The SPEAKER pro tempore (Mr. CONAWAY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Maryland (Mr. CARDIN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CARDIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, and the Chair's prior announcement, further proceedings on this question will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 2830, PENSION PROTECTION ACT OF 2005

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. George Miller of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2830 be instructed to agree to the provisions contained in the Senate amendment regarding the prohibition of wearaway in connection with conversions to cash balance plans and the establishment of procedures affecting participants' benefits in connection with the conversion to such plans and not to agree to the provisions contained in title VII of the bill as passed the House.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, I offer a motion to instruct conferees on H.R. 2830, the Pension Protection Act. The Senate appointed conferees on March 3 and the House on March 8, and yet 1 month later it appears almost no progress has been made. In fact, I actually would say that the conference seems to have gone backwards. Senator ENZI, the conference chair, promised that there would be an open and bipartisan conference; Mr. Leader BOEHNER promised the same. Instead, both meetings have been held in secret by a small group of Republican conferees.

There are a lot of important issues pending in the pension conference. Every day employers are dumping their pension plans and millions of workers are deeply worried about their retirement security and whether or not they will have sufficient funds for their retirement to support their families. One of the key issues pending in the conference is whether or not older workers will be protected when employers convert their traditional defined benefit plans to a so-called cash balance plan. It is a critical issue for millions of American workers, and it is not a new issue to this House.

During the 1990s, hundreds of large employers switched to these cash balance plans, including IBM, whose conversion was ruled illegal. As many as 8 million workers have been affected by these conversions, many of them, perhaps half of them, experienced deep cuts in their pension benefits as a result of these conversions.

Let's be clear. Companies promised these benefits to these workers. These workers earned these benefits. Then with some paperwork and a little fancy accounting footwork, companies slashed the benefits of these workers. How did the companies do it? First, the benefits of the traditional pension plan are based upon the worker's pay at the end of their careers and when they are earning the most. Cash balance plans, on the other hand, are based on worker's average pay over the course of their career.

With just a simple change on how benefits are calculated, companies can devastate the retirement nest eggs of hard-working employees, workers who gave up wages, who gave up vacation days, who gave up all kinds of benefits as they balanced out their pension plans. Yet we now see companies unilaterally essentially destroying the pension benefits that those workers are entitled to.

Older workers under these conversions can lose up to half, half of their expected retirement benefits. Don't take my word for it. That is according to the Government Accountability Office. They tell us that that is what happens to older workers. This chart shows exactly what happens. This is what would happen to the workers who went into the workforce at age 25 and worked for a company. They would see their traditional retirement benefits continue to go up. With a cash balance plan, the retirement benefits go down.

For the older workers, this is what they stand to lose. For anyone over about the age of 46, 47 years old, they have a substantial change in the pension benefit that they were counting on. Obviously, for these workers out here, at age 55, it is very difficult, if not impossible, to see how they would recover a sufficient amount of savings to provide for the retirement that they were planning on at that time.

And it gets worse if you are 60 years old. So anybody after 45 years of age is greatly disadvantaged under these plans. And that is what is going on in the pension conference committee, is whether or not we will have the opportunity to provide for those older workers.

What we now see is that IBM did this and the court stopped those conversions in 1999. The House voted overwhelmingly on several occasions in support of amendments urging the protection of older workers. The Bush administration first tried to lift the moratorium and legalize these conversions. But after 218 Members of the House or the Congress urged the President to reconsider, he withdrew that proposal. The Bush administration changed its position and has submitted proposals that do more to help the older workers.

As part of the pension funding reform legislative debate, Senators Baucus, Kennedy, Frist, Grassley, Hatch and Lott brokered a compromise. The compromise largely follows the Bush administration proposal and was passed by the Senate 97–2. This motion to instruct that I am offering today urges the conferees to support the Senate compromise on protecting older workers in the cash balance conversion.

The House-passed bill contains no protection for older workers and would actually legalize some of the worst employer practices that jeopardizes worker retirement security and their retirement nest eggs.

The AARP, the AFL–CIO, the National Committee to Preserve Social Security and Medicare, the National Legislative Retirees Network, and the Pension Rights Center all support this motion. The AARP opposes any pension funding reform bill that does not protect older workers affected by these cash balance conversions.

The House of Representatives has already voted three times to require the Treasury Department to protect older workers from age discrimination in cash balance conversions. In 2002, the amendment passed by a vote of 308–121; in 2003, it passed 258–160; and in 2004, it passed 237–162. Mr. Speaker, obviously this House has recognized the unfairness of the cash balance plans to older workers and that older workers ought to be protected.

We believe that older workers ought to be given a choice. That is what the Congress did when it changed its pension plan. That is what Secretary of Commerce Snow said that he did when he was running his company, when he sat on the board of other companies, because he said that was the fair thing to do. The Bush administration has come around to that position. The only place where we don't hold that position is under the Republican-passed bill on the pensions that is now in the conference committee.

That is why this motion to instruct is important, so that we can make sure that, at a minimum, we can exit that conference committee with the Senate-passed provisions that passed 97–2 to help protect, not perfect, but to help protect older workers who are subject to these dramatic changes by their employers, and who have very little opportunity to recover that nest egg of retirement benefits that they were counting on, that they worked hard to earn, that they negotiated with their employers and now simply, by a unilateral action, are ripped away from them.

It is not fair, it is not ethical, it is not right, and this Congress ought to

stand up and change it to protect those older workers. I urge my colleagues to support the motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, hybrid pension plans represent an important component of worker retirement security. In fact, more than 9 million workers today rely on these benefits for a safe retirement. Unfortunately, some continue to paint a misleading picture about these pension plans.

Despite these claims, hybrid plans actually provide more generous benefits for the majority of workers than do traditional plans.

□ 1745

These conclusions emerge from a growing body of independent research by economists and academics at some of the Nation's most respected institutions, including the Federal Reserve Board, the Urban Institute, the Brookings Institution, and the Wharton School of Business.

Not only are hybrid plans especially advantageous for women and lower-paid workers, but they also comprise the only part of the defined benefit system that is growing. Hybrid plans now provide the PBGC with approximately 25 percent of its premium income. And because the total number of defined benefit plans has declined significantly over the last 20 years, it is now more important than ever to encourage employers to stay in the defined benefit system and offer these benefits.

The threat of liability is creating ongoing legal uncertainty and undermining the retirement security of American workers, however. A few conversions from traditional plans to hybrid plans have raised policy questions about whether such conversions are age discriminatory. But notably, the vast majority of conversions have been handled properly within the rule of law and to benefit the workers.

In a typical hybrid plan, a participant's account is credited each year with pay and interest credits. Hybrid opponents have argued that benefits for younger workers are ultimately higher than benefits provided to older workers because younger workers accrue interest and earn benefits over a longer period of time. This is tantamount to arguing that the concept of compounding interest is age discriminatory, which would make the most basic savings account illegal. In short, the argument holds no water.

Recent court decisions made clear that no age discrimination occurs with these plans if the pay and interest credits attributed to older employee accounts are equal to or greater than those of younger workers. And the majority of courts have ruled that hybrid and other hybrid plans are not age discriminatory.

Moreover, under the Employee Retirement Income Security Act and the Internal Revenue Code, benefits earned under a traditional plan cannot be reduced when they are converted to a hybrid plan. That is right, in spite of assertions to the contrary, vested benefits earned by workers are never reduced in a hybrid conversion.

The Pension Protection Act which was approved by a bipartisan majority in the House last December helps resolve the legal uncertainty surrounding hybrid plans and ensures they remain a viable part of the defined benefit system. The measure establishes a simple age discrimination standard for all defined benefit plans that clarifies current law with respect to age discrimination requirements on a prospective basis. And it prohibits the reduction of any vested benefits workers have earned during a conversion to a hybrid plan.

Mr. Speaker, our ultimate goal is to ensure hybrid plans remain a viable option for employers who want to remain in the defined benefit system and workers who prefer the portable and secure benefit this option provides. The Pension Protection Act provides a balanced approach that protects the benefits workers have earned and provides the legal certainty needed to encourage employers to continue offering these benefits.

This Democrat motion to instruct would place harsh mandates on those who voluntarily offer these pension benefits, which is particularly harmful at a time when so many are leaving the defined benefit system altogether. I urge my colleagues to vote ''no'' on the motion to instruct and reject this attempt to obscure progress on pension reform.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 1 minute.

I want to make clear I think the gentleman misunderstands the nature of the motion. This is not about whether you have hybrid plans or cash balance plans. We made that very clear. We simply want those plans to protect the older workers that stand to lose a great deal of benefits.

For younger workers there is some suggestion these plans may be better. It is interesting that 40 percent of the workers in these plans never get to a benefit even under this. But at a minimum, it ought to be clear that older workers are not going to suffer irreparable economic harm in terms of their retirement.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank my friend and ranking member for yielding.

I appreciate the comment he just made, but the debate here really is not about whether the law should authorize hybrid plans or cash balance plans. The issue is how should the law authorize those plans and what kinds of protections should be included for pensioners and workers.

I think Mr. MILLER's approach in this motion to instruct takes us down the right road, and I would urge my colleagues to vote ''yes'' and support it.

There are three issues that we have to resolve here. The first is what steps should be taken to prevent the wearing away of benefits for workers that have started in a pension plan and then find themselves in a different position because of a hybrid plan being adopted.

Mr. MILLER's approach I think uses the most conservative assumptions and therefore the fairest assumptions for those workers to make sure that they will not lose benefits.

The second question that has to be addressed is what are the conditions under which a conversion will be treated as legal. In other words, if an employer has a traditional pension plan today and he or she wants to switch that plan to a hybrid plan, what are the ground rules for a fair conversion. I think Mr. MILLER's approach is the fair and just one in that regard as well.

The third question which is raised in neither bill, but which I hope the conference could at least touch on, is what about conversions that have already taken place, and what should the ground rules be for those with respect to any lingering issues that may have happened with respect to them.

Chairman MCKEON I think is right, there does need to be a recognition of the proper place of hybrid plans in the defined benefit world. I think the House and Senate agree that is the case.

The issue, though, as Mr. MILLER raises, is what are the proper rules to ensure fairness in those hybrid plans. I think Mr. MILLER takes the proper approach, and so I urge a ''yes'' vote on this motion to instruct.

Mr. MCKEON. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. KLINE), a member of the committee.

Mr. KLINE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, in all of the days and weeks and months that we in the committee were debating the state of pensions, defined benefit pensions, it was clear to all of us that we are losing more and more of those plans. More and more employers are going out of business, going into bankruptcy, terminating their plans or simply not starting them.

As has been pointed out, we passed in the House, and I think the gentleman from California called it a Republican, but I think it was a bipartisan bill with 70 Democrats joining us in that vote, including provisions for these hybrid and cash balance plans.

My fear is that as we put more and more mandates on employers, we will lose more and more plans. Without some legal certainty from Congress, employers will stop offering these benefits, and cash balance plans will simply fall by the wayside like so many other pension options.

This Democrat motion and the Senate bill mandate particular pension

benefits which could have a devastating effect of accelerating the demise of the defined benefit pension system, and I do not think any of us want that.

Consider that in 1986 there were 172,642, that is, 172,642 defined pension plans, and that number dropped to 29,000 in recent years. That is the wrong direction.

Greater mandates on employers will only increase this trend. Mandates would create enormous problems for employers. For example, a mandate would determine pension designs instead of allowing employers to decide what is proper for individual businesses, and that would result in more plan freezes and terminations if employers are denied the flexibility to adapt their plans to business circumstances and employee needs.

Again, we are faced with the specter of more and more plans going away. Employers should be encouraged to offer pension plans, and the government should not mandate the vehicle by which to offer such benefits to their employees. Mandating a particular type of conversion would be harmful to workers. More workers receive higher benefits from their cash balance plan than benefits earned under the traditional defined benefit plan.

In any case, we want a solid pension plan and more businesses for more workers, and my concern is that this motion to instruct in the Senate provision would work the other way. Let's not drive out more pension plans. I urge my colleagues to reject this motion to instruct.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 30 seconds.

I would just say that this is about whether or not we continue in the direction that the Republican pension bill takes us where the Pension Benefit Guaranty Corporation said the bill made the system less secure, where the Congressional Budget Office said it made the system less secure, and now what we do not have are the protections on cash balance plans which make it less secure.

If we keep going in that direction, if we keep following the Republicans, America's retirement benefits will be less and less secure. Their retirement will be in greater and greater jeopardy. We can change the direction. We can go in another direction. The Senate voted 97–2 to provide these kinds of protections. This is not some crazy partisan idea. This was a big bipartisan bill with Senator LOTT and others on this bill, and it is about protecting people's pensions.

Mr. Speaker, I yield 4 minutes to the gentleman from Vermont (Mr. SANDERS) who has been working this issue longer than anyone else in the House.

Mr. SANDERS. Mr. Speaker, the middle class of this country is being assaulted in so many ways. Millions of Americans are working longer hours for low wages. In the last 5 years, 6 million Americans have lost their health care. We have lost 2.8 million good-paying manufacturing jobs. New jobs being created are low wage and low benefits.

But of all of the attacks taking place on the middle class, I think the most unspeakable is the assault by corporate America against the pensions that were promised to American workers. Just think about it. There are millions of people today who have worked for a company for 20 or 30 years, and one of the reasons they worked for that company is that they were promised that when they retire, they are going to have a certain pension. And then suddenly out of nowhere a company says thank you for working for us for 30 years, thank you for not going to another company when you had a better opportunity, but we have changed our mind and we are going to cut your pension by 20, 30, 50 percent. It is too bad you are 60 years of age and you have no place else to go, that is the reality. That is unspeakable, it is unacceptable. When those workers have no place else to turn to, it is the job of the United States Congress to stand up for them.

Mr. Speaker, I rise today in strong support of the Miller motion to instruct, and I commend the gentleman from California for his leadership on this issue.

Mr. Speaker, pension anxiety is sweeping this country. Millions of Americans are worried that the pensions they have today will not be there for them when they retire, and with good reason.

Over the past two decades, large corporations have been breaking the retirement promises they made to their employees, and that is wrong. Some companies are declaring bankruptcy for the sole purpose of breaking those retirement commitments. Other companies are freezing pension plans in order to slash retirement benefits of older workers.

Congress must tell corporate America in no uncertain terms that when they make a promise to workers about their pensions, they must keep that promise. That is what Mr. MILLER's motion is all about.

Mr. Speaker, last December the House passed a so-called pension reform bill that was hundreds of pages long. Included in that bill was an obscure provision to legalize age discrimination in cash balance plans prospectively. No floor amendments were allowed to strike this provision or offer any alternatives to it. Members were forced to vote up or down on the entire bill, but the Senate did the right thing. In their bill they provided important protections for older workers who would be negatively impacted by cash balance schemes. The Senate language is supported by the AARP, the AFL–CIO, the National Committee to Preserve Social Security and Medicare, the National Legislative Retirees Network, and the Pension Rights Center.

Today, unlike last December, we have an opportunity to do the right thing for American workers. We can and should instruct the conference committee to adopt the Senate language on cash balance plans.

Mr. Speaker, there are some who support cash balance schemes. They argue that these plans benefit employees. Well, interestingly, a couple of years ago I asked the Congressional Research Service a simple question: What would happen if Members of Congress had their pensions converted to cash balances?

If it is a good idea for millions of American workers, it must be a good idea for us, right? We want to lead. Well, guess what, very few Members of Congress thought it was a good idea for this institution. So if it is not good for the Members of Congress, I think it is not good for the American working people, and I urge strong support for the Miller amendment.

□ 1800

Mr. GEORGE MILLER of California. I yield 3 minutes to the gentleman from Ohio (Mr. KUCINICH), a member of the committee.

Mr. KUCINICH. Mr. Speaker, I strongly support the Miller motion to instruct conferees. This motion to instruct supports the bipartisan Senate compromise language that will protect older workers.

Now, H.R. 2830 does a great disservice to older workers by denying the reality that conversions from traditional defined benefit plans to cash balance plans harm older workers. A report released in early November by the GAO found that a majority of older workers experienced deep cuts in their pension when converted from a traditional plan to a cash balance plan without transition protections. This is not only unfair, it is wrong. Providing transition protections for older workers should not be a choice for employers. It should be a requirement. Any change in plans must protect the accrued benefits of employees, and the conference report should reflect that reality.

It is a myth to believe that cash balance plans are innocuous. For older workers especially, these plans are hazardous. A pension plan is worth nothing if it does not provide security for employees, and these plans translate into increased vulnerability for workers as they retire.

Hard working employees should not be rewarded for their service with a denial of pension benefits. I urge my colleagues to help ensure that workers' pensions are protected by supporting the Miller motion to instruct conferees. Let's stand up for people who work a lifetime and were told at the beginning of their work experience the money was going to be there to enjoy their golden years. Support the Miller amendment and put some teeth behind that guarantee.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I serve on the Ways and Means Committee, and I rise in support of Mr. MILLER's motion to instruct conferees.

Eliminating wear-away, or the fact that dollars for older workers under a cash balance plan tend to wear away in value, is very important. We need to ensure that when an employer converts from a traditional defined benefit plan to a cash balance plan, workers receive their full benefits. But we also need to ensure that we draft rules that protect older workers, because they could be vulnerable during such conversions.

But more importantly, I want to talk about the issue of retroactivity. Addressing retroactivity is important to the retirement security of many American workers in my congressional district.

Employers that sponsor cash balance plans and other hybrid plans have been hanging in limbo for almost 7 years.

The Internal Revenue Service has felt it necessary to temporarily stop issuing determination letters for converted hybrid plans, and litigation throughout our court system has left the legality of all cash balance plans up in the air.

In my congressional district, I have four major employers that offer pension benefits to their employees through either a cash balance or other hybrid pension plan. Some of these plans were acquired through mergers/acquisitions while some were adopted through conversions.

The employers treated their employees fairly, giving them the choice whether or not to convert the plans, and ensuring that worker benefits were not diluted, and these four employers are not alone. There are a lot of good actors across the country.

According to a recent AARP-funded study, 23 of the largest 25 cash balance plans, or 92 percent, provided transition protections for their older employees when converting from traditional defined benefit plans to cash balance plans.

Nonetheless, the four employers in my district, as well as 1,100 others across the country, are caught in a web of legal uncertainty. We are in an era where companies are eliminating their pension plans, including hybrid plans; not fixing this problem will only perpetuate that trend.

A recent survey of planned sponsors by Watson Wyatt showed that more than 25 percent of our employers who offer a hybrid pension plan either froze their plan or were actively considering terminating or freezing their plan.

A cash balance is a defined benefit plan, and it is the future of our defined benefit system. It allows people to move from one employer to the other employer. But we need to give them protections in that process.

If Congress does not resolve the legal uncertainty that cash balance plans currently face, employers will continue to terminate their pensions. That would not be beneficial to the retirement security of hard working Americans.

The conferees need to address retroactivity and establish benefit accrual standards and establish benefit accrual standards as it relates to age discrimination and that encourage employers to retain their cash balance plans and not dump them.

For Congress to not resolve this issue would be unwise public policy and would put the retirement security of thousands of workers at risk. This is our chance to fix the problem. We must seize it. On behalf of the workers and companies, let's clear up this confusion and put workers back in the right place.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, there are a lot of issues we talk about here on the House floor where Members don't know much about the issue they are talking about. This may be one for me. But I did serve on the Pension Commission of the State of Minnesota and I know something about defined benefit plans. I know something about defined contribution plans, and I understand how pension plans in general work, and so I rise in support of the Miller motion.

The reason this issue is here, and my colleague from Ohio just described it very well, the reason we are here is that we are now in the process where many employers are converting their pension plans from old defined benefit plans to this new hybrid plan called a cash balance plan. And I am not opposed to that basic notion.

But what happens, Members, and you need to understand, is many older workers show up for work one day and their pension plan has changed.

Now, the employers say, well, that is our pension plan and it is our money. Well, that is not exactly true. That money is being held in trust, and this has been a very craftily done procedure to allow many employers or some employers to take money from the pension plans and convert it to their bottom line, and that is wrong. This is not their money. That is the first point everybody needs to understand.

The second thing people need to understand is the Senate did a better job of writing their bill. This is all here because of a few bad actors, and the Senate said we are not going to protect those bad actors, and so the Senate did a better job. We wouldn't even be talking about this if we had all agreed on some language that would have protected those older workers.

Members, this is the right thing to do, and I want to say to my Republican colleagues, what we are talking about here is language that was inserted by the Senator from Iowa, who is a Republican. Okay? This is not a Republican issue. It is not a Democrat issue. It is not right versus left. It is right versus wrong. It is wrong to allow a certain number of employers to get their hands into the pension funds and to change these pension plans without talking to their workers. It happened at IBM and they were taken to court and Federal court ruled that this is age discrimination. And do you know what? I agree with that Federal court.

So Members, please support the Miller motion to instruct. All we are saying is we want the Grassley language in the final product when it comes back from conference. If we do that, we will have served the best interest of working Americans, and I think we will have served those employers who are doing the right thing, and we will send a clear message to those employers who either have done the wrong thing or want to do the wrong thing, that we are not going to put up with that.

This is a good motion. It is not a Republican motion. It is not a Democrat motion. We are simply saying, let's keep the Grassley language in the final product.

I rise in support of this motion to instruct conferees. The motion instructs the conferees to adopt the Senate provisions on cash balance plans in S. 1783 written by Senator GRASSLEY and his Committee and passed by the Senate by a vote of 97–2.

These are common sense reforms supported by the vast majority of the Senate and AARP.

I supported H.R. 2830, the Pension Protection Act of 2005, when it passed the House. At the time, I noted it contained a weakness that I wanted to see addressed in conference committee. The weakness of the House bill is that it does not have strong rules regulating the conversion of defined benefit pension plans into cash balance plans. On the other hand, under the Senate bill, employees would be given added protections so that older employees are not put at a disadvantage when conversions take place.

Millions of Americans are currently vested in defined benefit pension plans. Even though they may be working for a very profitable company, they could show up for work one day and learn that their promised benefits have been dramatically reduced with the sweep of a pen. This is what happened to thousands of employees in my district.

Millions of Americans will be affected by this legislation. It is important we get it right. I ask my colleagues to support the Miller motion to instruct.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY), a member of the committee.

Mr. TIERNEY. Mr. Speaker, I would like to add my words in agreement with the gentleman from Minnesota, that this is not a partisan motion in any sense of the word. This is something that Members of Congress, I think, can get behind and clearly feel comfortable that they are just serving the interests of their constituencies.

This particular motion does take the language from Senator GRASSLEY, on the other side of the House, that puts it into the bill that it would prohibit the wearing away, the practice by which

some employers have discriminated against older workers when they offset the benefits that were already earned against their ability to earn new benefits under these new cash benefit plans. They can result in no new benefits being added, actually, for workers' pensions for up to 10 years.

And they provide for a fair transition for rules to protect workers' pensions when they do convert the traditional pensions to those so called cash balance pension plans.

We critically need this. You only need to talk to the people in your districts, my colleagues, and you will find a growing sense of insecurity in this country as corporations back off their responsibilities for health insurance, back off their responsibilities for retirement plans, and now come up with a cash balance plan which is supposed to be a plan melding two different types of retirement programs and ends up hurting some.

One of my constituents talked about having worked for AT&T for 30 years. After 30 years of loyal work, the conversion of her pension to a cash balance plan reduced her benefits by 46 percent. It is not fair. It is not right, and it shouldn't be acceptable to Members of this Congress.

The Government Accountability Office released a major report on cash balance plans last November. They found that workers of all ages experience significant cuts to their retirement benefits when their employers switch from the traditional pension plan to the so-called cash balance plans without first protecting employees rights.

Over 85 percent of 30-year-olds, 90 percent of 40-year-olds and half of the 50-year-olds experience deep cuts in their retirement benefits if they are shifted from a traditional pension plan into a cash balance plan without protections for retirement benefits.

The GAO study did not find a single case, not a single case in which the cash balance plan provided the same level of retirement benefits that a typical defined benefit plan provided.

Without transition protection, almost all workers, including younger workers, will lose up to 50 percent of their expected pension benefits. And, Mr. Speaker, we can't allow that to happen.

I ask my colleagues to join with Mr. MILLER in this attempt to make sure that we do protect this group of pensioners.

Mr. MCKEON. Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota (Mr. POMEROY), my friend from the other side of the aisle.

Mr. POMEROY. Mr. Speaker, I am going to oppose this motion to instruct. I certainly think there is a good intention behind it. Clearly, all of us have been concerned when we have had some of these conversions from a traditional pension plan to a hybrid plan, and older workers have suddenly found that they have been terribly disadvantaged in the conversion, seen their pension benefits and expected pension benefits reduced significantly.

But here is why I don't like this motion. It fails to really address this issue in the context of what is in the marketplace. You have got defined benefit pensions that pay an annuity for as long as the employer lives. I think we should work together to make sure defined benefit pensions continue in the marketplace to the extent possible.

To the extent we don't have a defined benefit pension, alternative employee benefits relative to retirement include a 401(k) plan, which is essentially a savings account, and then there is something in between, a hybrid plan that does capture the annuitized feature of the pension, calculated in a different way than the traditional pension calculation.

Now, it is important that we have best practices and fair treatment in the conversion of a pension to a hybrid plan. But guess what? If we overly regulate the conversion from the pension to the hybrid plan, the employer will simply say, okay, we will go from the pension to the defined contribution plan. We are not going to make this intervening stop in the hybrid option, the cash balance option. We are just going to either scrap the benefit altogether or go right to the defined contribution plan.

I am convinced that that is not in the interest of workers, and that is why I am convinced that the Senate approach, which is advanced by this motion to recommit, actually does not help the very workers that we care about and we intend to help.

There is no question about the sincerity of the language by the proponents of this motion. They care about protecting older workers. It is just that, technically, what they have put before this body in a motion to recommit does not do that. I believe it actually may disadvantage the very people they hope to help by instead of moving to cash balance hybrid plans that at least preserve some features of the pension, they will just scrap that option altogether. I don't see anybody winning under that proposal. I urge a ''no'' vote.

□ 1815

Mr. MCKEON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY), member of the Ways and Means Committee.

Mr. FOLEY. Mr. Speaker, let me start by suggesting that I know all of us in this room are concerned about the viability of pensions. We want people who have worked their entire life to get the benefit of those investments. What we are also, though, trying to do is ensure that employers, corporations find a way in which to bring about the new realities of the marketplace, providing options.

For years people who worked in America relied on the standard fixed pension provided by, say, General Motors or another corporation. Over the years evolved opportunities to create hybrid plans, plans personally that I enjoy, an IRA account, a 401(k) offered through Congress, Thrift Savings, Keogh plans, and you can go on with all of the acronyms, Roth IRA, all designed to give people options in a marketplace, to give them some degree of certainty and some opportunity to provide these benefits.

Nine million workers today rely on the benefits for safe and secure retirement, which is an important number to note. What we are trying to figure out is how to create plans, cash balance plans, that provide both the liquidity and the opportunity to continue.

Adelphia is claiming bankruptcy. GM is on the verge. Large corporations are all suggesting that they are going to file based on their pension benefit problems that they are experiencing. We have seen it in the airline industry. So I think it is more important now than ever that we come up with an opportunity to both solidify and provide options. Distorting the facts will not help. Painting a misleading, inaccurate picture will not help. Suggesting somehow that we are chasing people out of defined pensions and creating this uncertainty I do not think is a true portrayal of the actions today.

The conclusions emerging from a growing body of independent research by economists and academics at some of the Nation's most respected institutions, and I quote this from Mr. MCKEON's opening statement because I think it is important to underscore, including the Federal Reserve Board, the Urban Institute, the Brookings Institute, and the Wharton School, not only are hybrid plans especially advantageous for women and lower-paid workers, but they also comprise the only part of the defined benefit system that is growing. Hybrid plans now provide the Pension Benefit Guaranty Corporation with approximately 25 percent of its premium income. And I need only remind our Members of Congress PBGC is sliding on thin ice. So if they are actually getting derived revenue from this opportunity, we should not only be encouraging it. We should hopefully be expanding it.

As we know, those that are paying into the system like airlines and others no longer can make contributions because they have specifically filed for bankruptcy to take away those obligations and foist that obligation back on PBGC, which is why I believe we are all working on a solution. We are trying to find answers. And the total number of defined benefit plans has decreased significantly over the last 20 years, so that tells you people are moving away from defined benefits, looking for options. If we foreclose this option, make it more difficult for this option and disparage this option and give people an uncertainty, then fewer and fewer people will have any type of benefit to look forward to after years of work.

The threat of liability is creating ongoing legal uncertainty and undermining the retirement security of American workers. So I think and suggest that the conversions are appropriate, that this bill is appropriate, and I urge my colleagues to focus on the facts. And I think they will agree, as they see the success of hybrid pension plans, that these are, in fact, working for America, for both middle income, middle management, and upper management to find ways to create a secure and safe retirement for people who are investing in those companies, their workplaces, so that they can then take care of their golden years with some comfort.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from California for his leadership.

I do not know why we have this controversy. I do not see anything controversial about protecting, if you will, the rights of older workers. And I might remind my colleagues that the House of Representatives has already voted three times to require the Treasury Department to protect older workers from age discrimination and cash balance conversions.

This motion to instruct is simple. It provides protection for older workers under cash balance conversion; but more importantly, it is part of a negotiated Senate bill that has a bipartisan approach.

Mr. Speaker, I come from the city of fallen pensions, and that is, of course, the city of Houston. I am reminded of the tears and the disaster that occurred after the Enron collapse that showed that the lack of security for pensions in general and certainly those of older workers can be the actual collapse of a family.

This motion to instruct provides for prohibiting discrimination against older workers by the practice of offsetting previously earned pension benefits. I would only say we have voted for this before. Uncloud the issue and vote the right way, for the Miller motion to instruct to protect older workers' pensions.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for the benefit of all those who are watching this debate, let me just kind of let everybody know where we are. The Senate passed a bill, a bipartisan bill. The House passed a bipartisan bill with a vote of 294–132, some of the Democrats voting for the bill. During the debate you have seen, we have had Republicans speak for the Democrat side. We have had Democrats speak for the Republican side.

We are all concerned, as Mr. FOLEY said, about the workers of America. Where we are now is we have each passed bills. A conference has been appointed. Senator ENZI is chairman of the conference. We have had a couple of meetings of the whole conference, and he is continuing to work with all members of the conference, or most of the members of the conference, to see that we get a bill out that will benefit the workers of America.

As was already mentioned, in 1986 there were 172,642 defined benefit plans. We are now down to 29,000. That is not a good direction. And the problem is we have not had meaningful pension reform in over 20 years. We are close now. This is a motion to instruct the conferees, to tell them how to function in this conference that has been set up. These motions are not binding, but they do give direction to conferees, and I think it is important that we do this. It is a good process for all of us to get to talk through this system. But the defined pension system is a voluntary system, and those offering these benefits have been leaving the system at an accelerating and alarming rate, and we are concerned about that. If we continue to burden those providing pension benefits with more and more mandates, that pace will increase even more.

And who loses? The men and women depending on these pensions for their retirement security. Simply put, shortsighted and politically motivated mandates intended to help pension plan participants only end up hurting them. And that is just what this motion to instruct would do.

For the sake of both employers and employees alike, we need to provide legal certainty for hybrid plans. The Pension Protection Act will provide that. This motion to instruct will not.

I urge my colleagues to reject it and protect the portable and secure benefits provided by hybrid plans to nearly 10 million Americans.

Mr. Speaker, I yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

It is very simple. There are millions of Americans that are caught in this trap, the gap between what they would have gotten and what they will get under a pension conversion. You know what is in this gap? The dreams, the aspirations of hardworking Americans about their retirement, their plans for their grandchildren, their plans for themselves, their health security. That is what they were planning on paying for out of this gap. That is what they lose in a conversion.

All we are saying in this effort is to simply provide these people the additional protections that the Senate provided by 97–2. Now, we know this is a very partisan Congress, but 97 people came together and decided to try to help these individuals. They still allow for the conversions to cash balance. They provide the certainty that the employers want, and they provide the protection that the employees need.

Now, this House can continue to follow the Republican bill, the Republican direction on pensions that has made the pension plan less secure, made the pension plan more in jeopardy, whether it is the taxpayers who are at risk or the employees who are at risk. That is the wrong direction. Finally, on a bipartisan basis, a choice was made to go in a different direction, to stop this failed policy.

Pick up your USA Today. Read your USA Today today, and you will see that they make it clear that the bill that is currently in conference, the House bill, puts pensions in greater jeopardy with greater risk, that it will raise the risk that these people will lose their pensions. Why? Because the Republicans continue to let you manipulate the pension data. You can say that your employees are going to die younger so you will not have to pay out as much money. Whether they will or not has no bearing in fact.

So what are we doing here? We are trying to go in a different direction. We are trying to go in the direction of pension security, of retirement security, of peace of mind for people who are working hard, understanding that these employees earn these pensions and they should not lose them because some accountant can just come along and change it with the whisk of a pencil. It is not fair to those individuals. That is about the values of those people who are working hard. It is about young people knowing that their parents will be taken care of, that they will be able to have that retirement security.

Millions of Americans are watching as pension plans are crashing to the floor, as conversions are made and older workers are jettisoned in terms of these protections.

But you can change that with this motion to instruct. You can change it along the lines of a bipartisan consensus in the Senate which said you can both protect these workers, have the certainty of your conversions, and allow employers to choose to have conversions or defined benefit plans. It is the best of all worlds. It is the fairness.

The other reason Republicans can vote for it tonight is because I understand the Republican leadership said go ahead and vote your conscience. Well, tonight we will find out about the Republican conscience. Do they really want to take care of older Americans who are terrified about their retirement security? We will find out tonight, won't we? Because you do not have to jeopardize cash balance. You do not have to jeopardize the certainty of discrimination. But you do get to take care of the retirees, and you can do it all in one vote: a motion to instruct here.

So I suggest you come on down and let us change the direction of retirement security from insecurity that is now being presented by this conference committee, by the Republican bill, to one of security for America's workers, for America's retirees, to make sure that they will have the ability to take care of themselves and their families in

the future. It is fundamental. It is basic. It is about fairness. It is about the direction of this country. We have got to change it.

The SPEAKER pro tempore (Mr. KUHL of New York). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. GEORGE MILLER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GEORGE MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to instruct conferees on H.R. 2830 will be followed by 5-minute votes on the motion to instruct conferees on H.R. 4297 and on five motions to suspend the rules previously postponed.

The vote was taken by electronic device, and there were—yeas 248, nays 178, not voting 6, as follows:

[Roll No. 93]

YEAS—248

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Burgess
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Forbes
Ford
Fortenberry
Frank (MA)
Frelinghuysen
Garrett (NJ)
Gerlach
Gilchrest
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kucinich
LaHood
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Platts
Price (NC)
Pryce (OH)
Rahall
Rangel
Regula
Reyes
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Sherwood
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wamp
Wasserman Schultz
Waters
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wolf
Woolsey
Wu
Wynn

NAYS—178

Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burton (IN)
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
English (PA)
Everett
Feeney
Flake
Foley
Fossella
Foxx
Franks (AZ)
Gallegly
Gibbons
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Green (WI)
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Keller
Kennedy (MN)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Putnam
Radanovich
Ramstad
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Schmidt
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Weldon (FL)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

NOT VOTING—6

Buyer
Evans
Langevin
Schwarz (MI)
Tanner
Watson

□ 1856

Messrs. BARRETT of South Carolina, PICKERING, NEUGEBAUER, RADANOVICH, BOOZMAN, MARCHANT, REHBERG, POMEROY and FOSSELLA changed their vote from ''yea'' to ''nay.''

Messrs. GARRETT of New Jersey, WAMP, BACA, RUSH, NEY, WHITFIELD, JOHNSON of Illinois, BASS, RYAN of Ohio, DAVIS of Kentucky, HALL and FORBES, Ms. BEAN and Mrs. JO ANN DAVIS of Virginia changed their vote from ''nay'' to ''yea.''

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. SCHWARZ of Michigan. Mr. Speaker on rollcall No. 93 I was unavoidably detained. Had I been present, I would have voted ''yea.''

MOTION TO INSTRUCT CONFEREES ON H.R. 4297, TAX RELIEF EXTENSION RECONCILIATION ACT OF 2005

The SPEAKER pro tempore (Mr. REHBERG). The pending business is the vote on the motion to instruct on H.R. 4297 offered by the gentleman from Maryland (Mr. CARDIN) on which the yeas and nays are ordered.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 196, nays 232, not voting 4, as follows:

[Roll No. 94]

YEAS—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon