

DIRECTING THE ATTORNEY GENERAL TO TRANSMIT TO THE HOUSE OF REPRESENTATIVES COPIES OF ANY EMAILS IN THE POSSESSION OF THE DEPARTMENT OF JUSTICE 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 22, 2014.—Referred to the House Calendar and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H. Res. 646]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 646) directing the Attorney General to transmit to the House of Representatives copies of any emails in the possession of the Department of Justice 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 without amendment and without recommendation.

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Purpose and Summary

H. Res. 646 directs the Attorney General to transmit to the House of Representatives copies of any emails in the possession of the Department of Justice that were transmitted to or from the email account(s) of former Internal Revenue Service Exempt Orga-

nizations Division Director Lois Lerner between January 2009 and April 2011.

Background and Need for the Legislation

On May 10, 2013, former IRS Exempt Organizations Division Director Lois Lerner admitted, during an American Bar Association meeting, that some organizations seeking tax-exempt status under section 501(c)(4) of the Internal Revenue Code were targeted for additional scrutiny by the IRS. Groups targeted for this additional scrutiny included those with names that included certain political terms like “Tea Party,” “Patriots,” or “Progressive.” Several Congressional Committees, including the Committee on Ways and Means and the Committee on Oversight and Government Reform, opened investigations into this matter.

On May 15, 2013, Attorney General Eric H. Holder, Jr., testified before the Judiciary Committee that the Justice Department would conduct a “dispassionate” investigation into the IRS’s admittedly inappropriate treatment of certain groups, and that the Department would “go wherever the facts lead us.”

On June 11, 2014, FBI Director James Comey testified before the Judiciary Committee. In response to questions from Chairman Goodlatte, Director Comey indicated that the FBI is currently conducting “a very active investigation” of the IRS targeting matter. The Director stated that “There is an investigation because there was a reasonable basis to believe that crimes had been committed . . . so, we are conducting that investigation.”

The Committee investigations, as well as a lawsuit by the organization Judicial Watch, led to the revelation of emails between Lois Lerner and the Justice Department’s Election Crimes branch. The emails show that the IRS in October 2010 sent 1.1 million pages of nonprofit tax-return data—including confidential taxpayer information—to the FBI, potentially in violation of Federal law. In April 2014, emails were revealed showing that Ms. Lerner was in contact with the Justice Department in May 2013 about whether tax-exempt groups could be criminally prosecuted for “lying” about political activity. Congressional investigators then sought any additional emails in possession of the IRS pertaining to the contact between Ms. Lerner and the Justice Department.

On June 13, 2014, the IRS told investigators that it lost an untold number of Lois Lerner’s emails dated from January 1, 2009 to April 2011. While Congressional investigators were in possession of some Lerner emails from this time period, those only include emails written to or from other IRS employees. Any emails written to or from Lerner with people outside the IRS, including personnel at the Department of Justice, were, according to the IRS, lost in the 2011 hard drive crash. The IRS provided Congress with contemporaneous emails showing that Lerner sought assistance from IT employees—including forensic lab technicians—but that her data was unrecoverable.

On May 7, 2014, the House passed H. Res. 565, a resolution calling upon the Attorney General to appoint a Special Counsel to investigate the IRS’s targeting of certain groups.

On June 25, 2014, Congressman Steve Stockman (R-TX) introduced H. Res. 646, which directs the Attorney General to transmit to the House of Representatives copies of any emails in the posses-

sion of the Department of Justice 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.

Hearings

The Committee on the Judiciary held no hearings on H. Res. 646.

Committee Consideration

On July 16, 2014, the Committee met in open session and ordered the resolution H. Res. 646 reported without recommendation and without amendment, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H. Res. 646.

Committee Oversight Findings

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.

Duplication of Federal Programs

No provision of H. Res. 646 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 No. 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Disclosure of Directed Rule Makings

The Committee estimates that H. Res. 646 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. § 551.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H. Res. 646 directs the Attorney General to transmit to the House of Representatives copies of any emails in the possession of the Department of Justice 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.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H. Res. 646 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the resolution as reported by the Committee.

H. Res. 646 directs the Attorney General to transmit to the House of Representatives copies of any emails in the possession of the Department of Justice 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.