~ United States Senate ~

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FINANCE, HELP LEADERS APPLAUD SENATE PASSAGE OF PENSION PROTECTION PLANS

Pension relief for America's families, seniors and firms heads to President's desk

Washington, DC – Senate Finance Committee Chairman Max Baucus (D-Mont.), Senate Health, Education, Labor and Pensions (HELP) Committee Chairman Edward Kennedy (D-Mass.), Finance Ranking Member Chuck Grassley (R-Iowa), and HELP Ranking Member Mike Enzi (R-Wyo.) today applauded final passage in the Senate of H.R. 7327, pension legislation that closely reflects the bipartisan bill introduced by the Finance and HELP leaders in November. The bill includes important modifications to pension distribution requirements for seniors and businesses that will help ease financial strain in a lagging economy. Among the provisions is a measure to provide relief for seniors age 70 and 1/2 or older who are required to take distributions from their retirement plans under current law. The provision would allow savings to stay put and avoid a tax hit for seniors when the market is down. Another measure gives generally healthy multi-employer pension plans that were hurt by the decline in the stock market the ability to avoid drastic contribution increases and cutbacks in worker benefits.

"This is important funding relief for families, seniors and firms that needed to get done, and I'm pleased that we could come together to make it happen. Americans expect Congress to help guard their retirement savings and the measures in this bill will allow folks to avoid being saddled with a tax hit that wouldn't exist under normal market conditions," said Baucus. **"We've made pension plan requirements responsive to the needs of America's seniors and employers, and I believe this bill is a solid effort to move the economy toward recovery."**

Kennedy said, **"This vital legislation addresses the immediate needs of workers, retirees, and businesses hit hard by the financial and economic crisis facing our country. With trillions of dollars in retirement savings in serious jeopardy, the relief in this bill will help Americans weather the storm until the economy begins recovering. I look forward to continuing to work with my colleagues and President-elect Obama to keep pensions safe and guarantee the retirement security of workers in communities across America."**

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"The economy dictates these stop-gap measures, and it's good that Congress is acting to look out for retirees and for employers and workers weathering the economic storm. In addition, most of this bill contains technical corrections to the landmark 2006 pension reform bill. Since two years have passed, it is about time we make these changes," said Grassley.

"The relief provided by this bipartisan bill will help families and bring temporary relief they need to weather the troubled markets threatening the safety of retirement savings for millions. Working together, Congress has passed a balanced package that will help protect individual retirees, workers, and pension plans while helping our economy recover," Enzi said. **"I'm pleased that we could reach an agreement that recognizes the economic stress and uncertainty families are feeling."**

Additional provisions in the bill will allow 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. Those plans that fall below the set target funding percentage for a particular year (e.g., 92 percent in 2008), will be required to fund up to the specified funding percentage for that year, instead of 100 percent. Other provisions in the bill were also 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.

A full summary of the bill follows here:

H.R. 7327 – The Worker, Retiree, and Employer Recovery Act of 2008

H.R. 7327 was passed by the House last night by unanimous consent. H.R. 7327 is virtually identical to the pension package the Senate hotlined on Thursday, November 20th, except H.R. 7327 does not include three provisions – provisions relating to (1) bonus depreciation, (2) small business expensing, and (3) Indian tribal government pension plans. H.R. 7327 made very minor non-substantive, technical changes to the Senate version per the Joint Committee on Taxation's review of the legislative language. A summary of the major provisions of H.R. 7327 are below (note, the following summary is virtually identical to the summary sent to Senate offices on Thursday, November 20th).

Pension Recovery Provisions

- The provision places a one year moratorium on required minimum distributions from individual retirement accounts and defined contribution plans for 2009. This proposal is estimated to cost $3.6 billion over ten years.

- Under current law, 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, the provision would require these plans 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, the provision would permit multi-employer plans to elect to freeze their current funding certification for one year based on the previous year's level. This proposal is estimated to raise $10 million over ten years.

- The provision extends the current funding improvement or rehabilitation period for multi-employer plans that have funding improvement and rehabilitation plans in place in 2008 and 2009 by 3 years, from 10 to 13 years. This proposal is estimated to raise $52 million over ten years.

Worker Protections:

- Under current law, a single-employer pension plan that is less than 60% funded must freeze all benefit accruals for plan participants. The provision would allow plans to lookback to the plan's funding status during the previous plan year (if that level was greater) for purposes of determining whether the restriction on benefit accruals would apply. This provision would apply for plan years beginning on or after October 1, 2008 and before October 1, 2009 only. For plan years beginning January 1, 2009, that means a lookback to January 1, 2008 conditions. This provision has a negligible revenue effect.

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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