



COMMITTEE ON EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2181 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

September 14, 2004

Protect the Retirement & Pension Security of Working Americans; Reject the Harmful Sanders Amendment

Dear Colleague:

Please join us in opposing the amendment offered by Rep. Sanders (D-VT) to the Transportation/Treasury appropriations bill, a misguided amendment built on the flawed assertion that cash balance pension plans inherently violate age discrimination prohibitions for pension plans. Not only is this contention unfounded, but pension law already prohibits employers from cutting back or reducing any pension benefits that have been earned by workers once they vest in their pension plan.

Moreover, the IBM decision is also inconsistent with the majority of other federal court rulings on this issue, and we expect it to be overturned on appeal. **The majority of courts have ruled that cash balance and other hybrid pension plans are NOT age discriminatory, including the most recent court decision on June 10, 2004, in the *Tootle v. ARINC, Inc.* case.**

The reasoning behind the decision is economically unsound and flawed. The judge in this case found the IBM cash balance plan to be inherently age discriminatory because equal pay credits provided to younger workers have a longer period of time to earn interest and accrue benefits before retirement than the same pay credits for older workers. In other words, the judge ruled the concept of compounding interest to employee accounts, taking into consideration the time-value of money, is discriminatory. **Using this faulty logic, a typical savings account, 401(k), or even Social Security benefits would be age discriminatory.**

What Democrats DON'T want you to know is that more workers receive higher benefits from their cash balance plan than benefits earned under a traditional defined benefit plan. Benefits are earned more evenly over a career span, not just at the end of a worker's career. This can result in greater retirement savings for employees who do not remain

with the same employer for their entire working careers. As a result, a broader group of employees - including lower-income workers and women - earn greater benefits with shorter service under a cash balance plan than under a traditional plan.

The House Education & the Workforce Committee held a hearing on cash balance plans in July and we are actively engaged with interested parties to resolve the outstanding issues on cash balance plans. The appropriations forum is not the appropriate venue to make policy changes in the complicated pension area where it is easy to produce unintended results that actually reduce pension coverage for working Americans. **Please join us in opposing the Sanders Amendment. If you need additional information, please call the Committee at x5-7101.**

Sincerely,

/s/

/s/

John Boehner (R-OH)
Chairman
Education & the Workforce Committee

Howard P. "Buck" McKeon
Chairman
Subcommittee on 21st Century
Competitiveness