

House Calendar No. 229

109TH CONGRESS
2^D SESSION

H. RES. 1000

[Report No. 109-655]

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

SEPTEMBER 13, 2006

Reported with an amendment, referred to the House Calendar, and ordered to be printed

[Strike out all after the resolved clause and insert the part printed in italic]

[For text of introduced resolution, see copy of resolution as introduced on September 13, 2006]

RESOLUTION

Providing for earmarking reform in the House of
Representatives.

1 *Resolved,*

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

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

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

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

1 *and not in a report of a committee of the Senate on*
2 *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 in*
8 *order to consider—*

9 *(1) a bill carrying a tax measure reported by the*
10 *Committee on Ways and Means as to which the Joint*
11 *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 report*
15 *(and the names of Members who submitted re-*
16 *quests to the committee for tax earmarks in-*
17 *cluded in such list); or*

18 *(B) failed to provide an analysis under sub-*
19 *section (e); or*

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

23 *(A) identified a tax earmark pursuant to*
24 *subsection (e), unless the joint explanatory state-*
25 *ment prepared by the managers on the part of*

1 *the House and the managers on the part of the*
2 *Senate includes a list of tax earmarks in the*
3 *conference report or joint statement (and the*
4 *names of Members who submitted requests to the*
5 *committee for tax earmarks included in such*
6 *list) that were not committed to the conference*
7 *committee by either House, not in a report speci-*
8 *fied in paragraph (1), and not in a report of a*
9 *committee of the Senate on a companion meas-*
10 *ure; or*

11 *(B) failed to provide an analysis under sub-*
12 *section (e).*

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

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

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

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

11 (2) *As disposition of a point of order under subsection*
12 *(c) with respect to a rule or order relating to a conference*
13 *report, the Chair shall put the question of consideration as*
14 *follows: "Shall the House now consider the resolution not-*
15 *withstanding the assertion of [the maker of the point of*
16 *order] that the object of the resolution introduces a new ear-*
17 *mark or new earmarks?"*.

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

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

1 *Committee on Ways and Means or prepared for filing by*
2 *a committee of conference of the two Houses, and shall iden-*
3 *tify whether such bill contains any tax earmarks. The Joint*
4 *Committee on Taxation shall provide to the Committee on*
5 *Ways and Means or the committee of conference a statement*
6 *identifying any such tax earmarks or declaring that the bill*
7 *or joint resolution does not contain any tax earmarks, and*
8 *such statement shall be included in the report on the bill*
9 *or joint statement of managers, as applicable. Any such*
10 *statement shall also be made available to any Member of*
11 *Congress by the Joint Committee on Taxation immediately*
12 *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, or*
16 *language in an accompanying committee report or joint*
17 *statement of managers—*

18 (1) *with respect to a general appropriation bill,*
19 *or conference report thereon, providing or recom-*
20 *mending an amount of budget authority for a con-*
21 *tract, loan, loan guarantee, grant, or other expendi-*
22 *ture with or to a non-Federal entity, if—*

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

1 (B) if the discretionary budget authority is
2 allocated outside of the statutory or administra-
3 tive formula-driven or competitive bidding proc-
4 ess and is targeted or directed to an identifiable
5 entity, specific State, or Congressional district;
6 or

7 (2) with respect to a measure other than that
8 specified in paragraph (1), or conference report there-
9 on, providing authority, including budget authority,
10 or recommending the exercise of authority, including
11 budget authority, for a contract, loan, loan guarantee,
12 grant, loan authority, or other expenditure with or to
13 a non-Federal entity, if—

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

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

23 (C) if such authorization for, or provision
24 of, budget authority, contract authority, loan au-

1 *thority or other expenditure preempts statutory*
2 *or administrative State allocation authority.*

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

10 *(2) for purposes of paragraph (1)—*

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

15 *(B) all shareholders, partners, members, or bene-*
16 *ficiaries of a corporation, partnership, association, or*
17 *trust or estate, respectively, shall be treated as a sin-*
18 *gle beneficiary;*

19 *(C) all employees of an employer shall be treated*
20 *as a single beneficiary;*

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

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

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

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

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

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

17 (A) the first fiscal year for which the provision
18 is effective; or

19 (B) the period of the 5 fiscal years beginning
20 with the first fiscal year for which the provision is ef-
21 fective; and

22 (4) the terms used in this subsection shall have the
23 same meaning as those terms have generally in the Internal
24 Revenue Code of 1986, unless otherwise expressly provided.

25 (c) For the purpose of this resolution—

1 (1) *government-sponsored enterprises, Federal fa-*
2 *cilities, and Federal lands shall be considered Federal*
3 *entities;*

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

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

16 (4) *an obligation limitation shall be treated as*
17 *though it is budget authority.*

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