

Cornell University ILR School
Labor and Employment Program

*ERISA at 40 and the Harkin Legislation:
A Union Perspective*

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January 31, 2014 AFL-CIO Statement on the Introduction of the Harkin Legislation

“Senator Harkin, in introducing the “USA Retirement Funds Act” has taken seriously the Labor Movement’s challenge to Congress that our policymakers explore new structures to provide working Americans with a lifetime retirement benefit in addition to Social Security.

We cannot afford to ignore our nation’s retirement income deficit. Taking into account all sources of income, the non-partisan Center for Retirement Research at Boston College has estimated that the gap between what working Americans need to maintain their standard of living in retirement and what they actually have is a staggering \$6.6 trillion. The implications are dire, not only for individual Americans, but also for our economy as a whole.

Union workers understand that defined benefit plan pensions are the best retirement vehicles for providing a secure retirement, as so many of our members have been the beneficiaries of such plans, whether as a result of collective bargaining or federal or state law.

Senator Harkin’s bill is an important first step towards a new approach to tackling the retirement income crisis. His new Retirement USA Fund arrangements would provide some of the best elements of the defined benefit pension system, including portability, lifetime income, pooled assets and professional management, to workers who currently have no, or inadequate, retirement plan coverage at work. We applaud his effort and share his commitment to ensure a secure retirement for every American.”

1/30 Statement by SEIU President May Kay Henry on Harkin Legislation

“As a nation, we've reached a point where we can no longer ignore the retirement security crisis looming over our country. There is a \$6.6 trillion retirement savings gap –between what Americans have saved for retirement and what they need to maintain their standard of living once they stop working –that's being fueled by our lack of accessible, affordable and secure retirement plans.

SEIU firmly believes that all Americans should be able to enjoy a dignified retirement after a lifetime of hard work and playing by the rules. We think Senator Harkin's bill will fill a critical need for the half of the working population who have no access to a retirement plan at work. Ensuring that every American has access to a retirement plan through automatic payroll deduction at work will go a long way at a time when the median retirement account balance for all American workers is just \$3,000. This bill takes a strong step toward creating a universal system that, together with strengthening Social Security by improving benefits for the most vulnerable beneficiaries, will help solve the retirement income crisis.

We fully support Senator Harkin in taking on the challenge of providing for workers' retirement security, just as he has been a champion for so many issues crucial to workers' well-being during his distinguished career in the U.S. Senate.”

Certain Issues Raised By the Harkin Legislation in relation to USA Retirement Funds

- Title I has no mandatory employer contribution!
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- Under Title I how would trustees meet the requirement of protecting employees from longevity risk and market volatility (even with the potential for the gradual adjustment of benefits), all while presumably attempting to provide a meaningful benefit?

Other Issues Raised By the Harkin Legislation

- Title III.A, Section 303, provides a two-year moratorium on enforcement under ERISA Section 4062(e)
- Title III.A, Section 315 would repeal Section 404 of the PPA for bankruptcy cases filed on and after December 31, 2014, and provide that the plan termination date for calculating PBGC guaranteed benefits would be the plan termination date, and not the bankruptcy filing date
- Title III.A., Section 313 directs courts to issue the termination decree unless it finds the agency's determination to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," a subject of past litigation for the PBGC