Employee Benefits in the 101st Congress: Past Is Prologue

Employee benefits issues commanded center stage in the first session of the 101st Congress due to social, economic, and budgetary concerns. Given the looming budget deficit crisis and the significant "tax expenditure" attributed to employer-provided benefits, along with increased emphasis on escalating health care costs and retirement issues, employee benefits are certain to play a key role in future public policy debates.

Legislation affecting section 89, Medicare catastrophic insurance, physician payment reform, the Social Security wage limit, and employee stock ownership plans (ESOPs) was passed in 1989. Proposals that would affect asset reversions, retiree health benefits, access to health care, pension plan trusteeship, child care, parental leave, and the Age Discrimination in Employment Act of 1967 (ADEA) remain unresolved.

The repeal of both the Medicare Catastrophic Coverage Act of 1988 (MCCA) and section 89 welfare benefit plan nondiscrimination rules demonstrated an unprecedented response by Congress to pressure from special interest groups. But issues concerning the elderly's health care and nondiscrimination rules for employee benefit plans are far from dead. Both are likely to be taken up again when Congress reconvenes in January.

Predictably, a number of employee benefits proposals were debated during the budget reconciliation process for fiscal 1990, but a further intensified debate is anticipated as policymakers strive to achieve even stricter deficit targets in 1991. Thus, this issue of Notes reviews the first session of the 101st Congress as a preview of what is to come.

Health Care

The most significant action in health care in 1989 occurred as a repeal of old laws rather than enactment of new ones. Section 89 and MCCA became laws of the past, as Congress repealed both shortly before adjourning (Notes, 12/89, p. 7).

Physician payment reform provisions and expanded continuation of coverage rules under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) were incorporated into the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) (Notes, 12/89, p. 6). Proposals to improve access to health care for the uninsured saw little action in 1989; however, Congress is likely to consider health care access recommendations from the Pepper Commission and the Advisory Council on Social Security, which are scheduled to be released shortly.

Access to Health Care—Hearings were held by several congressional committees on competing proposals for comprehensive reform of health care in the United States. Proposals introduced by Sen. Edward Kennedy (D-MA), Rep. Henry Waxman (D-CA), Rep. Edward Roybal (D-CA), and others were debated at length, but to date, no single proposal has stood out in the policy debate.

In 1990, Sen. Orrin Hatch (R-UT), ranking republican of the Senate Labor and Human Resources Committee, reportedly will introduce a bill addressing access to health care. Also, key congressional health staffers met throughout the first session of Congress to attempt to formulate a comprehensive proposal addressing these concerns.

Furthermore, the Pepper Commission (formerly the U.S. Bipartisan

In This Issue

Employee Benefits in the 101st Congress: Past Is Prologue ... 1
IRA and Keogh Assets Grow during First Half of 1989 ..... 5
Public Speaks Out on ESOPs .................. 6
Legislation & Litigation .................. 6
Special Legislative Section ........ 7
From the Record .................. 11
For Your Benefit .................. 12
Commission on Comprehensive Health Care) is scheduled to release its report in March 1990. The commission was formed under MCC to make recommendations to Congress concerning access to health care for all Americans and access to long-term care for the elderly and disabled (Notes, 10/89, p. 14). Robert Friedland, EBRI senior research associate, is on a leave of absence to serve on the professional staff of the commission.

Similarly, the Advisory Council on Social Security—which was appointed by Health and Human Services Secretary Louis Sullivan to examine issues affecting the Social Security entitlement programs, Medicare, and Medicaid—is scheduled to release its report in January 1991. Deborah Chollet, EBRI senior research associate, is on a leave of absence to serve as staff director of the council (Notes, 8/89, p. 15).

Retiree Health—Retiree health proposals received widespread attention when they were linked to proposals to restrict the use of excess pension assets. A proposal considered during budget reconciliation would have allowed the limited use of these funds to pay current retiree health benefit liabilities. Because of the potential revenue gains attributed to this proposal, the tax-writing committees considered it very closely, but opponents of asset reversions fought successfully (at least for 1989) to marry the retiree health transfer issue to restrictions on asset reversions.

Those who support restrictions on asset reversions want to keep the two issues linked because of the revenue-raising potential of the retiree health transfer proposal and its perceived acceptance by the business community. Neither retiree health or asset reversions were included in OBRA '89, but the issue is certain to be revisited this year.

Long-Term Care—Many policymakers have become cautious over proposals aimed at expanding access to long-term care, due to the tremendous outcry from elderly groups on the Medicare catastrophic insurance surtax. Passage of any significant long-term care legislation in the near future seems unlikely.

Retirement

Various proposals that would have affected pensions and retirement income, including those calling for joint trusteeship, user and exit fees, Pension Benefit Guaranty Corporation (PBGC) premium increases, Employee Retirement Income Security Act of 1974 (ERISA) penalty fees, restrictions on asset reversions, and ERISA technical corrections, were carefully considered during the budget reconciliation process. Many of these proposals were not included as part of OBRA '89, but because of the large revenue loss attributed to pension plans, increased scrutiny of their administration and design is anticipated. Furthermore, legislation that would tax the short-term gains on pension investments was introduced, and is expected to receive further attention in 1990.

Pension and retirement income provisions that were included in OBRA '89 require that (1) a mandatory ERISA penalty fee be imposed for fiduciary violations; (2) various forms of deferred compensation be included in determining average compensation, and, in turn, the Social Security taxable wage base; and (3) deductible contributions to a 401(h) plan for retiree health benefits be prohibited beyond the pension plan's full funding limit (Notes, 12/89, pp. 5–6).

Pension Plan Trusteeship—The "Visclosky amendment," which would have required that the assets of a single-employer plan be held in trust by a joint board of trustees consisting of employers and participants, was stripped from the budget reconciliation bill on Sept. 27, 1989. However, Rep. Peter Visclosky (D-IN) and other Democrats on the House Education and Labor Committee plan to hold hearings in February on the joint trusteeship issue.

Pension Investments—Increased attention has focused on the short-term investments of pension funds. The Joint Economic Committee held a series of hearings addressing
the short-term investment strategies of corporations and institutional investors (Notes, 12/89, p. 9). Also, earlier in 1989, several congressional committees studied the increased occurrence of leveraged buyouts and their potential impact on retirement income (Notes, 4/89, p. 12). Proposals aimed at encouraging long-term investment strategies have surfaced, with particular emphasis on pension funds.

A bill that would impose an excise tax on gain from the sale of pension assets held for 180 days or less to encourage long-term investments was introduced by Sen. Nancy Kassebaum (R-KS) and Minority Leader Robert Dole (R-KS) on Sept. 21, 1989 (Notes, 10/89, p. 11). Increased attention to this issue is anticipated.

**ERISA Enforcement**—Department of Labor (DOL) Acting Inspector General Raymond Maria repeated warnings in his semiannual report to Congress that DOL’s “inadequate” oversight of the nation’s private pension plans could lead to a financial crisis similar to the savings and loan crisis. The report, released Nov. 30, 1989, essentially repeated concerns included in the June report issued by then Inspector General J. Bryan Hyland (Notes, 7/89, p. 16).

DOL is expected to respond to these charges with a legislative proposal expanding the limited scope of audits. Several observers anticipate that this proposal will serve as a vehicle for further pension reform.

The House Aging Subcommittee on Retirement Income and Employment held a hearing Nov. 15, 1989, to review DOL efforts to prevent fraud and abuse in pension plans (Notes, 12/89, p. 8).

**Pension Portability and Preservation**—Although not much legislation concerning portability and preservation was introduced in the first session of Congress, this issue is likely to receive more attention in 1990. Reps. Rod Chandler (R-WA) and Ronnie Flippo (D-AL) introduced a retiree health bill (H.R. 1866) that would also prohibit retirement plan lump-sum distributions and authorize the Treasury Department to undertake a study of portability issues. The bill was not enacted (Notes, 5/89, p. 11).

Sen. James Jeffords (R-VT), ranking republican of the Senate Subcommittee on Labor, is planning to introduce a bill in 1990 addressing pension portability. Under his proposal, individual retirement accounts (IRAs) would serve as the portability vehicle for benefit transfers (consisting of both taxable and nontaxable benefits) from qualified plans. The proposal would also allow an employer of any size who does not currently have a pension plan to contribute to a simplified employee pension and allow employees to match the amount of the employer contribution on a salary reduction basis. Jeffords had attached this proposal as an amendment to the Senate budget reconciliation bill in 1989, but it was later stripped out.

**IRAs**—Proposals to encourage the expansion of IRAs gained widespread approval by policymakers in 1989. A proposal to expand IRAs was originally introduced in September 1989 by Senate Finance Committee Chairman Lloyd Bentsen (D-TX) as an alternative to a capital gains tax cut. His proposal (S. 1682) would allow individuals who are currently not eligible to make fully deductible contributions to deduct 50 percent of their contribution, up to $2,000. Sen. William Roth (R-DE) is promoting a “back-ended IRA” proposal (S. 1256), under which contributions to IRAs would not be tax deductible, but all contributions and interest buildup would be tax exempt upon withdrawal at age 59 1/2 (Notes, 12/89, p. 7).

While neither of these proposals passed Congress in 1989, strong support for the expansion of IRAs is anticipated in 1990. Bentsen has indicated that his IRA proposal will be a top legislative priority when Congress reconvenes in January. (See “IRA and Keogh Assets Grow during First Half of 1989,” p. 5).

**Age Discrimination**—Legislation that would overturn the Supreme Court’s ruling (PERS v. Betts) that effectively exempts employee benefit plans from ADEA is likely to pass in 1990. The general areas of contention surrounding the legisla-
tion relate to its effect on early retirement plans, the integration of benefit plans, and the proposed effective date (Notes, 10/89, p. 11). Separate legislation that would prohibit individuals from waiving their rights under ADEA without supervision could be attached to the Betts legislation (Notes, 8/89, p. 5).

**ESOPs**

Proposals to restrict the tax advantages of ESOPs played a key role in deficit reduction strategies for 1989 and are expected to resurface as potential revenue raisers when negotiations begin on the 1991 budget. A partial repeal of the 50 percent interest exclusion on ESOP loans was included in OBRA '89, but a provision that would have repealed the dividend deduction (section 404(k)) for employer securities held by an ESOP was not (Notes, 12/89, p. 5).

**Family, Welfare Benefits, and Other Issues**

Although a major theme of presidential and congressional campaigns in 1988, "family" issues such as dependent care and parental leave failed to pass Congress. The hotly debated increase in the minimum wage, however, was finally enacted after several compromise proposals failed to gain President Bush's approval. Other issues concerning discrimination against disabled persons, employer-provided educational assistance, and group legal services were also acted upon in 1989.

**Dependent Care**—Congress failed to pass a comprehensive dependent care bill in 1989 because of various jurisdictional and philosophical disputes—particularly over how money should be distributed to the states and what, if any, restrictions should be placed on religiously affiliated child care providers. However, several policymakers have stressed that dependent care legislation will be a top priority when Congress reconvenes (Notes, 12/89, pp. 5–7).

**Parental Leave**—Legislation (H.R. 770, S. 345) that would require employers to allow employees to take a period of unpaid leave to care for a newborn or newly adopted child, or seriously ill child or parent, and to provide unpaid temporary medical leave for employees was reported out of both the House and Senate labor committees midyear. The legislation has seen little action since then (Notes, 8/89, p. 6).

A separate bill (H.R. 3445) that would require employers to provide up to 10 weeks' unpaid leave for the birth or adoption of a child was introduced Oct. 11, 1989, by Rep. Timothy Penny. The bill would not guarantee medical leave.

**Minimum Wage**—President Bush signed into law a compromise measure (H.R. 2710) Nov. 17, 1989, to raise the minimum wage to $4.25 an hour from $3.35 by April 1, 1991, and to establish the first subminimum training wage for teenagers (Notes, 12/89, p. 8).

**Disabled Persons**—A bill (S. 933) that would prohibit discrimination against disabled persons in employment and in all public services, accommodations, transportation, and telecommunications was overwhelmingly approved by the Senate Sept. 7, 1989 (Notes, 10/89, p. 12). Under the bill, employers with 50 or more workers would be required to provide "reasonable accommodations" to disabled persons (Notes, 8/89, p. 6).

The House version of the Americans with Disabilities Act (H.R. 2273) was reported out of the House Committee on Education and Labor Nov. 14.

**Educational Assistance and Group Legal Services**—Several tax provisions—including the income exclusions for employer-provided educational assistance benefits and group legal services—were extended through Sept. 30, 1990, under OBRA '89.

**Conclusion**

While a few benefits issues, such as section 89 and Medicare catastrophic insurance, have been put to rest (perhaps temporarily), others—including ERISA enforcement, ESOPs, short-term gains on pension investments, joint trusteeship, IRAs, health care access, and age discrimination—seem destined to dominate the agenda in 1990. Other perennial favorites (asset reversions, retiree health funding, child care, and parental leave) will also resurface.
The large tax expenditure attributed to employee benefits invites constant review. With Congress in search of new ways to raise revenue, benefits become a likely target. Furthermore, changing demographics and soaring health care costs pose continued challenges. Thus, the second session of the 101st Congress promises to further emphasize the importance of benefits issues to policymakers, employers, workers, the elderly, and the general public.

—Nora Super, EBRI

**IRA and Keogh**

**Assets Grow during First Half of 1989**

Total assets held in individual retirement accounts (IRAs) and Keogh plans (retirement plans for the self-employed) increased by 6.6 percent during the first six months of 1989, from $427 billion to $455 billion (table 1).1

Both commercial banks and mutual funds increased their holdings of these assets over the six-month period to more than $100 billion each—$103 billion and $110 billion, respectively. Together, these institutions increased their percentage share of total IRA/Keogh assets from 44.7 percent to 46.7 percent—nearly one-half of the market.

IRAs have been the subject of renewed interest during the 101st Congress. Sens. Lloyd Bentsen (D-TX) and William Roth (R-DE), among others, have introduced legislation to expand IRA availability.

Bentsen’s proposal (S. 1682) would expand the IRA tax deduction, currently available only to persons not covered by an employer pension plan and those covered by a plan but with earnings below specified limits.2 Under Bentsen’s proposal, those currently eligible for full or partial deductions would remain so, while others would be allowed to take a 50 percent deduction for contributions that are currently nondeductible. Also, the proposal would allow withdrawals for college tuition and first-time home pur-

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1If the adjusted gross income (AGI) is below $25,000 for single taxpayers and $40,000 for married taxpayers filing jointly, the entire contribution is tax deductible. If the AGI is within a “phase-out” range ($25,000 to $35,000 for single taxpayers, $40,000 to $50,000 for married taxpayers filing jointly, and $0 to $10,000 for married taxpayers filing separately), a portion of the contribution is deductible.

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<table>
<thead>
<tr>
<th>Financial Institution</th>
<th>June 1989</th>
<th>December 1988</th>
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<tbody>
<tr>
<td></td>
<td>Total (in billions)</td>
<td>Percentage of market</td>
</tr>
<tr>
<td>Total</td>
<td>$454.5</td>
<td>100.0%</td>
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<td>Commercial Banks</td>
<td>102.8</td>
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<td>Savings and Loans</td>
<td>83.1</td>
<td>18.3</td>
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<td>Mutual Savings Banks</td>
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<tr>
<td>Mutual Funds</td>
<td>109.7</td>
<td>24.1</td>
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<td>Credit Unions*</td>
<td>25.0</td>
<td>5.5</td>
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<tr>
<td>Life Insurance</td>
<td>44.0b</td>
<td>9.7</td>
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<tr>
<td>Stock Brokerage SDAsa</td>
<td>68.0b</td>
<td>15.0</td>
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</table>

Source: Employee Benefit Research Institute tabulations of data collected from the Federal Reserve Board Weekly Statistical Release, the Federal Home Loan Bank Board, the National Council of Savings Institutions, the Investment Company Institute, the Credit Union National Association, and the American Council of Life Insurance.

*aFigures represent IRA assets only.
bAs of December 1988, the latest data available.

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1The year-end 1988 number has been revised to include IRA/Keogh assets held by mutual savings banks not previously included in the National Council of Savings Institutions’ survey. Thus, total IRA/Keogh assets in mutual savings banks for December 1988 rises from prior estimates of $18.5 billion to $20.9 billion.
Chases. The interest accrued and 50 percent of the contributions would be taxed upon withdrawal.

Roth has proposed establishment of a "back-ended" IRA. Under the proposal (S. 1256), contributions would not be currently deductible, but contributions and interest buildup would be tax deductible upon withdrawal. As under current law, taxpayers currently eligible to make deductible contributions would continue to be so. Penalty-free withdrawals would be allowed at age 59 1/2, and up to 25 percent of the account balance could be withdrawn without penalty for catastrophic health care expenses, home purchases, and certain educational expenses.

Debate about which of these proposals would be more beneficial continues and will likely reemerge in the next session of the 101st Congress.

—Jennifer Davis, EBRI

◆ Public Speaks Out on ESOPs

In the newest survey conducted by EBRI and The Gallup Organization, Inc., Americans voiced strong support for employee ownership.

A majority (65 percent) of Americans said they would not sell the stock of a company where they worked to an outside investor attempting a hostile takeover even if offered 50 percent more than the market value.

In addition, 69 percent of respondents said that employee stockholders are more likely than outsider stockholders to vote their shares in the best long-term interest of the company. And, less than one-third (29 percent) would be willing to let management vote their (employees') shares on major corporate issue decisions.

The survey also found that while nearly two-thirds (61 percent) of Americans agreed that most companies do not give workers enough say in the decisions that affect them, a majority would defer to management on decisions related to the long-term financial strategies of the company (72 percent), hiring and firing policies (71 percent), and rules for conduct at work (56 percent).

The survey, conducted in September, is the fourth in a series of national public opinion polls EBRI is undertaking on public attitudes toward economic security issues such as health, retirement, child care, savings, Social Security, and long-term care. The polls are conducted monthly by The Gallup Organization, Inc., which surveys 1,000 Americans by telephone. The maximum expected error range at the 95 percent confidence level is ±3.1 percent.

Survey reports are available for the following prices: summary—$75; full report—$275. EBRI members receive a discount. Contact Laura Bos at (202) 775-6318.

◆ Legislation & Litigation

[Editor's note: For further information on legislative updates, see feature article on p. 1 and the bill chart in special section, pp. 7-10.]

Regulations

IRS Issues Guidance on Employee Business Expenses

The Internal Revenue Service (IRS) issued on Dec. 7 simplified guidance on tax treatment of employee business expenses under a reimbursement or other expense allowance arrangement. The notice of proposed rulemaking (EE-8-89) reflects tax-law changes made by the Family Support Act of 1988.

In addition, IRS released Revenue Procedure 89-66, which raises the standard mileage rate from 25.5 cents to 26 cents per mile for 1990. The guidance is effective for taxable years beginning on or after Jan. 1, 1989.

PBGC Amends Regulation on Valuation of Plan Benefits

The Pension Benefit Guaranty Corporation (PBGC) has issued an amendment to its regulation on valuation of plan benefits in single-employer pension plans, containing the interest rates and factors for the period beginning Dec. 1, 1989.

The use of these interest rates and factors to value benefits is manda-
SPECIAL LEGISLATIVE SECTION:
THE FIRST SESSION
OF THE 101ST CONGRESS

January 1990
<table>
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<tr>
<th>Bill</th>
<th>Primary Sponsor</th>
<th>Title</th>
<th>Date Introduced</th>
<th>Status</th>
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<tr>
<td>I. Health Care</td>
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<tr>
<td>A. Section 89</td>
<td>LaFalce (D-NY)</td>
<td>IRC of 1966, Amendment (To repeal section 89)</td>
<td>1/24</td>
<td>Language to repeal section 89 incorporated into H.J.Res. 260</td>
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<td>H.R. 634</td>
<td>Rostenkowski (D-IL)</td>
<td>IRC of 1966, Amendment (To simplify section 89)</td>
<td>4/13</td>
<td>Language to repeal section 89 incorporated into H.J.Res. 260</td>
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<td>S. 1129</td>
<td>Bentzen (D-TX)</td>
<td>IRC of 1966, Amendment (To simplify section 89)</td>
<td>6/06</td>
<td>Language to repeal section 89 Incorporated Into H.J.Res. 260</td>
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<td>S. 1774</td>
<td>Kasten (R-WI)</td>
<td>IRC of 1966, Amendment</td>
<td>10/20</td>
<td>Language to repeal section 89 incorporated into H.J.Res. 260</td>
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<td>H.J.Res 280</td>
<td>Wright (D-TX)</td>
<td>Public Debt Limit, Increase</td>
<td>2/23</td>
<td>Amendment to repeal section 89 added</td>
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<td></td>
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<td>Signed in the House 11/7/89</td>
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<td>Signed in the Senate 11/8/89—Became Public Law No. 101-140</td>
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<td>H.R. 3607</td>
<td>McCain (R-AZ)</td>
<td>Medicare Catastrophic Coverage Act of 1988, Amendment (To repeal surtax and scale back catastrophic benefits)</td>
<td>10/4</td>
<td>Hearing held 10/6/89</td>
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<td>C. Access to Health Care</td>
<td>Waxman (D-CA)</td>
<td>Basic Health Benefits for All Americans Act (To require employers to provide minimum health insurance to employees)</td>
<td>4/12</td>
<td>Referred to Energy and Commerce Committee &amp; Education and Labor Committee</td>
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<tr>
<td>H.R. 1845</td>
<td>Kennedy (D-MA)</td>
<td>Basic Health Benefits for All Americans Act (To require employers to provide minimum health insurance to employees)</td>
<td>4/12</td>
<td>Reported as amended by Labor and Human Resources Committee 7/21/89</td>
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<td>S. 768</td>
<td>Clay (D-MD)</td>
<td>IRC of 1966, Amendment (To expand health insurance deductions for the self-employed)</td>
<td>4/12</td>
<td>Provisions to extend the health insurance deduction for the self-employed were included in OBRA '89</td>
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<td>H.R. 2980</td>
<td>Roybal (D-CA)</td>
<td>USHealth Program Act (To provide access to health care for all Americans)</td>
<td>7/24</td>
<td>Referred to Ways and Means &amp; Energy and Commerce Committee</td>
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<td>D. Retiree Health</td>
<td>Chandler (R-WA)</td>
<td>Retiree Health Benefits Preservation Act of 1989 (To provide for prefunding of retiree health by allowing the transfer of excess pension assets)</td>
<td>4/13</td>
<td>Referred to Ways and Means Committee &amp; Education and Labor Committee</td>
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<td>H.R. 1865</td>
<td>Pryor (D-AR)</td>
<td>Retiree Health Benefits Preservation Act of 1989 (To provide for prefunding of retiree health by allowing the transfer of excess pension assets)</td>
<td>4/17</td>
<td>Referred to Finance Committee Hearing held 7/19/89 Parts of this measure incorporated into S. 665 Provisions concerning retiree health benefits stripped from budget reconciliation legislation</td>
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<td>S. 812</td>
<td>Chandler (R-WA)</td>
<td>Retiree Health Benefits and Pension Preservation Act of 1989 (To provide for prefunding of retiree health by allowing the transfer of excess pension assets)</td>
<td>4/13</td>
<td>Referred to Ways and Means Committee &amp; Education and Labor Committee Provisions concerning retiree health benefits stripped from budget reconciliation legislation</td>
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<td>E. Long-Term Care</td>
<td>Gradison (R-CH)</td>
<td>Long-Term Care Insurance Promotion Act of 1989</td>
<td>2/09</td>
<td>Referred to Ways and Means Committee</td>
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<td>F. Physician Payment Reform</td>
<td>Waxman (D-CA)</td>
<td>Medicare Physician Payment Reform Amendments of 1989</td>
<td>6/14</td>
<td>Referred to Ways and Means Committee &amp; Energy and Commerce Committee This measure incorporated into H.R. 2924</td>
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<td>H.R. 2629</td>
<td>Waxman (D-CA)</td>
<td>OBRA '89; Medicare Community and Facility Habilitation Services Amendments of 1989</td>
<td>7/18</td>
<td>Referred to Ways and Means Committee &amp; Energy and Commerce Committee Parts of this measure incorporated into OBRA '89</td>
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<td>S. 1809</td>
<td>Rockefeller (D-WV)</td>
<td>Medicare Physician Payment Reform Act of 1989</td>
<td>10/31</td>
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<td>II. Retirement</td>
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<td>A. Asset Reversions</td>
<td>Clay (D-MO)</td>
<td>Employee Pension Protection Act of 1969 (To modify the treatment of pension plan assets upon termination)</td>
<td>4/04</td>
<td>Referred to Education and Labor Committee Hearing held 4/18/89 Parts of this measure incorporated into budget reconciliation bill and later stripped out</td>
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<td>H.R. 1651</td>
<td>Metzenbaum (D-OH)</td>
<td>Employee Pension Protection Act of 1969 (To modify the treatment of pension plan assets upon termination)</td>
<td>4/04</td>
<td>Referred to Committee on Labor and Human Resources Hearing held 4/11/89 Parts of this measure incorporated into budget reconciliation bill and later stripped out</td>
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B. Technical Corrections
H. R. 2794 Clay (D-MO)
Miscellaneous ERISA Amendments Act of 1989

C. Pension Plan Trusteeship
H. R. 2684 Visclosky (D-IN)
Employee Pension Rights Act
To provide for joint trusteeship of single-employer pension plans

D. Social Security
H. R. 3505 Rostenkowski (D-IL)
Social Security Solvency Protection Act of 1989
To assure solvency of Social Security trust funds
H. R. 3573 Frenzel (R-MN)
Social Security Preservation and Budget Process Reform Act of 1989
To take Social Security trust funds out of deficit calculations
S. 1192 Bentsen (D-TX)
Social Security Act, Amendment
To increase the Social Security earnings limit
S. 1785 Moynihan (D-NY)
Social Security Trust Fund Savings Act
To take Social Security trust funds out of deficit calculations

E. Age Discrimination
H. R. 1432 Hawkins (D-CA)
Age Discrimination in Employment Waiver Protection Act of 1989
To amend ADEA
H. R. 3200 Roybal (D-CA)
Older Workers Benefits Protection Act
To amend ADEA to include benefits provisions
S. 54 Mezvinsky (D-OH)
Age Discrimination in Employment Waiver Protection Act of 1989
To amend ADEA
S. 1293 Heinz (R-PA)
Age Discrimination in Employment Act of 1967, Amendment
To amend ADEA to include benefits provisions
S. 1511 Pryor (D-AR)
Older Workers Benefit Protective Act of 1989
To amend ADEA to include benefits provisions

F. Excessive Churning
S. 1654 Kassebaum (R-KS)
Excessive Churning and Speculation Act of 1989
To encourage long-term investments by imposing an excise tax on short-term gains on pension assets

G. IRAs
S. 1256 Roth (R-DE)
1989 Save America Tax Act
To establish flexible IRAs
S. 1682 Bentsen (D-TX)
Savings and Investment Incentive Act of 1989
To increase deductible contributions to IRAs
S. 1771 Packwood (R-OR)
Internal Revenue Code of 1986, Amendment
To expand IRAs and reduce the capital gains tax rate

H. ESOPs
H. R. 2572 Rostenkowski (D-IL)
IRC of 1986, Amendment
To repeal the partial exclusion for interest on ESOP loans
S. 1171 Dole (R-KS)
Employee Stock Option Plan Reform Act of 1989
To repeal the partial exclusion for interest on ESOP loans
S. 1303 Bentsen (D-TX)
IRC of 1986, Amendment
To repeal the partial exclusion for interest on ESOP loans to those ESOPs that own at least 30% of the employers stock

III. Family, Welfare, and Other Issues
A. Dependent Care
H. R. 3 Hawkins (D-CA)
Infant and Toddler Child Care Act
To expand Head Start
H. R. 30 Kildee (D-MI)
Act for Better Child Care Services of 1969
State Child Care Development Grants Act of 1989
S. 5 Dodd (D-CT)
Act for Better Child Care, Child Care and Health Insurance Act of 1989
To improve child care, to provide a health insurance premium credit, to make the dependent care credit refundable, and to simplify section 89

6/29 Referred to Education and Labor Committee & Ways and Means Committee
Ways and Means Committee technical corrections incorporated into OBRA '89; Labor and Education Committee provisions were stripped out

6/15 Referred to Education and Labor Committee
Approved as amendment to Education and Labor budget reconciliation legislation
Stripped from budget bill by amendment offered by Rep. Marge Roukema (D-NY) 9/27/89

10/23 Referred to Ways and Means Committee & Rules Committee
Hearing held Nov. 2

11/01 Referred to Government Operations Committee, Rules Committee, & Ways and Means Committee

6/15 Referred to Finance Committee
This measure incorporated into S. 5 (Act for Better Child Care)

10/24 Referred to Budget Committee & Governmental Affairs Committee

3/15 Referred to Education and Labor Committee
Reported as amended 6/13/89

8/04 Referred to Education and Labor Committee

1/25 Referred to Labor and Human Resources Committee
Hearing held 3/16/89

Reported as amended 6/14/89

7/11 Referred to Labor and Human Resources Committee
Hearing held 9/27/89 by Senate Special Committee on Aging

8/03 Referred to Labor and Human Resources Committee
Hearing held 9/28/89 by Senate Special Committee on Aging

9/21 Referred to Finance Committee

6/23 Referred to Finance Committee

9/27 Referred to Finance Committee
Hearing held 9/29/89
This measure incorporated in S. 1750 and later stripped out

10/19 Referred to Finance Committee

6/07 Referred to Ways and Means Committee
Parts of this measure incorporated into OBRA '89

6/13 Referred to Finance Committee
Hearing held 7/19/89
Parts of this measure incorporated into OBRA '89

7/12 Referred to Finance Committee
Hearing held 7/19/89
A modified version of this measure incorporated into OBRA '89

1/03 Referred to Education and Labor Committee
Hearing held 2/3/89, 3/6/89, & 4/5/89
Reported as amended 6/27/89
This measure incorporated into H.R. 3299 and later stripped out

1/03 Referred to Education and Labor Committee
Hearing held 2/3/89, 3/6/89, & 4/5/89

1/25 Referred to Labor and Human Resources Committee
Hearing held 1/24/89, 3/15/89, & 6/23/89
Passed in the Senate 6/23/89
This measure incorporated into S. 1750 and later stripped out
<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Primary Sponsor</th>
<th>Title</th>
<th>Date Introduced</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>S. 159</td>
<td>Domeno (R-NM)</td>
<td>Family Choice Tax Credit Act of 1989 (To provide a refundable dependent care credit)</td>
<td>1/25</td>
<td>Referred to Finance Committee Hearing held 4/18/89 &amp; 4/19/89</td>
</tr>
<tr>
<td>S. 450</td>
<td>Hatch (R-UT)</td>
<td>Family Earned Income Tax Credit Act (To increase the earned income tax credit on the basis of family size)</td>
<td>2/23</td>
<td>Referred to Finance Committee</td>
</tr>
<tr>
<td>S. 601</td>
<td>Dole (R-KS)</td>
<td>Working Family Child Care Assistance Act of 1989 (To provide for a refundable child and dependent care tax credit)</td>
<td>3/15</td>
<td>No committee referral on introduction Hearing held 4/18/89, 4/19/89, &amp; 6/12/89 Rejected as amendment to S. 5 5/23/89</td>
</tr>
<tr>
<td>S. 1195</td>
<td>Bentsen (D-TX)</td>
<td>Child Care and Health Insurance Act of 1989 (To provide a health insurance premium credit, to make the credit for dependent care refundable, to simplify section 89)</td>
<td>6/14</td>
<td>Referred to Finance Committee Reported as amended 6/18/89 This measure incorporated into S. 5</td>
</tr>
</tbody>
</table>

B. Parental Leave

| H.R. 770   | Clay (D-MO)    | Family and Medical Leave Act of 1989 (To grant family leave to employees in certain cases) | 2/02           | Referred to Education and Labor Committee & Post Office and Civil Service Committee Hearing held 2/7/89, 3/8/89, & 4/12/89 Reported as amended 4/12/89 Parts of this measure incorporated into S. 345 |
| S. 345     | Dodd (D-CT)    | Family Leave and Medical Act of 1989 (To grant family leave to employees in certain cases) | 2/02           | Referred to Labor and Human Resources Committee Hearing held 3/2/89 Reported 4/19/89 Parts of this measure incorporated into H.R. 770 and S. 897 |
| S. 897     | DeConcini (D-AZ) | Parental Leave Act of 1989 (To grant family leave to employees in certain cases) | 5/02           | Referred to Labor and Human Resources Committee                         |

C. Minimum Wage

| S. 4      | Kennedy (D-MA) | Minimum Wage Restoration Act of 1989 (To raise the minimum wage) | 1/25           | Referred to Labor and Human Resources Committee Reported as amended 3/8/89 This measure incorporated into H.R. 2 |
| S. 1182   | Kennedy (D-MA) | Fair Labor Standards Amendments of 1989 (To raise the minimum wage) | 6/14           | Referred to Labor and Human Resources Committee Reported as amended 8/2/89 A minimum wage increase was signed by the President 11/17/89 (see H.R. 2710) |

D. Disabled Persons

| H.R. 2273 | Coelho (D-CA) | Americans with Disabilities Act of 1986 (To prohibit discrimination on the basis of disability) | 5/09           | Referred to Judiciary Committee Hearing held 7/18/89 & 11/9/89 Reported as amended 11/14/89 |
| S. 933     | Harkin (D-IA) | Americans with Disabilities Act of 1986 (To prohibit discrimination on the basis of disability) | 5/09           | Referred to Labor and Human Resources Committee Hearing held 6/22/89 Passed in the Senate 9/7/89 |

E. Educational Assistance

| H.R. 2037 | Guarini (D-NJ) | Employee Educational Assistance Act of 1989 (To extend the tax-deduction for employer provided educational assistance) | 4/18           | Referred to Ways and Means Committee Parts of this measure incorporated into OBRA '89 |
| S. 260     | Mournihan (D-NY) | Employee Educational Assistance Act of 1989 | 1/25           | Referred to Finance Committee                                           |

IV. Budget Reconciliation

| H.R. 3299 | Panetta (D-CA) | Omnibus Budget Reconciliation Act of 1989 (OBRA '89) | 9/20           | Referred to Budget Committee S. 1750 incorporated into this measure Signed in the House 12/11/89 Signed in the Senate 12/13/89 Signed by the President 12/19/89—Became Public Law No. 101-239 |
| S. 1750   | Sasser (D-TN) | Omnibus Budget Reconciliation Act of 1989 | 7/20           | Reported by Budget Committee This measure incorporated into H.R. 3299 |
FASB has voted to delay until calendar year 1992 implementation of revised requirements for how companies must report their income tax liabilities in their financial statements under Statement 96. They earlier had proposed a one-year delay.

The board agreed that one year is not sufficient time for it to complete consideration of requests to amend Statement 96 and to complete the due process on any resulting amendments. Under the two-year delay, companies will have to start using Statement 96 for fiscal years beginning after Dec. 15, 1991.

Litigation

Employer Sued for Denying Severance Pay

A district court found in favor of an employer that denied severance pay...
benefits to discharged employees.

Four employees of Anchor Hocking Corporation were denied severance pay benefits after being discharged for reasons including violation of company rules and inability to fulfill required duties of their positions. The employees sued, contending that the employer was in violation of the Employee Retirement Income Security Act of 1974 (ERISA). Anchor Hocking held that the severance plan was to provide compensation for employees "terminated through no fault of their own."

The court found that the employer's action was consistent with the plan administrator's interpretation and supported by the evidence (Adamo v. Anchor Hocking Corporation).

**Retiree Benefits Survive Terminated Plan**

A circuit court has ruled that former employees who retired prior to the closing of a plant are still entitled to health benefits even though the company terminated the health and welfare benefits plan.

The court said in **Smith v. ABS Industries, Inc.** that the retirees had a vested interest in lifetime health benefits, citing relevant contract language that sets retirees apart from other plan beneficiaries.

Nine former employees of the Ashatabula Forge Division of ABS Industries, Inc., sued the company for ERISA violations for denying health benefits after the plant closed. A district court had found that the retirees were covered under the employer's health and welfare plan, but the health benefits were not vested and retirees' coverage ceased when the plan was terminated. On appeal, the Sixth Circuit reversed the decision, holding that the language of the terminated plan, plus evidence of oral commitment from the company that health care coverage was a lifetime benefit, support the conclusion that retirees had a vested right to the benefits.

**For Your Benefit**

**Pension Assets, Equity Investments Continue to Grow**

Total private trusted pension assets grew to $1.44 trillion by the end of the third quarter 1989, according to data published in the latest issue of EBRI's Quarterly Pension Investment Report (QPIR). Direct investments in equity by trusted funds grew as a percentage of total assets from 37.2 percent at the end of second quarter 1989 to 38.7 percent at the end of the third quarter, totaling $557 billion.

Among private trusted plans, showed an increase in directly invested equity as a percentage of total assets. There was an increase from 36.4 percent to 37.5 percent for single-employer defined benefit plans totaling $306 billion; from 41.6 percent to 43.7 percent totaling $207 billion for single-employer defined contribution plans; and from 27.4 percent to 29.6 percent totaling $44 billion for multiemployer plans.

QPIR now presents nearly seven years of quarterly data on private trusted pension investment through a joint effort of EBRI, the Federal Reserve Board's Flow of Funds section, Wilshire Associates, and SEI. For more information write to EBRI Publications/QPIR, 2121 K St., NW, Suite 600, Washington, DC 20037.

**Employers May Feel Pressure to Change Benefits for Two-Income Families**

Employers will increasingly feel pressure to modify employee benefits for two-income families, according to a recent forecast by the Roper Organization.

Flexible work hours and schedules, part-time jobs, and job sharing will be increasingly important for such families with young children. Issues such as maternity/paternity leave with full job protection and continuation of health benefits will continue to be focused on in the future.

Cafeteria benefit plans will also be increasingly important to employees, who will want to choose which benefits they need so as not to duplicate benefits already provided by a spouse's employer.

These considerations are important to employers because of the cost implications and to employees, who
desire flexibility, according to the report.

Social Security Telephone Network Available

The Social Security Administration now operates a toll-free telephone number for the public to call with questions about Social Security. The new number, 1-800-2345-SSA, can be accessed from anywhere in the country, 24 hours a day, 7 days a week. An estimated 55 million phone calls are anticipated during the first year of operation.

Publications

Prescription Drugs: HCFA’s Proposed Drug Utilization Review System Ignores Quality of Care Issues, U.S. General Accounting Office (GAO)

This report, prepared for the Senate Special Committee on Aging by GAO, examines the drug utilization review system proposed by the U.S. Health Care Financing Administration. The report identifies the major issues associated with the proposed system and discusses whether it will meet legislative objectives. Request pub. no. GAO/PEMD-89-26BR from GAO, P.O. Box 6015, Gaithersburg, MD 20877. (202) 275-6241. First five copies free.

Blue Book, National Association of Employers on Health Care Action (NAEHCA)

The fifth edition of this digest recognizes the increase in the number of people enrolled in health maintenance organizations (HMOs) from 1988 to 1989. It also discusses the decrease in the actual number of HMOs during the same period. Forty-seven states and the District of Columbia, Guam, and Puerto Rico have HMOs; Alaska, Mississippi, and Wyoming currently do not. Contact NAEHCA, 104 Crandon Blvd., #304, Key Biscayne, FL, or call Tamara Stack, (305) 351-2842. Cost $69.50.

Health Care Needs, Resources, and Access in Rural America, National Rural Electric Cooperative Association (NRECA)

Expanding medical insurance coverage for rural Americans is important in order to improve rural health care, according to this study. Health care coverage has a greater impact on delivery of health services than does place of residency or availability of health care facilities.

This report states that although 12 percent of the Gross National Product is spent on medical care, there is a large number of uninsured persons. To improve coverage in rural areas, different approaches are needed. Contact Rob Lively, NRECA, 1800 Massachusetts Ave., NW, Washington, DC, 20036. (202) 857-9633. Free.

The Countdown on Family Leave, Conference Board

The business community is sharply divided over the possibility of federally mandated family leave proposed in the Family and Medical Leave Act of 1989, according to this survey. Some business leaders opposed to federal mandates are concerned about the prospect of further government intervention in policy areas traditionally considered the domain of business. Others insist that family leave is part of the “minimum labor standards” for the 1990s and that legislation is the only way to guarantee equity in the work force.

This study concludes that while outcome of the legislation is uncertain, the future of employee benefit plans is likely to involve more flexible benefits allowing employees to tailor benefits to individual needs. Contact Publications, Conference Board, 845 Third Ave., New York, NY 10022. (212) 759-0900. Cost $15.

A Survey on Employee Opinion Surveys, A. Foster Higgins & Co., Inc.

This study found that employee opinion surveys usually focus on a specific topic, and employee benefits are the most popular topic, according to the 200 human resource executives surveyed. Companies want to know how their employees feel about their benefits, and an employee survey can provide information on employees’ attitudes toward existing benefits or changes in benefits, which can help assure the program’s cost effectiveness and success. Contact Rick Knapp, A. Foster Higgins & Co., Inc., 212 Carnegie Center, Princeton, NJ 08543. (609) 520-2645. Cost $25.
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EBRI Issue Briefs provide extensive detail for considered judgment of the issues you
care about most. Recent topics included the following:

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- The Evolution of Alternative Health Care Delivery Systems
- Japan Copes with Its "Honorable Elders": Retirement and Health Benefit
  Systems in Japan
- Pension Funds and Financial Markets
- Canada's Health Care System: Lessons for the United States?
- Questions and Answers about Employee Benefits
- Pension Plan "Surplus": Revert, Transfer, or Hold?
- Managing Health Care Costs and Quality
- Issues Concerning the Financing and Delivery of Long-Term Care
- Dependent Care: Meeting the Needs of a Dynamic Work Force
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- Employers' Accounting for Pensions and Other Post-Employment Benefits
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  a Voluntary System
- Pension Investments and Financial Markets
- Public and Private Issues in Financing Health Care for Children
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  Employers, Employees, and Retirees
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#97, December 1989
#96, November 1989
#95, October 1989
#94, September 1989
#93, August 1989
#92, July 1989
#91, June 1989
#90, May 1989
#89, April 1989
#88, March 1989
#87, February 1989
#86, January 1989
#85, December 1988
#84, November 1988
#83, October 1988
#82, September 1988
#81, August 1988
#80, July 1988
#79, June 1988
#78, May 1988
#77, April 1988
#76, March 1988
#75, February 1988
#74, January 1988
#73, December 1987
#72, November 1987
#71, October 1987
#70, September 1987
#69, August 1987
#68, July 1987
#67, June 1987
#66, May 1987
#65, April 1987

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Where Coverage Ends: Catastrophic Illness and Long-Term Health Care Costs

We are all at risk of incurring major medical expenses or needing long-term care at some time in our lives. Learn how we define "catastrophic" and long-term costs, how we currently pay for these expenses, what roles individuals and the public and private sectors play, and what kind of approach to insure against these expenses is optimal.

Measuring and Funding Corporate Liabilities for Retiree Health Benefits

"... As individuals and as a profession, we should use this book as a foundation for continued efforts." —John Berko, Coopers & Lybrand

The unfunded liabilities associated with retiree health benefits for companies that provide them may be as high as $2 trillion! These expenses must soon be reflected on the corporate balance sheet. Gain an understanding of the magnitude of these liabilities for your own firm, and of what type of funding option, if any, would be compatible with your corporation's financial situation. The study illustrates a range of liabilities using three hypothetical companies and indicates the annual costs to finance the benefits over employees' working careers.

Pension Policy and Small Employers: At What Price Coverage?

A comprehensive analysis of the reasons why only 43 percent of small-business employees are covered by a retirement plan, this study, by Emily S. Andrews, Ph.D., examines options for encouraging more small businesses to offer pension coverage to their employees.

The Changing Health Care Market

Anticipate changes and prevent costly benefit mistakes. Find out how the experts view the current forces in the health care market and their predictions for the future in this comprehensive work. This book covers everything from alternative delivery mechanisms and competition in the health care field, to cost management programs and the individual's role in health care. Other topics include recent trends in physician practice, for-profits vs. nonprofits, case management, retiree health benefits, indigent care, long-term care, and more.

Business, Work, and Benefits: Adjusting to Change

Benefits experts agree that the 1990s will be a decade requiring difficult and gut-wrenching decisions by American businesses, both large and small. This study looks at how your corporation can cope with demographic shifts, global competition, and legislative change. It shows you how to apply the current demographic trends, legislative proposals, and policy changes to the employee benefits area and plans your company needs to make now.
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