United States Senate

Washington, DC

For Immediate Release
Wednesday, July 23, 2008

Lawmakers seek federal tax relief for Midwestern disaster victims

WASHINGTON --- A comprehensive plan to provide $3.96 billion in federal tax relief to flood, tornado and severe storm victims in the Midwest was introduced today by Senators Chuck Grassley and Tom Harkin of Iowa, Kit Bond and Claire McCaskill of Missouri, Norm Coleman and Amy Klobuchar of Minnesota, Dick Durbin and Barack Obama of Illinois, Pat Roberts and Sam Brownback of Kansas, and Evan Bayh and Richard Lugar of Indiana.

The "Midwestern Disaster Tax Relief Act of 2008" is modeled after tax legislation that Congress passed to help victims of Hurricanes Katrina, Rita and Wilma in 2005 and the tornado in Kiowa County, Kansas in 2007. Sponsors of the new legislation -- S.3322 -- are urging Congress to act quickly. The same bill was introduced today in the House of Representatives by Representatives Dave Loebsack, Tom Latham, Bruce Braley, Steve King and Leonard Boswell of Iowa.

"Federal tax relief has proven to be very helpful to disaster recovery efforts in recent years. This summer, devastating natural disasters hit Iowa and other parts of the Midwest, so now it's time for Congress to pass tax relief legislation for the Midwest. I was Chairman of the Finance Committee after Hurricane Katrina. Lawmakers acted quickly for victims along the Gulf Coast. In 2005, a major individual tax relief package was signed by the President within three weeks of the Katrina disaster. A few weeks later, Congress followed up with an infrastructure and business tax relief package. Congress appropriated $60 billion in emergency funds within a week of the storm and much more followed. This year, we're seeking the same consideration for Midwestern disaster victims," Grassley said. "After learning lessons from 9-11, Katrina and other disaster packages, we've tailored this year's package to the needs of this major natural disaster."

"Iowans are picking up the pieces after enduring one of the most brutal floods in our state's history," Harkin said. "After a disaster of this magnitude, Iowans deserve strong federal support. This tax relief will go a long way toward helping families, businesses and non-profits recover and rebuild after the disaster."

"The recent floods, severe storms, and tornadoes have torn through the homes and lives of many Minnesotans and they need our help," Coleman said. "This tax relief legislation provides victims of the Midwestern disasters with the support needed to recover and rebuild their communities. The best time to deliver this relief was yesterday, but the second best time is now and I will stand with my colleagues to ensure it becomes a reality for those who are still recuperating from the disasters."

"In Illinois, we still don't know the full extent of our losses," Durbin said. "The damage is bad, but it could have been a lot worse had it not been for the hard work and determination of everyone who helped us prepare for the floods. I will bring a similar resolve to Washington as we work on approval of a tax relief package that will help people and communities across the Midwest get back on their feet after this major disaster."

"Families and communities across Illinois and the Midwest have lost so much as a result of this summer's flooding, and we must do everything we can to help them recover and rebuild as soon as possible," Obama said. "I am proud to support this bill to offer tax relief and assistance to the victims of this disaster. I will continue to work with my colleagues to help rebuild the Midwest in the days and weeks ahead."

"From tornados this spring to the recent flooding on the Mississippi and Missouri Rivers, Missourians have been hard-hit by Mother Nature. The provisions in this bill will help disaster victims in my home state and across the Midwest rebuild. It is critical Congress acts now to provide the relief our families, businesses and communities need," Bond said.

"Throughout this epic event Missourians were able to come together and do what was necessary to prevent a tremendous amount of damage. And yet, the devastation is still overwhelming. Missourians will need all help from all possible angles to make sure we can rebuild America's heartland," McCaskill said.

"Our local communities in Minnesota showed incredible courage and resilience in rebuilding from this year's floods and storms,'' Klobuchar said. "But at a time like this, local communities should not be expected to fend for themselves. The federal government has an essential role to support communities as they recover and rebuild."

"Disaster Tax Relief is a critical element of recovery as many Indiana communities embark on efforts to rebuild their homes and businesses," Lugar said.

"Thousands of residents in Indiana and across the Midwest have had their lives chaotically disrupted by storms, tornadoes and floods. We can and must do more to deliver critical aid to storm victims so they can rebuild their homes, their businesses and their lives," Bayh said.

Individuals and businesses located in presidentially declared disaster areas due to floods, tornados and severe storms in Iowa, Arkansas, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska and Wisconsin would be eligible for the Midwestern Disaster Tax Relief Act of 2008.

Among other provisions, the legislation would let disaster victims with damage to their primary residence tap their assets and access cash by withdrawing money from retirement plans without tax penalties; suspend limits on tax incentives for charitable contributions, strengthening local and other fundraising drives collecting money to help small businesses and families recover; create tax-credit bond authority to help local governments rebuild infrastructure; increase the amount of tax-exempt bond authority to help businesses receive below-market interest rate financing; remove limitations on deducting casualty losses due to natural disaster; and reduce the 2008 tax burden for small and mid-sized businesses by substantially increasing the 2008 deductions for the depreciation and expensing of business property.

Here's a summary of what's in the bill.

RELIEF FOR ALL COUNTIES DECLARED ELIGIBLE FOR ASSISTANCE

The proposals immediately below benefit taxpayers located in all counties in the ten states mentioned above that are presidentially-declared (FEMA) major disaster areas determined to warrant individual assistance, individual and public assistance, or public only assistance due to flooding, tornadoes, or severe storms.

Qualified Disaster Recovery Assistance Distributions. The proposal waives the 10 percent penalty tax if a distribution from an individual retirement account ("IRA") or tax-favored retirement plan (e.g., Code sections 401(k), 403(b), or 457(b) plans) is considered a qualified Disaster Recovery Assistance distribution ("qualified distribution"). A distribution is considered a qualified distribution if it is made on or after the presidentially-declared disaster date ("applicable declaration date") and before January 1, 2010 and is made to an individual whose principal residence on the applicable declaration date is located in a Midwestern disaster area and who sustained an economic loss by reason of the disaster. Other principal features include the following: (i) the waiver is limited to amounts up to $100,000; (ii) the mandatory withholding rules applicable to eligible rollover distributions would not apply; (iii) participants receiving a qualified distribution would be permitted to spread the income tax resulting from receipt of the distribution ratably over three years; and (iv) amounts distributed may be re-contributed to the plan over a three-year period following the distribution and such re-contributed amounts would not be includible in income in the tax year in which the distribution was made (e.g., if a participant received a qualified distribution in 2008 and subsequently re-contributed the distribution amount in 2009, the participant may file an amended return requesting a refund for the amount taxable in 2008).

Recontribution of Withdrawals for Home Purchases. The proposal allows distributions for home purchases that were made from a Code section 401(k) or 403(b) plan or IRA after the date which is 6 months before the applicable declaration date and before the day after the applicable declaration date and that were not finalized because of the tornadoes and floods giving rise to the designation of the area as a disaster area to be re-contributed to the plan or IRA tax-free (i.e., the recontributions would be treated as rollovers). Amounts must be re-contributed within four months from the date of enactment of the bill in order to receive favorable tax treatment.

Loans from Qualified Plans. The proposal effectively doubles the limitation on loans from a 401(k), 403(b), or a governmental 457(b) plan by allowing participants located in a Midwestern disaster area and who sustained economic loss by reason of the tornadoes and floods giving rise to the designation of the area as a disaster area to receive loans up to the lesser of $100,000, or 100 percent of the vested accrued benefit for loans made after the date of enactment and before January 1, 2010. In addition, outstanding loan payments due on or after the applicable declaration date and before January 1, 2010 may be deferred an additional 12 months, with appropriate adjustments for interest.

Suspension of Casualty Loss Limitations. Under present law, non-business casualty losses are deductible by taxpayers who itemize only to the extent they exceed ten percent of adjusted gross income and a one-hundred dollar floor. In some circumstances, taxpayers are permitted to include a current-year casualty loss on an amended prior year return. The proposal eliminates the ten percent and one-hundred dollar floor for casualty losses resulting from the Midwestern disaster and incurred in the disaster area, including those claimed on amended returns.

Special Look-Back Rule for EIC and Refundable Child Credit. To deal with the situation where 2008 records are lost or destroyed in a disaster, this proposal allows low-income working families an election to use their 2007 income amount for purposes of determining their eligibility for the refundable earned income credit and the refundable child tax credit.

Additional Personal Exemption for Housing Victims. Current law provides a personal exemption for taxpayers, their spouses, and dependents. The proposal allows taxpayers who house up to four dislocated persons from the Midwestern disaster for a minimum of sixty days in their principal residences an additional personal exemption of $500 per dislocated person (maximum additional personal exemption increase of $2,000). Family members (other than spouses and dependents) staying with the taxpayer may qualify, and the housing must be provided rent-free. This proposal would not affect any deductions or exemptions for the dislocated person on the dislocated person's tax return. The deduction can be claimed in 2008 and 2009, but cannot be claimed in both years with respect to the same person.

Exclusion for Certain Cancellations of Indebtedness. Under current law, gross income generally includes any amount realized from the discharge of indebtedness. The proposal ensures that individuals are not taxed on personal debt that is discharged in response to damage suffered from the Midwestern disaster. For example, if a house is damaged or destroyed and the mortgage lender discharges all or part of this mortgage debt, the amount discharged is not treated as income as a result of the proposal.

Extension of Replacement Period for Property Lost Due to Floods or Tornadoes in the Midwestern Disaster Zone. Present law allows taxpayers not to recognize gain with respect to homes that are damaged or destroyed as a result of a presidentially-declared disaster if the taxpayer replaces the property within a four-year period. Business property that is destroyed must be replaced within a two-year period to avoid gain recognition.

The proposal extends the replacement period to five years for principal residences and business property that was damaged or destroyed within any presidentially-declared disaster area for the Midwestern disaster. The extended replacement period applies to principal residences and business property, and the replacement property must be located in the Midwestern disaster area.

RELIEF FOR ALL COUNTIES DECLARED ELIGIBLE FOR INDIVIDUAL ASSISTANCE OR INDIVIDUAL AND PUBLIC ASSISTANCE

The proposals immediately below benefit individuals and businesses located in all counties in the ten states above presidentially-declared (FEMA) major disaster areas determined to warrant individual assistance, or individual and public assistance, due to flooding, tornadoes, or severe storms.

Relief for Individuals and Families

Employee Retention Credit. This proposal provides a 40 percent tax credit for wages paid up to $6,000 if paid after the applicable disaster date, and before January 1, 2009, by employers with 200 or fewer employees located in the Midwestern disaster area who continue to pay their employees while their business is inoperable.

Representations Regarding Income Eligibility. Allows operators of qualified residential rental projects to rely on the representations of prospective tenants displaced by the Midwestern disaster for purposes of determining whether the individuals satisfy the income limitations for qualified rental projects. Individual's tenancy must begin during the six-month period beginning on the date the individual was displaced by the Midwestern disaster.

Expansion of Hope Scholarship and Lifetime Learning Credit. Current law allows a Hope Scholarship Credit in the first two years of post-secondary education equal to 100% of the first $1,000 of qualified tuition and related expenses, and 50% of the next $1,000 for a maximum credit of $1,500. There is also a Lifetime Learning Credit available to students enrolled in one or more courses at the undergraduate or graduate level (whether or not pursuing a degree), equal to 20% of the first $10,000 in qualified tuition and related expenses. The proposal doubles the Hope Credit dollar amounts so the maximum credit would be $3,000, and doubles the Lifetime Learning Credit percentage from 20% to 40%, for a maximum Lifetime Learning Credit of $4,000 for students attending undergraduate or graduate institutions in the Midwestern disaster area. Room, board, books and fees would also be considered qualified expenses. This proposal applies to tax years 2008 and 2009.

Secretarial Authority to Adjust Taxpayer and Dependency Status for Taxpayers. The Midwestern disaster has displaced thousands of individuals. Under present law, a prolonged change in a family's living situation could affect its eligibility for various tax benefits. The proposal gives the Treasury Department the authority to ensure taxpayers do not lose deductions, credits or filing status because of dislocations from the Midwestern disaster.

Mortgage Revenue Bonds. Mortgage revenue bonds are tax-exempt bonds that state and local governments generally issue through housing finance agencies. The proceeds from the bonds are used to fund below-market interest rate mortgages for certain first-time homebuyers meeting income and purchase price restrictions. The proposal allows greater access to mortgage revenue bond proceeds by lifting the first-time homeowner requirement through 2010 for homes in the area damaged by the Midwestern disaster. Additionally, special income and purchase rules for targeted area residences apply so that more individuals and residences may qualify for financing. It also allows up to $150,000 of the loan proceeds to be used for disaster-related repairs to damaged homes (as opposed to $15,000 under current law).

Tax Relief for Businesses

Tax-exempt Bonds. Provides Iowa, Arkansas, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri and Wisconsin the authority to issue a special class of qualified private activity bonds, called Midwestern disaster area bonds, outside of the state volume caps. The maximum aggregate bond authority with respect to any state cannot exceed $1,000 times the portion of the state population which is located in a Midwestern disaster area. Midwestern disaster area bonds can be issued by States and municipalities. Bond proceeds can be used to pay for acquisition, construction, and renovation of nonresidential real property, qualified low income residential rental housing, and public utility property (e.g., gas, water, electric and telecommunication lines) located in the Midwestern disaster area. The current low-income housing targeting rules are relaxed so that more bond proceeds can be used to rebuild housing in the Midwestern disaster area. Interest payments on the bonds are not subject to the AMT. The authority to issue Midwestern disaster area bonds expires after December 31, 2010. In the case of project involving a private business use, either the person using the property suffered a loss in a trade or business attributable to severe storms, tornadoes or flooding or is a person designated by the Governor of the State as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such loss. In the case of a project relating to public utility property, the project must involve the repair or reconstruction of public utility property damaged by sever storms, tornados or flooding.

Low Income Housing. Under current law, States receive allocations of low-income housing tax credits based on population. The proposal allows States to allocate volumes of additional housing credit amounts in years 2009, 2010, 2011 of $18 per person in the Midwestern disaster area measured by population data issued before the earliest applicable disaster date for Midwestern disaster areas within the applicable state.

Additional Depreciation. Permits businesses that suffered damage as a result of the Midwestern disasters to claim an additional first-year depreciation deduction equal to 50 percent of the cost of new real and personal property investments made in the

Midwestern disaster area. The additional deduction applies to purchased computer software, leasehold improvements, certain commercial and residential real estate expenditures and equipment. All depreciation deductions (including bonus depreciation) would be exempt from the AMT. The proposal applies to property placed in service through December 31, 2011 (December 31, 2012 for real property). In addition, the Department of Treasury would be granted authority, on a case-by-case basis, to extend the bonus depreciation deadline for placing long-lived property in service in certain circumstances for the Midwestern disaster area for up to one year.

Expensing Property. Current law permits certain small businesses to deduct up to $250,000 of the cost of property used in the business. The proposal would increase this amount to $350,000 for qualifying expenditures made in the disaster area through December 31, 2011 (December 31, 2012 for nonresidential real property and residential rental property). This proposal would also increase the level of investment at which benefits phase out from $350,000 to $1.4 million of qualifying purchases, thus allowing more businesses to use this tax benefit in rebuilding. This proposal applies to businesses that suffered property damage in the Midwestern disaster area and that placed property in service in the Midwestern disaster area after the date of the applicable disaster.

Expensing Demolition and Clean-up Costs. Under the proposal, 50 percent of the costs (that would otherwise be capitalized) related to site cleanup and demolition would be deductible by businesses. Effective for amounts paid or incurred beginning on the applicable disaster date and ending on December 31, 2010.

Expensing Environmental Remediation Costs. The proposal extends the deductibility of costs of cleaning up a qualified contamination site, if the release (or threat of release) or disposal of a hazardous substance is attributable to the disaster described in the Presidential declaration in the Midwestern disaster area. Effective for expenditures paid or incurred beginning on the applicable disaster date and ending on January 1, 2011.

Increase in Rehabilitation Credit. For buildings that were damaged or destroyed in an applicable disaster, the rehabilitation credit is raised from 10 percent to 13 percent of qualified expenditures for any qualified rehabilitated building other than a certified historic structure, and the rehabilitation credit is raised from 20 percent to 26 percent of qualified expenditures for any certified historic structure.

Five-year Net Operating Loss Carryback for Certain Amounts. The proposal extends the net operating loss carryback period from 2 to 5 years for net operating losses attributable to (i) new investment and repairing existing investment in the areas damaged by the Midwestern disaster; (ii) business casualty losses caused by the Midwestern disaster; and (iii) moving expenses and temporary housing expenses for employees working in areas damaged by the Midwestern disaster. The proposal is effective on the date of enactment.

Tax Credit Bonds. Authorizes Midwestern disaster States to issue debt service tax credit bonds providing credits against Federal income tax instead of interest payments, so that these States can provide assistance to communities unable to meet their debt service requirements as a result of the flooding, tornadoes, and severe storms. The maturity of the bonds cannot exceed 2 years. At least 95 percent of bond proceeds must be used to redeem or to pay principal, interest or premiums on an outstanding bond, and such proceeds so used must be matched by an equal amount of State funds. The maximum amount of tax credit bonds shall not exceed $100 million for any state with an aggregate population located in the Midwestern disaster areas within such state of at least 2 million; $50 million for states with such populations of at least 1 million but less than 2 million; and zero for any other state.

Tax Incentives for Charitable Giving

Temporary Suspension of Limitations on Charitable Contributions. The amount allowed as a charitable deduction in any taxable year may not exceed ten percent of the corporation's taxable income or fifty percent of an individual's adjusted gross income. The proposal temporarily waives these limits regarding charitable cash contributions dedicated to Midwestern disaster relief efforts. The proposal is effective for contributions paid during the period beginning on the earliest applicable disaster date for all States and ending on December 31, 2008.

Increase in Standard Mileage Rate for Charitable Use of Vehicles. The mileage rate individuals may use to compute a tax deduction for personal vehicle expenses associated with charitable work is statutory and has not been increased since 1997 and is currently at 14 cents per mile. For a taxpayer assisting in relief efforts related to the Midwestern disaster, the proposal sets the charitable mileage rate at approximately 35 cents per mile, which is seventy percent of the standard business mileage rate, beginning on the applicable disaster date and ending on December 31, 2009.

Exclusion from Income of Mileage Reimbursements for Charitable Volunteers. In general, reimbursements received for operating expenses of a personal vehicle used in connection with charitable work in excess of the statutory charitable mileage rate are taxable income to the recipient. However, reimbursements for charitable mileage attributable to the Midwestern disaster up to the amount of the standard business mileage rate will not be considered taxable income through December 31, 2009.

Enhanced Deduction for Donations of Food and Book Inventory. The proposal extends an enhanced deduction for donations of food inventory to all businesses through December 31, 2009. Under present law, a taxpayer's deduction for charitable contributions of inventory generally is limited to the taxpayer's basis (typically cost) in the inventory. However, for contributions of food inventory, C corporations may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item's appreciated value (i.e., basis plus one half of fair market value in excess of basis) or (2) two times basis. The proposal extends the enhanced deduction for donations of food inventory to non-C corporation businesses. The proposal establishes an enhanced deduction for donations of book inventory through December 31, 2009. Under present law, taxpayers may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item's appreciated value (i.e., basis plus one half of fair market value in excess of basis) or (2) two times basis for donations of book inventory. The proposal extends the enhanced charitable deduction to donations of educational books to public schools.

Tax benefits not available with respect to certain property. The proposals relating to additional first-year depreciation, increased expensing, and the five-year carryback of NOLs do not apply with respect to certain property. Specifically, as was done in the tax relief package for the Katrina disaster, the tax relief provisions do not apply with respect to any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, or liquor store. The proposals also do not apply with respect to any property used directly in connection with gambling, animal racing, or the on-site viewing of such racing, and with respect to buildings or portions of buildings dedicated to such activities (except if the portion so dedicated is less than 100 square feet).