

111TH CONGRESS  
1ST SESSION

# H. RES. 276

To provide earmark reform in the House of Representatives.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2009

Mr. NUNES submitted the following resolution; which was referred to the Committee on Rules, and in addition to the Committee on Standards of Official Conduct, 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

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## RESOLUTION

To provide earmark reform in the House of Representatives.

1       *Resolved,*

2       SECTION 1. Clause 3 of rule XII is amended by in-  
3       serting “(a)” after “3.” and by adding at the end the fol-  
4       lowing new paragraphs:

5       “(b) With respect to any request for a congressional  
6       earmark, limited tax benefit, or limited tariff benefit with-  
7       in the meaning of clause 9 of rule XXI, the Member, Dele-  
8       gate, or Resident Commissioner making such request shall  
9       submit a petition to the Speaker under this clause request-

1 ing that congressional earmark, limited tax benefit, or lim-  
2 ited tariff benefit. That petition shall include—

3 “(1) the name of the Member, Delegate, or  
4 Resident Commissioner;

5 “(2) in the case of a congressional earmark, the  
6 name and address of the intended recipient or, if  
7 there is no specifically intended recipient, the in-  
8 tended location of the activity;

9 “(3) in the case of a limited tax or tariff ben-  
10 efit, identification of the individual or entities rea-  
11 sonably anticipated to benefit, to the extent known  
12 to the Member, Delegate, or Resident Commissioner;

13 “(4) the purpose of such congressional earmark  
14 or limited tax or tariff benefit;

15 “(5) any legislative or report language nec-  
16 essary to execute the congressional earmark, limited  
17 tax benefit, or limited tariff benefit, if applicable;  
18 and

19 “(6) a certification that the Member, Delegate,  
20 or Resident Commissioner or spouse has no financial  
21 interest in such congressional earmark or limited tax  
22 or tariff benefit.

23 Any petition submitted pursuant to this paragraph shall  
24 be referred to the appropriate committees of jurisdiction.

25 A Member, Delegate, or Resident Commissioner may not

1 submit more than 10 petitions under this paragraph dur-  
2 ing any session of Congress.

3 “(c) Within two calendar days after the referral of  
4 a petition pursuant to paragraph (b), the Clerk shall make  
5 the full text of such petition available in a searchable, sort-  
6 able, and downloadable online database available to the  
7 public, unless the subject of the petition relates to classi-  
8 fied information.”.

9 SEC. 2. Clause 9 of rule XXI is amended to read as  
10 follows:

11 “9. (a) It shall not be in order to consider—

12 “(1) a bill or joint resolution reported by a  
13 committee unless the report includes a list of con-  
14 gressional earmarks, limited tax benefits, and lim-  
15 ited tariff benefits in the bill or in the report (and  
16 the name of any Member, Delegate, or Resident  
17 Commissioner who submitted a request to the com-  
18 mittee for each respective item included in such list)  
19 or a statement that the proposition contains no con-  
20 gressional earmarks, limited tax benefits, or limited  
21 tariff benefits;

22 “(2) a bill or joint resolution not reported by a  
23 committee unless the chairman of each committee of  
24 initial referral has caused a list of congressional ear-  
25 marks, limited tax benefits, and limited tariff bene-

1 fits in the bill (and the name of any Member, Dele-  
2 gate, or Resident Commissioner who submitted a re-  
3 quest to the committee for each respective item in-  
4 cluded in such list) or a statement that the propo-  
5 sition contains no congressional earmarks, limited  
6 tax benefits, or limited tariff benefits to be printed  
7 in the Congressional Record prior to its consider-  
8 ation;

9 “(3) an amendment to a bill or joint resolution  
10 as designated in a report of the Committee on Rules  
11 to accompany a resolution prescribing a special  
12 order of business unless the proponent has caused a  
13 list of congressional earmarks, limited tax benefits,  
14 and limited tariff benefits in the amendment (and  
15 the name of any Member, Delegate, or Resident  
16 Commissioner who submitted a request to the pro-  
17 ponent for each respective item included in such list)  
18 or a statement that the proposition contains no con-  
19 gressional earmarks, limited tax benefits, or limited  
20 tariff benefits to be printed in the Congressional  
21 Record prior to its consideration;

22 “(4) a conference report to accompany a bill or  
23 joint resolution unless the joint explanatory state-  
24 ment prepared by the managers on the part of the  
25 House and the managers on the part of the Senate

1 includes a list of congressional earmarks, limited tax  
2 benefits, and limited tariff benefits in the conference  
3 report or joint statement (and the name of any  
4 Member, Delegate, Resident Commissioner, or Sen-  
5 ator who submitted a request to the House or Sen-  
6 ate committees of jurisdiction for each respective  
7 item included in such list) or a statement that the  
8 proposition contains no congressional earmarks, lim-  
9 ited tax benefits, or limited tariff benefits; or

10 “(5) any measure or matter (including any ac-  
11 companying report or joint statement) described in  
12 this paragraph, or any amendment thereto which  
13 contains—

14 “(A) a congressional earmark, limited tax  
15 benefit, or limited tariff benefit which was not  
16 the subject of a petition submitted to the  
17 Speaker and made available by the Clerk pursu-  
18 ant to clause 3 of rule XII at least 5 legislative  
19 days prior to the request for such earmark, lim-  
20 ited tax benefit, or limited tariff benefit;

21 “(B) more than two congressional ear-  
22 marks, limited tax benefits, or limited tariff  
23 benefits proposed by any Member, Delegate, or  
24 Resident Commissioner; and

1           “(C) total new budget authority, credit au-  
2           thority, and other spending authority for all  
3           congressional earmarks contained in that meas-  
4           ure (including any accompanying report or joint  
5           statement) proposed by members of each com-  
6           mittee of initial referral of such measure that  
7           exceeds 200 percent of the total new budget au-  
8           thority, credit authority, and other spending au-  
9           thority as estimated by the Committee on the  
10          Budget for all earmarks contained in that  
11          measure (including any accompanying report or  
12          joint statement) proposed by nonmembers of  
13          those committees.

14          “(b) It shall not be in order to consider a rule or  
15          order that waives the application of paragraph (a). As dis-  
16          position of a point of order under this paragraph, the  
17          Chair shall put the question of consideration with respect  
18          to the rule or order that waives the application of para-  
19          graph (a). The question of consideration shall be debatable  
20          for 10 minutes by the Member initiating the point of order  
21          and for 10 minutes by an opponent, but shall otherwise  
22          be decided without intervening motion except one that the  
23          House adjourn.

24          “(c) In order to be cognizable by the Chair, a point  
25          of order raised under paragraphs (a)(1) through (4) may

1 be based only on the failure of a report, submission to  
2 the Congressional Record, or joint explanatory statement  
3 to include a list required by paragraph (a) or a statement  
4 that the proposition contains no congressional earmarks,  
5 limited tax benefits, or limited tariff benefits except with  
6 respect to a conference report to accompany a regular gen-  
7 eral appropriation bill, in which case the point of order  
8 shall be disposed of by the question of consideration under  
9 the same terms as specified in paragraph (b).

10 “(d) For the purpose of this clause—

11 “(1) the term ‘congressional earmark’ means a  
12 provision or report language included primarily at  
13 the request of a Member, Delegate, Resident Com-  
14 missioner, or Senator providing, authorizing or rec-  
15 ommending a specific amount of discretionary budg-  
16 et authority, credit authority, or other spending au-  
17 thority for a contract, loan, loan guarantee, grant,  
18 loan authority, or other expenditure with or to an  
19 entity, or targeted to a specific State, locality or  
20 Congressional district, other than through a statu-  
21 tory or administrative formula-driven or competitive  
22 award process, but such term does not include a  
23 Presidential earmark as defined by this clause;

24 “(2) the term ‘limited tax benefit’ means—

25 “(A) any revenue-losing provision that—

1           “(i) provides a Federal tax deduction,  
2           credit, exclusion, or preference to 10 or  
3           fewer beneficiaries under the Internal Rev-  
4           enue Code of 1986; and

5           “(ii) contains eligibility criteria that  
6           are not uniform in application with respect  
7           to potential beneficiaries of such provision;  
8           or

9           “(B) any Federal tax provision which pro-  
10          vides one beneficiary temporary or permanent  
11          transition relief from a change to the Internal  
12          Revenue Code of 1986;

13          “(3) the term ‘limited tariff benefit’ means a  
14          provision modifying the Harmonized Tariff Schedule  
15          of the United States in a manner that benefits 10  
16          or fewer entities; and

17          “(4) the term ‘Presidential earmark’ means any  
18          provision or report language to maintain or increase  
19          the funding for any budgeted program, project, or  
20          activity or any provision or report language for any  
21          program, project, or activity that is specifically au-  
22          thorized by law, included in the most recent budget  
23          submission of the President under section 1105(a)  
24          of title 31, United States Code, or jointly certified,



1 in writing, by the Speaker and the minority leader  
2 to be for national security purposes.”.

3 SEC. 3. Clause 17 of rule XXIII is amended to read  
4 as follows:

5 “17. A Member, Delegate, or Resident Commissioner  
6 may not request a congressional earmark, limited tax ben-  
7 efit, or limited tariff benefit unless that Member, Dele-  
8 gate, or Resident Commissioner has first submitted a peti-  
9 tion to the House pursuant to clause 3(b) of rule XII.”.

10 SEC. 4. The amendments made by this resolution  
11 shall take effect at the beginning of the second session  
12 of Congress.

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