plant closings and advance-notice laws: Putting the pieces together," *Economic Development Quarterly* 9 (4). Levin-Waldman (1992) contends that JTPA Title III was "probably the least effective in terms of protecting the interests of workers. Sixty day is hardly enough time to find a new job. Moreover, given the loopholes and escape hatches which the law contains, it is doubtful that many workers will receive 60 days notice" (159-60). O.M. Levin-Waldman 1992, *Plant Closure, Regulation, and Liberalism: The Limits to Liberal Public Philosophy* (NY: University Press of America).

[70] Letter, Robert T. Pendleton, Director, Office of Workforce Development, November 21, 1998 and phone conversation, James Houck, Michigan Jobs Commission, February 11, 1998.

[71] The experiences of state use of JTPA funds for preliminary feasibility studies is the focus of an exploratory research study in J. Logue, R. Glass, and J. Grummel (1999) "State Use of JTPA Funds for Preliminary ESOP Feasibility Studies," *Journal of Employee Ownership Finance and Law* 11(2): 41-64.

[72] Phone conversation, John Lobin, Connecticut Department of Economic Development, March 9, 1998. After Mr. Lobin left the Department Of Economic Development no buy-outs have been done.

[73] E-mail, Carla Dickstein, Coastal Enterprise, Inc, November 19, 1997.

[74] The Industrial Cooperation Association, in Boston, is another such organization that provides services that are carried out in other states by employee ownership programs.

[75] NCEO.

[76] California Government Code §91502.

[77] Letter from Dr. Naya, Department of Business, Economic Development, and Tourism, December 9, 1997.

[78] Title 32 Ch. 579 Sec 32-23u.

[79] For more detailed information regarding employee ownership and succession planning in Ohio see J. Logue and A. Teodosio 1998, "Is employee ownership the answer to family business success?" *Family Business Journal* (summer 1997, winter 1998, and spring 1998). For information on New York's succession planning efforts see K. McDermott 1993, "Succession becomes a public issue," *Dun and Bradstreet, Inc. D & B Reports* 42(4): 20-23.

[80] See J. Logue, R. Glass, and J. Grummel 1999, "State Use of JTPA Funds for Preliminary ESOP Feasibility Studies," *Journal of Employee Ownership Law and Finance* 11(2), 50.

[81] See for example J. Logue 1996, "Anchoring capital, securing jobs: Lessons from employee ownership in the United States and Canada," paper presented at the conference "Lokalt ägenda (Local ownership)," Härnösand, Sweden, September 18, 1996.

[82] These categories follow the same format utilized by C. Ivancic in C. Ivancic and J. Logue 1986, *Employee Ownership and the States: Legislation, Implementation and Models* (Kent, OH: Kent Popular Press). It was adapted from C. Rosen 1985,

"Employee ownership state and local agenda," *Ways and Means*: 3-6, and *A Legislative Guide to Employee Ownership* (Arlington, VA: National Center for Employee Ownership).