

REQUESTING THAT THE PRESIDENT OF THE UNITED STATES TRANSMIT TO THE HOUSE OF REPRESENTATIVES COPIES OF ANY EMAILS IN THE POSSESSION OF THE EXECUTIVE OFFICE OF THE PRESIDENT THAT WERE TRANSMITTED TO OR FROM THE EMAIL ACCOUNT(S) OF FORMER INTERNAL REVENUE SERVICE EXEMPT ORGANIZATIONS DIVISION DIRECTOR LOIS LERNER BETWEEN JANUARY 2009 AND APRIL 2011

JULY 17, 2014.—Referred to the House Calendar and ordered to be printed

Mr. CAMP, from the Committee on Ways and Means,
submitted the following

ADVERSE REPORT

[To accompany H. Res. 645]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the resolution (H. Res. 645) requesting that the President of the United States transmit to the House of Representatives copies of any emails in the possession of the Executive Office of the President that were transmitted to or from the email account(s) of former Internal Revenue Service Exempt Organizations Division Director Lois Lerner between January 2009 and April 2011, having considered the same, report unfavorably thereon without amendment and recommend that the resolution not be agreed to.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H. Res. 645 requests the President to transmit to the House of Representatives copies of any emails in the possession of the Executive Office of the President that were transmitted to or from the email account(s) of former Internal Revenue Service (IRS) Exempt Organizations Division Director Lois Lerner between January 2009 and April 2011.

B. BACKGROUND AND NEED FOR LEGISLATION

H. Res. 645 was introduced by Rep. Steve Stockman on June 25, 2014. H. Res. 645 is a resolution of inquiry, which is a method by which the House can obtain factual information from the Executive Branch. Under clause 7 of rule XIII of the Rules of the House of

Representatives, a Committee of referral must act on such a resolution of inquiry within 14 legislative days of its introduction, or a privileged motion to discharge the Committee will be in order.¹

On May 10, 2013, former IRS Exempt Organizations Division Director Lois Lerner admitted the IRS had targeted conservative groups applying for tax-exempt status. On May 14, 2013, the Treasury Inspector General for Tax Administration released an audit report detailing the targeting. Also on May 14, 2013, the Committee wrote a bipartisan letter to the IRS requesting documents related to the targeting.

The Committee's subsequent investigation yielded evidence of wrongdoing that led the Committee on April 9, 2014 to refer Ms. Lerner to the Department of Justice for possible criminal acts. Because of the likelihood of additional evidence of wrongdoing, the Committee demanded that the IRS produce all of Ms. Lerner's emails during the period of the targeting. In May 2014, IRS Commissioner John Koskinen promised the Committee the IRS would produce all Lois Lerner emails.

However, on June 13, 2014, the IRS sent the Chairman and Ranking Member of the Committee a courtesy copy of a letter to Senate Finance Committee Chairman Ron Wyden and Ranking Member Orrin Hatch, the attachments of which disclosed that many of Ms. Lerner's emails had been lost due to a "hard drive crash." The two-page letter itself made no mention of the data loss, but within the 25 pages of attachments, the IRS admitted that for the period January 2009 through April 2011, "[a]ny of Ms. Lerner's email that was only stored on that computer's hard drive would have been lost when the hard drive crashed and could not be recovered."² According to the June 2014 letter and a briefing subsequently received by staff, emails between Ms. Lerner and persons outside of the IRS for this period were also lost to the IRS.

In light of the fact the IRS was unable to produce the full scope of Ms. Lerner's emails, the Committee on June 16, 2014, sent document requests to both President Obama and Treasury Secretary Lew seeking all communications between Lois Lerner and any persons within the Executive Office of the President and the Department of the Treasury (Treasury), respectively, for the period between January 1, 2009 and May 1, 2011.

On June 18, 2014, the White House responded to the Committee's request with responsive documents and claimed that the White House learned of problems with Ms. Lerner's emails from Treasury in April, months before the IRS informed Congress.³ Likewise, on June 20, 2014, the Treasury Department responded to the Committee's request with responsive documents and a cover letter that said the IRS had informed Treasury of problems locating Ms. Lerner's emails prior to 2011.⁴ Treasury produced a second batch of documents on June 23, 2014.⁵ As the Committee has al-

¹ See Rules of the House of Representatives, Rule XIII, clause 7.

² Letter from Leonard Oursler, Director of Legislative Affairs, IRS to Chairman Wyden and Ranking Member Hatch of June 13, 2014.

³ Letter from W. Neil Eggleston, White House Counsel to Chairman Camp of June 18, 2014.

⁴ Letter from Alastair M. Fitzpayne, Assistant Secretary for Legislative Affairs, Department of the Treasury to Chairman Camp of June 20, 2014.

⁵ Letter from Alastair M. Fitzpayne, Assistant Secretary for Legislative Affairs, Department of the Treasury to Chairman Camp of June 23, 2014.

ready obtained the documents sought by the resolution, H. Res. 645 is not necessary.

The Committee will continue to conduct thorough oversight over the IRS's treatment of tax-exempt groups.

C. LEGISLATIVE HISTORY

Background

On June 25, 2014, Rep. Steve Stockman introduced H. Res. 645. The resolution was referred to the Committee on Ways and Means.

Committee Action

On July 10, 2014, the Committee met in open session and, by voice vote, ordered H. Res. 645 unfavorably reported to the House of Representatives.

Committee Hearings

The Committee held no hearings on H. Res. 645.

II. EXPLANATION OF THE BILL

H. Res. 645 requests the President to transmit to the House of Representatives copies of any emails in the possession of the Executive Office of the President that were transmitted to or from the email account(s) of former Internal Revenue Service Exempt Organizations Division Director Lois Lerner between January 2009 and April 2011.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H. Res. 645.

The resolution, H. Res. 645 was ordered unfavorably reported to the House of Representatives by voice vote (with a quorum being present).

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

Clause 3(d) of rule XIII of the Rules of the House of Representatives is inapplicable.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

Clause 3(c)(3) of rule XIII of the Rules of the House of Representatives is inapplicable because the Congressional Budget Office did not provide a cost estimate for the resolution.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE OF REPRESENTATIVES

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives is inapplicable, as the resolution does not authorize funding.

C. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c) of rule XIII of the Rules of the House of Representatives, no provision of the resolution establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

D. DISCLOSURE OF DIRECTED RULE MAKINGS

In accordance with clause 3(c) of rule XIII of the Rules of the House of Representatives, H. Res. 645 does not direct any rule making within the meaning of 5 U.S.C. 551.

E. INFORMATION RELATING TO UNFUNDED MANDATES

In accordance with section 423 of the Unfunded Mandates Act of 1995 (Pub. L. No. 104–4), the resolution does not impose a Federal mandate.

F. APPLICABILITY OF HOUSE RULE XXI(5)(B)

Clause 5(b) of rule XXI of the Rules of the House of Representatives provides, in part, that “A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present.” The Committee has carefully reviewed the resolution and states that the resolution does not involve any Federal income tax rate increases within the meaning of the rule.

G. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS AND LIMITED TARIFF BENEFITS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, the resolution does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

H. CHANGES IN EXISTING LAW MADE BY THE BILL

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, H. Res. 645 would not make any changes to existing law.

