

MEMO# 11045

June 8, 1999

REP. GEJDENSON INTRODUCES PENSION BILL

1 See Institute Memorandum to Pension Committee No. 14-99, dated March 16, 1999. 2 See Institute Memorandum to Pension Committee No. 19-99, dated March 22, 1999 and Institute Memorandum to Pension Committee No. 23-99, dated April 5, 1999. [11045] June 8, 1999 TO: PENSION COMMITTEE No. 38-99 RE: REP. GEJDENSON INTRODUCES PENSION BILL

Representative Gejdenson (D- X) has introduced H.R. 1590, the "Retirement Security Act of 1999," the House Democrats bill that would implement the retirement policy proposals in the Administration's fiscal year 2000 budget. The bill includes the following provisions: portability, repeal of the current liability funding limit for defined benefit plans, modified 401(k) safe harbors, payroll deduction IRA accounts, tax credits for small employers that establish retirement plans, a simplified defined benefit plan for small employers, the "SMART" plan and pension eligibility and vesting credits for Family and Medical Leave Act ("FMLA") leave time. The major pension reform bill introduced in the House is H.R. 1102, the "Comprehensive Retirement Security and Pension Reform Act of 1999," introduced by Representatives Portman (R-OH) and Cardin (D-MD).¹ In the Senate, the two major pension reform bills include S. 646, the "Retirement Savings Opportunity Act of 1999," introduced by Senators Roth (R-DE) and Baucus (D-MT), and S. 741, the "Pension Coverage and Portability Act," introduced by Senators Graham (D-FL) and Grassley (R-IA).² Specifically, the bill includes the following provisions: I. Credit for Pension Plan Start-up Expenses for Small Employers: The bill would provide small employers that establish pension plans with a credit of up to 50% of start-up costs up to \$1,000 for the first year and \$500 for the following two tax years. II. Payroll Deduction IRAs: The bill would permit employers to establish payroll deduction IRAs in which employees could invest up to \$2,000 of pre-tax dollars in an IRA. The bill would also provide tax credits for low-income workers who make contributions to IRAs of up to \$450. III. Penalty-Free Distributions from Qualified Plans and IRAs for Long-Term Unemployment: The bill would amend section 72(t) to permit penalty-free distributions from qualified plans and IRAs for individuals who have received qualified state or federal unemployment compensation for 12 consecutive weeks. IV. Simplified Defined Benefit Plan - SMART: The bill would permit small employers to establish simplified defined benefit plans, known as SMART plans. Under SMART plans, each participant would have an individual account with a guaranteed minimum benefit upon retirement. The participant could receive greater benefits if the investment exceeds the presumed rate of return. V. 1% Non-Elective Contributions to SIMPLE Plans: The bill would modify the matching requirements under the SIMPLE plan rules to require employers to make 1% non-elective contributions to employee accounts. VI. 1% Non-Elective Contribution for the 401(k) Safe Harbor: The bill would modify the 401(k) safe harbor to require employers to make 1% non-elective contributions to employee accounts. VII. Periodic Benefit Statements:

The bill would require employers to provide participant statements annually to participants in defined contribution plans and every three years to those participants aged 35 in defined benefit plans. VIII. Small Employer Disclosure: The bill would require plans with less than 100 employees who sponsor 401(k) plans to provide annual investment reports to participants and beneficiaries. The bill would also require that the Department of Labor, in prescribing applicable regulations for the investment reports, provide a means for the electronic transfer of the required annual report to plan participants and beneficiaries. IX. Prohibition of Plan Loans Using Credit Cards: The bill would prohibit the use of credit cards for plan loans. X. Reporting and Enforcement Requirements for Plans: The bill would require plan administrators to report evidence of irregularities related to the plan to the Department of Labor within 5 business days of discovery. Plan auditors must report such irregularities to the plan administrator with 5 business days of discovery, and if there is evidence of involvement of the plan administrator in the irregularity, the plan auditor must report the irregularity to the Department within 5 business days. XI. Faster Vesting of Employer Matching Contributions: The bill would modify the vesting schedule for employer matching contributions to three years for cliff vesting and six years for graded vesting. XII. Forms of Distribution Rule for Transfers Between Plans: The bill would permit defined contribution plans (transferee plans) to receive transfers from other defined contribution plans (transferor plans) in cases when the transferee plan does not offer all of the forms of distributions under the transferor plan, assuming certain conditions are met. XIII. Missing Participants Program: The bill would extend the PBGC's missing participants program to defined contribution plans. XIV. Portability: The bill would permit rollovers between 403(b)s and 401(k)s. In addition, the bill would permit rollovers of 457 plan assets to IRAs. XV. 60-Day Rollover Relief: The bill would extend the 60-day rollover period in cases of presidentially declared disasters and service in combat zones. XVI. Spousal Right to Know Rules: The bill would require plan administrators to provide a participant's spouse with a copy of the explanation of survivor benefits and options under the plan in the same manner as provided to the plan participant. XVII. FMLA Leave Treated as Hours of Service for Vesting: The bill would require plans to treat hours taken under the Family and Medical Leave Act as service hours for purposes of participation in the plan and vesting. XVIII. Plan Benefits in Divorce: The bill would deem certain domestic relations orders that do not specifically consider pension benefits to be qualified domestic relations orders. The provision would apply to marriages lasting 5 years or longer and in cases where the participant's spouse notifies the plan of the divorce proceedings. XIX. Joint and Survivor Annuity Requirements: The bill would modify the current joint and survivor annuity requirements to provide that the plan participant may elect to have the benefit paid in the form of a qualified joint and two-thirds survivor annuity. XX. Joint and Survivor Annuity Option for Defined Contribution Plans: The bill would require all defined contribution plans to offer joint and survivor annuities. However, the provision would not apply to hardship distributions. In addition, for defined contributions plans where the current value of the joint and survivor annuity does not exceed \$10,000, the plan may immediately distribute 50% of the present value of the annuity to each spouse. A copy of the bill is attached. Kathryn A. Ricard Assistant Counsel Attachment