

RESOLUTION OF INQUIRY DIRECTING THE SECRETARY OF COMMERCE TO PROVIDE CERTAIN DOCUMENTS IN THE SECRETARY'S POSSESSION TO THE HOUSE OF REPRESENTATIVES RELATING TO THE DECISION TO INCLUDE A QUESTION ON CITIZENSHIP IN THE 2020 DECENNIAL CENSUS OF POPULATION

MAY 24, 2018.—Referred to the House Calendar and ordered to be printed

Mr. GOWDY, from the Committee on Oversight and Government Reform, submitted the following

ADVERSE REPORT

[To accompany H. Res. 877]

The Committee on Oversight and Government Reform, to whom was referred the resolution (H. Res. 877) of inquiry directing the Secretary of Commerce to provide certain documents in the Secretary’s possession to the House of Representatives relating to the decision to include a question on citizenship in the 2020 decennial census of population, having considered the same, report unfavorably thereon without amendment and recommend that the resolution not be agreed to.

CONTENTS

	Page
Summary and Purpose of the Legislation	2
Background and Need for Legislation	2
Statement of Oversight Findings and Recommendations of the Committee	2
Statement of General Performance Goals and Objectives	3
Legislative History	3
Committee Consideration	3
Roll Call Votes	3
Explanation of Amendments	5
Application of Law to the Legislative Branch	5
Duplication of Federal Programs	5
Disclosure of Directed Rule Makings	5
Federal Advisory Committee Act	5
Unfunded Mandates Statement	5
Earmark Identification	5
Committee Estimate	5
New Budget Authority and Congressional Budget Office Cost Estimate	6
Section-by-Section Analysis	6
Changes in Existing Law Made by the Bill, as Reported	6

SUMMARY AND PURPOSE OF LEGISLATION

House Resolution 877 is a resolution of inquiry directing the Secretary of Commerce to provide certain documents to the House of Representatives relating to the decision to include a question on citizenship in the 2020 decennial census of population.

BACKGROUND AND NEED FOR LEGISLATION

A resolution of inquiry is a simple resolution of the House directing an agency to produce records or information. The Rules of the House of Representatives require the committee of jurisdiction to act on the resolution within 14 legislative days, or a motion to discharge is considered privileged on the floor of the House.¹

In December 2017, the Department of Justice (DOJ) requested the Department of Commerce (DOC) add questions to the 2020 Census related to citizenship.² DOJ believes a census citizenship question will help it better enforce the Voting Rights Act. On March 26, 2018, Secretary of Commerce Wilbur Ross announced his decision to include a question on citizenship on the 2020 census questionnaire.³ In accordance with federal law, on March 29, 2018, the Commerce Department presented Congress with the 2020 census questions.⁴

H. Res. 877 would direct the Secretary of Commerce to provide any document, record, memo, correspondence, or other communication to the House of Representatives relating to the decision to include a question on citizenship in the 2020 decennial census of population.

To ensure the Committee adversely reported the resolution timely, the Committee considered the resolution at a business meeting on May 23, 2018. At the meeting, the Committee ordered H. Res. 877 adversely reported without amendment, with the recommendation the House not agree to the resolution.

The Committee reported the resolution adversely because the resolution is unnecessary. At a Committee hearing on May 8, 2018, the Department of Commerce agreed to provide the Committee with the administrative record in this matter once such documents are filed with the court in *State of New York et. al. v. United States Department of Commerce et. al.* The court-imposed deadline for filing the administrative record is June 8, 2018. Therefore, the Committee considers the resolution premature and unnecessary, because the documents are expected in a matter of weeks.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the previous section.

¹ Clause 7 of Rule XIII.

² Letter from Arthur E. Gary, General Counsel, Justice Management Division, U.S. Department of Justice to U.S. Census Bureau (December 12, 2017).

³ Letter from Secretary Wilbur Ross, Department of Commerce, to Karen Dunn Kelley, Under Secretary for Economic Affairs, Department of Commerce (March 26, 2018).

⁴ 13 U.S. Code § 141(f)(2).

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H. Res. 877 directs the Secretary of Commerce to provide certain documents to the House of Representatives relating to the decision to include a question on citizenship in the 2020 decennial census of population.

LEGISLATIVE HISTORY

On May 8, 2018, the Committee held a hearing titled, “Progress Report on the 2020 Census.” The Committee heard testimony from the Department of Commerce, the Census Bureau, two census experts at the Government Accountability Office, and a law professor from Loyola University Los Angeles Law School. Mr. John M. Gore, Acting Assistant Attorney General for the Civil Rights Division at the Department of Justice was invited and accepted the invitation, but at the last minute refused to appear. The Chairman recessed the hearing subject to the call of the Chair and reconvened a second panel of the hearing on May 18, 2018, at which point Mr. Gore appeared on threat of subpoena. At the hearing, Mr. Gore testified regarding the Department of Justice’s request to the Census Bureau to add a citizenship question to the 2020 census questionnaire.

On May 8, 2018, Representative Jimmy Gomez (D-CA) introduced H. Res. 877 together with 70 other Democrat members. H. Res. 877 was referred to the Committee on Oversight and Government Reform. The Committee considered H. Res. 877 at a business meeting on May 23, 2018, and ordered the bill adversely reported without amendment by recorded vote.

COMMITTEE CONSIDERATION

On May 23, 2018, the Committee met in open session and, with a quorum being present, ordered the resolution adversely reported by a roll call vote of 20 to 16.

ROLL CALL VOTES

There was one roll call vote during consideration of H. Res. 877:

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
115TH CONGRESS
RATIO 23-18
ROLL CALL

Vote on: Adversely Reporting to the House H. Res. 877

Date: 5-23-18

VOTE #: 1

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. GOWDY (SC) <i>(Chairman)</i>	X			MR. CUMMINGS (MD) <i>(Ranking)</i>		X	
MR. DUNCAN (TN)	X			MS. MALONEY (NY)		X	
MR. ISSA (CA)	X			MS. NORTON (DC)		X	
MR. JORDAN (OH)	X			MR. CLAY (MO)		X	
MR. SANFORD (SC)				MR. LYNCH (MA)		X	
MR. AMASH (MI)	X			MR. COOPER (TN)			
MR. GOSAR (AZ)	X			MR. CONNOLLY (VA)		X	
MR. DesJARLAIS (TN)	X			MS. KELLY (IL)		X	
MS. FOXX (NC)				MS. LAWRENCE (MI)			
MR. MASSIE (KY)	X			MS. WATSON COLEMAN (NJ)		X	
MR. MEADOWS (NC)	X			MR. KRISHNAMOORTHY (IL)		X	
MR. DeSANTIS (FL)	X			MR. RASKIN (MD)		X	
MR. ROSS (FL)	X			MR. GOMEZ (CA)		X	
MR. WALKER (NC)	X			MR. WELCH (VT)		X	
MR. BLUM (IA)	X			MR. CARTWRIGHT (PA)		X	
MR. HICE (GA)	X			MR. DeSAULNIER (CA)		X	
MR. RUSSELL (OK)				MS. PLASKETT (VI)		X	
MR. GROTHMAN (WI)	X			MR. SARBANES (MD)		X	
MR. HURD (TX)	X						
MR. PALMER (AL)	X						
MR. COMER (KY)	X						
MR. MITCHELL (MI)	X						
MR. GIANFORTE (MT)	X						
<i>Vacancy</i>							

Roll Call Totals: Ayes: 20 Nays: 16 Present:

Passed: X

Failed: _____

EXPLANATION OF AMENDMENTS

There were no amendments to H. Res. 877 offered or adopted during Committee consideration of the resolution.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This resolution of inquiry would direct the Secretary of Commerce to provide certain documents to the House of Representatives relating to the decision to include a question on citizenship in the 2020 decennial census of population. As such, this bill does not relate to employment or access to public services and accommodations.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 2(c)(5) of rule XIII no provision of this bill 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.

DISCLOSURE OF DIRECTED RULE MAKINGS

This bill does not direct the completion of any specific rule makings within the meaning of section 551 of title 5, United States Code.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds the legislation does not establish or authorize the establishment of an advisory committee within the definition of Section 5(b) of the appendix to title 5, United States Code.

UNFUNDED MANDATES STATEMENT

Pursuant to section 423 of the Congressional Budget and Impoundment Control Act (Pub. L. 113–67) the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE ESTIMATE

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementing this non-binding resolution would not result in any significant costs. The Congressional Budget Office did not provide a cost estimate for the resolution.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this resolution does not provide new budgetary authority or increased tax expenditures.

SECTION-BY-SECTION ANALYSIS

Section 1

This section directs the Secretary of Commerce transmit to the House of Representatives within 14 days of adoption of the resolution copies of any document, record, memo, correspondence, or other communication, or any portion of any such communication, that refers or relates to the following:

- (1) addition of the citizenship question to the 2020 census questionnaire, including communications with any other government or non-government entity.
- (2) the December 12, 2017 letter from the Department of Justice requesting the addition of the citizenship question.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This resolution would make no changes to existing law.

