

Amendment 891 – Exposing Who and How the Stimulus Bill Was Changed to Allow Millions of Dollars of Bonuses for AIG

Establishes a deficit-neutral reserve fund to provide full disclosure by Members of Congress and executive branch officers regarding their involvement in the questionable language allowing for millions of dollars of bonuses for AIG employees that was secretly inserted into the American Recovery and Reinvestment Act of 2009.

In light of recent concern surrounding the inclusion of air-dropped language in the Stimulus legislation, relating to executive compensation for TARP recipients, this amendment would require, within 14 days of enactment of the Budget Resolution, the Department of Treasury and the Federal Reserve, should post a clearly labeled section on the front page of their website, in a searchable format, the following:

- (1) any relevant correspondences, memorandums, electronic communications, meeting summaries, and telephone logs; and
- (2) all communication, in any medium or manner, with—
 - (A) each Senate Office;
 - (B) the President and any officials employed or associated with the Administration of the President;
 - (C) American International Group; and
 - (D) the Office of the Attorney General of the State of Connecticut.

The Process for Making Decisions About AIG Bonuses Was Clearly Broken

The American people have a right to know and understand the laws that are passed by Congress, especially when a law spends hundreds of billions of taxpayer dollars.

For this to happen, the process by which legislation is considered by Congress needs to be open and transparent.

Unfortunately, the stimulus legislation passed in February spent nearly \$800 billion of taxpayer money, with many significant details were made away from public view.¹

¹ <http://www.foxnews.com/politics/2009/02/13/congress-readies-final-vote-b-stimulus/>

Of particular importance is that all decisions about AIG bonuses were made in backrooms of the Capitol rather than on the floor of the House or Senate.

A brief timeline illustrates exactly how decisions should **not** be made about issues so important to the public.

On January 28, 2009, the House of Representatives passed the stimulus legislation without addressing the issue of AIG bonuses.²

On February 10, 2009, the Senate passed the stimulus, with an amendment from Sen. Chris Dodd to prohibit bonuses for the 25 executives at each firm that took TARP funds.³

Neither version of the bill provided any the explicit loopholes for AIG bonuses that ultimately made it into the final legislation.

On February 10, 2009, the decision was made to sort out the differences in the bill in a conference committee, rather than through open debate.

Conference committees are not open to the public, and are not even open to most members of Congress.

The process for making decisions in a conference committee is often secretive and non-transparent – it was in this kind of environment that the loophole for AIG bonuses was crafted.

The AIG bonus provision was only discussed behind closed doors in conversations between Treasury officials and the staff of the Senate Banking Committee, as confirmed by a CNN interview between Secretary Geithner and interviewer Ali Velshi:

Velshi: But inadvertently, might somebody at Treasury have told Sen. Dodd to do something that has now resulted in these payments not being able to ...

² <http://clerk.house.gov/evs/2009/roll046.xml>

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http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=0006

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Geithner: No, again, what we did is just express concern about the vulnerability of a specific part of this provision, the legal challenge, as you would expect us to do, that's part of the legislative process, but again, his bill also has this very important provision that allows us to go back and see if we can recoup these payments, and we're going to explore that, but in any case, we're going to make sure that the American people are compensated for any payments we can recoup.

Velshi: Do we know who in Treasury had this conversation with whomever on the banking committee?

Geithner: Treasury staff were working [with] Sen. Dodd's staff throughout this process. Again, that's part of the legislative process.⁴

By February 12, 2009, the conference committee released a copy of the final bill containing a loophole for AIG bonuses.

Never once was the provision debated openly in either chamber.

The Addition of an AIG Bonus Loophole in Conference May Have Violated Senate Rules

In conference committee a select number of members and staff from the House, Senate and administration were allowed to negotiate the final version of the stimulus.

During this secretive time, a provision was added to allow AIG executives to receive bonuses.

According to Senate Rule 28, the addition of the provision may have constituted a violation of Senate rules, which do not allow new provisions to be “air-dropped” in conference.

The rule states: “Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses.”

⁴ <http://www.cnn.com/2009/POLITICS/03/19/geithner.qanda/>

While neither bill from the House or the Senate contained a loophole for AIG bonuses before the conference, the final conference report contained the loophole.

Including the loophole may have violated the Senate's own rules, and therefore should be subject to investigation to ensure the integrity of the process.

Violations of the Senate rules on conferences are never acceptable, but they are especially egregious when they result in sweetheart deals for executives taking taxpayer dollars.

Unfortunately, the American public was never allowed to know exactly why these changes were being made.

Members Were Not Given Enough Time to Read the Stimulus Bill Before the Vote Leaving Many Unaware of the New AIG Loophole

It is unlikely that any member of Congress had enough time to review the major provisions of the final stimulus bill, let alone read the entire bill line by line.

Members were given less than 24 hours to review any changes that were made to the conference report, which totaled more than 1,000 pages.

No person is able to plow through more than 500 pages of bill language per day and understand all of it, let alone identify the many changes made from earlier versions that passed the House and Senate.

The AIG bonus loophole consisted of one sentence buried **on page 569** of the bill that was posted on the website of the House Rules Committee.⁵

Even one of the members of the conference committee, Sen. Max Baucus, admitted that he had no time to know what was in the bill:

"This was a huge bill," Baucus said. "We agreed on structure. Then when staffs and Treasury get in the room and actually

⁵ http://www.rules.house.gov/111/LegText/hr1_legtext_crb.pdf

write it, that's where it got dropped. And frankly, it was such a rush, talking about the stimulus bill right now, to get it passed, I did not have time, other conferees did not have time to address many of the provisions that were modified significantly. We do the best we can, but we missed that stuff as a result."⁶

Had there been more time, members may have caught the loophole and raised objections at that time rather than finding out later.

Everyone Involved Disagrees About Why the AIG Bonus Loophole Was Added in Conference

Because the final version of the stimulus bill was negotiated in secret, the public does not have a definitive account of what happened, when it happened, and why it happened.

Sen. Ron Wyden alleged that there was something sinister behind the language change when he said this about the bonus provision:

"The president goes out and says this is not acceptable and then some backroom deal gets cut to let these things get paid out anyway."⁷

Sen. Chris Dodd puts the blame for the changes on the administration, who he has said asked for the provisions to be added, though he says he didn't know it was related to AIG.

"I did not want to make any changes to my original Senate-passed amendment but I did so at the request of Administration officials, who gave us no indication that this was in any way related to AIG," Mr. Dodd said in a statement.⁸

Treasury officials have claimed that the bill needed to be changed in order to comply with a Connecticut wage law, which is the state where AIG is headquartered.

⁶ <http://abcnews.go.com/Politics/Story?id=7121125&page=1>

⁷ <http://online.wsj.com/article/SB123741741674677723.html?mod=article-outset-box>

⁸ Ibid

Unfortunately, the Attorney General of Connecticut disputes this claim and said that no one from Treasury ever contacted his office to check if that was correct.⁹

One Connecticut-based employment attorney, N. Kane Bennet, believes that the use of Connecticut wage laws is only a cover story for the truth:

“Now it seems like the Feds, and perhaps the White House, are taking the same position as AIG — which is to blame it on the laws, blame it on the Connecticut Wage Act. It seems like everybody is just looking for something to blame here after the fact, when they've suddenly got this huge public outcry.”¹⁰

The *Washington Times* ran a story on March 30, 2009, indicating that AIG may have purchased “kid glove treatment” for its bonuses through well-timed campaign contributions.

Full Transparency by all Parties Involved Will Shed Light on Why and How the Language Was Changed

Given the significant controversy that arose in the wake of the AIG bonus loophole, it is essential for all documents and electronic communications to be made available to the public.

The American people, who did not benefit from open debate over this part of the stimulus bill, deserve to know why the provisions were included.

There are several conflicting stories about the intent of the provisions and from where they were first proposed.

Even more, the provision may have violated Senate rules by air-dropping in provisions that neither the House nor the Senate previously approved.

In this new era of transparency and accountability the Majority touts, this amendment is an obvious first step in requiring transparency for all parties

⁹ <http://www.courant.com/news/local/hc-aig-hearing-findings.artmar28,0.4065888.story>

¹⁰ www.courant.com/news/politics/hc-aig-bernanke-connecticut.artmar25,0.807596.story

involved, including Congress and is necessary to maintain the integrity of this body and the legislative process.