

United States Senator Chuck Grassley

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Prepared Testimony of Senator Chuck Grassley
Senate Committee on Rules and Administration
Secret Holds
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Thank you Mr. Chairman, Senator Bennett,

I appreciate the opportunity to give my perspective on the work Senator Wyden and I have been doing for many years now to bring transparency to the practice of holds in the Senate.

Holds are an informal process outside the Senate Rules so it is easier said than done to just make them public, but we have a proposal now that I think does the trick.

Before I get into specifics, I think it's important to talk about what a hold really is.

A hold arises out of the right of all senators to withhold their consent when unanimous consent is asked.

It goes without saying that a senator has a right to object to a unanimous consent request if the senator does not support it.

Something is not really unanimous unless all senators support it.

In fact, you could argue that a senator has an obligation to object if he feels an item is not in the interest of his constituents, or if he has not had the opportunity to make an informed decision.

In the old days, when senators conducted much of their daily business from their desk on the Senate floor, it was a simple matter to stand up and say, "I object" when necessary.

Now, since most senators spend most of their time off the Senate floor in committee hearings, meeting with constituents, etcetera, we rely on our majority and minority leaders to protect our rights and prerogatives as individual senators by asking them to object on our behalf.

Just as any senator has the right to stand up on the Senate floor and publicly say, "I object," it is perfectly legitimate to ask another senator to object on our behalf if we cannot make it to the floor when consent is requested.

By the same token, Senators have no inherent right to have others object on their behalf while keeping their identity secret.

So, what I object to is not the use of holds, but the word “secret” in “secret holds”.

If a senator has a legitimate reason to object to proceeding to a bill or nominee, then he or she ought to have the guts to do so publicly.

A Senator may object because he does not agree to the substance of the bill and therefore cannot in good conscience grant consent, or because the senator has not had adequate opportunity to review the matter at hand.

Regardless, we should have no fear of being held accountable by our constituents if we are acting in their interest as we are elected to do.

I have certainly not experienced any negative reaction from my policy of public holds, either from the people of Iowa or my fellow senators.

So how did we get to where we are today?

Over a decade ago, Senator Wyden and I started with a simple proposed rule that any senator placing a hold must publish that hold in the Congressional Record, which Senator Wyden and I have done voluntarily ever since.

That proposal was blocked in the Senate, but we were offered a non-binding policy by the leaders instead. That didn't work.

We kept trying, and when Senator Lott became chairman of the Rules Committee, he took an interest in this issue as a former majority leader who had to contend with secret holds.

In fact, we had a hearing like this almost exactly 7 years ago.

Senator Lott offered to work with us and along with Senator Byrd, we crafted a proposal that was more workable and enforceable.

That proposal was adopted as an amendment to the Ethics Reform bill in the 109th Congress by a vote of 84-13, but that bill never got enacted.

Our proposal was then included in the so called “Honest Leadership and Open Government Act”.

Ironically, in a move that reflected neither honest leadership nor open government, our provisions were altered substantially behind closed doors before that bill became law.

Our current proposal would restore some important features that were in the amendment as originally adopted by the Senate and make it even more enforceable.

In our proposed Standing Order, in order for the majority or minority leader to recognize a hold, the Senator placing the hold must get a statement in the Record within two days, and must give permission to their leader at the time they place the hold to object in their name.

Since the leader will automatically have permission to name the senator on whose behalf they are objecting, there will no longer be any expectation or pressure on the leader to keep the hold secret.

Further, if a senator objects to a unanimous consent request and does not name another senator as having the objection, the objecting senator will be listed as having the hold.

This will end entirely the situation where one senator objects, but is able to remain coy about whether it is their own objection or some unnamed senator. All objections will have to be owned up to.

Again, our proposal protects the rights of individual senators to withhold their consent.

I am certainly not arguing that any bill or nominee is entitled to pass by unanimous consent or that we should be passing more legislation that way.

In fact, Senator Coburn has raised a valid point about how the so called "hotline" process can be abused, thus denying senators adequate time to review items before unanimous consent is requested.

Since the hotline is another informal process of the Senate outside the rules, it may prove as difficult as secret holds to find the best way to reform it, but I support his goal of doing so.

All I seek to do is bring some transparency to the Senate and let the people's business be done in public.