

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To prohibit earmarks.

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IN THE SENATE OF THE UNITED STATES

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

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**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.