



U.S. SENATE COMMITTEE ON

# Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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Opening Statement of Senator Chuck Grassley  
Hearing on Enron and Executive Compensation  
Tuesday, April 8, 2003

Today's hearing is another in a series of hearings on executive and deferred compensation and the Enron investigation. We had a hearing in February when the Joint Committee on Taxation released its study. Then-staff director Lindy Paull discussed the JCT's findings on both the general manipulation of the tax system and on non-qualified deferred compensation. Last April 18, 2002, Senator Baucus held a hearing on stock options and non-qualified deferred compensation. At that hearing I said that I am not bothered by the existence of executive or deferred compensation arrangements. If an executive wants to make what is essentially an unsecured loan to his or her company by not taking all their compensation in cash, and the money is completely at risk, my advice is: Go ahead. That money is not taken into income by the executive. And the wages are not deductible by the company. It's a wash. If an executive works hard and does well, there is no reason to not let them have what they want of their pay and defer some compensation. If I can stop here I want to make an observation: No one is complaining about the athlete who gets huge amounts of pay and endorsement contracts. Nor is anyone complaining about how much money movie stars make. Nor is anyone here complaining about how much money rock stars earn or can defer from their compensation. The answer to that is: No. No one is fussing about the "entertainment set." This hearing is just about executives who abuse their discretionary authority. I don't care about the existence of executive compensation, so long as it is honest. What bothers me, are abuses of the system. And that extends to any abuses of non-qualified deferred compensation.

Congress provides significant tax benefits for qualified retirement plans. To control the revenue loss, Congress placed severe limits on the deferrals and benefits of highly compensated employees. Those limits on qualified plan benefits placed pressure on employers to supplement the benefits for executives. In 2001, Congress raised the limits for qualified plans, but we raised them only modestly. Those increases in the limits for qualified plans are attractive for the majority of workers, but they were simply not geared for executives, directors and officers. It was very difficult for Congress to agree on the modest increases we made to retirement plan limits in 2001. Because of the difficulty in reaching that agreement, I do not believe we would ever consider the level of changes necessary to make qualified plan limits attractive to executives for all of their pay. We are simply not going to do it. So executive compensation arrangements continue to exist. Last year this committee added language to the chairman's mark in S. 1971 to: repeal the moratorium on Treasury's ability to promulgate regulations on deferred compensation arrangements; prohibit off-shore "rabbi-trusts"; tax executives at the top rate on bonuses of \$1 million or more; limitations on loans to executives. Except for the last item, which was made moot by the Sarbanes-Oxley Act of last

summer, all these provisions will be in any pension bill considered by this committee.

Last year I also introduced the "Corporate Accountability in Bankruptcy Act". My bill was drafted to clarify that the bonuses and other excessive compensation of corporate directors and wrongdoers can be pulled back into the estate of a bankrupt firm. Corporate wrongdoers who have violated securities and accounting laws should not be able to make off with outrageous sums of money from a bankrupt company. Why should they profit when shareholders, creditors and employees are left to finance the company's debts? Moreover, corporate officers and executives should not be permitted to keep large bonuses when a company has performed so poorly that it is forced into bankruptcy. Frankly, I don't understand why Enron's bankruptcy judge has not demanded the return of the \$53 million in deferred compensation that was removed near the end of Enron's existence? Under current law, that money should all be returned to the estate of Enron. Just to make that clear, however, I will be reintroducing my bankruptcy legislation and will be seeking its speedy enactment.

Let me conclude by saying that I am greatly troubled by the facts in the Enron case. I hope we can learn from what happened there. My view is that a great many of the failures at Enron were failures of corporate governance. Literally no one was managing, supervising or exercising oversight over this organization and it has been a horrible scandal that has ruined the lives of many innocent people. I have many other comments and observations about Enron, corporate governance, executive compensation and bankruptcy rules. In the interest of time, I will pause here and turn to Senator Baucus in case he would like to make a statement.