

Res. 479, a resolution that I like to call the “earmark accountability rule.”
 Mr. Speaker, this Congress continues to see nondisclosed earmarks appearing in all sorts of bills. These rule changes would simply allow the House to openly debate and be honest about the validity and accuracy of earmarks contained in all bills, not just appropriation bills. If we defeat the previous question, we can address that problem today and restore this Congress’s non-existent credibility when it comes to the enforcement of its own rules.

Mr. Speaker, I ask unanimous consent to have the text of the amendment and extraneous material appear in the RECORD just before the vote on the previous question.

The SPEAKER pro tempore (Mr. BLUMENAUER). Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION TO ADJOURN

Mr. SESSIONS. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. MATSUI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 175, nays 229, not voting 28, as follows:

[Roll No. 914]

YEAS—175

Aderholt	Diaz-Balart, M.	LaTourette
Akin	Doolittle	Lewis (CA)
Alexander	Drake	Lewis (KY)
Bachmann	Dreier	Linder
Baker	Duncan	Lucas
Barrett (SC)	Ehlers	Lungren, Daniel
Bartlett (MD)	Emerson	E.
Berry	English (PA)	Mack
Biggert	Everett	Manzullo
Bilbray	Fallin	Marchant
Billirakis	Feeney	McCarthy (CA)
Blackburn	Ferguson	McCaul (TX)
Blunt	Flake	McCreery
Boehner	Forbes	McHenry
Bonner	Fox	McHugh
Bono	Franks (AZ)	McKeon
Boozman	Frelinghuysen	McMorris
Boustany	Gallely	Rodgers
Brady (TX)	Garrett (NJ)	Mica
Broun (GA)	Gerlach	Miller (FL)
Brown (SC)	Gilchrest	Miller (MI)
Brown-Waite,	Gingrey	Miller, Gary
Ginny	Gohmert	Murphy, Tim
Buchanan	Goodlatte	Musgrave
Burton (IN)	Gordon	Myrick
Buyer	Granger	Neugebauer
Calvert	Graves	Nunes
Camp (MI)	Hastert	Pearce
Campbell (CA)	Hastings (WA)	Perlmutter
Cannon	Hayes	Peterson (PA)
Cantor	Heller	Petri
Capito	Hensarling	Pickering
Carter	Hobson	Pitts
Castle	Hoekstra	Poe
Chabot	Hulshof	Porter
Coble	Hunter	Price (GA)
Cole (OK)	Inglis (SC)	Pryce (OH)
Conaway	Issa	Putnam
Crenshaw	Johnson, Sam	Radanovich
Culberson	Jones (NC)	Regula
Davis (KY)	Jordan	Rehberg
Davis, David	King (IA)	Reichert
Davis, Tom	Kingston	Renzi
Deal (GA)	Knollenberg	Reynolds
Dent	Lamborn	Rogers (AL)
Diaz-Balart, L.	Latham	Rogers (KY)

Rogers (MI)	Simpson	Walden (OR)	Higgins	Kilpatrick	Pence
Rohrabacher	Smith (NE)	Walsh (NY)	Hinojosa	Kline (MN)	Rangel
Ros-Lehtinen	Smith (NJ)	Wamp	Jindal	LaHood	Saxton
Roskam	Smith (TX)	Weldon (FL)	Johnson, E. B.	Markey	Spratt
Royce	Souder	Weller	Jones (OH)	Meeks (NY)	Sullivan
Ryan (WI)	Stearns	Westmoreland	Keller	Miller, George	
Shays	Tancred	Whitfield	Kennedy	Moran (KS)	
Schmidt	Tanner	Wicker			
Sensenbrenner	Terry	Wilson (NM)			
Sessions	Thornberry	Wilson (SC)			
Shadegg	Tiahrt	Wolf			
Shays	Tiberi	Young (AK)			
Shimkus	Turner				
Shuster	Upton				

NAYS—229

Abercrombie	Grijalva	Obey
Ackerman	Gutierrez	Olver
Allen	Hall (NY)	Ortiz
Altmiere	Hall (TX)	Pallone
Andrews	Hare	Pascrell
Arcuri	Harman	Pastor
Baca	Hastings (FL)	Paul
Baird	Herseth Sandlin	Payne
Baldwin	Hill	Peterson (MN)
Bean	Hinchee	Platts
Becerra	Hirono	Pomeroy
Berkley	Hodes	Price (NC)
Berman	Holden	Rahall
Bishop (GA)	Holt	Ramstad
Bishop (NY)	Honda	Reyes
Blumenauer	Hooley	Richardson
Boren	Hoyer	Rodriguez
Boswell	Inslee	Ross
Boucher	Israel	Rothman
Boyd (FL)	Jackson (IL)	Roybal-Allard
Boyd (KS)	Jackson-Lee	Ruppersberger
Brady (PA)	(TX)	Rush
Bralley (IA)	Jefferson	Ryan (OH)
Brown, Corrine	Johnson (GA)	Salazar
Burgess	Johnson (IL)	Sanchez, Linda
Butterfield	Kagen	T.
Capps	Kanjorski	Sanchez, Loretta
Capuano	Kaptur	Sarbanes
Cardoza	Kildee	Schakowsky
Carnahan	Kind	Schiff
Carney	King (NY)	Schwartz
Castor	Kirk	Scott (GA)
Chandler	Klein (FL)	Scott (VA)
Clarke	Kucinich	Serrano
Clay	Kuhl (NY)	Sestak
Cleaver	Lampson	Shea-Porter
Clyburn	Langevin	Sherman
Cohen	Lantos	Shuler
Conyers	Larsen (WA)	Larson (CT)
Cooper	Larson (CT)	Lee
Costa	Lee	Levin
Costello	Levin	Lewis (GA)
Courtney	Lewis (GA)	Lipinski
Cramer	Lipinski	LoBiondo
Crowley	LoBiondo	Loebsack
Cuellar	Loebsack	Lofgren, Zoe
Cummings	Lofgren, Zoe	Lowe
Davis (AL)	Lowe	Lynch
Davis (CA)	Lynch	Mahoney (FL)
Davis (IL)	Mahoney (FL)	Maloney (NY)
Davis, Lincoln	Maloney (NY)	Marshall
DeFazio	Marshall	Matheson
DeGette	Matheson	Matsui
DeLahunt	Matsui	McCarthy (NY)
DeLauro	McCarthy (NY)	McCollum (MN)
Dicks	McCollum (MN)	McCotter
Dingell	McCotter	McDermott
Doggett	McDermott	McGovern
Donnelly	McGovern	McIntyre
Doyle	McIntyre	McNerney
Edwards	McNerney	McNulty
Ellison	McNulty	Meeke (FL)
Ellsworth	Meeke (FL)	Melancon
Emanuel	Melancon	Michaud
Engel	Michaud	Miller (NC)
Eshoo	Miller (NC)	Mitchell
Etheridge	Mitchell	Mollohan
Farr	Mollohan	Moore (KS)
Filner	Moore (KS)	Moore (WI)
Fortenberry	Moore (WI)	Moran (VA)
Fossella	Moran (VA)	Murphy (CT)
Frank (MA)	Murphy (CT)	Giffords
Giffords	Murphy, Patrick	Murtha
Gillibrand	Murtha	Nadler
Gonzalez	Nadler	Goode
Goode	Napolitano	Green, Al
Green, Al	Neal (MA)	Green, Gene
Green, Gene	Oberstar	

NOT VOTING—28

Bachus	Bishop (UT)	Davis, Jo Ann
Barrow	Carson	Fattah
Barton (TX)	Cubin	Herger

Higgins	Kilpatrick	Pence
Hinojosa	Kline (MN)	Rangel
Jindal	LaHood	Saxton
Johnson, E. B.	Markey	Spratt
Jones (OH)	Meeks (NY)	Sullivan
Keller	Miller, George	
Kennedy	Moran (KS)	

□ 1158

Messrs. MOORE of Kansas, MEEK of Florida, MCNERNEY, ELLISON, LEVIN, Ms. HARMAN, Messrs. EDWARDS, SARBANES, and JOHNSON of Georgia changed their vote from “yea” to “nay.”

Messrs. SAM JOHNSON of Texas, DUNCAN, GALLEGLY, BUCHANAN, HUNTER, PORTER, and POE changed their vote from “nay” to “yea.”

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BARTON of Texas. Mr. Speaker, on Thursday, September 27, 2007, I was unable to make the first vote in a series because I was at the White House for a bill signing of the Food and Drug Administration Amendment Act of 2007. Had I been present, I would have voted “yea” on motion to adjourn which failed by the Yeas and Nays: 175–229 (Roll No. 914).

Stated against:

Mrs. JONES of Ohio. Mr. Speaker, on roll-call No. 914, I missed this vote, because I was stuck in traffic. Had I been present, I would have voted “nay.”

PROVIDING FOR CONSIDERATION OF H.R. 3121, FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California.

Ms. MATSUI. Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, if I could inquire from my colleague from California if she has finished with her speakers.

Ms. MATSUI. Yes, I have.

Mr. SESSIONS. Mr. Speaker, at this time I yield the balance of my time to the distinguished gentleman from Ohio, the minority leader, Mr. BOEHNER.

Mr. BOEHNER. Let me thank my colleague from Texas for yielding.

Mr. Speaker, posted on the Speaker of the House’s Web site at this moment is a document entitled “A New Direction for America.” In this document, the following statement is highlighted: Bills should generally come to the floor under a procedure that allows open, full, and fair debate consisting of a full amendment process that grants the minority the right to offer its alternatives.

Last November when Democrats were preparing to take control of this Chamber, I appreciated something that Speaker PELOSI said. And I quote, “The issue of civility, the principle of civility and respect for minority participation in this House is something that we

promised the American people. It is the right thing to do. And I set forth, over a number of years now, principles and respect for minority rights. And we intend to implement them."

This statement was made almost a year ago at a press conference on November 20, 2006. Now, let's contrast those statements that were made and with what took place last night in the Rules Committee.

Seven Republican amendments were offered to the bill that we are about to debate, none made in order, including a bipartisan amendment offered by Mr. GARRETT of New Jersey; 13 Democrat amendments were made in order.

Now, the last time the flood insurance bill was on the floor of the House, which was in the 109th Congress, six Democrat amendments were made in order, one bipartisan amendment was made in order, and nine Republican amendments were made in order.

And if this isn't bad enough that the Republicans were denied any amendments in the bill that we have before us today, the majority also, in its rule, has waived the earmark reform rule again.

Now, yesterday when we had the SCHIP bill on the floor, there were earmarks in the bill. They weren't disclosed, they weren't outlined, and there was no way for Members to get at a debate or an amendment on those earmarks that were in this bill.

What assurances do American taxpayers have that there isn't some earmark in this bill that we have today? Because there is no list. But yet, the Rules Committee felt obliged to waive the earmark reform bill that was put in place earlier this year.

Now, the problem we have with the underlying rule is really part of the bigger problem. Last night, our Rules Committee Republicans put together a report outlining the number of closed rules that we have had in this House.

I was here in the early 1990s demanding that the minority ought to be treated more fairly. And clearly, when Republicans took majority control of this House, it may not have been everything everybody wanted, but there was more democracy in the House than what we have seen this year. And I just want to implore all of my colleagues that the American people sent us here to work together to solve the problems of this country. And yet, all year, as I have put my hand out to try to find a way to work in a bipartisan manner, it gets slapped away. That is not what the American people want of us. It is not what they deserve. And I would ask my colleagues to understand, many of you were here in the minority; you know exactly what I am talking about. It is time to be treating the minority the way you asked to be treated when you were in the minority.

I would ask my colleagues to defeat this rule, send it back to the committee, and let's do this in the fair, bipartisan way that the American people expect.

Ms. MATSUI. Mr. Speaker, I yield myself the balance of my time.

I want to point out, Mr. Speaker, the earmark rule is not waived in this rule despite the claims of my colleagues. I urge them to read page 2, lines 6 and 7, that the earmark rule specifically excludes the earmark rule from the waiver. Any suggestion otherwise is simply untrue.

Additionally, the Rules Committee took testimony yesterday on this bill. Unfortunately, some of the Members who spoke today didn't even come to testify on their amendments.

Mr. Speaker, this bill takes the National Flood Insurance Program in a positive direction. This bill takes important steps to modernize the flood insurance program. This bill has bipartisan support. It raises maximum coverage limits to keep up with inflation; it provides new coverage for living expenses if you have to vacate your home; and, moving forward, Congress is making the flood insurance program sustainable in the long run.

Mr. Speaker, these are all positive steps that allow the program to continue to provide peace of mind to those impacted when a flood event occurs.

I urge a "yes" vote on the previous question and on the rule.

The material previously referred to by Mr. SESSIONS is as follows:

AMENDMENT TO H. RES. 683 OFFERED BY MR. SESSIONS OF TEXAS

At the end of the resolution, add the following:

SEC. 3. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the resolution (H. Res. 479) to amend the Rules of the House of Representatives to provide for enforcement of clause 9 of rule XXI of the Rules of the House of Representatives. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and (2) one motion to recommit.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the de-

mand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Ms. MATSUI. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. MATSUI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: