COMMITTEE ON FINANCE
NEWS RELEASE

Max Baucus, Chairman
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BAUCUS, GRASSLEY, KENNEDY, ENZI ANNOUNCE PENSION PROTECTION PLANS, PROPOSAL ALSO INCLUDES TAX HELP FOR FAMILIES AND BUSINESSES

Senate colleagues find middle ground, increase aid as economy falters

Washington, DC – Senate Finance Committee Chairman Max Baucus (D-Mont.) and Ranking Member Chuck Grassley (R-Iowa) were joined today by Senate Health, Education, Labor and Pensions (HELP) Committee Chairman Edward Kennedy (D-Mass.) and Ranking Member Mike Enzi (R-Wyo.) in announcing legislation to help ease the financial strain on American families and businesses due to the lagging economy. The package includes important modifications to pension distribution requirements for seniors and businesses, as well as provisions included in the Pension Protection Technical Correction Act of 2008, originally passed by the Senate in December 2007 and the House in March and July of this year. The bipartisan package also extends for one year business tax relief that was included in the first economic stimulus package, and allows companies to write off a greater percentage of their investments in business assets to free up cash for payroll and other expenses.

"Americans need real help from Congress to make sure their retirement savings are safe and sound and available to them when they need it. The provisions we're offering here today are a viable effort to move the economy toward recovery," said Baucus. **"We've included measures to make pension plan requirements as friendly as they can be for seniors and employers so that they avoid a tax hit that wouldn't otherwise burden them under normal market conditions. And we're making it possible for struggling businesses to keep their houses in order by allowing them a greater return on what they invest in their operations. "**

"This bill contains important stop-gap measures to help protect pension holders given the great anxiety many face right now because of the economic downturn. It also contains tax relief measures to help employers weather the storm and continue to meet obligations to employees. These are common sense measures to help get through a difficult environment," Grassley said.

Kennedy said, **"This bipartisan package addresses immediate pension needs arising from the financial crisis. It's an important first step, but there is much more to be done to protect families' retirement security. In these hard economic times, Americans have much to be concerned about, but they shouldn't have to lie awake at night worrying whether their hard-earned pensions will survive. I look forward to working with my colleagues to do all we can to see that employees' pensions stay safe and sound."**

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"I'm pleased that we've been able to work together in a very short period of time and reach agreement on a balanced package that will help protect the retirement interests of individual retirees, workers, and pension plans," said Enzi. **"This agreement not only recognizes the economic stress families are feeling with their retirement nest eggs, but also will put in place key provisions of the Pension Protection Technical Correction Act. Together, these changes will help families and bring temporary relief to weather troubled markets that threaten the safety of the retirement savings millions are depending on."**

Business tax incentives and pension provisions in the package include:

- A provision for companies to claim as an expense a greater portion of their property cost, as well as increase the total dollar amount of allowable asset depreciation for a period of one year.

- A measure to provide relief for seniors age 70 and 1/2 or older who are required to take distributions from their retirement plans. This allows savings to stay put and avoid a tax hit when the market is down.

- A provision allowing single-employer pension plans to account for expected and unexpected earnings in addition to contributions and distributions when determining the value of the plan's assets. In addition, for those plans that fall below the set target funding percentage for a particular year (e.g., 92 percent in 2008), these plans will only be required to fund up to the specified funding percentage for that year, instead of 100 percent.

- Other pension provisions address difficulties faced by multi-employer pension plans by allowing a freeze of their current funding status so that funds that have dropped in value due to the decline in the stock market can avoid being classified as "endangered" or "critical." For those multi-employer plans that have established a funding improvement or rehabilitation plan for 2008 and 2009, the funding improvement and rehabilitation period would be extended from ten years to thirteen years.

- A measure to allow pension plans, for purposes of applying certain restrictions on benefit accruals, to use their 2008 funding status in 2009.

- A Tribal pension provision would eliminate the distinction between different types of employees within Indian tribal government pension plans so that tribal plans receive the same tax treatment as state and local government plans.

A summary of the tax and pension provisions follows here:

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Worker, Retiree, and Employer Recovery Act

Business Stimulus Provisions

- Extend bonus depreciation for one year by allowing a taxpayer to depreciate 50 percent of the cost of an asset in the year in which the asset was acquired (2009). This proposal is estimated to cost $7.8 billion over ten years.

- Extend elective expensing (section 179) by one year, allowing small businesses to elect, in lieu of depreciation, to deduct up to $250,000 for property acquired and placed into service in 2009. This proposal is estimated to cost $64 million over ten years.

Pension Recovery Provisions

This bill also contains a number of additional provisions designed to provide relief to individuals, pension plans, and businesses affected by the recent financial crisis.

- Place a one year moratorium on required minimum distributions from individual retirement accounts for 2009. This proposal is effective for 2009. This proposal is estimated to cost $3.6 billion over ten years.

- The funding target under the Pension Protection Act of 2006 (PPA) is phased in over three years. For those plans that fall below the set target funding percentage for a particular year, these plans will be required to fund up to the specified funding percentage for that year, instead of 100%. This provision is effective as if included in the Pension Protection Act. The proposal is estimated to raise $43 million over ten years.

- For plan years starting between October 1, 2008 and October 1, 2009, multi-employer plans may elect to freeze their current funding certification based on the previous year’s level. This proposal is estimated to raise $10 million over ten years.

- Three year extension of the current funding improvement or rehabilitation period for multi-employer plans, from 10 to 13 years. This proposal is estimated to raise $52 million over ten years.

Tribal Pensions:

- For purposes of the Internal Revenue Code and ERISA, a governmental plan is defined as including a plan established or maintained for its employees by an Indian tribal government, subdivision or agency of an Indian tribal government, or an entity established under Federal, State or tribal law which is wholly owned or controlled by an Indian tribal government, subdivision, or agency of an Indian tribal government. This provision is estimated to cost $1 million over ten years.

Worker Protections:

- For purposes of staving off restrictions on benefit accruals as a result of being less than 60% funded, plans would be able to lookback to the previous plan year for purposes of determining their funding status as it would apply to benefit accrual limits only. This provision would apply for plan years beginning on or after October 1, 2008 and before October 1, 2009. For plan years beginning January 1, 2009[t], that means a lookback to January 1, 2008 conditions.

Pension Protection Act Technical Correction Provisions

- The 2008 transition rule for determining at-risk status applies to both the 70% and 80% prongs.

- Lump sums of $5,000 or less can be paid, even if an underfunded plan is otherwise prohibited from paying lump sums.

- For applicable defined benefit (hybrid) plans:

    - The new vesting rules for hybrid plans are effective on the basis of plan years and apply to participants with an hour of service after the applicable effective date for the plan.

    - The new interest crediting rules for hybrid plans in existence on June 29, 2005 apply to years beginning after December 31, 2007, unless the sponsor elects to apply the rules earlier.

    - The vesting and interest crediting rules that apply to collectively bargained plans do not apply to plan years beginning before the earlier of: (1) (a) the later of January 1, 2008 or (b) the termination of the collective bargaining agreement; or (2) January 1, 2010.

- The combined plan deduction limit for defined benefit and defined contribution plans does not apply to the defined benefit plan if contributions to the defined contribution plan are no more than 6% of compensation. If these contributions are more than 6% of compensation, only contributions in excess of 6% count toward the deduction limit.

- All plans must permit rollovers out of the plan for non-spousal beneficiaries.

- The exclusion for up to $3,000 of health insurance premiums for retired public safety officers applies to self-funded arrangements. To be excluded, the amounts must be distributed from a public safety officer's former employer's retirement plan.

- Plan expenses expected to be paid out of plan assets must be included in calculating the plan's target normal cost.

- The Secretary of Treasury is given authority to prescribe special rules for small defined benefit plans that have a valuation date other than the first day of the plan year for purposes of, among others, quarterly contributions and determining the application of the benefit restriction rules.

- Rollovers from a Roth 401(k) or 403(b) plan to a Roth IRA are not subject to the Roth IRA contribution AGI limits.

Non-Technical Retirement Security Provisions

- Airline workers whose defined benefit pension plan was terminated or frozen as a result of bankruptcy (filed after September 11, 2001, and prior to January 1, 2007) would be allowed to roll-over bankruptcy payments intended to replace lost retirement income to a Roth individual retirement account ("Roth IRA"). This provision is estimated to cost $82 million over 10 years.

- Small defined benefit plans would be required to determine the value of lump sum distributions not in excess of the Code section 415 limit using a fixed 5.5% interest rate, instead of the greater of the 5.5% rate or 105% of the corporate bond yield curve rate. This provision is estimated to cost $59 million over 10 years.

- Governmental retirement plans that credit a plan participant's account balance with a specified interest rate would be permitted to use a rate that exceeded the "market rate of return" (as defined by the Treasury Department), provided the governmental plans' interest rate was set by Federal, State, or local law. This provision has a negligible revenue effect.

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- A plan established by a State or local government to reimburse certain medical care expenses incurred by State or local government employees on a tax-free basis shall not lose this favorable tax treatment merely because the plan provides for reimbursements of medical care expenses incurred by a deceased plan participant's non-spouse/non-dependent beneficiary. This provision is estimated to raise $3 million over 10 years.

- The penalty that is in effect for the failure to file an S corporation tax return shall be increased by $4. This provision is estimated to raise $38 million over 10 years.

- The penalty that is in effect for the failure to file a partnership tax return shall be increased by $4. This provision is estimated to raise $42 million over 10 years.

- The value of a plan's assets may be adjusted for contributions, distributions, and expected earnings with a cap on expected earnings equal to the 3rd segment rate of the yield curve. This provision is estimated to raise $70 million over 10 years.

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