114th CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
114–

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 5278) TO ESTABLISH AN OVERSIGHT BOARD TO ASSIST THE GOVERNMENT OF PUERTO RICO, INCLUDING INSTRUMENTALITIES, IN MANAGING ITS PUBLIC FINANCES, AND FOR OTHER PURPOSES

June 8, 2016.—Referred to the House Calendar and ordered to be printed.

MR. BYRNE, 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 nonrecord vote, 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. 5278, PROMESA, 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 Natural Resources. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114-57 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in 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 this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides that upon passage of H.R. 5278, the House shall be considered to have: (1) stricken all after the enacting clause of S. 2328 and inserted in lieu thereof the provisions of H.R. 5278, as passed by the House; and (2) passed the Senate bill as so amended.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes waivers of the following:

Section 303 of the Congressional Budget Act, prohibiting consideration of legislation, providing a change in revenues for a fiscal year until the budget resolution for that year has been agreed to.

Clause 10 of rule XXI, which prohibits the consideration of a bill or amendment if it has the net effect of increasing mandatory spending over the five-year or ten-year period. While the waiver is necessary because the Oversight Control Board is considered a Federal entity by the Congressional Budget Office, it is important to note that the Board's administrative costs are furnished entirely by direct transfers from the government of Puerto Rico and not from federal funds.

Section 425 of the Congressional Budget Act, which prohibits consideration of any legislation that would increase the direct costs of Federal intergovernmental mandates by an amount that causes thresholds specified in section 424 (a)(1) of the Congressional Budget Act to be exceeded. However, it is important to note that this legislation is supported by the Governor of Puerto Rico and includes language for the eventual dissolution of the Oversight Board—it is not envisioned as a permanent mandate.

Clause 3(e)(1) of rule XIII ("Ramseyer"), requiring a committee report accompanying a bill amending or repealing statutes to show, by typographical device, parts of statute affected. The waiver is provided because the submission provided by the Committee on Natural Resources was insufficient to meet the standards established by the rule in its current form. The Committee on Rules continues to work with the House Office of Legislative Counsel and committees to determine the steps necessary to comply with the updated rule.

The waiver of all points of order against the amendment in the nature of a substitute made in order as original text includes a waiver of Clause 7 of rule XVI, which requires that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. It is important to note that while the waiver is necessary, Rules Committee Print 114–57 is identical to the text of H.R. 5278 as reported.

The waiver of all points of order against the amendments printed in this report includes waivers of the following for Amendment #1 offered by Representative Bishop:

Section 303 of the Congressional Budget Act, prohibiting consideration of an amendment providing a change in revenues for a fiscal year until the budget resolution for that year has been agreed to.

Clause 10 of rule XXI, which prohibits the consideration of an amendment if it has the net effect of increasing mandatory spending over the five-year or ten-year period. While the waiver is necessary because the

control board is considered a Federal entity by the Congressional Budget Office, it is important to note that the Oversight Control Board's administrative costs are furnished entirely by direct transfers from the government of Puerto Rico and not from federal funds.

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. 185

Motion by Mr. McGovern to make in order and provide the appropriate waivers for amendment #32, offered by Rep.Gutierrez (IL), which ends disparities in Medicaid and Medicare funding and ensure healthcare parity for Puerto Rico. Defeated: 2–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx	Nay	Ms. Slaughter	
Mr. Cole	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	
Mr. Burgess	Nay	Mr. Polis	Yea
Mr. Stivers	Nay		
Mr. Collins	Nay		
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee Record Vote No. 186

Motion by Mr. Polis to make in order and provide the appropriate waivers for amendment #18, offered by Rep. Polis (CO), Rep. Young (AK), and Rep. Gallego (AZ), which declares the entire Commonwealth of Puerto Rico a HUBZone, under the Small Business Act; and amendment #24, offered by Rep. Polis (CO), which strikes section 404. Defeated: 2–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx.....	Nay	Ms. Slaughter.....	
Mr. Cole.....	Nay	Mr. McGovern.....	Yea
Mr. Woodall.....	Nay	Mr. Hastings of Florida.....	
Mr. Burgess.....	Nay	Mr. Polis.....	Yea
Mr. Stivers.....	Nay		
Mr. Collins.....	Nay		
Mr. Byrne.....	Nay		
Mr. Newhouse.....	Nay		
Mr. Sessions, Chairman.....	Nay		

SUMMARY OF THE AMENDMENTS MADE IN ORDER

1. Bishop, Rob (UT): MANAGER'S Makes technical and cross reference corrections to the bill, while addressing its general workability. Deletes the opt-in option for other territories, provides an initial funding mechanism for the Oversight Board, permits the Board the opportunity to review territorial laws enacted between May 4, 2016 and the full appointment of the Board, moves up the timeline for when the president must have appointed members to the Board, and provides considerations to the Oversight Board when determining venue. (10 minutes)
2. Graves (MO), Capuano (MA): Gives priority to protecting federal taxpayer assets in Puerto Rico, such as mass transportation assets. (10 minutes)
3. Jolly (FL), Curbelo (FL): Requires the Congressional Task Force on Economic Growth in Puerto Rico to report back to Congress on recommended changes to Federal law and programs that would reduce child poverty. (10 minutes)
4. Byrne (AL), Graves, Garret (LA), Polis (CO): Sets a deadline of 18 months for the report required in Section 410. (10 minutes)
5. Byrne (AL): Requires GAO to submit an biennual report to Congress on the debt and revenue levels of each territory, the drivers of each territory's debt, the effect of federal policy on each territory's debt, and the ability of each territory to repay its debt. (10 minutes)
6. Duffy (WI), Pierluisi (PR), Young, Don (AK): Temporarily eliminates in Puerto Rico a statutory cap that limits the total number of census tracts within a Metropolitan Statistical Area that can be designated as qualified census tracts under the Small Business Administration's HUBZone program. Requires the SBA to implement a risk-based approach to requesting and verifying information from firms applying to be designated or re-certified as a qualified HUBZone small business. (10 minutes)
7. Serrano (NY), Velázquez (NY): Preserves the ability of the Puerto Rico Commission for the Comprehensive Audit of the Public Debt to continue its work in analyzing the legality of certain debts issued by the Commonwealth, and allow the government of Puerto Rico or the Oversight Board to act upon any determination by the Commission. (10 minutes)
8. Torres (CA), Gallego (AZ), Capps (CA), Grayson (FL), Murphy, Patrick (FL), Polis (CO): Strikes Section 403. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

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

AMENDMENT TO

RULES COMMITTEE PRINT 114-57

OFFERED BY MR. BISHOP OF UTAH

Page 3, line 14, strike "If" and insert "(a) IN GENERAL.—Except as provided in subsection (b), if".

Page 3, after line 20, insert the following:

(b) UNIFORMITY.—If a court holds invalid any provision of this Act or the application thereof on the ground that the provision fails to treat similarly situated territories uniformly, then the court shall, in granting a remedy, order that the provision of this Act or the application thereof be extended to any other similarly situated territory, provided that the legislature of that territory adopts a resolution signed by the territory's governor requesting the establishment and organization of a Financial Oversight and Management Board pursuant to section 101.

Page 9, strike lines 24 and 25.

Page 10 strike lines 1 through 7, and insert the following:

(1) PUERTO RICO.—A Financial Oversight and Management Board is hereby established for Puerto Rico.

Page 10, line 8, strike "(3)" and insert "(2)".

Page 12, line 22, strike "must" and insert "shall".

Page 14, line 6, insert ", non-overlapping" after "from a separate".

Page 16, lines 15 through 16, strike "September 30, 2016" and insert "September 1, 2016".

Page 16, line 18, strike "December 1, 2016" and insert "September 15, 2016".

Page 19, line 4, strike "subsection" and insert "Act".

Page 20, line 5, insert "and any professionals the Oversight Board determines necessary" after "voting members".

Page 29, line 9, insert "until an order approving the Qualifying Modification has been entered pursuant to section 601(m)(1)(D) of this Act" after "such agreement".

Page 29, strike lines 10 through 18 and insert the following:

(3) PREEXISTING VOLUNTARY AGREEMENTS.—Any voluntary agreement that the territorial government or any territorial instrumentality has executed before May 18, 2016, with holders of a majority in amount of Bond Claims that are to be affected by such agreement to restructure such Bond Claims shall be deemed to be in conformance with the requirements of this subsection.

Page 32, line 11, strike "the Government of Puerto Rico" and insert "a covered territory".

Page 34, strike line 19 through page 35, line 3 and insert the following:

(b) FUNDING.—The Oversight Board shall use its powers with respect to the Territory Budget of the covered territory to ensure that sufficient funds are available to cover all expenses of the Oversight Board.

(1) PERMANENT FUNDING.—Within 30 days after the date of enactment of this Act, the territorial government shall designate a dedicated funding source, not subject to subsequent legislative appropriations, sufficient to support the annual expenses of the Oversight Board as determined in the Oversight Board's sole and exclusive discretion.

(2)(A) INITIAL FUNDING.—On the date of establishment of an Oversight Board in accordance with section 101(b) and on the 5th day of each month thereafter, the Governor of the covered territory shall transfer or cause to be transferred the greater of $2,000,000 or such amount as shall be determined by the Oversight Board pursuant to subsection (a) to a new account established by the territorial government, which shall be available to and subject to the exclusive control of the Oversight Board, without any legislative appropriations of the territorial government.

(B) TERMINATION.—The initial funding requirements under subparagraph (A) shall terminate upon the territorial government designating a dedicated funding source not subject to subsequent legislative appropriations under paragraph (1).

(3) REMISSION OF EXCESS FUNDS.—If the Oversight Board determines in its sole discretion that any funds transferred under this subsection exceed the amounts required for the Oversight Board's operations as established pursuant to subsection (a), any such excess funds shall be periodically remitted to the territorial government.

Page 35, line 15, strike "or on" and insert ", on".

Page 35, line 15, insert ", or against" after "behalf of".

Page 35, line 17 and 18, strike "no conflict of interest exists" and insert "the representation complies with the applicable professional rules of conduct governing conflicts of interests".

Page 60, line 7, insert "(A)" before "During the period".

Page 60, line 18, strike "reversal" and insert "rescission".

Page 60, line 19, insert at the end the following:

(B) Upon appointment of the Oversight Board's full membership, the Oversight Board may review, and in its sole discretion, rescind, any law that—

(i) was enacted during the period between, with respect to Puerto Rico, May 4, 2016; or with respect to any other territory, 45 days prior to the establishment of the Oversight Board for such territory, and the date of appointment of all members and the Chair of the Oversight Board; and

(ii) alters pre-existing priorities of creditors in a manner outside the ordinary course of business or inconsistent with the territory's con-

stitution or the laws of the territory as of, in the case of Puerto Rico, May 4, 2016, or with respect to any other territory, 45 days prior to the establishment of the Oversight Board for such territory;

but such rescission shall only be to the extent that the law alters such priorities.

Page 73, strike line 22, and insert "be excluded, and that, for each excluded trust or other legal entity, the court shall, upon the request of any participant or beneficiary of such trust or entity, at any time after the commencement of the case, order the appointment of a separate committee of creditors pursuant to section 1102(a)(2) of title 11, United States Code; and".

Page 75, line 2, insert at the end the following: "The term 'trustee' as described in this paragraph does not mean the U.S. Trustee, an official of the United States Trustee Program, which is a component of the United States Department of Justice.".

Page 75, line 8, insert "'Chapter 11,'" after "'Chapter 9'".

Page 76, line 22, insert "but" after "for such exercise,".

Page 76, line 23, strike ", but".

Page 84, line 23, insert "(1)" before "If the Oversight Board".

Page 85, after line 2, insert the following:

(2) With respect to paragraph (1), the Oversight Board may consider, among other things—

(A) the resources of the district court to adjudicate a case or proceeding; and

(B) the impact on witnesses who may be called in such a case or proceeding.

Page 88, line 7, strike "IMPAIRED CREDITORS"and insert "CLAIMS".

Page 88, line 14, insert "claims, which claims are" after "only one class of".

Page 88, line 21, insert "and does not discriminate unfairly" after "table".

Page 94, line 10, insert "(29 U.S.C. 215(a)(3))" after "section 15(a)(3)".

Page 111, line 1, strike "180 days" and insert "one year".

Page 115, line 24, insert ", which should be analyzed," after "level of debt".

Page 116, lines 4 and 5, strike "nor policies that would" and insert "or policies that would not".

Page 116, line 8, strike "States or local units of government".

Page 121, lines 7 and 8, strike ", or in the preceding 3 calendar years provided,".

Page 142, line 2, strike "a preexisting voluntary agreement" and insert "solely with respect to a preexisting voluntary agreement as described in section 104(i)(3) of this Act, such voluntary agreement".

Page 143, line 16, strike "if—" and insert "if one of the following processes has occurred:".

Page 143, line 17, strike "the Issuer" and insert "CONSULTATION PROCESS.—(A) The Issuer".

Page 143, line 20, strike "(2)" and insert "(B)".

Page 144, line 17, insert "and" after the semicolon.

Page 144, line 18, strike "(3)" and insert "(C)".

Page 144, line 21, strike "; or" and insert a period.

Page 144, lines 22 through 23, strike "(4) notwithstanding paragraphs (1) through (3), the" and insert the following:

(2) VOLUNTARY AGREEMENT PROCESS.—The

Page 145, line 2, insert "and section 601(g)(1)(B)" after "104(i)(2)".

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

20R

AMENDMENT TO

RULES COMMITTEE PRINT 114–57

OFFERED BY MR. GRAVES OF MISSOURI

Page 61, line 4, strike "or".

Page 61, line 7, strike the period and insert "; or".

Page 61, after line 7, insert:

(4) preserve and maintain federally funded mass transportation assets.

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JOLLY OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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AMENDMENT TO

RULES COMMITTEE PRINT 114-57

OFFERED BY MR. JOLLY OF FLORIDA

Page 114, line 11, insert ", reduce child poverty," before "and attract".

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

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AMENDMENT TO

RULES COMMITTEE PRINT 114-57

OFFERED BY MR. BYRNE OF ALABAMA

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Page 115, line 20, strike "The" and insert "Not later than 18 months after the date of the enactment of this Act, the".

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

10R

AMENDMENT TO

RULES COMMITTEE PRINT 114–57

OFFERED BY MR. BYRNE OF ALABAMA

Page 116, after line 10, insert the following:

SEC. 411. REPORT ON TERRITORIAL DEBT.

(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, and thereafter not less than once every two years, the Comptroller General of the United States shall submit to Congress a report on the public debt of each territory, including—

(1) the historical levels of each territory's public debt, current amount and composition of each territory's public debt, and future projections of each territory's public debt;

(2) the historical levels of each territory's revenue, current amount and composition of each territory's revenue, and future projections of each territory's revenue;

(3) the drivers and composition of each territory's public debt;

(4) the effect of Federal laws, mandates, rules, and regulations on each territory's public debt; and

(5) the ability of each territory to repay it's public debt.

(b) MATERIALS.—The government of each territory shall make available to the Comptroller General of the United States all materials necessary to carry out this section.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DUFFY OF WISCONSIN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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AMENDMENT TO THE RULES COMMITTEE PRINT FOR H.R. 5278 OFFERED BY MR. DUFFY OF WISCONSIN

Page 116, after line 10, insert the following:

SEC. 411. EXPANSION OF HUBZONES IN PUERTO RICO.

(a) IN GENERAL.—

(1) Section 3(p)(4)(A) of the Small Business Act (15 U.S.C. 632(p)(4)(A)) is amended to read as follows:

"(A) QUALIFIED CENSUS TRACT.—

"(i) IN GENERAL.—The term 'qualified census tract' has the meaning given that term in section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—For any metropolitan statistical area in the Commonwealth of Puerto Rico, the term 'qualified census tract' has the meaning given that term in section 42(d)(5)(B)(ii) of the Internal Revenue Code of 1986 as applied without regard to subclause (II) of such section, except that this clause shall only apply—

"(I) 10 years after the date that the Administrator implements this clause, or

"(II) the date on which the Financial Oversight and Management Board for the Commonwealth of Puerto Rico created by the Puerto Rico Oversight, Management, and Economic Stability Act ceases to exist,

whichever event occurs first.".

(2) REGULATIONS.—The Administrator of the Small Business Administration shall issue regulations to implement the amendment made by paragraph (1) not later than 90 days after the date of the enactment of this Act.

(b) IMPROVING OVERSIGHT.—

(1) GUIDANCE.—Not later than 270 days after the date of the enactment of this Act, the Administrator of the Small Business Administration shall develop and implement criteria and guidance on using a risk-based approach to requesting and verifying information from entities applying to be designated or recertified as qualified HUBZone small business concerns (as defined in section

3(p)(5) of the Small Business Act (15 U.S.C. 632(p)(5))).

(2) ASSESSMENT.—Not later 1 year after the date on which the criteria and guidance described in paragraph (1) is implemented, the Comptroller General of the United States shall begin an assessment of such criteria and guidance. Not later than 6 months after beginning such an assessment, the Comptroller General shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that includes—

(A) an assessment of the criteria and guidance issued by the Administrator of the Small Business Administration in accordance with paragraph (1);

(B) an assessment of the implementation of the criteria and guidance issued by issued by the Administrator of the Small Business Administration in accordance with paragraph (1);

(C) an assessment as to whether these measures have successfully ensured that only qualified HUBZone small business concerns are participating in the HUBZone program under

section 31 of the Small Business Act (15 U.S.C. 657a);

(D) an assessment as to whether the reforms made by the criteria and guidance implemented under paragraph (1) have resulted in job creation in the Commonwealth of Puerto Rico; and

(E) recommendations on how to improve controls in the HUBZone program.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SERRANO OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

AMENDMENT TO 22

RULES COMMITTEE PRINT 114–57

OFFERED BY MR. SERRANO OF NEW YORK

At the end of title IV, insert the following:

SEC. 411. DETERMINATION ON DEBT.

Nothing in this Act shall be interpreted to restrict—

(1) the ability of the Puerto Rico Commission for the Comprehensive Audit of the Public Credit to file its reports; or

(2) the review and consideration of the Puerto Rico Commission's findings by Puerto Rico's government or an Oversight Board for Puerto Rico established under section 101.

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

3

AMENDMENT TO THE RULES COMMITTEE PRINT

OF H.R. 5278

OFFERED BY MRS. TORRES OF CALIFORNIA

Strike section 403 (and redesignate succeeding sections and conform the table of contents accordingly).

House Calendar No. _____

114TH CONGRESS
2D SESSION

H. RES. _____

Report No. 114–____

Providing for consideration of the bill (H.R. 5278) to establish an Oversight Board to assist the Government of Puerto Rico, including instrumentalities, in managing its public finances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2016

Mr. BYRNE, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

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RESOLUTION

Providing for consideration of the bill (H.R. 5278) to establish an Oversight Board to assist the Government of Puerto Rico, including instrumentalities, in managing its public finances, and for other purposes.

Resolved, That at any time after adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5278) to establish an Oversight Board to assist the Government of Puerto Rico, including

instrumentalities, in managing its public finances, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and amendments specified in this section and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114-57. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the 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. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. Upon passage of H.R. 5278 the House shall be considered to have: (1) stricken all after the enacting clause of S. 2328 and inserted in lieu thereof the provisions of H.R. 5278, as passed by the House; and (2) passed the Senate bill as so amended.