Committee On Finance

Max Baucus, Ranking Member

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For Immediate Release
Tuesday, July 26, 2005

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Statement of U.S. Senator Max Baucus
United States Senate Finance Committee Markup
"The National Employee Savings and Trust Equity Guarantee Act of 2005"

(WASHINGTON, D.C.) U.S. Senator Max Baucus submitted the following statement for the record during the Finance Committee's markup of the *National Employee Savings and Trust Equity Guarantee Act of 2005.* The statement follows:

Thank you, Mr. Chairman. I commend you for holding today's markup on this important pension bill.

The Finance Committee marked up earlier versions of this bill in September 2002, and again in September 2003. The Enron scandal demonstrated the need for this bill's central provisions. Thousands of workers lost both their jobs and their retirement savings at the same time. This Committee wanted to make it so that employees did not have to keep all of their retirement savings eggs in one basket.

I wish I could say that Congress acted on our legislation. I wish that we had protected workers from suffering the double whammy of a lost job and lost benefits.

But the sad fact is that we did not. We need to meet here again today to ensure the most basic of protections to employees with 401(k) plans. We need to ensure that employees have the right to diversify the investment of their savings. And we need to ensure that employees have the right to hold those savings in something other than the employer's stock.

Enron was not the only company that undermined employees' retirement benefits. More recently, United Airlines employees lost benefits when United terminated its under-funded pension plans, taken over by the PBGC. United's termination hurt its employees and retirees. And United's termination hurt the entire defined benefit system. It piled more than $6 billion in new liabilities on the backs of other employers. It added to the burdens borne by all the plan sponsors who fund the PBGC with their premiums.

By failing to enact this bill, Congress has put employees' retirement security at risk. And if we continue to fail to enact this bill, we will endanger the whole defined benefit system.

We need to make employees' benefits more secure. And we need to make employers pay their own compensation costs. That is what the funding reforms in this bill are all about.

Companies that are good enough to provide defined benefit plans to their employees deserve recognition. And they deserve certainty.

Congress has enacted two temporary interest rate fixes. The most recent one will expire at the end of the year. It is time that we set a permanent policy for the interest rate. And we do that in this bill.

Some have said that this new rate would itself be too volatile, because it would be a current rate, not a smoothed rate. We have addressed this concern in several ways:

- We put a collar around the contribution increase or decrease from year to year.
- We substantially increased the deductible limit on contributions so a company can fund up when profits, and the plan's investment returns, are good.
- We retained the use of credit balances -- now called "prefunding balances" -- so that companies can use that rainy day money to reduce cash requirements when profits, or investment returns, are down.
- We ensured that a one-quarter downturn in the market or in interest rates will not trigger restrictions, but a 2-year trend will.

In short, we have tried to soften the sometimes harsh reality of a plan's funded status. And we have taken into consideration the need for smoothing. We have balanced the needs of workers, plan sponsors, and the health of the defined benefit system.

Past events like Enron and United have, to some degree, sparked this legislation. But this bill also looks to the future.

When Congress enacted ERISA in 1974, the world was a very different place. Companies wanted workers to be employees for life — or at least until the company's retirement plan encourage them to leave with a subsidized early retirement benefit. And most workers wanted a lifetime job.

Now companies and workers need to be more adaptable, more mobile. And benefits need to be more mobile too.

That is why we addressed hybrid plans. Hybrid plans are more portable. And thus they are better suited than traditional defined benefit plans to a more mobile workforce. And they are better suited to companies that need to attract that mobile workforce.

But transitions can be painful. Workers too often can get hurt. In the transition from traditional to hybrid defined benefit plans, there have been no clear rules to protect older, long-term employees.

This bill, as modified by the Chairman, makes it clear that the hybrid plan design is legitimate. Equally important, we provide protections for older, loyal employees when a company decides that it must move from a traditional to a hybrid plan. Many companies have done a responsible job of making this transition. The protections in this bill are based on the best practices of companies that have gone down this road.

As always, when we consider reforming the pension system, we need to remember this system is voluntary and it is varied. Not all employers provide the same retirement benefits for their employees. Some employers have one plan - a 401(k) plan. Some have a traditional defined benefit plan with a supplementary 401(k) plan. Others have converted to a hybrid plan. We know some employers could choose a different course because of what we do in this bill. We need to recognize the differences among employer's and their plans. And we need to be careful to nurture, not harm this voluntary system.

Mr. Chairman, I hope that this is the year that Congress enacts this important piece of legislation. Let's not have a Grassley-Baucus NESTEG 2006, or heaven forefend, a Baucus-

Grassley NESTEG 2007. Let's make these important protections become the law of the land in 2005.

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