

[UNOFFICIAL COPY]109TH CONGRESS
2^D SESSION**H. RES. 1000**

Providing for earmarking reform in the House of Representatives.

IN THE HOUSE OF REPRESENTATIVES

Mr. DREIER (for himself and [see LIST of cosponsors]) submitted the following resolution; which was referred to the Committee on

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
5 in 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

1 requests to the committee for earmarks included in
2 such list); or

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

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

16 (1) a bill carrying a tax measure reported by
17 the Committee on Ways and Means as to which the
18 Joint Committee on Taxation has—

19 (A) identified a tax earmark pursuant to
20 subsection (e), unless the report on the bill in-
21 cludes a list of tax earmarks in the bill or re-
22 port (and the names of Members who submitted
23 requests to the committee for tax earmarks in-
24 cluded in such list); or

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

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

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

19 (B) failed to provide an analysis under
20 subsection (e).

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

24 (2) A point of order that a rule or order waives the
25 application of subsection (b)(2)(A) may not be cognizable

1 by the Chair if the Joint Committee on Taxation has pro-
2 vided an analysis under subsection (e) and has not identi-
3 fied a tax earmark.

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

10 (d)(1) In order to be cognizable by the Chair, a point
11 of order raised under subsection (a)(1) may be based only
12 on the failure of a report of a committee to include the
13 list required by subsection (a)(1).

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

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

22 (4) As disposition of a point of order under sub-
23 section (c) with respect to a rule or order relating to a
24 conference report, the Chair shall put the question of con-
25 sideration as follows: "Shall the House now consider the

1 resolution notwithstanding the assertion of [the maker of
2 the point of order] that the object of the resolution intro-
3 duces a new earmark or new earmarks?”.

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

10 (e) The Joint Committee on Taxation shall review
11 any bill containing a tax measure that is being reported
12 by the Committee on Ways and Means or prepared for
13 filing by a committee of conference of the two Houses,
14 and shall identify whether such bill contains any tax ear-
15 marks. The Joint Committee on Taxation shall provide to
16 the Committee on Ways and Means or the committee of
17 conference a statement identifying any such tax earmarks
18 or declaring that the bill or joint resolution does not con-
19 tain any tax earmarks, and such statement shall be in-
20 cluded in the report on the bill or joint statement of man-
21 agers, as applicable. Any such statement shall also be
22 made available to any Member of Congress by the Joint
23 Committee on Taxation immediately upon request.

1 **SEC. 2. DEFINITIONS.**

2 (a) For the purpose of this resolution, the term “ear-
3 mark” means a provision in a bill or conference report,
4 or language in an accompanying committee report or joint
5 statement of managers—

6 (1) with respect to a general appropriation bill, or
7 conference report thereon, providing or recommending a
8 specific amount of discretionary budget authority for a
9 contract, loan, loan guarantee, grant, or other expenditure
10 with or to a non-Federal entity, if—

11 (A) such entity is specifically identified in the
12 report or bill; or

13 (B) if the discretionary budget authority is allo-
14 cated outside of the statutory or administrative for-
15 mula-driven or competitive bidding process and is
16 targeted or directed to an identifiable entity, specific
17 State, or Congressional district; or,

18 (2) with respect to a measure other than that speci-
19 fied in paragraph (1), or conference report thereon, pro-
20 viding authority, including budget authority, or recom-
21 mending the exercise of authority, including budget au-
22 thority, for a contract, loan, loan guarantee, grant, obliga-
23 tion limitation on the use of contract authority, loan au-
24 thority, or other expenditure with or to a non-Federal enti-
25 ty, if—

1 (A) such entity is specifically identified in the
2 report or bill;

3 (B) if the authorization for, or provision of,
4 budget authority, contract authority loan authority
5 or other expenditure is allocated outside of the stat-
6 utory or administrative formula-driven or competi-
7 tive bidding process and is targeted or directed to an
8 identifiable entity, specific State, or Congressional
9 district; or

10 (C) if such authorization for, or provision of,
11 budget authority, contract authority, loan authority
12 or other expenditure preempts statutory or adminis-
13 trative State allocation authority.

14 (b)(1) the term “tax earmark” means any revenue-
15 losing provision that provides a Federal tax deduction,
16 credit, exclusion, or preference to only one beneficiary (de-
17 termined with respect to either present law or any provi-
18 sion of which the provision is a part) under the Internal
19 Revenue Code of 1986 in any year for which the provision
20 is in effect;

21 (2) for purposes of paragraph (1)—

22 (A) all businesses and associations that are
23 members of the same controlled group of corpora-
24 tions (as defined in section 1563(a) of the Internal

1 Revenue Code of 1986) shall be treated as a single
2 beneficiary;

3 (B) all shareholders, partners, members, or
4 beneficiaries of a corporation, partnership, associa-
5 tion, or trust or estate, respectively, shall be treated
6 as a single beneficiary;

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

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

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

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

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

17 (H) if a corporation, partnership, association,
18 trust or estate is the beneficiary of a provision, the
19 shareholders of the corporation, the partners of the
20 partnership, the members of the association, or the
21 beneficiaries of the trust or estate shall not also be
22 treated as beneficiaries of such provision;

23 (3) for the purpose of this subsection, the term “rev-
24 enue-losing provision” means any provision that is esti-
25 mated to result in a reduction in Federal tax revenues (de-

1 terminated with respect to either present law or any provi-
2 sion of which the provision is a part) for any one of the
3 two following periods—

4 (A) the first fiscal year for which the provision
5 is effective; or

6 (B) the period of the 5 fiscal years beginning
7 with the first fiscal year for which the provision is
8 effective; and

9 (4) the terms used in this subsection shall have the
10 same meaning as those terms have generally in the Inter-
11 nal Revenue Code of 1986, unless otherwise expressly pro-
12 vided.

13 (c) For the purpose of this resolution—

14 (1) government-sponsored enterprises, Federal facili-
15 ties, and Federal lands shall be considered Federal enti-
16 ties;

17 (2) to the extent that the non-Federal entity is a
18 State, unit of local government, territory, an Indian tribe,
19 a foreign government or an intergovernmental inter-
20 national organization, the provision or language shall not
21 be considered an earmark unless the provision or language
22 also specifies the specific purpose for which the designated
23 budget authority is to be expended;

1 (3) the term “budget authority” shall have the same
2 meaning as such term is defined in section 3 of the Con-
3 gressional Budget Act of 1974 (2 U.S.C. 622); and,
4 (4) an obligation limitation shall be treated as budget
5 authority.