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Statement of Rep. Henry A. Waxman Chairman, Committee on Energy and Commerce Markup of H. Res. 983, Resolution of Inquiry Seeking Documents Relating to Health Care Bills January 27, 2010

Today, the Committee is meeting to consider H. Res. 983, a resolution of inquiry authored by Rep. Burgess demanding documents from the President and Secretary of Health and Human Services (HHS) relating to White House meetings and discussions on health care reform legislation. The information sought by H. Res. 983 is similar to that requested by Rep. Burgess in a letter last fall to the President.

I have long been a strong advocate for transparency in government. I believe that oversight is one of Congress's primary responsibilities and that it is integral to the balance of power between the branches.

At the same time, I believe Congress should wield its oversight powers judiciously, and the legislative and executive branches should seek accommodation where possible. A resolution of inquiry is a serious oversight tool, and it should not be used unless other avenues to obtain information have been undertaken and exhausted.

There are two reasons I am opposed to approving Rep. Burgess's resolution of inquiry. First, the resolution is overbroad. It encompasses any document, e-mail, or records of internal discussions that relate to written or verbal agreements on health care reform. This could include notes of conversations between the President and his chief of staff and other top advisors, presidential e-mails, and other records of deliberations at the highest levels of the White House that raises core privilege concerns. There has been no showing – or even an allegation – of wrongdoing that would justify this kind of request.

Second, it is premature to move forward with a resolution of inquiry. The White House has provided Rep. Burgess with records showing the identities of hundreds of participants in White House health care meetings, among other documents. It has also offered to assist Rep. Burgess with any questions about individuals allegedly denied meetings at the White House.

There is a significant contrast between how the Obama Administration has responded to Rep. Burgess's request for information and how the Bush Administration handled efforts by Chairman Emeritus Dingell and myself to seek information regarding Vice President Cheney's energy task force.

In 2001, Vice President Cheney led a task force that worked behind closed doors to develop the Administration's comprehensive energy policy. Press accounts identified a number of energy industry campaign contributors that met with the task force and reported that major contributors had private sessions with the Vice President. The energy plan that emerged from the task force's work contained dozens of specific recommendations from top energy campaign contributors such as Enron.

For three years, Mr. Dingell and I pressed the White House to disclose basic information such as the identities of participants in the task force meetings. The White House consistently rebuffed these requests.

In contrast, the Obama Administration has provided Rep. Burgess with this information. That is a level of transparency that was unheard of during the eight years of the Bush Administration.

I am pleased to report that we have had constructive discussions between majority and minority staff, including Rep. Burgess's staff, regarding refining his information request, and I will support Rep. Burgess in his efforts to seek certain information from the White House and HHS.

For this reason, I will not be asking Committee members to report the Burgess resolution with disfavor. Instead, I will ask for support in a motion to report this resolution of inquiry without recommendation.

This approach reflects my view that while there is a legitimate need for transparency regarding health reform, this is not an appropriate time to demand documents from the executive branch through the vehicle of a resolution of inquiry. Instead, I will work with Ranking Member Barton and Rep. Burgess to ensure that Congress gets additional information about these issues.

For these reasons, I urge my colleagues to support the motion to report the resolution without recommendation.