

H.R. 3635: Ms. HAHN and Mr. PETERS.  
 H.R. 3643: Mr. BARROW.  
 H.R. 3652: Mrs. BLACKBURN, Mrs. NOEM, and Mr. CONAWAY.  
 H.R. 3662: Mr. GINGREY of Georgia, Mr. COFFMAN of Colorado, Mr. LEWIS of California, Mr. GALLEGLY, Mr. GARY G. MILLER of California, Mr. HERGER, and Mr. SAM JOHNSON of Texas.  
 H.R. 3663: Mr. GRIFFITH of Virginia.  
 H.R. 3666: Mr. LIPINSKI.  
 H.R. 3676: Mr. FARENTHOLD.  
 H.R. 3698: Mrs. MYRICK.  
 H.R. 3702: Mr. CLARKE of Michigan.  
 H.R. 3767: Mr. GERLACH, Mrs. DAVIS of California, Mr. DEUTCH, and Mr. DEFazio.  
 H.R. 3789: Mr. FILNER.  
 H.R. 3798: Mr. SMITH of Washington.  
 H.R. 3803: Mr. CRAWFORD and Mr. PEARCE.  
 H.R. 3805: Mr. HARRIS.  
 H.R. 3811: Mr. DUFFY.  
 H.R. 3816: Mr. POMPEO and Mrs. HARTZLER.  
 H.R. 3819: Mr. PAUL and Mr. BURTON of Indiana.  
 H.R. 3824: Mr. BRADY of Pennsylvania, Mr. BISHOP of New York, and Mr. MCKINLEY.  
 H.R. 3842: Mr. SCHWEIKERT and Mr. HARRIS.  
 H.R. 3848: Mr. SCHOCK and Mrs. BLACKBURN.  
 H.R. 3852: Ms. LEE of California and Mr. QUIGLEY.  
 H.R. 3856: Mr. BILIRAKIS, and Ms. ROSELEHTINEN.  
 H.R. 3866: Mr. SERRANO, Mr. CLEAVER, Mr. RANGEL, Mr. DINGELL, Mr. ALTMIRE, Mr. WALZ of Minnesota, Mr. COSTELLO, Mr. RAHALL, Mr. MICHAUD, Mr. LARSEN of Washington, Mr. NADLER, and Mr. DEFazio.  
 H.R. 3875: Mr. WELCH, and Mrs. CAPPS.  
 H.R. 3878: Mr. DEFazio.  
 H.R. 3895: Mr. JONES.  
 H.R. 3903: Ms. SUTTON, Mr. WELCH, Mr. JOHNSON of Georgia, Mr. JACKSON of Illinois, Mr. CONYERS, Ms. KAPTUR, Ms. MOORE, Mr. MCGOVERN, Ms. LEE of California, Mr. HONDA, Mr. FILNER, and Mr. CICILLINE.  
 H. Res. 298: Ms. ZOE LOFGREN of California.  
 H. Res. 460: Ms. ZOE LOFGREN of California, Mr. LANGEVIN, Mr. HOLT, Mr. CALVERT, Mr. LEWIS of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. ROYBAL-ALLARD.  
 H. Res. 532: Mr. NUNNELEE and Mr. FITZPATRICK.

### PETITIONS, ETC.

Under clause 3 of rule XII,

36. The SPEAKER presented a petition of the City of Lauderdale Lakes, Florida, relative to Resolution No. 2011-121 setting forth the City's 2012 Federal Legislative and Appropriations priorities; jointly to the Committees on Energy and Commerce, Transportation and Infrastructure, Homeland Security, the Judiciary, and Financial Services.

### AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

S. 2038

OFFERED BY MR. FLAKE

AMENDMENT No. 1: Add at the end the following new title:

#### TITLE III—EARMARK ELIMINATION

##### SEC. 301. SHORT TITLE.

This title may be cited as the "Earmark Elimination Act of 2012".

#### Subtitle A—House of Representatives

##### SEC. 311. PROHIBITING CONSIDERATION OF LEGISLATION CONTAINING EARMARKS.

(a) PROHIBITION.—

(1) IN GENERAL.—It shall not be in order in the House of Representatives to consider any

bill, joint resolution, amendment, or conference report if the bill, joint resolution, amendment, or conference report, or any accompanying report or joint explanatory statement of managers, includes a congressional earmark, limited tax benefit, or limited tariff benefit.

(2) PROCEDURE.—If a point of order is raised under paragraph (1) with respect to a congressional earmark, limited tax benefit, or limited tariff benefit and the point of order is sustained, the congressional earmark, limited tax benefit, or limited tariff benefit shall be deemed to be stricken from the measure involved.

(3) SPECIAL PROCEDURE FOR CONFERENCE REPORT AND AMENDMENTS BETWEEN THE HOUSES.—

(A) IN GENERAL.—If a point of order is raised and sustained under paragraph (1) with respect to a conference report or a motion that the House recede from its disagreement to a Senate amendment and concur therein, with or without amendment, then after disposition of all such points of order the conference report or motion, as the case may be, shall be considered as rejected and the matter remaining in disagreement shall be disposed of under subparagraph (B) or (C), as the case may be.

(B) CONFERENCE REPORTS.—After the House has sustained one or more points of order under paragraph (1) with respect to a conference report—

(i) if the conference report accompanied a House measure amended by the Senate, the pending question shall be whether the House shall recede and concur in the Senate amendment with an amendment consisting of so much of the conference report as was not rejected; and

(ii) if the conference report accompanied a Senate measure amended by the House, the pending question shall be whether the House shall insist further on the House amendment.

(C) MOTIONS.—After the House has sustained one or more points of order under paragraph (1) with respect to a motion that the House recede and concur in a Senate amendment, with or without amendment, the following motions shall be privileged and shall have precedence in the order stated:

(i) A motion that the House recede and concur in the Senate amendment with an amendment in writing then available on the floor.

(ii) A motion that the House insist on its disagreement to the Senate amendment and request a further conference with the Senate.

(iii) A motion that the House insist on its disagreement to the Senate amendment.

(b) DETERMINATION BY HOUSE.—If a point of order is raised under this section and the Chair is unable to ascertain whether a provision constitutes a congressional earmark, limited tax benefit, or limited tariff benefit, the Chair shall put the question to the House and the question shall be decided without debate or intervening motion.

(c) CONFORMING AMENDMENT.—Rule XXI of the Rules of the House of Representatives is amended by striking clause 9.

##### SEC. 312. DEFINITIONS.

In this subtitle—

(1) the term "congressional earmark" means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or 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;

(2) the term "limited tax benefit" means—

(A) any revenue-losing provision that—

(i) provides a Federal tax deduction, credit, exclusion, or preference to 10 or fewer beneficiaries under the Internal Revenue Code of 1986, and

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

(B) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986; and

(3) 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.

#### Subtitle B—Senate

##### SEC. 321. PROHIBITION ON EARMARKS.

(a) BILLS AND JOINT RESOLUTIONS, AMENDMENTS, AMENDMENTS BETWEEN THE HOUSES, AND CONFERENCE REPORTS.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider a bill or resolution introduced in the Senate or the House of Representatives, amendment, amendment between the Houses, or conference report that includes an earmark.

(2) PROCEDURE.—Upon a point of order being made by any Senator pursuant to paragraph (1) against an earmark, and such point of order being sustained, such earmark shall be deemed stricken.

(b) CONFERENCE REPORT AND AMENDMENT BETWEEN THE HOUSES PROCEDURE.—When the Senate is considering a conference report on, or an amendment between the Houses, upon a point of order being made by any Senator pursuant to subsection (a), and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable under the same conditions as was the conference report. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(c) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(d) DEFINITIONS.—

(1) EARMARK.—For the purpose of this section, the term "earmark" means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives as certified under paragraph 1(a)(1) of rule XLIV of the Standing Rules of the Senate—

(A) 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;

(B) that—

(i) 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

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

(C) modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

(2) DETERMINATION BY THE SENATE.—In the event the Chair is unable to ascertain whether or not the offending provision constitutes an earmark as defined in this subsection, the question of whether the provision constitutes an earmark shall be submitted to the Senate and be decided without debate by

an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(e) APPLICATION.—This section shall not apply to any authorization of appropriations to a Federal entity if such authorization is not specifically targeted to a State, locality or congressional district.