

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. RES. 365

To provide a 60 vote point of order against out-of-scope material in conference reports and open the process of earmarks in the Senate.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2006

Mr. LOTT (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Rules and Administration

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## RESOLUTION

To provide a 60 vote point of order against out-of-scope material in conference reports and open the process of earmarks in the Senate.

1       *Resolved,*

2       **SECTION 1. OUT OF SCOPE MATTERS IN CONFERENCE RE-**  
3                               **PORTS.**

4           (a) IN GENERAL.—It shall not be in order in the Sen-  
5       ate to consider a conference report that includes any mat-  
6       ter not committed to the conferees by either House. A  
7       point of order shall be made and voted on separately for  
8       each item in violation of this section.

1 (b) DISPOSITION.—If the point of order against a  
2 conference report under subsection (a) is sustained,  
3 then—

4 (1) the matter in such conference report shall  
5 be deemed to have been struck;

6 (2) when all other points of order under this  
7 section have been disposed of—

8 (A) the Senate shall proceed to consider  
9 the question of whether the Senate should re-  
10 cede from its amendment to the House bill, or  
11 its disagreement to the amendment of the  
12 House, and concur with a further amendment,  
13 which further amendment shall consist of only  
14 that portion of the conference report not  
15 deemed to have been struck;

16 (B) the question shall be debatable; and

17 (C) no further amendment shall be in  
18 order; and

19 (3) if the Senate agrees to the amendment,  
20 then the bill and the Senate amendment thereto  
21 shall be returned to the House for its concurrence  
22 in the amendment of the Senate.

23 (c) SUPERMAJORITY WAIVER AND APPEAL.—This  
24 section may be waived or suspended in the Senate only  
25 by an affirmative vote of  $\frac{3}{5}$  of the Members, duly chosen

1 and sworn. An affirmative vote of  $\frac{3}{5}$  of the Members of  
2 the Senate, duly chosen and sworn, shall be required in  
3 the Senate to sustain an appeal of the ruling of the Chair  
4 on a point of order raised under this section.

5 **SEC. 2. EARMARKS.**

6 (a) HONESTY IN EARMARKS.—Rule XVI of the  
7 Standing Rules of the Senate is amended by adding at  
8 the end the following:

9 “10.(a) In this paragraph, the term ‘earmark’ means  
10 a provision that specifies the identity of an entity to re-  
11 ceive assistance and the amount of the assistance.

12 “(b) It shall not be in order to consider any bill or  
13 amendment between the Houses or conference report on  
14 such a bill unless a list of—

15 “(1) all earmarks in such measure;

16 “(2) an identification of the member who pro-  
17 posed the earmark; and

18 “(3) an explanation of the essential govern-  
19 mental purpose for the earmark;

20 are available to all Members and made available to the  
21 general public by means of the Internet for at least 24  
22 hours before its consideration.”.

23 (b) MEMBER REQUESTS.—Prior to the consideration  
24 of a bill in the Senate, any Member who requests an ear-  
25 mark in the bill shall file a copy of the request with the

1 Secretary of the Senate and the request shall be printed  
2 in the Congressional Record.

3 **SEC. 3. AVAILABILITY OF CONFERENCE REPORTS ON THE**  
4 **INTERNET.**

5 Rule XXVIII of all the Standing Rules of the Senate  
6 is amended by adding at the end the following:

7 “9. It shall not be in order to consider a conference  
8 report unless such report is available to all Members and  
9 made available to the general public by means of the Inter-  
10 net for at least 24 hours before its consideration.”.

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