

109TH CONGRESS  
1ST SESSION

# H. R. 4428

To clarify the status of retirement benefits provided by the Young Women's Christian Association Retirement Fund under the benefit accrual standards of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2005

Mr. TIBERI 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

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## A BILL

To clarify the status of retirement benefits provided by the Young Women's Christian Association Retirement Fund under the benefit accrual standards of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “YWCA Retirement  
5       Plan Preservation Act of 2005”.

1 **SEC. 2. CLARIFICATION OF BENEFIT ACCRUAL STANDARDS.**

2 (a) RULES RELATING TO REDUCTION IN ACCRUED  
3 BENEFITS BECAUSE OF ATTAINMENT OF ANY AGE.—

4 (1) COMPARISON TO SIMILARLY SITUATED,  
5 YOUNGER INDIVIDUALS.—

6 (A) IN GENERAL.—A pension plan de-  
7 scribed in subsection (c) shall not be treated as  
8 failing to meet the requirements of section  
9 204(b)(1)(H)(i) of the Employee Retirement In-  
10 come Security Act of 1974 or section  
11 411(b)(1)(H)(i) of the Internal Revenue Code  
12 of 1986 if a participant's entire accrued benefit,  
13 as determined as of any date under the formula  
14 for determining benefits as set forth in the text  
15 of the plan documents, would be equal to or  
16 greater than that of any similarly situated,  
17 younger individual.

18 (B) SIMILARLY SITUATED INDIVIDUAL.—  
19 For purposes of this paragraph, an individual is  
20 similarly situated to a participant if such indi-  
21 vidual is identical to such participant in every  
22 respect (including period of service, compensa-  
23 tion, position, date of hire, work history, and  
24 any other respect) except for age.

25 (C) SUBSIDIZED PORTION OF EARLY  
26 RETIREMENT BENEFIT DISREGARDED.—In deter-

1 mining the entire accrued benefit for purposes  
2 of this paragraph, the subsidized portion of any  
3 early retirement benefit (including any early re-  
4 tirement subsidy that is fully or partially in-  
5 cluded or reflected in an employee's opening  
6 balance or other transition benefits) shall be  
7 disregarded.

8 (2) TREATMENT OF INTEREST ACCRUED ON  
9 HYPOTHETICAL ACCOUNT.—A pension plan de-  
10 scribed in subsection (c) under which the accrued  
11 benefit payable under the plan upon distribution (or  
12 any portion thereof) is expressed as the balance of  
13 a hypothetical account maintained for the partici-  
14 pant shall not be treated as failing to meet the re-  
15 quirements of section 204(b)(1)(H)(i) of the Em-  
16 ployee Retirement Income Security Act of 1974 or  
17 section 411(b)(1)(H)(i) of the Internal Revenue  
18 Code of 1986 solely because interest accruing on  
19 such balance is taken into account.

20 (3) ALLOWABLE OFFSETS.—A pension plan de-  
21 scribed in subsection (c) shall not be treated as fail-  
22 ing to meet the requirements of section  
23 204(b)(1)(H) of the Employee Retirement Income  
24 Security Act of 1974 or section 411(b)(1)(H) of the  
25 Internal Revenue Code of 1986 solely because the

1 plan provides allowable offsets against those benefits  
2 under the plan which are attributable to employer  
3 contributions, based on benefits which are provided  
4 under title II of the Social Security Act, the Rail-  
5 road Retirement Act of 1974, another plan described  
6 in section 401(a) of the Internal Revenue Code of  
7 1986 maintained by the same employer, or under  
8 any retirement program for officers or employees of  
9 the Federal Government or of the government of any  
10 State or political subdivision thereof. For purposes  
11 of this paragraph, allowable offsets based on such  
12 benefits consist of offsets equal to all or part of the  
13 actual benefit payment amounts, reasonable projec-  
14 tions or estimations of such benefit payment  
15 amounts, or actuarial equivalents of such actual ben-  
16 efit payment amounts, projections, or estimations  
17 (determined on the basis of reasonable actuarial as-  
18 sumptions).

19 (4) COMPLIANCE WITH RULES PERMITTING DIS-  
20 PARITY IN PLAN CONTRIBUTIONS OR BENEFITS.—A  
21 pension plan described in subsection (c) shall not be  
22 treated as failing to meet the requirements of sec-  
23 tion 204(b)(1)(H) of the Employee Retirement In-  
24 come Security Act of 1974 or section 411(b)(1)(H)  
25 of the Internal Revenue Code of 1986 solely because

1 the plan provides a disparity in contributions or ben-  
2 efits with respect to which the requirements of sec-  
3 tion 401(l) of the Internal Revenue Code of 1986  
4 are met.

5 (5) PRE-RETIREMENT INDEXING.—

6 (A) IN GENERAL.—A pension plan de-  
7 scribed in subsection (c) shall not be treated as  
8 failing to meet the requirements of section  
9 204(b)(1)(H) of the Employee Retirement In-  
10 come Security Act of 1974 or section  
11 411(b)(1)(H) of the Internal Revenue Code of  
12 1986 solely because the plan provides for pre-  
13 retirement indexing of accrued benefits under  
14 the plan.

15 (B) DEFINITION.—For purposes of this  
16 clause, the term “pre-retirement indexing”  
17 means, in connection with an accrued benefit,  
18 the periodic adjustment of the accrued benefit  
19 by means of the application of a recognized  
20 index or methodology so as to protect the eco-  
21 nomic value of the benefit against inflation  
22 prior to distribution.

23 (b) DETERMINATIONS OF ACCRUED BENEFIT AS  
24 BALANCE OF BENEFIT ACCOUNT.—

1           (1) IN GENERAL.—A pension plan described in  
2           subsection (c) under which the accrued benefit pay-  
3           able under the plan upon distribution (or any por-  
4           tion thereof) is expressed as the balance of a hypo-  
5           thetical account maintained for the participant shall  
6           not be treated as failing to meet the requirements of  
7           section 203(a)(2) or 205(g) of the Employee Retire-  
8           ment Income Security Act of 1974 or section  
9           411(a)(2) or 417(e) of the Internal Revenue Code of  
10          1986 solely because of the amount actually made  
11          available for such distribution under the terms of  
12          the plan, in any case in which the applicable interest  
13          rate that would be used under the terms of the plan  
14          to project the amount of the participant’s account  
15          balance to normal retirement age is not greater than  
16          a market rate of return.

17          (2) REGULATIONS.—The Secretary of the  
18          Treasury may provide by regulation for rules gov-  
19          erning the calculation of a market rate of return for  
20          purposes of paragraph (1) and for permissible meth-  
21          ods of crediting interest to the account (including  
22          variable interest rates) resulting in effective rates of  
23          return meeting the requirements of paragraph (1).

24          (c) PENSION PLAN DESCRIBED.—A pension plan de-  
25          scribed in this subsection is a defined benefit plan (as de-

1    fined in section 3(35) of the Employee Retirement Income  
2    Security Act of 1974 or section 414(j) of the Internal Rev-  
3    enue Code of 1986) maintained by the Young Women's  
4    Christian Association Retirement Fund, a corporation cre-  
5    ated by an Act of the State of New York which became  
6    law on April 12, 1924.

7    **SEC. 3. EFFECTIVE DATE.**

8           The amendments made by this Act shall apply with  
9    respect to periods beginning before, on, or after the date  
10   of the enactment of this Act.

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