

112TH CONGRESS
1ST SESSION

H. R. 3707

To prohibit the consideration in the House of Representatives of any legislation containing an earmark.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2011

Mr. FLAKE (for himself and Mr. COOPER) introduced the following bill; which was referred to the Committee on Rules

A BILL

To prohibit the consideration in the House of Representatives of any legislation containing an earmark.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Earmark Elimination
5 Act of 2011”.

6 **SEC. 2. PROHIBITING CONSIDERATION OF LEGISLATION**

7 **CONTAINING EARMARKS.**

8 (a) PROHIBITION.—

9 (1) IN GENERAL.—It shall not be in order in
10 the House of Representatives to consider any bill,

1 joint resolution, amendment, or conference report if
2 the bill, joint resolution, amendment, or conference
3 report, or any accompanying report or joint explanatory
4 statement of managers, includes a congressional
5 earmark, limited tax benefit, or limited tariff benefit.

6 (2) PROCEDURE.—If a point of order is raised
7 under paragraph (1) with respect to a congressional
8 earmark, limited tax benefit, or limited tariff benefit
9 and the point of order is sustained, the congressional
10 earmark, limited tax benefit, or limited tariff benefit
11 shall be deemed to be stricken from the measure involved.

13 (3) SPECIAL PROCEDURE FOR CONFERENCE
14 REPORT AND AMENDMENTS BETWEEN THE
15 HOUSES.—

16 (A) IN GENERAL.—If a point of order is
17 raised and sustained under paragraph (1) with
18 respect to a conference report or a motion that
19 the House recede from its disagreement to a
20 Senate amendment and concur therein, with or
21 without amendment, then after disposition of all
22 such points of order the conference report or
23 motion, as the case may be, shall be considered
24 as rejected and the matter remaining in dis-

1 agreement shall be disposed of under subparagraph (B) or (C), as the case may be.

3 (B) CONFERENCE REPORTS.—After the
4 House has sustained one or more points of
5 order under paragraph (1) with respect to a
6 conference report—

7 (i) if the conference report accom-
8 panied a House measure amended by the
9 Senate, the pending question shall be
10 whether the House shall recede and concur
11 in the Senate amendment with an amend-
12 ment consisting of so much of the con-
13 ference report as was not rejected; and

14 (ii) if the conference report accom-
15 panied a Senate measure amended by the
16 House, the pending question shall be
17 whether the House shall insist further on
18 the House amendment.

19 (C) MOTIONS.—After the House has sus-
20 tained one or more points of order under para-
21 graph (1) with respect to a motion that the
22 House recede and concur in a Senate amend-
23 ment, with or without amendment, the following
24 motions shall be privileged and shall have prece-
25 dence in the order stated:

1 (i) A motion that the House recede
2 and concur in the Senate amendment with
3 an amendment in writing then available on
4 the floor.

5 (ii) A motion that the House insist on
6 its disagreement to the Senate amendment
7 and request a further conference with the
8 Senate.

9 (iii) A motion that the House insist
10 on its disagreement to the Senate amend-
11 ment.

(b) DETERMINATION BY HOUSE.—If a point of order is raised under this section and the Chair is unable to ascertain whether a provision constitutes a congressional earmark, limited tax benefit, or limited tariff benefit, the Chair shall put the question to the House and the question shall be decided without debate or intervening motion.

18 (c) CONFORMING AMENDMENT.—Rule XXI of the
19 Rules of the House of Representatives is amended by
20 striking clause 9.

21 SEC. 3. DEFINITIONS.

22 In this Act—

23 (1) the term “congressional earmark” means a
24 provision or report language included primarily at
25 the request of a Member, Delegate, Resident Com-

1 missioner, or Senator providing, authorizing or rec-
2 ommending a specific amount of discretionary budg-
3 et authority, credit authority, or other spending au-
4 thority for a contract, loan, loan guarantee, grant,
5 loan authority, or other expenditure with or to an
6 entity, or targeted to a specific State, locality or
7 Congressional district, other than through a statu-
8 tory or administrative formula-driven or competitive
9 award process;

10 (2) the term “limited tax benefit” means—

11 (A) any revenue-losing provision that—
12 (i) provides a Federal tax deduction,
13 credit, exclusion, or preference to 10 or
14 fewer beneficiaries under the Internal Rev-
15 enue Code of 1986, and

16 (ii) contains eligibility criteria that are
17 not uniform in application with respect to
18 potential beneficiaries of such provision; or

19 (B) any Federal tax provision which pro-
20 vides one beneficiary temporary or permanent
21 transition relief from a change to the Internal
22 Revenue Code of 1986; and

23 (3) the term “limited tariff benefit” means a
24 provision modifying the Harmonized Tariff Schedule

1 of the United States in a manner that benefits 10
2 or fewer entities.

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