To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to protect pension benefits of employees in defined benefit plans and to direct the Secretary of the Treasury to enforce the age discrimination requirements of the Internal Revenue Code of 1986.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 2005

Mr. SANDERS (for himself, Mr. GUTKNECHT, Mr. GEORGE MILLER of California, Mr. HINCHEY, Mr. DAVIS of Illinois, Ms. LEE, Mr. BISHOP of New York, Ms. WOOLSEY, Mr. Emanuel, Mr. MURTILA, Mr. TAYLOR of Mississippi, Ms. BORDALLO, Mr. OBERSTAR, Mr. BRADY of Pennsylvania, Mr. DeFazio, Mrs. MALONEY, Mr. Brown of Ohio, Mr. HOLT, Mr. BERRY, Mr. MARKAY, Mr. GRIJALVA, Ms. KILPATRICK of Michigan, Mr. LANTOS, Mr. FILNER, Mr. UDALL of New Mexico, Mr. McGOVERN, Mr. KENNEDY of Rhode Island, Mr. FRANK of Massachusetts, Mr. VAN HOLLEN, Mr. DOYLE, Mr. PAYNE, Ms. LINDA T. SANCHEZ of California, Ms. MILLENDER-MCDONALD, Mr. OLVER, Mr. PALLONE, Ms. NORTON, Ms. SCHAKOWSKY, Mr. DOGGETT, Mr. EVANS, Mr. VISClosky, Mr. MEek of Florida, Mr. WEXLER, Mr. BOEHlERT, Mr. MEeks of New York, Mr. Tierney, Mr. ENGEL, Mr. CONYERS, Ms. ESHoo, Mr. ALLEN, Ms. Eddie BerNICE JOHNSON of Texas, Mr. RUSH, Mr. Lynch, Mrs. NapolITano, Ms. Jackson-Lee of Texas, Mr. STRICKLAND, Mr. ROss, Mr. SCHIFF, Ms. Slaughter, Mr. MEEHAN, Mr. BlumenauER, Mr. MICHAuD, Mr. KILDEE, Mrs. CAPPS, Ms. KAPTUR, Mr. CASE, Ms. MCcollum of Minnesota, Mr. UDALL of Colorado, Mr. KUCINICH, Mr. CumMINGS, Mr. SCOTT of Virginia, and Ms. DeLauro) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to protect pension benefits of employees in defined benefit plans and to direct the Secretary of the Treasury to enforce the age discrimination requirements of the Internal Revenue Code of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pension Benefits Protection Act of 2005”.

SEC. 2. PROPER ADMINISTRATION OF INTERNAL REVENUE LAWS AND NONDISCRIMINATION REQUIREMENTS.

(a) In General.—The Secretary of the Treasury shall take no action in contravention of section 204(b)(1)(G), 204(b)(1)(H)(i), or 204(g) of the Employee Retirement Income Security Act of 1974, section 411(b)(1)(G), 411(b)(1)(H)(i), or 411(d)(6) of the Internal Revenue Code of 1986, or section 4(i)(1)(A) of the Age Discrimination in Employment Act of 1967.

(b) Directive.—The Secretary of the Treasury shall apply section 411(b)(1)(H) of the Internal Revenue Code of 1986 without regard to the portion of the preamble to Treasury Decision 8360 (56 Fed. Reg. 47524–47603,
September 19, 1991) which relates to the allocation of inter-
terest adjustments through normal retirement age under a cash balance plan, as such preamble is and has been since its adoption without the force of law.

SEC. 3. PROTECTION OF PARTICIPANTS FROM CONVER-
SIONS TO HYBRID DEFINED BENEFIT PLANS.

(a) ELECTION TO MAINTAIN RATE OF ACCRUAL IN EFFECT BEFORE PLAN AMENDMENT.—

(1) Amendment to ERISA.—Section 204(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)(1)) is amended by adding at the end the following new subparagraph:

“(I)(i) Notwithstanding the preceding subparagraphs, in the case of a plan amendment to a defined benefi-

“(I) which has the effect of converting the plan to a plan under which the accrued benefit is ex-

“(II) which has the effect of reducing the rate of future benefit accrual of 1 or more participants,

such plan shall be treated as not satisfying the re-
requirements of this paragraph unless such plan meets
the requirements of clause (ii).
“(ii) A plan meets the requirements of this clause if
the plan provides each participant who has attained 40
years of age or 10 years of service (as determined under
section 203) under the plan at the time such amendment
takes effect with—
“(I) notice of the plan amendment indicating
that it has such effect, including a comparison of the
present and projected values of the accrued benefit
determined both with and without regard to the plan
amendment, and
“(II) an election upon retirement to either re-
ceive benefits under the terms of the plan as in ef-
fect at the time of retirement or to receive benefits
under the terms of the plan as in effect immediately
before the effective date of such plan amendment
(taking into account all benefit accruals under such
terms since such date).
“(iii) For purposes of clause (i), an accrued benefit
shall include any early retirement benefit or retirement-
type subsidy (within the meaning of subsection (g)(2)(A)),
but only with respect to a participant who satisfies (either
before or after the effective date of the amendment) the
conditions for the benefit or subsidy under the terms of
the plan as in effect immediately before such date.

“(iv) The Secretary shall issue regulations under
which any plan amendment which has an effect similar
to the effect described in clause (i)(I) shall be treated as
a plan amendment described in clause (i)(I). Such regula-
tions may provide that if a plan sponsor represents in com-
munications to participants and beneficiaries that a plan
amendment has an effect described in the preceding sen-
tence, such plan amendment shall be treated as a plan
amendment described in clause (i)(I).”.

(2) Amendment to Internal Revenue
Code.—Section 411(b)(1) of the Internal Revenue
Code of 1986 (relating to accrued benefit require-
ments for defined benefit plans) is amended by add-
ing at the end the following new subparagraph:

“(I) Election to maintain rate of ac-
crual in effect before certain plan
amendments.—

“(i) In general.—Notwithstanding
the preceding subparagraphs, in the case
of a plan amendment to a defined benefit
plan—

“(I) which has the effect of con-
verting the plan to a plan under which
the accrued benefit is expressed to
participants and beneficiaries as an
amount other than an annual benefit
commencing at normal retirement age
(or which has a similar effect as de-
determined under regulations issued
under clause (iv)), and

“(II) which has the effect of re-
ducing the rate of future benefit ac-
crual of 1 or more participants, such
plan shall be treated as not satisfying
the requirements of this paragraph
unless such plan meets the require-
ments of clause (ii).

“(ii) REQUIREMENTS.—A plan meets
the requirements of this clause if the plan
provides each participant who has attained
40 years of age or 10 years of service (as
determined under subsection (a)) under
the plan at the time such amendment
takes effect with—

“(I) notice of the plan amend-
ment indicating that it has such ef-
flict, including a comparison of the
present and projected values of the
accrued benefit determined both with
and without regard to the plan
amendment, and

“(II) an election upon retirement
to either receive benefits under the
terms of the plan as in effect at the
time of retirement or to receive bene-
fits under the terms of the plan as in
effect immediately before the effective
date of such plan amendment (taking
into account all benefit accruals under
such terms since such date).

“(iii) TREATMENT OF EARLY RETIRE-
MENT BENEFITS AND RETIREMENT-TYPE
SUBSIDIES.—For purposes of clause (i), an
accrued benefit shall include any early re-
tirement benefit or retirement-type subsidy
(within the meaning of subsection
(d)(6)(B)(i)), but only with respect to a
participant who satisfies (either before or
after the effective date of the amendment)
the conditions for the benefit or subsidy
under the terms of the plan as in effect
immediately before such date.
“(iv) Regulations.—The Secretary shall issue regulations under which any plan amendment which has an effect similar to the effect described in clause (i)(I) shall be treated as a plan amendment described in clause (i)(I). Such regulations may provide that if a plan sponsor represents in communications to participants and beneficiaries that a plan amendment has an effect described in the preceding sentence, such plan amendment shall be treated as a plan amendment described in clause (i)(I).”.

(b) Effective Date and Related Rules.—

(1) In general.—The amendments made by this section apply to plan amendments taking effect before, on, or after the date of the enactment of this Act.

(2) Special rule.—In the case of a plan amendment taking effect before 90 days after the date of the enactment of this Act, the requirements of section 204(b)(1)(I) of the Employee Retirement Income Security Act of 1974 (as added by this section) and section 411(b)(1)(I) of the Internal Revenue Code of 1986 (as added by this section) shall
be treated as satisfied in connection with such plan amendment, in the case of any participant described in such sections 204(b)(1)(I) and 411(b)(1)(I) in connection with such plan amendment, if, as of the end of such 90-day period—

(A) the notice described in clause (i)(I) of such section 204(b)(1)(I) and clause (i)(I) of such section 411(b)(1)(I) in connection with such plan amendment has been provided to such participant, and

(B) the plan provides for the election described in clause (i)(II) of such section 204(b)(1)(I) and clause (i)(II) of such section 411(b)(1)(I) in connection with such participant’s retirement under the plan.

SEC. 4. PREVENTION OF WEARING AWAY OF EMPLOYEE’S ACCRUED BENEFIT.

(a) Amendment to ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

“(6)(A) For purposes of paragraph (1), an applicable plan amendment adopted by a large defined benefit plan shall be treated as reducing accrued benefits of a participant if, under the terms of the plan after the adoption
of the amendment, the accrued benefit of the participant
may at any time be less than the sum of—

“(i) the participant’s accrued benefit for years
of service before the effective date of the amend-
ment, determined under the terms of the plan as in
effect immediately before the effective date, plus

“(ii) the participant’s accrued benefit deter-
dined under the formula applicable to benefit accru-
als under the current plan as applied to years of
service after such effective date.

“(B) For purposes of this paragraph—

“(i) The term ‘applicable plan amendment’
means a plan amendment which has the effect of
converting the plan to a plan under which the ac-
crued benefit is expressed to participants and bene-
ficiaries as an amount other than an annual benefit
commencing at normal retirement age (or which has
a similar effect as determined under regulations of
the Secretary).

“(ii) The term ‘large defined benefit plan’
means any defined benefit plan which had 100 or
more participants who had accrued a benefit under
the plan (whether or not vested) as of the last day
of the plan year preceding the plan year in which
the plan amendment becomes effective.
“(iii) An accrued benefit shall include any early retirement benefit or retirement-type subsidy (within the meaning of paragraph (2)(A)), but only with respect to a participant who satisfies (either before or after the effective date of the amendment) the conditions for the benefit or subsidy under the terms of the plan as in effect immediately before such date.”.

(b) Amendment to Internal Revenue Code.—

Section 411(d)(6) of the Internal Revenue Code of 1986 (relating to accrued benefit may not be decreased by amendment) is amended by adding at the end the following new subparagraph:

“(F) Treatment of plan amendments wearing away accrued benefit.—

“(i) In general.—For purposes of subparagraph (A), an applicable plan amendment adopted by a large defined benefit plan shall be treated as reducing accrued benefits of a participant if, under the terms of the plan after the adoption of the amendment, the accrued benefit of the participant may at any time be less than the sum of—

“(I) the participant’s accrued benefit for years of service before the
effective date of the amendment, determined under the terms of the plan as in effect immediately before the effective date, plus

“(II) the participant’s accrued benefit determined under the formula applicable to benefit accruals under the current plan as applied to years of service after such effective date.

“(ii) DEFINITIONS.—For purposes of this subparagraph—

“(I) APPLICABLE PLAN AMENDMENT.—The term ‘applicable plan amendment’ means a plan amendment which has the effect of converting the plan to a plan under which the accrued benefit is expressed to participants and beneficiaries as an amount other than an annual benefit commencing at normal retirement age (or which has a similar effect as determined under regulations of the Secretary).

“(II) LARGE DEFINED BENEFIT PLAN.—The term ‘large defined ben-
e fit plan’ means any defined benefit plan which had 100 or more participants who had accrued a benefit under the plan (whether or not vested) as of the last day of the plan year preceding the plan year in which the plan amendment becomes effective.

“(III) PROTECTED ACCRUED BENEFIT.—An accrued benefit shall include any early retirement benefit or retirement-type subsidy (within the meaning of subparagraph (B)(i)), but only with respect to a participant who satisfies (either before or after the effective date of the amendment) the conditions for the benefit or subsidy under the terms of the plan as in effect immediately before such date.”.

(c) EFFECTIVE DATE AND RELATED RULES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section apply to plan amendments taking effect before, on, or after the date of the enactment of this Act.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), the amendments made by this section
shall not apply in connection with any participant with respect to any plan amendment which has taken effect before 90 days after the date of the enactment of this Act if, as of the end of such 90-day period, the plan provides that the participant’s accrued benefit shall at no time be less than the sum described in section 204(g)(6)(A) of the Employee Retirement Income Security Act of 1974 (as added by this section) or section 411(d)(6)(F)(i) of the Internal Revenue Code of 1986 (as added by this section) in connection with such plan amendment.