



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

November 2, 2021

The Honorable Henry Kerner
Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036-4505

Email: info@osc.gov

Re: Additional Violations of the Hatch Act by Secretary of Energy Jennifer Granholm

Dear Mr. Kerner:

The Foundation for Accountability and Civic Trust (FACT) sent a letter dated October 19, 2021, in which we requested the Office of Special Counsel investigate whether Secretary Granholm violated the Hatch Act by making political remarks while being interviewed in her official capacity. The interview occurred on October 6, 2021, during which Granholm appeared using her official title with the Department of Energy seal visible behind her. Even though she stated the Hatch Act applied to her statements, she then spoke of political issues and electing Democratic candidates.¹ We write today to request you additionally investigate whether Granholm has committed another violation of the Hatch Act by using an official social media account to advocate that citizens vote a certain way.

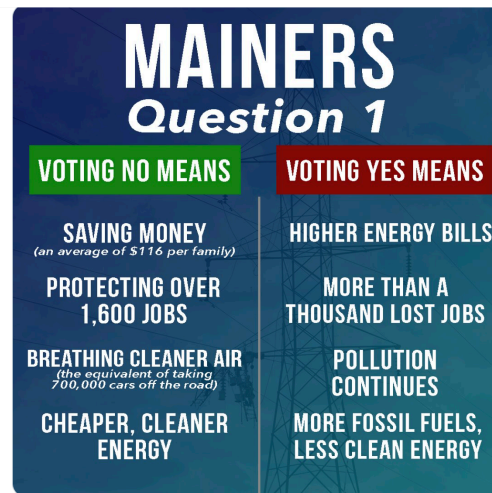
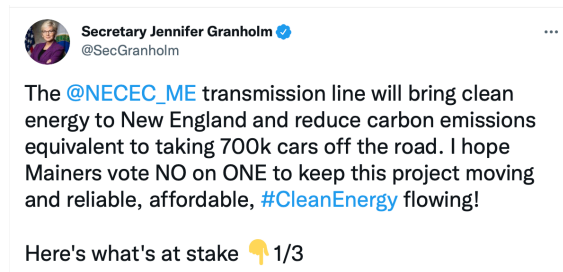
The Hatch Act both (1) maintains the public trust that federal government departments will be administered in a nonpartisan manner and (2) protects taxpayer funds from use for political purposes. Federal employees are prohibited from using their government positions or taxpayer-funded resources to engage in political activity.² Specifically, Executive Branch Department Secretaries cannot engage in political activities unless (1) it is done in their personal

¹ Emily Tisch Sussman, *In Conversation: Secretary Jennifer Granholm and Emily Tisch Sussman*, Marie Claire, Oct. 7, 2021, available at: <https://www.marieclaire.com/politics/a37897483/senator-jennifer-granholm-emily-tisch-sussman-instagram/>; Matthew Foldi, *Granholm Grants Interview To Dem Megadonor Donald Sussman's Daughter*, Washington Free Beacon, Oct. 14, 2021, available at: <https://freebeacon.com/biden-administration/granholm-grants-interview-to-dem-megadonor-donald-sussmans-daughter/>.

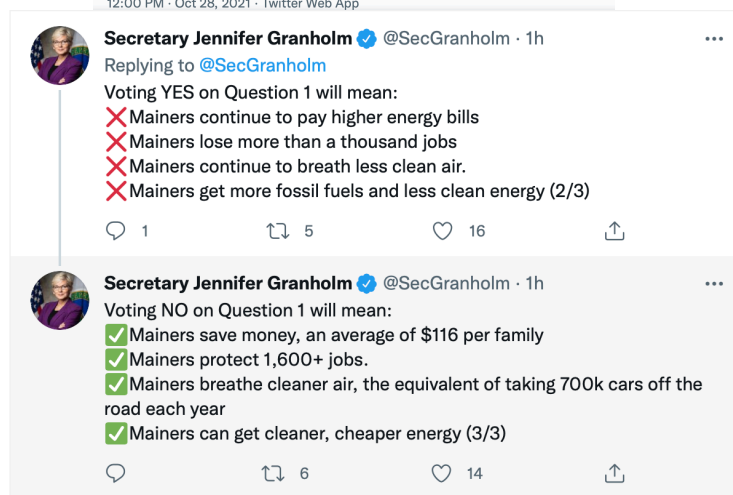
² 5 U.S.C. § 7322 (defining an “employee” as including “any individual, other than the President and Vice President, employed or holding office in an Executive agency other than the Government Accountability Office”); 5 U.S.C. § 7323(a)(1) and 5 C.F.R. § 734.302(a) (“an employee may not use his official authority or influence for the purpose of interfering with or affecting the result of an election”); 5 C.F.R. § 734.302(b).

capacity and (2) the costs associated with the political activities are not paid with money derived from the United States Treasury.³ The use of an official social media account uses both an official title and is considered a taxpayer-funded resource.

On October 28, 2021, Granholm used her official Secretary of Energy Twitter account to urge Maine residents to vote a certain way on a ballot question:⁴



12:00 PM · Oct 28, 2021 · Twitter Web App



³ 5 U.S.C. § 7324(b); 5 CFR § 734.101.

⁴ Secretary Jennifer Granholm, Twitter, available at: <https://twitter.com/SecGranholm/status/1453798870903787520>

“Question 1” is the most expensive ballot initiative in Maine history— the Political Action Committees (PACs) supporting and opposing it have raised more than \$71 million.⁵ Executive agencies have included ballot initiatives when defining political activity allowed while not on duty.⁶ Moreover, in this case the advocacy was done with official government resources and on an official government account that implies endorsement.

By using an official government channel of communication, Secretary Granholm both indicated the federal government endorsed and encouraged citizens to vote a certain way on a ballot question, and used a taxpayer-funded resource to do so. Secretary Granholm has apparently violated the Hatch Act again. The Office of Special Counsel should immediately investigate and take any appropriate disciplinary action against Secretary Granholm.

Sincerely,

/s/ Kendra Arnold

Kendra Arnold

Executive Director

Foundation for Accountability & Civic Trust

⁵ Hannah Dineen, *Referendum Question 1 Is The Most Expensive Ballot Question in State History*, News Center Maine, October 19, 2021 (available at <https://www.newscentermaine.com/article/news/politics/referendum-question-1-is-the-most-expensive-ballot-question-in-state-history/97-c7ee5cee-aa5b-4a2e-aa85-b66e092756fe>).

⁶ Political activities includes campaigning for or against referendum questions, constitutional amendments, or municipal ordinances. Office for Special Counsel, Federal Hatch Act Information, Permitted Activities for Less Restricted Employees, available at: <https://osc.gov/Services/Pages/HatchAct-Federal.aspx#tabGroup13> (last accessed Oct. 29, 2021) (explaining the Hatch Act allows for “less restricted employees” to engage in “partisan political management and campaigns,” such as: “Campaign for or against referendum questions, constitutional amendments, or municipal ordinances.”); *see also, e.g.*, U.S. Department of the Interior, Memorandum, Prohibited Partisan Political Activity Reminder as Required by the Hatch Act, March 31, 2020, available at: <https://www.doi.gov/ethics/prohibited-partisan-political-activity-reminder-required-hatch-act> (last accessed Oct. 29, 2021) (“political activities (including, campaigning for or against referendum questions, constitutional amendments, and municipal ordinances; campaigning for or against candidates in partisan elections; distributing campaign literature; making campaign speeches for candidates; contributing money to political organizations; or attending political fundraising events and rallies)).