

Mr. THOMAS. I appreciate that.

**MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003**

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 1.

The Clerk will designate the motion. The Clerk designated the motion.

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

The vote was taken by electronic device, and there were—yeas 161, nays 234, not voting 39, as follows:

[Roll No. 534]

YEAS—161

Aderholt	Gallegly	Paul
Akin	Garrett (NJ)	Pearce
Baker	Gibbons	Pence
Ballenger	Gingrey	Peterson (PA)
Barrett (SC)	Goode	Petri
Bartlett (MD)	Goodlatte	Pickering
Barton (TX)	Goss	Pitts
Beauprez	Granger	Platts
Bereuter	Green (WI)	Pombo
Bilirakis	Greenwood	Porter
Bishop (UT)	Gutknecht	Portman
Blackburn	Harris	Pryce (OH)
Blumenauer	Hart	Ramstad
Blunt	Hastings (WA)	Rehberg
Boehner	Hayes	Renzi
Bonilla	Hefley	Rogers (KY)
Bonner	Hensarling	Rogers (MI)
Boozman	Herger	Rohrabacher
Boucher	Hostettler	Ros-Lehtinen
Brown (SC)	Hulshof	Royce
Burgess	Hyde	Ryan (WI)
Burns	Isakson	Saxton
Burton (IN)	Jenkins	Schrock
Buyer	Johnson (CT)	Sensenbrenner
Camp	Johnson, Sam	Sessions
Cannon	Jones (NC)	Shadegg
Cantor	Keller	Shays
Carter	Kelly	Sherwood
Case	Kennedy (MN)	Shuster
Chabot	King (IA)	Simmons
Chocola	Kingston	Simpson
Coble	Kline	Smith (MI)
Collins	Knollenberg	Smith (NJ)
Cox	Kolbe	Souder
Crane	Latham	Stearns
Crenshaw	Lewis (KY)	Stenholm
Cubin	Linder	Sweeney
Cunningham	LoBiondo	Tancredo
Deal (GA)	McCrery	Tauzin
DeMint	McKeon	Taylor (NC)
Diaz-Balart, M.	Mica	Terry
Dicks	Miller (FL)	Thomas
Doolittle	Miller, Gary	Thompson (CA)
Dreier	Murphy	Tiahrt
Duncan	Musgrave	Vitter
Dunn	Myrick	Walsh
Ehlers	Nethercutt	Wamp
English	Neugebauer	Weldon (FL)
Everett	Ney	Weller
Feeney	Norwood	Whitfield
Ferguson	Nunes	Wicker
Flake	Nussle	Wilson (NM)
Franks (AZ)	Osborne	Wilson (SC)
Frelinghuysen	Otter	

NAYS—234

Abercrombie	Bishop (GA)	Cardin
Ackerman	Bishop (NY)	Cardoza
Alexander	Boehlert	Carson (IN)
Allen	Boswell	Carson (OK)
Andrews	Boyd	Clay
Baca	Bradley (NH)	Clyburn
Bachus	Brady (PA)	Cole
Baird	Brown (OH)	Conyers
Baldwin	Brown, Corrine	Cooper
Ballance	Brown-Waite,	Costello
Becerra	Ginny	Cramer
Bell	Burr	Crowley
Berman	Capito	Culberson
Berry	Capps	Cummings
Biggert	Capuano	Davis (AL)

Davis (CA)	Kilpatrick	Pelosi
Davis (IL)	King (NY)	Peterson (MN)
Davis (TN)	Kirk	Pomeroy
Davis, Jo Ann	Kleccka	Price (NC)
Davis, Tom	Kucinich	Quinn
DeGette	LaHood	Rahall
DeLahunt	Lampson	Rangel
DeLauro	Langevin	Regula
Deutsch	Lantos	Reyes
Dingell	Larsen (WA)	Rodriguez
Doggett	Larson (CT)	Rogers (AL)
Dooley (CA)	LaTourette	Ross
Doyle	Leach	Rothman
Edwards	Lee	Roybal-Allard
Emanuel	Levin	Ruppersberger
Emerson	Lewis (CA)	Rush
Engel	Lewis (GA)	Ryan (OH)
Etheridge	Lipinski	Sabo
Evans	Lowe	Sanchez, Linda
Farr	Lucas (KY)	T.
Fattah	Lucas (OK)	Sanchez, Loretta
Filner	Lynch	Sanders
Forbes	Majette	Sandlin
Ford	Maloney	Schakowsky
Fossella	Manzullo	Schiff
Frank (MA)	Markey	Scott (GA)
Frost	Marshall	Scott (VA)
Gerlach	Matheson	Serrano
Gillmor	McCarthy (MO)	Sherman
Gonzalez	McCarthy (NY)	Skelton
Gordon	McCollum	Slaughter
Graves	McCotter	Smith (TX)
Green (TX)	McDermott	Smith (WA)
Grijalva	McGovern	Snyder
Gutierrez	McHugh	Spratt
Hall	McInnis	Stark
Hastings (FL)	McIntyre	Strickland
Hill	McNulty	Stupak
Hinche	Meehan	Sullivan
Hinojosa	Meek (FL)	Tanner
Hobson	Menendez	Tauscher
Hoeffel	Michaud	Thompson (MS)
Hoekstra	Miller (MI)	Thornberry
Holden	Miller (NC)	Tiberi
Holt	Miller, George	Tierney
Honda	Mollohan	Towns
Hoolley (OR)	Moore	Turner (OH)
Hoyer	Moran (KS)	Turner (TX)
Hunter	Moran (VA)	Udall (CO)
Inslie	Murtha	Udall (NM)
Israel	Nadler	Van Hollen
Istook	Neal (MA)	Velazquez
Jackson (IL)	Northup	Visclosky
Jackson-Lee	Oberstar	Waters
(TX)	Obey	Watt
Janklow	Olver	Waxman
Jefferson	Ortiz	Weiner
John	Ose	Weldon (PA)
Johnson (IL)	Owens	Wexler
Johnson, E. B.	Oxley	Wolf
Kanjorski	Pallone	Wu
Kaptur	Pascrell	Wynn
Kennedy (RI)	Pastor	Young (AK)
Kildee	Payne	Young (FL)

NOT VOTING—39

Bass	Gilchrest	Radanovich
Berkley	Harman	Reynolds
Bono	Hayworth	Ryun (KS)
Brady (TX)	Houghton	Shaw
Calvert	Issa	Shimkus
Castle	Jones (OH)	Solis
Davis (FL)	Kind	Taylor (MS)
DeFazio	Lofgren	Toomey
DeLay	Matsui	Upton
Diaz-Balart, L.	Meeks (NY)	Walden (OR)
Eshoo	Millender-	Watson
Fletcher	McDonald	Woolsey
Foley	Napolitano	
Gepardt	Putnam	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1921

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 534 on the Flake Motion to instruct con-

ferees on H.R. 1, I was unavoidably detained. Had I been present, I would have voted "no."

**MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 1474, CHECK CLEARING FOR THE 21ST CENTURY ACT**

Mr. OXLEY. Madam Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany the bill (H.R. 1474) to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes; and that all points of order against the conference report and against its consideration be waived.

The SPEAKER pro tempore. Is there objection to the gentleman from Ohio? There was no objection.

**AUTHORIZING SPEAKER TO POSTPONE FURTHER PROCEEDINGS ON ANY QUESTION POSTPONED UNDER CLAUSE 8(a)(2) OF RULE XX CONSIDERED ON WEDNESDAY, OCTOBER 8, 2003, UNTIL WEDNESDAY, OCTOBER 15, 2003**

Mr. OXLEY. Madam Speaker, I ask unanimous consent that the Speaker be authorized to postpone further proceedings on any question postponed under clause 8(a)(2) of rule XX considered on Wednesday, October 8, 2003, until Wednesday, October 15, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

**MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.R. 3108, PENSION FUNDING EQUITY ACT OF 2003**

Mr. BOEHNER. Madam Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider in the House the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; the bill shall be considered as read for amendment; the amendment in the nature of a substitute that I have placed at the desk shall be considered as adopted; all points of order against the bill, as amended, are waived; the previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: one, 1 hour of debate on the bill, as amended, equally divided and controlled among the chairman and ranking minority member of the Committee

on Education and the Workforce and the chairman and ranking minority member of the Committee on Ways and Means; and, two, one motion to recommend with or without instructions; and that the amendment that I have placed at the desk shall be considered as read for purposes of this unanimous consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pension Funding Equity Act of 2003".

**SEC. 2. FINDINGS; SENSE OF CONGRESS.**

(a) FINDINGS.—The Congress finds the following:

(1) The defined benefit pension system has recently experienced severe difficulties due to an unprecedented economic climate of low interest rates, market losses, and an increased number of retirees.

(2) The discontinuation of the issuance of 30-year Treasury securities has made the interest rate on such securities an inappropriate and inaccurate benchmark for measuring pension liabilities.

(3) Using the current 30-year Treasury bond interest rate has artificially inflated pension liabilities and therefore adversely affected both employers offering defined benefit pension plans and working families who rely on the safe and secure benefits that these plans provide.

(4) There is consensus among pension experts that an interest rate based on long-term, conservative corporate bonds would provide a more accurate benchmark for measuring pension plan liabilities.

(5) A temporary replacement for the 30-year Treasury bond interest rate should be enacted while the Congress evaluates permanent and comprehensive funding reforms.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Congress must ensure the financial health of the defined benefit pension system by working to promptly implement—

(1) a permanent replacement for the pension discount rate used for defined benefit pension plan calculations, and

(2) comprehensive funding reforms aimed at achieving accurate and sound pension funding to enhance retirement security for workers who rely on defined pension plan benefits, to reduce the volatility of contributions, to provide plan sponsors with predictability for plan contributions, and to ensure adequate disclosures for plan participants in the case of underfunded pension plans.

**SEC. 3. TEMPORARY REPLACEMENT OF 30-YEAR TREASURY RATE.**

(a) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) DETERMINATION OF PERMISSIBLE RANGE.—

(A) IN GENERAL.—Clause (ii) of section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 is amended by redesignating subclause (II) as subclause (III) and by inserting after subclause (I) the following new subclause:

"(II) SPECIAL RULE FOR YEARS 2004 AND 2005.—In the case of plan years beginning after December 31, 2003, and before January 1, 2006, the term 'permissible range' means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the rates of interest on amounts

conservatively invested in long-term corporate bonds during the 4-year period ending on the last day before the beginning of the plan year. Such rates shall be determined by the Secretary on the basis of one or more indices selected periodically by the Secretary, and the Secretary shall make the permissible range publicly available."

(B) SECRETARIAL AUTHORITY.—Subclause (III) of section 302(b)(5)(B)(ii) of such Act, as redesignated by subparagraph (A), is amended—

(i) by inserting "or (II)" after "subclause (I)" the first place it appears, and

(ii) by striking "subclause (I)" the second place it appears and inserting "such subclause".

(C) CONFORMING AMENDMENT.—Subclause (I) of section 302(b)(5)(B)(ii) of such Act is amended by inserting "or (III)" after "subclause (II)".

(2) DETERMINATION OF CURRENT LIABILITY.—Clause (i) of section 302(d)(7)(C) of such Act is amended by adding at the end the following new subclause:

"(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5)."

(3) PBGC.—Clause (iii) of section 4006(a)(3)(E) of such Act is amended by adding at the end the following new subclause:

"(V) In the case of plan years beginning after December 31, 2003, and before January 1, 2006, the annual yield taken into account under subclause (II) shall be the annual yield determined by the Secretary of the Treasury on amounts conservatively invested in long-term corporate bonds for the month preceding the month in which the plan year begins. For purposes of the preceding sentence, the Secretary of the Treasury shall determine such yield on the basis of one or more indices selected periodically by the Secretary, and the Secretary shall make such yield publicly available."

(b) INTERNAL REVENUE CODE OF 1986.—

(1) DETERMINATION OF PERMISSIBLE RANGE.—

(A) IN GENERAL.—Clause (ii) of section 412(b)(5)(B) of the Internal Revenue Code of 1986 is amended by redesignating subclause (II) as subclause (III) and by inserting after subclause (I) the following new subclause:

"(II) SPECIAL RULE FOR YEARS 2004 AND 2005.—In the case of plan years beginning after December 31, 2003, and before January 1, 2006, the term 'permissible range' means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the rates of interest on amounts conservatively invested in long-term corporate bonds during the 4-year period ending on the last day before the beginning of the plan year. Such rates shall be determined by the Secretary on the basis of one or more indices selected periodically by the Secretary, and the Secretary shall make the permissible range publicly available."

(B) SECRETARIAL AUTHORITY.—Subclause (III) of section 412(b)(5)(B)(ii) of such Code, as redesignated by subparagraph (A), is amended—

(i) by inserting "or (II)" after "subclause (I)" the first place it appears, and

(ii) by striking "subclause (I)" the second place it appears and inserting "such subclause".

(C) CONFORMING AMENDMENT.—Subclause (I) of section 412(b)(5)(B)(ii) of such Code is amended by inserting "or (III)" after "subclause (II)".

(2) DETERMINATION OF CURRENT LIABILITY.—Clause (i) of section 412(l)(7)(C) of such Code is amended by adding at the end the following new subclause:

"(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 2003.

(2) LOOKBACK RULES.—For purposes of applying subsections (l)(9)(B)(ii) and (m)(l) of section 412 of the Internal Revenue Code of 1986 and subsections (d)(9)(B)(ii) and (e)(1) of section 302 of the Employee Retirement Income Security Act of 1974 to plan years beginning after December 31, 2003, the amendments made by this section may be applied as if such amendments had been in effect for all years beginning before such date.

**ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003**

Mr. CROWLEY. Madam Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1308, the Tax Relief, Simplification, and Equity Act of 2003.

The form of the motion is as follows:

I move that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

4. To the maximum extent possible within the scope of conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of the astronauts who died in the Columbia disaster.

5. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

**ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003**

Mrs. CAPPS. Madam Speaker, subject to rule XXII, clause 7(c), I hereby