

MEMO# 2558

February 22, 1991

INSTITUTE RECOMMENDS SARSEP REVISIONS

February 22, 1991 TO: PENSION COMMITTEE NO. 4-91 RE: INSTITUTE RECOMMENDS SARSEP REVISIONS _____ Last year, Senator David Pryor introduced the Employee Benefits Simplification Act which included a provision to expand the availability of SEPs with salary reduction features ("SARSEPs") to employers with 100 or fewer employers. (See Institute Memorandum to Pension Committee No. 18-90, dated July 31, 1990.) The bill also eliminated the 50 percent participation requirement now applicable to SARSEPs and provided that SARSEP discrimination tests would be deemed satisfied if the employer made a mandatory 3 percent contribution to all eligible employees. The 3 percent non-elective contribution provision represents one of two alternative discrimination tests provided for 401(k) plans under the bill. The second 401(k) test allows the employer to make mandatory matching contributions only on behalf of participating employees in order to satisfy the discrimination rules. The matching contribution is required to equal (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation. Senator Pryor is expected to reintroduce his bill next month. The Institute proposed that the new bill should allow SARSEP discrimination rules to be satisfied if the arrangement meets either of the two 401(k) plan discrimination test alternatives. This change would make the SARSEP similar to the Packwood PRIME account, except that existing IRAs would be used to fund the program and the salary reduction limit would not be capped at \$3,000. (See Institute Memorandum to Pension Committee No. 2-91, dated February 4, 1991.) The Institute also recommended that the bill specifically mandate, within 90 days after the bill is enacted, the establishment of a SARSEP prototype procedure which does not require a SARSEP to be top-heavy at all times. A copy of the Institute's proposal is attached. We will keep you informed of further developments. W. Richard Mason Assistant Counsel--Pension Attachment