

House Calendar No. 27

116TH CONGRESS
1ST SESSION

H. RES. 430

[Report No. 116–108]

Authorizing the Committee on the Judiciary to initiate or intervene in judicial proceedings to enforce certain subpoenas and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2019

Mr. MCGOVERN (for himself, Mr. CUMMINGS, Mr. ENGEL, Mr. NADLER, Mr. NEAL, Mr. SCHIFF, and Ms. WATERS) submitted the following resolution; which was referred to the Committee on Rules

JUNE 10, 2019

Additional sponsors: Mr. HASTINGS, Mrs. TORRES of California, Mr. PERLMUTTER, Mr. RASKIN, Ms. SCANLON, Mr. MORELLE, Mr. DESAULNIER, Mr. CASTEN of Illinois, Mr. PASCRELL, Mr. COHEN, Mr. GOMEZ, Mr. CICILLINE, Ms. MENG, Ms. TLAIB, Ms. HAALAND, Ms. OMAR, Mrs. DEMINGS, Ms. JACKSON LEE, Ms. PRESSLEY, Ms. NORTON, Mr. SERRANO, Mr. DEUTCH, Ms. ESCOBAR, Mr. TED LIEU of California, Mr. CARBAJAL, Ms. BASS, Ms. DEAN, Ms. GARCIA of Texas, Ms. SCHAKOWSKY, Ms. DEGETTE, Mr. CÁRDENAS, Ms. ADAMS, Mr. THOMPSON of California, Ms. CLARKE of New York, Ms. JAYAPAL, Mr. BLUMENAUER, Mrs. WATSON COLEMAN, Mr. LEWIS, Mr. SWALWELL of California, Ms. ESHOO, Mr. PALLONE, Mr. SARBANES, Ms. DELAURO, Ms. BARRAGÁN, Ms. CASTOR of Florida, Mrs. DAVIS of California, Mr. PAYNE, Mr. DEFazio, Mr. NEGUSE, Mr. SMITH of Washington, Ms. MATSUI, Ms. LOFGREN, Mrs. LOWEY, Mr. LUJÁN, Ms. MUCARSEL-POWELL, Mr. JOHNSON of Georgia, Mr. ESPAILLAT, Mr. PANETTA, and Ms. SHALALA

JUNE 10, 2019

Reported with an amendment, referred to the House Calendar and ordered to
be printed

[Strike out all after the resolving clause and insert the part printed in *italic*]

RESOLUTION

Authorizing the Committee on the Judiciary to initiate or
intervene in judicial proceedings to enforce certain sub-
poenas and for other purposes.

1 *Resolved*, ~~That the chair of the Committee on the Ju-~~
2 ~~diary of the House of Representatives is authorized, on~~
3 ~~behalf of such Committee, to initiate or intervene in any~~
4 ~~judicial proceeding before a Federal court—~~

5 ~~(1) to seek declaratory judgments and any and~~
6 ~~all ancillary relief, including injunctive relief, affirm-~~
7 ~~ing the duty of—~~

8 ~~(A) William P. Barr, Attorney General,~~
9 ~~U.S. Department of Justice, to comply with the~~
10 ~~subpoena that is the subject of the resolution~~
11 ~~accompanying House Report 116–105; and~~

12 ~~(B) Donald F. McGahn, II, former White~~
13 ~~House Counsel, to comply with the subpoena~~
14 ~~issued to him on April 22, 2019; and~~

15 ~~(2) to petition for disclosure of information re-~~
16 ~~garding any matters identified in or relating to the~~
17 ~~subpoenas referred to in paragraph (1) or any ac-~~

1 accompanying report, pursuant to Federal Rule of
2 Criminal Procedure 6(e), including Rule 6(e)(3)(E)
3 (providing that the court may authorize disclosure of
4 a grand-jury matter “preliminarily to : : : a judicial
5 proceeding”).

6 *Resolved,* That the chair of each standing and perma-
7 nent select committee, when authorized by the Bipartisan
8 Legal Advisory Group, retains the ability to initiate or in-
9 tervene in any judicial proceeding before a Federal court
10 on behalf of such committee, to seek declaratory judg-
11 ments and any and all ancillary relief, including injunctive
12 relief, affirming the duty of the recipient of any subpoena
13 duly issued by that committee to comply with that sub-
14 poena. Consistent with the Congressional Record state-
15 ment on January 3, 2019, by the chair of the Committee
16 on Rules regarding the civil enforcement of subpoenas
17 pursuant to clause 8(b) of rule II, a vote of the Bipartisan
18 Legal Advisory Group to authorize litigation and to articu-
19 late the institutional position of the House in that litiga-
20 tion is the equivalent of a vote of the full House of Rep-
21 resentatives.

22 *Resolved,* That in connection with any judicial pro-
23 ceeding brought under the first or second resolving
24 clauses, the chair of any standing or permanent select

1 committee exercising authority thereunder has any and all
2 necessary authority under Article I of the Constitution.

3 *Resolved,* That the chair of any standing or perma-
4 nent select committee exercising authority described in the
5 first or second resolving clause shall notify the House of
6 Representatives, with respect to the commencement of any
7 judicial proceeding thereunder.

8 *Resolved,* That the Office of General Counsel of the
9 House of Representatives shall, with the authorization of
10 the Speaker, represent any standing or permanent select
11 committee in any judicial proceeding initiated or inter-
12 vened in pursuant to the authority described in the first
13 or second resolving clause.

14 *Resolved,* That the Office of General Counsel of the
15 House of Representatives is authorized to retain private
16 counsel, either for pay or pro bono, to assist in the rep-
17 resentation of any standing or permanent select committee
18 in any judicial proceeding initiated or intervened in pursu-
19 ant to the authority described in the first or second resolv-
20 ing clause.

21 *That the chair of the Committee on the Judiciary of*
22 *the House of Representatives is authorized, on behalf of such*
23 *Committee, to initiate or intervene in any judicial pro-*
24 *ceeding before a Federal court—*

1 (1) *to seek declaratory judgments and any and*
2 *all ancillary relief, including injunctive relief, affirm-*
3 *ing the duty of—*

4 (A) *William P. Barr, Attorney General, to*
5 *comply with the subpoena that is the subject of*
6 *the resolution accompanying House Report 116-*
7 *105; and*

8 (B) *Donald F. McGahn, II, former White*
9 *House Counsel, to comply with the subpoena*
10 *issued to him on April 22, 2019; and*

11 (2) *to petition for disclosure of information re-*
12 *garding any matters identified in or relating to the*
13 *subpoenas referred to in paragraph (1) or any accom-*
14 *panying report, pursuant to Federal Rule of Crimi-*
15 *nal Procedure 6(e), including Rule 6(e)(3)(E) (pro-*
16 *viding that the court may authorize disclosure of a*
17 *grand-jury matter “preliminarily to... a judicial pro-*
18 *ceeding”).*

19 *Resolved, That the chair of each standing and perma-*
20 *nent select committee, when authorized by the Bipartisan*
21 *Legal Advisory Group, retains the ability to initiate or in-*
22 *tervene in any judicial proceeding before a Federal court*
23 *on behalf of such committee, to seek declaratory judgments*
24 *and any and all ancillary relief, including injunctive relief,*
25 *affirming the duty of the recipient of any subpoena duly*

1 *issued by that committee to comply with that subpoena.*
2 *Consistent with the Congressional Record statement on Jan-*
3 *uary 3, 2019, by the chair of the Committee on Rules re-*
4 *garding the civil enforcement of subpoenas pursuant to*
5 *clause 8(b) of rule II, a vote of the Bipartisan Legal Advi-*
6 *sory Group to authorize litigation and to articulate the in-*
7 *stitutional position of the House in that litigation is the*
8 *equivalent of a vote of the full House of Representatives.*

9 *Resolved, That in connection with any judicial pro-*
10 *ceeding brought under the first or second resolving clauses,*
11 *the chair of any standing or permanent select committee*
12 *exercising authority thereunder has any and all necessary*
13 *authority under Article I of the Constitution.*

14 *Resolved, That the chair of any standing or permanent*
15 *select committee exercising authority described in the first*
16 *or second resolving clause shall notify the House of Rep-*
17 *resentatives, with respect to the commencement of any judi-*
18 *cial proceeding thereunder.*

19 *Resolved, That the Office of General Counsel of the*
20 *House of Representatives shall, with the authorization of*
21 *the Speaker, represent any standing or permanent select*
22 *committee in any judicial proceeding initiated or inter-*
23 *vened in pursuant to the authority described in the first*
24 *or second resolving clause.*

1 *Resolved, That the Office of General Counsel of the*
2 *House of Representatives is authorized to retain private*
3 *counsel, either for pay or pro bono, to assist in the represen-*
4 *tation of any standing or permanent select committee in*
5 *any judicial proceeding initiated or intervened in pursuant*
6 *to the authority described in the first or second resolving*
7 *clause.*

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