

RESOLUTION OF INQUIRY DIRECTING THE SECRETARY OF HEALTH AND HUMAN SERVICES TO PROVIDE CERTAIN DOCUMENTS IN THE SECRETARY'S POSSESSION TO THE HOUSE OF REPRESENTATIVES RELATING TO THE ESTABLISHMENT OF AN EMERGENCY INTAKE SITE IN ERIE, PENNSYLVANIA, AT THE PENNSYLVANIA INTERNATIONAL ACADEMY, TO HOUSE THE INFLUX OF UNACCOMPANIED MIGRANT CHILDREN

SEPTEMBER 22, 2022.—Referred to the House Calendar and ordered to be printed

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

ADVERSE REPORT

together with

MINORITY VIEWS

[To accompany H. Res. 1257]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 1257) of inquiry directing the Secretary of Health and Human Services to provide certain documents in the Secretary's possession to the House of Representatives relating to the establishment of an Emergency Intake Site in Erie, Pennsylvania, at the Pennsylvania International Academy, to house the influx of unaccompanied migrant children, having considered the same, report unfavorably thereon with an amendment and recommend that the resolution not be agreed to.

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Strike all that follows after the resolving clause and insert the following:

That, not later than fourteen days after the adoption of this resolution, the Secretary of Health and Human Services is directed to transmit to the House of Representatives, copies, in the Secretary's possession, of the contract, or contracts, including any contract renewals or terminations that—

(1) were entered into or in effect during the period beginning on January 1, 2020, and ending on such date of adoption; and

(2) relate to the establishment of an Emergency Intake Site in Erie, Pennsylvania, at the Pennsylvania International Academy, to house the influx of unaccompanied migrant children, including young girls.

Purpose and Summary

H. Res. 1257 is a resolution of inquiry directing the Secretary of Health and Human Services to provide certain documents in the Secretary's possession to the House of Representatives relating to the establishment of an Emergency Intake Site in Erie, Pennsylvania, at the Pennsylvania International Academy, to house the influx of unaccompanied migrant children.

Representative Mike Kelly (R-PA) introduced the resolution on July 26, 2022, and it currently has one cosponsor.

H. Res. 1257 directs the Secretary of Health and Human Services, not later than 14 days after the adoption of the resolution, to transmit to the House of Representatives, copies, in the Secretary's possession, of the contract, or contracts, including any contract renewals or terminations that—

(1) were entered into or in effect during the period beginning on January 1, 2020, and ending on such date of adoption; and

(2) relate to the establishment of an Emergency Intake Site in Erie, Pennsylvania, at the Pennsylvania International Academy, to house the influx of unaccompanied migrant children, including young girls.

Background and Need for the Legislation

I. BACKGROUND ON RESOLUTIONS OF INQUIRY

Under the rules and precedents of the House, a resolution of inquiry is used to obtain information from the executive branch. A resolution of inquiry is directed at the President of the United States or the head of a Cabinet-level agency, requesting facts within the control of the executive branch.¹ As a "simple resolution," designated by "H. Res.," a resolution of inquiry does not carry the force of law. "Compliance by the executive branch with the House's request is voluntary, resting largely on a sense of comity between co-equal branches of government and a recognition of the necessity for Congress to be well-informed as it legislates."²

House Rules afford resolutions of inquiry a privileged parliamentary status. A member files a resolution of inquiry like any other legislation. The resolution is then referred to the proper committee of jurisdiction and the committee may: (1) report the resolution either favorably or unfavorably; or (2) choose not to report the resolution. If the committee does not report the resolution to the House within 14 legislative days of its introduction, however, a motion to

¹ Christopher M. Davis, *Resolutions of Inquiry: An Analysis of Their Use in the House, 1947-2011*, CONG. RES. SERV. R40879 (May 15, 2012).

² *Id.* at 2.

discharge the resolution from committee can be made on the House floor.³

II. NEED FOR THE LEGISLATION

This resolution is unnecessary. After the resolution was filed, the Committee reached out to the Department of Health and Human Services and obtained the contract relating to the establishment of an Emergency Intake Site in Erie, Pennsylvania, at the Pennsylvania International Academy for unaccompanied children as well as documents relating to the expiration of the contract. All of those documents were submitted for the record at the hearing.

Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the Committee on the Judiciary held no hearings on H. Res. 1257.

Committee Consideration

On September 14, 2022, the Committee met in open session and ordered the resolution, H. Res. 1257, unfavorably reported with an amendment in the nature of a substitute, by a voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of House rule XIII, no rollcall votes occurred during the Committee's consideration of H. Res. 1257.

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of House rule X, are incorporated in the descriptive portions of this report.

Committee Estimate of Budgetary Effects

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

New Budget Authority and Congressional Budget Office Cost Estimate

Pursuant to clause 3(c)(2) of House rule XIII and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause (3)(c)(3) of House rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a budgetary analysis and a cost estimate of this resolution.

³House rule XIII, clause 7.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H. Res. 1257 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H. Res 1257 requests certain documents from the Secretary of Health and Human Services related to the establishment of an Emergency Intake Site in Erie, Pennsylvania to house unaccompanied migrant children.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H. Res. 1257 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of House rule XXI.

Section-by-Section Analysis

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

H. Res. 1257 is a resolution of inquiry directing the Secretary of Health and Human Services to provide certain documents in the Secretary's possession to the House of Representatives relating to the establishment of an Emergency Intake Site in Erie, Pennsylvania, at the Pennsylvania International Academy, to house the influx of unaccompanied migrant children.

H. Res. 1257 directs the Secretary of Health and Human Services, not later than fourteen days after the adoption of the resolution, to transmit to the House of Representatives, copies, in the Secretary's possession, of the contract, or contracts, including any contract renewals or terminations that—

(1) were entered into or in effect during the period beginning on January 1, 2020, and ending on such date of adoption; and

(2) relate to the establishment of an Emergency Intake Site in Erie, Pennsylvania, at the Pennsylvania International Academy, to house the influx of unaccompanied migrant children, including young girls.

Minority Views

H. Res. 1257 directs the Secretary of Health and Human Services (HHS) to provide Congress the contract between HHS and the Pennsylvania International Academy (PIA), regarding the establishment in Erie, Pennsylvania, of an Emergency Intake Site (EIS) for female unaccompanied alien children (UAC).

H. Res. 1257 was introduced by Rep. Mike Kelly (R-PA) to uncover information that HHS was withholding pertaining to the contract to establish an EIS in Erie, PA, which is in Rep. Kelly's district. This resolution comes after more than a year of obstruction by the Biden Administration.

Rep. Kelly requested the contract because it was the most tangible document to define the relationship between the HHS and PIA. The contract would show how much money was paid to PIA

and for what services. It is also important to know if the contract was a firm fixed-price contract in which the money would be paid regardless of the services rendered.

On April 9, 2021, HHS notified state and federal officials that it would open an EIS at the PIA in Erie, PA to receive UAC. The PIA EIS was to provide shelter for children ages 12 and under and have a potential capacity of 648 beds. On April 13, 2021, 144 children arrived in Erie, PA. The next day, HHS told Rep. Kelly's staff that the site capacity was 418. On April 16, 2021, HHS hosted a briefing for local and federal elected officials regarding the EIS in Erie, PA. Briefers told officials that EIS contracts are temporary, usually for 60–90 days with an option to renew. They did not provide specifics for how long the Erie EIS contract was authorized or whether it would be renewed.

On April 19, 2021, Rep. Kelly's staff informally requested the Erie EIS contract. Staff was informed by HHS that a formal request for contract was necessary, but that it was unlikely to produce a document any time soon. On April 21, 2021, Rep. Kelly submitted a formal request to HHS for the Erie EIS contract. On April 23, 2021, House Ways and Means Committee Ranking Member Brady and Reps. Kelly and Walorski also made a formal request for a briefing from HHS. That same day, HHS canceled a planned tour for Rep. Kelly at Erie EIS. The following day HHS approved and provided a tour for Rep. Kelly. Some children remained at the facility (approx. 54 girls, about half of which had contracted COVID–19). HHS told Rep. Kelly that it planned to upgrade PIA EIS so that it could be a properly licensed facility. On April 25, 2021, HHS transferred the girls to another facility and closed the site.

At the markup on September 14, 2022, Chairman Nadler presented the contract from HHS and entered it into the record. Rep. Kelly was pleased to have received the contract a year and a half after requesting it. The fact that HHS provided the contract to the Democrats upon request but refused to provide the same document to a Republican Member of Congress, proves the highly politicized nature for the Biden Administration. It is a shame that it took the introduction of a resolution of inquiry to receive the single document requested a year and a half ago. The House Ways and Means Committee Republicans have several outstanding questions regarding the Erie PIA and will transmit those to HHS in the coming days.

JIM JORDAN,
Ranking Member.