COMMITTEE ON FINANCE
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MEMORANDUM

February 11, 2010

To: Reporters and Editors
From: Scott Mulhauser and Erin Shields for Senate Finance Committee Chairman Max Baucus (D-Mont.)
Jill Kozeny and Jill Gerber
for Senate Finance Committee Ranking Member Chuck Grassley (R-Iowa)
Re: Draft Hiring Incentives to Restore Employment (HIRE) Act

Senate Finance Committee Chairman Max Baucus (D-Mont.) and Ranking Member Chuck Grassley (R-Iowa) today issued the following statement after releasing the draft Hiring Incentives to Restore Employment (HIRE) Act. From Senators Baucus and Grassley:

"Today, we are presenting draft legislative language to address the current economic conditions.

"The draft contains proposals we would expect to be included in an initial bill. We offer it as the first step in the Senate process for consideration of these time-sensitive proposals.

"We present these proposals today in the interest of transparency and open government. It is especially important that all members and the public have sufficient time – at least 72 hours – to review and comment on this package before the Senate begins voting on the bill because it has not gone through the regular committee process.

"The package includes matters within the Finance Committee's jurisdiction and matters outside its jurisdiction. The Finance Committee proposals are the result of several weeks of staff and member consultation. We believe they reflect a balanced set of member views and priorities. We do not express a view on the proposals that are outside the Finance Committee's jurisdiction.

"In addition, while not addressed in the proposals in this package, there are two process agreements that are essential to completing action on it. Fulfilling these agreements has been a condition precedent to the bipartisan discussions that have occurred. First we will work to ensure that the scope of the Finance Committee package retains its bipartisan character. Second we are committed to timely consideration of permanent bipartisan estate and gift tax reform.

"We are pleased to present this bipartisan draft legislation. We want the bipartisan character of the discussions that led to this draft package to remain as the package is considered.

"Consistent with maintaining the spirit of bipartisanship, we believe that the appropriate timing and process will balance the goals of transparency with a desire to move expeditiously. Any efforts that needlessly rush the process through partisan means will undermine our goal of a bipartisan and transparent Senate legislative product.

"We also agree that, once properly reviewed, the package should be considered in a deliberate, but expeditious manner. Any efforts to needlessly delay Senate completion of consideration of this package through partisan means will undermine our goal of timely action in the current economic climate. Action on the expired provisions is long overdue. Timely action on incentives for economic activity and job creation also is needed."

The draft legislation is available on the legislation page of the Finance Committee website at the following link: **http://www.finance.senate.gov/sitepages/legislation.htm**.

A summary of the draft Hiring Incentives to Restore Employment (HIRE) Act follows here.

Draft Hiring Incentives to Restore Employment (HIRE) Act
Summary of Provisions

The draft Hiring Incentives to Restore Employment (HIRE) Act focuses on job creation at a time when many Americans are struggling to find employment in a challenging economy.

Job Creation Provisions

Schumer-Hatch Jobs Payroll Tax Exemption. This provision would offer an exemption from social security payroll taxes for every worker hired in 2010 that has been unemployed for at least 60 days. The maximum value would be equal to 6.2% of wages up to the FICA wage cap ($106,800). There would also be an additional $1,000 income tax credit for every new employee retained for 52 weeks to be taken on the employer's 2011 income tax return. *This proposal is estimated to cost $13 billion over ten years.*

Extension of Section 179 Expensing. This provision would extend 2008 and 2009 section 179 expensing thresholds so that taxpayers may elect to write-off up to $250,000 of certain capital expenditures (subject to a phase-out once expenditures exceed $800,000) in 2010 in lieu of depreciating those costs over time. *This proposal is estimated to cost $35 million over ten years.*

Election to Convert Tax Credit Bonds to Build America Bonds. Under current law, Congress provided tax credit bonds to qualifying issuers for certain school and energy projects. Tax credit bonds provide the bond holder a federal tax credit in lieu of interest. Build America Bonds provide qualifying issuers a direct payment from the Treasury for a portion of the interest paid on the bond for government works projects. This provision would allow qualifying issuers of tax credit bonds the option of issuing tax credit bonds under current law, or utilizing the direct subsidy Build America Bond structure for bonds issued after the date of enactment. The federal subsidy would equal 45 percent of the borrowing cost (65 percent for qualifying small issuers). *The proposal is estimated to cost approximately $2 billion over ten years.*

Highway Trust Fund. This provision would extend highway and transit programs through calendar year 2010, and transfers from the General Fund to the Highway Trust Fund $19.5 billion in interest foregone since 1998. It would also halt annual payments the Highway Trust Fund makes to the General Fund as reimbursement for tax-exempt users of the highway program (e.g. state/local fleets and transit providers). This provision also repeals an $8.7 billion rescission of unobligated balances of contract authority, a provision which passed in the 2005 SAFETEA-LU legislation. *This proposal has no revenue effect.*

Extension of Expiring Tax Provisions

The draft HIRE Act would also extend several tax provisions that expired at the end of 2009, providing much needed tax relief for individuals and businesses. These provisions include the research and development credit, the 15-year recovery period for leasehold, restaurant, and retail improvements, the new markets tax credit, the active finance exception under Subpart F, and the CFC look-through rules. The draft HIRE Act would also extend several energy tax provisions, including credits for home efficiency and alternative fuel vehicles, as well as for biodiesel, renewable diesel and other alternative fuels. The draft bill also includes several disaster relief provisions. *The total cost of the extenders provisions is about $31 billion over ten years.*

Pension Funding Relief

The provision would provide temporary, targeted funding relief for single employer and multiemployer pension plans that suffered significant losses in asset value due to the steep market slide in 2008. *The pension funding provisions raise about $6 billion over ten years.*

Economic Safety Net Provisions

Unemployment Insurance Extension. This provision would extend current law, including increased unemployment benefits, through May 31, 2010. Under current law, an unemployed worker may receive up to 26 weeks of unemployment benefits provided by the state in which they were employed. After the state-provided benefits are exhausted, the worker may qualify for 34 more weeks of benefits provided by the federal government. If that person is unemployed in a state with an unemployment rate above 6 percent, they qualify for an additional 13 weeks of benefits also provided by the federal government. Unemployed workers in states with an unemployment level over 8.5 percent qualify for an additional six weeks of benefits also provided by the federal government. In addition, the Federal government pays 100 percent of the cost of state Extended Benefits programs which provide up to 13 additional weeks of benefits for unemployed workers who have exhausted regular state benefits or Emergency Unemployment Compensation. Last year’s economic recovery bill increased weekly unemployment benefits by an additional $25 per week. Without extension, these provisions will expire on February 28, 2010. *This proposal is estimated to cost $22 billion over ten years.*

Extension of COBRA Premium Assistance. This provision would extend the 65-percent COBRA premium subsidy for terminated workers through May 31, 2010. This provision also includes technical clarifications to the program. *The proposal is estimated to cost $3 billion over ten years.*

Extension of Expiring Health Care Provisions.

The draft HIRE Act also extends health provisions, a number of which expired at the end of 2009. These provisions include a seven-month extension of the sustainable growth rate update formula. Without this fix, physicians participating in Medicare face a 21 percent reduction in payments. The bill also extends the exceptions process for Medicare therapy caps and extends payment provisions for mental health providers, ambulance services, physicians in areas where the work geographic practice cost index (GPCI) is below 1.0, certain physician pathology services, the rural hospital flexibility (Flex) program, improved payments for outpatient services in hospitals in rural areas, direct billing for Indian health service providers, Medicare hospital wage index reclassifications under the section 508 program, provisions concerning long-term acute care hospital services, and certain Medicare Advantage plans, including special needs plans, cost plans and senior housing programs. The draft bill would also provide an accreditation exemption for certain pharmacies that furnish durable medical equipment and would clarify eligibility for physician health information technology incentive payments. And finally, the draft bill would keep the 2009 federal poverty guidelines to protect people in means-tested programs from losing benefits and includes a provision to disregard refundable tax credits and refunds as income for twelve months from receipt. *The total cost of the health extenders provisions is about $10 billion over ten years.*

Other Provisions

The draft bill contains five provisions outside the jurisdiction of the Finance Committee. These include short-term extensions of two expiring authorities under the Patriot Act, the national flood insurance program, and certain SBA loan provisions. In addition, the draft bill includes an estimated $1.5 billion in agriculture disaster assistance and a five-year reauthorization of satellite home viewer legislation. *These provisions are estimated to cost $3 billion over ten years.*

Offsets

***Foreign Account Tax Compliance*.** These provisions include a comprehensive set of measures to reduce offshore noncompliance by giving the IRS new administrative tools to detect, deter and discourage offshore tax abuses. The proposals include 30% withholding on U.S. source payments to foreign financial institutions, foreign trusts, and foreign corporations that do not agree to disclose their U.S. account holders and owners to the IRS; requiring taxpayers to disclose their foreign accounts on their U.S. tax returns; increasing the statute of limitations to 6 years for failure to report certain offshore transactions and income; clarifying when a foreign trust is considered to have a U.S. beneficiary; and treating substitute dividend and dividend equivalent payments to foreign persons as dividends for purposes of U.S. withholding. *This proposal is estimated to raise $9 billion over ten years.*

Cellulosic Biofuels Loophole. The provision would modify the $1.01 per gallon cellulosic biofuel producer credit to exclude fuels with significant water, sediment, or ash content, such as black liquor. The provision would exclude from the definition of cellulosic biofuel any fuels that (1) are more than four percent (according to weight) water and sediment in any combination, or (2) have an ash content of more than one percent (according to weight). The provision would be effective for fuel sold or used after date of enactment. *This proposal is estimated to raise $24 billion over ten years.*

***Clarification of the Economic Substance Doctrine and Penalty for Underpayments Attributable to Transactions Lacking Economic Substance*.** This provision would clarify the application of the economic substance doctrine which has been used by courts to deny tax benefits for transactions lacking economic substance. The provision would also impose a 40% strict liability penalty on underpayments attributable to a transaction lacking economic substance (unless the transaction was disclosed, in which case the penalty is 20%). *The proposal is estimated to raise $5 billion over ten years.*

Reduction in the Medicare Improvement Fund. The Medicare Improvement Fund (MIF) contains funds that are available to the Secretary to make improvements to the original fee-for-service program under Parts A and B of Medicare. Under current law, approximately $20 billion is available for services furnished during FY2014. This provision would reduce the funding available in the MIF by $8 billion. *This proposal is estimated to save $8 billion over ten years.*

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