

RESOLUTION OF INQUIRY DIRECTING THE SECRETARY OF THE INTERIOR
TO TRANSMIT CERTAIN DOCUMENTS TO THE HOUSE OF REPRESENTA-
TIVES RELATING TO THE ACTIONS OF THE DEPARTMENT OF THE INTE-
RIOR'S DEPARTMENTAL ETHICS OFFICE

SEPTEMBER 28, 2022.—Referred to the House Calendar and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H. Res. 1253]

The Committee on Natural Resources, to whom was referred the resolution (H. Res. 1253) of inquiry directing the Secretary of the Interior to transmit certain documents to the House of Representatives relating to the actions of the Department of the Interior's Departmental Ethics Office, having considered the same, reports unfavorably thereon with an amendment and recommends that the resolution as amended not be agreed to.

Strike all after the resolving clause and insert the following:

That the Secretary of the Interior is directed to transmit, to the House of Representatives, not later than 14 days after the date of the adoption of this resolution, copies of any document, memorandum, correspondence, and other communication or any portion of any such communication, that refers or relates to the operation of the Department of the Interior's Departmental Ethics Office and the creation of ethics guidance, including the following:

(1) Any documents and communications relating to the process for creating ethics compliance materials, including but not limited to any reference to—

(A) the creation of Ethics Guidance on Recusal Obligations;

(B) the creation of Ethics Recusal and Screening Arrangements;

(C) how the Departmental Ethics Office collects information from political appointees; and

(D) how the Departmental Ethics Office verifies the information provided by political appointees.

(2) Any documents and communications relating to the time frame in which political appointees are provided final ethics guidance.

(3) Any documents and communications relating to ethics waivers for political appointees; including but not limited to any reference to—

(A) requests for ethics waivers;

(B) denying an ethics waiver; and

(C) granting an ethics waiver.

(4) Any documents and communications relating to the drafting and finalization of ethics guidance for all Interior Department political appointees.

(5) Any meeting or communication that occurred between the Designated Agency Ethics Official and all Interior Department political appointees, relating to the drafting and finalization of ethics guidance.

PURPOSE OF THE LEGISLATION

The purpose of H. Res. 1253 is to direct the Secretary of the Interior to transmit certain documents to the House of Representatives relating to the actions of the Department of the Interior's Departmental Ethics Office.

BACKGROUND REGARDING THIS LEGISLATION

A resolution of inquiry (ROI) is a simple resolution (as opposed to a joint resolution or concurrent resolution) that makes a non-binding demand for the Executive Branch to provide the U.S. House of Representatives with specific information.¹ Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, if the committee of referral does not report a properly drafted ROI back to the House within 14 legislative days of the ROI's introduction, then any Member may offer a non-debatable motion on the House Floor that such ROI be discharged from committee. By contrast, if an ROI is reported to the House within the 14-day window, then only a Member authorized by the committee may call up the resolution on the floor.

COMMITTEE ACTION

H. Res. 1253 was introduced on July 22, 2022, by Ranking Member Bruce Westerman (R-AR). The resolution was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee on Oversight and Investigations. On September 15, 2022, the Natural Resources Committee met to consider the legislation. The Subcommittee was discharged by unanimous consent. Chair Raúl M. Grijalva (D-AZ) offered an amendment in the nature of a substitute, which was agreed to by voice vote. A recorded vote was requested and postponed on adopting the legislation as amended and ordering it reported unfavorably to the House. The Committee adjourned.

On September 21, 2022, the Natural Resources Committee met to continue its consideration of the measure. The resolution, as amended, was adopted and ordered reported unfavorably to the House of Representatives by a roll call vote of 24 yeas and 18 nays, as follows:

¹See generally CHRISTOPHER M. DAVIS, CONG. RES. SERV., IN10661, RESOLUTIONS OF INQUIRY IN THE HOUSE (updated July 21, 2022) <https://www.crs.gov/Reports/IN10661> and CHRISTOPHER M. DAVIS, CONG. RES. SERV., R40879, RESOLUTIONS OF INQUIRY: AN ANALYSIS OF THEIR USE IN THE HOUSE, 1947-2017 (updated Nov. 9, 2017), <https://www.crs.gov/reports/pdf/R40879>—of which the above text is largely excerpts.

Date: September 21, 2022

**COMMITTEE ON NATURAL RESOURCES
117TH CONGRESS — ROLL CALL**

Bill / Motion: H.Res. 1253

Amendment:

Disposition: Final Passage: H.Res. 1253, as amended, was adopted and ordered unfavorably reported to the House of Representatives by a roll call vote of 24 yeas and 18 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN	X		
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO	X		
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ	X		
8	Mr. Garcia, IL			
9	Mr. Grijalva, AZ (Chair)	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN	X		
15	Mr. McEachin, VA	X		
16	Mrs. Napolitano, CA	X		
17	Mr. Neguse, CO	X		
18	Ms. Peltola, AK	X		
19	Ms. Porter, CA	X		
20	Mr. Sablan, MP	X		
21	Mr. San Nicolas, GU	X		
22	Mr. Soto, FL	X		
23	Ms. Stansbury, NM	X		
24	Ms. Tlaib, MI	X		
25	Mr. Tonko, NY	X		
26	Ms. Velázquez, NY			
	REP. MEMBERS (21)	Y	N	P
1	Mr. Bentz, OR		X	
2	Mrs. Boebert, CO		X	
3	Mr. Carl, AL		X	
4	Ms. Conway, CA			
5	Mr. Fulcher, ID		X	
6	Mr. Gohmert, TX		X	
7	Miss González-Colón, PR		X	
8	Mr. Graves, LA			
9	Ms. Herrell, NM		X	
10	Mr. Hice, GA		X	
11	Mr. Lamborn, CO		X	
12	Mr. McClintock, CA		X	
13	Mr. Moore, UT		X	
14	Mr. Obernolte, CA		X	
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT		X	
17	Mr. Stauber, MN		X	
18	Mr. Tiffany, WI		X	
19	Mr. Webster, FL		X	
20	Mr. Westerman, AR (RM)		X	
21	Mr. Wittman, VA		X	
	TOTALS	24	18	
	Total: 47 / Quorum: 16 / Report: 24	YEAS	NAYS	PRESENT

HEARINGS

Clause 3(c)(6) of House rule XIII requires designating a hearing as used to develop or consider certain bills and joint resolutions. The provision does not apply to simple resolutions.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

To the extent that clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives may apply, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND
CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* The Committee notes that the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 do not apply to committee reports on simple resolutions.² Clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974 also do not apply to simple resolutions.³ The Committee notes that clause 3(d) of rule XIII of the Rules of the House of Representatives as well does not apply to committee reports on simple resolutions.

To the extent that any of the preceding requirements may nonetheless apply, the Committee notes that it has requested but not received a cost estimate for this legislation from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate any forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House agreement to the resolution. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this legislation contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. *General Performance Goals and Objectives.* To the extent that clause 3(c)(4) of rule XIII of the Rules of the House of Representatives may apply, the general performance goals and objectives of this resolution are to express a nonbinding demand from the House to the Executive Branch for certain documents as described in the text of the resolution.

EARMARK STATEMENT

Clause 9 of rule XXI of the Rules of the House of Representatives does not apply to reports on simple resolutions. However, the Com-

²See Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, § 308(a), 88 Stat. 297, 313 (1974), <https://uscode.house.gov/statviewer.htm?volume=88&page=313> (codified as 2 U.S.C. § 639(a)) (statutory compilation through P.L. 116-94 at <https://www.govinfo.gov/content/pkg/COMPS-10356/pdf/COMPS-10356.pdf>) (explicitly limiting the subsection's various requirements to (1) "a bill or joint resolution, or committee amendment thereto, providing new budget authority", (2) a conference report, or (3) PAYGO legislation).

³Compare Pub. L. No. 93-344, at § 402 (codified as 2 U.S.C. § 653) (limiting the section's requirements to "each bill or resolution of a public character" reported by a committee (emphasis added)), with, e.g., JANE A. HUDIBURG, CONG. RES. SERV., R46603, BILLS, RESOLUTIONS, NOMINATIONS, AND TREATIES: CHARACTERISTICS AND EXAMPLES OF USE 4 (2020), <https://www.crs.gov/reports/pdf/R46603> (noting that simple resolutions govern only "the internal affairs of one chamber" of congress and are not used for enacting public law).

mittee finds that the legislation does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI.

UNFUNDED MANDATES REFORM ACT STATEMENT

Section 423 of the Unfunded Mandates Reform Act does not apply to committee reports on simple resolutions. However, the Committee finds that the legislation contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Clause 3(c)(5) of rule XIII of the Rules of the House of Representatives does not apply to committee reports on simple resolutions. However, the Committee finds that the legislation does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

Section 102(b)(3) of the Congressional Accountability Act does not apply to committee reports on simple resolutions. In any event, 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 section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

The Committee finds that the resolution, if agreed to by the House, would not have the force of law and therefore would have no preemptive effect over state, local, or tribal law.

CHANGES IN EXISTING LAW

Clause 3(e) of rule XIII of the Rules of the House of Representatives does not apply to committee reports on simple resolutions. In any event, the Committee finds that this legislation, if agreed to by the House, would make no changes to existing law.

DISSENTING VIEWS

H. Res. 1253 directs the Secretary of the Interior to transmit communications and documents regarding the operation of the Department of the Interior's Departmental Ethics office. The Resolution of Inquiry seeks information related to the creation of ethics guidance for Department of the Interior employees.

Over the course of 14 months, I have requested information from the Departmental Ethics Office related to the ethical compliance of several political appointees at the Department of the Interior. The 60 documents requests I made have not yet all been satisfied. Concerningly, when the Departmental Ethics Office provides partial responses, it is not doing so promptly. For example, it took 155 days for the Department of the Interior to provide one political appointee's signed ethics pledge, OGE Form 278, and copies of interim and final ethics guidance. These documents should have been readily available to provide to the Committee.

An Office of Inspector General's report, "Bureau of Land Management Official Did Not Comply with the Federal Ethics Pledge," released on August 18, 2022, compounded my concerns about the operation of the Departmental Ethics Office. The report described that while the Departmental Ethics Office relied on a Bureau of Land Management official to verify the accuracy of interim ethics guidance, the Bureau of Land Management official deferred to the Departmental Ethics Office to provide accurate guidance. As a result, the Bureau of Land Management official operated under inaccurate ethics guidance and ultimately violated her federal ethics pledge.

Reporting H. Res. 1253 favorably from Committee would have allowed the House of Representatives to seek documents providing greater visibility into the Departmental Ethics Office. The Department of the Interior would have been required to provide information about how the Departmental Ethics Office created ethics guidance, granted ethics waivers, and verified the information provided to them by political appointees. The requested documents would have shed light on whether the Departmental Ethics Office was fulfilling its mandate to promote an ethical workplace culture. Ultimately, favorably reporting this Resolution of Inquiry would have brought much needed to transparency to the processes and procedures in place at the Departmental Ethics Office.

For these reasons, I oppose reporting H. Res. 1253 unfavorably.

BRUCE WESTERMAN.

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