

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.RES. 1000
OFFERED BY MR. DREIER OF CALIFORNIA

Strike all after the resolved clause and insert the following:

1 **SECTION 1. EARMARKING REFORM IN THE HOUSE OF REPRESENTATIVES.**
2

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

1 paragraph (1), and not in a report of a committee
2 of the Senate on a companion measure.

3 (3) In order to be cognizable by the Chair, a
4 point of order raised under paragraph (1) may be
5 based only on the failure of a report of a committee
6 to include a list required by paragraph (1).

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

9 (1) a bill carrying a tax measure reported by
10 the Committee on Ways and Means as to which the
11 Joint Committee on Taxation has—

12 (A) identified a tax earmark pursuant to
13 subsection (e), unless the report on the bill in-
14 cludes a list of tax earmarks in the bill or re-
15 port (and the names of Members who submitted
16 requests to the committee for tax earmarks in-
17 cluded in such list); or

18 (B) failed to provide an analysis under
19 subsection (e); or

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

23 (A) identified a tax earmark pursuant to
24 subsection (e), unless the joint explanatory
25 statement prepared by the managers on the

1 part of the House and the managers on the
2 part of the Senate includes a list of tax ear-
3 marks in the conference report or joint state-
4 ment (and the names of Members who sub-
5 mitted requests to the committee for tax ear-
6 marks included in such list) that were not com-
7 mitted to the conference committee by either
8 House, not in a report specified in paragraph
9 (1), and not in a report of a committee of the
10 Senate on a companion measure; or

11 (B) failed to provide an analysis under
12 subsection (e).

13 (3) A point of order under paragraph (1) or (2)
14 may not be cognizable by the Chair if the Joint
15 Committee on Taxation has provided an analysis
16 under subsection (e) and has not identified a tax
17 earmark.

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

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

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

7 (d)(1) As disposition of a point of order under sub-
8 section (a) or (b), the Chair shall put the question of con-
9 sideration with respect to the proposition that is the sub-
10 ject of the point of order.

11 (2) As disposition of a point of order under sub-
12 section (c) with respect to a rule or order relating to a
13 conference report, the Chair shall put the question of con-
14 sideration as follows: "Shall the House now consider the
15 resolution notwithstanding the assertion of [the maker of
16 the point of order] that the object of the resolution intro-
17 duces a new earmark or new earmarks?"

18 (3) The question of consideration under this sub-
19 section (other than one disposing of a point of order under
20 subsection (b)) shall be debatable for 15 minutes by the
21 Member initiating the point of order and for 15 minutes
22 by an opponent, but shall otherwise be decided without
23 intervening motion except one that the House adjourn.

24 (e) The Joint Committee on Taxation shall review
25 any bill containing a tax measure that is being reported

1 by the Committee on Ways and Means or prepared for
2 filing by a committee of conference of the two Houses,
3 and shall identify whether such bill contains any tax ear-
4 marks. The Joint Committee on Taxation shall provide to
5 the Committee on Ways and Means or the committee of
6 conference a statement identifying any such tax earmarks
7 or declaring that the bill or joint resolution does not con-
8 tain any tax earmarks, and such statement shall be in-
9 cluded in the report on the bill or joint statement of man-
10 agers, as applicable. Any such statement shall also be
11 made available to any Member of Congress by the Joint
12 Committee on Taxation immediately upon request.

13 **SEC. 2. DEFINITIONS.**

14 (a) For the purpose of this resolution, the term “ear-
15 mark” means a provision in a bill or conference report,
16 or language in an accompanying committee report or joint
17 statement of managers—

18 (1) with respect to a general appropriation bill, or
19 conference report thereon, providing or recommending an
20 amount of budget authority for a contract, loan, loan
21 guarantee, grant, or other expenditure with or to a non-
22 Federal entity, if—

23 (A) such entity is specifically identified in the
24 report or bill; or

1 (B) if the discretionary budget authority is allo-
2 cated outside of the statutory or administrative for-
3 mula-driven or competitive bidding process and is
4 targeted or directed to an identifiable entity, specific
5 State, or Congressional district; or,

6 (2) with respect to a measure other than that speci-
7 fied in paragraph (1), or conference report thereon, pro-
8 viding authority, including budget authority, or recom-
9 mending the exercise of authority, including budget au-
10 thority, for a contract, loan, loan guarantee, grant, loan
11 authority, or other expenditure with or to a non-Federal
12 entity, if—

13 (A) such entity is specifically identified in the
14 report or bill;

15 (B) if the authorization for, or provision of,
16 budget authority, contract authority loan authority
17 or other expenditure is allocated outside of the stat-
18 utory or administrative formula-driven or competi-
19 tive bidding process and is targeted or directed to an
20 identifiable entity, specific State, or Congressional
21 district; or

22 (C) if such authorization for, or provision of,
23 budget authority, contract authority, loan authority
24 or other expenditure preempts statutory or adminis-
25 trative State allocation authority.

1 (b)(1) For the purpose of this resolution, the term
2 “tax earmark” means any revenue-losing provision that
3 provides a Federal tax deduction, credit, exclusion, or
4 preference to only one beneficiary (determined with re-
5 spect to either present law or any provision of which the
6 provision is a part) under the Internal Revenue Code of
7 1986 in any year for which the provision is in effect;

8 (2) for purposes of paragraph (1)—

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

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

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

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

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

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

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

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

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

15 (A) the first fiscal year for which the provision
16 is effective; or

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

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

24 (c) For the purpose of this resolution—

1 (1) government-sponsored enterprises, Federal facili-
2 ties, and Federal lands shall be considered Federal enti-
3 ties;

4 (2) to the extent that the non-Federal entity is a
5 State, unit of local government, territory, an Indian tribe,
6 a foreign government or an intergovernmental inter-
7 national organization, the provision or language shall not
8 be considered an earmark unless the provision or language
9 also specifies the specific purpose for which the designated
10 budget authority is to be expended;

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

14 (4) an obligation limitation shall be treated as though
15 it is budget authority.