

RESOLUTION OF INQUIRY REQUESTING THE PRESIDENT TO PROVIDE CERTAIN DOCUMENTS IN HIS POSSESSION TO THE HOUSE OF REPRESENTATIVES RELATING TO THE ENVIRONMENTAL PROTECTION AGENCY'S APRIL PROPOSED FINDING THAT GREENHOUSE GAS EMISSIONS ARE A DANGER TO PUBLIC HEALTH AND WELFARE

JUNE 12, 2009.—Referred to the House Calendar and ordered to be printed

Mr. WAXMAN, from the Committee on Energy and Commerce, submitted the following

R E P O R T

The Committee on Energy and Commerce, to whom was referred the resolution (H. Res. 449) of inquiry requesting the President to provide certain documents in his possession to the House of Representatives relating to the Environmental Protection Agency's April proposed finding that greenhouse gas emissions are a danger to public health and welfare, having considered the same, report thereon without amendment and without recommendation.

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PURPOSE AND SUMMARY

H. Res. 449 requests the President to transmit to the House of Representatives, not later than 14 days after adoption of the resolution, all documents in his possession produced by the Administrator of the Environmental Protection Agency (EPA) or the Direc-

tor of the Office of Management and Budget relating to: (1) The untitled, undated memo marked “Deliberative—Attorney Client Privilege,” which begins “The NPRM fails to articulate the process by which the Administrator came to the conclusion on p. 30”; (2) Inter-agency comments or documents related to the Environmental Protection Agency’s April proposed finding that greenhouse gas emissions are a danger to public health and welfare; (3) Cost benefit or systematic risk analysis related to the Environmental Protection Agency’s April proposed finding that greenhouse gas emissions are a danger to public health and welfare; (4) Scientific evidence or opinion that demonstrates health effects of greenhouse gases.

BACKGROUND AND NEED FOR LEGISLATION

H. Res. 449 was introduced on May 15, 2009, by Rep. Sensenbrenner (R-WI). H. Res. 449 is a resolution of inquiry. Under clause 7 of rule XIII of the Rules of the House of Representatives, the Committee must act on such a resolution within 14 legislative days or a privileged motion to discharge the Committee is in order.

Under the rules and precedents of the House, a resolution of inquiry is one of the methods used by the House to obtain information from the executive branch. According to volume 7, chapter 24, section 8 of Deschler’s Procedure, it is a “simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch.”

On April 20, 2009, EPA issued a proposed finding that carbon dioxide and other greenhouse gas emissions endanger human health and welfare because they contribute to global warming. EPA was legally compelled to take action. In April 2007, the Supreme Court issued its historic decision in the case of *Massachusetts v. EPA*. The Court ruled that carbon dioxide was a pollutant under the Clean Air Act and that EPA had to regulate it if the agency determined that it endangered public health or welfare. The proposed endangerment finding is the determination required by the Supreme Court.

EPA provided that its proposed finding would be open for public comment until June 23, 2009, and it will consider public comments when deciding whether to finalize the proposed endangerment finding.

The Committee has been conducting and will continue to conduct oversight over EPA’s activities regarding the proposed endangerment finding. Given these facts, the Committee approved filing this report on H. Res. 449 in the House with no recommendation.

COMMITTEE HEARINGS

The Committee held no hearings on H. Res. 449.

COMMITTEE CONSIDERATION

The Committee on Energy and Commerce met in open session on Wednesday, June 10, 2009, and ordered H. Res. 449 reported to the House with no recommendation. No amendments were offered to the resolution.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Waxman to order H. Res. 449 reported to the House with no recommendation was agreed to by a voice vote. There were no record votes during consideration of the resolution.

APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that H. Res. 449 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 of 1985.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H. Res. 449 is intended to direct the President to furnish certain documents relating to the April 2009 proposed finding by the Environmental Protection Agency that greenhouse gas emissions endanger public health and welfare.

CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds that the clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, requiring a statement of constitutional authority for laws proposed by bills or joint resolutions, does not apply because H. Res. 449 is not a bill or joint resolution that may be enacted into law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5 U.S.C. App., 5(b) of the Federal Advisory Committee Act were created by H. Res. 449.

FEDERAL MANDATES STATEMENT

The Committee states that H. Res. 449 contains no unfunded mandates.

EARMARKS AND TAX AND TARIFF BENEFITS

H. Res. 449 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee estimates the costs of implementing the resolution would be minimal. The Congressional Budget Office did not provide a cost estimate for the resolution.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H. Res. 449 would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

SECTION-BY-SECTION ANALYSIS

H. Res. 449 requests the President to transmit to the House of Representatives, not later than 14 days after adoption of the resolution, all documents in his possession produced by the Administrator of the Environmental Protection Agency or the Director of the Office of Management and Budget relating to: (1) The untitled, undated memo marked "Deliberative—Attorney Client Privilege," which begins "The NPRM fails to articulate the process by which the Administrator came to the conclusion on p. 30"; (2) Interagency comments or documents related to the Environmental Protection Agency's April proposed finding that greenhouse gas emissions are a danger to public health and welfare; (3) Cost benefit or systematic risk analysis related to the Environmental Protection Agency's April proposed finding that greenhouse gas emissions are a danger to public health and welfare; (4) Scientific evidence or opinion that demonstrates health effects of greenhouse gases.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, the Committee states that this resolution does not change any existing federal statute.