PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 986) TO PROVIDE THAT CERTAIN GUIDANCE RELATED TO WAIVERS FOR STATE INNOVATION UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT SHALL HAVE NO FORCE OR EFFECT, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2157) MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2019, AND FOR OTHER PURPOSES

MAY 7, 2019.—Referred to the House Calendar and ordered to be printed

Ms. Shalala, from the Committee on Rules, submitted the following

# REPORT

[To accompany H. Res. 357]

The Committee on Rules, having had under consideration House Resolution 357, 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. 986, the Protecting Americans with Preexisting Conditions Act of 2019, under a structured 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. 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 makes in order only those amendments printed in Part A of this report. Each such amendment may be offered 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, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in Part A of this report. The resolution provides one motion to recommit with or without instructions. Section 2 of the resolution provides for consideration of H.R. 2157, the Supplemental Appropriations Act, 2019, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. 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 116-12, 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 that clause 2(e) of rule XXI shall not apply during consideration of the bill. The resolution makes in order only those further amendments printed in Part C of this report. Each such amendment may be offered 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, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part C of this report. The resolution provides for one motion to recommit with or without instructions.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 986 includes waivers of the following:

• Clause 3(c)(1) of rule XIII, which requires committee reports to include oversight findings and recommendations.

• Clause 5(a) of rule XXI, which prohibits a bill carrying a tax or tariff measure from being reported by a committee not having jurisdiction to report tax or tariff measures.

Although the resolution waives all points of order against provisions in H.R. 986, 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 the amendments to H.R. 986 printed in part A of this report, 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. 2157 includes a waiver of Clause 12(a)(1) of rule XXI, which prohibits consideration of a bill unless there is a searchable electronic comparative print that shows how the bill proposes to change current law.

Although the resolution waives all points of order against provisions in H.R. 2157 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 the amendments printed in part C of this report, 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. 68

Motion by Mr. Cole to report an open rule for H.R. 986 and H.R. 2157. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman	Nay		

#### Rules Committee record vote No. 69

Motion by Mr. Woodall to amend the rule to H.R. 986 to make in order and provide the appropriate waivers to amendment #22, offered by Rep. Flores (TX), which requires the Office of the Chief Actuary of the Centers for Medicare & Medicaid Services to certify that the bill will not increase premiums for qualified health plans offered through an American Health Benefit Exchange prior to the law taking effect; and to amend the rule to H.R. 2157 to make in order and provide the appropriate waivers to amendment #6, offered by Rep. Austin Scott (GA), which allows the Secretary of the U.S. Department of Agriculture to utilize unused funds in the Wildfires and Hurricanes Indemnity Program (WHIP) for Hurricanes Florence and Michael, other hurricanes, typhoons, volcanic activity, or wildfires occurring in calendar year 2017, 2018, or 2019 under such terms and conditions as determined by the Secretary. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nay		
Mr. Morelle	Nay		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nay		
Mr. McGovern, Chairman	Nay		

## Rules Committee record vote No. 70

Motion by Mrs. Lesko to amend the rule to H.R. 986 to make in order and provide the appropriate waivers to amendment #9, offered by Rep. Walden (OR), which strikes all that follows the Short Title and replaces the language with H.R. 692, the Pre-existing Conditions Protection Act of 2019; and to amend the rule to H.R. 2157 to make in order and provide the appropriate waivers to amendment #59, offered by Rep. Rogers (AL) which provides supplemental appropriations to address the humanitarian and national security crisis on the southern border. This amendment mirrors President Trump's request for additional resources transmitted to Congress on May 1, 2019. Defeated: 4–9

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Nay	Mr. Cole	Yea
Mrs. Torres	Nay	Mr. Woodall	Yea
Mr. Perlmutter	Nay	Mr. Burgess	Yea
Mr. Raskin	Nay	Mrs. Lesko	Yea
Ms. Scanlon	Nav		
Mr. Morelle	Nav		
Ms. Shalala	Nay		
Mr. DeSaulnier	Nav		
Mr. McGovern, Chairman	Nav		

#### Rules Committee record vote No. 71

# Motion by Ms. Shalala to report the rule. Adopted: 9-4

Majority Members	Vote	Minority Members	Vote
Mr. Hastings	Yea	Mr. Cole	Nay
Mrs. Torres	Yea	Mr. Woodall	Nay
Mr. Perlmutter	Yea	Mr. Burgess	Nay
Mr. Raskin	Yea	Mrs. Lesko	Nay
Ms. Scanlon	Yea		,
Mr. Morelle	Yea		
Ms. Shalala	Yea		
Mr. DeSaulnier	Yea		
Mr. McGovern. Chairman	Yea		

## SUMMARY OF THE AMENDMENTS IN PART A MADE IN ORDER

- 1. Langevin (RI): Includes findings that the new guidance entitled "State Relief and Empowerment Waivers" weakens protections for the millions of Americans living with a preexisting health condition, including the one in four Americans living with a disability. (10 minutes)
- 2. Brown (MD): Ensures that nothing in the bill will be construed to affect the approval of waivers under section 1332 of the ACA that establish reinsurance programs that lower health insurance premiums, and protect health insurance coverage for people with preexisting conditions. (10 minutes)
- 3. Pressley (MA), Harder (CA): Specifies that this restriction includes such actions that result in fewer people with coverage of Essential Health Benefits (as defined in Section 1302 of the Affordable Care Act), including maternity and newborn care. (10 minutes)
  4. Harder (CA): Requests a GAO report on the impacts to mental
- 4. Harder (CA): Requests a GAO report on the impacts to mental health care and treatment, and how many individuals would lose care, if the waivers for State innovation are awarded. (10 minutes)
- 5. Walden (OR): Renames the bill, "This Bill Actually Has Nothing to do with Protecting Americans with Preexisting Conditions Act." (10 minutes)
- 6. Holding (NC): Changes the title of the bill to "Nothing in This Bill Would Protect Individuals With Pre-Existing Conditions Act" (10 minutes)
- 7. Holding (NC): Changes the title of H.R. 986 to "Insert Politically Punchy Title That Doesn't Reflect the Bill Substance Act." (10 minutes)
- 8. Porter (CA), Underwood (IL), Finkenauer (IA), Allred (TX): Prohibits the Secretaries from taking any such action that would reduce the number of individuals enrolled in coverage that is at least as comprehensive as the coverage defined in section 1302 of the Patient Protection and Affordable Care Act. (10 minutes)

9. Pappas (NH): Prohibits the Secretary of Health and Human Services and the Secretary of the Treasury from taking any action to implement similar guidance or rule that would reduce the availability or affordability of coverage for substance use disorders, including opioid use disorders. (10 minutes)

10. Rouda (CA): Prohibits future administrative actions that would result in a reduction in the availability, affordability, and comprehensiveness of health insurance coverage for vulnerable

populations. (10 minutes)

11. Malinowski (NJ): Prohibits the Secretaries from taking any action that would reduce the affordability of comprehensive coverage for individuals with pre-existing conditions. (10 minutes)

12. Wild (PA): Prohibits any action that would raise health insurance premiums. (10 minutes)

#### SUMMARY OF THE AMENDMENT IN PART B CONSIDERED AS ADOPTED

1. Lowey (NY): Provides additional guidance to FEMA in implementing section 20601 of Public Law 115-123 and section 502 of this Act. Specifically it clarifies the types of costs that are eligible under those provisions when providing assistance to territories struck by recent hurricanes and when determining whether to repair or replace a facility or system. In addition the amendment includes \$91.2 million for necessary repairs to federal buildings and courthouses that suffered significant damage due to Hurricane Florence. Makes technical correction to flood insurance extension.

#### SUMMARY OF THE AMENDMENTS IN PART C MADE IN ORDER

- 1. Perlmutter (CO): Increases funding by \$5 million for NOAA's weather forecasting, modeling, and cloud computing programs, including the Earth Prediction Innovation Center. (10 minutes)
- 2. Radewagen (AS): Amends the dollar amount of nutritional assistance for American Samoa from \$5,000,000 to \$18,000,000. (10 minutes)
- 3. Sablan (MP): Increases funding for waste water treatment plants impacted by Typhoon Yutu by \$8,800,000 based on EPA cost estimates for repair and resiliency updated on March 20, 2019. (10
- 4. Dunn (FL): Increases the amount of MilCon funding for the Air Force by \$300,000,000 and the U.S. Marine Corps and Navy by \$385,000,000 to expedite the rebuild of installations affected by 2018 hurricanes. (10 minutes)
- 5. Cunningham (SC), Young (AK), Turner (OH), Fortenberry (NE), Dunn (FL), Murphy (FL), Lawson (FL), Clyburn (SC), Bishop, Rob (UT): Increases Air Force Operations and Maintenance by \$270 million. (10 minutes)
- 6. Huffman (CA), Rouda (CA), Torres, Norma (CA): Prohibits funds in the bill from being used to enforce regulations requiring within two years construction of agency relief projects funded by the Federal Highway Administration. (10 minutes)

7. Schrier (WA), Brindisi (NY), Newhouse (WA), Harder (CA), McMorris Rodgers (WA): Limits the matching requirement for the

Specialty Crop Research Initiative. (10 minutes)

8. Fletcher (TX), Graves, Garret (LA), Rouzer (NC), Jackson Lee (TX): Shortens the time requirement of the publication of rules of the Department of Housing and Urban Development Community Development Fund in Public Law 115–123. (10 minutes)

9. Axne (IA), Fortenberry (NE): Increases the Emergency Water-

shed Program by \$310 million. (10 minutes)

10. Axne (IA): Increases the Federal Highway Administration Emergency Relief Program by \$500 million. (10 minutes)

#### PART A—TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LANGEVIN OF RHODE ISLAND OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, insert after line 5 the following:

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) On October 24, 2018, the administration published new guidance to carry out section 1332 of the Patient Protection and Affordable Care Act (42 U.S.C. 18052) entitled "State Relief and Empowerment Waivers" (83 Fed. Reg. 53575).

(2) The new guidance encourages States to provide health insurance coverage through insurance plans that may discriminate against individuals with preexisting health conditions, including the one in four Americans living with a disability.

(3) The implementation and enforcement of the new guidance weakens protections for the millions of Americans living with preexisting health conditions and jeopardizes Americans' access to quality, affordable health insurance coverage.

Page 3, line 6, redesignate section 2 as section 3.

2. An Amendment To Be Offered by Representative Brown of Maryland or His Designee, Debatable for 10 Minutes

Page 3, line 17, insert after the period the following new sentence: "Nothing in the previous sentence shall be construed to affect the approval of waivers under section 1332 of the Patient Protection and Affordable Care Act (42 U.S.C. 18052) that establish reinsurance programs that are consistent with the requirements under subsection (b)(1) of such section (42 U.S.C. 18052(b)(1)), lower health insurance premiums, and protect health insurance coverage for people with preexisting conditions."

3. An Amendment To Be Offered by Representative Pressley of Massachusetts or Her Designee, Debatable for 10 Minites

In section 2, insert ", including any such action that would result in individuals losing health insurance coverage that includes the essential health benefits package (as defined in subsection (a) of section 1302 of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) without regard to any waiver of any provision of such package under a waiver under such section 1332), including the maternity and newborn care essential health benefit described in subsection (b)(1)(D) of such section" after "(October 24, 2018))".

4. An Amendment To Be Offered by Representative Harder of California or His Designee, Debatable for 10 Minutes

Add at the end the following:

# SEC. 3. GAO REPORT ON AFFECT OF STATE INNOVATION WAIVERS ON COVERAGE OF INDIVIDUALS AND ON MENTAL HEALTH HEALTH CARE TREATMENT.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the number of individuals expected to lose access to health insurance coverage (as defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91)) if section 2 were not enacted and waivers under section 1332 of the Patient Protection and Affordable Care Act (42 U.S.C. 18052) were approved under the guidance described in such section 2. Such report shall include an analysis of the expected effect such waivers approved under such guidance would have on mental health care treatment.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WALDEN OF OREGON OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Beginning on page 3, line 4, strike "Protecting Americans with Preexisting Conditions Act of 2019" and insert "This Bill Actually Has Nothing to do with Protecting Americans with Preexisting Conditions Act".

6. An Amendment To Be Offered by Representative Holding of North Carolina or His Designee, Debatable for 10 Minutes

Page 3, beginning on line 4, strike "Protecting Americans with Preexisting Conditions Act of 2019" and insert "Nothing in This Bill Would Protect Individuals With Pre-Existing Conditions Act".

7. An Amendment To Be Offered by Representative Holding of North Carolina or His Designee, Debatable for 10 Minutes

Page 3, beginning on line 4, strike "Protecting Americans with Preexisting Conditions Act of 2019" and insert "Insert Politically Punchy Title That Doesn't Reflect the Bill Substance Act".

8. An Amendment To Be Offered by Representative Porter of California or Her Designee, Debatable for 10 Minutes

In section 2, insert ", including any such action that would result in a decrease in the number of such individuals enrolled in coverage that is at least as comprehensive as the coverage defined in section 1302(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) compared to the number of such individuals who would have been so enrolled in such coverage had such action not been taken" after "(October 24, 2018))".

9. An Amendment To Be Offered by Representative Pappas of New Hampshire or His Designee, Debatable for 10 Minutes

In section 2, insert ", including any such action that would, with respect to individuals with substance use disorders, including opioid use disorders, reduce the availability or affordability of coverage that is at least as comprehensive as the coverage defined in section 1302(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) compared to the availability or affordability, respectively, of such coverage had such action not been taken" after "(October 24, 2018))".

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROUDA OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 2, insert ", including any such action that would result, with respect to vulnerable populations (including low-income individuals, elderly individuals, and individuals with serious health issues or who have a greater risk of developing serious health issues), in a decrease in the availability of coverage that is at least as comprehensive as the coverage defined in section 1302(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) with coverage and cost sharing protections required under section 1332(b)(1)(B) of such Act (42 U.S.C. 18052(b)(1)(B))" after "(October 24, 2018))".

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MALINOWSKI OF NEW JERSEY OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 2, insert ", including any such action that would, with respect to individuals with preexisting conditions, reduce the affordability of coverage that is at least as comprehensive as the coverage defined in section 1302(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) compared to the affordability of such coverage had such action not been taken" after "(October 24, 2018))".

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WILD OF PENNSYLVANIA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, line 16, insert after "2018))," the following: "including any such action that would result in higher health insurance premiums for individuals enrolled in health insurance coverage that is at least as comprehensive as the coverage defined in section 1302(b) of such Act (42 U.S.C. 18022(b)),".

PART B—TEXT OF AMENDMENT CONSIDERED AS ADOPTED

Page 32, after line 6, insert the following:

SEC. \_\_\_\_\_. In implementing section 502 of this Act or section 20601 of Public Law 115–123, the Administrator shall include the costs associated with addressing pre-disaster condition, undamaged components, codes and standards, and industry standards in the cost of repair when calculating the percentage in section 206.226(f) of title 44, Code of Federal Regulations: *Provided*, That the

amounts provided by this section are designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That amounts repurposed under this heading that were previously designated by the Congress as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

After title X, insert the following:

#### TITLE XI

#### GENERAL SERVICES ADMINISTRATION

#### REAL PROPERTY ACTIVITIES

#### FEDERAL BUILDINGS FUND

For an additional amount, to be deposited in the Federal Buildings Fund, \$91,200,000, to remain available until expended, for necessary expenses related to the consequences of Hurricane Florence for repair and alteration of buildings under the custody and control of the Administrator of General Services, and real property management and related activities not otherwise provided for: *Provided*, That such amount may be used to reimburse the Fund for obligations incurred for this purpose prior to the date of the enactment of this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Page 77, line 14, strike "September 30, 2019" and insert "May 31, 2019".

Page 77, line 16, strike "September 30, 2019" and insert "May 31, 2019".

#### PART C—TEXT OF AMENDMENTS MADE IN ORDER

1. An Amendment To Be Offered by Representative Perlmutter of Colorado or His Designee, Debatable for 10 Minutes

Page 11, line 14, insert "(increased by \$5,000,000)" after the dollar amount.

Page 11, line 22, insert "(increased by \$5,000,000)" after the dollar amount.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RADEWAGEN OF AMERICAN SAMOA OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 9, line 8, after the dollar amount, insert "(increased by \$13,000,000)".

3. An Amendment To Be Offered by Representative Sablan of Northern Mariana Islands or His Designee, Debatable for 10 Minutes

Page 37, line 23, after the dollar amount, insert "(increased by \$8,800,000)".

Page 37, line 24, after the dollar amount, insert "(increased by \$8,800,000)".

Page 38, line 21, after the dollar amount, insert "(increased by \$8,800,000)".

4. An Amendment To Be Offered by Representative Dunn of Florida or His Designee, Debatable for 10 Minutes

Page 58, line 5, after the dollar amount, insert "(increased by \$385,000.000)".

Page 59, line 3, after the dollar amount, insert "(increased by \$300,000,000)".

5. An Amendment To Be Offered by Representative Cunningham of South Carolina or His Designee, Debatable for 10 Minutes

Page 16, line 12, after the dollar amount, insert "(increased by \$270,000,000)".

6. An Amendment To Be Offered by Representative Huffman of California or His Designee, Debatable for 10 Minutes

At the end of the bill (before the short title) insert the following: **SEC**.

None of the funds made available by this Act may be used to enforce section 668.105(h) of title 23, Code of Federal Regulations, for any projects in response to disasters that occurred in fiscal year 2017 or thereafter.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SCHRIER OF WASHINGTON OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill (before the short title) insert the following: SEC. \_\_\_\_. None of the funds in this Act shall be made available to implement paragraph (3) of section 412(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7632(g)).

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLETCHER OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 76, line 4, strike "90 days" and insert "14 days".

9. An Amendment To Be Offered by Representative Axne of Iowa or Her Designee, Debatable for 10 Minutes

Page 4, line 25, after the dollar amount, insert "(increased by \$310,000,000)".

 $10.\ \mbox{An Amendment}$  To Be Offered by Representative Axne of Iowa or Her Designee, Debatable for  $10\ \mbox{Minutes}$ 

Page 63, line 21, after the dollar amount, insert "(increased by \$500,000,000)".

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