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Legislative Bulletin…….September 14, 2006

Contents:

H.Res. 1000 — Providing for earmarking reform in the House of Representatives — *as reported* (Dreier, R-CA)

Order of Business: The resolution is scheduled for consideration on Thursday, September 14, 2006, subject to a self-executing rule (H. Res. 1003). The rule vote will be the only vote on this resolution.

Background: Increased media attention focusing on federal funding earmarked for low-priority local projects has brought the practice of earmarking into the national spotlight. Earmarks included in appropriations and authorization bills have increased over the past decade. According to Citizens Against Government Waste (CAGW), "the Congressional Research Service identified 15,268 earmarks in the non-emergency appropriations bills for fiscal 2005. …The *2006 Pig Book* identified 9,963 projects in the 11 appropriations bills for fiscal 2006, costing taxpayers a record $29 billion." In addition, CAGW reported that H.R. 3, the Highway Reauthorization bill included more than 6,000 earmarks, including the infamous "Bridge to Nowhere."

On May 3, 2006, the House passed H.R. 4975, the Lobbying Accountability and Transparency Act, which included extensive earmarks reforms for appropriations legislation. Today, the House will consider H.Res. 1000, a standing order in the House addressing earmark transparency in all bills, including appropriation, authorization, and tax legislation.

Summary: H.Res. 1000 would require that all reported bills and conference reports considered in the House, include a list of earmarks in the text or in the committee report and the name of the Member requesting each earmark. For tax measures, the resolution requires the Joint Committee on Taxation (JCT) to determine what constitutes an earmark within the bill and to list them (and the Member requesting each earmark) in either the text or the report. For conference reports, the joint explanatory statement must include a list of earmarks in the conference report or joint statement (and the Member requesting each earmark) that were not originally considered and passed by either the House or the Senate, so-called "air-dropped" earmarks. Earmarks in joint resolutions (such as continuing resolutions "CR"), manager's amendments, and unreported bills would not trigger these requirements.

The resolution would prohibit the consideration of any rule or order that waives the above requirements for a conference report being considered by the House, ensuring that Members would have the ability to challenge air-dropped earmarks in a conference report.

If a Member raised the point of order against a conference report in violation of the rule, the House would vote on the following question of consideration: "Shall the House now consider the resolution notwithstanding the assertion of [the maker of the point of order] that the object of the resolution introduces a new earmark or new earmarks?" For all bills, except those including tax measures, the point of order would be debatable for 30 minutes, divided evenly between the Member raising the point of order and an opponent.

The legislation defines an appropriations earmark as "a provision in a bill or conference report, or language in an accompanying committee report or joint statement of managers, providing or recommending an amount of budget authority for a contract, loan, loan guarantee, grant, or other expenditure with or to a non-federal entity, *if the entity is specifically identified* in the report or bill or if the discretionary budget authority is allocated *outside of the statutory or administrative formula-driven or competitive bidding process* and is targeted or directed to an identifiable entity, specific state, or congressional district." Non-federal entities that are states, local governments, and Indian tribes would be covered if the provision in question specifies a specific purpose for the funds.

H.Res. 1000 defines an authorizing earmark as "a provision in a bill or conference report, or language in an accompanying committee report or joint statement of managers, providing authority, including budget authority, or recommending the exercise of authority, for a contract, loan, loan guarantee, grant, obligation limitation on the use of contract authority, loan authority, or other expenditure with or to a non-federal entity, *if the entity is specifically identified* in the report or bill or if the authorization for, authority is allocated *outside of the statutory or administrative formula-driven or competitive bidding* process and is targeted or directed to an identifiable entity, specific state, or congressional district, or if the authorization of authority preempts statutory or administrative state allocation authority."

The bill defines a tax earmark as "any revenue-losing provision that provides a federal tax deduction, credit, exclusion, or preference to only one beneficiary" (as defined under current law).

Committee Action: H.Res. 1000 was introduced in the House on September 13, 2006. On the same day, the Committee on Rules reported the bill to the full House.

Cost to Taxpayers: None.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: Committee Report 109-655 cites constitutional authority in Article 1, Section 5, Clause 2 of the Constitution (relating to each House of Congress determining the rules of its proceedings).

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