Section-by-Section Summary of the "Supporting America's Charities Act" (H.R. 5806)

The "Supporting America's Charities Act" (H.R. 5806) combines three separate bills reported by the Ways and Means Committee that are designed to increase charitable giving for the benefit of individuals in need across the country, while also assisting the vital charities that serve them in all of our nation's communities. These bipartisan proposals – which previously passed the House on July 17, 2014, as part of broader legislation (H.R. 4719) – would make permanent and improve a variety of tax rules governing charitable donations and charitable organizations, encouraging America's taxpayers to give even more generously and enabling charities to serve those in need even more effectively. The provisions of the bill are described below.

Section 1. Short title. This section provides a short title for the bill, the "Supporting America's Charities Act."

Section 2. Special Rule for Qualified Conservation Contributions Modified and Made Permanent.

Current law: Under current law, an individual generally may deduct charitable contributions of cash up to 50 percent of adjusted gross income (AGI) if the contribution is made to public charities or certain private foundations, or 30 percent of AGI for contributions of capital assets or property used in a trade or business ("capital-gain property"). The donor generally must contribute the entire interest in the property, but may contribute a partial interest where the contribution is a qualified conservation contribution in which the donor contributes a qualified real property interest (typically an easement) to a qualifying organization exclusively for conservation purposes. Conservation purposes include preservation of land areas for outdoor recreation or educational purposes; protection of natural habitats of fish, wildlife, or plants; preservation of open space for the scenic enjoyment by the public or for governmental conservation policy; and preservation of historically important land areas or certified historic structures.

A temporary rule increased the limit on capital-gain property from 30 percent to 50 percent of AGI for conservation contributions made before 2014. Contributions qualifying for the temporary rule were not taken into account in determining the amount of other allowable charitable contributions under the applicable AGI limit. Additionally, farmers and ranchers could deduct the value of a qualified conservation easement contribution up to 100 percent of AGI (or 100 percent of taxable income in the case of a corporate farmer or rancher), provided the property remained available for use in agricultural or livestock production. A qualified farmer or rancher generally was a taxpayer that earned more than 50 percent of his or her gross income from farming. A similar temporary rule applied to qualified conservation contributions made by a non-publicly traded corporation that was a qualified farmer or rancher.

Provision: Under the provision,[1] the temporary deduction for contributions of conservation easements would be made permanent. In addition, Alaska Native Corporations would be eligible to deduct a qualified conservation easement contribution up to 100 percent of taxable income. Both changes would be effective for contributions made after 2013.

Considerations: The provision making permanent the deduction for conservation contributions would continue to provide an important incentive for contributions of conservation easements for the benefit of our communities and the environment. According to testimony received by the Ways and Means Committee, in the first two years following its original enactment, the temporary rule doubled the number of conservation easement donations in comparison to the two prior years, and increased the acreage conserved by about 32 percent. The provision, which is similar to a provision contained in the February 26, 2014, discussion draft of the "Tax Reform Act of 2014," will continue these results by providing certainty and stability to individuals and businesses seeking to contribute conservation easements.

JCT estimate: According to JCT, when analyzed against the current-law baseline, which assumes that long-standing temporary provisions are allowed to expire, the provision would reduce revenues by $1.170 billion over 2014-2024.

Section 3. Extension and Expansion of Charitable Deduction for Contributions of Food Inventory.

Current law: Under current law, a taxpayer's charitable deduction for contributions of inventory generally is limited to the lesser of the taxpayer's basis (typically, cost) in the inventory or its fair market value (FMV). Under a permanent special rule limited to C corporations, the deduction for certain contributions of food and non-food inventory is enhanced to the lesser of (1) basis plus one-half of the item's appreciation or (2) two times basis.

A temporary provision that applied to contributions made before 2014 expanded the enhanced deduction for contributions of food inventory to any taxpayer engaged in a trade or business. Under the temporary provision, the total deduction for contributions of food inventory generally could not exceed 10 percent of the taxpayer's net income from all pass-through businesses from which contributions were made. The enhanced deduction was available only for food that was "apparently wholesome food," defined as food intended for human consumption that met all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food might not have been readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

[1] This provision is based on H.R. 2807, bipartisan legislation introduced by Reps. Jim Gerlach (R-PA) and Mike Thompson (D-CA), along with more than 200 other bipartisan cosponsors. It previously passed the House on July 17, 2014, as Sec. 4 of H.R. 4719.

Provision: Under the provision,[2] the enhanced deduction for contributions of food inventory by any type of business would be made permanent. The bill would provide a special basis rule for pass-through businesses that do not maintain inventories (e.g., farms), under which such businesses could treat their basis in the contributed food as equal to 25 percent of the FMV of such food. Additionally, the bill would provide a rule to determine the FMV of food inventory that cannot or will not be sold by the business because of internal standards, lack of market or similar circumstances or because it was produced exclusively for the purpose of transferring it to a charitable organization. In these circumstances, the FMV would be determined by taking into account the price at which the business would sell the same or substantially similar food at or near the time of the contributions. The bill also would increase the 10-percent limitation on contributions of food inventory to 15 percent of the taxpayer's taxable income. The changes contained in the bill would apply generally to contributions of food inventory after 2013.

Considerations: The provision would make permanent an important incentive for food-service companies like restaurants to donate, rather than discard, surplus wholesome food inventory to charitable organizations that help children and families in need. The provision also would make the tax law fairer by expanding the enhanced deduction for contributions of certain inventory to apply to all businesses that donate surplus food inventory, not just C corporations.

JCT estimate: According to the Joint Committee on Taxation (JCT), when analyzed against the current-law baseline, which assumes that long-standing temporary provisions are allowed to expire, the provision would reduce revenues by $1.915 billion over 2014-2024.

Section 4. Rule Allowing Certain Tax-free Distributions from Individual Retirement Accounts for Charitable Purposes Made Permanent.

Current law: Under current law, a taxpayer may claim an itemized deduction for charitable contributions. The charitable contribution deduction is limited to a certain percentage of the individual's adjusted gross income (AGI). A temporary provision that expired at the end of 2013 allowed individuals to exclude from income qualified charitable distributions from IRAs, instead of taking such distribution as an itemized deduction subject to the AGI limitation. The exclusion was limited to $100,000 per taxpayer per tax year. A qualified charitable distribution was any distribution from an IRA if the IRA owner was at least 70½ years old and made directly by the IRA trustee to public charities (other than donor advised funds), private operating foundations, and certain non-operating private foundation.

Provision: Under the provision,[3] tax-free distributions from IRAs for charitable purposes would be made permanent. The legislation would be effective for distributions in tax years beginning after 2013.

[2] This provision is based on H.R. 4719, as introduced by Rep. Tom Reed (R-NY), and is similar to bipartisan legislation (H.R. 2945) introduced by Ranking Member Sander Levin (D-MI) and Rep. Jim Gerlach (R-PA). It previously passed the House on July 17, 2014, as Sec. 2 of H.R. 4719.
[3] This provision is based on H.R. 4619, bipartisan legislation introduced by Reps. Aaron Schock (R-IL) and Earl Blumenauer (D-OR). It previously passed the House on July 17, 2014, as Sec. 3 of H.R. 4719.

Considerations: The provision permitting tax-free distributions from IRAs for charitable purposes would continue an important incentive to encourage taxpayers to contribute to charitable and religious organizations, which provide important services across the nation. According to testimony received by the Ways and Means Committee, in the first two years it was available, the IRA charitable distribution option prompted more than $140 million in charitable donations, with the median gift just under $4,500, to a broad range of tax-exempt organizations from social service providers and religious organizations to cultural institutions and schools, organizations that benefit communities nationwide.

JCT estimate: According to JCT, when analyzed against the current-law baseline, which assumes that long-standing temporary provisions are allowed to expire, the provision would reduce revenues by $8.030 billion over 2014-2024.

Sec. 5: Budgetary effects. This section provides for the treatment of the bill's budgetary effects for PAYGO purposes.

Overall JCT estimate of H.R. 5806: According to JCT, when analyzed against the current-law baseline, which assumes that long-standing temporary provisions are allowed to expire, the bill as a whole would reduce revenues by $11.115 billion over 2014-2024.