
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

REPORT

[To accompany H. Res.____]

The Committee on Rules, having had under consideration House Resolution____, 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**

#1
**AMENDMENT TO H.R. 6756, AS REPORTED
OFFERED BY MR. BRADY OF TEXAS**

At the end, add the following:

1 **SEC. 4. BUDGETARY EFFECTS.**

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

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



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

**AMENDMENT TO H.R. 6757, AS REPORTED
OFFERED BY MR. BRADY OF TEXAS**

Strike section 203 and insert the following:

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

3 Section 404 of the Employee Retirement Income Se-
4 curity Act of 1974 (29 U.S.C. 1104) is amended by adding
5 at the end the following:

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

7 “(1) IN GENERAL.—With respect to the selec-
8 tion of an insurer for a guaranteed retirement in-
9 come contract, the requirements of subsection
10 (a)(1)(B) will be deemed to be satisfied if a fidu-
11 ciary—

12 “(A) engages in an objective, thorough,
13 and analytical search for the purpose of identi-
14 fying insurers from which to purchase such con-
15 tracts;

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

18 “(i) considers the financial capability
19 of such insurer to satisfy its obligations

1 under the guaranteed retirement income
2 contract; and

3 “(ii) considers the cost (including fees
4 and commissions) of the guaranteed retire-
5 ment income contract offered by the in-
6 surer in relation to the benefits and prod-
7 uct features of the contract and adminis-
8 trative services to be provided under such
9 contract; and

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

12 “(i) at the time of the selection, the
13 insurer is financially capable of satisfying
14 its obligations under the guaranteed retire-
15 ment income contract; and

16 “(ii) the relative cost of the selected
17 guaranteed retirement income contract as
18 described in subparagraph (B)(ii) is rea-
19 sonable.

20 “(2) FINANCIAL CAPABILITY OF THE IN-
21 SURER.—A fiduciary will be deemed to satisfy the
22 requirements of paragraphs (1)(B)(i) and (1)(C)(i)
23 if—

24 “(A) the fiduciary obtains written rep-
25 resentations from the insurer that—

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

3 “(ii) the insurer, at the time of selec-
4 tion and for each of the immediately pre-
5 ceding 7 plan years—

6 “(I) operates under a certificate
7 of authority from the insurance com-
8 missioner of its domiciliary State
9 which has not been revoked or sus-
10 pended;

11 “(II) has filed audited financial
12 statements in accordance with the
13 laws of its domiciliary State under ap-
14 plicable statutory accounting prin-
15 ciples;

16 “(III) maintains (and has main-
17 tained) reserves which satisfies all the
18 statutory requirements of all States
19 where the insurer does business; and

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

23 “(iii) the insurer undergoes, at least
24 every 5 years, a financial examination
25 (within the meaning of the law of its domi-

1 ciliary State) by the insurance commis-
2 sioner of the domiciliary State (or rep-
3 resentative, designee, or other party ap-
4 proved by such commissioner); and

5 “(iv) the insurer will notify the fidu-
6 ciary of any change in circumstances oc-
7 ccurring after the provision of the represen-
8 tations in clauses (i), (ii), and (iii) which
9 would preclude the insurer from making
10 such representations at the time of
11 issuance of the guaranteed retirement in-
12 come contract; and

13 “(B) after receiving such representations
14 and as of the time of selection, the fiduciary
15 has not received any notice described in sub-
16 paragraph (A)(iv) and is in possession of no
17 other information which would cause the fidu-
18 ciary to question the representations provided.

19 “(3) NO REQUIREMENT TO SELECT LOWEST
20 COST.—Nothing in this subsection shall be construed
21 to require a fiduciary to select the lowest cost con-
22 tract. A fiduciary may consider the value of a con-
23 tract, including features and benefits of the contract
24 and attributes of the insurer (including, without lim-

1 itation, the insurer's financial strength) in conjunc-
2 tion with the cost of the contract.

3 “(4) TIME OF SELECTION.—

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

6 “(i) the time that the insurer and the
7 contract are selected for distribution of
8 benefits to a specific participant or bene-
9 ficiary; or

10 “(ii) if the fiduciary periodically re-
11 views the continuing appropriateness of the
12 conclusion described in paragraph (1)(C)
13 with respect to a selected insurer, taking
14 into account the considerations described
15 in such paragraph, the time that the in-
16 surer and the contract are selected to pro-
17 vide benefits at future dates to participants
18 or beneficiaries under the plan.

19 Nothing in the preceding sentence shall be con-
20 strued to require the fiduciary to review the ap-
21 propriateness of a selection after the purchase
22 of a contract for a participant or beneficiary.

23 “(B) PERIODIC REVIEW.—A fiduciary will
24 be deemed to have conducted the periodic re-
25 view described in subparagraph (A)(ii) if the fi-

1 duciary obtains the written representations de-
2 scribed in clauses (i), (ii), and (iii) of paragraph
3 (2)(A) from the insurer on an annual basis, un-
4 less the fiduciary receives any notice described
5 in paragraph (2)(A)(iv) or otherwise becomes
6 aware of facts that would cause the fiduciary to
7 question such representations.

8 “(5) LIMITED LIABILITY.—A fiduciary which
9 satisfies the requirements of this subsection shall not
10 be liable following the distribution of any benefit, or
11 the investment by or on behalf of a participant or
12 beneficiary pursuant to the selected guaranteed re-
13 tirement income contract, for any losses that may
14 result to the participant or beneficiary due to an in-
15 surer’s inability to satisfy its financial obligations
16 under the terms of such contract.

17 “(6) DEFINITIONS.—For purposes of this sub-
18 section—

19 “(A) INSURER.—The term ‘insurer’ means
20 an insurance company, insurance service, or in-
21 surance organization, including affiliates of
22 such companies.

23 “(B) GUARANTEED RETIREMENT INCOME
24 CONTRACT.—The term ‘guaranteed retirement
25 income contract’ means an annuity contract for

1 a fixed term or a contract (or provision or fea-
2 ture thereof) which provides guaranteed bene-
3 fits annually (or more frequently) for at least
4 the remainder of the life of the participant or
5 the joint lives of the participant and the partici-
6 pant's designated beneficiary as part of an indi-
7 vidual account plan.”.

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

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

11 “(6) TREATMENT OF UNBORN CHILDREN.—

12 “(A) IN GENERAL.—Nothing shall prevent
13 an unborn child from being treated as a des-
14 ignated beneficiary or an individual under this
15 section.

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

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

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

1 (f) EFFECTIVE DATES.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this section shall apply to distributions made after
5 December 31, 2018.

6 (2) UNBORN CHILDREN ALLOWED AS ACCOUNT
7 BENEFICIARIES.—The amendment made by sub-
8 section (e) shall apply to contributions made after
9 December 31, 2018.

At the end, add the following:

10 **TITLE IV—BUDGETARY EFFECTS**

11 **SEC. 401. BUDGETARY EFFECTS.**

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

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

◇

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

**AMENDMENT TO H.R. 6760, AS REPORTED
OFFERED BY MR. BRADY OF TEXAS**

At the end, add the following:

1 TITLE III—BUDGETARY EFFECTS

2 SEC. 301. BUDGETARY EFFECTS.

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

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

