



U.S. SENATE COMMITTEE ON

# Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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## Grassley Leads Effort to Help Workers Save More for Retirement

WASHINGTON — Sens. Chuck Grassley and Max Baucus introduced a bill today to reward families who save and plan for retirement, enhance opportunities for small businesses to provide employer-sponsored retirement packages, and make it easier for workers to transfer retirement plan savings from one employer to another.

"The need for better retirement income security among working Americans can not be ignored if those currently in the workforce expect to maintain a comfortable standard of living in retirement," said Grassley, chairman of the Senate Committee on Finance.

The *Retirement Security and Savings Act* advances six goals to help jump start personal savings rates and participation in retirement income plans: increased opportunities to save with individual retirement accounts; expanded pension coverage for small business employees and the self-employed; enhanced fairness for women and families; increased pension portability; strengthened pension security and enforcement; and reduced regulatory burdens.

"Those of us at the policy tables can talk about the need for employees to prepare for retirement until we are blue in the face. Unless we give them the tools to build a better retirement nest egg, policy makers should be prepared for even greater challenges when retirees realize their retirement income falls short when they need it the most," Grassley said.

The economic engines on Main Street USA, small businesses provide millions of families with their livelihood. The complexity and expenses associated with the nation's pension laws act as a deterrent to small businesses from offering employee retirement plans, and many are unable to match employee benefit packages offered by big corporations, including employer-sponsored retirement plans. In 1995, only 50 percent of the work force was covered by a retirement plan, and coverage was thinnest among small businesses where fewer than 20 percent were offered coverage.

Grassley has been advocating pension reforms since 1997, when he introduced legislation to give pension participants and retirees tools to understand their plans and help ensure accuracy. In 1999, he introduced another bill to increase the pension counseling to millions of American workers. The *Pension Coverage and Portability Act* (S.741) introduced in 1999 by Grassley and Sen. Bob Graham laid the groundwork for the measure put forward today.

"Congress needs to clear the thicket of rules governing private pension plans. The system

doesn't address the changing structure of today's workforce and leaves too many workers uncovered. For example, making pensions portable will address a disadvantage many workers, particularly women, face due to breaks in employment related to child care or family obligations. And, cutting cumbersome government red tape will help enable more smaller employers to offer a retirement plan to their employees," Grassley said.

Fifteen senators were original cosponsors of the bill introduced today by Grassley and Baucus. Grassley said he hopes to see the Senate act this year on the proposal. Similar bipartisan legislation has been introduced in the House of Representatives by Reps. Rob Portman and Ben Cardin (H.R.10).

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## SUMMARY OF THE RETIREMENT SECURITY AND SAVINGS ACT OF 2001

### INDIVIDUAL RETIREMENT ARRANGEMENTS

1. Increase IRA Limits. Increase the maximum contribution limit to \$3,000 in 2002, \$4,000 in 2003 and \$5,000 in 2004 with indexing in subsequent years.
2. Increase AGI Deductibility Limits. Gradually increase the AGI limits for making deductible IRA contributions to \$60,000 for single taxpayers and \$100,000 for married couples filing joint returns.
3. Catch-Up Contributions to IRAs. Increase the maximum IRA contribution limit by 50% for taxpayers age 50 and above.
4. Eliminate Marriage Penalty for Roth IRA Contributions. Increase the income limit applicable to married couples making contributions to a Roth IRA to twice the limit applicable to single taxpayers.
5. Deemed IRAs Under Employer Plans. Allow voluntary employee contributions made to a qualified retirement plan, section 403(b) annuity or eligible deferred compensation plan of a state or local government to be treated as a traditional IRA or a Roth IRA for all purposes of the Code, as applicable.
6. Tax-Free Withdrawals for Charitable Purposes. Exclude from gross income distributions from an IRA: (1) to a charitable organization; (2) to a charitable remainder annuity trust or charitable remainder trust; (3) to a pooled income fund (as defined in Section 642(c)(5)); or (4) for the issuance of a charitable gift annuity.
7. Increase the Income Limit for Roth Conversions. Increase the income limit applicable to married couples making a conversion of a traditional IRA to a Roth IRA to \$200,000.

## EXPANDING COVERAGE

1. Increase Benefit and Contribution Limits for Employer-Sponsored Retirement Plans. The limits on compensation that can be considered under section 401(a)(17) will be increased from \$170,000 to \$200,000. Limits on contributions under section 402(g), which apply to 401(k) and 403(b) plans, will be gradually increased from \$10,500 to \$15,000. Limits on defined benefit plan benefits under section 415(b) will be increased from \$140,000 to \$160,000. The section 457 plan limit will be gradually increased from \$8,500 to \$15,000. The SIMPLE limit will gradually increase to \$10,000. Indexing these limits will also be modified to provide for increases in smaller increments.
2. Plan Loans for Self-Employed Individuals. Permit owners of partnerships and S Corporations to receive plan loans under the same rules applicable to employees and owners of incorporated businesses.
3. Modify Top Heavy Rules. Encourage small businesses to start retirement plans for their employees by eliminating unnecessary administrative complexity in the top heavy rules, counting employer matching contributions toward satisfying the top-heavy minimum contribution requirements, eliminating the accrual requirements for frozen top-heavy defined benefit plans, and simplifying the definition of key employee.
4. Elective deferrals not taken into account for purposes of limits. Elective deferrals would not be taken into account in applying the deduction limits to other contributions.
5. Repeal of Coordination Requirements for Section 457 Plans. The section 457 limit on deferred compensation would not be reduced by elective deferrals under other types of arrangements such as 401(k) plans or by section 403(b) contributions.
6. Definition of Compensation for Employer Deduction. The definition of compensation for purposes of computing employer deductions includes salary reduction amounts treated as compensation under Section 415.
7. Increase Profit-Sharing and Stock Bonus Contributions. Increase the annual limitation on the amount of deductible contributions to a profit-sharing or stock bonus plan from 15 percent to 25 percent of compensation.
8. Roth 401(k)/403(b) Contributions. Allow a section 401(k) or 403(b) plan to permit participants to elect to have all or a portion of the participant's elective deferrals be treated as "designated plus contributions." Designated plus contributions are not excludible from the participant's gross income and distributions are not included in the participant's gross income just like Roth IRAs.
9. Credit for Low- and Middle-Income Savers. Provide a non-refundable income tax credit for contributions made by eligible taxpayers to a qualified retirement plan. The maximum credit amount is 50% of up to \$2,000 in contributions for a married couple with income up to \$30,000 (\$15,000 for a single individual) and is completely phased-out for couples with income over \$50,000 (\$25,000 for singles). The credit sunsets after 5 years.

10. Small Business Pension Start Up Tax Credits. Provide a tax credit of up to 50% of the contributions employers make on behalf of their non-highly compensated employees, up to 3% of their pay. The credit for employer contributions is only available to employers with fewer than 50 employees for the first 3 years of a new retirement plan. In order to qualify, the plan must provide accelerated vesting and a 1% non-elective contribution. Small Business Pension Administrative Cost Tax Credit: Help small businesses defray the administrative costs of starting a retirement plan by offering a maximum \$500 tax credit to businesses with fewer than 100 employees for up to 3 years.
11. Reduced PBGC Premiums for New Plans of Small Employers. The PBGC premium is normally set at \$19 per participant. This proposal would set the premium for a small employer plan at \$5 per participant for the first five years of a plan.
12. Reduction of Additional PBGC Premium for New and Small Plans. Any applicable variable rate premium would be phased in over a six year period as follows: 0% for year one; 20% for year two; 40% for year three; 60% for year four; 80% for year five and 100% for year six. A cap would also be added on the variable rate premium of small plans.
13. Eliminate the "New Plan Fee". Employers who establish a pension plan must pay a fee, sometimes up to \$1000, to receive a determination letter from the Internal Revenue Service stating that the plan is qualified. In order to decrease the costs of establishing retirement plans, the legislation eliminates this fee.

#### ENHANCING FAIRNESS FOR WOMEN AND FAMILIES

1. Catch-Up Contributions to Qualified Plans. Gradually increases the limit on employee contributions to qualified retirement plans for individuals age 50 and older by 50% of the otherwise applicable limit.
2. Allow More Contributions to DC Plans by Eliminating the "25% of Salary" rule. A participant is limited in a DC plan to contributing not more than 25% of salary, even though the IRS limit is \$10,500. The bill would eliminate the percentage of salary limitation.
3. Three-Year Vesting for Matching Contributions. Under current law, employers may require up to five years of service before an employee is entitled to employer contributions to a defined contribution plan. The proposal would reduce that maximum to three years with respect to employer matching contributions.
4. Division of Section 457 Plan Benefits upon Divorce. Clarify that, for purposes of taxation of distributions from section 457 plans, the recipient of the funds is liable for income taxes. Enactment of this proposal would prevent the case where a participant is taxed on retirement income that, under a divorce decree, belongs to an ex-spouse.
5. Simplify Minimum Distribution Rules. Simplifies the minimum distribution rules applicable to qualified plans; reduces the excise tax applicable to failures to satisfy the minimum distribution rules from 50% to 10%; directs Treasury to update, simplify and finalize its minimum distribution regulations.

6. Modify the Suspension of Participation for Hardship Withdrawals. Participants who take a hardship withdrawal would be subject to a 6 month suspension rather than a 12 month suspension of participation in the employer's retirement plans. Any hardship distribution made pursuant to the terms of a plan is not an eligible rollover distribution.
7. Encourage Contributions on Behalf of Domestic Workers. The 10% excise tax applicable to employer nondeductible retirement plan contributions is eliminated for employer contributions to a SIMPLE plan if such contributions are nondeductible solely because they are not a trade or business expense under Section 162 of the Internal Revenue Code.

## INCREASING PORTABILITY FOR PARTICIPANTS

1. Rollovers. The bill would include several provisions to encourage workers who change jobs to roll over their pension and retirement plans into the plan of the new employer. Where employers elect to, the bill would allow workers changing jobs to roll over savings in a 401(k) plan, a 403(b) plan, a governmental plan, or an IRA to a 401(k), 403(b) or governmental 457 plan of a subsequent employer.
2. After Tax Rollovers. Where new employers are willing to accept them, individuals changing employers would be able to roll over after-tax contributions to the new employer's plan or to an IRA.
3. Waiver of 60-Day Rule. Under current law, terminating employees have only 60 days in which they can roll over their distributions to an IRA without incurring tax. The proposal would allow the Internal Revenue Service discretion to waive the limited sixty-day rollover period.
4. Modify the Same Desk Rule. Conform the treatment of 401(k) plans to the treatment of defined benefit plans and money purchase plans in "same desk" situations. That is, where an employee's company is acquired by another business, the employee would meet the "separation from service" definition required to allow portability of the 401(k) benefits to the new employer.
5. Treatment of Forms of Distributions. Employees would be allowed to waive section 411(d)(6) (anti-cut-back rules) under certain circumstances when rolling one DC plan to another. The transferee plan would not be required to preserve the optional forms of benefits under the transferor plan if requirements are met to ensure the protection of participants' interests.
6. Purchase of Service Credit in Governmental Defined Benefit Plans. Ease rules allowing purchase of service credits from one DB plan to another. For example, many teachers purchase "service credits" when they move from one state to another. Under current law, individuals may not use DC assets, without penalty, to purchase these credits. The bill would allow individuals to purchase these credits with 403(b) or 457 retirement assets.
7. Disregarding Rollovers for Purposes of Cash-Out Amounts. This provision permits an

employer to disregard rollovers for purposes of making a cash-out. The provision will remove a disincentive for employers to accept rollovers.

8. Time and Inclusion of Benefits Under Section 457 Plans. Clarifies that amounts deferred under a 457 plan of a state or local government are includible in income when paid. The proposal also modifies a 1986 Act transition rule to apply to agreements providing cost-of-living adjustments.

## STRENGTHENING PENSION SECURITY AND ENFORCEMENT

1. Repeal Full Funding Limit. The bill would repeal the current liability full funding limit on employer contributions to defined benefit plans. This will allow employers to more evenly and securely fund their plans. In 1997, Congress increased the limit from 150% to 170%. Repealing the limit would allow companies even more flexibility when funding their plans.
2. Penalty Tax Relief for Sound Pension Funding. The 10% excise tax on nondeductible contributions would generally not apply to any contributions to a defined benefit plan up to the full funding limit (determined without regard to the current liability component of the full funding limit).
3. Notice of Significant Reductions in Future Plan Benefit Accruals. Increases the notice requirements where there is an amendment to a defined benefit plan that significantly reduces future benefit accruals. In the case of a significant restructuring of the plan benefit formula, affected participants would have to be given a benefit estimation tool kit allowing participants to easily determine how their individual benefits will be changed.
4. Limited Relief for Multiemployer Plans. The legislation will include a proposal to exempt multiemployer plans from the 100 percent of compensation limit in 415(b)(1)(A). In addition, a limited exemption from the aggregation rules will be applied to multiemployer plans.
5. Protection of Investment of Employee Contributions to 401(k) Plans. Clarify the definition of assets covered by the limitation on 401(k) plan sponsors' ability to invest employee contributions in company real estate or stock.
6. Regular Benefit Statements. An annual benefit statement would be required to be sent every year to participants in defined contribution plans. Participants in a defined benefit plan would receive a statement every three years, unless the employer automatically provided an annual notice to employees of the right to receive a benefit statement and how to go about obtaining one.
7. Prohibited Allocations of Stock in an ESOP of an S Corporation. Establishes a 50% excise tax applicable to distributions from an S Corporation to an ESOP shareholder unless the ESOP is broad-based and benefits rank-and-file employees.
8. Amendments to SAVER Act. Establishes dates for future National Summits on Retirement Savings and facilitates the administration of such summits. Adds six new statutory delegates

to future Summits.

9. Rollover of Automatic Distributions. A plan may provide for the automatic distribution of participants' vested accrued benefits that do not exceed \$5,000. Plans that do this would have to directly transfer such distributions to qualified retirement vehicle unless the participant affirmatively elects to receive the distribution directly. This proposal would not apply to distributions of \$1,000 or less. A plan would be permitted to send the distribution to a designated financial institution.

## REDUCING REGULATORY BURDENS

1. Use of Prior Year Valuations. To determine the employer contributions needed for defined benefit plans, a prior year valuation can be used, as long as the plan has a history of being fully funded. This will allow more certainty in business budget planning.
2. Encourage ESOP Dividend Reinvestment. In order for an employer to deduct dividends paid on stock held by an ESOP, the employer would be required to give employees a choice of whether to receive dividends in cash or allow them to be reinvested and grow tax-deferred until retirement.
3. Repeal of Unnecessary Transition Rule. The special 1986 Act grandfather would be repealed in light of the changes in the definition of highly compensated employee. General rules would apply.
4. Employees of Tax-exempt Entities. Directs the Treasury to maintain a rule that permits tax-exempt entities to exclude employees participating in a section 403(b) plan from 401(k) coverage rules provided certain participation levels are met.
5. Treatment of Employer-Provided Retirement Advice. Employer-provided retirement planning would be deemed not to constitute a taxable fringe benefit.
6. Pension Plan Reporting Simplification. Directs the Secretary of Treasury to modify the annual return filing requirements for plans eligible to file Form 5500-EZ to eliminate the filing requirement if plan assets do not exceed \$250,000.
7. Improvement to EPCRS Program. The IRS would be directed to simplify and expand the voluntary employee plans compliance resolution system.
8. Repeal Multiple Use Test. Employers would be able to use all of the tests for meeting the ACP and ADP tests, rather than being restricted to use of a test on either the ACP or the ADP.
9. Flexibility in nondiscrimination, coverage, and line of business rules. Plans would be permitted to use a facts and circumstances test when the mechanical tests do not reflect the nondiscriminatory nature of a particular plan design. Appropriate additional safeguards would ensure that this alternative is not used to avoid the purposes of the nondiscrimination rules.

10. Longer Periods for Notice and Consent Regarding Distributions. Under current law, a benefit in excess of \$5000 cannot be distributed prior to age 62, or normal retirement age, unless the participant consents no more than 90 days before the benefit commencement. The consent is not valid unless the participant receives an explanation of his/her distribution options. In some situations, an employer advises the participant of the options, but no action occurs within the 90 days. Thus, notice and consent must occur again. The bill extends the period from 90 days to 180 days. Further, participants would be given information to the extent there is any difference in value between different optional forms of benefits so they can make an informed choice.
11. Expand PBGC Missing Participant Program. PBGC's missing participant program would be expanded to help companies find missing participants who are eligible for benefits from multiemployer plans and defined contribution plans.
12. Authorization for PBGC to Pay Interest on Premium Overpayments. PBGC would be given the authority to pay interest on overpayments of PBGC insurance premiums.
13. Rules for Substantial But Not Majority Owners. Guarantee benefits to individuals owning more than 10 percent but less than 50 percent of a business on the same schedule as individuals owning less than 10 percent of the business.
14. Grant DOL Discretion in Cases of Fiduciary Breach. The Department of Labor would have the sole discretion to waive certain penalties for fiduciary breaches where they deem it appropriate.
15. Benefit Suspension Notice. For individuals not reentering the workforce, and thus not subject to a benefit suspension, the individual benefit suspension notice requirement would be eliminated. Instead, the suspension of benefit rules would have to be outlined in the summary plan description. Individuals reentering the workforce would still be required to receive an individual notice.
16. Plan Amendments. Amendments would not be required to be made before the last day of the first plan year beginning on or after January 1, 2004. For governmental plans, the date for amendments is extended to the first plan year beginning on or after January 1, 2006. Operational compliance would be required with respect to all plans as of the applicable effective date of any amendment made by this Act.