AMERICAN BENEFITS COUNCIL

November 18, 2008

TALKING POINTS: DEFINED BENEFIT PENSION PLAN FUNDING RELIEF

Recent economic turmoil has had a devastating effect on defined benefit pension plans due to a combination of dropping asset values and credit market strains. As a result pension obligations have ballooned unpredictably since earlier in 2008. This in turn is forcing companies to set aside enormous amounts of cash that they would otherwise invest in job creation and business growth and thus is severely hampering economic recovery. A few changes to the Pension Protection Act (PPA) would largely address the problems, restore stability to the defined benefit pension system providing greater retirement security to participants and help companies preserve jobs and meet the challenges of the current economic downturn.

- **Permit pension plans to smooth out unexpected asset losses.** In the Pension Protection Act, Congress permitted pension plans to recognize unexpected asset gains and losses over 24 months. Treasury misinterpreted Congress' intent and has effectively applied a mark-to-market rule to pension plans, which will cause unmanageable burdens for companies in 2009 (with many plan losses of approximately 20% to 30% in 2008). Congress should clarify that plans can use "smoothing" to recognize unexpected asset gains and losses over 24 months.

- **Permit full asset smoothing.** The Pension Protection Act (PPA) only allowed unexpected gains and losses to be smoothed out to a very limited extent, so that the smoothed value must stay within 10% of fair market value. For 2009 and 2010, smoothing should be permitted without a percentage limitation. This maximizes the value of smoothing and predictability as well as recognizing the precipitous effect the recent financial turmoil has had on pension assets. Smoothing without the broadening of the corridor is insufficient to address the current problem.

- **Transition to the new funding rules.** The "funding target" for all pension plans in 2009 should be allowed to remain at 92% funded (the current 2008 phase-in level), and plans at and below the target should be eligible for transition relief (the so-called cliff effect should be eliminated).

- **Permit all new funding elections for 2009 or 2010.** Although funding methods, such as which type of yield curve to use, generally must remain constant absent IRS approval, funding methods should be allowed to be changed for 2009 and 2010 without IRS approval. This is currently contemplated by the statute but there is a cumbersome regulatory process associated with it that should be eliminated for 2009 and 2010.