MARKUP OF OMNIBUS COMMITTEE FUNDING RESOLUTION AND A COMMITTEE RESOLUTION

MARKUP
BEFORE THE
COMMITTEE ON HOUSE ADMINISTRATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS
FIRST SESSION

HEARING HELD IN WASHINGTON, DC, APRIL 21, 2005

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THURSDAY, APRIL 21, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The committee met, pursuant to call, at 2:30 p.m., in room H–326, the Capitol, Hon. Robert W. Ney (chairman of the committee) presiding.

Present: Representatives Ney, Ehlers, Miller, Millender-McDonald, Brady and Lofgren.

The CHAIRMAN. The Committee is now in order for the purpose of considering the 109th Congress Omnibus Committee Funding Resolution and a Committee Resolution establishing the 109th Congress franked mail allocation for committees. In February this year, the chairmen and ranking members of all the committees came before us and requested their budgets, the resolution along with the committee resolution setting the franked mail allocations to fully fund committees for the 109th Congress.

This mark is an amendment in the nature of a substitute outlining each committee’s authorized spending levels for 2005 and 2006. I am pleased to put before the Committee a chairman’s mark that can be supported, I believe, by a majority of members on both sides of the aisle. This is a great way for this institution to operate, with members and the ranking members. And this agreement, which has been in the works for the last two months, has finally been sanctified in the 11th hour and a half, and allows us to move forward with a bona fide resolution for committee funding.

I feel that both the chairmen and ranking members will agree that this resolution provides sufficient funding for them to carry out the duties and responsibilities with which they are charged. As I said many times, we are in the world of the Internet and a world of information. And that is a wonderful thing, but it also creates a lot of work that none of the members mind doing or the staff, but we have an obligation to people to do the work for the people in the country. And so that is why this funding measure is so important.

At the beginning of Congress, the Committee on Homeland Security was made a permanent standing committee, which made things tougher this year. But I think we have done a good job allocating our resources, because we have, for the first time in a long time, funded another full committee. The Committee will continue
to provide important oversight functions, overseeing the Homeland Security Department and ensuring that the combined agencies are doing their job. As a result of its new standing within the House, the budget for Homeland Security that has been engrossed by this resolution no longer stands alone, so I feel it is important to note that although it would appear that the overall budget for committees has increased dramatically because of the inclusion of that committee, this is really not the case. This was again a tough task, but I believe that we have all handled it in the correct way.

So this budget is in line with past committee funding resolutions, and represents a percent increase similar to that of the United States Senate. I believe it will have good bipartisan support on the floor. The Committee has requested a total of 273 million in spending for the 109th. This is approximately 39 million more than what was authorized in the 108th Congress, and also represents a 17 percent request increase. That is a request. Removing Homeland Security from the equation, the request by committees total 257 million, approximately a 35 million increase over the 108th authorized levels. This mark reduces the amount requested by all committees to 162 million, or a 5.9 percent increase. So 5.9 percent is, I feel, responsible and meets the obligations of the Chairs and ranking members and the staffs so they can carry out their business.

The amendment in the nature of a substitute providing expenses for all committees other than Homeland Security authorizes $243 million, a 9.2 percent increase, and this is a $20 million increase over the 108th.

It should be noted that the 109th Congress funding level of $243 million, excluding Homeland Security, is still lower than the funding levels of the 103rd Congress in both costs and actual dollars. So I am proud of the numbers we are putting forward with this mark, and look forward to passing a resolution out of the Committee today and then passing the House floor.

I want to thank our Ranking Member, Congresswoman Millender-McDonald, all the members of this Committee, and the staffs who have worked very, very hard. We haven't always had bipartisan votes on these resolutions, as those who have been around for a while remember. This will mark the third round where we have had bipartisan support. I am proud of the fact that both sides of the aisle are coming together. Also, a lot of kudos and credit to our ranking member and the other minority members of the Committee who pushed to make sure that their ranking members had the one third and the things that they needed, as we did in consulting our Chairs.

And, with that, I will yield to our Ranking Member. And thank you, once again, publicly, for all your help, concern, and your caring of the system of the institution of the House.

Ms. MILLER-MCDONALD. Mr. Chairman, I want to, again, thank you for your tireless efforts to bring this funding resolution before this committee. This chairman has worked vehemently on the floor. He would either find me or I would find he on the floor, and we worked through this whole process. And you have worked to ensure that the fairness principle espoused by Speaker Hastert, former chair Thomas, and yourself is being followed by all committee chairs. I would like to also thank my lead staff person,
George Schefland, and also your lead person, Paul, in helping to craft this and constantly talking to us about the nuances of getting to this point.

The principle that you are following in the footsteps of your predecessor, first articulated by the Republican leadership and signed on to by every Republican ranking member was the Republicans, and when the Republicans were in the minority, is simply straightforward and straightforward—and forward.

The minority of each committee is entitled to one third of the staff, one third of the funds, and control of those funds. The current Chair of the Senate Intelligence Committee, Senator Pat Roberts, who in 1994 was on this committee, best articulated this principle with language he offered to the omnibus funding.

Mr. Chairman, the minority has not had to resort to such specific language largely because of you and your predecessor and Speaker Hastert believe in this fairness principle and lived it each day. The House Administration Committee is one of only five House committees which operate on this principle with no strings attached, and virtually all other committees have found a way to satisfactorily apply the principle with some conditions to the mutual satisfaction of the chairman and ranking member. I cannot tell you how pleased I am, Mr. Chairman, that the one committee which appears to be at an impasse has found a way to apply the fairness principle to the mutual satisfaction of the chairman and the ranking member.

We have come a long way in a decade, and you have demonstrated this fairness principle and how it works. It has governed our committee for over 10 years without compromising your capacity and your integrity, Mr. Chairman, and I thank you so much for that. Because of your leadership, we have arrived at a point where I can honestly represent that the fairness principle is at work on every committee. You ought to be congratulated on navigating this, and at the proper time I will be offering an amendment to your chairman’s mark. This amendment is intended to limit mass mailers by committees and to ensure that any self-initiated mass mailers are reviewed and that they are directly related to the ordinary and necessary responsibilities of the committee. Last year, just prior to the general election we recognize what went on, and this amendment will fix this problem and hope that every member of the committee will give it serious consideration. We hope to resolve this franking problem, and I will be offering limitations to this second resolution that will act upon—we act upon today, and that amendment will give each standing committee 5,000 per session in franking authority.

And, Mr. Chairman, that amendment will require that each committee to come back to this committee for supplemental authorization if the need arises. These two committee amendments taken together will assure taxpayers that their franking tax dollars will not be subject to any future waste, fraud, or abuse in mass mailing franking transitions in furtherance of this committee’s business. I am hopeful that my amendments will be adopted so that we have to take this resolution to the floor and we will take it to the floor with broad support of the resolution.
In closing, again, I want to say what a pleasure it is to work with you, Mr. Chairman, and to express my hope that, working together, we can get the entire House behind the funding resolution when we take it up on the floor next week. Thank you, sir.

[The statement of Ms. Millender-McDonald follows:]
Opening statement of

MS. MILLENDER-MCDONALD OF CALIFORNIA

Mr. Chairman, I want to thank you for your tireless efforts to bring this funding resolution before the Committee. You have worked to ensure that the fairness principle, espoused by Speaker Hastert, former Chairman Thomas, and yourself, is being followed by all committee chairs.

That principle, first articulated by the Republican Leadership, and signed onto by every Republican ranking member, when the Republicans were in the Minority, is simple and straightforward: the Minority of each committee is entitled to 1/3 of the staff, 1/3 of the funds, and control of those funds.

The current Chairman of the Senate Intelligence Committee, Senator Pat Roberts, who in 1994, was on this Committee, best articulated this principle with language he offered to the omnibus funding resolution. The language was specific to each committee, and here is what he said, using the Agriculture Committee, on which he then served, as an example:

"Committee on Agriculture $7,590,139, 33% of such amount, or such greater percent as may be agreed to by the
Chairman and Ranking Minority Member, to be paid at the
direction of the Ranking Minority Member.”

Mr. Chairman, the Minority has not had to resort to such specific
language, largely because you, your predecessor, and Speaker Hastert,
believe in the fairness principle, and live it each day. House
Administration Committee is one of only five House committees which
operate on this principle – with no strings attached. And virtually all the
other committees have found a way to satisfactorily apply the principle –
with some conditions – to the mutual satisfaction of the chairman and
ranking member.

Mr. Chairman, I cannot tell you how pleased I am that the one
committee, which appeared to be at an impasse, has found a way to
apply the fairness principle to the mutual satisfaction of the chairman
and ranking member. We have come a long way in a decade, and you
have demonstrated that the fairness principle works. It has governed our
Committee for over 10 years, without compromising your capacity as
Chairman, to ensure the integrity of committee spending and operations.

Mr. Chairman, because of your leadership, we have arrived at a
point where I can honestly represent that the fairness principle is at work
on every committee. You are to be congratulated for navigating the tumultuous political waters, and finally reaching your destination.

Mr. Chairman, at the proper time, I will be offering an amendment to your chairman’s mark. The amendment is intended to limit mass mailings by committees, and to ensure that any self-initiated mass mailings are reviewed, and that they are directly related to the ordinary and necessary responsibilities of the committee.

Last year, just prior to the general election, and earlier in the 108th Congress, just prior to some primary elections, we saw some self-initiated committee mass mailings which I can only characterize as deeply troubling. If unchecked, and if the trend were to expand or continue, I believe that the frank could be placed in jeopardy for the entire House. And taxpayers would be rightly critical of our stewardship of this important communications tool. My amendment will fix this problem, and I hope every Member of the Committee will give it serious consideration.

Mr. Chairman, to help solve this franking problem, I will also be offering a dollar limitation to the second resolution we will act upon today – the franking allocation resolution. My amendment will give each standing committee $5,000 per session in franking authority. My
amendment will require each committee to come back to this committee for a supplemental authorization if it needs more money.

My two amendments, taken together, will assure taxpayers that their franking tax dollars will not be subject to any future waste, fraud, or abuse in mass mail franking transactions in furtherance of committee business.

I am hopeful that my amendments will be adopted, so that we have to take the resolution to the Floor with broad support for the resolution. Mr. Chairman, in closing, I want once again to say what a pleasure it is to work with you, and to express my hope that working together, we can get the entire House behind the funding resolution, when you take it to the floor next week.

Thank you, Mr. Chairman.
The CHAIRMAN. Thank you.

Other comments by other members?

Ms. LOFGREN. Thank you, Mr. Chairman. Just a question in making sure that I am understanding the ranking member’s comments. And with a great deal of gratitude both to you and to the chairman for the heavy lifting that I am sure is involved in getting agreement. But when we left the hearings unresolved in terms of the chairman and ranking members seem to be the agriculture and small business committees. Those have now been resolved to their satisfaction?

Ms. MILLENDER-MCDONALD. Those have both have been resolved.

Ms. LOFGREN. That is good. Congratulations.

The CHAIRMAN. We thought we would go on the road and negotiate. A couple of countries are having disputes and are having disputes with each other, too.

Ms. LOFGREN. Well, if I may, and I will quickly close. I would certainly like to support the work of the chairman and ranking member. There is at least one question outstanding, but it should not stand in the way of supporting this. So good work.

The CHAIRMAN. Thank you.

Mr. EHLERS.

Mr. EHLERS. I notice the Science Committee is just about the very lowest in percentage increase. They submitted a modest increase, but I hope they weren't given the lowest increase because they submitted a modest increase. Rules, which also submitted a fairly modest increase, got the entire amount, and the Science Committee got substantially less. I wondered what the reason was for that. The Science Committee, I know from being on it, runs a very tight ship, and a much tighter ship with less spending and waste than any of the other committees, and I would hate to see them penalized because they are frugal.

The CHAIRMAN. The one thing on Rules. At least since I have been here, and when Mr. Thomas was chairman, the Rules Committee was almost a flat-line committee. And this time we talked to Mrs. Slaughter and also Mr. Dreier. They needed to do something to modernize their system.

Mr. EHLERS. I am not questioning theirs. I am just saying why——

The CHAIRMAN. And Science. There is, of course, a limited amount to the entire picture. But we did transmit the numbers to the Science Committee, and to the best of my knowledge, they had no objection. We didn't hear objection from them.

Mr. EHLERS. Did they see what other committees got?

The CHAIRMAN. We gave them the numbers. Correct?

Mr. EHLERS. For every committee? Did they see that other committees were getting substantially more than they?

The CHAIRMAN. If you start that——

Mr. EHLERS. No. Then it is immaterial. You can't expect them to comment on the amount if they don't know what they are getting compared to other committees. I mean.

Ms. MILLENDER-MCDONALD. Government Reform is getting a 4.5 increase.

Mr. EHLERS. I understand that.

Ms. MILLENDER-MCDONALD. So it is not the lowest.
Mr. EHLERS. No. There is one more.

Ms. MILLENDER-McDONALD. Two, really.

Mr. EHLERS. Well, Budget generally gets standardized. You can't count them.

The CHAIRMAN. Committees will always look and see that one committee got more or less. Ways and Means, for example, might have a lower percentage increase, but has a larger dollar figure than some committees. But I do know we transmitted these numbers and did not hear an objection back.

Mr. EHLERS. Well, at least you could have transmitted it to the members of this committee, too. It is awfully tough to come in a meeting and get it cut and dry and say, okay, take it or leave it. And the point is this is one committee—I serve on three committees; I know how many use their money. This committee uses it very wisely and judiciously. And just because they request a modest amount, I don't think they should be given one of the lowest figures. It is not a very expensive committee to begin with compared to many of the others.

The CHAIRMAN. Let me ask this question of our staff. What was the total dollar figures Science had requested?

Mr. EHLERS. I am just looking for equity. When I see 18 percent increases, 10 percent increases, 12 percent, 22 percent, et cetera. Then why not request a huge amount? I mean, this committee is supposed to make judicious judgments.

Ms. MILLENDER-McDONALD. When we were going through the whole process——

Mr. EHLERS. I never saw it.

The CHAIRMAN. We did transmit the dollar figures to all the chairs and the ranking members. Heard back from some that they weren't happy and we couldn't accommodate them. Some people came back and said, “well, you know, we need a bit more,” and gave a rationale, and we considered it. But, like I said, these numbers were given and we didn’t hear back.

One thing I would argue is that a committee has to function by what they need. If a committee starts to say well, “Ways and Means got more and we should have got more,” then this whole thing would be another 70 million dollars.

Mr. EHLERS. I understand that. But I don’t understand why we are asked, just present the material and supposed to, in 5 minutes, make the decision when we don’t know what the factors were in the decisions.

Ms. LOFgren. Would the gentleman yield?

Mr. EHLERS. Yes.

Ms. LOFgren. Which committee, either chairman or ranking members, raised objections to this that remain unresolved?

Ms. MILLENDER-McDONALD. There aren’t any.

Ms. LOFgren. So everybody has——

Ms. MILLENDER-McDONALD. I called many and the Chairman spoke with many. So there aren’t any others on——

The CHAIRMAN. We actually provided these—I personally provided these numbers to most of the Chairs and our staff went through the process providing numbers in the last week. This has just been formulated, frankly, and I apologize for that. We normally get things in time; this was just put together because there
were going to be votes and we would have to pass continuing resolutions. But I just never heard back from anybody on that Committee to say this is just not——

Mr. EHLERS. I understand. I am just frustrated.

Mr. BRADY. Mr. Chairman, I mean, I am on the Armed Services Committee. I know what committee I am on. I know what committee comes in front, I know what request they make. I vote on my ranking member and I vote on my chairman. I say, are you guys okay? That is the part of being on this committee that I thought was supposed to happen, and we are okay with this. And if I was on Science, I would have done that too. So this is like the——

Mr. EHLERS. If you knew the numbers had been prepared.

Mr. BRADY. They know the numbers. They do. Your ranking member and your chairman. I take it that it is my responsibility being on the committee that is going to have any kind of financing of their committee to go to them and say, are you guys okay? I didn't just go to the ranking member, I went to the chairman. And they said, well, we would like more, but we could live with this. And I said fine. And and I checked back with the chairman and the Ranking Member and I said, look, they are okay.

So I thought maybe that was what I was supposed to do. I mean, I can't imagine walking in and letting everybody see these numbers, because then you get into a bidding war. But that is what I did. I took that upon myself to do that.

Mr. EHLERS. So you are saying the members of this committee shouldn't see the numbers before?

Mr. BRADY. No. I am saying the members of this committee should see the numbers.

Mr. EHLERS. That is my point.

Mr. BRADY. That is well taken. But my chairman and my ranking member of the committee saw the numbers and they shared with me they were fine. But I think that maybe you are right, you should have them a little sooner.

The CHAIRMAN. I would say, Mr. Ehlers, your office was informed if they would like to convey these numbers and chose to let us do that. I hesitate to mention that, but that is what happened.

Mr. EHLERS. I will talk to them about that.

The CHAIRMAN. Thank you. Any other questions?

Ms. LOFGREN. I just want to make sure that Chairman Sensenbrenner is not going to be angry.

The CHAIRMAN. He will probably always be angry, about something else, though, probably not this.

Mr. BRADY. When they get happy, they should get happy with us. When they get angry, they should get angry with the chairman.

The CHAIRMAN. And there is one thing. I went to the other chairs, and I gave them a number, I tried personally to get to all I could, but I believe the staff got to the rest. But every once in a while, I would have somebody say, let me see the list. And I would say, no. You tell me whether you are happy with your number. Because they are going to see the list and they are going to say, “Well, they got a 15 percent increase.” Well, actually, if you look at raw dollar figures, some of the 15 percents are not as high
in raw dollars as the lower increases. So if you get into that, it is an unwinnable situation.

Ms. MILLENDER-McDONALD. Mr. Chairman, the one thing, we have spoken with both Chairman Sensenbrenner and also the ranking member. They have come to their own agreement which they said is fine with them. So the same as with the small business and the same as with agriculture.

Ms. LOFGREN. Good work.

The CHAIRMAN. There are still some slot issues that will be dealt with that we don’t make a mark on. That is decided at the leader’s level, above our pay grades, with the Speaker and the leader.

Other questions? The Chair lays before the Committee bill H.R. 224 open to amendment, and the Chair offers an amendment in the nature of a substitute. Is there any discussion or amendments? The clerk will report the amendment. And we will recognize the ranking member.

[The information follows:]
Statement of
MS. MILLENDER-MCDONALD OF CALIFORNIA
On Amendment #1

Mr. Chairman, as I indicated in my opening statement, I have an amendment to the funding resolution.

The amendment limits overall mass mailings by committees, and ensures that each mass mailing is reviewed by the Franking Commission. It also requires that committee mass mailings pertain directly to the normal and regular business of the committee.

Last year, just prior to the general election, and earlier in the 108th Congress, just prior to some primary elections, we saw some self-initiated committee mass mailings which I can only characterize as deeply troubling. If unchecked, and if the trend were to expand or continue, I believe that the frank could be placed in jeopardy for the entire House. And taxpayers would be rightly critical of our stewardship of this important communications tool. My amendment will fix this problem, and I hope every Member of the Committee will give it serious consideration.
AMENDMENT
OFFERED BY MS. MILLENDER-MCDONALD OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. NEY

Insert after section 4 of the matter proposed to be inserted the following (and redesignate accordingly):

1 SECTION 5. REQUIREMENTS FOR USE OF FUNDS FOR MASS MAILINGS.

3 (a) IN GENERAL.—None of the amounts made available under this resolution may be used by a committee for the production of material for a mass mailing unless—

6 (1) the mailing is of a press release to the communications media, a notice of the schedule of a hearing or markup of the committee (the content of which shall be limited to date, time, location, topic, witness list, and ADA services), a committee document printed pursuant to the applicable provisions of title 44, United States Code, or a request for the views of the public or the views of other authorities of government essential to the conduct of the study, investigation, or oversight of matters within the jurisdiction and related functions assigned to the com-
mittee under rule X of the Rules of the House of Representatives;

(2) prior to mailing, the chairman or ranking minority member of the committee (as the case may be) submits a sample of the material to the House Commission on Congressional Mailing Standards and the Commission determines that—

(A) the mailing is ordinary and necessary to the conduct of the normal and regular business of the committee, and

(B) the mailing would be in compliance with the requirements of subsections (a)(3)(A), (a)(3)(C), (a)(3)(C), (a)(3)(G), (a)(4), and (a)(5) of section 3210 of title 39, United States Code, if mailed by a Member of the House of Representatives;

(3) the mailing would not be prohibited under section 3210(a)(6)(A) of title 39, United States Code, if mailed by a Member of the House of Representatives; and

(4) the aggregate amount that will be spent in franking costs by the committee for mass mailings during the session involved, after taking into account the franking costs of such mass mailing, will not exceed $5,000.
(b) Mass Mailing Defined.—In this section, the term "mass mailing" has the meaning given such term in section 3210(a)(6)(E) of title 39, United States Code.
Ms. MILLER. Thank you, Mr. Chairman. As I indicated in my opening statement, I have this amendment to the funding resolution. The amendment limits overall mass mailers by committees and ensures that each mass mailer is reviewed by the franking commission. It also requires that committee mailers pertain directly to the normal and regular business of the committee. Last year, just prior to the general election and earlier in the 108th Congress just prior to some primary elections we saw some self-initiated committee mailers, which I can only characterize as deeply troubled. If unchecked, and if this trend were to expand or continue, I believe that the frank would be placed in jeopardy for the entire House, and taxpayers would be rightly critical of our stewardship on this important communication.

My amendment will fix this problem, and I hope that every member of the committee will consider it. I thank you, Mr. Chairman.

The CHAIRMAN. I support the amendment. We have Jack Dail here. We have franking people who have a tough job, but they sit down and go over everything. And they will be able to more than adequately handle this end from the committees; I think it has the blackout date in it. These are some changes to existing law, and no problem to support.

Ms. MILLER. Could you expand a little bit on what the changes are?

Ms. MILLER. The changes will be that all members, irrespective of committee chairs and all regular members, come under the 90-day rule before elections; and, secondarily, that they do get an advisory opinion by the franking commission before that material goes out.

The CHAIRMAN. Also, a very good provision in this amendment enables us to plan for certain scenarios. Let us say there is some type of crisis in the country and these committees need to communicate, we can always come back. And if we need to add something on, in a unique situation, we can come back and discuss it and make a decision. I think that is a good provision. And again, they will go into franking just as all Members currently do.

Ms. MILLER. Have the committee chairs been made aware of this amendment as well?

The CHAIRMAN. Yes. And there is no one that disagrees with it. Any questions on the amendment? Those in favor of the amendment will say aye. Those opposed will say nay. The question is now on the substitute as amended. Those in favor will say aye. Those opposed say nay. The bill is adopted as amended.

Ms. MILLER. Mr. Chairman, pursuant to Clause 2(l) of Rule 911, I am providing notice that I am requesting not less than 2 additional calendar days as provided by the rules to submit additional views to accompany the committee’s report on this resolution.

The CHAIRMAN. Without objection. And I would also like to recognize our ranking member for the purpose of offering a motion.

Ms. MILLER. Mr. Chairman, I move that H.R. 224 as amended be reported favorably to the House.

The CHAIRMAN. The question is on the motion. Those in favor say aye. Those opposed say nay. And the motion is agreed to, and H.R. 224 as amended is reported favorably to the House.
Ms. MILLENDER-McDONALD. Thank you, Mr. Chairman.

The Chairman. And now we lay before the Committee a Committee Resolution establishing the 109th Congress franked mail allocation for the committees. Is there a discussion?

Ms. MILLENDER-McDONALD. Mr. Chairman, you and I have discussed this and we have discussed it with our leadership, and they are in agreement with that. And I move that we adopt this substitute motion.

The Chairman. I recognize the gentlelady for the purpose of offering the motion. And it has been moved that the Committee Resolution establishing 109th Congress franked mail allocation be adopted. The question is on the motion. Those in favor will say aye. Those opposed will say nay. The motion is agreed to, and the Committee Resolution establishing 109th Congress franked mail allocation for the committees is adopted.

As is technical, I ask unanimous consent that members be given 7 legislative days for statements and materials to be entered into the appropriate place in the record. Without objection, the material will be entered.

I ask unanimous consent that staff be authorized to make technical and conforming changes on all matters considered by the Committee at today’s meeting. Without objection, so ordered.

Again, I want to thank all the members for your time and your concern with the funding resolution, and also the franking resolution. We are therefore adjourned.

[Whereupon, at 2:59 p.m., the Committee was adjourned.]