

- 43.4 4. A Member shall make a reasonable effort to assure that representations made in the Member's name by any Senate employee are accurate and conform to the Member's instructions and to this rule.
- 43.5 5. Nothing in this rule shall be construed to limit the authority of Members, and Senate employees, to perform legislative, including committee, responsibilities.
- 43.6 6.<sup>96</sup> No Member, with the intent to influence solely on the basis of partisan political affiliation an employment decision or employment practice of any private entity, shall—
- 43.6a (a) take or withhold, or offer or threaten to take or withhold, an official act; or
- 43.6b (b) influence, or offer or threaten to influence the official act of another.

## 44

RULE XLIV<sup>97</sup>

## CONGRESSIONALLY DIRECTED SPENDING AND RELATED ITEMS

- 44.1a 1. (a) It shall not be in order to vote on a motion to proceed to consider a bill or joint resolution reported by any committee unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies—
- (1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the bill or joint resolution, or in the committee report accompanying the bill or joint resolution, has been identified through lists, charts, or other similar means including the name of each Senator who submitted a request to the committee for each item so identified; and
- (2) that the information in clause (1) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before such vote.
- 44.1b (b) If a point of order is sustained under this paragraph, the motion to proceed shall be suspended until the sponsor of the motion or his or her designee has requested resumption and compliance with this paragraph has been achieved.
- 44.2a 2. (a) It shall not be in order to vote on a motion to proceed to consider a Senate bill or joint resolution not reported by committee unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies—

<sup>96</sup> Paragraph 6 added by Pub. L. 110–81, Sep. 14, 2007.<sup>97</sup> Rule XLIV added by Pub. L. 110–81, Sep. 14, 2007.

(1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the bill or joint resolution, has been identified through lists, charts, or other similar means, including the name of each Senator who submitted a request to the sponsor of the bill or joint resolution for each item so identified; and

(2) that the information in clause (1) has been available on a publicly accessible congressional website in a searchable format at least 48 hours before such vote.

(b) If a point of order is sustained under this paragraph, **44.2b** the motion to proceed shall be suspended until the sponsor of the motion or his or her designee has requested resumption and compliance with this paragraph has been achieved.

3. (a) It shall not be in order to vote on the adoption **44.3a** of a report of a committee of conference unless the chairman of the committee of jurisdiction or the Majority Leader or his or her designee certifies—

(1) that each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the conference report, or in the joint statement of managers accompanying the conference report, has been identified through lists, charts, or other means, including the name of each Senator who submitted a request to the committee of jurisdiction for each item so identified; and

(2) that the information in clause (1) has been available on a publicly accessible congressional website at least 48 hours before such vote.

(b) If a point of order is sustained under this paragraph, **44.3b** then the conference report shall be set aside.

4. (a) If during consideration of a bill or joint resolution, **44.4a** a Senator proposes an amendment containing a congressionally directed spending item, limited tax benefit, or limited tariff benefit which was not included in the bill or joint resolution as placed on the calendar or as reported by any committee, in a committee report on such bill or joint resolution, or a committee report of the Senate on a companion measure, then as soon as practicable, the Senator shall ensure that a list of such items (and the name of any Senator who submitted a request to the Senator for each respective item included in the list) is printed in the Congressional Record.

- 44.4b** (b) If a committee reports a bill or joint resolution that includes congressionally directed spending items, limited tax benefits, or limited tariff benefits in the bill or joint resolution, or in the committee report accompanying the bill or joint resolution, the committee shall as soon as practicable identify on a publicly accessible congressional website each such item through lists, charts, or other similar means, including the name of each Senator who submitted a request to the committee for each item so identified. Availability on the Internet of a committee report that contains the information described in this subparagraph shall satisfy the requirements of this subparagraph.
- 44.4c** (c) To the extent technically feasible, information made available on publicly accessible congressional websites under paragraphs 3 and 4 shall be provided in a searchable format.
- 44.5** 5. For the purpose of this rule—
- 44.5a** (a) the term “congressionally directed spending item” means a provision or report language included primarily at the request of a Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;
- 44.5b** (b) the term “limited tax benefit” means—
- (1) any revenue provision that—
- (A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and
- (B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision;
- 44.5c** (c) the term “limited tariff benefit” means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities; and
- 44.5d** (d) except as used in subparagraph 8(e), the term “item” when not preceded by “congressionally directed spending” means any provision that is a congression-

ally directed spending item, a limited tax benefit, or a limited tariff benefit.

6. (a) A Senator who requests a congressionally directed spending item, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking member of the committee of jurisdiction, including— **44.6a**

(1) the name of the Senator;

(2) in the case of a congressionally directed spending item, the name and location of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;

(3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Senator;

(4) the purpose of such congressionally directed spending item or limited tax or tariff benefit; and

(5) a certification that neither the Senator nor the Senator's immediate family has a pecuniary interest in the item, consistent with the requirements of paragraph 9.

(b) With respect to each item included in a Senate bill or joint resolution (or accompanying report) reported by committee or considered by the Senate, or included in a conference report (or joint statement of managers accompanying the conference report) considered by the Senate, each committee of jurisdiction shall make available for public inspection on the Internet the certifications under subparagraph (a)(5) as soon as practicable. **44.6b**

7. In the case of a bill, joint resolution, or conference report that contains congressionally directed spending items in any classified portion of a report accompanying the measure, the committee of jurisdiction shall, to the greatest extent practicable, consistent with the need to protect national security (including intelligence sources and methods), include on the list required by paragraph 1, 2, or 3 as the case may be, a general program description in unclassified language, funding level, and the name of the sponsor of that congressionally directed spending item. **44.7**

8. (a) A Senator may raise a point of order against one or more provisions of a conference report if they constitute new directed spending provisions. The Presiding Officer **44.8a**

may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order.

- 44.8b** (b) If the Presiding Officer sustains the point of order as to any of the provisions against which the Senator raised the point of order, then those provisions against which the Presiding Officer sustains the point of order shall be stricken. After all other points of order under this paragraph have been disposed of—

(1) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken; and

(2) the question in clause (1) shall be decided under the same debate limitation as the conference report and no further amendment shall be in order.

- 44.8c** (c) Any Senator may move to waive any or all points of order under this paragraph with respect to the pending conference report by an affirmative vote of three-fifths of the Members, duly chosen and sworn. All motions to waive under this paragraph shall be debatable collectively for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. A motion to waive all points of order under this paragraph shall not be amendable.

- 44.8d** (d) All appeals from rulings of the Chair under this paragraph shall be debatable collectively for not to exceed 1 hour, equally divided between the Majority and the Minority Leader or their designees. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair under this paragraph.

- 44.8e** (e) The term “new directed spending provision” as used in this paragraph means any item that consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

9. No Member, officer, or employee of the Senate shall 44.9 knowingly use his official position to introduce, request, or otherwise aid the progress or passage of congressionally directed spending items, limited tax benefits, or limited tariff benefits a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he or his immediate family, or enterprises controlled by them, are members of the affected class.

10. Any Senator may move to waive application of para- 44.10 graph 1, 2, or 3 with respect to a measure by an affirmative vote of three-fifths of the Members, duly chosen and sworn. A motion to waive under this paragraph with respect to a measure shall be debatable for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. With respect to points of order raised under paragraphs 1, 2, or 3, only one appeal from a ruling of the Chair shall be in order, and debate on such an appeal from a ruling of the Chair on such point of order shall be limited to one hour.

11. Any Senator may move to waive all points of order 44.11 under this rule with respect to the pending measure or motion by an affirmative vote of three-fifths of the Members, duly chosen and sworn. All motions to waive all points of order with respect to a measure or motion as provided by this paragraph shall be debatable collectively for not to exceed 1 hour equally divided between the Majority Leader and the Minority Leader or their designees. A motion to waive all points of order with respect to a measure or motion as provided by this paragraph shall not be amendable.

12. Paragraph 1, 2, or 3 of this rule may be waived by 44.12 joint agreement of the Majority Leader and the Minority Leader of the Senate upon their certification that such waiver is necessary as a result of a significant disruption to Senate facilities or to the availability of the Internet.