FOR IMMEDIATE RELEASE **CONTACT:** Laura Capps/Melissa Wagoner
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KENNEDY'S PENSION BILL OVERWHELMINGLY PASSES THE SENATE

BIPARTISAN MEASURE WILL BRING RETIREMENT SECURITY TO MILLIONS

Washington, DC: Today the Senate passed by 97-2 the Pension Stability and Transparency Act, a bipartisan measure that would bring retirement security to millions of Americans. In the past five years 700 pension plans have gone into crisis and millions of workers have lost $8 billion in pension benefits that they had been promised. The bill, sponsored by Senators Kennedy, Enzi, Baucus and Grassley, 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.

"At a time when so many seniors are struggling to pay their bills for food and rent, the soaring cost of gasoline and prescription drugs and the possible threat of corporate cutbacks or the elimination of their pensions altogether, true reform is long overdue. The retirement security of millions of hard-working Americans is at risk." Senator Kennedy said. "This bill reflects strong bipartisan cooperation -- it deserves the support of the White House and should be enacted immediately."

The reforms in this bill would require companies to put aside enough money to pay for pensions they have promised. It would stop corporate executives from lining their pockets when workers' pensions suffer and also would require companies to give workers timely and accurate information on their pension plans. It would allow troubled pension plans the leeway they need to get back on their feet. And it would provide greater retirement security for widows and former spouses.

Below is a summary of the bill and Senator Kennedy's floor statement.

HIGHLIGHTS OF THE PENSION SECURITY AND TRANSPARENCY ACT

(Amendment in the Nature of a Substitute)

Requires companies to fund pension promises by strengthening rules for single-employer plans

- **Funding target**. Requires companies to contribute more to their pension plans, aiming for 100% funding.
- **Modified Yield Curve:** The funding calculation uses a modified corporate bond yield curve (three segments).
- **At-Risk Funding:** Certain companies that are junk bond-rated must make additional payments to their pension plans to cover additional costs like increases in subsidized early retirement benefits. Provides exceptions for companies whose credit ratings are stable or improving, as well as additional exceptions for companies with well-funded pension plans (93%).
- **Increased deduction limits**: Encourages companies to put more money into their pension plans when times are good.
- **Protects Shutdown Benefits:** Preserves shutdown benefits that are critical to workers in the steel, auto, and other manufacturing industries, but phases in the PBGC guarantee over five years from the date of shutdown.
- **Benefit Limitations**: Limits increases in benefits or accrual of future benefits and limits lump sum payments when plans become underfunded.
- **Fair Treatment for Workers and Executives**: If a company underfunds its pension plan, it cannot fund executive compensation.
- **PBGC Premiums**: Increases per-person premiums to the PBGC from $19 to $30, indexed in the future.
- **Rural Cooperative Plans**: Provides transition period for rural agricultural, electric, and telephone cooperatives to adjust to new rules.

Helps prevent future pension failures

- **Airlines:** Provides 14-year funding transition period to preserve airline pension plans.
- **New program**: Gives workers, companies, and the government tools to work out payment schedules to save financially troubled plans.

Gives workers timely and accurate information on pension plan finances

- Requires that within 90 days of the end of each plan year, workers and retirees get a report telling them how well-funded their pension plan is, and comparing its condition to the previous two years.
- Greatly expands information multiemployer and single employer pension plans must report, including data on financial status, investments, number of participating workers and retirees, and other information important to understanding the health of a pension plan.
- Provides additional information about the financial condition of a pension plan when it is in trouble or when a company is threatening to drop its pensions.

Protects workers and businesses in multiemployer pensions

- Requires troubled plans to improve their financial condition.
- Severely underfunded pension plans must adopt a ten-year Rehabilitation Plan, during which time employers are shielded from drastic contribution increases and excise taxes, which could drive businesses into bankruptcy and cost workers their jobs. Companies and workers must negotiate to restore the plan to financial health.
- PBGC will issue a study on the state of multiemployer funding in five years. Plans will be eligible to enter the Rehabilitation Plan for up to eight years.

Protects older workers in cash balance plan conversions

- Provides clear legal guidance that cash balance pensions are not inherently age discriminatory.
- Requires these pensions to be more portable, so that they better serve a mobile workforce.

- Protects older workers by providing transition benefits or a choice between the old pension and the new one.

Adopts post-Enron worker pension protections for workers in 401(k) plans

- **Diversification.** Ensures that workers do not have all their eggs in one basket by allowing them to diversify their pension investments from employer stock.

- **Information.** Workers and retirees get regular statements showing the market value of pension investments and noting any restrictions on the right to control their investments. Provides notification that investments may not be adequately diversified if more than 20% of the account is in one investment. All workers get annual investment guidelines and retirement planning information.
- **Additional retirement savings for workers harmed by financial scandals.** Allows individuals hurt by the Enron bankruptcy, or a similar situation, to make additional contributions to their retirement accounts for 5 years.

Gives workers access to independent investment advice

- Encourages employers to provide workers access to advice that is free from conflicts of interest as they make choices about how to invest their pension retirement accounts.

Provides greater retirement security for widows/widowers and former spouses

- Clarifies qualified domestic relations orders rules to give divorced spouses greater ability to receive a share of their former spouses' pension benefits.

- Requires pension plans to provide additional benefit options for surviving spouses.

Enhances Retirement Savings and Benefits

- Encourages companies to use automatic enrollment and automatic increase in 401(k) pension plans to ensure that workers save more. Provides guidance to employers in choosing investments for these automatic savings vehicles.
- Helps companies provide a secure retirement by expanding rules for allowing excess pension assets to be used for retiree health care.
- Establishes Federal Task Force on Older Workers to examine retirement security.

Relief for Pension Plans Affected by Hurricanes Katrina, Rita, and Wilma

- Allows for extension of filing deadlines for pension plans affected by Hurricanes Katrina, Rita, and Wilma.

Provides for Equal Treatment of Certain State and Local Governmental Pension Plans

- Clarifies treatment of tribal plans as governmental plans.
- Permits state and local governments to maintain 401(k) plans.

Modernization of Tax Court Retirement Benefits

- Allows Tax Court judges to participate in the Thrift Savings Plan.
- Provides for adjustments to benefits to surviving spouses and children, including benefits for surviving spouses of judges who are assassinated.

Provides Limited Additional Exemptions to ERISA Prohibited Transaction Rules

- Provides limited exceptions from ERISA's conflict of interest rules to allow pension and health plans to engage in certain types of transactions—block-trades, trades on Electronic Communication Networks and foreign exchanges transactions—when certain required safeguards are in place.
- Allows a 14-day correction period for unknowing violations of prohibited transactions rules.
- Directs the Secretary of Labor and President's Working Group on Financial Markets to study implication of active cross-trades and prohibited transactions.
- Directs GAO to prepare a report on these changes to ERISA prohibited transaction rules.

Enhanced portability rules

- **Ensures that workers will grow into, or vest, more quickly in amounts their employers provide in a retirement plan (generally 3 years instead of the 5 years under current law).**
- Simplifies rules allowing workers to rollover amounts from one retirement account or plan to another, thereby encouraging continued retirement savings.

Company Owned Life Insurance (COLI)

- Limits the availability of tax-free proceeds on company-owned life insurance, and provides disclosure and reporting requirements.

STATEMENT OF SENATOR EDWARD M. KENNEDY
THE PENSION SECURITY AND TRANSPARENCY ACT
NOVEMBER 16, 2005

I welcome the majority leader’s decision to call up this important legislation for action by the Senate today. The Pension Security and Transparency Act has been an impressive bipartisan effort, and I thank my colleagues—Senator Grassley and Senator Baucus of the Finance Committee and Senator Enzi, Senator DeWine, and Senator Mikulski from the Health, Education, Labor and Pensions Committee—for working to produce a bill that will provide tens of millions of Americans with greater retirement security.

The retirement security of millions of hard-working Americans is at risk. Millions of our fellow citizens have worked hard all their lives, played by the rules, they’ve been dedicated and loyal workers, only to find that the pensions they were promised disappear when they retire. They worked faithfully, assuming their retirements would actually be “golden years.” But then, suddenly, it all disappears. The pension plan is in financial trouble, and their retirement dreams are wiped away.

This is exactly what has happened to millions of loyal American workers. In the past five years, 700 pension plans have gone into crisis and millions of workers have lost $8 billion in pension benefits that they had been promised.

It’s a crisis. We see it with our airline workers. We see it with workers in manufacturing industries. We see it with construction workers and sales clerks at the store and so many of our neighbors. It’s a crisis, and this bill responds to it by saving their pensions.

Large numbers of Americans are increasingly concerned about their retirement security, and rightly so. Each leg of the three-legged stool of retirement—private pensions, private savings, and Social Security—is in jeopardy.

Many Americans find they are unable to save anything toward their retirement. In fact, the personal savings rate has now fallen below zero—Americans are spending more than they earn. And it's no wonder, when wages are stagnant, costs are soaring for basic necessities such as energy, housing, healthcare and education.

The Bush Administration continues to propose to privatize Social Security which would put the reliability of future benefits in that landmark and highly successful program in jeopardy.

Many workers have no private pension at all—only half of American workers have a pension through their job, and 2.7 million fewer private sector workers have a pension today than in 2000.

Most workers who do have a pension today have only a 401(k) account as their pension, but many have nothing saved in these accounts. Even those who are saving do not have enough to live on in retirement— more than half of workers approaching retirement have less than $43,000 in their 401(k), and workers who rely on these accounts face the constant risk of investments that perform poorly.

These problems make pensions with defined benefits more critical then ever because they're secure. They provide a known monthly retirement benefit for life. They're insured by the federal government but they're becoming much rarer today as businesses shift away from them. In the early 1980's, almost 40% of American workers were covered by a secure pension; today that number is below 20%.

Yet while workers' pensions are being cut, executives' pensions are increasingly generous. A recent study found that 25% of the CEOs of 500 large companies had been promised retirement benefits of more than $1 million per year. Why should Ken Lay of Enron and Bernie Ebbers of WorldCom walk away with millions of dollars in guaranteed pensions after driving their employees' pensions into the ground?

When a major pension plan fails, it places a strain on the entire system. The Pension Benefit Guaranty Corporation, which insures these pension plans, has moved from a surplus in 2001 to a deficit of $23 billion today. Our pension insurance system protects the retirement earnings of over 40 million Americans, and we must do what it takes to see that it is there for the years to come.

These are serious problems that require immediate action by Congress. The pending bill adopts a broad approach, with stronger rules for funding, expanded disclosure, and other new protections for America's workers. It strengthens existing pension plans by requiring companies to fund the pensions that workers have earned. It takes steps to prevent future pension failures, and it recognizes that workers who are increasingly in charge of investing their own retirement savings need additional help.

The reforms in this bill allow troubled pension plans the leeway they need to get back on their feet. Current rules would require companies to pay large amounts into their troubled pension plans right away. That's unrealistic and could force many companies to drop their pension plans altogether. That would hurt workers. Our reforms allow companies to save their troubled plans by increasing payments gradually over a longer period of time.

We provide this realistic payment schedule, but strengthen the current rules for single-employer pension plans over time by requiring companies to fund 100% of their pension promises to workers. These workers have earned their pensions over a lifetime of hard work, foregoing raises and other benefits. Yet current law allows many companies to lag behind in paying for them. Our legislation solves this problem by requiring companies to put more into their pensions in a fair and predictable way.

Our legislation also recognizes the power of public disclosure, and the urgent need for more effective oversight of pension plans. Under current law, workers receive little financial information about their pensions, and what they do receive is often years out of date. They've earned these pensions, and they deserve to know whether the funds are there to pay them.

Our bill ensures that workers and retirees receive up-to-date information each year about the status of their pensions. By opening up the books of pension funds, they will be able to monitor the true health of their retirement.

The bill also provides incentives to keep pensions financially healthy by tying executive compensation to pension health. Executives should not be able to feather their own retirement nests, while workers lose their nest eggs. Our legislation prohibits corporate executives from putting company funds into their own retirement trusts when the pensions of rank and file workers are underfunded.

Recent headlines show that many companies are using bankruptcy courts to abandon their pension plans. Hundreds of thousands of workers and retirees at companies like United Airlines and US Airways, Bethlehem Steel, and LTV Steel, are now without the pensions they worked so hard to earn. Such failures strain the entire pension system, too. A critical component of the bill is its provisions to prevent these future crises. It gives companies, the government, and workers the means to develop extended payment plans, so that companies and workers will maintain their pensions.

The bill also contains specific provisions to save airline pensions, by offering companies a specialized payment program and transition to adjust to the new rules. These jobs have typically provided good wages and good benefits to hundreds of thousands of workers. But carriers today are under immense pressure. They suffered heavily after 9/11, and the recent catastrophes of Hurricane Rita and Hurricane Katrina have also reduced travel.

The industry is also suffering from increased jet fuel prices. These high costs are driving companies into bankruptcy and putting the retirement of hundreds of thousands of workers and retirees at risk.

In addition, our legislation addresses the needs of nearly 10 million workers and retirees who receive pensions through multiemployer plans. These are the workers who clean our office buildings and hotel rooms, sell us our groceries, build our homes and schools and highways, and deliver goods across the country. Many of them are in industries where they have to move from job to job and would not be able to earn a pension at all without these multiemployer plans since their employers, particularly small businesses, could not afford to offer a pension plan on their own.

The majority of these plans are in strong financial shape. But the recent economic downturn and weak stock market have put some of these plans in financial difficulties similar to those facing single-employer plans. We owe it to these employees to protect their pensions now, instead of acting only when they are about to fail.

Our legislation requires employers and employees to work together and agree on a plan to restore these plans to financial health. The bill also helps to protect employers from unforeseen payment increases and new excise taxes, which could cost many workers their jobs.

Hybrid pension plans, including cash balance plans, have a growing role in our retirement system. They have a number of advantages. They provide a secure guaranteed pension. Their benefits are very attractive to younger workers and to those such as parents caring for children who move in and out of the workforce.

Older workers, however, can lose out when their companies switch to these plans because they lose a large portion of the benefits they were promised. Our legislation requires companies that are going to switch to these plans to protect the benefits that workers have already earned. They must also provide transition benefits for the oldest workers, who stand to lose the most. The bill would also make these pensions more portable, so that they better serve a mobile workforce.

In addition to these key protections for workers in guaranteed pensions, our legislation also protects persons in defined contribution pension plans, which have a growing role in our retirement system. Today over 40% of workers participate in a defined contribution plan, and for many of them this is their only pension plan.

This legislation will encourage workers to save more through these pension plans through automatically enrolling them in these pensions and automatically increasing the amount that workers save over time. As employees make greater use of these types of pensions they need the best information possible about the investment options available for their retirement plans. Workers deserve independent investment advice in building their retirement savings, and this legislation will see that they get it.

As we learned from the Enron, WorldCom and other corporate scandals, employees forced to invest in company stock are at huge risk. Despite all the publicity, many pensions are still at risk because workers continue to overinvest in company stock. All their eggs are in one basket, and both their job and their retirement depend on the fate of their company. Our bill protects them by preventing employers from overloading 401(k) plans with company stock. It also warns employees when they place too much of their retirement funds in one investment.

The legislation also includes important provisions from the Women's Pension Protection Act that

I introduced with Senator Snowe. Retirement security is essential for all Americans, but too often we fail to meet the needs of women on this basic issue. Women live longer than men, but they continue to earn far less in wages over their lifetimes. They are also much less likely to earn a pension. These factors translate into seriously inadequate retirement income for vast numbers of women.

The realities of this injustice are grim. According to the most recent data, only 28% of women age 65 and over are receiving private pension income, and for those who do, the average is only $3,816 per year compared with $8,148 for men. Minority women are in even more desperate straits -- only 20 percent of African-American women and 9 percent of Hispanic women receive a pension. These disparities are a major reason why nearly one in five elderly single women lives in poverty.

Our legislation gives them greater retirement security. Widows will receive more generous survivor benefits. Divorced women will have a greater ability to receive a share of their former husband's pension after a divorce. These are long overdue improvements in the private pension system, so that retirement savings programs will be more responsive to the realities of women's lives and careers.

American workers and their families rightly expect Congress to protect their hard-earned pensions. This legislation is an important start to meeting this basic challenge in our 21st century society. I urge my colleagues to support the Pension Security and Transparency Act.

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