

PROVIDING SPECIAL INVESTIGATIVE AUTHORITY FOR THE
COMMITTEE ON EDUCATION AND THE WORKFORCE

JULY 29, 1998.—Referred to the House Calendar and ordered to be printed

Mr. SOLOMON, from the Committee on Rules,
submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H. Res. 507]

The Committee on Rules, to whom was referred the resolution (H. Res. 507) providing special investigative authority for the Committee on Education and the Workforce, having considered the same, report favorably thereon with an amendment and recommend that the resolution as amended be agreed to.

The amendment (stated in terms of the page and line number of the introduced resolution) is as follows:

Page 2, line 16, strike “, staff, or contractor” and insert “or staff”.

PURPOSE OF THE RESOLUTION

The purpose of H. Res. 507 is to provide special investigative authority for the Committee on Education and the Workforce.

SUMMARY OF THE RESOLUTION

H. Res. 507 applies to the investigation by the Committee on Education and the Workforce into the administration of labor laws by government agencies, including the Departments of Labor and Justice, concerning the International Brotherhood of Teamsters and other related matters. The resolution states that information obtained under the authority of this resolution, shall be considered as taken by the Committee on Education and the Workforce in the District of Columbia, as well as the location actually taken, and that the information shall be considered as taken in executive ses-

sion by the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce.

The resolution also authorizes the chairman, after consultation with the ranking minority member, to order the taking of depositions or interrogatories anywhere within the United States under oath and pursuant to notice or subpoena, and to designate a member, staff, or contractor of the committee to conduct any such proceeding.

COMMITTEE CONSIDERATION

H. Res. 507 was introduced by Education and the Workforce Committee Chairman Goodling on July 21, and referred to the Committee on Rules.

On Friday, July 24, the Committee held a hearing on H. Res. 507 and received testimony from: Hon. Bill Goodling, Chairman of the Committee on Education and the Workforce; Hon. Bill Clay, Ranking Minority member of the Committee; Hon. Patsy Mink, Ranking Minority member of the Subcommittee; and Hon. Mike Parker.

On Tuesday, July 28, the Committee on Rules held a mark-up of the resolution. The Committee favorably reported H. Res. 507 by a voice vote. During the mark-up, one amendment to H. Res. 507 was agreed to by voice vote.

BACKGROUND ON THE INVESTIGATION

The Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce is investigating the failed 1996 election of officers at the International Brotherhood of Teamsters (IBT), as well as several related matters, such as financial mismanagement and possible pension fund manipulation. A great number of financial, disciplinary, and election-related questions still remain to be answered by this inquiry. In addition, the lack of cooperation by the current leadership of the Teamsters has unnecessarily delayed the Subcommittee's investigation.

The vast majority of the current IBT officers were elected with Ron Carey in the fraudulent 1996 election and were allowed to take office, even though the election could not be certified as fair and must be rerun. This leadership has blocked the Subcommittee's attempts to received information through document requests, hearings, and interviews. The Subcommittee, and the Chairman of the full Committee, have been forced to issue subpoenas for documents to fourteen organizations, most of whom refused to voluntarily provide information to the Subcommittee at the direction of the IBT. Subpoenas have also been issued to seven witnesses to secure their testimony at the Subcommittee's public hearings. Furthermore, the IBT steadfastly refused, on numerous occasions over the last four months, to allow Subcommittee investigators to interview current IBT employees and employees of two companies that work for the IBT: the Segal Company, an actuarial firm, and Grant Thornton, LLP, an accounting firm. The IBT has even objected to the Subcommittee interviewing former IBT employees.

In 1988, the Justice Department filed suit against the IBT under the Racketeer Influenced and Corrupt Organizations Act. The government and the IBT settled the suit in 1989 by agreeing to a Consent Decree, recognizing that its primary purpose was to ensure

“that the IBT * * * be maintained democratically, with integrity and for the sole benefit of its members and without unlawful outside influence.” The Consent Decree provided the framework for supervision of the IBT and its operations by the Government and its agents “that was far more extensive than that provided by federal statute or case law.” The Consent Decree also establish direct elections for International union offices.

Federal supervision of the IBT was divided into two phases. The first phase required strong, proactive government involvement in the IBT’s activities to rid the IBT of corrupt influence and pave the way for its first-ever democratic election in 1991. To achieve these goals, the Consent Decree provided for the appointment of three officers: the Independent Administrator, Election Officer, and Investigative Officer. The Investigative Officer had the authority to investigate corruption within the IBT and recommend charges to the Independent Administrator. The Independent Administrator had the authority to mete out appropriate punishment, including expulsion from the union, and to veto any IBT financial transaction that would further, or constitute, racketeering activity. The Elections Officer had the authority to supervise the 1991 election and to take step necessary to ensure that it was conducted in a free and fair manner. The second phase of the Consent decree relegated the Government to a more reactive position, turning disciplinary and other activities back to the control of the IBT upon certification of the 1991 election. For the second phase of the Consent Decree, a three member Independent Review Board (IRB) would take over the disciplinary role of the Independent Administrator and the office of Investigations Officer would cease to exist as a proactive force. The IRB does not have the authority to veto financial transactions. During the second phase, the government has the option of having an Election Officer supervise the 1996 and subsequent elections.

Ron Carey won the IBT’s General Presidency in the 1991 election, and candidates on the Carey slate captured all but one slot on the IBT’s eighteen-member General Executive Board (GEB). Due to a continuing decline in the IBT’s net worth, the GEB invoked a provision of the IBT Constitution in May 1994. The provision requires all IBT locals to pay an additional \$1 per member per month emergency tax to the union when the IBT’s net worth falls below \$20 million. The provision remains in effect today and brings an additional \$17 million per year into the union’s treasury.

The government exercised its option to supervise the 1996 election, and Ron Carey was a candidate for re-election. Carey won a narrow victory, but the Election Officer refused to certify the results after concluding that widespread fundraising abuses may have allowed Carey to win the election. The Election Officer alleged that Carey’s campaign consultants and officials of the IBT funneled money from the union’s treasury through several organizations to Carey’s reelection campaign.

The IBT gave \$150,000 to the AFL–CIO; the AFL–CIO, in turn, gave \$150,000 to Citizen Action (a nonprofit advocacy organization); Citizen Action then gave \$100,000 to the November Group, which used the funds to mail campaign literature to Teamsters on Carey’s behalf.

The IBT gave \$475,000 directly to Citizen Action, \$175,000 to Project Vote (a get-out-the-vote organization), and \$85,000 to the National Council of Senior Citizens. In exchange, Carey campaign operatives persuaded perspective donors to those organizations to contribute instead to the Carey campaign.

The Carey campaign attempted to raise funds from possible donors to the Democratic National Committee in exchange for larger than expected political contributions from the IBT to state Democratic parties.

In addition, the Carey campaign received contributions from labor lawyers, union officials, and campaign vendors, even though these contributions were prohibited under the election rules.

As a result of these transactions, the Election Officer ordered a rerun election. After she resigned, the next Election Officer disqualified Carey from the rerun election because of his participation in these fundraising schemes. Carey took an unpaid leave of absence. The IRB charged Carey with bringing reproach upon the union. The Justice Department and the IBT agreed to create the position of Independent Financial Administrator for the IBT, a position with veto authority similar to that of the Independent Administrator of the first phase of the Consent Decree. Three of Carey's campaign consultants have entered guilty pleas in federal court and are cooperating with persecutors. The IBT's former PAC director, William Hamilton, has been indicted. Nevertheless, the Secretary-Treasurer and the International Vice Presidents elected on the Carey slate in 1996 continues to hold office, run the union's operations, and most are candidates in the rerun election.

SUMMARY OF THE INVESTIGATION TO DATE

The Subcommittee's public hearings and analysis of evidence have explored problems in the IBT in addition to these fundraising schemes and have identified a number of flaws in federal oversight of the union. Testimony in the Subcommittee's hearings has generated further investigation, document requests, and subpoenas.

On October 14, 1997, two rank-and-file members of the IBT testified that they had been beaten by Carey supporters for trying to speak in meetings of their local unions, and that no one had been punished as a result. Two IBT organizers testified that they had campaigned on Carey's behalf on union time at the direction of their supervisor. These organizers and an IBT International Representative testified that they were pressured to donate to the Carey campaign and that they did so, for fear of losing their jobs. A former supervisor at the IBT's Political Action Committee provided the Subcommittee with a great deal of detailed information regarding the illegal contributions discussed above. The Subcommittee is investigating more of these allegations of misuse of union resources, including some that are ongoing at the IBT headquarters.

The Subcommittee is continuing to investigate the fundraising swaps from the IBT election. On October 15, 1997, the Election Officers for the 1991 and 1996 elections testified on the methods, results, and costs associated with their oversight. The 1996 Election Officer testified that there was no way for her to detect Carey's fundraising swaps prior to the election, as the events occurred at

the last minute. She also testified that she completed her investigation of the 1996 election during the Teamsters strike against United Parcel Service, but that she withheld her decision to order a new election in order to prevent influencing the strike. The Subcommittee is continuing to monitor the effectiveness of the new Election Officer.

On March 26, 1998, two former International Trustees testified that, after they discovered improper expenditures and accounting discrepancies, Carey, General Secretary-Treasurer Tom Sever, and IBT employees refused to provide them with financial information necessary to perform their constitutionally-mandated biannual audit of the IBT. They were also unable to interview IBT employees about the union's financial practices and were barred from General Executive Board meetings. A former International Vice President testified that the Carey administration used the disciplinary process, the abolition and creation of subordinate union bodies, and the emergency dues assessment to centralize power at the international level. The Secretary-Treasurer of an IBT local testified that the IBT leadership's decision to freeze contributions to the Teamsters Affiliates Pension Plan (TAPP), which pays benefits to local union employees, was designed to continue the emergency dues assessment and to gather additional financial resources for IBT headquarters. The Subcommittee's Forensic Auditor testified that there was a large increase in payroll, travel expenses, professional fees, legal fees, and contributions for civic betterment in 1996, even as the union's net worth continued its decline. The Subcommittee is continuing to investigate the lack of internal financial controls at the IBT, misuse of IBT disciplinary and trusteeship procedures, and manipulations of the Teamsters Affiliated Pension Plan.

On April 29, 1998, the Independent Financial Administrator and the Election Officer testified regarding their oversight of the IBT. The Independent Financial Administrator testified that he does not have the authority to question the business purpose of any IBT expenditure or to review IBT legal bills or pension funds. The Election Officer testified that he is investigating the use of IBT resources for campaign purposes in the 1996 election and the rerun election. He also stated that his plan for overseeing the rerun election will be more vigorous than the 1996 election, including placing monitors in campaign offices during the final weeks of the campaign. Both witnesses were also questioned about a post-election memorandum to Carey from his campaign manager listing over 30 IBT employees and their work on behalf of the campaign—on union time. The Subcommittee is continuing to monitor the performance of the Independent Financial Administrator and the Election Officer.

On April 30, 1998, the President of the AFL-CIO, John Sweeney, testified regarding the labor federation's role in the fundraising schemes. The AFL-CIO's Secretary-Treasurer, Richard Trumka, is allegedly responsible for the AFL-CIO's participation in the fundraising swap among the IBT, Citizen Action, and the Carey campaign, but declined to appear before the Subcommittee, citing his Fifth Amendment rights. Sweeney testified that he does not believe Trumka has done anything improper and that he is not investigat-

ing the matter further. The Subcommittee is continuing to investigate these issues.

On May 19, 1998, the IBT's General Secretary-Treasurer and Acting President, Tom Sever, testified that he is not investigating evidence that at least 30 IBT employees were involved in using union resources for the Carey campaign. Sever also pledged to cooperate with all ongoing investigations, but after the hearing was over, he has continued to refuse to allow interviews of IBT staff and to produce relevant documents. The Subcommittee is continuing its investigation of Sever's role in controlling the union's finances and is very interested in questioning key employees cited by Carey's campaign manager as being active in Carey's campaign.

On June 15, 1998, Stephen Lesser, a partner in the Teamsters' accounting firm, Grant Thornton, LLP, testified that he was not aware of a subordinate's memorandum discussing IBT general treasury expenditures for election activity and that he was not a party to discussions of whether IBT should include such information in its files. A Donald Morgan, a partner in the Teamsters' actuarial firm, the Segal Company, testified that he participated in a conference call between IBT officers and trustees of Teamsters Affiliated Pension Plan. The purpose of the call was to determine the effect actuarial changes to the TAPP—in particular, a discount rate used in calculating the required IBT contribution to TAPP—would have upon the net worth of the IBT. During the call, it became clear that the IBT official were interested in setting the discount rate at a level that would allow the IBT to continue its emergency dues assessment. This rate change was also not reported correctly in the pension plan's audited financial statement for the following year. The Subcommittee is continuing to investigate these improper political contributions and pension fund manipulations.

On June 16, 1998, five witnesses from the Department of Labor testified regarding their oversight, investigations, and audits of the IBT. While DOL oversight the IBT's financial 1 activities and conditions has been minimal since the establishment of the Consent Decree, it has begun two investigations this spring. The Subcommittee is continuing to monitor the effectiveness of DOL oversight.

Throughout the Subcommittee's investigation, the current International Brotherhood of Teamsters leadership has attempted to obstruct the Subcommittee's work. The IBT has withheld subpoenaed documents, instead asserting broad and inapplicable claims of privilege. The IBT has directed its law firms, its accounting firm, its actuarial firm, and its pollster to withhold subpoenaed documents, again asserting broad and inapplicable privilege claims. Most recently, after the Subcommittee subpoenaed the audio tapes of all IBT General Executive Board meetings from 1991–1997, the IBT instead provided all of them to the U.S. Attorney for the Southern District of New York, who had requested only some of the tapes. And on numerous occasions, the IBT has refused to allow Subcommittee staff to interview employees of the IBT, Grant Thornton, and the Segal Company.

On March 17, 1998, Chairman Hoekstra wrote to Joseph Selsavage, the IBT's Director of Accounting, Robert Muehlenkamp, the IBT's Director of Organizing, and Aaron Belk, the former Exec-

utive Assistant to the President, to request interviews. The Subcommittee needed to interview Mr. Selsavage and Mr. Belk regarding their knowledge of IBT expenditures in 1996, the contribution swaps, the changes to the Teamsters Affiliates Pension Plan, and the use of IBT disciplinary procedures. The Subcommittee also needed to interview Mr. Muehlenkamp, as evidence indicates that he may have turned over the entire IBT Organizing Department to the Carey campaign. On the same day, Chairman Hoekstra wrote to Marc Gary and David Crane of Mayer, Brown, and Platt, counsel for Grant Thornton, requesting an interview of the partner in charge of the audit of the IBT. Grant Thornton should have knowledge related to the IBT's financial practices, its potentially illegal political contributions, and the changes the IBT made to the Teamsters Affiliates Pension Plan.

On March 20, 1998, counsel for the IBT (William W. Taylor III and Leslie Berger Kiernan of Zuckerman, Spaeder, Goldstein, Taylor, & Kolker, LLP) replied to the Chairman's letters. They stated that "it is not reasonable to think that there will be informal interviews until we can meet to discuss, and hopefully agree on, the matters previously raised with respect to the IBT's legitimate objections" to the Subcommittee's subpoena.

On May 28, 1998, Subcommittee staff wrote to Alvaro Anillo of Groom & Nordberg, counsel for the Segal Company, requesting an interview of A. Donald Morgan, who was responsible for the work performed for the IBT. The Subcommittee requested the interview to discuss changes made to the TAPP and to the IBT Retirement and Family Protection Plan (a pension plan for IBT International Officers and employees).

On June 1, 1998, Subcommittee staff wrote again to David Crane requesting an interview of Stephen Leser of Grant Thornton regarding his knowledge of IBT internal financial controls, specific expenditures, TAPP and the IBT Retirement and Family Protection Plan, and IBT financial reporting to the Department of Labor.

On June 3, 1998, Mr. Crane declined the request to interview Stephen Leser, stating that the IBT objected to his appearance outside of a Congressional hearing, and that, accordingly, Grant Thornton had an ethical obligation to do as directed by the IBT.

On June 4, 1998, Leslie Berger Kiernan, counsel for the IBT, responded to the Subcommittee's request, stating that the IBT would not agree to interviews of Joe Selsavage, Jim Bosley (Sever's Executive Assistant), or representatives of Grant Thornton and the Segal Company outside of a Congressional hearing.

On June 5, 1998, Chairman Hoekstra wrote to Tom Sever, stating that the Subcommittee requested these interviews "as part of the Subcommittee's continuing investigation and were to help us gather facts in preparation for upcoming public hearings regarding the financial condition of the Teamsters Union." After citing eight statements from Mr. Sever's previous testimony pledging to cooperate with all investigations of the IBT, Chairman Hoekstra again asked to interview Joe Selsavage, Jim Bosley, and representatives of Grant Thornton and the Segal Company.

On June 24, 1998, Subcommittee staff wrote again to Ms. Kiernan. In order to alleviate the IBT's concern that a non-public interview by Subcommittee staff might lead to factual misunder-

standing as to what might be said in these interviews, Subcommittee staff proposed to interview IBT employees on-the-record, with minority staff and IBT counsel present, and with transcripts available to the public.

On June 30, 1998, Ms. Kiernan responded to the Subcommittee's proposal by stating that she would discuss the matter with the IBT.

On July 2, 1998, Subcommittee staff wrote to David Crane requesting interviews with three Grant Thornton employees: Kevin Madden, Rebecca Lundgren, and Susan Vowell. In his testimony on June 15, Leser had identified these individuals as those having knowledge of the IBT's potentially illegal political contributions.

On July 9, 1998, Mr. Craine replied, stating that "we have been informed by IBT Counsel that the IBT does not consent to such interviews."

On July 14, 1998, Ms. Kiernan wrote to Subcommittee staff. The text of the letter reads: "We have information that the Subcommittee's counsel, directly and through others, have had contacts with present and former employees of the IBT without notice and in the absence of IBT's counsel. Such contacts are clear violations of ethics provisions barring contacts with employees of represented parties. Please advise what contacts have occurred and whether such contacts will stop immediately."

It is clear the IBT will continue to delay a legitimate Congressional investigation by refusing to consent to interviews. The Subcommittee must depose at least three Grant Thornton employees and several IBT employees, possibly as many as three dozen. In addition, the Subcommittee may need to depose employees and officials of the Segal Company, the November Group, the Share Group, the Democratic National Committee, the AFL-CIO, Project Vote, Citizen Action, the National Council of Senior Citizens, the American Federation of State, County, and Municipal Employees (AFSCME), the Service Employees International Union (SEIU), and several IBT contractors and vendors.

BACKGROUND AND NEED FOR THE RESOLUTION

In furtherance of Congress' legitimate investigative function, the standing rules of the House provide its committees with the general authority and tools needed to carry out most investigations of matters that properly fall within their jurisdiction.

The specific provisions governing committees' investigative procedures can be found in House rule XI.

Clause 2(h)(1) establishes a minimum quorum of two members for taking testimony or receiving evidence in a committee.

Clause 2(k) outlines procedures for the conduct of investigative hearings designed to balance the interests of the committee in gathering necessary testimony and evidence while carefully safeguarding certain procedural rights of witnesses.

These procedures include: announcement by the chairman of the subject of the investigation; provision of the committee's rules and the relevant House rules to each witness; allowance for witnesses to be accompanied by counsel; authority for the chairman to appropriately punish accompanying counsel for breaches of order, decorum or professional ethics; guidelines for taking testimony or evi-

dence in executive session when it is asserted that such testimony or evidence may tend to defame, degrade or incriminate any person; restrictions on the release of evidence or testimony taken in executive session; discretion for the committee to determine the pertinence of testimony and evidence; and means for a witness to obtain a transcript of testimony given in public or executive session.

Clause 2(m)(1)(A) authorizes committees and subcommittees to sit and act (including holding hearings) within the United States whether the House is in session, has recessed or adjourned.

Clause 2(m)(1)(B) authorizes committees and subcommittees to require by subpoena or otherwise the production of documents or the testimony of witnesses. It further authorizes the chairman of the committee, or any member of the committee designated by the chairman, to administer oaths to any witness.

Clause 2(m)(2) specifies that subpoenas necessary for the conduct of an investigation must be authorized by a majority vote of the committee's (or subcommittee's) members, a majority being present. However, this rule allows a committee to adopt written rules delegating to its chairman the authority to issue subpoenas in connection with an ongoing investigation.

The Rules Committee continues to believe that these rules have served the House of Representatives well, and have served the public interest when the House conducts investigations.

However, the Rules Committee is occasionally asked to provide committees with additional tools, beyond those expressly conferred by House rules, for a specific investigation. The Committee is generally reluctant to depart from House rules which assign the proper responsibility to Members to take testimony and receive evidence.

The Rules Committee understands that the Education and the Workforce Committee has assembled significant documentary evidence in its ongoing inquiry of the IBT. The Rules Committee appreciates that documents only tell a portion of the story, and in order for Congress to have a thorough understanding of potential wrongdoing and possible legislative improvements to current law, committees have to ask people questions. In order to obtain the context for these documents, the Education and the Workforce Committee has sought informational interviews on a voluntary basis.

The Rules Committee is aware that the subjects of this investigation have refused to provide information on a voluntary basis to the Education and the Workforce Committee. Due to this refusal, the Committee is in need of a mechanism to receive evidence swiftly and confidentially. The Rules Committee believes that H. Res. 507 provides measured and appropriate authority for the Education and the Workforce Committee to further the House's understanding of exactly what occurred during the Teamsters election.

As Chairman Goodling stated at the Rules Committee hearing on H. Res. 507, "Deposition authority is a tool that will enable the Teamsters investigation to unravel improprieties associated with the 1996 election so they do not recur. It will also help shed light on mismanagement and financial improprieties so that the International Brotherhood of Teamsters can become more responsive to its members."

The Rules Committee notes that the authority granted by H. Res. 507 is specific to the Teamsters investigation by the Committee on Education and the Workforce. It further considers the information obtained under authority of the resolution as taken in executive session by the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce. The Rules Committee notes that clause 2(k)(7) of rule XI requires a committee vote to release evidence or testimony taken in executive session prior to release or use in public sessions.

According to the Education and the Workforce Committee, at this time there are at least 40 witnesses still left to be deposed, and with only a minimal number of legislative days remaining in the session, the Rules Committee believes that the Education and the Workforce Committee has demonstrated a compelling need for the special investigative authority provided by H. Res 507, and will exercise this authority judiciously.

The Rules Committee agrees with the assessment of Chairman Goodling, who noted during the Committee's hearing on this matter, "The rank and file Teamsters should gain some knowledge from what it is this investigation is doing so that the election does not again occur and be a fraudulent election using millions of dollars of Federal money." The authority granted by this resolution will help answer the question of whether Teamsters' pension funds were unnecessarily jeopardized during the course of the 1996 election.

SECTION-BY-SECTION ANALYSIS OF THE RESOLUTION

Chairman Goodling introduced H. Res. 507 on July 21, 1998. The Education and the Workforce Committee also, on July 22, adopted a new committee rule by a vote of 19-17 to specify the procedures to be employed by the Committee should the House adopt H. Res. 507. This committee rule contains procedures for conducting depositions, notice requirements, and the rights of witnesses. Chairman Goodling then wrote to Rules Chairman Solomon asking the Committee to consider H. Res. 507 in order that the House might consider it expeditiously.

Section 1 applies the authorities granted by H. Res. 507 solely to the investigation by the Committee on Education and the Workforce into the administration of labor laws by Government agencies, including the Departments of Labor and Justice, concerning the International Brotherhood of Teamsters, and other related matters.

Section 2 considers information obtained under authority of the resolution as taken by the Committee on Education and the Workforce in the District of Columbia, as well as the location actually taken; and considers information obtained under authority of the resolution as taken in executive session by the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce.

Section 3 authorizes the chairman of the Committee on Education and the Workforce, after consultation with the ranking minority member of the committee, to order the taking of depositions or interrogatories anywhere within the United States, under oath and pursuant to subpoena; and to designate a Member, staff, or contractor of the Committee to conduct any such proceeding. The

Rules Committee understands that the Education and the Workforce Committee has hired several consultants through an appropriate process which includes approval by the Committee and further approval by the House Oversight Committee. The Chairman of the Education and the Workforce Committee may designate the staff of the Committee authorized to conduct depositions. Such staff may include consultants or contractors, such as forensic auditors, hired by the Committee.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

Congressional Budget Office estimates

Clause 2(l)(3)(C) of rule XI requires each committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 402 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted. No cost estimate was received from the Congressional Budget Office.

Oversight findings

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The oversight findings of the Committee are reflected in the body of this report.

Oversight findings and recommendations of the Committee on Government Reform and Oversight

Clause 2(l)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Rules has received no such findings or recommendations from the Committee on Government Reform and Oversight.

Views of committee members

Clause 2(l)(5) of rule XI requires each committee to afford a two day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report. Although this requirement does not apply to the Committee, the Committee always makes the maximum effort to provide its members with such an opportunity. The following views were submitted:

MINORITY VIEWS

This is the third time since the beginning of the 104th Congress that this Committee has been asked to grant this extraordinary staff deposition authority to a standing committee. And, for the third time we question the need as well as the urgency for such a resolution.

First and foremost, we do not believe this resolution is necessary at all. There is no convincing evidence that the International Brotherhood of Teamsters (IBT) has failed to provide requested documentation or that they have refused to testify before the Education and the Workforce Committee. In fact, IBT has produced over 50,000 documents to date for the Committee covering all areas that the Republicans have requested. They have stated, in a June 4, 1998 letter to the Committee, that although they will not allow nonpublic pre-interviews, they "will do all that is necessary to facilitate the presentation of witnesses at public hearings, even without subpoenas." We include the letter in its entirety for the record. Furthermore, it is important for members of the House to know that the activities of the International Brotherhood of Teamsters are being fully investigated and, where appropriate, prosecuted by the Justice Department. That is their responsibility and their job and it is being carried out appropriately. The job of the Education and the Workforce Subcommittee on Oversight is to conduct "oversight" on this matter, not necessarily a duplicative and costly full-scale investigation. We question whether the committee's scarce resources should be diverted to this investigation at the expense of other important priorities such as education.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
Washington, DC, June 12, 1998.

Hon. PETE HOEKSTRA,
Chairman, Subcommittee on Oversight and Investigations, Committee on Education and the Workforce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am in receipt of your letters dated June 5, 1998 and June 11, 1998 to me, the Election Officer, the Independent Review Board (IRB) and the United States Attorneys Office.

I am at a loss to understand how you can accuse the International Brotherhood of Teamsters (IBT) of failing to cooperate with your Subcommittee. In the last three months, the IBT has produced to the Subcommittee more than 75,000 pages of documents. The IBT staff and outside counsel have spent thousands of hours responding to requests for information from the Subcommittee. In order to respond to a demand on a Monday for thousands of pages of documents by the following Friday, the IBT pulled twenty-seven employees from their regular duties so that they

could locate and photocopy the requested records. The IBT has made available to the Subcommittee the workpapers of its outside accountants, Grant Thornton, for the period 1991-97. The IBT has agreed to have an independent third party listen to the audiotapes of the IBT's General Executive Board meetings for the past seven years. I appeared voluntarily before the Subcommittee and answered every one of the Subcommittee's questions. The IBT has agreed to produce voluntarily as witnesses at the hearings next week Messrs. Bosley and Selsavage as well as Grant Thornton and the IBT's outside actuary, Segal Company.

This cooperation has been met with repeated allegations of "stonewalling" and accusations of misconduct, all of which are directly contrary to the facts. There have been systematic leaks and mischaracterizations of information to the press in an effort to generate publicity critical of the IBT. The conduct of the investigation to date has caused me to have serious reservations about the fairness and integrity of the process. It is for this reason that I cannot agree to private off the record interviews. Contrary to your June 11 letter to me, the IBT has not refused to allow those with knowledge of the IBT's finances to answer questions. In fact, I have encouraged full cooperation by these individuals. The IBT has only objected to interviews not open to the public. The members of the IBT and the public deserve to hear the facts directly from the witnesses. The IBT has been clear that it will do all that is necessary to facilitate the presentation of witnesses at public hearings, even without subpoena.

In certain of your letters, you falsely accuse the current leadership of the IBT of having no interest in moving forward with an honest election. During the Bush Administration, the United States government entered into a consent decree that required the United States to pay for supervision of the 1996 election, if the government elected supervision. The United States Court of Appeals for the Second Circuit has held that the United States must pay for supervision of the rerun of the 1996 election. Notwithstanding the clear holding of that Court, in a decision rendered by the Chief Judge himself, that the United States must keep its bargain under the consent decree, the Congress has barred the government from paying for supervision of the election. Mr. Chairman, the only thing standing between the members of the IBT and a prompt supervised election is the Congress.

I have been a member of the Teamsters for almost forty years. As Secretary-Treasurer and Acting General President of the IBT, it is my duty to assert the constitutional and other legal rights of the IBT in response to a Congressional subpoena or other request. The assertion of those rights in the face of an unlawful request is a constitutionally protected activity, not "stonewalling." Reckless attacks against the IBT or me personally will not deter me from doing what I believe is right for the International and its members.

Sincerely,

TOM SEVER,
General Secretary-Treasurer.

Prior to the 104th Congress, the Committee on Standards of Official Conduct in ethics matters and the Judiciary Committee for im-

peachment proceedings were the only standing committees given this special authority for staff to take depositions, under oath, from witnesses in the absence of a Member of Congress.

We in the minority expressed a number of concerns prior to the adoption by the Rules Committee of each of the first two resolutions (On March 6, 1996, H. Res. 369, Providing Special Authorities to the Committee on Government Reform and Oversight to Obtain Testimony on the White House Travel Office Matter; and on June 19, 1997, H. Res. 167, Providing Special Investigative Authorities for the Committee on Government Reform and Oversight) as well as recommendations to help alleviate our apprehension. Unfortunately those amendments were denied and ultimately our worst fears were realized. The promises for protection of the rights of the individuals subjected to the depositions as well as the rights of the minority in the process were ignored or deliberately denied. With this track record, we have no reason to believe that things will be any different or any better this time around.

So, once again, we find ourselves in the position of attempting to modify this resolution to address our well-founded reservations. And, not surprisingly, we are denied, on party line votes, even the most modest of amendments to improve this resolution.

When the Rules Committee considered H. Res. 167 (Providing Special Investigative Authorities for the Committee on Government Reform and Oversight), the Rules majority requested a change to require that any staff member taking a deposition must be an attorney. During Rules Committee consideration of that measure on June 18, 1997, Chairman Solomon stated, "what this [resolution] does is give staff deposition authority. It cites that we designate a member of the committee or an attorney on the staff, and I insisted that it be an attorney on the staff, because people that are not attorneys, like myself, probably are not aware of all of the nuances in the law, and therefore I think should be." However, when the minority of the Education and the Workforce Committee tried to offer this same requirement during their rules change mark-up on July 22, 1998 they were rebuffed by the Committee majority. We offered that amendment to this resolution and were also out voted by the majority members of the Rules Committee. We fail to understand how a requirement that the majority felt was so essential in the instance of H. Res. 167 is now unnecessary.

We are very concerned about the prospect that the minority will be treated fairly in this process, even given the July 22nd committee rule changes adopted by the Education and the Workforce Committee. Throughout this process the majority has not abided by its formal or informal agreements. More recently, on April 1, 1998 the Committee changed its rules to give the Chairman rare and controversial unilateral authority to issue subpoenas. That rule contains a provision that states "the Chairman shall notify the Ranking Minority Member prior to issuing any subpoena under such authority." This rule has been largely ignored by the majority, who have chosen to give notice only after the subpoenas have been served. Given these recent events documenting such noncompliance, we believe we are justified in our doubts that the majority will abide with its own committee rules requiring proper and timely minority notification. Volumes of agreements aren't worth the

paper they're printed on unless they are followed. The majority has all the power and sets the agenda; therefore the burden of compliance is primarily in their hands. If they choose not to comply with agreements or rules, there is no real recourse for the minority.

This resolution, as with the two previous measures, does not include clarification in either the resolution or report regarding contempt charges against a subpoenaed individual who refuses to be deposed by staff but is willing to testify before the committee at a regular meeting. Absent clarifying language, there is a danger that there could be a challenge to the long-standing practice of the House which holds that there are no grounds for a contempt citation if a witness refuses to appear before or to answer questions in a staff deposition provided that the witness responds fully at a duly called hearing of the committee with a quorum of members present. As in H. Res. 369 and H. Res. 167, in which we consulted with the House Parliamentarian, we offered the following language and requested that it be included in the report:

The procedure used in this resolution which authorizes the deposition of witnesses by staff is meant to augment and not replace the current information gathering function of a committee hearing. Nothing in this resolution is intended to change the long-standing precedent that there are no grounds for a contempt citation if a witness refuses to appear before or to answer questions in a staff deposition provided that the witness responds fully at a duly called hearing of the committee with a quorum of members present.

For the third time, this modest amendment was rejected by the majority.

We are elected by the people of the United States to represent them in the House of Representatives. Our staff is not. They are here to assist us in that representation, not to do our job. We must be absolutely certain that any activities undertaken by them are fully in compliance with the House rules and are done so with our full knowledge and under our direction. Allowing staff unfettered ability to question and interrogate witnesses without our presence should be done only when absolutely necessary and with extreme caution. The people who will be subjected to such scrutiny by staff have rights and all members of this body, especially the Education and the Workforce Committee, must guarantee that those rights are scrupulously protected. This must be done regardless of the political affiliation or the personal beliefs of those individuals. To do any less is to disobey the oath that all of us took on opening day of this Congress.

We do not support this resolution, but we also cannot prevent its implementation. Therefore, we implore the Leadership of this House to take heed of our apprehensions and made certain that the resolution is carried out in a fair and responsible manner.

JOE MOAKLEY.
TONY P. HALL.
MARTIN FROST.
LOUISE MCINTOSH SLAUGHTER.

A P P E N D I X

Text of Education and the Workforce Committee rule adopted on July 22, 1998:

RULE 25.—INTERROGATORIES AND DEPOSITIONS

Pursuant to an appropriate House Resolution, the Chairman, after consultation with the ranking minority member, may order the taking of interrogatories or depositions. Notices for the taking of depositions shall specify the date, time, and place of examination. Answers to interrogatories shall be answered fully in writing under oath, and depositions shall be taken under oath administered by a member or a person otherwise authorized by law to administer oaths. Consultation with the ranking minority member shall include three business days written notice before any deposition is taken. All members shall also receive three business days written notice that a deposition has been scheduled.

The committee shall not initiate contempt proceedings based on the failure of a witness to appear at a deposition unless the deposition notice was accompanied by a committee subpoena issued by the chairman.

Witnesses may be accompanied at a deposition by counsel to advise them of their rights. No one may be present at depositions except members, committee staff, or committee contractors designated by the chairman or the ranking minority member, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons or for agencies under investigation may not attend.

A deposition shall be conducted by any member, committee staff or committee contractor designated by the chairman or ranking minority member. When depositions are conducted by committee staff or committee contractors there shall be no more than two committee staff or committee contractors permitted to question a witness per round. One of the committee staff or committee contractors shall be designated by the chairman and the other shall be designated by the ranking minority member. Other committee staff designated by the chairman or the ranking minority member may attend, but are not permitted to pose a question to the witness.

Questions in the deposition will be propounded in rounds. A round shall include as much time as it is necessary to ask all pending questions. In each round, a member, or committee staff or committee contractor designated by the chairman shall ask questions first, and the member, committee staff or committee contractor designated by the ranking minority member shall ask questions second.

An objection by the witness as to the form of a question shall be noted for the record. If a witness objects to a question and refuses to answer, the member, committee staff or committee contractor may proceed with the deposition, or may obtain, at that time or a subsequent time, a ruling on the objection by telephone or otherwise from the chairman or a member designated chairman. The committee shall not initiate procedures leading to contempt proceedings based on a refusal to answer a question at a deposition unless the witness refuses to testify after an objection of the witness has been overruled and after the witness has been ordered by the chairman or a member designated by the chairman to answer the question. Overruled objections shall be preserved for committee consideration within the meaning of clause 2(k)(8) of House Rule 11.

Committee staff shall insure that the testimony is either transcribed or electronically recorded, or both. If a witness's testimony is transcribed, the witness or the witness's counsel shall be afforded an opportunity to review a copy. No later than five calendar days thereafter, the witness may submit suggested changes to the chairman. Committee staff may make any typographical and technical changes requested by the witness. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter requesting the changes and a statement of the witness's reasons for each proposed change. A letter requesting any substantive changes, modifications, clarifications, or amendments must be signed by the witness. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. Transcription and recording services shall be provided through the House Office of the Official Reporters.

A witness shall not be required to testify unless the witness has been provided with a copy of the committee's rules.

This rule is applicable to the committee's investigation into the administration of labor laws by government agencies, including the Departments of Labor and Justice, concerning the International Brotherhood of the Teamsters and other related matters.