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(Original Signature of Member)

112TH CONGRESS
1ST SESSION

H. R.

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

IN THE HOUSE OF REPRESENTATIVES

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

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.—

1 (1) IN GENERAL.—It shall not be in order in
2 the House of Representatives to consider any bill,
3 joint resolution, amendment, or conference report if
4 the bill, joint resolution, amendment, or conference
5 report, or any accompanying report or joint explana-
6 tory statement of managers, includes a congressional
7 earmark, limited tax benefit, or limited tariff benefit.

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

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

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

1 as rejected and the matter remaining in dis-
2 agreement shall be disposed of under subpara-
3 graph (B) or (C), as the case may be.

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

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

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

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

1 motions shall be privileged and shall have prece-
2 dence in the order stated:

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

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

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

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

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

23 **SEC. 3. DEFINITIONS.**

24 In this Act—

1 (1) the term “congressional earmark” means a
2 provision or report language included primarily at
3 the request of a Member, Delegate, Resident Com-
4 missioner, or Senator providing, authorizing or rec-
5 ommending a specific amount of discretionary budg-
6 et authority, credit authority, or other spending au-
7 thority for a contract, loan, loan guarantee, grant,
8 loan authority, or other expenditure with or to an
9 entity, or targeted to a specific State, locality or
10 Congressional district, other than through a statu-
11 tory or administrative formula-driven or competitive
12 award process;

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

14 (A) any revenue-losing provision that—

15 (i) provides a Federal tax deduction,
16 credit, exclusion, or preference to 10 or
17 fewer beneficiaries under the Internal Rev-
18 enue Code of 1986, and

19 (ii) contains eligibility criteria that are
20 not uniform in application with respect to
21 potential beneficiaries of such provision; or

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

1 (3) the term “limited tariff benefit” means a
2 provision modifying the Harmonized Tariff Schedule
3 of the United States in a manner that benefits 10
4 or fewer entities.