

111TH CONGRESS
1ST SESSION

H. R. 3268

To amend the Rules of the House of Representatives and the Congressional Budget and Impoundment Control Act of 1974 to increase earmark transparency and accountability, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2009

Mr. REICHERT (for himself and Mr. SMITH of Washington) introduced the following bill; which was referred to the Committee on Rules, and in addition to the Committees on the Budget, Standards of Official Conduct, the Judiciary, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Rules of the House of Representatives and the Congressional Budget and Impoundment Control Act of 1974 to increase earmark transparency and accountability, and for other purposes.

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 Trans-
5 parency and Accountability Reform Act”.

1 **TITLE I—CHANGES IN THE**
2 **RULES OF THE HOUSE OF**
3 **REPRESENTATIVES TO IN-**
4 **CREASE EARMARK TRANS-**
5 **PARENCY AND ACCOUNT-**
6 **ABILITY**

7 **SEC. 101. 72-HOUR REQUIREMENT.**

8 Rule XXI of the Rules of the House of Representa-
9 tives is amended by adding at the end the following new
10 clause:

11 **“ Special requirement for bills and resolutions con-**
12 **taining earmarks**

13 “11. It shall not be in order to consider any bill or
14 joint resolution reported by any committee, or any amend-
15 ment thereto or conference report thereon, that contains
16 any congressional earmark (as defined in clause 9) that
17 has not been posted on the Website of that committee for
18 at least 72 hours (excluding Saturdays, Sundays and holi-
19 days except when the House is in session on such a day).”.

20 **SEC. 102. SEARCHABLE WEBSITE FOR ALL MEMBER SPEND-**
21 **ING REQUESTS MANAGED BY THE CLERK.**

22 (a) Clause 17 of rule XXIII of the Rules of the House
23 of Representatives is amended by redesignating paragraph
24 (b) as paragraph (c) and by inserting after paragraph (a)
25 the following:

1 “(b) Whenever any Member, Delegate, or Resident
2 Commissioner requests a congressional earmark in any bill
3 or joint resolution (or accompanying report)—

4 “(1) that Member, Delegate, or Resident Commis-
5 sioner shall include the amount requested, the project
6 name, a project description of the matter that is the sub-
7 ject of that congressional earmark, and the name of the
8 entity that the earmark is for, and submit such informa-
9 tion to the Clerk for posting on the Website of the Clerk
10 within 24 hours of making such request;

11 “(2) that Member, Delegate, or Resident Commis-
12 sioner shall provide a written statement to the chairman
13 and ranking minority member of the committee of jurisdic-
14 tion certifying that the Member, Delegate, or Resident
15 Commissioner, or their spouse, has any financial interest
16 in the earmark; and

17 “(3) in the case of an earmark for a non-public enti-
18 ty, that Member, Delegate, or Resident Commissioner
19 shall provide an accompanying letter of support from a
20 supporting public entity.”

21 (b) Clause 2 of rule II of the Rules of the House
22 of Representatives is amended by adding at the end the
23 following new paragraph:

24 “(1) The Clerk shall post on the Website of the Clerk
25 an up-to-date list of all information submitted to the Clerk

1 pursuant to clause 7(b)(1) of rule XXIII under a heading
2 entitled ‘Member Spending Requests’.’’.

3 **SEC. 103. PROHIBITING EARMARKS NOT INCLUDED IN THE**
4 **TEXT OF A BILL.**

5 Clause 9 of rule XXI of the Rules of the House of
6 Representatives is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(h) It shall not be in order to consider any bill or
9 joint resolution, or any amendment thereto or conference
10 report thereon, if a committee report or the joint explana-
11 tory statement of the managers accompanying that meas-
12 ure contains any congressional earmark.”.

13 **SEC. 104. LIMITATION ON EARMARKS IN CONFERENCES BE-**
14 **TWEEN THE HOUSE AND SENATE.**

15 Clause 9(b) of rule XXI of the Rules of the House
16 of Representatives is amended to read as follows:

17 “(b) A conference report may not include a modifica-
18 tion of any congressional earmark, limited tax benefit, or
19 limited tariff benefit committed to the conference com-
20 mittee by either or both Houses if that modification is be-
21 yond the scope of that specific matter as committed to
22 the conference committee. Whenever a point of order is
23 made that a conference report contains a violation of this
24 paragraph, the Chair may submit the question of whether
25 such violation has occurred to the House and shall be de-

1 batable up to 10 minutes by the Member initiating the
2 point of order and for up to 10 minutes by an opponent
3 and shall be decided with a roll call vote as to whether
4 to strip the congressional earmark without intervening
5 motion except one that the House adjourn.”.

6 **SEC. 105. PROHIBITING CONSIDERATION OF AN EARMARK**
7 **FOR ANY ENTITY NAMED AFTER A SITTING**
8 **MEMBER OR SENATOR.**

9 Clause 9 of rule XXI of the Rules of the House of
10 Representatives (as amended by section 103) is further
11 amended by adding the following new paragraph:

12 “(i) It shall not be in order to consider any bill or
13 joint resolution (or accompanying report), amendment, or
14 conference report that contains a congressional earmark
15 for any entity named after an individual then serving as
16 a Member, Delegate, Resident Commissioner, or Sen-
17 ator.”.

18 **TITLE II—EARMARK RESCISSION**
19 **AUTHORITY**

20 **SEC. 201. EARMARK RESCISSION AUTHORITY.**

21 Title X of the Congressional Budget and Impound-
22 ment Control Act of 1974 (2 U.S.C. 621 et seq.) is amend-
23 ed by striking all of part B (except for sections 1016 and
24 1013, which are redesignated as sections 1019 and 1020,
25 respectively) and part C and inserting the following:

1 “PART B—EARMARK RESCISSION AUTHORITY

2 “EARMARK RESCISSION AUTHORITY

3 “SEC. 1011. (a) PROPOSED CANCELLATIONS.—With-
4 in 30 calendar days after the enactment of any bill or joint
5 resolution containing any congressional earmark or pro-
6 viding any limited tariff benefit or targeted tax benefit,
7 the President may propose, in the manner provided in sub-
8 section (b), the repeal of the congressional earmark or the
9 cancellation of any limited tariff benefit or targeted tax
10 benefit. If the 30 calendar-day period expires during a pe-
11 riod where either House of Congress stands adjourned sine
12 die at the end of Congress or for a period greater than
13 30 calendar days, the President may propose a cancella-
14 tion under this section and transmit a special message
15 under subsection (b) on the first calendar day of session
16 following such a period of adjournment.

17 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

18 “(1) SPECIAL MESSAGE.—

19 “(A) IN GENERAL.—The President may
20 transmit to the Congress a special message pro-
21 posing to repeal any congressional earmarks or
22 to cancel any limited tariff benefits or targeted
23 tax benefits.

24 “(B) CONTENTS OF SPECIAL MESSAGE.—

25 Each special message shall specify, with respect

1 to the congressional earmarks, limited tariff
2 benefits, or targeted tax benefits to be repealed
3 or canceled—

4 “(i) the congressional earmark that
5 the President proposes to repeal or the
6 limited tariff benefit or the targeted tax
7 benefit that the President proposes be can-
8 celed;

9 “(ii) the specific project or govern-
10 mental functions involved;

11 “(iii) the reasons why such congres-
12 sional earmark should be repealed or such
13 limited tariff benefit or targeted tax ben-
14 efit should be canceled;

15 “(iv) to the maximum extent prac-
16 ticable, the estimated fiscal, economic, and
17 budgetary effect (including the effect on
18 outlays and receipts in each fiscal year) of
19 the proposed repeal or cancellation;

20 “(v) to the maximum extent prac-
21 ticable, all facts, circumstances, and con-
22 siderations relating to or bearing upon the
23 proposed repeal or cancellation and the de-
24 cision to propose the repeal or cancellation,
25 and the estimated effect of the proposed

1 repeal or cancellation upon the objects,
2 purposes, or programs for which the con-
3 gressional earmark, limited tariff benefit,
4 or the targeted tax benefit is provided;

5 “(vi) a numbered list of repeals and
6 cancellations to be included in an approval
7 bill that, if enacted, would repeal congres-
8 sional earmarks and cancel limited tariff
9 benefits or targeted tax benefits proposed
10 in that special message; and

11 “(vii) if the special message is trans-
12 mitted subsequent to or at the same time
13 as another special message, a detailed ex-
14 planation why the proposed repeals or can-
15 cellations are not substantially similar to
16 any other proposed repeal or cancellation
17 in such other message.

18 “(C) DUPLICATIVE PROPOSALS PROHIB-
19 ITED.—The President may not propose to re-
20 peal or cancel the same or substantially similar
21 congressional earmark, limited tariff benefit, or
22 targeted tax benefit more than one time under
23 this Act.

24 “(D) MAXIMUM NUMBER OF SPECIAL MES-
25 SAGES.—The President may not transmit to the

1 Congress more than one special message under
2 this subsection related to any bill or joint reso-
3 lution described in subsection (a), but may
4 transmit not more than 2 special messages for
5 any omnibus budget reconciliation or appropria-
6 tion measure.

7 “(2) ENACTMENT OF APPROVAL BILL.—

8 “(A) DEFICIT REDUCTION.—Congressional
9 earmarks, limited tariff benefits, or targeted tax
10 benefits which are repealed or canceled pursu-
11 ant to enactment of a bill as provided under
12 this section shall be dedicated only to reducing
13 the deficit or increasing the surplus.

14 “(B) ADJUSTMENT OF LEVELS IN THE
15 CONCURRENT RESOLUTION ON THE BUDGET.—
16 Not later than 5 days after the date of enact-
17 ment of an approval bill as provided under this
18 section, the chairs of the Committees on the
19 Budget of the Senate and the House of Rep-
20 resentatives shall revise allocations and aggre-
21 gates and other appropriate levels under the ap-
22 propriate concurrent resolution on the budget to
23 reflect the repeal or cancellation, and the appli-
24 cable committees shall report revised suballoca-

1 tions pursuant to section 302(b), as appro-
2 priate.

3 “(C) ADJUSTMENTS TO STATUTORY LIM-
4 ITS.—After enactment of an approval bill as
5 provided under this section, the Office of Man-
6 agement and Budget shall revise applicable lim-
7 its under the Balanced Budget and Emergency
8 Deficit Control Act of 1985, as appropriate.

9 “(D) TRUST FUNDS AND SPECIAL
10 FUNDS.—Notwithstanding subparagraph (A),
11 nothing in this part shall be construed to re-
12 quire or allow the deposit of amounts derived
13 from a trust fund or special fund which are
14 canceled pursuant to enactment of a bill as pro-
15 vided under this section to any other fund.

16 “PROCEDURES FOR EXPEDITED CONSIDERATION

17 “SEC. 1012. (a) EXPEDITED CONSIDERATION.—

18 “(1) IN GENERAL.—The majority leader or mi-
19 nority leader of each House or his designee shall (by
20 request) introduce an approval bill as defined in sec-
21 tion 1017 not later than the third day of session of
22 that House after the date of receipt of a special mes-
23 sage transmitted to the Congress under section
24 1011(b). If the bill is not introduced as provided in
25 the preceding sentence in either House, then, on the
26 fourth day of session of that House after the date

1 of receipt of the special message, any Member of
2 that House may introduce the bill.

3 “(2) CONSIDERATION IN THE HOUSE OF REP-
4 RESENTATIVES.—

5 “(A) REFERRAL AND REPORTING.—Any
6 committee of the House of Representatives to
7 which an approval bill is referred shall report it
8 to the House without amendment not later than
9 the seventh legislative day after the date of its
10 introduction. If a committee fails to report the
11 bill within that period or the House has adopt-
12 ed a concurrent resolution providing for ad-
13 journment sine die at the end of a Congress,
14 such committee shall be automatically dis-
15 charged from further consideration of the bill
16 and it shall be placed on the appropriate cal-
17 endar.

18 “(B) PROCEEDING TO CONSIDERATION.—
19 After an approval bill is reported by or dis-
20 charged from committee or the House has
21 adopted a concurrent resolution providing for
22 adjournment sine die at the end of a Congress,
23 it shall be in order to move to proceed to con-
24 sider the approval bill in the House. Such a mo-
25 tion shall be in order only at a time designated

1 by the Speaker in the legislative schedule within
2 two legislative days after the day on which the
3 proponent announces his intention to offer the
4 motion. Such a motion shall not be in order
5 after the House has disposed of a motion to
6 proceed with respect to that special message.
7 The previous question shall be considered as or-
8 dered on the motion to its adoption without in-
9 tervening motion. A motion to reconsider the
10 vote by which the motion is disposed of shall
11 not be in order.

12 “(C) CONSIDERATION.—The approval bill
13 shall be considered as read. All points of order
14 against an approval bill and against its consid-
15 eration are waived. The previous question shall
16 be considered as ordered on an approval bill to
17 its passage without intervening motion except
18 five hours of debate equally divided and con-
19 trolled by the proponent and an opponent and
20 one motion to limit debate on the bill. A motion
21 to reconsider the vote on passage of the bill
22 shall not be in order.

23 “(D) SENATE BILL.—An approval bill re-
24 ceived from the Senate shall not be referred to
25 committee.

1 “(3) CONSIDERATION IN THE SENATE.—

2 “(A) REFERRAL AND REPORTING.—Any
3 committee of the Senate to which an approval
4 bill is referred shall report it to the Senate
5 without amendment not later than the seventh
6 legislative day after the date of its introduction.
7 If a committee fails to report the bill within
8 that period or the Senate has adopted a concur-
9 rent resolution providing for adjournment sine
10 die at the end of a Congress, such committee
11 shall be automatically discharged from further
12 consideration of the bill and it shall be placed
13 on the appropriate calendar.

14 “(B) MOTION TO PROCEED TO CONSIDER-
15 ATION.—After an approval bill is reported by or
16 discharged from committee or the Senate has
17 adopted a concurrent resolution providing for
18 adjournment sine die at the end of a Congress,
19 it shall be in order to move to proceed to con-
20 sider the approval bill in the Senate. A motion
21 to proceed to the consideration of a bill under
22 this subsection in the Senate shall not be debat-
23 able. It shall not be in order to move to recon-
24 sider the vote by which the motion to proceed
25 is agreed to or disagreed to.

1 “(C) LIMITS ON DEBATE.—Debate in the
2 Senate on a bill under this subsection, and all
3 debatable motions and appeals in connection
4 therewith (including debate pursuant to sub-
5 paragraph (D)), shall not exceed 10 hours,
6 equally divided and controlled in the usual
7 form.

8 “(D) APPEALS.—Debate in the Senate on
9 any debatable motion or appeal in connection
10 with a bill under this subsection shall be limited
11 to not more than 1 hour, to be equally divided
12 and controlled in the usual form.

13 “(E) MOTION TO LIMIT DEBATE.—A mo-
14 tion in the Senate to further limit debate on a
15 bill under this subsection is not debatable.

16 “(F) MOTION TO RECOMMIT.—A motion to
17 recommit a bill under this subsection is not in
18 order.

19 “(G) CONSIDERATION OF THE HOUSE
20 BILL.—

21 “(i) IN GENERAL.—If the Senate has
22 received the House companion bill to the
23 bill introduced in the Senate prior to a
24 vote under subparagraph (C), then the
25 Senate may consider, and the vote under

1 subparagraph (C) may occur on, the House
2 companion bill.

3 “(ii) PROCEDURE AFTER VOTE ON
4 SENATE BILL.—If the Senate votes, pursu-
5 ant to subparagraph (C), on the bill intro-
6 duced in the Senate, then immediately fol-
7 lowing that vote, or upon receipt of the
8 House companion bill, the House bill shall
9 be deemed to be considered, read the third
10 time, and the vote on passage of the Sen-
11 ate bill shall be considered to be the vote
12 on the bill received from the House.

13 “(b) AMENDMENTS PROHIBITED.—No amendment
14 to, or motion to strike a provision from, a bill considered
15 under this section shall be in order in either the Senate
16 or the House of Representatives.

17 “PRESIDENTIAL DEFERRAL AUTHORITY

18 “SEC. 1013. (a) TEMPORARY PRESIDENTIAL AU-
19 THORITY TO WITHHOLD CONGRESSIONAL EARMARKS.—

20 “(1) IN GENERAL.—At the same time as the
21 President transmits to the Congress a special mes-
22 sage pursuant to section 1011(b), the President may
23 direct that any congressional earmark to be repealed
24 in that special message shall not be made available
25 for obligation for a period of 45 calendar days of
26 continuous session of the Congress after the date on

1 which the President transmits the special message to
2 the Congress.

3 “(2) EARLY AVAILABILITY.—The President
4 shall make any congressional earmark deferred pur-
5 suant to paragraph (1) available at a time earlier
6 than the time specified by the President if the Presi-
7 dent determines that continuation of the deferral
8 would not further the purposes of this Act.

9 “(b) TEMPORARY PRESIDENTIAL AUTHORITY TO
10 SUSPEND A LIMITED TARIFF BENEFIT.—

11 “(1) IN GENERAL.—At the same time as the
12 President transmits to the Congress a special mes-
13 sage pursuant to section 1011(b), the President may
14 suspend the implementation of any limited tariff
15 benefit proposed to be canceled in that special mes-
16 sage for a period of 45 calendar days of continuous
17 session of the Congress after the date on which the
18 President transmits the special message to the Con-
19 gress.

20 “(2) EARLY AVAILABILITY.—The President
21 shall terminate the suspension of any limited tariff
22 benefit at a time earlier than the time specified by
23 the President if the President determines that con-
24 tinuation of the suspension would not further the
25 purposes of this Act.

1 “(c) TEMPORARY PRESIDENTIAL AUTHORITY TO
2 SUSPEND A TARGETED TAX BENEFIT.—

3 “(1) IN GENERAL.—At the same time as the
4 President transmits to the Congress a special mes-
5 sage pursuant to section 1011(b), the President may
6 suspend the implementation of any targeted tax ben-
7 efit proposed to be repealed in that special message
8 for a period of 45 calendar days of continuous ses-
9 sion of the Congress after the date on which the
10 President transmits the special message to the Con-
11 gress.

12 “(2) EARLY AVAILABILITY.—The President
13 shall terminate the suspension of any targeted tax
14 benefit at a time earlier than the time specified by
15 the President if the President determines that con-
16 tinuation of the suspension would not further the
17 purposes of this Act.

18 “IDENTIFICATION OF TARGETED TAX BENEFITS

19 “SEC. 1014. (a) STATEMENT.—The chairman of the
20 Committee on Ways and Means of the House of Rep-
21 resentatives and the chairman of the Committee on Fi-
22 nance of the Senate acting jointly (hereafter in this sub-
23 section referred to as the ‘chairmen’) shall review any rev-
24 enue or reconciliation bill or joint resolution which in-
25 cludes any amendment to the Internal Revenue Code of
26 1986 that is being prepared for filing by a committee of

1 conference of the two Houses, and shall identify whether
 2 such bill or joint resolution contains any targeted tax ben-
 3 efits. The chairmen shall provide to the committee of con-
 4 ference a statement identifying any such targeted tax ben-
 5 efits or declaring that the bill or joint resolution does not
 6 contain any targeted tax benefits. Any such statement
 7 shall be made available to any Member of Congress by
 8 the chairmen immediately upon request.

9 “(b) STATEMENT INCLUDED IN LEGISLATION.—

10 “(1) IN GENERAL.—Notwithstanding any other
 11 rule of the House of Representatives or any rule or
 12 precedent of the Senate, any revenue or reconcili-
 13 ation bill or joint resolution which includes any
 14 amendment to the Internal Revenue Code of 1986
 15 reported by a committee of conference of the two
 16 Houses may include, as a separate section of such
 17 bill or joint resolution, the information contained in
 18 the statement of the chairmen, but only in the man-
 19 ner set forth in paragraph (2).

20 “(2) APPLICABILITY.—The separate section
 21 permitted under subparagraph (A) shall read as fol-
 22 lows: ‘Section 1021 of the Congressional Budget and
 23 Impoundment Control Act of 1974 shall
 24 _____ apply to _____.’, with
 25 the blank spaces being filled in with—

1 “(A) in any case in which the chairmen
2 identify targeted tax benefits in the statement
3 required under subsection (a), the word ‘only’
4 in the first blank space and a list of all of the
5 specific provisions of the bill or joint resolution
6 in the second blank space; or

7 “(B) in any case in which the chairmen de-
8clare that there are no targeted tax benefits in
9 the statement required under subsection (a),
10 the word ‘not’ in the first blank space and the
11 phrase ‘any provision of this Act’ in the second
12 blank space.

13 “(c) IDENTIFICATION IN REVENUE ESTIMATE.—
14 With respect to any revenue or reconciliation bill or joint
15 resolution with respect to which the chairmen provide a
16 statement under subsection (a), the Joint Committee on
17 Taxation shall—

18 “(1) in the case of a statement described in
19 subsection (b)(2)(A), list the targeted tax benefits in
20 any revenue estimate prepared by the Joint Com-
21 mittee on Taxation for any conference report which
22 accompanies such bill or joint resolution, or

23 “(2) in the case of a statement described in 13
24 subsection (b)(2)(B), indicate in such revenue esti-

1 mate that no provision in such bill or joint resolution
2 has been identified as a targeted tax benefit.

3 “(d) PRESIDENT’S AUTHORITY.—If any revenue or
4 reconciliation bill or joint resolution is signed into law—

5 “(1) with a separate section described in sub-
6 section (b)(2), then the President may use the au-
7 thority granted in this section only with respect to
8 any targeted tax benefit in that law, if any, identi-
9 fied in such separate section; or

10 “(2) without a separate section described in
11 subsection (b)(2), then the President may use the
12 authority granted in this section with respect to any
13 targeted tax benefit in that law.

14 “TREATMENT OF CANCELLATIONS

15 “SEC. 1015. The repeal of any congressional earmark
16 or cancellation of any limited tariff benefit or targeted tax
17 benefit shall take effect only upon enactment of the appli-
18 cable approval bill. If an approval bill is not enacted into
19 law before the end of the applicable period under section
20 1013, then all proposed repeals and cancellations con-
21 tained in that bill shall be null and void and any such
22 congressional earmark, limited tariff benefit, or targeted
23 tax benefit shall be effective as of the original date pro-
24 vided in the law to which the proposed repeals or cancella-
25 tions applied.

1 “REPORTS BY COMPTROLLER GENERAL

2 “SEC. 1016. With respect to each special message
3 under this part, the Comptroller General shall issue to the
4 Congress a report determining whether any congressional
5 earmark is not repealed or limited tariff benefit or tar-
6 geted tax benefit continues to be suspended after the de-
7 ferral authority set forth in section 1013 of the President
8 has expired.

9 “DEFINITIONS

10 “SEC. 1017. As used in this part:

11 “(1) APPROPRIATION LAW.—The term ‘appro-
12 priation law’ means an Act referred to in section
13 105 of title 1, United States Code, including any
14 general or special appropriation Act, or any Act
15 making supplemental, deficiency, or continuing ap-
16 propriations, that has been signed into law pursuant
17 to Article I, section 7, of the Constitution of the
18 United States.

19 “(2) APPROVAL BILL.—The term ‘approval bill’
20 means a bill or joint resolution which only approves
21 proposed repeals of congressional earmarks or can-
22 cellations of limited tariff benefits or targeted tax
23 benefits in a special message transmitted by the
24 President under this part and—

25 “(A) the title of which is as follows: ‘A bill
26 approving the proposed repeals and cancella-

1 tions transmitted by the President on _____’,
2 the blank space being filled in with the date of
3 transmission of the relevant special message
4 and the public law number to which the mes-
5 sage relates;

6 “(B) which does not have a preamble; and

7 “(C) which provides only the following
8 after the enacting clause: ‘That the Congress
9 approves of proposed repeals and cancellations
10 _____’, the blank space being filled in with a
11 list of the repeals and cancellations contained in
12 the President’s special message, ‘as transmitted
13 by the President in a special message on
14 _____’, the blank space being filled in with
15 the appropriate date, ‘regarding _____.’, the
16 blank space being filled in with the public law
17 number to which the special message relates;

18 “(D) which only includes proposed repeals
19 and cancellations that are estimated by CBO to
20 meet the definition of congressional earmark or
21 limited tariff benefits, or that are identified as
22 targeted tax benefits pursuant to section 1014;
23 and

24 “(E) if no CBO estimate is available, then
25 the entire list of legislative provisions proposed

1 by the President is inserted in the second blank
2 space in subparagraph (C).

3 “(3) CALENDAR DAY.—The term ‘calendar day’
4 means a standard 24-hour period beginning at mid-
5 night.

6 “(4) CANCEL OR CANCELLATION.—The terms
7 ‘cancel’ or ‘cancellation’ means to prevent—

8 “(A) a limited tariff benefit from having
9 legal force or effect, and to make any necessary,
10 conforming statutory change to ensure that
11 such limited tariff benefit is not implemented;
12 or

13 “(B) a targeted tax benefit from having
14 legal force or effect, and to make any necessary,
15 conforming statutory change to ensure that
16 such targeted tax benefit is not implemented
17 and that any budgetary resources are appro-
18 priately canceled.

19 “(5) CBO.—The term ‘CBO’ means the Direc-
20 tor of the Congressional Budget Office.

21 “(6) CONGRESSIONAL EARMARK.—The term
22 ‘congressional earmark’ means a provision or report
23 language included primarily at the request of a
24 Member, Delegate, Resident Commissioner, or Sen-
25 ator providing, authorizing or recommending a spe-

1 cific amount of discretionary budget authority, credit
2 authority, or other spending authority for a contract,
3 loan, loan guarantee, grant, loan authority, or other
4 expenditure with or to an entity, or targeted to a
5 specific State, locality or Congressional district,
6 other than through a statutory or administrative for-
7 mula-driven or competitive award process.

8 “(7) ENTITY.—As used in paragraph (6), the
9 term ‘entity’ includes a private business, State, terri-
10 tory or locality, or Federal entity.

11 “(8) LIMITED TARIFF BENEFIT.—The term
12 ‘limited tariff benefit’ means any provision of law
13 that modifies the Harmonized Tariff Schedule of the
14 United States in a manner that benefits 10 or fewer
15 entities (as defined in paragraph (12)(B)).

16 “(9) OMB.—The term ‘OMB’ means the Direc-
17 tor of the Office of Management and Budget.

18 “(10) OMNIBUS RECONCILIATION OR APPRO-
19 PRIATION MEASURE.—The term ‘omnibus reconcili-
20 ation or appropriation measure’ means—

21 “(A) in the case of a reconciliation bill, any
22 such bill that is reported to its House by the
23 Committee on the Budget; or

24 “(B) in the case of an appropriation meas-
25 ure, any such measure that provides appropria-

1 tions for programs, projects, or activities falling
2 within 2 or more section 302(b) suballocations.

3 “(11) TARGETED TAX BENEFIT.—(A) The term
4 ‘targeted tax benefit’ means any revenue-losing pro-
5 vision that provides a Federal tax deduction, credit,
6 exclusion, or preference to ten or fewer beneficiaries
7 (determined with respect to either present law or
8 any provision of which the provision is a part) under
9 the Internal Revenue Code of 1986 in any year for
10 which the provision is in effect;

11 “(B) for purposes of subparagraph (A)—

12 “(i) all businesses and associations
13 that are members of the same controlled
14 group of corporations (as defined in sec-
15 tion 1563(a) of the Internal Revenue Code
16 of 1986) shall be treated as a single bene-
17 ficiary;

18 “(ii) all shareholders, partners, mem-
19 bers, or beneficiaries of a corporation,
20 partnership, association, or trust or estate,
21 respectively, shall be treated as a single
22 beneficiary;

23 “(iii) all employees of an employer
24 shall be treated as a single beneficiary;

1 “(iv) all qualified plans of an em-
2 ployer shall be treated as a single bene-
3 ficiary;

4 “(v) all beneficiaries of a qualified
5 plan shall be treated as a single bene-
6 ficiary;

7 “(vi) all contributors to a charitable
8 organization shall be treated as a single
9 beneficiary;

10 “(vii) all holders of the same bond
11 issue shall be treated as a single bene-
12 ficiary; and

13 “(viii) if a corporation, partnership,
14 association, trust or estate is the bene-
15 ficiary of a provision, the shareholders of
16 the corporation, the partners of the part-
17 nership, the members of the association, or
18 the beneficiaries of the trust or estate shall
19 not also be treated as beneficiaries of such
20 provision;

21 “(C) for the purpose of this paragraph, the
22 term ‘revenue-losing provision’ means any pro-
23 vision that is estimated to result in a reduction
24 in Federal tax revenues (determined with re-
25 spect to either present law or any provision of

1 which the provision is a part) for any one of the
2 two following periods—

3 “(i) the first fiscal year for which the
4 provision is effective; or

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

8 “(D) the term ‘targeted tax benefit’ does
9 not include any provision which applies uni-
10 formly to an entire industry; and

11 “(E) the terms used in this paragraph
12 shall have the same meaning as those terms
13 have generally in the Internal Revenue Code of
14 1986, unless otherwise expressly provided.

15 “EXPIRATION

16 “SEC. 1018. This title shall have no force or effect
17 on or after December 31, 2012.”.

18 **SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.**

19 (a) EXERCISE OF RULEMAKING POWERS.—Section
20 904 of the Congressional Budget Act of 1974 (2 U.S.C.
21 621 note) is amended—

22 (1) in subsection (a), by striking “1017” and
23 inserting “1012”; and

24 (2) in subsection (d), by striking “section
25 1017” and inserting “section 1012”.

1 (b) ANALYSIS BY CONGRESSIONAL BUDGET OF-
2 FICE.—Section 402 of the Congressional Budget Act of
3 1974 is amended by inserting “(a)” after “402.” and by
4 adding at the end the following new subsection:

5 “(b) Upon the receipt of a special message under sec-
6 tion 1011 proposing to repeal any congressional earmark,
7 the Director of the Congressional Budget Office shall pre-
8 pare an estimate of the savings in budget authority or out-
9 lays resulting from such proposed repeal relative to the
10 most recent levels calculated consistent with the method-
11 ology used to calculate a baseline under section 257 of
12 the Balanced Budget and Emergency Deficit Control Act
13 of 1985 and included with a budget submission under sec-
14 tion 1105(a) of title 31, United States Code, and transmit
15 such estimate to the chairmen of the Committees on the
16 Budget of the House of Representatives and Senate.”.

17 (c) CLERICAL AMENDMENTS.—(1) Section 1(a) of
18 the Congressional Budget and Impoundment Control Act
19 of 1974 is amended by striking the last sentence.

20 (2) Section 1022(c) of such Act (as redesignated) is
21 amended is amended by striking “rescinded or that is to
22 be reserved” and inserting “canceled” and by striking
23 “1012” and inserting “1011”.

24 (d) TABLE OF CONTENTS.—The table of contents set
25 forth in section 1(b) of the Congressional Budget and Im-

1 poundment Control Act of 1974 is amended by striking
 2 the contents for parts B and C of title X and inserting
 3 the following:

“PART B—EARMARK RESCISSION AUTHORITY

- “Sec. 1011. Earmark rescission authority.
- “Sec. 1012. Procedures for expedited consideration.
- “Sec. 1013. Presidential deferral authority.
- “Sec. 1014. Identification of targeted tax benefits.
- “Sec. 1015. Treatment of cancellations.
- “Sec. 1016. Reports by comptroller general.
- “Sec. 1017. Definitions.
- “Sec. 1018. Expiration.
- “Sec. 1019. Suits by Comptroller General.
- “Sec. 1020. Proposed Deferrals of budget authority.”.

4 **SEC. 203. SENSE OF CONGRESS ON ABUSE OF PROPOSED**
 5 **REPEALS AND CANCELLATIONS.**

6 It is the sense of Congress no President or any execu-
 7 tive branch official should condition the inclusion or exclu-
 8 sion or threaten to condition the inclusion or exclusion of
 9 any proposed repeal or cancellation in any special message
 10 under part B of title X of the Congressional Budget and
 11 Impoundment Control Act of 1974 upon any vote cast or
 12 to be cast by any Member of either House of Congress.

13 **TITLE III—GAO PERFORMANCE**
 14 **AUDITS OF EARMARKS TO**
 15 **NON-FEDERAL ENTITIES**

16 **SEC. 301. ACCOUNTABILITY FOR EXPENDITURE OF CON-**
 17 **GRESSIONAL EARMARKS.**

18 (a) GOVERNMENT ACCOUNTABILITY OFFICE AUDITS
 19 OF EARMARK FUNDED PROGRAMS, PROJECTS, AND AC-

1 TIVITIES.—Section 3523 of title 31, United States Code,
2 is amended by adding at the end the following:

3 “(d)(1) The Comptroller General shall develop and
4 implement a systematic process to—

5 “(A) review audits of programs, projects, and
6 activities funded through earmarks and submitted to
7 the Comptroller General under section 3521(j) and
8 section 9105(d); and

9 “(B) annually conduct such number of audits of
10 programs, projects, and activities funded through
11 earmarks (as defined in section 3521(j)) as the
12 Comptroller General determines to be appropriate.

13 “(2) Not later than March 31 of each fiscal year, the
14 Comptroller General shall submit to Congress a report
15 containing, for programs, projects, or activities conducted
16 during the previous fiscal year under paragraph (1), the
17 results of—

18 “(A) audits submitted to the Comptroller Gen-
19 eral under section 3521(j) and under section
20 9105(d);

21 “(B) reviews of audits by the Comptroller Gen-
22 eral under paragraph (1)(A); and

23 “(C) audits the Comptroller General conducts
24 under paragraph (1)(B).”.

1 (b) AGENCY REPORTS ON EARMARK FUNDED PRO-
2 GRAMS, PROJECTS, AND ACTIVITIES.—Section 3521 of
3 title 31, United States Code, is amended by adding at the
4 end the following:

5 “(j)(1) If an agency conducts an audit of any pro-
6 gram, project, or activity that is administered by the agen-
7 cy and is funded through an earmark, the agency shall,
8 at the time a person submits a report under subsection
9 (f) concerning the audited financial statement for the ac-
10 counts associated with such program, project, or activity,
11 submit to the Comptroller General of the United States
12 the results of the audit.

13 “(2) If an auditor submits to an agency, under sec-
14 tion 7502(k), the results of audit of any program, project,
15 or activity funded through an earmark, the agency shall,
16 at the time described in paragraph (1), submit such re-
17 sults to the Comptroller General.

18 “(3) For purposes of this subsection, the term ‘fund-
19 ed through an earmark’ means that the program, project,
20 or activity is included on—

21 “(A) a list of ‘congressional earmarks’ gen-
22 erated under the Rules of the House of Representa-
23 tives;

1 “(B) a list of ‘congressionally directed spend-
2 ing’ generated under the Standing Rules of the Sen-
3 ate; or

4 “(C) on both such lists.”.

5 (c) NON-FEDERAL ENTITY REPORTS ON EARMARK
6 FUNDED PROGRAMS, PROJECTS, AND ACTIVITIES.—Sec-
7 tion 7502 of such title is amended by adding at the end
8 the following:

9 “(k) If a non-Federal entity described in subsection
10 (a)(1)(A) has an audit made of any program, project, or
11 activity that is administered by the entity and is funded
12 through an earmark (as defined in section 3521(j)), the
13 auditor of such program, project, or activity shall, not
14 later than the date set by the Director, submit to the agen-
15 cy with jurisdiction over such program, project, or activity
16 the results of the audit.”.

17 (d) GOVERNMENT CORPORATION REPORTS ON EAR-
18 MARK FUNDED PROGRAMS, PROJECTS, AND ACTIVI-
19 TIES.—Section 9105 of such title is amended by adding
20 at the end the following:

21 “(d) If the Inspector General of a Government cor-
22 poration or an independent external auditor described in
23 subsection (a)(1) conducts an audit of any program,
24 project, or activity that is administered by the corporation
25 and is funded through an earmark (as defined in section

1 3521(j)), such Inspector General or auditor shall, upon
 2 completion of the audit, submit the results of the audit
 3 to the Comptroller General of the United States.”.

4 **TITLE IV—REPORTS BY RECIPI-**
 5 **ENTS OF FEDERAL FUNDS**

6 **SEC. 401. LOBBYING ON BEHALF OF RECIPIENTS OF FED-**
 7 **ERAL FUNDS.**

8 The Lobbying Disclosure Act of 1995 is amended by
 9 adding after section 5 the following:

10 **“SEC. 5A. REPORTS BY RECIPIENTS OF FEDERAL FUNDS.**

11 “(a) IN GENERAL.—A nonpublic recipient of Federal
 12 funds shall file a report as required by section 5(a) con-
 13 taining—

14 “(1) the name of any lobbyist registered under
 15 this Act to whom the recipient paid money to lobby
 16 on behalf of the Federal funding received by the re-
 17 cipient; and

18 “(2) the amount of money paid as described in
 19 paragraph (1).

20 “(b) DEFINITION.—In this section, the term ‘recipi-
 21 ent of Federal funds’ means the recipient of Federal funds
 22 constituting an award, grant, or loan.”.

1 **TITLE V—ESTABLISHMENT OF**
2 **JOINT SELECT COMMITTEE**
3 **ON EARMARK REFORM**

4 **SEC. 501. JOINT SELECT COMMITTEE ON EARMARK RE-**
5 **FORM.**

6 (a) ESTABLISHMENT AND COMPOSITION.—There is
7 hereby established a Joint Select Committee on Earmark
8 Reform. The joint select committee shall be composed of
9 16 members as follows:

10 (1) 8 Members of the House of Representatives,
11 4 appointed from the majority party by the Speaker
12 of the House, and 4 from the minority party to be
13 appointed by the minority leader; and

14 (2) 8 Members of the Senate, 4 appointed from
15 the majority party by the majority leader of the Sen-
16 ate, and 4 from the minority party to be appointed
17 by the minority leader.

18 A vacancy in the joint select committee shall not affect
19 the power of the remaining members to execute the func-
20 tions of the joint select committee, and shall be filled in
21 the same manner as the original selection.

22 (b) STUDY AND REPORT.—

23 (1) STUDY.—The joint select committee shall
24 make a full study of the practices of the House, Sen-
25 ate, and Executive Branch regarding earmarks in

1 authorizing, appropriation, tax, and tariff measures.

2 As part of the study, the joint select committee shall
3 consider the efficacy of—

4 (A) the disclosure requirements of clause 9
5 of rule XXI and clause 17 of rule XXIII of the
6 Rules of the House of Representatives and rule
7 XLIV of the Standing Rules of the Senate, and
8 the definitions contained therein;

9 (B) requiring full transparency in the proc-
10 ess, with earmarks listed in bills at the outset
11 of the legislative process and continuing
12 throughout consideration;

13 (C) requiring that earmarks not be placed
14 in any bill after initial committee consideration;

15 (D) requiring that Members be permitted
16 to offer amendments to remove earmarks at
17 subcommittee, full committee, floor consider-
18 ation, and during conference committee meet-
19 ings;

20 (E) requiring that bill sponsors and major-
21 ity and minority managers certify the validity of
22 earmarks contained in their bills;

23 (F) recommending changes to earmark re-
24 quests made by the Executive Branch through
25 the annual budget submitted to Congress pur-

1 suant to section 1105 of title 31, United States
2 Code;

3 (G) requiring that House and Senate
4 amendments meet earmark disclosure require-
5 ments, including amendments adopted pursuant
6 to a special order of business;

7 (H) establishing new categories for ear-
8 marks, including—

9 (i) projects with National scope;

10 (ii) military projects; and

11 (iii) local or provincial projects, in-
12 cluding the level of matching funds re-
13 quired for such project.

14 (2) REPORT.—

15 (A) The joint select committee shall submit
16 to the House and the Senate a report of its
17 findings and recommendations not later than
18 180 days after the end of the first fiscal year
19 for which this Act and the amendments made
20 by this Act apply.

21 (B) No recommendation shall be made by
22 the joint select committee except upon the ma-
23 jority vote of the members from each House, re-
24 spectively.

1 (C) Notwithstanding any other provision of
2 this resolution, any recommendation with re-
3 spect to the rules and procedures of one House
4 that only affects matters related solely to that
5 House may only be made and voted on by mem-
6 bers of the joint select committee from that
7 House and, upon its adoption by a majority of
8 such members, shall be considered to have been
9 adopted by the full committee as a rec-
10 ommendation of the joint select committee.

11 In conducting the study under paragraph (1), the joint
12 select committee shall hold not fewer than 5 public hear-
13 ings.

14 (c) RESOURCES AND DISSOLUTION.—

15 (1) The joint select committee may utilize the
16 resources of the House and Senate.

17 (2) The joint select committee shall cease to
18 exist 30 days after the submission of the report de-
19 scribed in subsection (b)(2).

20 (d) DEFINITION.—For purposes of this section, the
21 term “earmark” shall include congressional earmarks,
22 congressionally directed spending items, limited tax bene-
23 fits, or limited tariff benefits as those terms are used in
24 clause 9 of rule XXI of the Rules of the House of Rep-
25 resentatives and rule XLIV of the Standing Rules of the

1 Senate. Nothing in this subsection shall confine the study
2 of the joint select committee or otherwise limit its rec-
3 ommendations.

4 **TITLE VI—SENSE OF THE** 5 **CONGRESS PROVISIONS**

6 **SEC. 601. DISCLOSURE OF EARMARKS REQUESTED BY THE** 7 **PRESIDENT.**

8 It is the sense of the Congress that the President
9 should disclose in an annual single report all earmarks re-
10 quested in the annual budget submission of the President.

11 **SEC. 602. OFFICIAL VISITS TO PROJECT SITES.**

12 It is the sense of the Congress that any Member of
13 the House of Representatives (or his or her delegate) who
14 submits a request for a congressional earmark should
15 make an official visit to the project site or location of the
16 entity that is the subject of the earmark request.

17 **SEC. 603. HEARINGS RESPECTING EARMARKS.**

18 It is the sense of the Congress that the subcommit-
19 tees of the Committee on Appropriations of the House of
20 Representatives should hold hearings for Members who re-
21 quest earmarks to testify.

22 **TITLE VII—EFFECTIVE DATE**

23 **SEC. 701. EFFECTIVE DATE.**

24 This Act and the amendments made by this Act shall
25 apply with respect to the later of—

- 1 (1) fiscal year 2011; or
- 2 (2) the first fiscal year which begins after the
- 3 first January which occurs after the date of the en-
- 4 actment of this Act.

○