

112TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } 112-

PATHWAY TO JOB CREATION THROUGH A SIMPLER,
FAIRER TAX CODE ACT OF 2012

JULY 30, 2012.— Referred to the House Calendar and ordered to be printed

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

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 6169]

[Including cost estimate of the Congressional Budget Office]

The Committee on Rules, to whom was referred the bill (H.R. 6169) to provide for expedited consideration of a bill providing for comprehensive tax reform, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 6169, the Pathway to Job Creation through a Simpler, Fairer Tax Code Act of 2012, creates a pathway that puts comprehensive tax reform within reach. This bill provides for expedited consideration in 2013 of a measure that provides for comprehensive tax reform.

BACKGROUND AND NEED FOR LEGISLATION

The U.S. tax code is no longer working for the American people or small businesses. Since 2001, there have been nearly 4,500 changes made to the tax code, averaging more than one each day over the past decade. The tax code’s complexity causes nearly nine out of ten families to either hire tax preparers (60 percent) or purchase software (29 percent) to file their taxes, while 71 percent of unincorporated businesses are forced to pay someone else to prepare their taxes. Complying with the tax code under these circumstances forces individuals, families, and employers to spend over 6 billion hours and over \$160 billion per year in an effort to faithfully comply with the burdensome and complicated Federal tax system. These wasted resources are a drain on economic growth and job creation.

The current U.S. tax code is unfair. It contains hundreds of provisions that only benefit certain special interests, resulting in a system of winners and losers. Due to this imbalance, the tax code violates the fundamental principle of equal justice by subjecting families in similar circumstances to significantly different tax bills. Furthermore, many tax preferences, sometimes referred to as “tax expenditures,” have the same impact as government spending—rather than allowing markets to direct economic resources to their most efficient uses, the government redirects resources inefficiently and inequitably. The exclusions, deductions, credits, and special rules that make up such tax expenditures amount to over \$1 trillion per year, nearly matching the total amount of annual revenue that is generated from the income tax itself. In some cases, tax subsidies can literally take the form of spending through the tax code, redistributing taxes paid by some Americans to individuals and businesses that do not pay any income tax at all.

Finally, the current system and the failure of Congress to adopt a permanent tax code with stable statutory tax policy have created greater economic uncertainty. Tax rates have been scheduled to increase sharply in three of the last five years, requiring the enactment of repeated, temporary extensions. Additionally, approximately 70 other, more targeted tax provisions expired in 2011 or are currently scheduled to expire by the end of 2012. Working families and small business owners are not able to plan for the future or make rational business decisions, including hiring decisions, in this environment of uncertainty.

All of these challenges argue forcefully for comprehensive reform. To date, however, obstructionism, dilatory tactics, and the complexities of the legislative process have prevented the reform process from moving forward. Steps must be taken to streamline the process and to ensure that Congress can deliver on comprehensive tax reform.

HEARINGS

The Committee on Rules did not hold hearings on this measure.

The Committee on Ways and Means held the following 11 tax reform hearings in full committee: Hearing on Tax Reform and the U.S. Manufacturing Sector on July 19, 2012; Hearing on Tax Reform and Tax-Favored Retirement Accounts on April 17, 2012; Hearing on the Treatment of Closely-Held Businesses in the Context of Tax Reform on March 7, 2012; Hearing on the Interaction of Tax and Financial Accounting on Tax Reform on February 8, 2012; Hearing on Economic Models Available to the Joint Committee on Taxation for Analyzing Tax Reform Proposals on September 21, 2011; Hearing on Tax Reform and Consumption-Based Tax Systems on July 26, 2011; Hearing on How Business Tax Reform Can Encourage Job Creation on June 2, 2011; Hearing on How Other Countries Have Used Tax Reform to Help Their Companies Compete in the Global Market and Create Jobs on May 24, 2011; Hearing on the Need for Comprehensive Tax Reform to Help American Companies Compete in the Global Market and Create Jobs for American Workers on May 12, 2011; Hearing on How the Tax Code's Burdens on Individuals and Families Demonstrate the Need for Comprehensive Tax Reform on April 13, 2011; and Hearing on Fundamental Tax Reform on January 20, 2011.

The Subcommittee on Select Revenue Measures held the following six subcommittee hearings on the subject of tax reform: Hearing on Framework for Evaluating Certain Expiring Tax Provisions on June 8, 2012; Hearing on Certain Expiring Tax Provisions on April 26, 2012; Hearing on Ways and Means International Tax Reform Discussion Draft on November 17, 2011; Hearing on Energy Tax Policy and Tax Reform on September 22, 2011 (Joint hearing with the Oversight Subcommittee); Hearing on Tax Reform and Foreign Investment in the United States on June 23, 2011; and Hearing on Small Businesses and Tax Reform on March 3, 2011.

The Committee on Ways and Means also held the following two joint hearings with the Senate Finance Committee: Hearing on Tax Treatment of Financial Products on December 6, 2011; and Hearing on Tax Reform and the Tax Treatment of Debt and Equity on July 13, 2011.

COMMITTEE CONSIDERATION

The Committee on Rules met on July 26, 2012 in open session and ordered H.R. 6169 reported to the House with a favorable recommendation by a record vote of 6 yeas and 2 nays, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Sessions to report the bill to the House with a favorable recommendation was agreed to by a record vote of 6 yeas and 2 nays, a quorum being present.

The names of Members voting for and against follow:

Rules Committee Record Vote No. 344

Motion by Mr. Sessions to order the bill H.R. 6169 reported to the House with a favorable recommendation.
Agreed to: 6 yeas and 2 nays.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Yea	Ms. Slaughter	Nay
Ms. Foxx .....	.....	Mr. McGovern	Nay
Mr. Bishop (UT) .....	.....	Mr. Hastings (FL) .....	.....
Mr. Woodall	Yea	Mr. Polis .....	.....
Mr. Nugent	Yea		
Mr. Scott (SC)	Yea		
Mr. Webster	Yea		
Mr. Dreier, Chairman	Yea		

The Committee also disposed of the following amendments by record vote:

Rules Committee Record Vote No. 340

Amendment #1 by Mr. McGovern to H.R. 6169, which would require that expedited procedures only apply to tax reform. Not agreed to: 2 yeas and 6 nays.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx .....	.....	Mr. McGovern	Yea
Mr. Bishop (UT) .....	.....	Mr. Hastings (FL) .....	.....
Mr. Woodall	Nay	Mr. Polis .....	.....
Mr. Nugent	Nay		
Mr. Scott (SC)	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee Record Vote No. 341

Amendment #2 by Mr. McGovern to H.R. 6169, which would prohibit the sponsor of the tax reform bill and the individual making the notification under subsection (b) from being the same person. Not agreed to: 2 yeas and 6 nays.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx .....	.....	Mr. McGovern	Yea
Mr. Bishop (UT) .....	.....	Mr. Hastings (FL) .....	.....
Mr. Woodall	Nay	Mr. Polis .....	.....
Mr. Nugent	Nay		
Mr. Scott (SC)	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee Record Vote No. 342

Amendment #3 by Mr. McGovern to H.R. 6169, which would strike section 3. Not agreed to: 2 yeas and 6 nays.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx .....	.....	Mr. McGovern	Yea
Mr. Bishop (UT) .....	.....	Mr. Hastings (FL) .....	.....
Mr. Woodall	Nay	Mr. Polis .....	.....
Mr. Nugent	Nay		
Mr. Scott (SC)	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee Record Vote No. 343

Amendment #4 by Ms. Slaughter to H.R. 6169, which would strike all after section 1 and insert a Sense of Congress Regarding Comprehensive Tax Reform. Not agreed to: 2 yeas and 6 nays.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx .....	.....	Mr. McGovern	Yea
Mr. Bishop (UT) .....	.....	Mr. Hastings (FL) .....	.....
Mr. Woodall	Nay	Mr. Polis .....	.....
Mr. Nugent	Nay		
Mr. Scott (SC)	Nay		
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

[GPO: Insert CBO estimate here.]



CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Douglas W. Elmendorf, Director

July 26, 2012

Honorable David Drier
Chairman
Committee on Rules
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6169, the Pathway to Job Creation through a Simpler, Fairer Tax Code Act of 2012.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford, who can be reached at 226-2860.

Sincerely,

A handwritten signature in black ink, appearing to read 'Douglas W. Elmendorf'.

Douglas W. Elmendorf

Enclosure

cc: Honorable Louise Slaughter
Ranking Minority Member



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

July 26, 2012

**H.R. 6169
Pathway to Job Creation through Simpler,
Fairer Tax Code Act of 2012**

As ordered reported by the House Committee on the Rules on July 26, 2012

H.R. 6169 would specify expedited procedures for Congressional consideration of certain tax-related legislation in the 113th Congress. To be eligible for such expedited procedures, tax legislation must be introduced by the House Committee on Ways and Means by April 30, 2013, and make specific changes to tax laws as detailed by H.R. 6169. In particular, the legislation must consolidate the current six income tax brackets for individuals, reduce the corporate tax rate to no more than 25 percent, repeal the Alternative Minimum Tax, broaden the tax base to maintain current revenue levels, and make certain other changes.

CBO estimates that enacting H.R. 6169 by itself would have no significant impact on the federal budget. Enacting H.R. 6169 would not directly affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply. Any changes to tax laws considered under the procedures specified by H.R. 6169 would depend on future Congressional actions.

H.R. 6169 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The legislation will ensure that Congress has procedures in place to provide for expedited consideration of a measure providing for comprehensive tax reform.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the constitutional authority of Congress to enact this legislation is provided by Article I, section 5, clause 2 (relating to the right of each House of Congress to determine the rules of its proceedings).

STATEMENT REGARDING EARMARKS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 6169 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides the short title of the bill, the “Pathway to Job Creation through a Simpler, Fairer Tax Code Act of 2012”.

Section 2. Findings and Purposes.

Section 2 describes certain findings related to the current state of the Internal Revenue Code of 1986 and establishes the purposes of the legislation.

Section 3. Expedited Consideration of a Measure Providing for Comprehensive Tax Reform.

Section 3 establishes expedited procedures for consideration of a measure providing for comprehensive tax reform.

This section defines a “tax reform bill” as a bill introduced by the the chair of the Committee on Ways and Means before April 30, 2013 and entitled “A bill to provide for comprehensive tax reform.” Further, in order to qualify as a tax reform bill, the measure must be the subject of a certification to the House and Senate from the chair of the Joint Committee on Taxation that the bill as introduced contains the following proposals: (1) consolidation of the current individual income tax brackets into no more than two brackets of 10 and not greater than 25 percent; (2) reduction in the corporate tax rate to not greater than 25 percent; (3) repeal of the Alternative Minimum Tax (AMT); (4) broadening of the tax base to maintain revenue between 18 and 19 percent of the economy; and (5) change from a “worldwide” to a “territorial” system of taxation. The certification by the chair of the Joint Committee on Taxation is only applicable to the bill as introduced. The Committee intends that the certification is not required at any other stage in the legislative process for a bill to be eligible for the expedited procedures contained in the bill.

Subsection (c) establishes procedures for the expedited consideration of the tax reform bill in the House of Representatives, which include the following:

- Any committee that receives a referral on the tax reform bill must report the legislation to the House within 20 calendar days. Failure to report the legislation within that time period will result in an automatic discharge.
- If the Rules Committee has not provided a special order for consideration of the tax reform bill within 15 legislative days after the bill has been reported or discharged, the majority leader (or after two additional legislative days any Member), may offer a motion to proceed to the tax reform bill.
- If the motion to proceed is agreed to, debate on the bill is limited to four hours equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The bill is subject to amendment under the five-minute rule and one motion to recommit the bill is in order.

Subsection (d) establishes procedures for the expedited consideration of the tax reform bill in the Senate, which include the following:

- The bill must be referred to the Committee on Finance, which must report the bill within 15 calendar days after receipt of the bill in the Senate. Failure to report the legislation within that time period will result in an automatic discharge.

- After the Finance Committee reports the tax reform bill or the bill is discharged, the majority leader (or after two additional session days any Member) may offer a motion to proceed to the bill. The motion is not debatable—cloture is not required before a vote on the motion to proceed.

- Debate on amendments is limited to two hours on each amendment—cloture is not required before votes on individual amendments. Amendments must be relevant to the tax reform bill.

- There is no limit on the total time available for debate on the tax reform bill—cloture on the underlying bill may still be required prior to a vote on passage.

This section also contains procedures to facilitate and expedite going to conference on the tax reform bill and appointment of conferees. In the House, the chair of the Committee on Ways and Means may offer any motion specified in clause 1 of rule XXII. In the Senate, the chair must lay the message from the House before the Senate, the motion to go to conference and the motion to authorize the chair to appoint conferees are to be agreed to, and the chair is authorized to appoint conferees with a ratio agreed to with the concurrence of both leaders.

Finally, the bill also reaffirms that these provisions are enacted by the Congress as an exercise of the rulemaking power of the House of Representatives and Senate.

CHANGES IN HOUSE RULES MADE BY THE BILL, AS REPORTED

Clause 3(g) of rule XIII of the Rules of the House of Representatives requires the Committee on Rules to provide a comparative print showing proposed changes to the standing rules of the House. The Committee finds that H.R. 6169 does not propose to repeal or amend a standing rule of the House.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Clause 3(e) of rule XIII of the Rules of the House of Representatives requires that when a committee reports a bill or joint resolution proposing changes to existing law, it include a comparative print showing the proposed changes. The Committee finds that H.R. 6169 does not propose to change existing law.

DISSENTING VIEWS

[Insert the text of views here.]

Dissenting Views

While we agree that comprehensive tax reform is urgently needed, we fundamentally disagree with the majority's principles for reform, as specified in H.R. 6169.

We want to combine tax reform with smart, targeted spending reductions to provide the long-term means to reduce the national debt significantly, and make investments in national priorities such as infrastructure, education, research, and defense, that are critical to future American competitiveness and job growth.

We propose a rate structure that distributes the tax burden in a more progressive manner.

We support having a tax code that discourages tax avoidance, including the use of entities and accounts in tax haven jurisdictions, such as Swiss bank accounts or assets hidden in Bermuda or the Cayman Islands.

We want to preserve and improve the provisions of the tax code that support middle class homeownership, education, retirement savings, and healthcare.

We want to retain and improve refundable tax credits that encourage work and education while lifting millions of Americans out of poverty.

We propose to eliminate tax breaks for businesses that move jobs and profits overseas in combination with a reduction in tax rates for American manufacturers, which are vital to innovation and job growth.

And we want to preserve and improve incentives for small business investment and growth.

These are the principles that we believe should guide any effort at comprehensive tax reform. We offered an amendment to insert these principles into the bill, and it was rejected.

Putting aside our disagreement with the majority over what principles should guide reform, we believe it is important that reform proceed expeditiously, on a bipartisan basis, following regular order to ensure that changes to the code are properly vetted and that all Americans are represented in the process of writing the new code.

We do not need special expedited procedures to tell us to do our job. But if we did choose to establish some sort of "fast track" for tax reform, H.R. 6169 would certainly not be the way to go about it. We offered an amendment to strip out the flawed expedited procedures in the bill, and it was rejected.

The first serious flaw in these expedited procedures is that the same Member of the House who *authors* the tax reform bill contemplated by H.R. 6169 is also the *sole judge* of whether that bill meets the criteria for expedited consideration. The same Member cannot play the roles of both author and umpire of tax reform. We offered an amendment in markup to address this obvious flaw, and it was rejected.

The second and perhaps more serious flaw in these expedited procedures is that they would allow a future tax reform bill to be used as a Trojan Horse for the House majority's policy agenda – with absolutely no limits on what non-tax provisions could be included in a bill that receives “fast track” consideration in both the House and Senate.

Although the “fast-tracked” bill must begin as a tax reform bill, there is no prohibition on either attaching non-tax pet projects to the bill at later stages in the legislative process, or removing the tax reform provisions present at introduction. House Republicans could, for example, fast track a bill that turns Medicare into a voucher system, or takes away reproductive rights, or repeals the Affordable Care Act. This procedure allows the House majority to dictate what issues the Senate must consider. We offered an amendment to close this massive loophole, to limit the fast track procedures to tax reform *and only* tax reform, and it was rejected.

Rather than starting as the majority has, with a press release dressed up as a bill, we strongly believe that the way forward on comprehensive tax reform is to follow the example of the Tax Reform Act of 1986, when a Democratic House, a Republican Senate, and the Reagan Administration successfully negotiated a bipartisan overhaul of the Internal Revenue Code. They came together in good faith, they followed regular order, and they succeeded.

Because the hard-nosed partisanship of H.R. 6169 cannot possibly form the foundation for a successful bipartisan tax reform effort, we must dissent.

Louise Slaughter

Louise M. Slaughter

James McGovern

James P. McGovern

Alcee L. Hastings

Alcee L. Hastings

Jared Polis

Jared Polis