Committee On Finance

Max Baucus, Ranking Member

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BAUCUS COMMENTS ON NEW PENSION LAW

Senator championed core pension requirements, independent advice rules, cash-balance, diversity and savings provisions of legislation

Washington, DC – U.S. Senator Max Baucus (D-Mont.), Ranking Democrat on the Senate Finance Committee, has hailed the enactment of the Pension Protection Act of 2006. Baucus applauded provisions of the law that protect American workers and strengthen the pension system, create new rules to shore up companies' pension programs and help workers prepare for retirement in new ways.

"We came up with a good law that protects American workers in important ways, making sure they will receive the full measure of retirement security they've been promised," said Baucus. **"Workers used to stay in one place throughout their careers and their employers could promise them a lifetime of retirement security, but that's not always the case now. It was absolutely necessary to make companies plan more realistically for their pension obligations, and to help workers take more control of their own retirement futures. This new law will help more Americans retire with real financial security."**

Specific provisions championed by Baucus include:

Core pension requirements: Under the legislation, many companies will be required to contribute more to their pension programs to ensure that they have sufficient funds to meet their defined-benefit obligations. Currently, employers can avoid additional pension contributions if assets are enough to cover 90 percent of the retirement benefits participants have earned. Under the new rules, employers must fund 100 percent of the retirement benefits that workers earn. Employers will have seven years to make up any underfunding.

Investment advice: Financial firms may provide investment advice to participants in employer-sponsored retirement plans through a computer model that is certified by an independent party. An exemption for advice provided by an adviser whose compensation does not vary with the investments selected would be available to both employer-sponsored plans and IRAs. The Department of Labor, in consultation with Treasury, would be directed to determine by 2008 whether or not a computer model is available that would be appropriate for the broader range of investment options common to IRAs (stocks and bonds as well as mutual funds). If the Department of Labor determines an appropriate model is available for IRAs, a certified computer model will be an option for providing investment advice to IRAs. If an appropriate model is not available, the Department will issue a prohibited transaction exemption that protects IRA account holders from biased advice without requiring fee-leveling or a computer model.

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Baucus also successfully fought a subrogation measure that would have allowed self-funded employer health care plans to recover every dollar of costs previously incurred for a patient's care when, for instance, an accident or willful injury led to an award of medical costs and/or damages from another party's insurance plan. Standard insurance plans covered by state law are generally limited in the amount of cost that they can recover in such instances. But subrogation would have allowed, for example, self-insured employers to eat into a catastrophically injured patient's legally won trust for future care to recover their own costs.

Cash-balance (hybrid) plans: Baucus urged the committee to provide for cash-balance or "hybrid" benefit plans, which shift away from old pension models that calculate benefits based on an employee's highest earning years. Baucus also insisted on rules to protect older workers at companies transitioning from traditional defined-benefit plans to cash-balance hybrids. Hybrid plans allow employers to provide a guaranteed level of benefit to workers, calculated as a lump sum to be paid upon termination of employment. Hybrid plans allow companies to plan more realistically for their pension obligations. Improved vesting requirements will allow workers who change jobs to receive pension benefits from more than one employer.

Improving worker savings: Two provisions from Baucus's Savings Competitiveness Act of 2006 are included in the final pensions agreement. One makes permanent and indexes the Savers' Tax Credit, which provides a tax credit to low-income workers who save in 401(k)s, IRAs and other retirement vehicles. The other encourages employers to automatically enroll employees in 401(k) plans, increasing the likelihood that workers will save for retirement throughout their careers.

"Enron" reforms: Baucus sought rules that prohibit employers from limiting employees' retirement investment choices solely to company stock. In 2001, many employees of the Enron Corporation lost all their retirement savings when the firm went bankrupt and its stock price collapsed. New rules in the pension bill agreement require defined-contribution plans to allow workers to diversify their investments.

"The warning bells have been going off for years, from Enron in 2001 to the pension defaults of 2005," said Baucus. **"Congress needed to stand up for American workers and help protect their retirement futures."**

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