.....

(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. RES. _____

Raising a question of the privileges of the House.

IN THE HOUSE OF REPRESENTATIVES

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

RESOLUTION

Raising a question of the privileges of the House.

Whereas page 5 of the ''Regulations on the Use of the CONGRESSIONAL FRANK By Members of the House of Representatives'' states, ''It is the policy of the Congress that the privilege of sending mail as franked mail shall be established under this section in order to assist and expedite the conduct of the official business, activities and duties of the Congress of the United States. It is the intent of the Congress that such official business, activities and duties cover all matters which directly or indirectly pertain to the legislative process or to any congressional representative functions generally, or to the functioning, working, or operating of the Congress and the performance of official duties in connection therewith,

and shall include, but not be limited to, the conveying of information to the public, the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of those functions.'';

Whereas clause 5 of rule XXIV of the Rules of the House of Representatives provides, ''Before making a mass mailing, a Member, Delegate, or Resident Commissioner shall submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether the proposed mailing is in compliance with applicable provisions of law, rule, or regulation.'';

Whereas the House Commission on Congressional Mailing Standards, authorized in Public Law 91–191, is commonly referred to as the ''Franking Commission'';

Whereas the Democratic staff director and Republican staff director of the Franking Commission have served in their respective positions for more than a decade and report to the Democratic and Republican members of the Franking Commission, respectively;

Whereas during the 111th Congress the members of the Franking Commission are Representatives Susan Davis (D–CA), chairwoman; Rep. Dan Lungren (R–CA), ranking Republican member; Rep. Donna Edwards (D–MD), Rep. Kevin McCarthy (R–CA), Rep. Brad Sherman (D–CA) and Rep. Tom Price (R–GA);

Whereas the aforementioned Franking Commission advisory opinions required for Members seeking approval to send mass mailings, or their electronic equivalents, are rou-

tinely signed on behalf of the Commission by its Democratic and Republican staff directors or their designees;

Whereas no Member may receive Franking Commission approval without signatures from both majority and minority staff;

Whereas the Commission's Democratic staff director has been permitted by the Commission's Democratic Members to abuse her position during the current Congress by willfully and knowingly applying different standards to material submitted for Franking Commission approval by Republican Members than she applies to material submitted by Democratic Members;

Whereas on July 27, 2009 the Commission's Democratic staff director refused to approve a mailing proposed by Representative Joe Barton of Texas which included the words ''Democrat majority'', but indicated she would approve the mailing if Representative Barton instead substituted the words ''congressional majority'', yet on August 3, 2006 the same Democratic staff director signed a Franking Commission approval document for a mailing issued by then-Minority Leader Nancy Pelosi that included the following sentence, ''But too many here and across our nation are paying the price for the Republican Congressional majority's special interest agenda. . .''

Whereas the Democratic staff director has refused to grant permission to Republican Members wishing to provide their constituents with copies of a chart intended to illustrate in graphic form many of the provisions of the Democrats' proposed health care legislation;

Whereas charts similar in form and general purpose have for many years been approved routinely by the Commission's

Democratic staff director in mailings produced by Members on both sides of the aisle;

Whereas on December 12, 1993, the Franking Commission granted approval to Rep. David Levy of New York to disseminate a similar chart, intended to illustrate graphically the provisions of comprehensive health care legislation proposed by the Clinton Administration;

Whereas the Commission's Democratic staff director has refused to approve requests by Republican Members to informally characterize certain features of the Democrats' pending health care proposal as ''government run health care'' but has approved requests by Democratic Members to informally characterize the same aspects of the bill as ''the public option'';

Whereas the Commission's Democratic staff director has refused to approve more than twenty requests by Republican Members to use the phrase ''cap and tax'' to describe a Democratic proposal to reduce carbon emissions by imposing new fees, taxes and higher costs on American consumers and businesses;

Whereas a search for the term ''cap and tax'' on the Google internet search engine yielded at least 4,478,000 appearances of this commonly used phrase;

Whereas an article in the April 27, 2009 edition of ''Politico'' newspaper quoted the most senior Member of the House, Democratic Representative John Dingell of Michigan, the former chairman of the House Committee on Energy and Commerce, as saying, ''Nobody in this country realizes that cap and trade is a tax, and it's a great big one.'';

Whereas the Commission's Democratic staff director has dismissed the proposed descriptive term, ''cap and tax'' as

an informal and inappropriate characterization of the legislation, while at the same time granting approval to Democratic Members seeking to use the phrase ''cap and trade'' to informally and inappropriately characterize the same bill;

Whereas the Commission's Democratic staff director has refused to approve material submitted by Republican Members seeking to convey to the public those Members' concern about substantial job losses expected to result if the Democrats' proposed national energy tax is enacted, while at the same time approving mailings submitted by Democratic Members informing the public about large numbers of new jobs the Democrats claim will be created by the same legislation;

Whereas the Democratic staff director's actions have prompted a steady stream of media reports describing a climate of partisan censorship imposed on the House by the Democratic majority;

Whereas an article in the July 23, 2009 edition of Roll Call newspaper stated, ''A dispute over the right of House Republicans to use the chamber's official franking service to send a mailer critical of Democratic health care plans has escalated beyond the Franking Commission to 'high levels on the Democratic side,' Franking Commission member Rep. Dan Lungren (R–CA) said at a Thursday press conference. Asked whether he believed the matter had been referred to Rep. Pelosis (D–CA) office, Lungren, the ranking member of the House Administration Committee, said, 'All I've been told is that its above the Franking Commission and that it appears to be above our committee, so I don't know where you go after that'.'';

Whereas by permitting the Commission's Democratic staff director to carry out her duties in a partisan and unfair manner, the Democratic Members of the Franking Commission have brought discredit on the House; and,

Whereas clause 1 of rule XXXIII of the Rules of the House of Representatives, also known as the Code of Official Conduct, provides "A Member, Delegate, Resident Commissioner, officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House": Now, therefore, be it

Resolved, That the House views with disapproval the failure of the Democratic Members of the Franking Commission to ensure that the Commission's Democratic staff carries out its important responsibilities in a professional, fair, and impartial manner.