

111TH CONGRESS
1ST SESSION

S. 162

To provide greater accountability of taxpayers' dollars by curtailing congressional earmarking, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mr. FEINGOLD (for himself, Mr. McCAIN, Mrs. McCASKILL, Mr. GRAHAM, and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To provide greater accountability of taxpayers' dollars by curtailing congressional earmarking, 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 “Fiscal Discipline, Ear-
5 mark Reform, and Accountability Act”.

6 **SEC. 2. REFORM OF CONSIDERATION OF APPROPRIATIONS**

7 **BILLS IN THE SENATE.**

8 (a) IN GENERAL.—Rule XVI of the Standing Rules
9 of the Senate is amended by adding at the end the fol-
10 lowing:

1 “9.(a) On a point of order made by any Senator:

2 “(1) No new or general legislation nor any un-
3 authorized appropriation may be included in any
4 general appropriation bill.

5 “(2) No amendment may be received to any
6 general appropriation bill the effect of which will be
7 to add an unauthorized appropriation to the bill.

8 “(3) No unauthorized appropriation may be in-
9 cluded in any amendment between the Houses, or
10 any amendment thereto, in relation to a general ap-
11 propriation bill.

12 “(b)(1) If a point of order under subparagraph (a)(1)
13 against a Senate bill or amendment is sustained—

14 “(A) the new or general legislation or unauthor-
15 ized appropriation shall be struck from the bill or
16 amendment; and

17 “(B) any modification of total amounts appro-
18 priated necessary to reflect the deletion of the mat-
19 ter struck from the bill or amendment shall be
20 made.

21 “(2) If a point of order under subparagraph (a)(1)
22 against an Act of the House of Representatives is sus-
23 tained when the Senate is not considering an amendment
24 in the nature of a substitute, an amendment to the House
25 bill is deemed to have been adopted that—

1 “(A) strikes the new or general legislation or
2 unauthorized appropriation from the bill; and

3 “(B) modifies, if necessary, the total amounts
4 appropriated by the bill to reflect the deletion of the
5 matter struck from the bill;

6 “(c) If the point of order against an amendment
7 under subparagraph (a)(2) is sustained, the amendment
8 shall be out of order and may not be considered.

9 “(d)(1) If a point of order under subparagraph (a)(3)
10 against a Senate amendment is sustained—

11 “(A) the unauthorized appropriation shall be
12 struck from the amendment;

13 “(B) any modification of total amounts appro-
14 priated necessary to reflect the deletion of the mat-
15 ter struck from the amendment shall be made; and

16 “(C) after all other points of order under this
17 paragraph have been disposed of, the Senate shall
18 proceed to consider the amendment as so modified.

19 “(2) If a point of order under subparagraph (a)(3)
20 against a House of Representatives amendment is sus-
21 tained—

22 “(A) an amendment to the House amendment
23 is deemed to have been adopted that—

1 “(i) strikes the new or general legislation
2 or unauthorized appropriation from the House
3 amendment; and

4 “(ii) modifies, if necessary, the total
5 amounts appropriated by the bill to reflect the
6 deletion of the matter struck from the House
7 amendment; and

8 “(B) after all other points of order under this
9 paragraph have been disposed of, the Senate shall
10 proceed to consider the question of whether to con-
11 cur with further amendment.

12 “(e) The disposition of a point of order made under
13 any other paragraph of this rule, or under any other
14 Standing Rule of the Senate, that is not sustained, or is
15 waived, does not preclude, or affect, a point of order made
16 under subparagraph (a) with respect to the same matter.

17 “(f) A point of order under subparagraph (a) may
18 be waived only by a motion agreed to by the affirmative
19 vote of three-fifths of the Senators duly chosen and sworn.
20 If an appeal is taken from the ruling of the Presiding Offi-
21 cer with respect to such a point of order, the ruling of
22 the Presiding Officer shall be sustained absent an affirma-
23 tive vote of three-fifths of the Senators duly chosen and
24 sworn.

1 “(g) Notwithstanding any other rule of the Senate,
2 it shall be in order for a Senator to raise a single point
3 of order that several provisions of a general appropriation
4 bill or an amendment between the Houses on a general
5 appropriation bill violate subparagraph (a). The Presiding
6 Officer may sustain the point of order as to some or all
7 of the provisions against which the Senator raised the
8 point of order. If the Presiding Officer so sustains the
9 point of order as to some or all of the provisions against
10 which the Senator raised the point of order, then only
11 those provisions against which the Presiding Officer sus-
12 tains the point of order shall be deemed stricken pursuant
13 to this paragraph. Before the Presiding Officer rules on
14 such a point of order, any Senator may move to waive
15 such a point of order, in accordance with subparagraph
16 (f), as it applies to some or all of the provisions against
17 which the point of order was raised. Such a motion to
18 waive is amendable in accordance with the rules and prece-
19 dents of the Senate. After the Presiding Officer rules on
20 such a point of order, any Senator may appeal the ruling
21 of the Presiding Officer on such a point of order as it
22 applies to some or all of the provisions on which the Pre-
23 siding Officer ruled.

24 “(h) For purposes of this paragraph:

1 “(1) The term ‘new or general legislation’ has
2 the meaning given that term when it is used in para-
3 graph 2 of this rule.

4 “(2) The term ‘new matter’ means matter not
5 committed to conference by either House of Con-
6 gress.

7 “(3)(A) The term ‘unauthorized appropriation’
8 means a ‘congressionally directed spending item’ as
9 defined in rule XLIV—

10 “(i) that is not specifically authorized by
11 law or Treaty stipulation (unless the appropria-
12 tion has been specifically authorized by an Act
13 or resolution previously passed by the Senate
14 during the same session or proposed in pursu-
15 ance of an estimate submitted in accordance
16 with law); or

17 “(ii) the amount of which exceeds the
18 amount specifically authorized by law or Treaty
19 stipulation (or specifically authorized by an Act
20 or resolution previously passed by the Senate
21 during the same session or proposed in pursu-
22 ance of an estimate submitted in accordance
23 with law) to be appropriated.

24 “(B) An appropriation is not specifically au-
25 thorized if it is restricted or directed to, or author-

1 ized to be obligated or expended for the benefit of,
2 an identifiable person, program, project, entity, or
3 jurisdiction by earmarking or other specification,
4 whether by name or description, in a manner that is
5 so restricted, directed, or authorized that it applies
6 only to a single identifiable person, program, project,
7 entity, or jurisdiction, unless the identifiable person,
8 program, project, entity, or jurisdiction to which the
9 restriction, direction, or authorization applies is de-
10 scribed or otherwise clearly identified in a law or
11 Treaty stipulation (or an Act or resolution pre-
12 viously passed by the Senate during the same ses-
13 sion or in the estimate submitted in accordance with
14 law) that specifically provides for the restriction, di-
15 rection, or authorization of appropriation for such
16 person, program, project, entity, or jurisdiction.

17 “10. (a) On a point of order made by any Senator,
18 no new or general legislation, nor any unauthorized appro-
19 priation, new matter, or nongermane matter may be in-
20 cluded in any conference report on a general appropriation
21 bill.

22 “(b) If the point of order against a conference report
23 under subparagraph (a) is sustained—

24 “(1) the new or general legislation, unauthor-
25 ized appropriation, new matter, or nongermane mat-

1 ter in such conference report shall be deemed to
2 have been struck;

3 “(2) any modification of total amounts appro-
4 priated necessary to reflect the deletion of the mat-
5 ter struck shall be deemed to have been made;

6 “(3) when all other points of order under this
7 paragraph 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 (together with any
16 modification of total amounts appropriated);

17 “(B) the question shall be debatable; and

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

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

24 “(c) The disposition of a point of order made under
25 any other paragraph of this rule, or under any other

1 Standing Rule of the Senate, that is not sustained, or is
2 waived, does not preclude, or affect, a point of order made
3 under subparagraph (a) with respect to the same matter.

4 “(d) A point of order under subparagraph (a) may
5 be waived only by a motion agreed to by the affirmative
6 vote of three-fifths of the Senators duly chosen and sworn.
7 If an appeal is taken from the ruling of the Presiding Offi-
8 cer with respect to such a point of order, the ruling of
9 the Presiding Officer shall be sustained absent an affirma-
10 tive vote of three-fifths of the Senators duly chosen and
11 sworn.

12 “(e) Notwithstanding any other rule of the Senate,
13 it shall be in order for a Senator to raise a single point
14 of order that several provisions of a conference report on
15 a general appropriation bill violate subparagraph (a). The
16 Presiding Officer may sustain the point of order as to
17 some or all of the provisions against which the Senator
18 raised the point of order. If the Presiding Officer so sus-
19 tains the point of order as to some or all of the provisions
20 against which the Senator raised the point of order, then
21 only those provisions against which the Presiding Officer
22 sustains the point of order shall be deemed stricken pursu-
23 ant to this paragraph. Before the Presiding Officer rules
24 on such a point of order, any Senator may move to waive
25 such a point of order, in accordance with subparagraph

1 (d), as it applies to some or all of the provisions against
2 which the point of order was raised. Such a motion to
3 waive is amendable in accordance with the rules and prece-
4 dents of the Senate. After the Presiding Officer rules on
5 such a point of order, any Senator may appeal the ruling
6 of the Presiding Officer on such a point of order as it
7 applies to some or all of the provisions on which the Pre-
8 siding Officer ruled.

9 “(f) For purposes of this paragraph:

10 “(1) The terms ‘new or general legislation’,
11 ‘new matter’, and ‘unauthorized appropriation’ have
12 the same meaning as in paragraph 9.

13 “(2) The term ‘nongermane matter’ has the
14 same meaning as in rule XXII and under the prece-
15 dents attendant thereto, as of the beginning of the
16 110th Congress.”.

17 (b) REQUIRING CONFERENCE REPORTS TO BE
18 SEARCHABLE ONLINE.—Paragraph 3(a)(2) of rule XLIV
19 of the Standing Rules of the Senate is amended by insert-
20 ing “in an searchable format” after “available”.

21 **SEC. 3. LOBBYING ON BEHALF OF RECIPIENTS OF FED-**
22 **ERAL FUNDS.**

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

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

2 “(a) IN GENERAL.—A recipient of Federal funds
3 shall file a report as required by section 5(a) containing—

4 “(1) the name of any lobbyist registered under
5 this Act to whom the recipient paid money to lobby
6 on behalf of the Federal funding received by the re-
7 cipient; and

8 “(2) the amount of money paid as described in
9 paragraph (1).

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

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