

**MEMO# 14918**

July 16, 2002

## **SENATE FINANCE COMMITTEE APPROVES PENSION REFORM BILL; DEFINED CONTRIBUTION PLANS AFFECTED**

[14918] July 16, 2002 TO: BOARD OF GOVERNORS No. 25-02 FEDERAL LEGISLATION MEMBERS No. 9-02 PRIMARY CONTACTS - MEMBER COMPLEX No. 56-02 PUBLIC INFORMATION COMMITTEE No. 22-02 RESEARCH COMMITTEE No. 13-02 RE: SENATE FINANCE COMMITTEE APPROVES PENSION REFORM BILL; DEFINED CONTRIBUTION PLANS AFFECTED On July 11, the Senate Finance Committee reported S. 1971, the "National Employee Savings and Trust Equity Guarantee Act." Several provisions are of special interest to Institute members. Investment Advice for Plan Participants S. 1971 includes investment advice provisions that would provide a safe harbor from the fiduciary duties under ERISA for employers that enter into arrangements for the provision of advice by "independent" investment advisers, but would not provide the prohibited transaction relief sought by the Institute and contained in legislation passed by the House of Representatives. Diversification Out of Employer Stock Under S. 1971, an individual would be able to diversify out of employer securities held in a defined contribution plan after three years of service. A three-year phase-in period would apply to those amounts invested in employer securities prior to the application of the diversification requirements. The transition rule would not apply to participants over age 55. The plan would also be required to give individuals a choice of at least three investment options other than employer securities. Quarterly Benefit Statement S. 1971 would require defined contribution plan administrators to provide a quarterly benefit statement to plan participants and beneficiaries that includes information such as the value of investments in their accounts and an explanation of any restrictions on their right to change investment options. Plan administrators would also be required to provide annually a form explaining basic investment principles such as diversification and risk management. 2 Notice of Suspension Period Plan administrators would be required to notify employees at least 30 days in advance of a suspension period of over three consecutive business days during which participants will be limited in their ability to direct their account investments. Bonding of Fiduciaries S. 1971 would increase the bonding requirement for plan fiduciaries from a maximum of \$500,000 up to a maximum of \$1 million - with the increase applicable only to those plans that hold employer securities. Fee Study S. 1971 would require the Department of Labor to conduct a study of the administrative and transaction fees incurred by participants and beneficiaries in connection with the investment of the assets in their accounts in defined contribution plans. DOL would be required to look at how such fees compare to fees charged for similar services to investors not in individual account plans and whether participants and beneficiaries receive adequate notice of such fees. Executive Compensation S. 1971 also includes provisions that relate to the taxation of executive

compensation, including deferred compensation arrangements, supplemental wage payments, and loans. The Senate is likely to consider both S. 1971 and S. 1992 (legislation previously reported by the Senate Health, Education, Labor, and Pensions Committee) this fall. Congress intends that this legislation, along with accounting and auditing reform legislation, will address the issues raised by recent events, both with respect to accounting and auditing irregularities, and to the loss of investments in defined contribution plans. We will keep you informed of further developments. Julie Domenick Executive Vice President

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