

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4560

To amend title 31, United States Code, to increase transparency and accountability for earmarks, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2010

Mr. KRATOVIL introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To amend title 31, United States Code, to increase transparency and accountability for earmarks, and for other purposes.

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 Performance  
5 and Accountability Act of 2010”.

6 **SEC. 2. EARMARK AUDITS BY NON-FEDERAL ENTITIES.**

7 (a) IN GENERAL.—A non-Federal entity shall con-  
8 duct an audit using an independent external auditor, as  
9 determined by the Comptroller General, of any program,

1 project, or activity that is administered by such non-Fed-  
2 eral entity and is funded through an earmark.

3 (b) FUNDING FOR AUDIT.—Each non-Federal entity  
4 that administers a program, project, or activity that is  
5 funded through an earmark shall set aside such sums as  
6 may be necessary to conduct an audit under subsection  
7 (a) of such program, project, or activity.

8 (c) REPORT TO CONGRESS.—Each non-Federal enti-  
9 ty that conducts an audit under subsection (a) of a pro-  
10 gram, project, or activity shall, not later than 180 days  
11 after the earmarked funds for the program, project, or ac-  
12 tivity are received by the entity, submit to Congress a re-  
13 port about such audit that includes a determination from  
14 the audit whether the earmarked funds are being spent  
15 efficiently and effectively and whether the program,  
16 project, or activity is meeting any applicable stated pur-  
17 pose.

18 (d) DEFINITIONS.—

19 (1) FUNDED THROUGH AN EARMARK.—The  
20 term “funded through an earmark”, with respect to  
21 a program, project, or activity, means that the pro-  
22 gram, project, or activity is included on—

23 (A) a list of “congressional earmarks” gen-  
24 erated under the Rules of the House of Rep-  
25 resentatives;

1 (B) a list of “congressionally directed  
2 spending” generated under the Standing Rules  
3 of the Senate; or

4 (C) on both such lists.

5 (2) NON-FEDERAL ENTITY.—The term “non-  
6 Federal entity” means a State, a local government,  
7 a nonprofit organization, or a private entity.

8 **SEC. 3. EARMARK AUDITS BY AGENCIES.**

9 Section 3521 of title 31, United States Code, is  
10 amended by adding at the end the following:

11 “(j)(1) Except as provided under paragraph (2), an  
12 agency that conducts an audit of any program, project,  
13 or activity that is administered by the agency and is fund-  
14 ed through an earmark shall submit to Congress the re-  
15 sults of the audit, not later than 30 days after the audit  
16 is completed.

17 “(2) In the case of any program, project, or activity  
18 that is administered by an agency and is funded through  
19 an earmark for an amount greater than \$5,000,000, the  
20 agency shall conduct an audit of the program, project, or  
21 activity, and shall, not later than 180 days after the ear-  
22 marked funds for the program, project, or activity are re-  
23 ceived by the agency, submit to Congress the results of  
24 the audit. Such audit shall include a determination from  
25 the audit whether the earmarked funds are being spent

1 efficiently and effectively and whether the program,  
2 project, or activity is meeting any applicable stated pur-  
3 pose.

4 “(3) For purposes of this subsection, the term ‘fund-  
5 ed through an earmark’, with respect to a program,  
6 project, or activity, means that the program, project, or  
7 activity is included on—

8 “(A) a list of ‘congressional earmarks’ gen-  
9 erated under the Rules of the House of Representa-  
10 tives;

11 “(B) a list of ‘congressionally directed spend-  
12 ing’ generated under the Standing Rules of the Sen-  
13 ate; or

14 “(C) on both such lists.”.

15 **SEC. 4. PUBLIC AVAILABILITY OF AUDIT RESULTS.**

16 Each report submitted to Congress under section 2,  
17 and the results of any audit submitted to Congress under  
18 section 3521(j) of title 31, United States Code, as added  
19 by section 3, shall also be transmitted to the Government  
20 Accountability Office, and the Government Accountability  
21 Office shall make the report available to the public  
22 through a Web site.

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