

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2062) TO AMEND THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 AND OTHER LAWS TO CLARIFY APPROPRIATE STANDARDS FOR FEDERAL EMPLOYMENT DISCRIMINATION AND RETALIATION CLAIMS, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 239) TO AMEND TITLE 38, UNITED STATES CODE, TO PROVIDE FOR LIMITATIONS ON COPAYMENTS FOR CONTRACEPTION FURNISHED BY THE DEPARTMENT OF VETERANS AFFAIRS, AND FOR OTHER PURPOSES; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1443) TO AMEND THE EQUAL CREDIT OPPORTUNITY ACT TO REQUIRE THE COLLECTION OF SMALL BUSINESS LOAN DATA RELATED TO LGBTQ-OWNED BUSINESSES; PROVIDING FOR CONSIDERATION OF THE JOINT RESOLUTION (S.J. RES. 13) PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION RELATING TO “UPDATE OF COMMISSION’S CONCILIATION PROCEDURES”; PROVIDING FOR CONSIDERATION OF THE JOINT RESOLUTION (S.J. RES. 14) PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE ENVIRONMENTAL PROTECTION AGENCY RELATING TO “OIL AND NATURAL GAS SECTOR: EMISSION STANDARDS FOR NEW, RECONSTRUCTED, AND MODIFIED SOURCES REVIEW”; PROVIDING FOR CONSIDERATION OF THE JOINT RESOLUTION (S.J. RES. 15) PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE OFFICE OF THE COMPTROLLER OF CURRENCY RELATING TO “NATIONAL BANKS AND FEDERAL SAVINGS ASSOCIATIONS AS LENDERS”; AND FOR OTHER PURPOSES

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JUNE 22, 2021.—Referred to the House Calendar and ordered to be printed

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

## R E P O R T

[To accompany H. Res. 486]

The Committee on Rules, having had under consideration House Resolution 486, by a record vote of 9 to 4, 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. 2062, the Protecting Older Workers Against Discrimination Act of 2021, under a structured rule. The resolution provides one hour of general de-

bate equally divided and controlled by the chair and ranking minority member of the Committee on Education and Labor or their designees. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 117-6, 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 that following debate, each further amendment printed in part B of this report not earlier considered as part of amendments en bloc pursuant to section 3 shall be considered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, may be withdrawn by the proponent at any time before the question is put thereon, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The resolution provides that at any time after debate the chair of the Committee on Education and Labor or his designee may offer amendments en bloc consisting of further amendments printed in part B of this report not earlier disposed of. Amendments en bloc shall be considered as read, shall be debatable for 20 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Education and Labor or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The resolution waives all points of order against the amendments printed in part B of this report or amendments en bloc described in section 3 of the resolution. The resolution provides one motion to recommit. The resolution provides for consideration of H.R. 239, the Equal Access to Contraception for Veterans Act, under a closed rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Veterans' Affairs or their designees. The resolution waives all points of order against consideration of the bill. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. The resolution provides one motion to recommit. The resolution provides for consideration of H.R. 1443, the LGBTQ Business Equal Credit Enforcement and Investment Act, under a closed rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services or their designees. The resolution waives all points of order against consideration of the bill. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 117-7 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. The resolution provides for consideration of S.J. Res. 13, providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Equal Employment Opportunity Commission relating to "Update of Commission's Conciliation Procedures," under a closed rule. The resolution pro-

vides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and Labor or their designees. The resolution waives all points of order against consideration of the joint resolution. The resolution provides that the joint resolution shall be considered as read. The resolution waives all points of order against provisions in the joint resolution. The resolution provides one motion to commit. The resolution provides for consideration of S.J. Res. 14, providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Environmental Protection Agency relating to “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review,” under a closed rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce or their designees. The resolution waives all points of order against consideration of the joint resolution. The resolution provides that the joint resolution shall be considered as read. The resolution waives all points of order against provisions in the joint resolution. The resolution provides one motion to commit. The resolution provides for consideration of S.J. Res. 15, providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of the Comptroller of Currency relating to “National Banks and Federal Savings Associations as Lenders,” under a closed rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services or their designees. The resolution waives all points of order against consideration of the joint resolution. The resolution provides that the joint resolution shall be considered as read. The resolution waives all points of order against provisions in the joint resolution. The resolution provides one motion to commit. The resolution provides that House Resolution 485 is hereby adopted. The resolution provides that at any time through the legislative day of Friday, June 25, 2021, the Speaker may entertain motions offered by the Majority Leader or a designee that the House suspend the rules with respect to multiple measures that were the object of motions to suspend the rules on the legislative days of June 22 or 23, 2021, and on which the yeas and nays were ordered and further proceedings postponed. The Chair shall put the question on any such motion without debate or intervening motion, and the ordering of the yeas and nays on postponed motions to suspend the rules with respect to such measures is vacated.

#### EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of H.R. 2062, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 2062, 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. 239 includes a waiver of clause 3(c)(6) of rule XIII, which prohibits consideration of a reported bill unless the committee report designates a hearing used to develop or consider the bill.

Although the resolution waives all points of order against provisions in H.R. 239, 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. 1443 includes a waiver clause 3(d)(1) of rule XIII which requires the inclusion of committee cost estimate in a committee report. A CBO cost estimate on H.R. 1443 was not available at the time the Committee on Financial Services filed its report.

Although the resolution waives all points of order against provisions in H.R. 1443, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of S.J. Res. 13, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in S.J. Res. 13, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of S.J. Res. 14, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in S.J. Res. 14, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of S.J. Res. 15, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in S.J. Res. 15, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

#### 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. 97*

Motion by Mr. Cole to report an open rule for H.R. 2062. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Mrs. Torres .....	Nay	Mr. Cole .....	Yea
Mr. Perlmutter .....	Nay	Mr. Burgess .....	Yea
Mr. Raskin .....	Nay	Mr. Reschenthaler .....	Yea
Ms. Scanlon .....	Nay	Mrs. Fischbach .....	Yea
Mr. Morelle .....	Nay		
Mr. DeSaulnier .....	Nay		
Ms. Ross .....	Nay		
Mr. Neguse .....	Nay		
Mr. McGovern, Chairman .....	Nay		

##### *Rules Committee record vote No. 98*

Motion by Mr. Reschenthaler to amend the rule to H.R. 2062 to make in order amendment #8, offered by Rep. McClain (MI), which clarifies that an Americans with Disabilities Act mixed-motive claim under the bill may not rely solely on the fact that an employer has engaged in an interactive process with an employee or

job applicant to determine a reasonable accommodation. Defeated:  
4–9

Majority Members	Vote	Minority Members	Vote
Mrs. Torres .....	Nay	Mr. Cole .....	Yea
Mr. Perlmutter .....	Nay	Mr. Burgess .....	Yea
Mr. Raskin .....	Nay	Mr. Reschenthaler .....	Yea
Ms. Scanlon .....	Nay	Mrs. Fischbach .....	Yea
Mr. Morelle .....	Nay		
Mr. DeSaulnier .....	Nay		
Ms. Ross .....	Nay		
Mr. Neguse .....	Nay		
Mr. McGovern, Chairman .....	Nay		

*Rules Committee record vote No. 99*

Motion by Mr. Morelle to report the rule. Adopted: 9–4

Majority Members	Vote	Minority Members	Vote
Mrs. Torres .....	Yea	Mr. Cole .....	Nay
Mr. Perlmutter .....	Yea	Mr. Burgess .....	Nay
Mr. Raskin .....	Yea	Mr. Reschenthaler .....	Nay
Ms. Scanlon .....	Yea	Mrs. Fischbach .....	Nay
Mr. Morelle .....	Yea		
Mr. DeSaulnier .....	Yea		
Ms. Ross .....	Yea		
Mr. Neguse .....	Yea		
Mr. McGovern, Chairman .....	Yea		

SUMMARY OF THE AMENDMENT TO H.R. 2062 IN PART A CONSIDERED  
AS ADOPTED

1. Scott, Bobby (VA): Makes a technical change to H.R. 2062 by removing language that conflicts with Title VII of the Civil Rights Act regarding the burdens of persuasion under the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA).

SUMMARY OF THE AMENDMENTS TO H.R. 2062 IN PART B MADE IN  
ORDER

1. Brown (MD): Requires the Equal Employment Opportunity Commission (EEOC) to submit yearly reports to Congress on the number of age discrimination claims brought under this Act. (10 minutes)

2. Allen (GA): Requires a GAO study on whether the Supreme Court's decisions in the Gross and Nassar cases have discouraged age discrimination charges and Title VII of the Civil Rights Act of 1964 retaliation charges and whether the success rates of age discrimination and Title VII retaliation court cases have decreased following the Supreme Court's decisions in Gross and Nassar. Prevents the bill from taking effect if such charges have not decreased and such success rates have not decreased. (10 minutes)

3. Williams (GA): Commissions a report analyzing any disparities that individuals who face discrimination in employment based on characteristics protected under the Age Discrimination in Employment Act of 1967 combined with one or more intersectional characteristics protected under title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, or the Rehabilitation

Act of 1973 face in pursuing relief from discrimination under the mixed motive evidentiary standard. (10 minutes)

4. Davis, Rodney (IL), Pingree (ME): Requires the Secretary of the Department of Labor and the Chair of the Equal Employment Opportunity Commission to conduct a study to determine the number of older adult women who may have been adversely impacted by age discrimination as a motivating factor in workplace discrimination or employment. Requires the report to be submitted to Congress and made publicly available within one year and would require a recommendation on best practices to combat gender and age discrimination in the workplace. (10 minutes)

5. Foxx (NC): Strikes the provisions allowing mixed-motive retaliation claims. (10 minutes)

PART A—TEXT OF AMENDMENT TO H.R. 2062 CONSIDERED AS ADOPTED

Page 2, beginning on line 5, strike “and” and all that follows through “Act” on line 7.

Beginning on page 5, line 25, strike “and” and all that follows through “Act” on line 3 of page 6.

PART B—TEXT OF AMENDMENTS TO H.R. 2062 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BROWN OF MARYLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end, add the following:

**SEC. 5. REPORTS.**

The Chairman of Equal Employment Opportunity Commission shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report at 1-year intervals on the number of age discrimination in employment claims brought under this Act with the Equal Employment Opportunity Commission in the period for which such report is submitted.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ALLEN OF GEORGIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following:

**SEC. 5. EFFECTIVE DATE.**

(a) GAO STUDY.—Subject to subsection (b), this Act and the amendments made by this Act shall not take effect until the date the Government Accountability Office reports to the Congress the results of a study such Office carries out to determine whether—

(1) the Supreme Court’s decisions in *Gross v. FBL Financial Services, Inc.*, 557 U.S. 167 (2009), and *Texas Southwestern Medical Center v. Nassar*, 570 U.S. 338 (2013), have discouraged individuals from filing age discrimination charges and title VII of the Civil Rights Act of 1964 retaliation charges with the Equal Employment Opportunity Commission,

(2) such decisions have discouraged individuals from filing age discrimination cases and title VII retaliation cases, and

(3) the success rates of age discrimination cases and title VII retaliation cases brought has decreased.

(b) **LIMITATION.**—If the results of the study carried out under subsection (a) show that individuals have not been discouraged as described in such subsection and that the success rate of cases described in such subsection has not decreased, then this Act and the amendments made by this Act shall not take effect.

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WILLIAMS OF GEORGIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end, add the following:

**SEC. 5. REPORT.**

(a) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Equal Employment Opportunity Commission shall submit to the Congress, and make available to the public, a report that contains analysis of any disparities that covered individuals, as defined in subsection (b), face in pursuing relief from discrimination in employment under the mixed motive evidentiary standard.

(b) **COVERED INDIVIDUALS DEFINED.**—The term “covered individuals” means individuals who face discrimination in employment based on characteristics protected under the Age Discrimination in Employment Act of 1967 combined with one or more intersectional characteristics protected under title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, or the Rehabilitation Act of 1973.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DAVIS OF ILLINOIS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end, add the following:

**SEC. 5. STUDY AND REPORT TO CONGRESS.**

Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission shall jointly conduct a study to determine the number of claims pending or filed, in addition to cases closed, by women who may have been adversely impacted by age discrimination as a motivating factor in workplace discrimination or employment termination. The Secretary of Labor and Chairman of the Commission shall jointly submit to the Congress, and make available to the public, a report that contains the results of the study, including recommendations for best practices to prevent and to combat gender and age discrimination as it relates to women in the workplace.

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FOXX OF NORTH CAROLINA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 1, beginning on line 14, strike “or an activity protected by subsection (d)”.

Page 2, beginning on line 2, strike “, including under paragraph (1) or by any other method of proof” and inserting “with respect to subsections (a), (b), (c), (e), and (f) of section 623”.

Page 4, line 2, insert “discriminatory” after “involving”.

Page 4, strike line 4 and all that follows through line 24 (and make such technical and conforming changes as may be appropriate).

Page 5, beginning on line 17, strike “or an activity protected by subsection (a) or (b) of section 503”.

Page 6, beginning on line 5, strike “or an activity protected by subsection (a) or (b) of section 503”.

Page 6, strike lines 8 through 18 (and make such technical and conforming changes as may be appropriate).