OPEN DAY HEARING

HEARING

BEFORE THE

COMMITTEE ON RULES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

ON

OPEN DAY HEARING FOR MEMBERS TO TESTIFY ON PROPOSALS TO AMEND THE RULES OF THE HOUSE OF REPRESENTATIVES

September 17, 1998

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CONTENTS

AN ORIGINAL JURISDICTION OPEN DAY HEARING FOR MEMBERS TO TESTIFY ON PROPOSALS TO AMEND THE STANDING RULES OF THE HOUSE

Thursday, September 17, 1998

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, D.C.

The committee met, pursuant to call, at 10:08 a.m. in Room H–313, The Capitol, Hon. Gerald B.H. Solomon [chairman of the committee] presiding.

Present: Representatives Solomon, Dreier, Linder and Hastings.

The CHAIRMAN. The committee will come to order. Today we are holding a hearing on the proposed rules changes for the coming Congress that will convene on January 3rd of next year.

I might just say that in the audience we have the former Chief of Staff of the Rules Committee, Mr. Donald Wolfensberger, who was extremely instrumental, along with David Dreier, myself, and other members of the Rules Committee way back in 1995, when we rewrote the rules of this House with major, major changes. The changes have made the House a much, much better functioning body, a much more accountable body, and a much more open body to the American people.

David, you certainly recall that, because you served as the co-chairman of the committee to look into the—

Mr. DREIER. Joint Committee on the Organization of Congress.

The CHAIRMAN. And from that, and from your leadership as well, we made a number of very significant changes. There were many of them, but changes such as reducing the committee staffs by one-third from the previous Congress. That was a major step, which I think set the tone for what we had to do in trying to shrink the size and power of the Federal Government and return that power to the States, and to set the example.

But we won't talk about renaming the committees, because I am still having trouble with some of that, being the old bull that I am, I guess.

We also limited committee and subcommittee chairmen to no more than three consecutive terms, and the Speaker to no more than four consecutive terms. We abolished proxy voting, which has been very, very effective, because it has required Members to be present, and they are certainly more informed and I think do a much better job.

We required committee meetings and hearings that are open to the public to be open for broadcast coverage, and of course, that was a very, very important rule change. We required committee transcripts and the Congressional Record to contain verbatim accounts, and required committee reports to include all roll call votes on legislation, so that the public would actually see what was going on in committees, which they rarely had opportunity to do before. There were many, many other changes.

Now, today we have, I think, about 20 Members who have asked to testify, and we are in somewhat of a dilemma because we are on 1–minutes on the floor, and Mr. David Dreier has to carry the continuing resolution, a resolution on the floor, in just a few minutes. Then I have to follow up with the rule on the foreign operations appropriation bill for 1999. So we will get started.

The CHAIRMAN. I notice that we do have a panel which has arrived on time, and we commend them for that.

If we could then have Ms. Eleanor Holmes Norton, Mr. Tom Davis, and Mrs. Connie Morella. These are Washington area Representatives. They are all distinguished, and we hold them all in the highest respect.

Tom, if I could recognize you, and then we will go to Ms. Norton.

STATEMENT OF HON. THOMAS M. DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. DAVIS. I will try to be brief but to the point. In 1993, I think the Democratic Congress made a mistake when they allowed to have a vote in the Committee of the Whole for five delegates from the different Commonwealths around. It so happened it was a time when all five happened to be Democrats, and I thought that was the very height of active partisanship.

When the Republicans came into Congress, and in the Majority, we rightfully discarded that, but sometimes we throw out the baby with the bath water. I feel, not just because my district is across the river from the District of Columbia, but I noted when the Speaker was in China, I noted when the President was in China, they were head to head with Jiang Zemin about democracy in Hong Kong and what is going on there, and yet in our Nation's capital, 550,000 people, they don't get a vote on the House floor.

I don't favor two Senators. We are not asking for a full vote on the House floor, but I believe it would be important symbolically if we could restore, not to the other four Commonwealths, but to the District of Columbia, a vote in the Committee of the Whole. Under the rule as it existed before, if it changed any votes, we could revote it.

It is important for a couple of reasons. The District is different from the other commonwealths. The District of Columbia pays taxes. Their people are drafted. They serve just like my constituents in every other way across the river, or just like Mr. Dreier or just like yourself, Mr. Solomon, in terms of their obligations to the Federal Government.

That is not true in Puerto Rico, it is not true in Guam, it is not true in the other Commonwealths, but it is the Nation's capital, the capital of democracy. I think they ought to be able to get a vote on the House floor.

This is more symbolic than substance, quite frankly, with this rules change, but I think it is a very important step forward for us, and I would advocate that rule change.

The CHAIRMAN. If I might, so I can go back and forth between both sides of the aisle, I would recognize Ms. Norton, and then let you be the cleanup hitter, Connie.

STATEMENT OF HON. ELEANOR HOLMES NORTON, A DELEGATE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Ms. NORTON. Thank you very much, Mr. Chairman. I am particularly grateful to my two colleagues, Mr. Davis, who is the Chairman, and Mrs. Morella is the Vice Chair, of the D.C. subcommittee, for their willingness to come forward and support my effort to regain my vote on the House floor.

The legal work has been done for the committee. The rules of the committee, of course, allow the Majority to make its own rules. The U.S. district court and the court of appeals have both ruled that it is constitutional to allow the delegate vote on the House floor.

I represent more than half a million people. I have to tell you that when I got the vote on the House floor, though it is not a full vote, though it is not a complete vote, there was a sense of elation, a sense of being a part of America that had not been there for 200 years.

My constituents feel deeply about it, in no small part because of the tax issue. We are the third per capita in Federal income taxes, and the great American slogan, no taxation without representation, applies over and over again for us in the District.

But there are other reasons as well why I think the House would want to make sure I could vote on the House floor. The District is the only local jurisdiction in the United States whose own budget must be appropriated by the Congress of the United States, even though today there is not one penny of Federal money in that budget. So that, for example, if something happens over here, a likely shutdown—even though we are dealing with our own money, the District could not spend its own money. You want your own Member to have at least some say in that with a vote.

The District is the only jurisdiction in the United States where Congress can overturn its laws, and it has done so, and continues to do so. You would want your own Member to at least have a vote in that process. It is not a vote in the formal final House, but it is at least a vote in the Committee of the Whole.

The District is the only jurisdiction which does not have full self-government. Ironically, if I were an American citizen, as Puerto Ricans are, living there, the Congress of the United States couldn't come and overturn my vote. I have full self-government.

For all those reasons, because of the close relationship to what happens in the District and the Congress, it seems to me that you would want the Member from the District to be able to vote.

This would be a particularly propitious time to return my vote. The Congress cannot help but notice that the District, 2 years ahead of time, has not only balanced its budget, but now comes in with a surplus, and, of course, just this week a whole new regime is likely to come forward in the District after these elections. It would be a particularly generous act, therefore, for the Congress to

grant this limited right for the District to have representation in the Committee of the Whole. I ask that you do so.

The CHAIRMAN. Thank you very much, Ms. Norton. I remember very well your work on the Joint Committee on the Organization of Congress, and that was when I first had a chance to get to know you. I appreciate the fact that you take this and other institutional issues so seriously.

[The prepared statement of Ms. Norton follows:]

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEES
SURFACE TRANSPORTATION
PUBLIC BUILDINGS AND ECONOMIC DEVELOPMENT

Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

SUBCOMMITTEE
RANKING MINORITY MEMBER.
DISTRICT OF COLUMBIA

CIVIL SERVICE

CO-CHAIR
CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES

STATEMENT OF CONGRESSWOMAN ELEANOR HOLMES NORTON ASKING FOR THE RETURN OF THE DELEGATE VOTE FOR THE DISTRICT OF COLUMBIA HOUSE RULES COMMITTEE

September 17, 1998

I want to thank the Committee for once again entertaining my request for the return of my vote in the Committee of the Whole. I want to especially thank the Chairman of the D.C. Subcommittee, Representative Tom Davis, and the Vice Chair of the Subcommittee, Representative Connie Morella, for appearing personally with me in support of this request.

I represent more than a half million taxpaying American citizens. Uniquely, they have no voting representation in the House and Senate, despite their taxpaying status. After submitting a legal memorandum, I requested and obtained the right to vote in the Committee of the Whole in the 103rd Congress after the matter was vetted with outside attorneys. Subsequently, the U.S. District Court and the U.S. Court of Appeals both ruled that the House could constitutionally allow delegates to vote on the House floor. At the beginning of the 104th Congress, the votes of all five delegates were withdrawn in a package of rules that did not address the District one way or the other. The unique resemblance of the District to the states because D.C. residents pay taxes and many state costs, however, puts the District in a class by itself. The unique taxpaying status of my constituents; the unique privilege this body assumes of appropriating the city's locally-raised taxpayer revenue; the unique requirement that each and every law passed by the local city council be reviewed by Congress; and the significant population of the District make an overwhelming case for the District's delegate to vote in the Committee of the Whole.

I do not intend to prejudice the rights of the other delegates to seek their own votes. However, three factors unique to the District argue strongly for a vote for the District's delegate. First, unlike the residents of the territories, my constituents pay $1.7 billion annually in federal income taxes, making them third per capita among the 50 states and the District of Columbia. Thus, D.C. residents are the only Americans who must comply with every obligation without enjoying every benefit of citizenship. They have fought and died in every war since the American Revolution. In the last war, Desert Storm, D.C. sent more participants per capita than 47 states.

Second, the District is the only local jurisdiction whose budget must be appropriated by the Congress, although the budget is entirely composed of locally-raised taxpayer revenues. This remains true, despite the fact that the D.C. Revitalization Act enacted last year removed the federal payment, leaving only funds raised from District taxpayers. It was difficult to defend the absence of a vote enabling the delegate to vote for her own appropriation when the vast majority of the D.C. appropriation came from D.C. taxpayers. The maximum in voting representation that can be constitutionally allowed is surely compelled now when all of the funds Congress appropriates are District funds.

Third, the District is the only jurisdiction whose laws and budget can be revoked and changed by Congress. Americans who live in the states, territories and localities all have autonomy over their own laws. Surely, the corollary to retaining ultimate power over a local jurisdiction's budget should be allowing its representation, a vote on the matter.

Fourth, the District is the only jurisdiction whose American citizens do not enjoy full democratic self-government. Like every state and locality, the four territories are self-governing. However, even the Home Rule Act affording limited self-government rights to the District reserves to Congress the right to make any changes or impose any obligations on District residents without their consent or the consent of locally elected officials.

The U.S. District Court and the U.S. Court of Appeals have ruled that there is no constitutional impediment to allowing delegates to vote in the Committee of the Whole. Rather, the courts found that under Article I, Section 5, Clause 2 of the Constitution, "Each House may determine the Rules of its Proceedings." The Rules promulgated in the 103rd Congress and my submission to the Committee today contain a re-vote provision to ensure that a delegate's vote does not provide the deciding margin in the Committee of the Whole. This provision was added to remove any constitutional doubt in a case where a delegate's vote moved a matter forward to a final vote in formal House proceedings, where delegates cannot vote at this time. Thus, the delegate vote would still leave taxpaying District residents without a full vote in the House and with no vote in the Senate.

It is clear the Congress has no desire to make the D.C. delegate's job any more difficult. Yet, lacking help in the Senate or a vote in the Committee of the Whole, the District's delegate meets challenges faced by no other Member. The House gains nothing by retracting a vote that was won after a vote of the House and affirmed by the federal courts. The House loses nothing by returning a single vote of a Member, who under no circumstances can make the critical difference in a matter before the House.

Returning the delegate vote to the District would be a generous act in the wake of the District's return to solvency two years ahead of the congressional mandate and in light of the elections this week that promise a new era for the nation's capital. I hope that you will afford my constituents respect as taxpaying American citizens and include in the rules package for the 106th Congress the right of the D.C. delegate to vote in the Committee of the Whole.

Thank you, Mr. Chairman.

PROPOSED AMENDMENTS TO THE RULES OF THE HOUSE FOR THE 106TH CONGRESS

To be added as clause 2 of Rule XII (Resident Commissioner and Delegates):

"In a Committee of the Whole House on the state of the Union, the Delegate to the House from the District of Columbia shall possess the same powers and privileges as Members of the House."

To be added as paragraph (d) to clause 2 of Rule XXIII (Of Committees of the Whole House):

"Whenever a recorded vote on any question has been decided by a margin within which the vote cast by the Delegate to the House from the District of Columbia has been decisive, the Committee of the Whole shall automatically rise and the Speaker shall put that question de novo without intervening debate or other business. Upon the announcement of the vote on that question, the Committee of the Whole shall resume without intervention."

The CHAIRMAN. Mrs. Morella?

STATEMENT OF HON. CONSTANCE A. MORELLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mrs. MORELLA. Thanks, Mr. Chairman. I appreciate the opportunity to testify here on behalf of something that I think is important as we craft the House rules for the next Congress, and that is a provision to allow the delegate from the District of Columbia to vote when the House meets as a Committee of the Whole.

I have long supported voting rights for the Delegate from the District of Columbia. The unique status of the District of Columbia makes it the only jurisdiction in the Nation where, as has been mentioned, the residents pay Federal taxes and have no voting representation in Congress. I think the policy smacks of discrimination. It seems undemocratic, unfair to the taxpaying citizens of our Nation's capital.

As the Vice Chair of the Subcommittee on the District of Columbia and the Representative from neighboring Montgomery County, Maryland, I have a vested interest in supporting voting rights for the Delegate from the District of Columbia. As members of the regional congressional delegation, Ms. Norton and I work together on critical regional issues, traffic congestion, growth management, water and air quality, work force development, and other matters of common interest and concern, and with the representative from Virginia, we are all part of the region.

I believe that in restoring the vote of the District of Columbia delegate when the House is in the Committee of the Whole would be a step toward advancing the interests of the Washington metropolitan region and its citizens.

I served in the 103rd Congress when the House voted to expand voting rights for the five delegates representing four island territories and the District of Columbia, and at that time the House gave the five delegates the right to vote as part of the Committee of the Whole on amendments on the floor. Opponents called this move by the House a power grab that was unprecedented and unconstitutional. Although the constitutionality of this provision was upheld, it was repealed during the 104th Congress when the rules of the House were revised.

Unlike the residents of the territories, such as Guam, American Samoa and the Virgin Islands, the people of the District of Columbia pay Federal taxes. I am not asking you to restore the vote for citizens who pay no taxes to the U.S. Treasury. That would be like asking for representation without taxation. But rather, I am asking that you restore the vote in the Committee of the Whole only for the delegate from our Nation's capital.

Ms. Norton has been allowed a vote on all issues that come before the two legislative committees on which she serves. Most of the floor sessions in the House are conducted in the Committee of the Whole, which doesn't require a majority of the 435 Members to be present during debates. Most of the major House votes except for final passage of legislation are taken in the Committee of the Whole. If the D.C. delegate can be a full voting member of a legis-

lative committee, she can also be a member of the Committee of the Whole.

Denying voting representation to the residents of the District of Columbia, who are taxpaying citizens of the United States, I think is an injustice that we should try to overturn for the good of D.C. and the greater metropolitan Washington region. I hope, Mr. Chairman, that you and members of the committee will include in the rules of the House for the 106th Congress a vote on the House floor in the Committee of the Whole for the delegate from the District of Columbia.

Again, really, it is good of you to allow us to come and to testify on behalf of this rule change. Thank you.

The CHAIRMAN. You are always welcome, because you have a right to be here.

Mrs. MORELLA. Thank you.

[The prepared statement of Mrs. Morella follows:]

Statement of Congresswoman Constance A. Morella
"Restoring the vote for the Delegate from the District of Columbia when the House is in the Committee of the Whole"
Rules Committee
September 17, 1998

Mr. Chairman and Members of the Committee, I appreciate the opportunity to testify before you today. I am here to urge you to include in the House rules for the next Congress, a provision to allow the Delegate from the District of Columbia to vote when the House meets as a "committee of the whole."

I have long supported voting rights for the Delegate from the District of Columbia. The

unique status of the District of Columbia makes it the only jurisdiction in the nation where residents pay federal taxes and have no voting representation in Congress. This policy is discriminatory, undemocratic, and unfair to the taxpaying citizens of our nation's capital.

As the Vice-Chair of the Subcommittee on the District of Columbia, and the Representative from neighboring Montgomery County, Maryland, I have a vested interest in supporting voting rights for the delegate from D.C. As members of the regional congressional delegation, Mrs. Norton and I work together on critical regional issues, such as traffic congestion, growth

management, water and air quality, work force development, and other matters of common interest of concern.

I believe that restoring the vote of the D.C. delegate when the House is in the "committee of the whole" would be a step toward advancing the interests of the Washington metropolitan region and its citizens.

I served during the 103rd Congress, when the House voted to expand the voting rights for five delegates representing four island territories and the District of Columbia. At that time, the House gave the five delegates the right to vote as part of the "committee of the whole" on amendments on

the floor. Opponents called this move by the House a power grab that was unprecedented and unconstitutional. Although the constitutionality of this provision was upheld, it was repealed during the 104th Congress when the rules of the House were revised.

Unlike the residents of the territories, such as Guam, American Samoa, and the Virgin Islands, the people of the District of Columbia pay federal taxes. I am not asking you to restore the vote for citizens who pay no taxes to the U.S. Treasury. That would be like asking for representation without taxation. Rather, I am asking that you restore the vote, in the committee of the whole,

for only the delegate from our nation's capital.

Mrs. Norton is allowed to vote on all issues that come before the two legislative committees on which she serves. Most of the floor sessions in the House are conducted in the committee of the whole, which does not require a majority of the 435 members to be present during debates. Most of the major House votes, except for final passage of legislation, are taken in the committee of the whole. If the D.C. delegate can be a full voting member of a legislative committee, she can also be a member of the committee of the whole.

Denying voting representation to the residents of the District, who are tax-paying citizens of the United States, is an injustice that must be overturned. For the good of the District of Columbia, and greater Metropolitan Washington region, I ask that you include in the rules of the House for the 106th Congress a vote on the House floor in the committee of the whole for the delegate from D.C.

Thank you, Mr. Chairman and Members of the Committee, for your consideration of this important issue.

The CHAIRMAN. Let me just say that I certainly have sympathy with all of your testimony, and I have even more sympathy when you were talking about just the Delegate from D.C., because of the reasons outlined.

There is a problem. As you know, I was one of the main opponents of allowing the Delegates to vote. When we enacted the rule, it was done so to try to meet the problems with the Constitution. In doing so, as you know—the rule was written so that technically, if the Delegates voted and the vote counted, it didn't count, and there was a revote.

That led to some problems, because as votes take place on the floor, you know, we all are in a position of give and take, quid pro quo, and sometimes when you see how the vote is turning out, Members change their vote, they wait, they withhold their votes, and it does change whether or not that vote was really decisive. So there is a gray area there, and it is too bad. I don't know how you can deal with it, other than changing the Constitution.

Certainly David Dreier, who will be your new Chairman of this committee come January 3rd—

Mr. DREIER. God and the voters willing.

The CHAIRMAN. —will be making his recommendations.

Mr. DREIER. Let the record show I am going to support Mr. Dreier.

The CHAIRMAN. But I really think we might need to look at the Constitution sometime and see what we can do to specifically take care of the Delegate from D.C., because of the difference in being taxpayers. I think it makes an awful lot of difference. Maybe we ought to take a hard look at it.

Ms. NORTON. Mr. Chairman?

The CHAIRMAN. Yes.

Ms. NORTON. The political problem you raise, Mr. Chairman, might have been of some concern when there were five votes, five Delegates. But the request here is for one vote. It seems hardly likely that there would be many instances where that political concern would come into play.

The CHAIRMAN. That is why I said I have greater sympathy for what you are offering here today. It makes a lot of difference.

Mr. Dreier.

Mr. DREIER. Thank you very much, Mr. Chairman. I guess my first question would be, if we were to proceed to do this, Eleanor, would you become a Republican?

Ms. NORTON. Can I take the fifth on that one?

Mr. DREIER. The second and serious question that I would really pose on this is what would be the reaction of the other four? If you go back to 1993 and look at the fact that the District of Columbia was, in fact, categorized with the other four, would there be—I am just wondering if you have had any conversations with the other Delegates to see what their response would be?

Ms. NORTON. I have. I felt an obligation to go to the other Delegates. In the first instance, it was the special circumstances of the District of Columbia, frankly, that caught the attention of the Democrats when they were in the Majority and did this in the first place, and then with some concern within the Democratic Caucus

about the other Delegates, but they said, well, the Delegates have always been treated the same. They usually came from territories, they became part of the United States, no harm they thought would be done.

When, in fact, the House turned over, I went to the other Delegates and said, and I say in my testimony, that without prejudicing their rights to forward their position, it did—it seems to me that I had to press the House for the only taxpaying residents of the United States who had no representation, and they understand that.

They have not said to me, well, we don't think you should go without us. In fact, I think that I have been open with them and have indicated that I am going forward and why I am going forward. It has not destroyed in any way the relationship they and I have.

I have a joke among them that I will come forward with at this time. If you were to give—remember what these Delegates have. They don't have to pay Federal income taxes. I would not like to see the reaction of Members' own constituents if you gave them the choice of whether to send one of them here or pay Federal income taxes. So they have not been clamoring for the exchange in that sense.

Mr. DREIER. Thank you very much.

The CHAIRMAN. Mr. Hastings?

Mr. HASTINGS. I don't have any questions, thank you.

The CHAIRMAN. Ladies and gentlemen, we appreciate your coming. Thank you for your candor and for testifying.

The CHAIRMAN. The next scheduled witness will be Pat Danner of Missouri. Pat, one of our distinguished Representatives from the great State of Missouri, the great State of Harry Truman, whom I admired and respected greatly.

STATEMENT OF HON. PAT DANNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Ms. DANNER. Thank you, Mr. Chairman.

Mr. Chairman, Mr. Chairman–to–be, and panel members, thank you for having me here. I will be very brief this morning. I know there are other Members. I will summarize my statement.

It is not a philosophical question, it is really a practical question that I certainly have asked myself a number of times over the years. I don't think there is any Member of our body on either side of the aisle who has not said to someone else as they entered the Chamber, ″Whose amendment is this?″ It seems to me it would be easy to post on the vote board the name of the person who is sponsoring the amendment; say, the Dreier amendment. Then at least we know which one it is.

I think there are many Members who have—I know that to be the case—that voted thinking it was one amendment, and indeed, it was another amendment. So my suggestion is simply that we look at redoing that vote board in a way to give us more information.

[The prepared statement of Ms. Danner follows:]

Statement of Congresswoman Pat Danner
Rules Committee Open Day Hearing
September 17, 1998

Mr. Chairman, I want to thank you for holding this hearing and giving Members an opportunity to make suggestions which will improve House procedures. I would like to offer one idea which I believe will improve the efficiency of the House.

We have all experienced a concern when we rush to the Floor to vote, perhaps from another meeting or hearing. We often don't have adequate time to check with our office as to which particular amendment is being considered. Each of us have experienced either asking other Members what the amendment is--or having other Members ask us "Which amendment is this?".

It would seem to me there is a very simple solution and one that would incur no expense on the part of the House of Representatives. That remedy would be to list, on the vote board, the sponsor of the amendment being considered. If we could adopt such a measure we might eliminate the confusion that may result in our Members voting based on incomplete information--an outcome that could jeopardize a Member's vote. This change would be equally beneficial to Republicans and Democrats.

Mr. Chairman, I believe this inexpensive and simple change will have numerous beneficial effects. Not only will Members have additional access to important details about matters before the House, but this information will be available in an efficient and readily accessible manner. This will improve voting procedures and provide Members with the assurance that they know more precisely which amendment they are voting on.

Thank you.

Mr. DREIER. The board down on the House floor?

Ms. DANNER. Yes.

Mr. DREIER. Not in the cloakrooms?

Ms. DANNER. Yes, on the House floor. Many of us don't have time to stop by the cloakroom. We run from a meeting such as this and run down immediately to the floor.

The CHAIRMAN. Mr. Dreier.

Mr. DREIER. Let me just say, Pat, this is actually something that a number of us have talked about. I was under the impression, first, that your idea was to simply get those in the cloakroom to post more information in the cloakroom; especially since during both the 104th Congress and the 105th Congress, really at the request of both Democrats and Republicans, we have been putting votes together.

I think that you make a very good point, that when we do, since we do identify amendments by the name of the sponsor, I think that the idea of having the name of the sponsor placed on boards on the House floor is a very good one. And, in fact, I think we had a discussion with the Parliamentarian, and I raised this with the Parliamentarian a couple of months ago, so I think it is a very, very worthwhile proposal. I am glad to see that in a bipartisan way we are interested in doing that.

Ms. DANNER. As a matter of fact, I sent a letter some time ago to the Clerk, and did not get a response, as I recall. But if there was some reticence as to an individual's name being placed there, maybe we could even do it by numbering the amendments, and have ″amendment number 12,″ and then we could look and see that it was the Dreier amendment. I just think it would be helpful to us.

Mr. DREIER. I think it is a very good idea, and there are down sides to having us roll those votes. When we were in the Minority, we were very troubled about the fact that we would have a debate, and then many Members would look forward to that debate, and we would have a debate on another and another amendment, and then we would all vote seriatim on those amendments as they come up.

I think that anything that can be done to help clearly differentiate between and among the amendments that are considered would be helpful. So I appreciate your bringing it to our attention again.

Ms. DANNER. I might say just in closing that I like the idea of rolling the votes. It makes the rest of our day move more smoothly. I think it was a very good suggestion on the part of the people on your committee.

The CHAIRMAN. Mr. Hastings?

Mr. HASTINGS. I think that is an excellent idea. I guess I have a sense of frustration coming out, as you do, and, what vote is this? In this era of technology, I know it can be done. I know several State legislatures, including my State legislature, do that. I think that is an excellent idea.

Ms. DANNER. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Mrs. Danner, thank you so much for coming. We appreciate it.

The CHAIRMAN. The next scheduled witness is the Honorable Clay Shaw.

Clay, if you would like to come forward your entire statement will appear in the record without objection. Take whatever time you feel is necessary.

STATEMENT OF HON. CLAY SHAW, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. SHAW. Thank you, Mr. Chairman. I will place my statement in the record, and I will be brief.

The proposal that I place before this body is one that would limit the number of 60-minute special orders that any Member of Congress can have without paying out of his office or her office account the sum of $3,000 for each 60-minute proposal.

If you watch the late night special orders, if you sit in the chair through the late night special orders, you find that there is a handful of Members that regularly take advantage of this perk of office. It keeps our staff in through unbelievable hours. Members might leave here at 6, 7 o'clock, you can turn the television on at midnight, these special orders are still going on. It is terribly unfair to our staff, and it is terribly expensive. It is something that is not taken advantage of by the vast majority of the Members.

How this would work, every Member, if he cares to take advantage of it, would get one 60–minute special order per month. If that Member chooses to have two or three 60–minutes, they would be assessed, out of their office account, the sum of $3,000 for this privilege. Actually, that $3,000 is, I think, below the actual cost of having these special orders.

Ms. Rivers has a bill in which she has estimated that these special orders, an hour of special orders, costs anywhere from $4,000 to $6,000, so I think this is a very, very reasonable figure. I think this is a reasonable thing to ask.

I think that our staffs are entitled to a family life, too. For them to sit here way into the wee hours of the morning listening to the same Members is terribly unfair. It is impractical. But I think this is a good way of handling it.

[The prepared statement of Mr. Shaw follows:]

One Sixty-Minute Special Order a Month is Enough

Statement of the Hon. E. Clay Shaw, Jr.
Before the House Rules Committee
September 17, 1998

Mr Chairman, I appreciate the opportunity to testify today in support of a proposal that I believe would improve comity in the House.

Simply put, my proposal is to limit sixty minute special orders speeches to one per Member per month. If a Member wishes to exceed that limit, the Member would be assessed $3,000 from their Members Representational Allowance.

Based on information provided to me by Rep. Lynn Rivers (D-MI), who has a resolution (H.Res. 97) on this subject, it costs between $4,000 and $6,000 for a one hour special order. I recommend, however, charging Members who deliver more than one special order a month only $3,000. I arrived at the $3,000 figure as being low enough so it would not be prohibitive for a Member to give another special order, but being high enough to provide a disincentive to those Members who gratuitously use special orders.

Even if the House adopts my proposal to limit special orders, Members would still have many other avenues to expound on the issues of the day. For example, Members could still use *Extension of Remarks* in the Congressional Record to speak more throughly on a subject. Additionally, a Member could get around my suggested limitation by having another Member yield that Member time on the floor during special orders. Of course, under the rules of the House, the Member who yields time has to stand there for the entire time while the other Member speaks.

I believe that my proposal will also improve civility in the House. A report entitled "Civility in the House of Representatives," prepared after the Hershey retreat, pointed out that incivility is more likely to take place during special orders, where the rules of the House are more likely to be laxly enforced. My proposal would make some more of the intemperate, partisan Members who use special order frequently to literally pay for the privilege of addressing the House.

I would expect Democratic members to embrace my proposal. After all, special orders reform was vigorously supported by Rep. Gene Taylor (D-MS) in the 103rd Congress, and Rep. Lynn Rivers (D-MI) introduced legislation last year (H.Res. 97) even more restrictive than my proposal. (The Rivers resolution would make Members pay for all special orders speeches.)

Mr. Chairman, I recognize that special orders serve a useful purpose, as they allow for the discussion of non-legislative issues on the floor of the House, and also give junior Members practice learning the traditions and procedures of House debate. However, sixty minutes a month is enough for any Member.

In conclusion, my proposal to limit Members to one special order a month could save the taxpayers money, while adding to the decorum and civility of the House by putting a price on the gratuitous use of special orders. I ask for the Committee to consider adopting my proposal for the 106th Congress.

The CHAIRMAN. I have to say, I have to agree with you. I don't know how you allow Members the opportunity to get their points across, you know, to the Nation and on the floor. It is unfortunate. Here we are a body of 435 Members, as opposed to only 100 Senators. It is difficult for Members to find time to discuss bills and legislation and their own points of view. So I have somewhat mixed emotions about it.

But I do think it is abused, because as you say, it seems to be mostly a handful of Members that maybe they are trying to promote themselves, as opposed to getting into a real dialogue or discussion. David Dreier and I have discussed many times the old British parliamentary system, where we would actually go to the floor and debate—and we did that on a number of occasions a few years ago, and I think it was very successful.

I know he and I were on the opposite sides on something called Most Favored Nation treatment of China and others, but it was informative to the American people. We received an awful lot of comment from the public on that. So your points are certainly well taken.

Mr. SHAW. If the Chairman would allow me, I think very little educational material goes out during special orders, the way it is set up today.

The CHAIRMAN. Mr. Dreier.

Mr. DREIER. Thank you, Mr. Chairman.

Let me just say a couple of things. It is interesting to listen to these Republicans talk about a handful of Members utilizing this. When we are talking with the Speaker of the House, I think he would argue that that was the one opportunity that he had, along with our former colleague, Bob Walker, to really convey the Republican view of the world to the American people.

I will say that the argument is not necessarily a bad one. In 1976, the Supreme Court in the Buckley v. Valeo decision, which, as we know, is often talked about in political campaigns, did address speech. Maybe that charge would not be unwarranted.

I do think that—I suspect there would be more than a couple of Members who would be very concerned about moving in that direction, though. And also, it is interesting, many people do that just with the hope that they can get on television. Well, it is cable television. Now we have MSNBC, the Fox News Channel, CNN. You know, all of these outlets are out there creating opportunities for many of us to late at night sit around and get interviewed by people, so there are new opportunities for Democrats and Republicans to get their message out there. Maybe this would be something to consider.

Mr. Chairman, since you have just handed this to me, may I ask unanimous consent that you have this placed in the record Mr. Cardin's statement.

The CHAIRMAN. Without objection.

[The prepared statement of Mr. Cardin follows:]

Congress of the United States
House of Representatives
Washington, DC 20515–2003

**STATEMENT OF THE
HON. BENJAMIN CARDIN
BEFORE THE
COMMITTEE ON RULES
SEPTEMBER 17, 1998**

Mr. Chairman, I want to join in commending you for your leadership in holding this hearing today. I appreciate this opportunity to offer some thoughts regarding possible amendments to the Rules of the House for the 106th Congress.

I have the privilege of serving as Chairman of the Democratic Caucus Committee on Organization, Study, and Review(OSR). On behalf of the Democratic Caucus, my committee later this fall will review the House rules and make recommendations for possible changes. I look forward to working with the Rules Committee on any proposals that emerge from that process.

Mr. Chairman, the most important principle that should govern the process of writing the rules for the new Congress is bipartisanship. Regardless of which party is in the majority, we must have a commitment that the rules by which this institution conducts the people's business are free of partisan objectives.

In this connection, I want to commend you, Mr. Chairman, as well as Mr. Dreier, and Mr. Moakley, for your work on the recodification of the House rules. By all indications, this long-overdue project has proceeded on a good faith, bipartisan basis. The recodification will serve as a strong foundation for the new rules package, whichever party is in the majority.

Bipartisanship has also been the guiding principle of work I have been involved in regarding the congressional budget process. As you know, Chairman Kasich has established a Task Force on Budget Process Reform. Working with our colleague, Jim Nussle, who chairs the task force, we are developing a proposal to make substantial changes in the budget process.

Many of the reforms under consideration by the task force involve changes in House Rules. Knowing of your long-time, active interest in the budget process, I look forward to working with you in implementing these reforms.

Mr. SHAW. There are modifications that could be made to this proposal, such as unlimited time for the Majority and Minority Leader or his designee. These are things that can be handled so that if someone has a real political message out there, that we are not in any way interfering with that message getting across.

But these are personal special orders where the Members just get on the television, and they talk to an empty room for an hour and have basically said nothing. I have sat in the chair through some of these, and they are painful to listen to.

Mr. DREIER. Some of them are fascinating.

Mr. SHAW. In fact, I marvel sometimes that somebody can talk to themselves for 1 hour without stopping.

Mr. LINDER. No comment.

The CHAIRMAN. Mr. Hastings?

Mr. HASTINGS. No comments.

The CHAIRMAN. Thank you. It makes a lot of sense. We appreciate you coming.

Mr. SHAW. I would only suggest that this body take a look at staff on the floor, and get some idea of what this is doing to their home life. It is a terrible thing. I think it should be brought under control.

The CHAIRMAN. The gentleman from New Jersey, Mr.Bob Menendez. Bob, if you want to summarize your statement, your entire statement will be put in the record. Take all the time you need.

STATEMENT OF HON. ROBERT MENENDEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. MENENDEZ. Thank you, Mr. Chairman. I appreciate this opportunity.

The floor of the House of Representatives is entrusted to us to do the Nation's work. It is entrusted to us to have a place to do the people's business, represent their views, debate, negotiate, and legislate. I don't think any other purpose could be defended.

However, in honor to those Members who, in fact, have served here, they have privileges on the floor. They are given access to the floor. If it remains an honorary privilege, I think it could be defended, but if it is used in any way to personally or financially benefit a former Member, I think in my view it would be a breach of trust that the American people would not accept.

Under the current House rules, it permits a former Member to use the House floor to lobby for his or her own personal or financial gain, so long as it does not concern legislation pending on the floor or reported out of committee. Whether or not there is legislation pending should not matter. I think a former Member should not be able to use their status to lobby for any personal or financial gain on the floor.

I would just like to give you a quick example. Let's suppose that a former Member's legal fees are before a House committee. I believe few, if any, Members would think it proper for that former Member to have access to the House floor to lobby to have his or her legal fees paid, but the current rules allow it. I don't think they should.

Or let's say that a former Member has a private tax bill before the Committee on Ways and Means. I think most Americans would object to that ex-Member having an opportunity to use the floor to lobby for privileges that no other citizen in this country would have. I don't think it is a position that we can defend.

So the proposal I offer, which I introduced as House Resolution 229 last year, would prevent these potentially unethical situations by expanding the current prohibition to include denial of floor access to any Member who has a personal or financial interest in any measure or matter under consideration in a committee or subcommittee, and there is clear precedent for this change.

Under the current rules, former Members are already barred from the floor if they represent a client for the purpose of influencing legislation under consideration in a committee or subcommittee. In that case, it is important to note that the mere status of being employed by an outside group for this purpose is enough to bar a former Member from the floor, regardless of his or her intent to use access to lobby.

So the reasons are clear. The Speaker or chair should not be in the position of micromanaging conversations on the House floor. If a former Member wants to use his position to lobby in that way, that is fine, but they should not expect the people to facilitate that work by letting them on the floor, or put the House in the position of monitoring their activities, so we keep a bright line and we simply bar them altogether.

Lastly, I think the rules, however, currently are much more lenient when it comes to a Member's personal interest, but they should not be. My proposal would rectify that situation. As with any other outside interests, under the proposal that I am offering for the committee to consider, the mere status of having a personal or pecuniary interest under consideration in a committee or subcommittee would be enough to bar a Member.

I think that that would hold us to the high standards that the House should be held to, keep the trust of the American people, and still preserve the honor for former Members that they deserve.

The CHAIRMAN. Bob, thank you very much. Your points are well taken.

[The prepared statement of Mr. Menendez follows:]

TESTIMONY OF THE HONORABLE ROBERT MENENDEZ
BEFORE THE HOUSE COMMITTEE ON RULES
SEPTEMBER 17, 1998

Mr. Chairman. Members on both sides of the aisle talk a lot about doing away with Washington perks. This is a chance to do something about a *totally* unjustifiable benefit.

The Floor of the House of Representatives is owned by the American people and entrusted to our care so that the elected Representatives of the people have a place do the people's business and represent the people's views through debate, negotiation, and legislation. No other use could be defended to the American public.

Still, in honor of their service to the people, former Members of Congress are given access to the House Floor. If this remains an honorary privilege, it could be defended. But if it is used in *any way* to personally or financially benefit some former Members, it is in my view a breach of that trust the American people give to us.

Current House rules permit a former Member to use the House Floor to lobby for his or her own personal or financial gain *so long as* it does not concern legislation pending on the Floor or reported out of Committee. Whether or not there is legislation pending shouldn't matter -- a former Member shouldn't be able to use their status to lobby for *any* personal or financial gain on the Floor.

For example, let's say a question regarding a former Member's legal fees is before a House committee. I believe few, if any, Members would think it is proper for that former Member to take to the House Floor to lobby to have his or her legal fees paid. But the current rules would allow it. They shouldn't.

Or let's say a Member has a private tax bill before the Ways and Means Committee. I think most Americans would object to that ex-Member using their Floor privileges to lobby for the bill. After all, no other American would have the right to lobby on the Floor for private legislation -- why should a former Member? Would any one of you defend this situation to your constituents?

The proposal I offer, and introduced as House Resolution 229 last year, would prevent these unethical situations by expanding the current prohibition to include denial of Floor access to any Member who has a personal or financial interest in any measure OR matter under consideration in a committee or subcommittee.

There is clear precedent for this change.

Under current rules, former Members are already barred from the Floor if they represent a client for the purpose of influencing legislation under consideration in a committee or subcommittee.

And in that case it's important to note that the mere *status* of being employed by an outside group for this purpose is enough to bar a former Member from the Floor -- regardless of his or her intent to use that access to lobby.

The reason is clear. The Speaker or Chair should not be in the position of micromanaging conversation on the House Floor. If a former Member wishes to use his position to lobby in that way, that is fine. But they should not then expect the people to facilitate that work by letting them on the Floor, or put the House in the position of monitoring their Floor activity. So we keep a bright line, and simply bar them altogether.

Unfortunately, the current rules are much more lenient when it comes to a Member's *personal* interests. But they should not be, and my proposal would rectify the situation. *Just as with outside interests*, under House Resolution 229 the mere status of having a personal or pecuniary interest under consideration in a committee or subcommittee would be enough to bar a Member.

As Members we should do everything possible to reinforce the confidence of the American people in the ethical standards of the House, and never put ourselves in situations where that confidence could be shaken. Until we tighten up this loophole, this is one place where that is just waiting to happen. Thank you, Mr. Chairman.

The CHAIRMAN. I might just note that the existing House rule is very, very tight. You are suggesting it could be made even tighter. It says, ″Only if they do not have any direct personal or pecuniary interest in any legislative measure.″ That is pretty tight.

That, I think, was written by a man named John Anderson, who was an outstanding Member of this body many, many years, Bob, before you got here, and he was here before I was, as a matter of fact. His former Chief of Staff Don Wolfensberger sitting in the back of the room probably was responsible for writing this legislation.

Your points are well taken. We will certainly take a good, hard look at it.

Mr. MENENDEZ. I just want to say, if we continue to read it, what I would hope the committee would consider, it says, ″If it is pending and/or reported out of the committee.″ You know, if it is pending before or reported out of the committee, whether or not that is the case, to have access to 435 Members of the House, particularly the members of that committee, to lobby on your behalf of your own personalinterest is not the people's work.

I think that, yes, there is a very good intent, in the context of people who are hired by outside interests. I think we can narrow that even further to make sure that your personal interests don't come before the people's interest.

The CHAIRMAN. Again, I am just going to cite the ″personal and pecuniary interest in a legislative measure.″ ″Legislative measure″ takes it pretty far.

Again, your points are well taken. We will take a look at it.

Any questions of the witness?

Mr. LINDER. No.

The CHAIRMAN. If not, Bob, thank you very much for coming.

Mr. MENENDEZ. Thank you, Mr. Chairman.

The CHAIRMAN. The next scheduled witness would be Ron Paul of Texas, the gentleman who came here with me 20 years ago and chose to leave for a while, and now he is back with all his previous vigor.

Ron, it is always a pleasure to welcome you before the committee.

STATEMENT OF HON. RON PAUL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Dr. PAUL. Thank you, Mr. Chairman. I have just a brief statement to make, mainly because we have talked about it before, and I think you know and others know my position on this. But it will come up again, I guess, for next year's writing of the rules.

This has to do with the drug testing. I know what your position is on that, and it is a very sincere position. I have a constitutional concern about this. I think some of us deal with the Constitution in a much more strict way than others. Others like to do it in a more loose way. But I think everybody is very serious in doing their best job of interpreting the Constitution.

I just think that random testing is a little bit too loose. I just want to make a case, once again, for the voluntary approach. I have a policy in my office that when somebody comes to work for

me, I tell them that they are going to be vulnerable to testing. I feel responsible for this.

I don't know who actually pays for that, but maybe the rule ought to be if we have a voluntary program rather than a compulsory program, it should even be a cost out of our own budgets. Maybe it should not be out of the general budget, like it would be if it were mandatory. That would be one way that others might be encouraged to do this.

There is no argument that drugs are not a serious problem. I see this from the viewpoint of a physician. But I am also very concerned that we don't do things carelessly on this.

The only other point that I would like to make is that in many ways, I think we had a profound statement of this yesterday, a sentiment of the Congress, I do know that most Members that I have talked to, when they are not on line to have voting—to be pressured to vote on this for themselves, because there would be a political pressure, too—but when I talked to them, I don't find very many Members that say, hey, this is a great idea, and we should encourage it.

But there have been some court cases, and the courts generally have ruled that only under extreme circumstances should mandatory testing ever be used, you know, without a warrant. I just think it would be so much better with our philosophy of limited government and voluntarism, rather than through compulsion, that we do this in a voluntary approach.

Yesterday, as we were getting ready to vote on the Taylor amendment, which would mandate that all new employees could be subject to random drug testing, our colleague Tom Barrett put a little notice on the desk making the argument to vote no on the Taylor amendment. I just want to quote from that.

He said, ″Federal courts have consistently ruled that drug testing is a 'search' for purposes of the fourth amendment and as such must be reasonable. The courts have permitted mandatory drug testing of government employees in the absence of a warrant or individualized suspicion, but only when the government can demonstrate a special need beyond the demands of ordinary law enforcement.″

So once again, I just want to make the case that we have to, indeed, be very cautious and very careful, respect our own privacy, and, at the same time, we are obligated to respect the privacy of all individuals throughout the country. I think the Congress clearly spoke yesterday that even Federal employees deserve the protection of the fourth amendment.

I do not think this in any way ever precludes any organization, any businessman or anyone in the Department of Defense—obviously, if we are going to have people flying airplanes and other things, they had better not be on drugs, and they had better not be on alcohol and a lot of other things. I do not think this precludes that at all. I just want to, once again, make that point, that either this year or next year, if it comes up, that we give serious consideration to the voluntary approach. Thank you.

[The prepared statement of Dr. Paul follows:]

RON PAUL
14TH DISTRICT, TEXAS

BANKING AND
FINANCE COMMITTEE

SUBCOMMITTEES
FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT

DOMESTIC AND INTERNATIONAL
MONETARY POLICY

EDUCATION AND
WORKFORCE COMMITTEE

SUBCOMMITTEES
WORKFORCE PROTECTIONS

EARLY CHILDHOOD, YOUTH
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September 9, 1998

Since the opening days of the 105th Congress, the House of Representatives has attempted to implement House rule changes which mandate random drug testing of all Members, officers, and employees of the House. However, the proposal to test randomly individuals as a method to cut down on drug usage is ill-advised and should not be implemented.

The real issue is not that of drug use but, rather, issues of privacy, due process, probable cause, the fourth amendment, and House employment practices. Needless to say, the House is dealing with constitutional issues of the utmost importance.

These rules raise the question of whether or not the Members of the House understand the overriding principle of the fourth amendment. If Members of the House have so little respect for their own privacy, liberty, and innocence, they cannot be expected to protect the liberties, privacy, and presumed innocence of the constituents for whom they have sworn an oath to uphold the Constitution. In the recent United States Supreme Court decision in *Chandler v. Miller*, the Court stated, "However well-meant, the candidate drug test Georgia has devised diminishes personal privacy for a symbol's sake." Members allegiance should be to the bill of rights rather than symbolism for politic's sake.

Furthermore, Members of the House are the employing agents of their own staff and are free to set their own conditions of employment. Members of the House serve at the discretion of their constituents, who remain free to penalize the Members with their political nonsupport should Members of the House conduct themselves in a derelict manner.

Because random drug testing of Members and staff is both blatantly unconstitutional and an encroachment upon the administrative discretion of Members of the House to employ staff members as they deem prudent, I propose that all House Rules at odds with fourth amendment protections and violative of Member's staff employment discretion be immediately rescinded.

Ron Paul

Ron Paul, M.C.

The CHAIRMAN. I hate to get involved with this conversation, Mr. Paul, but I was going to testify myself a little later on it. I will probably say some things that I will regret saying here today, but certainly I would never question your sincerity, ever.

You and I come closer to sharing the same view on everything than most Members of this Congress, and almost to the point of myself being Libertarian.

I would never question the sincerity or the integrity of any other Member on how they vote on this issue. I just have to tell you, and I am just terribly upset with a lot of Members, with the Republican leadership, even members of this Committee on Rules, and the rank and file out there, with that vote that was cast last night, I think it was a disgrace. I think it sends a terrible, terrible, terrible signal.

Again, I am going to hesitate to get really upset about it. The gentleman from Mississippi, Mr. Taylor, I think he did a great disservice in calling up that amendment. If we had had a legitimate debate on the issues, I think the vote would have been entirely different.

I just have to recall back in the early 1980s when Ronald Reagan, at my urging, decided to implement random drug testing in our military. We had a terrible situation at that time. We had gone through the 1970s, where we were—our military had literally gone to hell because of this Congress and the deemphasis on our military. We had a lot of inner–city kids that were just here looking for a job, looking for a way to make a living.

There was a lot of drug use. It was 25 percent, admitted, and that was at all levels, from every admiral to every buck private. When Ronald Reagan implemented random drug testing, it dropped drug use within 4 years, from 25 percent down to 4 percent. Can you imagine, 4 percent? And that is what it is today.

Don't tell me it doesn't work. What was the reason? It was because their future was jeopardized if they were randomly tested for drugs.

Fortune 500 companies in my district, the General Electric Company, the International Paper Company, and I could go on with a number of others, IBM, they all have random drug testing.

Mr. LINDER. Haven't we moved up to Atlanta yet?

The CHAIRMAN. We are moving back.

They all do it. Why do they then stop using drugs? Most of these, these Fortune 500 companies, these are not laborers, like with General Motors, maybe, or Ford, working in the assembly plant, these are upper middle-class yuppie people; people, I guess, like you and me. We are considered a little above the middle class, I guess, because of our earning capacity.

But when 75 percent of all the illegal drug use in America is caused by your constituents and mine, okay—in other words, by that level of society who are using illegal drugs recreationally on the weekend, that is what props up the price. That is what causes this problem that we have today. And everywhere that random drug testing is put in as a condition of employment, it drops demonstrably.

So what is so damned different between a Federal employee and all these private sector people? What is different between you and me? Why can't we set the example? I get furious about it when I see votes cast. I don't question the sincerity or integrity of Members because they feel like you do. They feel very strongly, and they are entitled to their beliefs. But it is dead wrong, and if we are ever going to deal with what I consider one of the top two or three major problems in this country—and that is what is happening to a whole new generation of young Americans. My children, my grandchildren, are being affected by this today.

I am going to tell you one more story, you know, which just demonstrates the problem. I have a newspaper publisher in my district, and I don't want to mention names, but for years he used to belittle me when I would go to a party or something and he would be there. He would say, Jerry, you are all wrong with this. There is no real problem with marijuana.

This went on for about 10 years. A couple of years ago he called me and he said, Jerry, I want you to know how wrong I was, how right you were, because, he said, my daughter, who is in the ninth grade, is hooked on cocaine. That is the difference.

Any questions of the witness?

Mr. LINDER. No, Mr. Chairman.

Mr. HASTINGS. No, thank you.

The CHAIRMAN. We thank you for coming. Your points are always welcome.

The CHAIRMAN. The next scheduled witness would be Robert Weygand of Rhode Island.

Bob, if you would like to come forward. Again, your statement will appear in the record, as well.

STATEMENT OF HON. ROBERT A. WEYGAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF RHODE ISLAND

Mr. WEYGAND. Thank you, Mr. Chairman.

Mr. Chairman, about 20 months ago when I first came here and was looking for an apartment, I met a young woman by the name of Moira Shay. She was showing me an apartment that she was subletting in her building. She was visually impaired, and she had this wonderful golden Labrador Retriever that helped her around.

I met her and talked with her, we had mutual friends, and found out that she was a staff member on the Senate side. About 2 months later, just after we had begun the session, she was denied access to the floor of the Senate because the rules of the Senate did not allow for staff members, clerks of committee or anyone to be on the floor using any kind of a device that was necessary for an impairment they may have, whether it be a seeing eye dog, a wheelchair, or other kinds of devices.

I know I spoke to you about a year and a half ago about this, Mr. Chairman. We waited, and we agreed to wait until now to bring this before the committee. While on our floor our Members have been very generous to other colleagues that may be impaired, in wheelchairs or on crutches, we really do not have a rule that allows for staff members to be allowed on the floor if they are in need of such devices because of their impairment.

The resolution I submitted last year, House Resolution 135, would have permitted Members' staff or committee clerks, I believe is the proper terminology for committee staff members, to be on the floor with such devices.

So I suggest to the committee that this would be the appropriate time, the 106th Congress, to take an action that would allow for such individuals to be on the floor.

It is necessary, as you all know, for us to have staff to support us on the floor at certain times. It certainly is not, I believe, the wishes of the Congress to ever deny people to have support equipment or the necessary kinds of assistance that they require for their handicaps. So I ask the committee to take into consideration this resolution, this rule, that would simply allow that, Mr. Chairman.

The CHAIRMAN. Bob, we thank you very much. You did discuss that with me. I think it has merit. Certainly over the next 2 months we are going to be looking at this. Certainly this will be given great consideration.

[The prepared statement of Mr. Weygand follows:]

STATEMENT BY REP. BOB WEYGAND
HEARING ON PROPOSED CHANGES TO HOUSE RULES
HOUSE COMMITTEE ON RULES
THURSDAY, SEPTEMBER 10, 1998

Mr. Chairman, members of the Committee, thank you for offering me the opportunity to speak to you today as you begin consideration of possible changes to the Rules of the House for the 106th Congress.

As you may recall, at the beginning of the first session of this Congress, Moira Shea, an expert in energy issues and a Senate staff member for Senator Ron Wyden was denied access to the Senate floor because she is visually impaired and needs the assistance of a guide dog. Senate rules prohibited guide dogs and other "supportive services" on the Senate floor.

The Senate quickly realized that it needed to update its rules to permit Ms. Shea and other talented yet impaired people to have access to the Senate floor and changed its rules to permit the use of these "supportive services."

Soon after the Senate amended their rules, I introduced H.Res. 135, legislation to make the same changes to the rules of the House of Representatives. A guide dog is not a pet. These intelligent and well-trained animals provide a necessary and valuable service. Such a prohibition is also a violation of both the Americans with Disabilities Act and the Congressional Accountability Act.

As the 105th Congress draws to a close and we prepare for the start of the 106th Congress, I would hope that the Rules Committee will review my legislation and consider including it in any package of changes in House rules that the Committee sends to the full House.

105TH CONGRESS
1ST SESSION

H. RES. 135

To amend the Rules of the House of Representatives to permit disabled individuals who have access to the House floor to bring supporting services.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 1997

Mr. WEYGAND (for himself, Mr. MCGOVERN, Mr. BLAGOJEVICH, Mr. MOAKLEY, Ms. DELAURO, Mr. FRANK of Massachusetts, Mr. DELAHUNT, Mr. TIERNEY, Mr. KUCINICH, Mr. STARK, Mr. STRICKLAND, Mrs. MCCARTHY of New York, Mr. BLUMENAUER, Ms. DEGETTE, Mr. ETHERIDGE, Mr. BOSWELL, Mr. SANDLIN, Mr. LAMPSON, Mr. ROTHMAN, and Mr. PASCRELL) submitted the following resolution; which was referred to the Committee on Rules

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RESOLUTION

To amend the Rules of the House of Representatives to permit disabled individuals who have access to the House floor to bring supporting services.

Resolved,

SECTION 1. SUPPORTING SERVICES.

Rule XXXII of the Rules of the House of Representatives is amended by adding at the end the following:

"(6) Clerks of committees and persons from Member's staffs who have a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42

U.S.C. 12102) and who have access to the Hall of the House may bring supporting services (including service dogs, wheelchairs, and interpreters) into the Hall of the House.".

The CHAIRMAN. Any questions of the witness?

Thank you very much. Bob, thank you very much. We appreciate you coming.

We will go now to the very distinguished and Honorable John Hostettler of Indiana, one of the dynamic new Members of this body.

STATEMENT OF HON. JOHN N. HOSTETTLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. HOSTETTLER. Thank you, Mr. Chairman, and Members.

The CHAIRMAN. He reminds me of a young David Dreier when Dave used to be young and first came here.

Mr. DREIER. Many, many, many years ago.

Mr. HOSTETTLER. What a compliment. What a compliment. I appreciate that, Mr. Chairman.

Mr. Chairman, as you probably remember, a few months ago during the discussion of ethics reform, I came to this august body and asked for a provision to be considered with regard to a high school Constitution competition, very similar to the arts competition. I was asked at that time to come back at this time to possibly make that a rule of the House.

To give you a little background of why I think it is so important, recently in Senate appropriations hearings, the honorable Edward Rendell, chairman of the National Constitution Center, spoke of the lack of understanding and knowledge of high school students of the Constitution itself.

To give you some points he made that I think are very telling with regard to why such a competition sponsored by the House of Representatives and sponsored by individual Members of the House would be important, only 21 percent of American teens know how many U.S. Senators there are, but 84 percent know how many brothers there are in the musical group Hansen.

Seventy-five percent know what city in the United States boasts the zip code 90210, but only 26 percent know that the U.S. Constitution was written in Philadelphia.

Ninety-two percent of those high school students surveyed knew who stars as the father of the house in TV's Home Improvement, while only one-third polled knew the name of the current Speaker of the House of Representatives.

Just over one-third knew the first three words of the preamble to the Constitution, while almost 70 percent knew the first three letters of most website addresses.

This is one indication why it is necessary, I believe, for us to raise the level of understanding of the U.S. Constitution among young people. Unlike the arts competition, however, the House has not yet spoken to the ability of a Member to promote the Constitution as part of his or her official business. So if I may suggest, the House should allow for a Constitution competition very similar to the arts contest. Creating a new House rule is the best way to accomplish this goal. Accordingly, I have submitted to the rules panel the proposed language for a new rule as part of my testimony.

When you consider that today's teenagers will be tomorrow's leaders, I believe this type of project, the Constitution project, is es-

sential. Who better to promote it than ourselves, the elected representatives of these young people?

I must say that the committee chose an excellent time to postpone these proceedings from last week to today, because today is the 211th anniversary of the ratification of the United States Constitution by the Constitutional Convention. So, I applaud you on your timeliness of this issue. Thank you Mr. Chairman, Committee Members, for your time and consideration of this issue.

Mr. DREIER. We worked hard on that.

The CHAIRMAN. Yielding to Mr. Dreier, I just wanted to thank you for your testimony. It has great merit. We will look into it.

[The prepared statement of Mr. Hostettler follows:]

JOHN N. HOSTETTLER
8TH DISTRICT, INDIANA

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MILITARY INSTALLATIONS AND FACILITIES
MILITARY RESEARCH AND DEVELOPMENT

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REMARKS BY THE HONORABLE JOHN N. HOSTETTLER

TESTIMONY BEFORE THE HOUSE RULES COMMITTEE

HEARING ON PROPOSED CHANGES TO STANDING RULES OF THE HOUSE

SEPTEMBER 17, 1998

Mr. Chairman, Ladies and Gentleman of the Committee, I would like to discuss with you an educational project I would like to carry out in my Congressional district.

It pertains to promoting the reading and understanding of the U.S. Constitution among young people.

You may recall, that I testified before this Committee on this very subject when you considered the rule for the Ethics Reform bill last year.

Simply put, I am interested in promoting the reading, study and understanding of the Constitution among high school students in a manner quite similar to the Congressional Arts Competition.

Instead of an art contest, I would like to see an essay contest on the Constitution conducted.

However, the Committee on Standards of Official Conduct has interpreted the House Rules in a way that has deemed the activities under my proposal as **not** constituting official business, and therefore, they have ruled that I may not use official resources to promote the project.

I recognize that the House Rules declare official resources are only for official business.

But I would argue that U.S. Congressmen need the ability to promote the Constitution as part of their official business.

I trust all of you are familiar with the recent Senate Appropriations Committee hearings on the lack of education among our young people regarding our form of government and the founding documents, particularly the Constitution.

Let me just read you a quote from the testimony of The Honorable Edward Rendell, Chairman of the National Constitution Center. Here, Mr. Rendell is referring to a national survey of teens that compares their knowledge of pop culture with that of the Constitution:

> * Only 21% of American teens know how many U.S. Senators there are, but a full 84% know how many brothers there are in the musical group "Hanson."
>
> * 75% know what city in the United States boasts the zip code 90210, while only 26% know that the U.S. Constitution was written in Philadelphia.

* Around 92% knew who stars as the father of the house in TV's "Home Improvement," while only a third polled knew the name of the current Speaker of the House of Representatives.

* Just over a third knew the first three words of the Preamble to the Constitution, while almost 70% knew the first three letters of most web site addresses.

The fact is, Mr. Chairman, our young people today are deficient in their knowledge and understanding of the U.S. government and especially our Constitution.

As a Representative of the people, I strongly believe that it is not only related to our official business, but also it is part of our duty when we took an oath to uphold the Constitution to promote knowledge and understanding of that document.

As Members of Congress, as elected leaders of the people, we must be able to help the American People understand how and why our government works before we can begin to explain the how's and why's of our decisions to move the country in this direction or that, to vote this way or that way.

The more the People understand their government, its form and processes, the better we will be able to serve them and lead them effectively.

Unlike the Arts Competition however, the House has not yet spoken to the ability of a Member to promote the Constitution as part of his or her official business.

Clearly the Arts Contest is a good model for this Constitution

Competition.

But the Arts Contest was established long ago, and formally considered part of official business by a section of Chapter 9 in the House Ethics Manual. The Ethics Manual follows what the Committee at that time saw as the will of the House when a Resolution (H.Res. 201, 102nd Congress) passed the House in 1991.

So, if I may suggest, the House should allow for a Constitution Competition similar to the Arts Contest.

Creating a new House Rule is the best way to accomplish this goal. Accordingly, I have submitted draft language as part of my testimony.

Adding a new rule to the Standing Rules of the House would give the Ethics Committee clear direction on how to advise Members who would be interested in promoting the Constitution in their Districts.

Furthermore, when I came before this Committee around this time last year, it was recommended to me that I bring this issue up at this hearing, which I believe the Chairman foresaw as a more appropriate opportunity to discuss this Constitution project proposal.

Mr. Chairman, Members of the panel, the oath we took to uphold the Constitution means more than just reading it for ourselves the first time we walk into the Capitol to be sworn into office.

Ultimately, we must recognize that our teenage population today severely lacks adequate knowledge and understanding of our government. It is vital to promote this understanding among our youth, as well as our adult population. In fact, I see no reason why the Constitution should not make its way into pop culture, and become part of household discussions across the country.

I'm not proposing Members of Congress ought to bear responsibility for all these endeavors. But I do strongly believe that-- as elected leaders-- we must have the ability to promote the country's founding documents among the young people we represent.

When you consider that today's teenagers will be tomorrow's leaders, this type of project is essential. Who better to promote it than our elected Representatives?

With that in mind, I would like to conclude by mentioning that today marks the 211th Anniversary of the ratification of the Constitution by the constitutional convention.

Thank you Mr. Chairman and Committee Members for your time and consideration of this matter. I welcome any of your questions at this time.

105TH CONGRESS
2D SESSION

H. RES. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. HOSTETTLER submitted the following resolution; which was referred to the Committee on _____

RESOLUTION

Amending the Rules of the House of Representatives to establish congressional constitution competitions.

Resolved, That the Rules of the House of Representatives are amended by adding at the end the following new rule:

"RULE LII.

"CONGRESSIONAL CONSTITUTION COMPETITIONS

"1. Members may promote the reading, study, and understanding of the United States Constitution. Members may conduct annual competitions among high school students in their congressional districts to select essays which may be published in the Congressional Record. Members may announce their support for the competition

in official letters and news releases. Staff may provide administrative assistance. An ad hoc committee may select the winner in each district. Corporation may underwrite costs, such as prizes and flying the winners to Washington, D.C.

"2. Private involvement with the 'Congressional Constitution Project' in this manner is not a subsidy of normal operations of a congressional office.

"3. As used in this rule, the term 'Member' means a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico.".

Mr. DREIER. Thank you very much, Mr. Chairman.

Let me congratulate you, John, and tell you something that you may not have known. Back when I was a young man 11 years ago, in fact on the 200th anniversary, Jerry Solomon and I and other Members at that time went to Philadelphia, actually it was in July of that year, I think July 16th, during which time we held a session in Philadelphia to mark the 200th anniversary then of the Great Compromise, the Connecticut Compromise, which established the bicameral legislature.

You mentioned today—and I have a very interesting woman in my district called Louise Lee who has prevailed upon me, and I am not resisting at all, at 4 o'clock this afternoon I am going to go on some sort of hook-up, be nationwide on Constitution Day, reciting the preamble of the Constitution.

Also, it is extraordinarily interesting that when you think about today and sort of the unique challenges that we are facing, we are not by any stretch of the imagination, as Doc pointed out in our hearings with the Committee on the Judiciary last week—this is not a constitutional crisis at all, but it is a very interesting time when people are today looking at both the Constitution and the document which consists of all those brilliant op/ed pieces that were written by Alexander Hamilton, James Madison, and John Jay, the Federalists.

I am a strong supporter of doing anything possible that we can to make sure that more people know Newt Gingrich's name and have an understanding of the U.S. Constitution. I think you have an interesting idea here.

The CHAIRMAN. Any questions of the witness?

If not, thank you very much for coming.

Mr. HOSTETTLER. Thank you, Mr. Chairman.

The CHAIRMAN. Now we move to the Honorable Todd Tiahrt of Kansas, another outstanding new Member.

Todd, it is always a privilege to have you come before us. We took care of your amendment last night for you. You will be on the floor with it. We appreciate you bringing that to us.

STATEMENT OF HON. TODD TIAHRT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. TIAHRT. Thank you very much.

Mr. Chairman, it is always a great honor to come before the Committee on Rules. I appreciate the opportunity.

I have two changes. The first one is very simple. Right now the House rules say we start out with a prayer by the Chaplain, and then we have the reading and approval of the Journal, and third, a Pledge of Allegiance to the flag.

For me, I think this is not a good establishment of priorities, with all due respect to the Speaker and the need to approve the Journal. My proposal is that we start out acknowledging our faith in God through prayer from our chaplain; second, that we would pledge our allegiance to the flag and acknowledge our allegiance to the country; and then third, move on to the Journal, just switching those two.

I have been on the floor many times, and sometimes I have even called for a vote on the Journal myself as part of our strategy, but it always seems very disruptive to me when we have this demand for a vote and we have everybody come down, and then we go to a Pledge of Allegiance. Sometimes it goes to much later in the day.

I just think if we would change that order, it would not do anything as far as detracting from the way we do business or detracting from getting to the Speaker's approval of the Journal, but it would, first, allow us to acknowledge our faith in God, and second, acknowledge our allegiance to the country. So it is a very simple change.

The second one, my second request, relates to raising the minimum wage. Currently we have a supermajority requirement to raise taxes. I think that is very important, because raising taxes places a big demand on the American people.

When we were undergoing the apparent effects of the last raise we had with the minimum wage, it dawned on me that this is very serious to Americans; serious to my mother-in-law, who is on a fixed income, because her prices went up; it is very serious to young people, who are trying to maintain a job.

I went down to the grocery store and talked to the second shift manager where I usually shop in Kansas. He had to lay off three people because of the minimum wage hike. I went to my local video store. The manager said he had to lay off two young people. These are employees who need the income. They are trying to work their way through school. It is very serious when we raise the minimum wage, because it does cost jobs, and drives costs up for seniors.

I think we should have the same emphasis when raising the minimum wage as we do when we raise taxes. I would request that we have a three-fifths majority of Members voting in order to raise the minimum wage next time we consider it.

Thank you for your time in listening to my proposals.

[The prepared statement of Mr. Tiahrt follows:]

Testimony of Rep. Todd Tiahrt

September 17, 1998

before the
House Rules Committee

Mr. Chairman, I come to you today to offer two changes to our House Rules. The first pertains to Changing the Order of Business in the House and the second pertains to changing the Rules of the House to require that any increase in the minimum wage must be passed by a 3/5ths majority.

The first rule change I would like to make concerns the Pledge of Allegiance. Currently, under House Rule XXIV (24), the daily order of business consists of the prayer, then the reading and approval of the Journal, and then the Pledge of Allegiance. I believe we should exchange the reading and approval of the Journal with the Pledge of Allegiance.

The Pledge of Allegiance to the Flag, was written in 1892 in time for the American commeration of the 400th anniversary of Christopher Columbus's arrival in the Western Hemisphere. The Pledge of Allegiance is a demonstration of our country's success, inventive genius and power. It is an expression of American ideals and patriotism such as freedom, equality and justice.

I have noticed at several times during this Congress that the House has spent so much time debating and then approving the Journal that the Pledge of Allegiance has been lost in the shuffle. I would like to preserve the importance of the pledge of allegiance to this nation by placing it before the Reading and Approval of the Journal under Rule XXIV.

Originally, the House had no rule prescribing the Order of Business. The Rule's object is to arrange the business of the House so that we have as much

freedom as possible in considering and completing bills we deem important. The basic form of Rule XXIV has been in place since 1890. During the last Congress, we found it important enough to include the Pledge of Allegiance in the Order of Business. This was an excellent idea and I supported its inclusion. However, I feel its placement within the order can be better served by putting it after the Prayer.

I am not asking for a radical departure of House rules. Placing the Pledge of Allegiance before the reading and approval of the Journal might even make the procedure of the House go more smoothly. Immediately following the prayer, the House can immediately give the Pledge of Allegiance. This will allow the House to move onto the legislative business at hand.

Proposed Change to House Rules
by Representative Todd Tiahrt

1. **Proposed Change to Rule XXIV:**

"1. The dialy order of business shall be as follows:
First. Prayer by the Chaplain.
Second. The Pledge of Allegiance to the Flag.
Third. Reading and approval of the Journal, unless postponed pursuant to the provisions of clause 5(b)(1) of rule I.
Fourth. Correction of reference of public bills." ...

Increasing the minimum wage should be as difficult as raising taxes. It should be required to meet as high of a standard. If Congress wants to impose unfunded mandates on our economy, the process should not be an easy one. Unfunded mandates are bad and should endure a rigorous evaluation and scrutinization. The minimum wage has an enormous impact because it touches all areas of commerce. It should not be taken lightly as in recent years where we have seen this issue used as a political football. By requiring a 3/5ths majority, we wil protect small and independent businesses and our most vulnerable workers from losing their jobs.

The most vulnerable entry-level workers stand to loose the most if the minimum wage is increased again.

Thank you for your time.

Proposed Change to House Rules
by Representative Todd Tiahrt

2. **Proposed Change to Rule XXI:**

Amend clause 5 of rule XXI by adding at the end the following new paragraph:

"(e) No bill, joint resolution, amendment, or conference report carrying a minimum wage increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting. For purposes of the preceeding sentence, the term 'minimum wage increase' means any amendment to section 6 of the Fair Labor Standards Act of 1938 to increase the minimum wage.".

The CHAIRMAN. Todd, thank you very much for two very excellent recommendations. Certainly I agree with the second, and as for the first, there has always been an ongoing discussion over what would happen if the Journal were defeated. You have to approve the Journal in order to proceed with the day's business. If it were defeated, the question is, what would happen? Would we then not be able to come back in all day and have to come back the following day?

We need to resolve that, because it has some bearing on whether or not we would be able to carry on other business, such as the Pledge of Allegiance. Your points are certainly well taken.

Mr. Dreier?

Mr. DREIER. Thank you very much, Mr. Chairman. First let me just say that it is very important that Members pledge their allegiance to the flag. One thing about having a recorded vote on the Journal, it means that more Members pledge to the flag than is the case if they pledge before we actually have the vote on the Journal.

Of course, Jerry Solomon, there is nobody who stands for the flag more vigorously than Jerry, and he—you were the first one to get the pledge down there.

The CHAIRMAN. Yes.

Mr. DREIER. To have us stand up. That was something we got the Democrats to do, I suspect, in maybe the 103rd Congress, a few Congresses ago, before we took over.

I will tell you that we had an interesting discussion yesterday with some members of the Committee on the Budget. I am an opponent of all these proposed increases in the minimum wage and totally concur with your arguments, but I just have difficulty with supermajorities around here.

One of my concerns, I will say, as I have said in the past, is that we take an issue like that, which is very, very near and dear to us, not just in a rampant way increasing the minimum wage, and then you think about the precedents that would be set if, God forbid, we were to be in the Minority, and knowing what—there is no one here—what horrible tax and spenders and big government people all those guys on the other side of the aisle are, I mean, if you think about how they could say, ″Todd Tiahrt said there should be a supermajority for any increase in the minimum wage. I think there ought to be a supermajority for a single spending cut, or a supermajority required to cut a nickel of taxes in the future.″ So I am just troubled with the whole idea of precedent-setting in the area of supermajorities.

Having said all that, they are brilliant ideas.

Mr. TIAHRT. It is an interesting argument, what would happen if we did disapprove the Journal. Would that mean we would have to pledge twice the next day? I just think it establishes a good priority.

The CHAIRMAN. Your points are well taken.

Any questions of the witness?

If not, thank you very much.

Mr. DREIER. Mr. Chairman, may I ask unanimous consent that the statements by our colleague Barbara Cubin, our colleague, Mr.

Joe Barton of Texas, the delegate, Mr. Underwood, and your fellow New Yorker, Mr. Nadler, be included at this point in the record?

The CHAIRMAN. Yes, without objection.

[The prepared statement of Mrs. Cubin follows:]

STATEMENT BY REPRESENTATIVE BARBARA CUBIN
REGARDING HOUSE RULE CHANGES
THURSDAY, SEPTEMBER 17, 1998

Mr. Chairman, thank you for the opportunity to offer my thoughts to the House Committee on Rules regarding possible changes to the House rules.

There is one rule change I would like to see adopted and it deals with the expenditure of funds for travel outside a member's district. Under current House rules, no member is allowed to use office funds for travel to another member's district, no matter how valid such a trip might be.

During the August recess last year, a number of my colleagues, including several in leadership, traveled to several western states to learn more about the issues that constituents in Wyoming and Idaho and other public land states have to grapple with on a daily basis. That trip has proved to be invaluable in terms of educating those members about grazing, timbering, mining and oil, gas and coal development. In fact, many of the members on that trip have come up to me on the floor on occasion and told me how helpful and insightful their visit was and they have a greater understanding of how sensitive we are to various issues. Raising the money for the western trip was most difficult and it didn't really come together until the very end. For that reason, I believe this committee should look very seriously at changing the rules to accommodate travel outside a member's district when it is strictly for a member's educational enlightment.

Thank you again for allowing me to present this testimony. I look forward to working with the committee on this important issue.

[The prepared statement of Mr. Barton follows:]

STATEMENT BEFORE THE HOUSE RULES COMMITTEE
CONGRESSMAN JOE BARTON
SEPTEMBER 17, 1998

I would like to thank the Chairman Solomon and Vice-Chairman Drier for holding this hearing. It is a good opportunity for all Members of the House to have an input on the Rules of the House for the 106th Congress. I appreciate the time to express my views.

I testified at a similar hearing at the Rules Committee on September 12, 1996, when Members were asked to testify on what they would like to see in the House Rules package 105th Congress. At that time, I urged the Rules Committee to adopt a Rules package to include mandatory drug testing for Members of the House of Representatives.

I was very pleased that under the leadership of Rules Committee Chairman Gerald Solomon, the 105th Congress adopted such a provision in its Rules package on January 7, 1997. Chairman Solomon and I worked very hard during this Congress to see the drug testing House rule implemented. We introduced H. Res. 503, "The Drug-Free Congress Resolution," on July 16, 1998, in order to move the

process along in the House. Unfortunately, no drug testing plan for Members of the House and their staffs has been actually implemented to this date.

The purpose of my testimony is to urge the 106th Congress to follow the lead of the 105th Congress and include a provision in the House Rules to institute drug testing for Members and staff of the House of Representatives.

As we all know, employees in sensitive positions are routinely drug tested, such as the military, airline pilots, the FBI and CIA, and thousands of employees in the private sector. Since we serve in sensitive positions, as do our staffs, we also should be drug tested. Our jobs are to represent over half a million constituents in our respective districts and cast votes which affect each of their lives. We are also privy to sensitive, classified matters of national security. By any definition, the work done on Capitol Hill on behalf of the citizens of this Nation qualifies Members and staff as holding "highly sensitive positions."

Finally, it is my hope that the 106th Congress will not only adopt drug testing in the House Rules package, but that drug testing will actually be implemented in the 106th Congress. I believe it is very important that we, as Members of Congress,

take the lead in the fight against illegal drug use and institute drug testing in the House of Representatives.

[The prepared statement of Mr. Underwood follows:]

Statement of Congressman Robert Underwood
before the
House Committee on Rules
September 10, 1998

Mr. Chairman: Thank you for the opportunity to appear before the committee today to express my views on proposed rules changes which would govern the conduct of members of the House of Representatives in the 106th Congress.

There are three major areas I would like to address: (1) whether a delegate to the House of Representatives can serve as speaker of the House; (2) whether a delegate can become a speaker pro tempore; and (3) whether delegates will be given the privilege to vote in the committee on the whole.

I am attaching to my statement a memorandum which I received from the Congressional Research Service in response to my inquiry on these matters. According to the CRS memo, it is generally presumed that the Speaker of the House of Representatives need not be a Member of that body. Therefore, anyone in this country can become Speaker. This presumption has never been tested, however, as all Speakers have been Members of the House.

The CRS memo further states that according to the House Parliamentarian, delegates may exercise no functions of Members that are not

explicitly accorded them by House rules. The current House rules do not extend this privilege to delegates. I am proposing today that the proposed House rules for the next Congress should be amended to clarify that delegates are eligible to serve as a Speaker if so elected by a majority of the Members of the House.

Delegates accumulate seniority and are accorded certain rights and privileges when they serve as a member of a committee of the House of Representatives. Since delegates can serve as chairman of subcommittees or full committees, I submit that they should equally be eligible to serve as Speaker of the House. Of course, I do not suggest that any of this is eminent, but I think it fair to clarify the status of the delegates.

If a delegate can serve as a Speaker, then that individual should also be eligible to assume the role of Speaker pro tempore. If a delegate has serve this institution well as a committee member, and has "learned the ground rules" for managing the institution, then it makes sense that delegates should be given the privilege to serve a Speaker pro tempore. I recommend that House Rule 1, clause 7(a) be amended to allow the Speaker to designate a Member, a delegate, or a resident commissioner as Speaker pro tempore.

As you know, Mr. Chairman, the House amended its internal rules during the 103rd Congress to permit the delegates and the resident commissioner to vote in the committee on the whole House of Representatives. Although symbolic in nature, it gave us an opportunity to shape the debates on major issues. Our representation meant more since we could voice our support or opposition of amendments to legislation pending before the committee on the whole House. Our constituents were grateful to see their elected representatives a little closer to the democratic institution which the House is supposed to reflect.

I urge the members of this committee to reinstate the House Rule XII which was in effect during the 103rd Congress to allow the delegates and the resident commissioner to vote in the committee of the whole House during the next Congress.

The strength of our country is measured in large part on the contributions which its citizens, all of its citizens, do to make this a better country. The citizens of the District of Columbia and the Pacific and Caribbean territories deserve to be treated no less than their fellow citizens in the various States.

Mr. Chairman, delegates to the House have serve honorably and have earned the respect of their colleagues. On behalf of these honorable "members" of the House of Representatives -- as well as the American citizens from Puerto Rico, Guam, American Samoa, the Virgin Islands, and the District of Columbia -- I urge your support for these proposed rules changes for the 106th Congress. I am attaching a copy of the memo from the Congressional Research Service and ask that it be made a part of the official record of this hearing.

Thank you for your attention to this matter and I look forward to working with you to craft governing rules which would be make service in the House of Representatives truly "representative".

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Congressional Research Service • Library of Congress • Washington, D.C. 20540

Memorandum August 27, 1998

TO : The Honorable Robert Underwood
Attention: Terri Schroeder

FROM : Richard S. Beth
Specialist in the Legislative Process
Government Division

SUBJECT : Whether a Delegate May Serve as Speaker of the House

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This memorandum responds to your questions about whether a Delegate to the House of Representatives may serve as Speaker of the House. Little information on this subject appears to have been published, but the discussion below reflects observations by the Office of the Parliamentarian of the House and constitutional specialists at CRS.

It appears to be generally presumed that the Speaker of the House need not be a Member of that body. This presumption has never been concretely tested, however, for all Speakers have been Members of the House.[1] In addition, earlier research confirms that only Members received votes for Speaker between 1913 and 1996 (63rd-104th Congresses),[2] and no available evidence suggests that any votes were cast for non-Members in any earlier Congress. Further, although little commentary bearing on the point appears to be available, the framers of the Constitution might have taken for granted that the Speaker would be a Member. Available evidence suggests that Speakers of colonial legislatures were generally members of their chambers,[3] and it appears to be presumed that the Speaker of the British House of Commons will be a member of his.[4]

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[1] U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, One Hundred Fifth Congress*, H.Doc. 104-272, 104th Cong., 2nd sess. (Washington: GPO, 1997), §26 (commentary on Constitution, Article I, section 2). (Hereafter cited as *House Manual*.)

[2] U.S. Library of Congress, Congressional Research Service, *Speakers of the House: Elections, 1913-1997*, by Richard S. Beth and James V. Saturno, CRS report 97-214 GOV (Washington: Feb. 7, 1997).

[3] See Ralph Volney Harlow, *The History of Legislative Methods in the Period Before 1825* (New Haven: Yale University Press, 1917), pp. 25, 33, 35, 43-46, 51-55.

[4] Sir David Lidderdale, K.C.B., ed., *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 19th ed. (London: Butterworth's, 1976), pp. 232-233, 265-268.

Nevertheless, several observations implicitly support, or at least reflect, the presumption that a nonmember may serve as Speaker of the House of Representatives. Article I, section 2, of the Constitution directs that the House choose its "Speaker and other Officers ...."[5] Among the "other Officers" elected by the House, it seems clear that none have ever been Members. If the constitutional language is interpreted as implying that the Speaker is an officer of the House in the same sense as are the "other Officers," it could imply also that the Speaker might be a nonmember. Upon the organization of the 105th Congress in 1997, two votes were cast for former Members of the House for Speaker.[6] No question was raised about the propriety of casting such votes.

In 1989 the Speaker of the House resigned as Speaker effective upon the election of his successor, and some days thereafter resigned from the House. Because the resignation as Speaker came before the resignation from the House, any question whether the resignation of a sitting Speaker from the House would automatically terminate his Speakership did not arise. On the other hand, the *House Manual* states that the Speaker's "term as Speaker must expire with his term as a Member,"[7] a condition that, if the Speaker were not a Member, could not be met.

If a nonmember of the House can be elected Speaker, it does not seem that there would be any bar to a Delegate being elected Speaker.[8] On the other hand, if only Members may serve as Speaker, the question whether a Delegate may be Speaker would presumably be equivalent to the question whether Delegates are considered Members for this purpose. In the course of history, the House has revised its rules to accord to Delegates various of the powers and privileges of Members. Since 1970, for example, Delegates have been accorded the same powers and privileges as Members in relation to service on committees.[9] It seems well established, on the other hand, that Delegates may not constitutionally be treated as Members for the purpose of voting on the floor of the House.[10]

The Parliamentarian's commentary on pertinent rules of the House suggests that Delegates may exercise no functions of Members that are not explicitly accorded them by House rule. During the 103rd Congress, for example, House Rule XII afforded Delegates a (conditional) right to vote in the Committee of the Whole,[11] and during this Congress, Delegates also served as Chair of the Committee of the Whole. Eligibility to chair the Committee of the Whole, however, seems to have been derived not from the right to vote

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[5] Constitution, Article 1, section 2, in *House Manual*, §26.

[6] Beth and Saturno, *Speakers of the House: Elections*, p. 8.

[7] *House Manual*, §26.

[8] There do not appear to be any special reasons that would exclude Delegates from the category of nonmembers eligible to be Speaker. Even if there were such reasons, it does not seem likely that Delegates would be the only nonmembers ineligible for the position. In all likelihood, for example, holders of positions in the Executive and Judicial branches would be ineligible for the Speakership, because the office in the Legislative branch would be incompatible with their existing offices.

[9] House Rule XII (and commentary), *House Manual*, §740.

[10] See *Michel* v. *Anderson*, 817 F. Supp. 126 (1993), at 133-134, 137; and *Michel* v. *Anderson*, 14 F.3d. 623 (304 U.S. App. D.C. 325) (1994), at 630.

[11] *House Manual*, §740.

there, but from a parallel provision in House Rule XXIII that, during the 103rd Congress, permitted the Speaker to appoint any "Member, Delegate, or Resident Commissioner" to perform this function. Before and after the 103rd Congress, that rule permitted the Speaker to designate only a "Member" for this purpose.[12]

House Rule I, clause 7(a), permits the Speaker to designate a Member as Speaker pro tempore under certain circumstances, in some cases with the permission of the House. This rule was not changed in the 103rd Congress, in parallel fashion with Rule XXIII, to permit the designation of a Delegate or Resident Commissioner. It therefore appears probable that the Speaker could not so designate a Delegate, just as under the present wording of Rule XXIII, the Speaker presumably may not appoint a Delegate to chair the Committee of the Whole.

Clause 7(a) of House Rule I also permits the House to elect a Speaker pro tempore if the Speaker fails to designate one when required.[13] The language restricting this choice to being made from among Members does not appear in this provision, but the restriction to Members stated earlier in the clause might be held to apply in these circumstances as well. On the other hand, it might be argued that, because this language in the rule, like that of the Constitution, lacks any explicit restriction, the constitutional standard should apply. In that case, present rules would permit a nonmember to serve as Speaker pro tempore, but still only under the circumstances in which the House makes the choice by election. In favor of this conclusion, it might also be argued that otherwise it would be possible, under the constitutional standard, for a Delegate to be elected Speaker, yet impossible, under the Rules of the House, for one to serve as Speaker pro tempore, a result that might be considered awkward or even illogical.

The Office of the Parliamentarian, U.S. House of Representatives; Johnny Killian, Senior Specialist in American Constitutional Law, American Law Division, CRS; Jay Shampansky, Legislative Attorney, American Law Division, CRS; and Andorra Bruno, Analyst in American National Government, Government Division, CRS, provided valuable information and discussions contributing to the preparation of this memorandum, for which I thank them. I trust this information is responsive to your concerns. If I can be of further assistance on these questions, please call me at x78667.

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[12] House Rule XXIII, clause 1(a) (and commentary), *House Manual*, §861(a).

[13] As might happen, for example, in a case of sudden disability of the Speaker.

[The prepared statement of Mr. Nadler follows:]

JERROLD NADLER

Congress of the United States

House of Representatives

Washington, DC 20515

Testimony Before the Committee on Rules
In favor of the Plain English in Law Rule
Representative Jerrold Nadler
September 10, 1998

Mr. Chairman, thank you very much for the opportunity to testify at this "Open Day" hearing on proposals to amend the standing rules of the House.

As the Chairman and members of the Committee know, all to often we find ourselves, in the course of creating policy and drafting legislation, confused or frustrated at the intricacies and manner in which legislation is written and explained. I think the members of this committee would agree that when reading legislation they must constantly refer to numerous volumes of text to simply understand what they are reading or trying to amend. This is very burdensome and causes the House and it's Committees to operate inefficiently.

I believe that there is a more efficient way to conduct the people's business. I, along with Chairman Solomon have introduced H.Res. 529 the, "Plain English in Law Rule." This resolution would simply require that any bill or joint resolution offered in the House of Representatives or its standing committees which amends a current law,

must clearly and in plan terms, show the changes in the law made by the amendment or bill.

This would be done by amending the Rules of the House as follows; any section or other provision of a bill or joint resolution which amends current law will be inserted in a comparative form in the amendment or bill being considered. This will be done by using brackets and italics, which will be used as indicators printed on the proposed bill. Therefore, the citation of law as well as a brief explanation of what current law is, will be printed along side the bill and members will be able to recognize immediately what impact the proposed change in law will be. This would allow Committees, Members, and their staff to work more efficiently and effectively.

Again, my proposal will simply clarify a key aspect of the legislative process, while a the same time allow members and the public to be better informed about potential legislation and its impact. Thank you.

105TH CONGRESS
2D SESSION

H. RES. 529

To amend the Rules of the House of Representatives to require a bill or joint resolution which amends a law to show the change in the law made by the amendment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 1998

Mr. NADLER (for himself and Mr. SOLOMON) submitted the following resolution; which was referred to the Committee on Rules

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RESOLUTION

To amend the Rules of the House of Representatives to require a bill or joint resolution which amends a law to show the change in the law made by the amendment, and for other purposes.

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Plain English in Law Rule".

SEC. 2. BILL, JOINT RESOLUTION, AND AMENDMENT FORMS.

Rule XXII of the Rules of the House of Representatives is amended by adding at the end the following:

"7. A section or other provision of a bill or joint resolution which amends a law shall be in the form of a comparative print of the law proposed to be amended showing by black brackets and italics the omissions and the insertions proposed to be made in the law.

"8. An amendment to a section or other provision of a bill or joint resolution which is to be offered when a subcommittee or committee considers such bill or joint resolution or when such bill or joint resolution is to be considered in the House sitting as the Committee of the Whole House shall be in the form of a comparative print of the section or other provision proposed to be amended showing by black brackets and italics the omissions and the insertions proposed to be made in the section or other provision.".

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The CHAIRMAN. Would you also add Mr. Steve Largent, who is in markup and cannot arrive?

[The prepared statement of Mr. Largent follows:]

STEVE LARGENT
WASHINGTON OFFICE
Fax: 202-226-1463
DISTRICT OFFICE
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Congress of the United States
House of Representatives
Washington, DC 20515–3601

Testimony of Rep. Steve Largent

Mr. Chairman: Thank you for the opportunity to testify today. In 1985, the Balanced Budget and Emergency Deficit Control Act, better known as the Gramm-Rudman law, established procedures to ensure that Congress stayed within its self-imposed spending parameters. But, throughout the last several years, Congress has circumvented the Gramm-Rudman budget caps through the use of "emergency spending" legislation. While some spending through these emergency supplemental appropriations bills has dealt with legitimate emergencies -- such as disaster relief -- these bills often become laden with special projects that are targeted toward specific Congressional districts. Mr. Chairman and Members of this committee, this practice is abusive. And it is an abuse that, I believe, must end.

I am submitting to this committee, a proposal that would end this abusive practice -- a proposal to place tighter restrictions on when emergency legislation can be considered. This resolution would add a clause 10 to House Rule XXI to establish a point of order against the full House's consideration of emergency spending legislation pursuant to the Gramm-Rudman. Waving this point of order would require a two-third's vote of the Members voting in the full House. In addition, this resolution prohibits this Rules committee from waiving this point of order.

This proposal would not eliminate the consideration of emergency spending legislation. Congress could still consider emergency spending bills. It would, however, help to ensure that those emergency spending bills that are considered on the floor, are indeed, emergencies.

Mr. Chairman, I believe that under this proposal, legislation to assist with legitimate emergencies will have no trouble making it to the floor when needed. The Congress has a long history of providing assistance when and where it is needed in time of crisis. This proposal will simply help to protect and safeguard the integrity of that process. Thank you for allowing me to bring this to your attention.

105TH CONGRESS
2D SESSION

H. RES. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. LARGENT submitted the following resolution: which was referred to the Committee on _____

RESOLUTION

Amending the Rules of the House of Representatives to establish a point of order against the consideration of any emergency legislation and to require a supermajority to waive such point of order, and for other purposes.

Resolved, That (a) rule XXI of the Rules of the House of Representatives is amended by adding at the end the following new clause:

"10.(a) It shall not be in order to consider any bill or joint resolution, or any amendment thereto or conference report thereon, that carries an emergency designation pursuant to section 251(b)(2)(A) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) Paragraph (a) may be waived only by the affirmative vote of two-thirds of the Members voting, a quorum being present.".

(b) The last sentence of clause 4(b) of rule XI of the Rules of the House of Representatives is amended by inserting before the period the following: ": nor shall it report any rule or order which waives clause 10 of rule XXI".

Mr. DREIER. I don't have a statement to submit. If I had one, I would ask unanimous consent that it be submitted in the record.

CHAIRMAN. Lastly, let me just testify on behalf of H.Res. 529, which was introduced by Representative Nadler, whose statement you have just put in the record.

The last bill that I passed when I lelt the State legislature in New York more than 20 years ago was this legislation. What it is, it is described as the Plain English in Law rule. The resolution amends the rules of the House of Representatives to require that a bill or a joint resolution which amends a law shall be in the form of a comparative print of the law proposed to be amended, showing by black brackets and italics the omissions and insertions proposed to be made into law.

In addition, an amendment to a section or other provisions of a bill or joint resolution offered in subcommittee, committee, or in the Committee of the Whole, will be in the form of a comparative print as decribed a moment ago.

What that means is that quite often when you see an amendment of the floor, you have no idea what it does. It just strikes out works, and does not really say what it is doing. This means that the amendment or the change would actually have to show the old law; it would show in brackets what you were removing, and in italics what you were adding. It makes it very simple. It means that any American citizen in this country would be able to look at that and know exactly what you were doing.

I would hope, Mr. Dreier, that you would take that into consideration on January 3rd. It would certainly be a great asset to all the Members of this House.

Mr. DREIER. Yes, sir.

The CHAIRMAN. That concludes all of the witnesses. We appreciate the Members coming to testify. We look forward to the recommendations that might come January 3rd.

This meeting stands adjourned.

[Whereupon, at 11:08 a.m., the committee was adjourned.]

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