

DIRECTING THE SECRETARY OF HOMELAND SECURITY TO TRANSMIT CERTAIN DOCUMENTS TO THE HOUSE OF REPRESENTATIVES RELATING TO THE DEPARTMENT OF HOMELAND SECURITY'S RESEARCH, INTEGRATION, AND ANALYSIS ACTIVITIES RELATING TO RUSSIAN GOVERNMENT INTERFERENCE IN THE ELECTIONS FOR FEDERAL OFFICE HELD 2016

APRIL 7, 2017.—Referred to the House Calendar and ordered to be printed

Mr. McCaul, from the Committee on Homeland Security,
submitted the following

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H. Res. 235]

The Committee on Homeland Security, to whom was referred the resolution (H. Res. 235) directing the Secretary of Homeland Security to transmit certain documents to the House of Representatives relating to the Department of Homeland Security's research, integration, and analysis activities relating to Russian Government interference in the elections for Federal office held in 2016, having considered the same, reports unfavorably thereon without amendment and recommends that the resolution not be agreed to.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	2
Committee Consideration	2
Committee Votes	2
Committee Oversight Findings	3
New Budget Authority, Entitlement Authority, and Tax Expenditures	3
Congressional Budget Office Estimate	3
Statement of General Performance Goals and Objectives	4
Duplicative Federal Programs	4
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits	4
Federal Mandates Statement	4
Preemption Clarification	4
Disclosure of Directed Rule Makings	4
Advisory Committee Statement	4

Applicability to Legislative Branch	4
Section-by-Section Analysis of the Legislation	5
Changes in Existing Law Made by the Bill, as Reported	5
Supplemental, Minority, Additional, or Dissenting Views	6

PURPOSE AND SUMMARY

On March 30, 2017, Representative Thompson of Mississippi introduced H. Res. 235, a resolution of inquiry requesting the Secretary of Homeland Security to transmit certain documents to the House of Representatives relating to the Department of Homeland Security's research, integration, and analysis activities relating to Russian Government interference in the elections for Federal office held in 2016.

BACKGROUND AND NEED FOR LEGISLATION

A resolution of inquiry is a House resolution directing the President or the head of an executive department to provide to the House specific information in the possession of the Administration.

Clause 7 of House Rule XIII provides that, if properly drafted, a resolution of inquiry is provided special parliamentary status allowing the Committee to which the measure was referred to be discharged if the Committee has not reported the measure back to the House within 14 legislative days after its introduction.

The Committee notes that the consideration of this resolution of inquiry is to have the Committee comply with Rule XIII, it does not affect the Committee's obligation or commitment to investigate and require documentation from the Administration on issues within the Committee's jurisdictional authorities.

This Resolution of Inquiry is unnecessary. The Committee has been conducting oversight in this area and has received briefings by the Administration numerous times regarding cybersecurity and interference into our elections. Members were given the opportunity to question the Administrations regarding Russian interference in the elections on numerous occasions. The Committee will continue to conduct robust oversight over the Department and any threats to homeland security that fall within the Committee's jurisdiction.

HEARINGS

No hearings were held on H. Res. 235 in the 115th Congress.

COMMITTEE CONSIDERATION

The Committee met on April 5, 2017, to consider H. Res. 235, and ordered the measure to be reported to the House of Representatives with an unfavorable recommendation, without amendment, by a recorded vote of 14 yeas and 12 nays. The Committee took the following actions:

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

The Committee on Homeland Security considered H. Res. 235 on April 5, 2017, and took the following votes:

ROLL CALL NO. 6

H. Res. 235

On reporting H. Res. 235 to the House of Representatives with an unfavorable recommendation.
Agreed to: 14 yeas and 12 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Mr. McCaul, Chair.	X		Mr. Thompson of Mississippi, Ranking Member.		X
Mr. Smith of Texas			Ms. Jackson Lee		X
Mr. King of New York			Mr. Langevin		X
Mr. Rogers of Alabama	X		Mr. Richmond		X
Mr. Duncan of South Carolina	X		Mr. Keating		X
Mr. Marino	X		Mr. Payne		X
Mr. Barletta	X		Mr. Vela		X
Mr. Perry	X		Mrs. Watson Coleman		X
Mr. Katko	X		Miss Rice of New York		X
Mr. Hurd			Mr. Correa		X
Ms. McSally	X		Mrs. Demings		X
Mr. Ratcliffe			Ms. Barragan		X
Mr. Donovan	X				
Mr. Gallagher	X				
Mr. Higgins of Louisiana	X				
Mr. Rutherford	X				
Mr. Garrett	X				
Mr. Fitzpatrick	X				
Vote Total:				14	12

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that had H. Res. 235 been adopted, it would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for

the filing of this report. The Committee estimates that this resolution of inquiry resolution would not result in any significant costs.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, had H. Res. 235 been adopted, it would have required the Secretary of Homeland Security to transmit specified copies of any document, record, memo, correspondence, or other communication or any portion of any such communication of the Department of Homeland Security (in a classified format, if necessary) to the U.S. House of Representatives.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H. Res. 235 as reported does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this resolution, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Committee believes that no Federal mandates are included in this resolution.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H. Res. 235 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H. Res. 235, had it been adopted, would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation 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.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

This resolution, if adopted, would require the Secretary of Homeland Security provide to the House of Representatives copies of any document, record, memo, correspondence, or other communication or any portion of any such communication of the Department of Homeland Security (in a classified format, if necessary), that refers or relates to the following:

1. Research, integration, and analysis activities of the Department relating to interference with the elections for Federal office held in 2016 by or at the direction of the Russian Government, as announced in a joint statement with the Office of the Director of National Intelligence on October 7, 2016, and December 29, 2016.
2. Dissemination by the Department of information regarding interference with the elections for Federal office held in 2016 by or at the direction of the Russian Government, as announced in a joint statement with the Office of the Director of National Intelligence on October 7, 2016, and December 29, 2016.
3. Research into cyber compromises of emails of United States persons and institutions by or at the direction of the Russian Government to interfere with the elections for Federal office held in 2016.
4. Integration, analysis, and dissemination of the Joint Analysis Report detailing the tools and infrastructure used by Russian intelligence services to compromise and exploit networks and infrastructure associated with the elections for Federal office held in 2016 issued by the Secretary of Homeland Security and the Director of the Federal Bureau of Investigation on December 29, 2016.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H. Res. 235 makes no changes to existing law.

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS

DISSENTING VIEWS

On behalf of Committee Democrats, I submit the following dissenting views regarding the Committee's 14 to 12 vote to order H. Res. 235 reported to the House of Representatives (House) with an unfavorable recommendation.

I introduced H. Res. 235, which is cosponsored by all Committee Democrats, on March 30 to expedite the initiation of a Committee investigation into Russia's campaign to influence the outcome of the 2016 Presidential election. If enacted, the resolution would have compelled the Department of Homeland Security (DHS or Department) to provide the Committee with any documents in its possession regarding Russian Government interference in the election. The Committee needs to see the information that DHS collected, received, and analyzed to not only investigate the Russian interference campaign but also to ensure that the country is positioned to prevent future attacks on our electoral systems.

The materials sought under the resolution, which included documents detailing "the tools and infrastructure used by Russian intelligence services to compromise and exploit networks and infrastructure associated with the elections," not only informed the joint statements issued by DHS and the Office of the Director of National Intelligence on October 7, 2016 and December 29, 2016 but also the Department's efforts to secure election infrastructure. In October 2016, DHS began offering assistance to States to help them secure their election systems, following the discovery that some voting systems had been scanned and probed by Russian-hired hackers.¹ In January, DHS designated "election infrastructure" as "critical infrastructure" and prioritized assistance to States to secure this infrastructure.²

During consideration of H. Res. 235, Chairman Michael McCaul asserted that this resolution was "unnecessary" since Committee Members have received classified briefings from the Administration where Members could ask questions regarding the Russian interference campaign. One-off conversations in a classified space are no substitute for a comprehensive investigation in which Committee Members would be able to review materials generated by not only the Department but also its Federal partners, including the Federal Bureau of Investigation (FBI) and Intelligence Community. Such an investigation should seek to answer the following questions:

¹ Joint Statement from DHS, ODNI on Election Security (Oct. 7, 2016), <https://www.dni.gov/index.php/newsroom/press-releases/215-press-releases-2016/1423-joint-dhs-odni-election-security-statement?tmpl=component&format=pdf>.

² Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector (January 6, 2017), <https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical>.

- What is the full scope of the hacking activities that the Russians took against our electoral systems?
- What, if any, operational impacts did these activities have on our electoral systems, including voter rolls and voting equipment?
- What information did DHS have to determine that the Russian activities did not directly impact vote tallying?

At this time, the House Permanent Select Committee on Intelligence (HPSCI) is the only House Committee investigating the 2016 attack on our election by Russia. Putting aside that HPSCI has struggled to carry out a bipartisan investigation, it seems unlikely the answers that Committee Democrats seek regarding the security of election infrastructure would be addressed, even if HPSCI is able to produce a bipartisan report.

Additionally, during consideration of H. Res. 235, Chairman McCaul argued that the use of a resolution of inquiry was not appropriate to conduct bipartisan oversight since the Department has been responsive and transparent. I take issue with this assertion. Since January, the timeliness and completeness of responses to oversight letters by the Department has significantly fallen off with letters submitted by Committee Democrats being met with responses that were neither punctual nor complete. In fact, at this time, there are at least ten letters that have received no responses.

Furthermore, there is another significant advantage of the resolution of inquiry: it would avoid bureaucratic hurdles that would likely arise if the Committee sent a letter requesting that DHS furnish documents that originated outside of the Department. If this resolution was enacted into law, DHS would have to furnish the requested documents to the Committee regardless of whether one or more of its Federal partners objected.

This Committee has a unique responsibility to conduct oversight into DHS' efforts to mitigate, respond to, and recover from attacks on critical infrastructure. Consequently, this Committee has an obligation to conduct oversight of the decision-making and actions that the Department took before, during, and after the election to protect this critical infrastructure. Further, if, as FBI Director James Comey and others have warned, the Russians will be back to try and interfere with future elections, we need to know what vulnerabilities exist so that they can be eliminated or mitigated.

Approval of H. Res. 235 would have been the first step towards providing answers to the American people about Russia's attack on our democracy. As such, Committee Democrats are disappointed that our colleagues on the other side of the aisle rejected this measure, thereby inhibiting our efforts to jumpstart an investigation.

BENNIE G. THOMPSON.

