



The ERISA Industry Committee

**Testimony
of
Michael Stapley
President and CEO, Deseret Mutual
Chairman, ERIC Task Force on New Benefit Platform for Life Security**

**Before
The Subcommittee on Health, Education, Labor and Pensions of
The Education and Workforce Committee
United States House of Representatives**

November 8, 2007

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Thank you, Mr. Chairman and members of the committee.

We are here today to present to you a new and forward thinking idea about the way we deliver life security benefits to Americans.

The voluntary participation of employers in the American system for providing medical, retirement and other similar “life security” benefits has, over time, improved the health and financial well being of hundreds of millions of Americans.

However, there are significant challenges facing our current benefit system that cannot be ignored.

First, the benefit system does not, even after three decades, serve all Americans. Fewer than half of U.S. workers have a retirement plan through their employer and of those that do, many do not save enough to achieve retirement security.

Second, employers that today provide retirement, medical and similar life security benefits are under stress. In addition to increased national and global competition, U.S. employers face complex, inflexible, and often contradictory rules as well exposure to litigation that has increased over time. In many cases, the administration of retirement, health, and other benefits has itself become a major enterprise within companies that often diverts their focus from competitive business challenges.

Because the benefit security needs of all Americans is a troubling issue of increasing importance to employers and to society as a whole, we created a design that took the best of the current system and developed an entirely new platform that would maximize the opportunity for life security for all Americans.

The following is a brief description:

1. Benefits Administrators would manage benefit plans, competing for business and customers on the basis of product quality, service, and cost.
2. Retirement, short-terms savings plans and medical plans would be included. Other benefits such as life insurance and disability could be added at a later date. We believe that integrating retirement, savings, and health coverage is critical.
3. A uniform national regulatory structure would be established to ensure that there is effective and fair competition among administrators and that there is total transparency for consumers. The structure could be developed by the Federal government or a federally enabled non-governmental entity.
4. Employers would have the option of continuing in the current system, purchasing benefits for their employees from a regional Benefit Administrator, or providing “benefit funding” to their employees who could purchase benefits from the Administrator of their choice.
5. Individuals would be guaranteed the opportunity to purchase benefits directly from Benefit Administrators on the same basis as those accessing benefits through employers.
6. Benefits would be portable among Benefit Administrators.
7. Employers and individuals would share in funding; the tax treatment of qualified lifetime security benefits would be uniform for all Americans.
8. Benefit Administrators would provide financial planning services through salaried financial planners to optimize the potential for retirement security.
9. All individuals would be required to establish a retirement savings account apart from Social Security. We would support a subsidy for low-income savers.
10. Many of the ideas of other stakeholders could be incorporated in a New Benefit Platform.

Thus, the new system combines a market-based structure with individual choice and enhanced group risk sharing, ensuring the voluntary continuation and expansion of the employers’ role. It leaves employers to do what they do best and administration to those that do it best.

In summary, ERIC's proposal significantly simplifies and rationalizes the current retirement system by:

- Expanding opportunities for individuals and consumers to participate in retirement plans;
- Enhancing competition by leveling the playing field and providing better tools and improved information to consumers;
- Providing simple, clear, and easy-to-understand choices for employers and consumers;
- Establishing equity and fairness in the tax structure that supports the benefits system.

We recognize that our proposal is controversial and exceeds the breadth of proposals that would simply create additional burdens or build upon components of the current system. ERIC's proposal is designed to spark new thinking about replacing such limiting silos with more creative options. It permits us all to do what Americans do best: create and innovate.

This is an urgent debate. The life security of millions of Americans and the vitality of many American businesses depends on the outcome.

Thank you, Mr. Chairman and members of the Committee.

*The ERISA Industry Committee (ERIC) is a non-profit association committed to the advancement of employee retirement, health, and welfare benefit plans of America's largest employers. ERIC's members provide comprehensive benchmark retirement, health care coverage, compensation, and other life security benefits directly to tens of millions of active and retired workers and their families. The association has a strong interest in proposals affecting its members' ability to deliver those benefits, their cost and their effectiveness, as well as the role of those benefits in the American economy.



a NEW BENEFIT PLATFORM
for LIFE SECURITY

(Retirement Security Provisions

For the full document see www.eric.org)





EXECUTIVE SUMMARY

Employers' voluntary participation in the American system for providing medical, retirement, and similar "life security" benefits has, over time, served workers and their employers quite well.

Through their benefit plans, employers have:

- Fostered trillions of dollars of disciplined savings
- Met changing times with innovative programs
- Enabled individuals to pool risk and thereby increase the efficiency of money invested in benefit programs
- Educated employees about the need to plan for economic- and health-related risks
- Directly funded many benefits provided

At the same time, life security programs have become an integral part of an employer's ability to recruit and retain the talent they need to make their enterprise thrive.

Employers that today provide retirement, medical, and similar life security benefits, however, are under stress. In addition to increased national and global competition, U.S. employers face complex, often contradictory, and inflexible rules governing benefits, as well as exposure to volatile and often escalating financial commitments and litigation. For many employers, plan sponsorship diverts their focus from competitive business challenges. Under these constraints, employers are finding that establishing mechanisms to address underlying gaps and flaws in delivering benefit security to American workers has become increasingly difficult.

Employer programs alone cannot satisfy the life security needs of American workers in today's highly competitive business environment.

Indeed, traditional life security policy has always envisioned a balance of employer provided benefits, employee savings, and government programs as a "three-legged stool."

Employer programs alone cannot satisfy the life security needs of American workers in today's highly competitive business environment. At the same time, turning to government programs that are themselves under financial stress or relying too heavily on individuals to pick up the slack is likely to prove unsatisfactory. Indeed, traditional life security policy has always envisioned a balance of employer provided benefits, employee savings, and government programs as a "three-legged stool."

New thinking is required.

OVERVIEW: A NEW BENEFITS PLATFORM FOR LIFE SECURITY

The benefit security needs of all Americans is a troubling issue of increasing importance to employers and to society as a whole; as these issues began to be raised by our members, The ERISA Industry Committee (ERIC) asked a Task Force drawn from its membership and composed of experienced senior benefit professionals to address this issue. The Task Force's assessment and proposal has been reviewed and endorsed by ERIC's policy committees and its Board.

- **The new proposed structure would give employers an alternative method for providing benefits without the "entanglements" of traditional provider sponsorship. This structure complements but would not require replacing the current system for those who find the current system more appropriate.**
- **The new benefits offerings would be administered by competing Benefit Administrators.**
- **Benefit Administrators, in many respects, would assume the role of today's plan sponsors and, particularly with regard to health care, would be organized on a geographic basis.**
- **Employers and individuals would share funding of benefits.**
- **In addition, the structure would also provide a way for individuals to purchase coverage independent from an employer relationship.**

The proposal is centered on certain guiding principles, described in the body of the proposal, such as benefit expansion, simplicity,

flexibility, portability, and the need to balance employer and individual needs and responsibilities. As a significant departure from the present system's increasing reliance on employer-provided benefits, the new system combines a market-based structure with individual choice and group risk sharing. This structure will make possible the continuation and possibly the expansion of employers' role as a facilitator rather than solely as a provider of benefits.

We believe that the New Benefit Platform will also encourage creativity and innovation to the benefit of both employers and individuals.

Administrators would compete with each other based on quality, design, and cost. To ensure that competition among administrators occurs on a level playing field and is transparent to consumers, the federal government would establish, or arrange to be established, a uniform national regulatory structure and uniform standards for measuring plan performance.

An employer could obtain the benefits for its employees, and in some circumstances, an individual could participate directly, without employer involvement. The federal tax consequences for an individual accessing benefits would be the same whether the benefits were accessed individually or through an employer. Contributions by employers providing coverage through an administrator would be tax deductible.

The benefits available through this new structure would initially include retirement (and short-term savings) plans and health care coverage. Life insurance, disability, and other benefits also may be provided.

In the retirement arena, ERIC's proposal significantly rationalizes the current system, making it both more equitable and more attractive to employers and individuals. The proposal:

- Expands opportunity for participation in retirement plans
- Enhances competition by providing better tools and improved information to consumers
- Offers improved asset management
- Increases retirement security by providing the flexibility needed to meet the unique circumstances of each individual

The core structure envisioned builds on the experience of employers and encourages uniform national standards, yet

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encourages incorporation of new ideas to improve financial well being of Americans in retirement.

In the health care arena, ERIC's proposal rationalizes the delivery system in ways that:

- Expand access and creates a level playing field;
- Create the foundation for increased accountability to improve health care quality, transparency, and value to consumers;
- Require greater consumer accountability by providing both the information consumers need to be prudent purchasers and incentives for responsible lifestyle behaviors; and
- Require improved health information technology.

OPENING THE DEBATE: HOW THIS PROPOSAL SHOULD BE VIEWED

In the past, proposals to reform access to life security benefits have tended to focus on increasing the responsibilities borne by employers or individuals or the government. ERIC's proposal is designed to spark new thinking about replacing such limiting silos with more creative options.

The conceptual structure described in this document is intended to provide a foundation for responsible discussions that will entail further refinements and, eventually, the legal and operational details needed for complete implementation. Some parts of the proposal would require changes to the legal framework surrounding benefits, while other parts could be implemented under current law.

This is an urgent debate. The life security of millions of Americans, as well as the viability of many American businesses, depends on the outcome. Through ERIC, the major employer community welcomes the dialogue that will change the status quo in a way that meaningfully addresses the life security needs of all Americans while improving the competitive position of American employers.

TABLE OF CONTENTS

THE PROPOSAL

Guiding Principles for Life Security Benefits	3
A New Lifetime Security System for All Americans	5
Introduction	5
How This Proposal Should Be Viewed	6
Objectives for the Conceptual Model	7
Benefits Included in the New Life Security Plan (LSP)	7
The Core Structure for the Lifetime Security Plan	9
LSP Core Benefits: Retirement and Short-Term Savings Plans	13
The Guaranteed Benefit Plan	14
The Retirement Savings Plan	15
Short-Term Security Accounts	15
Supplemental Initiatives	16
LSP Core Benefits: Health Care Coverage	19
Community-Based Systems	20
A Level Playing Field	22
Transparency and Accountability	23
Incentives for Providers and Consumers	24
Health Information Technology	25
Steps to Implementation	27

APPENDICES

The American Employee Benefits System: An Overview	31
Preserving the Strengths of the Current Benefits System	35
Resolving Major Problems in the Current Benefits System	37
A Timeline of Employer Participation in the American Benefits System	47



GUIDING PRINCIPLES FOR LIFE SECURITY BENEFITS

In formulating a new benefits platform for delivering benefits, ERIC was guided by several principles that should be used as a scorecard for evaluating the component parts. The new platform should foster:

1. **Expansion of benefits** to a larger base of the population. More people should have retirement plans that will result in long-term retirement security, and more individuals should have access to different forms of medical plans.
2. **Innovation and creativity** through the development of competing systems that could sponsor, administer, and assume fiduciary responsibility for benefit plans.
3. **Simplicity**, significantly rationalizing the overall benefit design and administrative system.
4. **Incremental implementation**, starting with elements most feasible to incorporate and bearing in mind a long-term vision.
5. **Portability of benefits** as the circumstances of individuals change, while at the same time providing incentives to individuals to maintain continuous coverage.
6. **Balancing employees' and employers' needs**. A participant's need for security reflects a desire for some predictability of benefit resources over time; employers want to support life security benefits but not be encumbered by inflexible commitments that compromise their ability to survive and are not competitive within the United States and globally.
7. **Fairness and equity** so that employers and participants share in the responsibilities entailed in securing retirement, health, and other life security benefits.
8. **Individual responsibility** in terms of long-term retirement security, health and wellness, and ensuring access to quality medical care.
9. **Employer's voluntary funding** to help pay for benefits.

- 10. Fiduciary accountability and responsibility**, focusing on entities that have expertise in benefits administration as their core business.
- 11. Flexibility** to permit employers to determine the speed and the extent to which they use the new system for delivering benefits to their employees. The new system should supplement the current employment-based model and should allow employers to choose between the current system and the proposed new structure.



THE CORE STRUCTURE FOR THE LIFETIME SECURITY PLAN

Effective and fair competition in a responsibly regulated system will deliver greater value to both employers and individual Americans.

Delivering the LSP will require that there will be competition among third-party Benefit Administrators. These administrators, who would be trusted intermediaries, must have significant expertise in designing, delivering, and managing retirement and other financial benefits, as well as health plans. Benefit Administrators could be direct providers or assemblers of affiliated providers. Examples might include banks, mutual fund/investment companies, insurers, health plans, or new “platform” administrators. Ensuring competition among Benefit Administrators would reduce costs and improve service by simplifying the current, cumbersome administrative system to eliminate fragmentation and unnecessary “middlemen” that add little value to the ultimate consumer.

The element of competition is intended to promote continuous improvement in all aspects of the benefit delivery system, significantly increasing the health and financial well-being of all Americans.

Two or more Benefit Administrators would be available to every employer and individual consumer. Benefit Administrators would be aggressive and innovative in competing for business from both employers and individuals. The element of competition is intended to promote continuous improvement in all aspects of the benefit delivery system, significantly increasing the health and financial well-being of all Americans.

Other general attributes of the core structure underlying the LSP include:

1. **Establishment of Uniform Service Areas within the United States:** The federal government would establish uniform service areas for each of the LSP’s core benefits. These service areas may vary from benefit to benefit. For example, there may be larger national service areas for retirement savings benefits and regional, state, or even

community service areas for health plans that are based on major medical markets. Uniform service areas would ensure that all Americans have guaranteed access to the LSP benefits regardless of where they live and would prevent geographic “anti-selection.”

2. **Establishment of Uniform National Standards:** To simplify administration, the federal government would establish uniform national standards for the benefits included in the LSP. This will help individual Americans make rational “apples-to-apples” choices between the competing systems of Benefit Administrators. This, in turn, should result in a system with lower costs that is more consumer friendly.
3. **The Employer’s Role in the LSP:** The LSP system should not be wholly dependent on the employer community. Employers would have the option of establishing a formal relationship with one or more Benefit Administrators for their employees and their families. Employers also could choose to continue in the current system and arrange for their own retirement and health plans. Alternatively, employers may choose to provide financial resources to their employees to purchase retirement, health, and other benefits independently from the employer from among Benefit Administrators operating in their markets.
4. **Assignment of Fiduciary or “Contract” Responsibility:** The Employee Retirement Income Security Act (ERISA) sets forth responsibility for ensuring that plan sponsors fulfill their benefit promises and responsibly manage plan assets. Under the new structure, the competing Benefit Administrators and their affiliates would assume the appropriate “fiduciary” or contract liability associated with the benefits they provide. “Benefits administration” would be the core business of the manager. This structure would actually rationalize and improve fiduciary accountability over the current system.
5. **Tax Treatment of LSP Benefits:** The tax treatment of qualified life security benefits should be uniform for all Americans regardless of whether they access the LSP directly or through a sponsoring employer. Similar to current law, the federal government would establish favorable tax treatment for retirement, health, and other benefit savings. Employers would maintain the tax treatment they have in the current system.
6. **Nondiscrimination Rules:** The current morass of complicated nondiscrimination rules would be replaced with simplified standards. It would include benefit-based, “safe harbor” designs to encourage broad-based availability of benefits.

7. **Participant Advocate:** Each Benefit Administrator would maintain an independent office of participant advocacy responsible for serving as an ombudsman for individual participants as well as fulfilling oversight and investigatory functions similar to those of inspectors general.
8. **Additional Benefits:** Competing Benefit Administrators would be free to offer optional benefits outside the LSP's core benefits. These might include life and disability insurance until they are included as core benefits. Additional benefits might also include group auto and homeowners' insurance and others that are offered as "voluntary" benefits in the current employment-based system.
9. **Administrative Efficiencies:** Providing common benefits structures should assist in reducing administrative complexity and fees. In addition, in many instances, an individual's retirement and health benefit administration could be combined, simplifying communications and benefit processing for the Benefit Administrator, a participating employer, and the individual. To some degree, some of the attributes that combine employer and employee participation with a professional Benefit Administrator already exist in the current defined contribution retirement plan market.



LSP CORE BENEFITS: RETIREMENT AND SHORT-TERM SAVINGS PLANS

ERIC believes strongly in the need for a system that meets the retirement security needs of all Americans. Our proposal would significantly simplify the current system, making it more equitable and attractive to both employers and individuals. It would also expand participation in retirement plans; provide better tools and improved information to consumers; enhance competition; improve asset management; and ultimately increase retirement security and provide greater flexibility to meet the unique circumstances of each individual.

Specifically, ERIC proposes a three-pronged strategy:

- A defined benefit plan, hereafter the ***“Guaranteed Benefit Plan”***
- A defined contribution plan, hereafter the ***“Retirement Savings Plan”***
- ***A short-term security account***

The above plans would be supported by several additional initiatives and offered independently or in combination with one another to provide additional retirement resources beyond Social Security. They also offer the opportunity for individuals to accumulate assets to pay for significant lifetime events that require substantial financial resources.

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THE GUARANTEED BENEFIT PLAN

The Guaranteed Benefit Plan (GBP) component of the LSP could include various hybrid retirement arrangements. Employers would not be prevented from offering traditional defined benefit plans. It would be uniformly available to employers and individuals and could be used as a single-source retirement plan to supplement Social Security or in conjunction with the Retirement Savings Plan (see below). Each of the competing Benefit Administrators would be required to offer a GBP. It would have the following general attributes:

- **Employer Participation:** Employers could make contributions on behalf of an employee to a GBP sponsored by the Benefit Administrator(s) chosen by the employer. They could also offer contribution credits or vouchers to their employees, who would then choose their own GBP.
- **Individual Contributions:** Individuals could make contributions on the same basis as those sponsored by employers.
- **Principal Guarantee:** The Benefit Administrator or its affiliate would guarantee the security of the “principal” contribution.
- **Investment Credits:** The Benefit Administrator would establish a minimum guaranteed investment credit that would apply to the balance of each individual account. The interest credit could be a fixed guarantee (e.g., 3%) or an index (e.g., composite corporate bond rate).
- **Loans and Withdrawals:** The GBP would be strongly focused on retirement. Withdrawals and loans would not be available.
- **Portability:** The portability of a GBP would be based on reasonable standards necessary to maintain the viability of Benefit Administrators and their affiliates.
- **Asset Management:** The Benefit Administrator or its affiliates would be responsible for asset management. There would be no self-directed accounts.
- **Distributions:** Distributions would be available at retirement and only paid in an annuity form.
- **Guarantee:** The GSB would be designed so that it would be guaranteed by the Pension Benefit Guaranty Corporation (PBGC).

THE RETIREMENT SAVINGS PLAN

The Retirement Savings Plan (RSP) component of the LSP would be uniformly available to employers and individuals. It could be used as a single-source retirement plan to supplement Social Security or in conjunction with the GBP. Each of the competing Benefit Administrators would be required to offer an RSP. The RSP would be somewhat similar to the current 401(k) program, including Roth provisions. The accounts would have the following attributes:

- **Employer Contributions:** Employers could contribute directly to the RSP, or they could offer contribution credits or vouchers to their employees, who could then choose their own RSP.
- **Individual Contributions:** Individuals could make contributions to the RSP on the same basis as those sponsored by employers.
- **Loans and Withdrawals:** The RSP would allow loans and withdrawals, but also include restrictions that focus the use of RSP account balances for retirement purposes.
- **Asset Management:** The accounts in the RSP may be self-directed or professionally managed.
- **Preset Asset Allocations:** Each Benefit Administrator, in conjunction with its RSP vendor, would be required to establish “preset” fund mixes based on age or other appropriate criteria to encourage reasonable and stable asset allocations and to discourage frequent changes in asset mixes.
- **Automatic Enrollment:** The RSP would be structured to facilitate automatic enrollment and scheduled increases in contributions for participants enrolled through an employer.
- **Portability:** The RSP would be portable among competing Benefit Administrators and their affiliated vendors.

SHORT-TERM SECURITY ACCOUNTS

The LSP would also include a component for short-term savings—Short-Term Security Accounts (STSAs)—consolidating other existing tax-deferred savings vehicles. The STSAs could be created as a separate account within or independent of the RSP. The preferred structure would be refined as this proposal is discussed and adopted. Some of the desired attributes of these accounts are:

- **Simplification:** The STSAs are intended to simplify the complexity attributed to the large number of savings vehicles in the current system.

- **Contributions:** Both employers and individuals could make contributions to the accounts.
- **Use Restrictions:** The use of the funds in the STSAs would be restricted to a prescribed set of defined lifetime events. These may include medical expenses not covered by a health plan and educational expenses, as well as other events to be determined.
- **Conversion at Retirement:** Unused balances at an individual's retirement or at a specified age would be available for withdrawal without penalty for retirement or post-retirement medical expenses.
- **Portability:** The accounts would be completely portable from one Benefit Administrator to another.
- **Investment Credits:** Benefit Administrators and their affiliates would be required to specify an "investment credit" that would be applied to account balances. In most cases, these investment credits would be provided via investments in traditional savings plan instruments.

SUPPLEMENTAL INITIATIVES

There are several supplemental initiatives that apply generally to the GBP, RSP, and STSA. They are intended to further define the ERIC proposal and to enhance the viability of the LSP.

- **Educational Financial Planning Services:** Each Benefit Administrator and/or affiliate would be required to make available comprehensive educational and independent advice programs to help participants achieve financial security in retirement and manage their financial resources. To eliminate any potential conflict of interest, financial planning services would have to be made available through non-commissioned professionals.
- **Transparency of Expenses and Performance:** A standardized system would be defined through regulation to provide full disclosures of fees, expenses, and performance associated with the management of assets in the GBP, RSP, and STSA. To enable consumers to make informed decisions and to promote fair competition, this information would be available to the public in standardized, easy-to-understand formats.
- **Contribution Limits:** Limits for both before- and after-tax contributions would be established for each of the LSP component plans and the aggregate of the LSP.

- **Tax Treatment of Contributions and Earnings:** Recommendations for the tax treatment of individual and employer contributions (and the earnings from invested assets) remain to be determined. ERIC believes that tax proposals should provide sufficient incentives to maintain and expand employer participation and to encourage individuals to contribute to their own retirement security.
- **Mandatory Individual Contributions:** To improve retirement security beyond Social Security, a minimum mandatory individual contribution to either the GBP or the RSP would ensure greater retirement security for individuals, earlier retirement savings, and a reduction in pressure on federal entitlement programs.

ERIC believes that tax proposals should provide sufficient incentives to maintain and expand employer participation and to encourage individuals to contribute to their own retirement security.

THE ERISA INDUSTRY COMMITTEE

The ERISA Industry Committee (ERIC) is a membership organization representing the employee benefit plans of America's largest employers. ERIC's members have for many decades voluntarily provided comprehensive health, retirement, and other benefit and compensation plans to their employees and their employees' families. Together, ERIC member companies have provided and paid for benchmark life security plans directly to more than 10% of the U.S. population.

As major employers, ERIC member companies pioneered many of the retirement, health, and compensation plans that have become the benchmark for private and public employers. Thus, ERIC's members continue to be at the forefront of the intensifying controversy about how to more efficiently and effectively provide quality lifetime retirement and health security to millions of American workers and their families.

ERIC and our members continue to believe that it is essential that major employers, who voluntarily sponsor the nation's most comprehensive private sector life security plans, establish a policy position that will make a positive contribution to the public dialogue on the retirement and health security of American workers.

That is what the New Benefit Platform for Life Security is about.



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