***Bill summary and remarks included**
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**Senators Kennedy and Enzi Propose Bipartisan Pensions Reform to Provide Retirement Security for Millions of Americans**

Washington, DC: Today Senator Kennedy and Senator Enzi put before the HELP committee the Defined Benefit Security Act - a bipartisan measure to bring retirement security to millions of Americans. The bill requires companies to protect their pensions with rules that are fair and predictable and includes needed changes to help avoid the danger of plans that are terminated. The bill also includes a provision to help the companies impacted by Katrina by giving the Secretaries of Labor and Treasury and the PBGC authority to postpone filing and payment deadlines for pension plans affected by Katrina.

Senator Kennedy said, " Millions of hardworking Americans find their retirement increasingly in jeopardy. Social Security is under attack, private pensions have been battered by a weak economy, low interest rates, and the stock market, and private savings are at historic lows. And now the devastation of Hurricane Katrina has torn apart the job security that millions had depended on. Now more than ever, workers deserve the support of Congress to preserve their hard-earned pensions – and this bipartisan legislation will do just that."

Below are Senator Kennedy's remarks and a description of the bill:

**STATEMENT OF EDWARD M. KENNEDY**
**MARK UP OF DEFINED BENEFIT SECURITY ACT**

**September 8, 2005**

Today we are considering much needed legislation to protect Americans' retirement. I commend our Chairman and Senator DeWine and Senator Mikulski for their leadership, and I urge the Committee to support it.

As we know, millions of hardworking Americans find their retirement increasingly in jeopardy. Social Security is under attack, private pensions have been battered by a weak economy, low interest rates, and the stock market, and private savings are at historic lows. Obviously, workers deserve the support of Congress to preserve their hard-earned pensions.

Our bill requires companies to protect their pensions with rules that are fair and predictable. It also allows companies to contribute more to their pensions in good times, as a safeguard against economic downturns. And it preserves critical retirement benefits that workers in manufacturing industries receive when a plant closes.

In addition, the bill includes needed changes to help avoid the danger of termination of pension plans. As we've seen with the case of United Airlines, when a company uses bankruptcy to shed its pensions, workers and retirees are hurt and so is the economy. Our bill protects pensions already earned. It gives companies more time to meet their obligations, and it strengthens pension insurance. In particular, it will preserve the pensions of tens of thousands of airline employees at this crucial time when the whole industry is suffering from economic troubles and record fuel prices.

The legislation also gives relief to multiemployer pension plans, which cover nearly 10 million workers and retirees. Large numbers of these employees work in industries where they move from job to job and would not be able to earn a pension without such multiemployer plans, since many of these employers, particularly small businesses, cannot afford to offer pension plans on their own.

Finally, the bill addresses the problem of conversions to cash balance pension plans, which often hurt older workers who have worked for decades to earn their retirement, only to lose out when a company switches to a cash balance plan. I know that Senator Harkin has been a tireless advocate for protecting these older workers, and I hope that we can work with him to accommodate his concerns. Pensions that workers have earned need protection, and it's especially unfair for companies to discriminate against older workers.
These are urgently needed protections for countless workers. It's encouraging that we've made so much progress, and I know we can work together to expedite the enactment of this important legislation.

**Defined Benefit Security Act**
**Enzi-Kennedy-DeWine-Mikulski Substitute**
**Summary**

**Title I Single-Employer Funding Rules**

The Chairman's substitute adopts a stringent new funding regime to ensure that defined benefit plans are fully funded. The new rules require the amortization of all liabilities over ten years, based on assets averaged over no more than 3 years and liabilities measured over a modified yield curve (3 segments) that is smoothed over 3 years. Full funding is raised under the bill from 90% to a 100% target, but phased in over 10 years to avoid severe disruptions. Credit balances would continue to be available to companies in order to promote enhanced funding, but assets must be marked to market performance. To prevent funding holidays and ensure cash is always going into the plan, the substitute requires that plans funded at less than 80% must pay the greater of their normal costs or 25% of their minimum required contribution. The bill requires that lump sum distributions be anticipated in the plan's actuarial projections.

Special new rules are established to encourage funding and prevent adverse actions. A new category of liability, known as “at-risk liability” is created which requires plans that fall below 60% funding to calculate additional actuarial expenses on the basis that employees will leave early and take lump sums and early retirement subsidies, thus accelerating the decline in the plan if stronger funding rules are not triggered. At-risk status, however, is not based on the credit rating or financial health of the company sponsoring the plan. Benefit limitations are also included in the bill. Plans falling below an 80% funding level may not increase benefits unless they are paid for up front, nor pay out lump sums, except at a reduced proportional rate based on the funding percentage of the plan. Severely underfunded plans (60%) would be required to freeze new benefits accruals. No exception is created for collective bargaining agreements negotiated before a plan’s funding level falls below these triggers; companies would be required to fund up to the trigger percentage to prevent the limitation from taking effect. Finally, companies of plans funded below 60% would be prohibited from enhancing deferred compensation for top executives.

**Title II Multiemployer Funding Rules**

In addition to restating current funding rules under ERISA, the substitute adopts a new regime for multiemployer plans facing funding crises. Generally, plans that face a funding deficiency within 7 years would fall into the “endangered” status, and must implement a funding improvement plan that is designed to improve funding by 1/3 over 10 years. More severely underfunded plans, that fall into “critical” status, would be required to reduce accruals prospectively and increase contributions as part of a rehabilitation plan designed to lift the plan out of “critical” status in 10 years.

**Title III Interest Rate Assumptions**

The Chairman’s substitute requires that lump sums be calculated using the full yield curve rather than the 30-year Treasury bond rate. This change in law is phased in over 5 years.

**Title IV Pension Benefit Guarantee Corporation**

The flat-rate premium paid by all single-employer plans for each participant is increased from $19 to $30. The board of directors of the PBGC is instructed to recommend to Congress premium increases to address the financial health of the corporation. The bill repeals the full-funding exemption under the variable-rate premium, expanding the base of single-employer plans that pay the variable-rate premium to include all underfunded plans. Companies that terminate their defined benefit plans through the bankruptcy process will be required to pay a premium of $1000 per participant for the three years, but only after the company successfully emerges from bankruptcy. The bill also sets new, lower premium rates for new plans or very small employers.

Several sections of the Chairman’s substitute are designed to cut the losses of the PBGC. In particular, the agency’s guarantee is capped in bankruptcy when a company with a plan funded at less than 80% fails to make required payments into the plan. Shutdown benefits are treated as “ad hoc” amendments to the plan, effectively limiting the PBGC’s exposure. Under current law, termination is the only tool that the PBGC can exercise when faced with a troubled pension plan. The substitute addresses this problem by granting the corporation the authority to negotiate alternative funding agreements that allow companies to keep funding their pension plans and avoiding a PBGC bailout. Conditions in the alternative funding agreement would give companies more time to fulfill their obligations, protect the pensions workers have already earned, and ensure that the PBGC would not suffer further losses by participating plans.

The bill also adopts the airline funding relief incorporated in the Finance Committee's bill and includes a special provision addressing the so-called "soft-freeze".

**Title III Disclosures**

The Chairman's substitute expands the notice and disclosure provisions of ERISA in order to achieve greater transparency and awareness of retirement security. The bill creates a new 90-day notice that informs participants and beneficiaries, unions and, in the case of multiemployer plans, contributing employers in a timely way of the true financial state of the plans for the most recent and two preceding years. Additional notices are required when benefits limitations are triggered or the company files for bankruptcy.

The substitute significantly expands participant and employer access to multiemployer plan actuarial and financial information. For the first time, contributing employers and unions will receive annual statements detailing the financial health of the plans and providing essential other information about plan practices that will help them manage their affairs and anticipate problems.

The substitute also expands the universe of underfunded or "at-risk" plans that must file extensive financial information with the PBGC that will help the agency anticipate and cope with declining plans. Employees of companies required to make the so-called "Section 4010" filings will receive special notices informing them of the financial condition of their plans.

**Title VI Deduction Limits**

Deduction limits would be raised for single-employer plans to 180% and for multiemployer plans to 130%.

**Title VII Hybrid Plan Clarification**

The substitute provides retroactive relief and prospective clarity to employers establishing hybrid pension plans. The bill clarifies that hybrid pension plans, such as cash balance and pension equity plans, are lawful and it repeals the so-called "whipsaw" rule for calculation lump sums. The substitute creates safe harbors for plans that have previously converted to hybrid designs and provided special transition protections to older workers when they did so. This retroactive relief is provided to companies that are not engaged in litigation on this issue. It also incorporates prospective conversion rules contained in the Senate Finance Committee pension legislation.

**Title V Authority to Postpone Certain Deadlines**

In light of the impact of Hurricane Katrina on business in affected areas, the Chairman's substitute instructs the Secretaries of Labor and the Treasury, and the Executive Director of the PBGC to exercise their authority to postpone certain pension deadlines for up to a year.