

117TH CONGRESS
1ST SESSION

S. _____

To prohibit earmarks.

IN THE SENATE OF THE UNITED STATES

Mr. DAINES introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To prohibit earmarks.

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 “Earmark Elimination
5 Act of 2021”.

6 **SEC. 2. PROHIBITION ON EARMARKS.**

7 (a) BILLS AND JOINT RESOLUTIONS, AMENDMENTS,
8 AMENDMENTS BETWEEN THE HOUSES, AND CON-
9 FERENCE REPORTS.—

10 (1) IN GENERAL.—It shall not be in order in
11 the Senate to consider a bill, joint resolution, mo-

1 tion, amendment, amendment between the Houses,
2 or conference report that includes an earmark.

3 (2) PROCEDURE.—

4 (A) IN GENERAL.—Upon a point of order
5 being made by any Senator under paragraph
6 (1) against an earmark, and such point of order
7 being sustained, such earmark shall be stricken.

8 (B) FORM OF THE POINT OF ORDER.—A
9 point of order under paragraph (1) may be
10 raised by a Senator as provided in section
11 313(e) of the Congressional Budget Act of
12 1974 (2 U.S.C. 644(e)).

13 (b) CONFERENCE REPORT AND AMENDMENT BE-
14 TWEEN THE HOUSES PROCEDURE.—When the Senate is
15 considering a conference report, or an amendment between
16 the Houses—

17 (1) upon a point of order being made by any
18 Senator under subsection (a) with respect to one or
19 more earmarks, and such point of order being sus-
20 tained, such earmarks shall be stricken; and

21 (2) after all points of order under subsection
22 (a) have been disposed of—

23 (A) the Senate shall proceed to consider
24 the question of whether the Senate shall recede
25 from its amendment and concur with a further

1 amendment, or concur in the House amendment
2 with a further amendment, as the case may be,
3 which further amendment shall consist of only
4 that portion of the conference report or House
5 amendment, as the case may be, not so strick-
6 en;

7 (B) any such motion in the Senate shall be
8 debatable under the same conditions as was the
9 conference report or amendment between the
10 Houses; and

11 (C) in any case in which such point of
12 order is sustained against a conference report
13 (or Senate amendment derived from such con-
14 ference report by operation of this subsection),
15 no further amendment shall be in order.

16 (c) WAIVER; APPEAL.—A point of order under sub-
17 section (a) may be waived only by an affirmative vote of
18 two-thirds of the Members of the Senate, duly chosen and
19 sworn. An affirmative vote of two-thirds of the Members
20 of the Senate, duly chosen and sworn, shall be required
21 to sustain an appeal of the ruling of the Chair on a point
22 of order raised under subsection (a).

23 (d) DEFINITIONS.—

1 (1) EARMARK.—For the purpose of this section,
2 the term “earmark” means a provision or report
3 language—

4 (A) included primarily at the request of a
5 Senator or Member of the House of Represent-
6 atives that provides, authorizes, or recommends
7 a specific amount of discretionary budget au-
8 thority, credit authority, or other spending au-
9 thority for a contract, loan, loan guarantee,
10 grant, loan authority, or other expenditure with
11 or to an entity, or targeted to a specific State,
12 locality or Congressional district, other than
13 through a statutory or administrative formula-
14 driven or competitive award process;

15 (B) that—

16 (i) provides a Federal tax deduction,
17 credit, exclusion, or preference to a par-
18 ticular beneficiary or limited group of
19 beneficiaries under the Internal Revenue
20 Code of 1986; and

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

1 (C) that modifies the Harmonized Tariff
2 Schedule of the United States in a manner that
3 benefits ten or fewer entities.

4 (2) DETERMINATION BY THE SENATE.—In the
5 event the Chair is unable to ascertain whether a pro-
6 vision with respect to which a Senator raises a point
7 of order under subsection (a) constitutes an ear-
8 mark, the question of whether the provision con-
9 stitutes an earmark shall be submitted to the Senate
10 and be decided without debate.

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