

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 6756) TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO PROMOTE NEW BUSINESS INNOVATION, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 6757) TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO ENCOURAGE RETIREMENT AND FAMILY SAVINGS, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 6760) TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO MAKE PERMANENT CERTAIN PROVISIONS OF THE TAX CUTS AND JOBS ACT AFFECTING INDIVIDUALS, FAMILIES, AND SMALL BUSINESSES; AND PROVIDING FOR PROCEEDINGS DURING THE PERIOD FROM OCTOBER 1, 2018, THROUGH NOVEMBER 12, 2018

SEPTEMBER 26, 2018.—Referred to the House Calendar and ordered to be printed

Mr. SESSIONS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1084]

The Committee on Rules, having had under consideration House Resolution 1084, by a record vote of 7 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 6756, the American Innovation Act of 2018, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in part A of this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 6757, the Family Savings Act of 2018, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The resolution waives all points of order against

consideration of the bill. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in part B of this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions.

Section 3 of the resolution provides for consideration of H.R. 6760, the Protecting Family and Small Business Tax Cuts Act of 2018, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in part C of this report, shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one motion to recommit with or without instructions. The resolution provides that the yeas and nays shall be considered as ordered on the question of passage and that clause 5(b) of rule 21 shall not apply to the bill or amendments thereto.

Section 4 of the resolution provides that on any legislative day during the period from October 1, 2018, through November 12, 2018: the Journal of the proceedings of the previous day shall be considered as approved; and the Chair may at any time declare the House adjourned to meet at a date and time to be announced by the Chair in declaring the adjournment.

Section 5 of the resolution provides that the Speaker may appoint Members to perform the duties of the Chair for the duration of the period addressed by section 4 of the resolution as though under clause 8(a) of rule I.

Section 6 of the resolution provides that each day during the period addressed by section 4 of the resolution shall not constitute calendar days for the purposes of section 7 of the War Powers Resolution (50 U.S.C. 1546).

Section 7 of the resolution provides that each day during the period addressed by section 4 of the resolution shall not constitute a legislative day for purposes of clause 7 of rule XIII (resolutions of inquiry).

Section 8 of the resolution provides that each day during the period addressed by section 4 of the resolution shall not constitute a calendar or legislative day for purposes of clause 7(c)(1) of rule XXII (motions to instruct conferees).

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 6756 includes a waiver of the following:

- Section 306 of the Congressional Budget Act, which prohibits consideration of legislation within the jurisdiction of the Committee on the Budget unless referred to or reported by the Budget Committee; and

- Section 311 of the Congressional Budget Act, which prohibits consideration of legislation that would cause revenues to be less than the level of total revenues for the first fiscal year or for the total of that first fiscal year and the ensuing fiscal years for which allocations are provided.

Although the resolution waives all points of order against provisions in H.R. 6756, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 6757 includes a waiver of the following:

- Clause 10 of rule XXI, which prohibits the consideration of a bill if it has the net effect of increasing mandatory spending over the five-year or ten-year period;
- Section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a 302(a) allocation of such authority;
- Section 306 of the Congressional Budget Act, which prohibits consideration of legislation within the jurisdiction of the Committee on the Budget unless referred to or reported by the Budget Committee; and
- Section 311 of the Congressional Budget Act, which prohibits consideration of legislation that would cause revenues to be less than the level of total revenues for the first fiscal year or for the total of that first fiscal year and the ensuing fiscal years for which allocations are provided.

Although the resolution waives all points of order against provisions in H.R. 6757, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 6760 includes a waiver of the following:

- Clause 10 of rule XXI, which prohibits the consideration of a bill if it has the net effect of increasing mandatory spending over the five-year or ten-year period;
- Section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a 302(a) allocation of such authority;
- Section 303 of the Congressional Budget Act, which prohibits consideration of legislation, providing a change in revenues for a fiscal year until the budget resolution for that year has been agreed to;
- Section 306 of the Congressional Budget Act, which prohibits consideration of legislation within the jurisdiction of the Committee on the Budget unless referred to or reported by the Budget Committee;
- Section 311 of the Congressional Budget Act, which prohibits consideration of legislation that would cause revenues to be less than the level of total revenues for the first fiscal year or for the total of that first fiscal year and the ensuing fiscal years for which allocations are provided;
- Section 5101 of H. Con. Res. 71, which prohibits consideration of legislation that has the net effect of increasing direct spending in excess of \$2.5 billion for any of the four consecutive ten fiscal year periods beginning with the first fiscal year that is 10 fiscal years after the current fiscal year; and

- Section 3(h) of H. Res. 5, which prohibits consideration of a bill that that would cause a net increase in direct spending in excess of \$5 billion in any of the 4 consecutive 10-fiscal year periods beginning with the first fiscal year that is 10 fiscal years after the current fiscal year.

Although the resolution waives all points of order against provisions in H.R. 6760, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution provides that clause 5b of rule XXI does not apply to this bill, the rule isolates only specified provisions and does not look at the essential interactions of all the tax provisions. While the bill as a whole provides broad tax relief, the provision is necessary because of the narrow focus of the rule.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 278

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendment #6 to H.R. 6760, offered by Rep. Brady (TX), which excludes the budgetary effects of the bill from being entered onto the Statutory Pay-As-You-Go Scorecard, as a standalone amendment, rather than self-executing it; amendment #2 to H.R. 6757, offered by Rep. Graves (LA), which repeals the Windfall Elimination Provision and Government Pension Offset Provision; and amendment #5 to H.R. 6760, offered by Rep. Pascrell (NJ), which repeals the \$10,000 limit on the State and Local Tax Deduction. Defeated: 3–7

Majority Members	Vote	Minority Members	Vote
Mr. Cole	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Burgess	Nay	Mr. Polis	Yea
Mr. Collins .....	.....	Mrs. Torres .....	.....
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Buck .....	.....	
Ms. Cheney	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 279

Motion by Mr. Polis to make in order and provide the appropriate waivers to amendments to H.R. 6760: #8, offered by Rep. Polis (CO) and Rep. Schweikert (AZ), which creates a structure for taxing purchases made with cryptocurrency, and allows small purchases to be made with cryptocurrency without extensive reporting requirements.; amendment #9, offered by Rep. Polis (CO), which exempts Cannabis businesses from 280e of the federal tax code.; and amendment #10, offered by Rep. Polis (CO), which eliminates federal alcohol taxes on kombucha and update regulations for kombucha manufacturers.; and amendment #12, offered by Rep. Rosen (NV) and Rep. Shea-Porter (NH) and Rep. Polis (CO), which makes the child tax credit fully refundable. Defeated: 3–7

Majority Members	Vote	Minority Members	Vote
Mr. Cole	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Burgess	Nay	Mr. Polis	Yea
Mr. Collins .....	.....	Mrs. Torres .....	.....
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Buck .....	.....	
Ms. Cheney	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 280

Motion by Mr. Woodall to report the rule. Adopted: 7–3

Majority Members	Vote	Minority Members	Vote
Mr. Cole	Yea	Mr. McGovern	Nay
Mr. Woodall	Yea	Mr. Hastings of Florida	Nay
Mr. Burgess	Yea	Mr. Polis	Nay
Mr. Collins .....	.....	Mrs. Torres .....	.....
Mr. Byrne	Yea		
Mr. Newhouse	Yea		
Mr. Buck .....	.....	
Ms. Cheney	Yea		
Mr. Sessions, Chairman	Yea		

SUMMARY OF THE AMENDMENT TO H.R. 6756 IN PART A CONSIDERED AS ADOPTED

1. Brady, Kevin (TX): Excludes the budgetary effects of the bill from being entered onto the Statutory Pay-As-You-Go Scorecard.

SUMMARY OF THE AMENDMENT TO H.R. 6757 IN PART B CONSIDERED AS ADOPTED

1. Brady, Kevin (TX): MANAGER'S (1) eliminates the bill provision requiring a study of the PBGC's single employer insurance program, (2) provides a safe harbor for satisfying fiduciary obligations with respect to the selection of an annuity provider for a retirement plan investment option, (3) provides that an unborn child can be treated as a designated beneficiary for a 529 education account, and (4) excludes the budgetary effects of the bill from being entered onto the Statutory Pay-As-You-Go Scorecard.

SUMMARY OF THE AMENDMENT TO H.R. 6760 IN PART C CONSIDERED AS ADOPTED

1. Brady, Kevin (TX): Excludes the budgetary effects of the bill from being entered onto the Statutory Pay-As-You-Go Scorecard.

PART A—TEXT OF AMENDMENT TO H.R. 6756 CONSIDERED AS ADOPTED

At the end, add the following:

SEC. 4. BUDGETARY EFFECTS.

(a) STATUTORY PAYGO SCORECARDS.—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARDS.—The budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

PART B—TEXT OF AMENDMENT TO H.R. 6757 CONSIDERED AS ADOPTED

Strike section 203 and insert the following:

SEC. 203. FIDUCIARY SAFE HARBOR FOR SELECTION OF LIFETIME INCOME PROVIDER.

Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following:

“(e) **SAFE HARBOR FOR ANNUITY SELECTION.**—

“(1) **IN GENERAL.**—With respect to the selection of an insurer for a guaranteed retirement income contract, the requirements of subsection (a)(1)(B) will be deemed to be satisfied if a fiduciary—

“(A) engages in an objective, thorough, and analytical search for the purpose of identifying insurers from which to purchase such contracts;

“(B) with respect to each insurer identified under subparagraph (A)—

“(i) considers the financial capability of such insurer to satisfy its obligations under the guaranteed retirement income contract; and

“(ii) considers the cost (including fees and commissions) of the guaranteed retirement income contract offered by the insurer in relation to the benefits and product features of the contract and administrative services to be provided under such contract; and

“(C) on the basis of such consideration, concludes that—

“(i) at the time of the selection, the insurer is financially capable of satisfying its obligations under the guaranteed retirement income contract; and

“(ii) the relative cost of the selected guaranteed retirement income contract as described in subparagraph (B)(ii) is reasonable.

“(2) **FINANCIAL CAPABILITY OF THE INSURER.**—A fiduciary will be deemed to satisfy the requirements of paragraphs (1)(B)(i) and (1)(C)(i) if—

“(A) the fiduciary obtains written representations from the insurer that—

“(i) the insurer is licensed to offer guaranteed retirement income contracts;

“(ii) the insurer, at the time of selection and for each of the immediately preceding 7 plan years—

“(I) operates under a certificate of authority from the insurance commissioner of its domiciliary State which has not been revoked or suspended;

“(II) has filed audited financial statements in accordance with the laws of its domiciliary State under applicable statutory accounting principles;

“(III) maintains (and has maintained) reserves which satisfies all the statutory requirements of all States where the insurer does business; and

“(IV) is not operating under an order of supervision, rehabilitation, or liquidation;

“(iii) the insurer undergoes, at least every 5 years, a financial examination (within the meaning of the

law of its domiciliary State) by the insurance commissioner of the domiciliary State (or representative, designee, or other party approved by such commissioner); and

“(iv) the insurer will notify the fiduciary of any change in circumstances occurring after the provision of the representations in clauses (i), (ii), and (iii) which would preclude the insurer from making such representations at the time of issuance of the guaranteed retirement income contract; and

“(B) after receiving such representations and as of the time of selection, the fiduciary has not received any notice described in subparagraph (A)(iv) and is in possession of no other information which would cause the fiduciary to question the representations provided.

“(3) NO REQUIREMENT TO SELECT LOWEST COST.—Nothing in this subsection shall be construed to require a fiduciary to select the lowest cost contract. A fiduciary may consider the value of a contract, including features and benefits of the contract and attributes of the insurer (including, without limitation, the insurer’s financial strength) in conjunction with the cost of the contract.

“(4) TIME OF SELECTION.—

“(A) IN GENERAL.—For purposes of this subsection, the time of selection is—

“(i) the time that the insurer and the contract are selected for distribution of benefits to a specific participant or beneficiary; or

“(ii) if the fiduciary periodically reviews the continuing appropriateness of the conclusion described in paragraph (1)(C) with respect to a selected insurer, taking into account the considerations described in such paragraph, the time that the insurer and the contract are selected to provide benefits at future dates to participants or beneficiaries under the plan.

Nothing in the preceding sentence shall be construed to require the fiduciary to review the appropriateness of a selection after the purchase of a contract for a participant or beneficiary.

“(B) PERIODIC REVIEW.—A fiduciary will be deemed to have conducted the periodic review described in subparagraph (A)(ii) if the fiduciary obtains the written representations described in clauses (i), (ii), and (iii) of paragraph (2)(A) from the insurer on an annual basis, unless the fiduciary receives any notice described in paragraph (2)(A)(iv) or otherwise becomes aware of facts that would cause the fiduciary to question such representations.

“(5) LIMITED LIABILITY.—A fiduciary which satisfies the requirements of this subsection shall not be liable following the distribution of any benefit, or the investment by or on behalf of a participant or beneficiary pursuant to the selected guaranteed retirement income contract, for any losses that may result to the participant or beneficiary due to an insurer’s inability to satisfy its financial obligations under the terms of such contract.

“(6) DEFINITIONS.—For purposes of this subsection—

“(A) INSURER.—The term ‘insurer’ means an insurance company, insurance service, or insurance organization, including affiliates of such companies.

“(B) GUARANTEED RETIREMENT INCOME CONTRACT.—The term ‘guaranteed retirement income contract’ means an annuity contract for a fixed term or a contract (or provision or feature thereof) which provides guaranteed benefits annually (or more frequently) for at least the remainder of the life of the participant or the joint lives of the participant and the participant’s designated beneficiary as part of an individual account plan.”.

In section 302, strike subsection (e) and insert the following:

(e) UNBORN CHILDREN ALLOWED AS ACCOUNT BENEFICIARIES.—Section 529(e) is amended by adding at the end the following new paragraph:

“(6) TREATMENT OF UNBORN CHILDREN.—

“(A) IN GENERAL.—Nothing shall prevent an unborn child from being treated as a designated beneficiary or an individual under this section.

“(B) UNBORN CHILD.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘unborn child’ means a child in utero.

“(ii) CHILD IN UTERO.—The term ‘child in utero’ means a member of the species homo sapiens, at any stage of development, who is carried in the womb.”.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions made after December 31, 2018.

(2) UNBORN CHILDREN ALLOWED AS ACCOUNT BENEFICIARIES.—The amendment made by subsection (e) shall apply to contributions made after December 31, 2018.

At the end, add the following:

TITLE IV—BUDGETARY EFFECTS

SEC. 401. BUDGETARY EFFECTS.

(a) STATUTORY PAYGO SCORECARDS.—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARDS.—The budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

PART C—TEXT OF AMENDMENT TO H.R. 6760 CONSIDERED AS ADOPTED

At the end, add the following:

TITLE III—BUDGETARY EFFECTS

SEC. 301. BUDGETARY EFFECTS.

(a) **STATUTORY PAYGO SCORECARDS.**—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) **SENATE PAYGO SCORECARDS.**—The budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).