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Grassley Explores New Protections for Retirement Plan Participants

WASHINGTON – Sen. Chuck Grassley, ranking member of the Committee on Finance, is pursuing whether Congress should tighten up protections for retirement plan participants in light of Enron's collapse.

"Millions of Americans have hundreds of billions of dollars invested in employer-sponsored retirement plans," Grassley said. "These plans receive favored treatment under the federal tax code. The Committee on Finance has the primary responsibility, under its jurisdiction, for making sure retirement plans comply with the tax code and other laws. Our committee also has the responsibility to fix any weaknesses that might leave retirement plan participants in trouble if their employer goes under."

Grassley said the details of the Enron retirement plans are still forthcoming. However, he said, some areas already are emerging as targets for scrutiny. Specific areas Grassley is looking into are:

Company stock. Under current rules, a company can restrict a retirement plan participant from selling the match received in company stock through an employee stock ownership plan. (Enron employees' company stock matches were restricted.) Grassley is researching whether employees should be able to change this investment choice prior to an arbitrary age.

Mandated purchases of company stock. Current law allows a plan sponsor to compel employees to purchase up to 10 percent of employer stock as a condition of participating in a 401(k) plan. Grassley said he thinks this rule should be eliminated.

Fiduciary rules. These rules ensure that companies properly invest and handle retirement plan money, including spending the money for the exclusive benefit of their employees. Retirement plans are tax-favored vehicles, authorized under the Internal Revenue Code. Grassley said he wants to learn whether Enron officials violated their fiduciary duties and in general, whether Congress should change the existing rules.

Black-outs. A "black-out" or "lockdown" occurs when a plan is shut down for a period of time to allow, for example, change to another plan administrator. Enron had such a "black-out," though the length of time is disputed. Grassley said he wants to get the facts on this event because it may coincide with the decline in the company's stock value.

Mandated diversification of stocks in retirement plans. Some legislation has been introduced that mandates employees hold no more than a certain percentage of stock in their 401(k) plan. Diversification in one part of the plan should indicate that all investments should be mandated. Grassley said he has an open mind, but thinks mandates are not desirable nor particularly feasible.

Grassley said he is pursuing these ideas with experts from outside groups and agencies such as the Treasury Department, the Labor Department and the Pension Benefit Guaranty Corporation.

"The tax code smiles on retirement plans, for good reason," Grassley said. "Tax breaks encourage employers to set up retirement plans and employees to take part in those plans. If employers find it easy to break the rules, then Congress has to re-write the rule book. Otherwise, employees counting on a secure retirement might be left out in cold."

In addition to the retirement plan track, Grassley said he is part of an effort to look into whether Enron used certain tax vehicles that might have masked the company's financial condition.