

109TH CONGRESS
2^D SESSION

H. RES. 1000

Providing for earmarking reform in the House of Representatives.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2006

Mr. DREIER (for himself, Mr. HASTERT, Mr. BOEHNER, Mr. BLUNT, Mr. CANTOR, Mr. PUTNAM, Mr. LINCOLN DIAZ-BALART of Florida, Mr. HASTINGS of Washington, Mr. SESSIONS, Mrs. CAPITO, Mr. BISHOP of Utah, Mr. GINGREY, Mr. FLAKE, Mr. FITZPATRICK of Pennsylvania, Mr. KIRK, Mr. KENNEDY of Minnesota, Mr. CAMPBELL of California, Mr. FEENEY, Mr. SHAW, Mr. DAVIS of Kentucky, Mr. REICHERT, Mr. RENZI, Mr. CONAWAY, Mr. HEFLEY, Mr. BILBRAY, Mr. INGLIS of South Carolina, Mr. MARIO DIAZ-BALART of Florida, Mrs. DRAKE, Mr. RYAN of Wisconsin, Ms. HART, Mr. KLINE, Mr. SOUDER, Mr. SHADEGG, Mrs. BLACKBURN, Mr. PITTS, Mr. ISSA, Mr. KUHL of New York, Mr. PRICE of Georgia, Mr. KING of Iowa, Mr. HENSARLING, Mr. PENCE, Mr. MCCAUL of Texas, Mr. SMITH of Texas, Mr. BARTLETT of Maryland, Mrs. JO ANN DAVIS of Virginia, Mr. PEARCE, Mr. TERRY, Mr. SAM JOHNSON of Texas, Mrs. BIGGERT, Mr. GUTKNECHT, Mr. ROHRABACHER, Mr. MCHENRY, Mr. NEUGEBAUER, Mr. BRADY of Texas, Mr. HERGER, and Mr. GOODLATTE) submitted the following resolution; which was referred to the Committee on Rules

RESOLUTION

Providing for earmarking reform in the House of
Representatives.

1 *Resolved,*

1 **SECTION 1. EARMARKING REFORM IN THE HOUSE OF REP-**
2 **RESENTATIVES.**

3 (a) In the House of Representatives, it shall not be
4 in order to consider—

5 (1) a bill reported by a committee unless the re-
6 port includes a list of earmarks in the bill or in the
7 report (and the names of Members who submitted
8 requests to the committee for earmarks included in
9 such list); or

10 (2) a conference report to accompany a bill un-
11 less the joint explanatory statement prepared by the
12 managers on the part of the House and the man-
13 agers on the part of the Senate includes a list of
14 earmarks in the conference report or joint statement
15 (and the names of Members who submitted requests
16 to the committee for earmarks included in such list)
17 that were not committed to the conference com-
18 mittee by either House, not in a report specified in
19 paragraph (1), and not in a report of a committee
20 of the Senate on a companion measure.

21 (b) In the House of Representatives, it shall not be
22 in order to consider—

23 (1) a bill carrying a tax measure reported by
24 the Committee on Ways and Means as to which the
25 Joint Committee on Taxation has—

1 (A) identified a tax earmark pursuant to
2 subsection (e), unless the report on the bill in-
3 cludes a list of tax earmarks in the bill or re-
4 port (and the names of Members who submitted
5 requests to the committee for tax earmarks in-
6 cluded in such list); or

7 (B) failed to provide an analysis under
8 subsection (e); or

9 (2) a conference report to accompany a bill car-
10 rying a tax measure as to which the Joint Com-
11 mittee on Taxation has—

12 (A) identified a tax earmark pursuant to
13 subsection (e), unless the joint explanatory
14 statement prepared by the managers on the
15 part of the House and the managers on the
16 part of the Senate includes a list of tax ear-
17 marks in the conference report or joint state-
18 ment (and the names of Members who sub-
19 mitted requests to the committee for tax ear-
20 marks included in such list) that were not com-
21 mitted to the conference committee by either
22 House, not in a report specified in paragraph
23 (1), and not in a report of a committee of the
24 Senate on a companion measure; or

1 (B) failed to provide an analysis under
2 subsection (e).

3 (c)(1) In the House of Representatives, it shall not
4 be in order to consider a rule or order that waives the
5 application of subsection (a)(2) or (b)(2).

6 (2) A point of order that a rule or order waives the
7 application of subsection (b)(2)(A) may not be cognizable
8 by the Chair if the Joint Committee on Taxation has pro-
9 vided an analysis under subsection (e) and has not identi-
10 fied a tax earmark.

11 (3) In order to be cognizable by the Chair, a point
12 of order that a rule or order waives the application of sub-
13 section (b)(2)(A) must specify the precise language of the
14 rule or order and any pertinent analysis by the Joint Com-
15 mittee on Taxation contained in the joint statement of
16 managers.

17 (d)(1) In order to be cognizable by the Chair, a point
18 of order raised under subsection (a)(1) may be based only
19 on the failure of a report of a committee to include the
20 list required by subsection (a)(1).

21 (2) A point of order under subsection (b) may not
22 be cognizable by the Chair if the Joint Committee on Tax-
23 ation has provided an analysis under subsection (e) and
24 has not identified a tax earmark.

1 (3) As disposition of a point of order under sub-
2 section (a) or (b), the Chair shall put the question of con-
3 sideration with respect to the proposition that is the sub-
4 ject of the point of order.

5 (4) As disposition of a point of order under sub-
6 section (c) with respect to a rule or order relating to a
7 conference report, the Chair shall put the question of con-
8 sideration as follows: “Shall the House now consider the
9 resolution notwithstanding the assertion of [the maker of
10 the point of order] that the object of the resolution intro-
11 duces a new earmark or new earmarks?”.

12 (5) The question of consideration under this sub-
13 section (other than one disposing of a point of order under
14 subsection (b)) shall be debatable for 15 minutes by the
15 Member initiating the point of order and for 15 minutes
16 by an opponent, but shall otherwise be decided without
17 intervening motion except one that the House adjourn.

18 (e) The Joint Committee on Taxation shall review
19 any bill containing a tax measure that is being reported
20 by the Committee on Ways and Means or prepared for
21 filing by a committee of conference of the two Houses,
22 and shall identify whether such bill contains any tax ear-
23 marks. The Joint Committee on Taxation shall provide to
24 the Committee on Ways and Means or the committee of
25 conference a statement identifying any such tax earmarks

1 or declaring that the bill or joint resolution does not con-
2 tain any tax earmarks, and such statement shall be in-
3 cluded in the report on the bill or joint statement of man-
4 agers, as applicable. Any such statement shall also be
5 made available to any Member of Congress by the Joint
6 Committee on Taxation immediately upon request.

7 **SEC. 2. DEFINITIONS.**

8 (a) For the purpose of this resolution, the term “ear-
9 mark” means a provision in a bill or conference report,
10 or language in an accompanying committee report or joint
11 statement of managers—

12 (1) with respect to a general appropriation bill,
13 or conference report thereon, providing or recom-
14 mending a specific amount of discretionary budget
15 authority for a contract, loan, loan guarantee, grant,
16 or other expenditure with or to a non-Federal entity,
17 if—

18 (A) such entity is specifically identified in
19 the report or bill; or

20 (B) if the discretionary budget authority is
21 allocated outside of the statutory or administra-
22 tive formula-driven or competitive bidding proc-
23 ess and is targeted or directed to an identifiable
24 entity, specific State, or Congressional district;
25 or,

1 (2) with respect to a measure other than that
2 specified in paragraph (1), or conference report
3 thereon, providing authority, including budget au-
4 thority, or recommending the exercise of authority,
5 including budget authority, for a contract, loan, loan
6 guarantee, grant, obligation limitation on the use of
7 contract authority, loan authority, or other expendi-
8 ture with or to a non-Federal entity, if—

9 (A) such entity is specifically identified in
10 the report or bill;

11 (B) if the authorization for, or provision
12 of, budget authority, contract authority loan au-
13 thority or other expenditure is allocated outside
14 of the statutory or administrative formula-driv-
15 en or competitive bidding process and is tar-
16 geted or directed to an identifiable entity, spe-
17 cific State, or Congressional district; or

18 (C) if such authorization for, or provision
19 of, budget authority, contract authority, loan
20 authority or other expenditure preempts statu-
21 tory or administrative State allocation author-
22 ity.

23 (b)(1) the term “tax earmark” means any revenue-
24 losing provision that provides a Federal tax deduction,
25 credit, exclusion, or preference to only one beneficiary (de-

1 terminated with respect to either present law or any provi-
2 sion of which the provision is a part) under the Internal
3 Revenue Code of 1986 in any year for which the provision
4 is in effect;

5 (2) for purposes of paragraph (1)—

6 (A) all businesses and associations that are
7 members of the same controlled group of corpora-
8 tions (as defined in section 1563(a) of the Internal
9 Revenue Code of 1986) shall be treated as a single
10 beneficiary;

11 (B) all shareholders, partners, members, or
12 beneficiaries of a corporation, partnership, associa-
13 tion, or trust or estate, respectively, shall be treated
14 as a single beneficiary;

15 (C) all employees of an employer shall be treat-
16 ed as a single beneficiary;

17 (D) all qualified plans of an employer shall be
18 treated as a single beneficiary;

19 (E) all beneficiaries of a qualified plan shall be
20 treated as a single beneficiary;

21 (F) all contributors to a charitable organization
22 shall be treated as a single beneficiary;

23 (G) all holders of the same bond issue shall be
24 treated as a single beneficiary; and

1 (H) if a corporation, partnership, association,
2 trust or estate is the beneficiary of a provision, the
3 shareholders of the corporation, the partners of the
4 partnership, the members of the association, or the
5 beneficiaries of the trust or estate shall not also be
6 treated as beneficiaries of such provision;

7 (3) for the purpose of this subsection, the term “rev-
8 enue-losing provision” means any provision that is esti-
9 mated to result in a reduction in Federal tax revenues (de-
10 termined with respect to either present law or any provi-
11 sion of which the provision is a part) for any one of the
12 two following periods—

13 (A) the first fiscal year for which the provision
14 is effective; or

15 (B) the period of the 5 fiscal years beginning
16 with the first fiscal year for which the provision is
17 effective; and

18 (4) the terms used in this subsection shall have the
19 same meaning as those terms have generally in the Inter-
20 nal Revenue Code of 1986, unless otherwise expressly pro-
21 vided.

22 (c) For the purpose of this resolution—

23 (1) government-sponsored enterprises, Federal
24 facilities, and Federal lands shall be considered Fed-
25 eral entities;

1 (2) to the extent that the non-Federal entity is
2 a State, unit of local government, territory, an In-
3 dian tribe, a foreign government or an intergovern-
4 mental international organization, the provision or
5 language shall not be considered an earmark unless
6 the provision or language also specifies the specific
7 purpose for which the designated budget authority is
8 to be expended;

9 (3) the term “budget authority” shall have the
10 same meaning as such term is defined in section 3
11 of the Congressional Budget Act of 1974 (2 U.S.C.
12 622); and,

13 (4) an obligation limitation shall be treated as
14 budget authority.

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