

MEMO# 13484

May 7, 2001

HOUSE PASSES H.R. 10, THE "COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001"

[13484] May 7, 2001 TO: PENSION COMMITTEE No. 29-01 PENSION OPERATIONS ADVISORY COMMITTEE No. 33-01 RE: HOUSE PASSES H.R. 10, THE "COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001" On May 2, 2001, the House of Representatives passed H.R. 10, the "Comprehensive Retirement Security and Pension Reform Act of 2001" (the "Bill"), by a vote of 407 to 24. A similar bill, S. 742, was introduced in the Senate in April. The Bill is very similar to the version as introduced in the House in March of this year. For details on that version of the Bill, please refer to the Institute's memorandum describing its provisions.¹ This memorandum describes only notable differences between the Bill as passed and the version as previously introduced. Please note that most of the differences are due to changes in effective dates.²

- Increase in IRA Contribution Limits. The Bill would increase in stages the contribution limits to IRAs effective January 1, 2002, rather than retroactive to January 1, 2001. Thus, the current \$2,000 annual contribution limit to IRAs and Roth IRAs would be raised to \$3,000 in 2002, \$4,000 in 2003, \$5,000 in 2004 and thereafter. Beginning in 2005, the limit would be indexed for inflation in \$500 increments. Bill Section 101.
- Catch-Up Contributions to IRAs by Individuals Age 50 or Over. Effective January 1, 2002, rather than retroactive to January 1, 2001, the Bill would permit individuals who have attained age 50 to make IRA contributions up to \$5,000. In effect, while the general

¹ See Institute Memorandum to Pension Committee No. 18-01 and Pension Operations Advisory Committee No. 27-01, dated March 23, 2001.

² The Bill contains a number of new provisions that did not appear in the version as introduced. Notably, the Bill now provides that any hardship distribution made upon hardship of the employee would be ineligible for rollover (see section 306 and description below). The Bill also directs the Secretary of Labor, in conjunction with the Secretary of Treasury, to conduct studies relating to model small employer group plans and the effect of pension reform legislation (see section 708 and description below). Other new provisions in the Bill, which are not discussed in this memorandum, are as follows: (1) the availability of qualified plans to self-employed individuals who are exempt from the self-employment tax by reason of their religious beliefs (section 209), (2) the exclusion of certain nonresident aliens in applying minimum coverage requirements (section 210), and (3) the waiver of tax on nondeductible contributions for domestic or similar workers (section 307).

² contribution limit of \$5,000 would be phased-in over several years, the limit for individuals 50 and over would be accelerated to \$5,000 in 2002. Bill Section 101.

- Increase in Plan Contribution Limits. The Bill would increase in stages the contribution limits to

qualified plans, 457 plans and SIMPLE plans beginning effective January 1, 2002, rather than retroactive to January 1, 2001. Thus, for example, the section 402(g) elective deferral limit would be \$11,000 in 2002, \$12,000 in 2003, etc., until it reaches \$15,000 in 2006. Effective January 1, 2002, rather than retroactive to January 1, 2001, the Bill would increase the Code section 415 limit on annual additions to defined contribution plans to \$40,000 and increase the section 401(a)(17) limit to \$200,000. Bill Section 201. • Catch-Up Contributions to Plans by Individuals Age 50 or Over. Effective January 1, 2002, rather than retroactive to January 1, 2001, the Bill would permit individuals who have attained age 50 before the end of the plan year to make additional elective contributions of up to \$5,000 to 401(k), 403(b), SIMPLE and 457 plans. This amount would be indexed for inflation in \$500 increments in 2007 and thereafter. Bill Section 301. • Equitable Treatment for Contributions of Employees to Defined Contribution Plans. Effective January 1, 2002, rather than retroactive to January 1, 2001, the Bill would (1) increase the 25 percent of compensation limit on annual additions under defined contribution plans to 100 percent, (2) conform the limits on contributions to tax-sheltered annuities to the limits applicable to tax-qualified plans, and (3) increase the 33 1/3 percent of compensation limit on 457 plan deferrals to 100 percent of compensation. The Bill also contains a new provision to clarify that the present-law deduction rules for money purchase pension plans would be preserved. Thus, the limitation on the amount an employer generally may deduct would remain at 25 percent of compensation of the employees covered by the plan for the year.³ Bill Section 302. • Modifications to the Required Minimum Distribution Rules. Similar to the version as introduced, the Bill would (1) apply the present-law required minimum distribution (RMD) rules applicable to cases where the participant dies before distribution of minimum benefits has begun to all post-death distributions, (2) reduce the excise tax to 10 percent on failures to satisfy the RMD rules, (3) apply the RMD rules to 457 plans (thereby repealing the special RMD rules currently applicable to 457 plans), and (4) direct the Treasury Department to modify the life expectancy tables under the RMD regulations to reflect current life expectancies. However, unlike the version of the Bill as introduced, the Bill would not require revision of the RMD methods so that the amount of the RMD does not decrease over a participant's life expectancy. Furthermore, the Bill no longer contains the "fresh start" provision, which would have permitted individuals already receiving RMDs to select a 3 It appears that this provision was included in the Bill because the Code provides the deduction limit for money purchase by cross-referencing the limitation in Code section 415, which the Bill would increase from 25 percent to 100 percent of compensation with respect to defined contribution plans. 3new beneficiary and elect a new method of calculating life expectancy. The modifications to the RMD rules would be effective for years beginning after December 31, 2001. Bill Sections 304 and 409. • Provisions Relating to Hardship Distributions. The Bill contains a new provision, which would provide that any distribution made upon hardship of the employee is ineligible for rollover and subject to the withholding rules applicable to ineligible rollover distributions. This proposal would modify the rule enacted by the Internal Revenue Service Restructuring and Reform Act of 1998, which excluded the portion of a hardship distribution attributable to an employee's elective deferral from the definition of "eligible rollover distribution." The provision would apply to distributions made after December 31, 2001. Bill Section 306.4 • Portability Provisions. The portability provisions of the Bill permitting rollovers of retirement plan and IRA distributions would be effective for distributions made after December 31, 2001, rather than as of the date of enactment. Furthermore, the Bill contains a new provision providing that no penalty would be imposed on a plan for failure to provide the information required under the provision with respect to any distribution made before the date that is 90 days after the date the Treasury Secretary issues a new safe harbor rollover notice, if the plan administrator makes a reasonable attempt to comply with such notice requirement. Bill

Sections 401, 402 and 403. • **Hardship Exception to 60-Day Rollover Rule.** Effective for distributions after December 31, 2001, rather than the date of enactment, the Bill would authorize Treasury to waive the 60-day rollover requirement if the failure to waive such requirement would be against “equity or good conscience.” Bill Section 404. • **Repeal of Same Desk Rule.** The same desk rule would be repealed effective January 1, 2002, rather than the date of enactment. Bill Section 406. • **Purchase of Service Credit in Governmental Defined Benefit Plans.** Effective January 1, 2002, rather than the date of enactment, the Bill would permit state and local government employees to transfer assets (in a trustee-to-trustee transfer) from their 403(b) arrangement or 457 plan to purchase service credits under their defined benefit plan. Bill Section 407. • **Periodic Pension Benefits Statements.** The provision is the same as the version as introduced, except for the following: (1) the Bill no longer expressly includes “telephonic” form as an “appropriate form” by which the statement may be provided⁵; (2) the Bill no longer provides a special rule for plans to which more than 1 unaffiliated employer is required to contribute; and (3) the Bill directs the Secretary of Labor to develop a model benefit statement, written in a manner calculated to be understood by 4 A similar proposal appeared in the Senate Finance Committee version of the Bill last year. See Institute Memorandum to Pension Committee No. 67-00 and Pension Operations Advisory Committee No. 66-00, dated September 8, 2000. ⁵ Thus, the statement may be provided in “written, electronic, or other appropriate form.” ⁴ the average plan participant, that may be used by plan administrators in complying with the requirements of ERISA section 105. Bill Section 507. • **Reporting Simplification.** The provision is the same as the version as introduced, except that the Bill would (1) direct both the Treasury and Labor Departments, rather than just Treasury, to eliminate the annual filing requirements for one-participant retirement plans with \$250,000 in assets or less, and (2) direct both agencies to develop a simplified form available to plans that cover less than 25 employees. The provision would generally be effective on January 1, 2002; the simplified form developed by the Treasury and Labor Departments would be available for plans years beginning after December 31, 2002. Bill Section 606. • **Civil Penalties for Breach of Fiduciary Duty.** The provision is the same as the version as introduced, except that the definition of the term “applicable recovery amount” no longer would refer to amounts recovered “on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary [of Labor] of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under subsection (a)(2) or (a)(5).” The Bill also does not contain language regarding extension of the “30-day” period at the discretion of the Secretary. Bill Section 706. • **Studies.** The Bill contains a new provision that would require the Secretary of Labor, in consultation with the Secretary of Treasury, to conduct a study on a “model small employer group plan,” to be reported no later than 18 months after the date of enactment. Furthermore, the Bill directs the Secretary of Labor to report, no later than 5 years after the date of enactment, the effects of the Bill, including any change in (1) the extent of pension plan coverage for low and middle-income workers, (2) the levels of pension plan benefits generally, (3) the quality of pension plan coverage generally, (4) workers’ access to and participation in pension plans, and (5) retirement security. Bill Section 708. A copy of the Bill’s table of contents and referenced provisions is attached. A complete copy of the Bill can be found at <http://thomas.loc.gov>.⁶ Thomas T. Kim Assistant Counsel Attachment Attachment (in .pdf format) ⁶ The Bill can be searched by bill number — “H.R. 10.” Of the versions of the Bill available at the website, the version “Engrossed in House” reflects the Bill as passed by the House on May 2, 2001. ⁵

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