

RESOLUTION OF INQUIRY DIRECTING THE PRESIDENT TO PROVIDE CERTAIN DOCUMENTS IN THE PRESIDENT'S POSSESSION TO THE HOUSE OF REPRESENTATIVES RELATING TO THE OVERSIGHT OF THE WUHAN INSTITUTE OF VIROLOGY LABORATORY BY THE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH

SEPTEMBER 30, 2022.—Referred to the House Calendar and ordered to be printed

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

ADVERSE REPORT

together with

MINORITY VIEWS

[To accompany H. Res. 1267]

The Committee on Energy and Commerce, to whom was referred the resolution (H. Res. 1267) of inquiry directing the President to provide certain documents in the President's possession to the House of Representatives relating to the oversight of the Wuhan Institute of Virology laboratory by the Director of the National Institutes of Health, having considered the same, report unfavorably thereon without amendment and recommend that the resolution not be agreed to.

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I. PURPOSE AND SUMMARY

H. Res. 1267 directs the President to furnish to the House of Representatives copies of documents or communications in the possession of the Director of the National Institutes of Health (NIH) that refer or relate to oversight of the Wuhan Institute of Virology (WIV) laboratory by the Director, including any such document or communication specifying: (1) the names of the staff involved in reviewing the research conducted at the WIV laboratory; (2) the details on the scope of such review and the process for how such review was conducted; (3) the review of the biosafety training, practices, and procedures of the WIV laboratory; and (4) information related to the standard operating procedures of the WIV laboratory for working with novel coronaviruses.

II. BACKGROUND AND NEED FOR LEGISLATION

Through this resolution of inquiry, the minority seeks to obtain an undefined scope of documents and communications, should they exist, in the President's or NIH's possession relating to research activities conducted by the foreign-operated Chinese WIV laboratory.

Other than the reference to seeking information pertaining to WIV laboratory activities related to novel coronaviruses, the resolution does not specify a connection between these materials and COVID-19, nor does the resolution indicate why or how United States government would have an oversight role in the biosecurity of a foreign nation's laboratory.

As of October 2021, there was a near-consensus agreement among United States intelligence agencies that the pandemic was likely the result of an organic zoonotic transmission event¹ and a shared consensus among the scientific community—bolstered by recently published peer-reviewed findings—that the epicenter of the original zoonotic transmission event was likely the Huanan Seafood Wholesale Market in Wuhan, China.² Furthermore, experts in evolutionary biology and virology agree that the pathogens being studied under NIH-supported grants at the WIV laboratory were too genetically and evolutionarily distant from the COVID-19 virus to have been the cause of the pandemic.³

Throughout the 117th Congress, Department of Health and Human Services (HHS) officials, including the Secretary, have appeared as witnesses for COVID-19-related Committee hearings and member briefings providing the minority an opportunity to raise questions pertaining to the resolution. In addition, HHS has responded to several of the minority's letters, produced hundreds of pages of documents, hosted at least five Committee staff briefings, and provided at least two *in camera* reviews for Committee staff

¹Office of the Director of National Intelligence, *Updated Assessment on COVID-19 Origins* (Oct. 2021) (<https://www.dni.gov/index.php/newsroom/reports-publications/reports-publications-2021/item/2263-declassified-assessment-on-covid-19-origins>).

²Science, *The Huanan Seafood Wholesale Market in Wuhan was the early epicenter of the COVID-19 pandemic* (July 2022) (<https://www.science.org/doi/10.1126/science.abbp8715>).

³National Institutes of Health, *SARS-CoV-2 and NIAID-supported Bat Coronavirus Research An Analysis: Evolutionary Distance of SARS-CoV-2 and Bat Coronaviruses Studied Under the NIH-supported Research Grant to EcoHealth Alliance* (Oct. 2021) (<https://www.niaid.nih.gov/diseases-conditions/coronavirus-bat-research>).

related to the NIH-funded research and oversight of related award activity in connection with WIV laboratory.⁴

For these reasons, the Committee ordered H. Res. 1267 reported to the House adversely.

III. COMMITTEE HEARINGS

The Committee on Energy and Commerce has not held hearings on the resolution of inquiry.

IV. COMMITTEE CONSIDERATION

H. Res. 1267 was introduced on July 26, 2022, by Representative Hudson (R-NC) and was referred to the Committee on Energy and Commerce. Subsequently, on July 27, 2022, the resolution was referred to the Subcommittee on Health. The resolution was discharged from the Subcommittee on Health on September 21, 2022.

On September 21, 2022, the Committee met in open markup session and ordered H. Res. 1267, without amendment, adversely reported to the House by a recorded vote of 32 yeas and 23 nays.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there was one record vote taken on H. Res. 1267, including a motion by Mr. Pallone ordering H. Res. 1267 adversely reported to the House, without amendment. The motion on unfavorably reporting the resolution was approved by a record vote of 32 yeas to 23 nays. The following are the record votes taken during Committee consideration, including the names of those members voting for and against:

⁴See, e.g., Letter from Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health to Rep. Cathy McMorris Rodgers, Ranking Member, House Committee on Energy and Commerce (May 21, 2021); Briefing by Larry Lohmann, Congressional Affairs Analyst, National Institutes of Health, to House Committee on Energy and Commerce Committee Staff (June 28, 2021); Briefing by Robert Anderson, Chief of Mortality Statistics, Centers for Disease Control and Prevention, et al., to House Committee on Energy and Commerce Committee Staff (July 23, 2021); National Institutes of Health Document Production to Rep. Cathy McMorris Rodgers, Ranking Member, House Committee on Energy and Commerce (RodNIH-00000001-RodNIH-00000528) (Sept. 7, 2021); Briefing by David Christian Hassell, Senior Science Advisor and Deputy Assistant Secretary, Administration for Strategic Preparedness and Response, to House Committee on Energy and Commerce Committee Staff (Sept. 17, 2021); Briefing by Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health to House Committee on Energy and Commerce Staff (Sept. 29, 2021); Health and Human Services *in camera* review of documents for House Committee on Energy and Commerce Staff (Oct. 5, 2021); Letter from Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health to Rep. Cathy McMorris Rodgers, Ranking Member, House Committee on Energy and Commerce (Oct. 20, 2021); Briefing by Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health to House Committee on Energy and Commerce Staff (Oct. 21, 2021); Health and Human Services *in camera* virtual reading of documents for House Committee on Energy and Commerce Staff (Jan. 14, 2022).

Committee on Energy and Commerce
117th Congress

Full Committee
(ratio: 32-26)

ROLL CALL VOTE #148

Bill: **H.Res. 1267**, a resolution of inquiry directing the President to provide certain documents in the President's possession to the House of Representatives relating to the oversight of the Wuhan Institute of Virology laboratory by the Director of the National Institutes of Health

Vote: Report adversely to the House

Disposition: **AGREED TO** by a roll call vote of 32 yeas to 23 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Pallone	X			Mrs. Rodgers		X	
Mr. Rush	X			Mr. Upton		X	
Ms. Eshoo	X			Mr. Burgess		X	
Ms. DeGette	X			Mr. Scalise			
Mr. Doyle	X			Mr. Latta		X	
Ms. Schakowsky	X			Mr. Guthrie		X	
Mr. Butterfield	X			Mr. McKinley		X	
Ms. Matsui	X			Mr. Kinzinger			
Ms. Castor	X			Mr. Griffith		X	
Mr. Sarbanes	X			Mr. Bilirakis		X	
Mr. McNerney	X			Mr. Johnson		X	
Mr. Welch	X			Mr. Long			
Mr. Tonko	X			Mr. Bucshon		X	
Ms. Clarke	X			Mr. Mullin		X	
Mr. Schrader	X			Mr. Hudson		X	
Mr. Cárdenas	X			Mr. Walberg		X	
Mr. Ruiz	X			Mr. Carter		X	
Mr. Peters	X			Mr. Duncan		X	
Mrs. Dingell	X			Mr. Palmer		X	
Mr. Veasey	X			Mr. Dunn		X	
Ms. Kuster	X			Mr. Curtis		X	
Ms. Kelly	X			Ms. Lesko		X	
Ms. Barragán	X			Mr. Pence		X	
Mr. McEachin	X			Mr. Crenshaw		X	
Ms. Blunt Rochester	X			Mr. Joyce		X	
Mr. Soto	X			Mr. Armstrong		X	
Mr. O'Halleran	X						
Ms. Rice	X						
Ms. Craig	X						
Ms. Schrier	X						
Ms. Trahan	X						
Ms. Fletcher	X						

09/21/22

VI. OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

VII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND
TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to 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 statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

VIII. FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

IX. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to direct the President to provide certain documents in the President's possession to the House of Representatives relating to the oversight of the WIV laboratory by the Director of the NIH.

X. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H. Res. 1267 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

XI. COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of 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.

XII. EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H. Res. 1267 contains no earmarks, limited tax benefits, or limited tariff benefits.

XIII. ADVISORY COMMITTEE STATEMENT

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

XIV. 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.

XV. SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

H. Res. 1267 directs the President to furnish to the House of Representatives copies of documents or communications in the possession of the Director of NIH that refers or relates to oversight of the WIV laboratory by the Director, including any such document or communication specifying (1) the names of the staff involved in reviewing the research conducted at the WIV laboratory; (2) the details on the scope of such review and the process for how such review was conducted; (3) the review of the biosafety training, practices, and procedures of the WIV laboratory; and (4) information related to the standard operating procedures of the WIV laboratory for working with novel coronaviruses.

XVI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes to existing law made by the bill H. Res. 1267.

XVII. MINORITY VIEWS

Through this resolution of inquiry, H. Res. 1267, the minority seeks certain documents, in the President's or NIH's possession relating to the oversight of the NIH sub-grantee Wuhan Institute of Virology (WIV) laboratory by the Director of the NIH. The resolution specifies four areas of requested information: names of the staff involved in reviewing the research at the WIV who determined that the research conducted was not gain-of-function research; the details on the scope of this review and the process for how such review was conducted; the review of the biosafety training, practices, and procedures at the WIV laboratory; and information relating to the standard operating procedures of the WIV laboratory for working with novel coronaviruses.

The WIV was a sub-grantee of an NIH grantee, EcoHealth Alliance, that received nearly \$600,000 in federal funds over five years. The WIV's laboratory activities have been subject of oversight interest by the NIH Office of Extramural Research and by the Intelligence Community (IC), including the WIV's possible connection to the origins of the COVID-19 pandemic. Public interest in the accountability for federal funds, U.S. public health protection, and U.S. national security underscore the need for oversight and the importance of the requested information being sought.

Determining the origins of the COVID-19 pandemic may help scientists with new strategies to curb the spread and guard against the next pandemic. This issue was of sufficient importance that President Biden directed the Intelligence Community (IC) in May 2021 to conduct a review into this question. Since July 8, 2020, the NIH has suspended a grant of EcoHealth Alliance over concerns about the adequacy of monitoring of the sub-grantee WIV, including issues over biosafety practices. These federal actions reinforce the justification for the information sought by this resolution.

There is an ongoing national interest in the activities of the WIV laboratory because the origins of the COVID-19 pandemic remain a mystery and a laboratory accident is a plausible scenario for causing the pandemic. The IC review ordered by President Biden was not conclusive on the origins of the COVID-19 pandemic. The updated assessment from the ODNI National Intelligence Council stated: "After examining all available intelligence reporting and other information, though, the IC remains divided on the most likely origin of COVID-19. All agencies assess that two hypotheses are plausible: natural exposure to an infected animal and a laboratory-associated incident."¹ Specifically, four agencies and the National Intelligence Council leaned toward the natural origin theory (with low confidence), one agency leaned toward the lab leak theory (with

¹Office of the Director of National Intelligence, *Updated Assessment on COVID-19 Origins* (Oct. 2021) (www.dni.gov/index.php/newsroom/reports-publications/reports-publications-2021/item/2263-declassified-assessment-on-covid-19-origins).

moderate confidence), and analysts at three other IC elements were unable to coalesce around either theory without further information.

Some scientists have noted that recently published peer-reviewed findings suggest that the epicenter of the original zoonotic transmission event was likely the Huanan Seafood Wholesale Market in Wuhan, China.² However, key details remain unanswered. It is unknown where in the market the leap from animals to humans took place, or which animals were involved. Nor are the precise steps in the process known. There is no evidence drawing a line between the viruses in bats and the Huanan Seafood Market. No intermediate animal host has tested positive for COVID-19.

Experts in evolutionary biology and virology agree that the pathogens reportedly being studied under NIH-supported grants at the WIV laboratory around 2017 or early 2018 were too genetically and evolutionarily distant from the COVID-19 virus to have been the cause of the pandemic based on the information provided by the WIV in grant documents provided by EcoHealth Alliance to NIH.³ However, on August 19, 2022, the NIH terminated the EcoHealth Alliance sub-grant to the WIV because the WIV refused to provide the substantiation of the experiments in laboratory notebooks and electronic files requested by the NIH and required under NIH grant policy and federal regulation. Thus, the information on the viruses being studied in this research is not substantiated. In addition, information on the virus research conducted in 2019 at the WIV lab remains unknown.

Throughout the 117th Congress, Department of Health and Human Services (HHS) officials, including the Secretary, have appeared as witnesses for COVID-19-related Committee hearings and member briefings providing the minority an opportunity to raise questions pertaining to the resolution. The minority in fact used these hearings to urge the then NIH Director and the HHS Secretary for cooperation with requests related to COVID-19 origins, and both witnesses indicated a willingness to work with the minority on the requests related to COVID-19 origins.

Notwithstanding the public willingness of the witnesses, HHS and NIH has responded to only two of the minority's nine letters related to COVID-19 origins and the WIV, produced only documents already made available to requesters under the Freedom of Information Act, hosted three Committee staff briefings limited to one-hour each on COVID-19 origins, and provided one in camera review for Committee staff related to the NIH-funded research and oversight of related award activity in connection with WIV laboratory.⁴ Because HHS and NIH still have not provided all informa-

²SCIENCE, *The Huanan Seafood Wholesale Market in Wuhan was the early epicenter of the COVID-19 pandemic* (July 2022) (<https://www.science.org/doi/10.1126/science.abb8715>).

³National Institutes of Health, *SARS-CoV-2 and NIAID-supported Bat Coronavirus Research An Analysis: Evolutionary Distance of SARS-CoV-2 and Bat Coronaviruses Studied Under the NIH-supported Research Grant to EcoHealth Alliance* (Oct. 2021) (<https://www.niaid.nih.gov/diseases-conditions/coronavirus-bat-research>).

⁴See, e.g., Letter from Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health to Rep. Cathy McMorris Rodgers, Ranking Member, House Committee on Energy and Commerce (May 21, 2021); Briefing by Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health, to House Committee on Energy and Commerce Committee Staff (June 28, 2021); National Institutes of Health Document Production to Rep. Cathy McMorris Rodgers, Ranking Member, House Committee on Energy and Commerce (RodNIH-00000001-RodNIH-

tion requested related to the WIV laboratory, this resolution is needed to obtain information pertinent to the Committee's responsibility to oversee and legislate on matters relating to pandemic preparedness. We owe that to the more than one million Americans who have lost their lives to COVID-19 and to their families.

CATHY MCMORRIS RODGERS,
Republican Leader, House Committee on Energy and Commerce.

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00000528) (Sept. 7, 2021); Briefing by Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health to House Committee on Energy and Commerce Staff (Sept. 29, 2021); Health and Human Services *in camera* review of documents for House Committee on Energy and Commerce Staff (Oct. 5, 2021); Letter from Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health to Rep. Cathy McMorris Rodgers, Ranking Member, House Committee on Energy and Commerce (Oct. 20, 2021); Briefing by Lawrence A. Tabak, Principal Deputy Director, National Institutes of Health to House Committee on Energy and Commerce Staff (Oct. 21, 2021).