



# Earmark Reform

## *An Overview of the Earmark Debate and Current Reform Proposals*

---

By Helen Eisner<sup>1</sup>  
April 21, 2009

### **SUMMARY**

In the past two decades, congressional earmarking has become commonplace. In recent years, earmarking has been criticized by the right and the left for its lack of transparency. Some argue that the process funds projects on the basis of political connections, not merit. Others contend that earmarks fund valuable projects that escape the attention of the federal bureaucracy. Congress previously enacted reforms to limit earmarking, and the Obama administration and some members of the 111<sup>th</sup> Congress intend to enact further restrictions. The following is an overview of the current debate over earmark reform.

### **BACKGROUND**

Today, it is standard practice for members of Congress to support earmarks that promote projects and activities in their districts, but that was not always the case. The widespread use of congressional earmarks is a relatively recent political phenomenon. For example, in the mid-1980s, the transportation appropriations bills included an average of three earmarks. In 2008, the same bill contained 2,000 earmarks.<sup>2</sup> In fact, between 1991 and 2005, the number of federal earmarks has increased by a factor of 25.<sup>3</sup> Recently, discussion about the fairness and transparency of earmarks has escalated and new reforms have been introduced. Currently, President Obama and Congress are considering reforms that would place stricter requirements on earmarks.

#### *Earmarks Defined*

The Office of Management and Budget defines earmarks as “funds provided by the Congress for projects or programs where the congressional direction (in bill or report language) circumvents the merit-based or competitive allocation process, or specifies the location or recipient, or

---

<sup>1</sup> For more information, contact Helen Eisner, Policy Analyst, at (202) 429-0400 x21, [heisner@alliance1.org](mailto:heisner@alliance1.org) or [heisner@unca.org](mailto:heisner@unca.org)

<sup>2</sup> Mary Beth Sheridan, “Hoyer is Proof of Earmarks’ Endurance,” *The Washington Post*, December 10, 2007, [http://www.washingtonpost.com/wp-dyn/content/article/2007/12/09/AR2007120901640\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/12/09/AR2007120901640_pf.html) .

<sup>3</sup> Jonathan Rauch, “Earmarks are a Model Not a Menace: Obsessing about Earmarks Has the Perverse, If Convenient, Effect of Distracting the Country From Its Real Spending Problems,” *National Journal Magazine*, March 14, 2009, <http://www.nationaljournal.com/njmagazine/socialstudies.php> .

otherwise curtails the ability of the Executive Branch to properly manage funds.”<sup>4</sup> More plainly, an earmark is a spending measure inserted into federal appropriations or authorization language that directs funds to a specific program or project. Legislators generally sponsor earmarks that fund activities in their home state or district.

### *Earmarks: Pros and Cons*

In recent years, earmarks have been criticized by those who feel they award funds based on lawmakers’ political goals without the transparency of the committee review process. High profile earmarks, such as former Sen. Ted Stevens’ (R-AK) “Bridge to Nowhere,” have also drawn attention to the issue. This project earmarked \$233 million to build a bridge to an Alaskan island with only 50 inhabitants.<sup>5</sup> Supporters of earmarks contend that these spending provisions address important community and national concerns that government bureaucracy overlooks. Both supporters and critics of earmarking offer strong arguments to defend their positions.

### Arguments in Favor of Earmarking

#### *Addressing Valuable Local Concerns*

Proponents of earmarking emphasize that legislators, particularly members of the House of Representatives, are elected every two years for the purpose of serving the current, local needs of their constituents.<sup>6</sup> Earmark supporters argue that legislators are often better equipped than federal agencies to serve the needs of their constituents. Sen. Mary Landrieu (D-LA) commented, “we have to be careful about just jumping to the conclusion that agencies know better and that federal bureaucrats who have never stepped in a place know better than officials who have literally campaigned there door to door.”<sup>7</sup> Thus, earmark supporters contend that representatives who know the needs of their communities are uniquely suited to address these needs.

The Alaskan “Bridge to Nowhere” generated significant negative publicity for earmarks. However, earmark supporters point out that earmark funds often promote important local projects such as educational programs, initiatives to improve community infrastructure, and other social services.<sup>8</sup> Earmarks can also invest in activities that strengthen local economies and support valuable research.

Another argument is that standard federal funding streams are often inadequate to meet valuable and unique community concerns. Rep. Jim Moran (D-VA) explains, “the problem with a lot of federal programs is that they have to take a cookie-cutter approach.”<sup>9</sup> The bureaucratic process may overlook innovative local projects and important research. Some legislators argue that earmarks serve as a remedy for this. Rep. Jim Oberstar (D-MN) contends that, “earmarks are a way for citizen concerns to be

---

<sup>4</sup> Office of Management and Budget, “Earmarks,” September 12, 2008, <http://earmarks.omb.gov/>.

<sup>5</sup> Michael Grunwald, “Pork by Any Other Name...,” April 20, 2006, *The Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2006/04/29/AR2006042900141.html> .

<sup>6</sup> Melissa Harris-Lacewell, “In Defense of Earmarks,” *The Nation*, March 10, 2009, <http://www.thenation.com/blogs/notion/416062/print> .

<sup>7</sup> David M. Herszenhorn and Ron Nixon, “Old Problems Resurface in New Earmark Rules,” *The New York Times*, March 18, 2009, [http://www.nytimes.com/2009/03/18/washington/18earmarks.html?\\_r=1&hp](http://www.nytimes.com/2009/03/18/washington/18earmarks.html?_r=1&hp) .

<sup>8</sup> Youth Policy Today, “Earmarks 2009,” April 2009, <http://www.youthtoday.org/doc/issues/yt1804apr09/pages9-11yt1804april09.pdf> .

<sup>9</sup> Jonathan Rauch, “Earmarks are a Model Not a Menace: Obsessing about Earmarks Has the Perverse, If Convenient, Effect of Distracting the Country From Its Real Spending Problems,” *National Journal Magazine*, March 14, 2009, <http://www.nationaljournal.com/njmagazine/socialstudies.php>.

heard and responded to when they have tried through the normal procedure...and they don't get their fair share and their needs are neglected and ignored.”<sup>10</sup>

### *Supporting Innovation*

Funding for scientific research is one example that earmark supporters often use to illustrate the rigidity of government funding. According to defenders of earmarks, cutting edge projects are often overlooked because of the orthodoxy of the peer review system employed by grant making bodies such as the National Institutes for Health (NIH).<sup>11</sup> In this system, a panel of experts in a given scientific field review grant applications to decide where federal funds should be spent.

While the peer review process is often termed “merit-based,” some evidence suggests that the process includes bias. A General Accounting Office study from 1987 found a direct correlation between the institutions that peer reviewers are associated with, and the institutions that ultimately receive government grants.<sup>12</sup> Further, in 1999, the top ten institutions to receive federal research funding were awarded 22 percent of this funding, and the top 20 received 37 percent of the funding.<sup>13</sup> Thus, defenders of earmarks suggest that there is bias in the peer review process that concentrates funding within specific institutions. Additionally, if funding is determined by scientists accustomed to one school of thought, these peer review panels may overlook alternative bodies of research when allocating grants. This is troubling to some earmark proponents, who argue that narrow funding criteria may hinder scientific progress by limiting innovation. The same argument applies to creative uses of funding for social services, education, and other important program areas.

### *Fairness in Grant Making*

In the non-profit, social service arena, smaller organizations often lack the time or staff needed to master the exhaustive government grant application process. Although this grant process is competitive, larger, better financed institutions may have an advantage. Just as with scientific research, creative programs administered by smaller organizations may be overlooked during grant making because of limited resources. Earmark supporters suggest that legislators can remedy this fairness concern by taking the initiative to direct funds towards smaller organizations through earmarking.

### *Effectiveness of Earmarked Funding*

Some critics further argue that inefficiency plagues government-funded programs. One example is defense procurement, which has been widely criticized because military

---

<sup>10</sup> Cynthia Dizikes, “Congressional Earmarks: Pros and Cons – and Minnesota’s Cut,” *Minnesota Post*, March 4, 2009, [http://www.minnpost.com/stories/2009/03/04/7141/congressional\\_earmarks\\_pros\\_and\\_cons\\_-\\_and\\_minnesotas\\_cut](http://www.minnpost.com/stories/2009/03/04/7141/congressional_earmarks_pros_and_cons_-_and_minnesotas_cut).

<sup>11</sup> US Department of Health and Human Services, “Peer Review Process,” [http://grants.nih.gov/Grants/peer\\_review\\_process.htm](http://grants.nih.gov/Grants/peer_review_process.htm).

<sup>12</sup> John Silber, “Earmarking: The Expansion of Excellence in Scientific Research,” AAAS Science and Technology Policy Yearbook, American Association for the Advancement of Science, 2002, <http://www.aaas.org/spp/yearbook/2002/ch11.pdf>, 107.

<sup>13</sup> John Silber, “Earmarking: The Expansion of Excellence in Scientific Research,” AAAS Science and Technology Policy Yearbook, American Association for the Advancement of Science, 2002, <http://www.aaas.org/spp/yearbook/2002/ch11.pdf>, 108.

funding contracts are frequently over budget and behind schedule.<sup>14</sup> In contrast, earmarks can offer an opportunity to respond to needs quickly and fund creative programs outside of the bureaucratic process.

Further, some earmark supporters contend that recent legislative reforms may make earmark funding more accountable than administrative funding streams. According to Craig Jennings of OMB Watch, “the federal government gives money to states, states give it to cities, and it gets convoluted.”<sup>15</sup> It can be difficult to track the distribution of government funds and determine their impact. In contrast, new earmark requirements mandate the public disclosure of how earmarked funds will be spent and details about the project’s purpose.<sup>16</sup> These reforms may bring increased transparency not matched by the standard federal grant making process.

Additionally, many earmark supporters believe that eliminating the current system of earmarks may only lead to the creation of a different system that does the same thing. For example, full elimination might encourage a process where members lobby executive agencies privately or establish new programs geared towards the specific needs in their communities. Rep. Moran comments, “you’re never going to abolish earmarks...what you’ll wind up abolishing is the transparency, the accountability.”<sup>17</sup>

Finally, some believe that new regulations will prevent earmark abuses. If greater transparency is achieved, many proponents of earmarks see no reason to quibble over spending that accounts for only one percent of the budget.<sup>18</sup>

#### Arguments Against Earmarking

Today, when a member of Congress wants to support his individual project, he often works outside of the appropriations process and introduces an earmark. According to Scott Lilly from the Center for American Progress, in the past, before the practice of congressional earmarking increased exponentially, when a member of Congress wanted to support a particular project he would, “increase the entire national program in order that it would have a better chance that it would spill into [his] state.”<sup>19</sup> Earmark critics prefer this system, where funding decisions are made by federal bureaucracies, and raise concerns about the effectiveness and fairness of earmarking.

#### *Effectiveness of Federal Grant Making*

To counter the prevalence of earmarking, some advocacy organizations such as Citizens Against Government Waste and Taxpayers for Common Sense have been created to

---

<sup>14</sup> Sydney J. Freedberg Jr., “Can Gates Fix the Pentagon Procurement Mess?” *National Journal Online*, April 6, 2009, <http://security.nationaljournal.com/2009/04/can-gates-fix-the-pentagon-pro.php>.

<sup>15</sup> Alice Lipowicz, “Transparency of Recovery.gov under scrutiny,” *Federal Computer Week*, February 20, 2009, <http://www.fcw.com/Articles/2009/02/23/Stimulus-transparency-in-question.aspx>.

<sup>16</sup> Jonathan Rauch, “Earmarks are a Model Not a Menace: Obsessing about Earmarks Has the Perverse, If Convenient, Effect of Distracting the Country From Its Real Spending Problems,” *National Journal Magazine*, March 14, 2009, <http://www.nationaljournal.com/njmagazine/socialstudies.php>.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Jonathan Rauch, “Earmarks are a Model Not a Menace: Obsessing about Earmarks Has the Perverse, If Convenient, Effect of Distracting the Country From Its Real Spending Problems,” *National Journal Magazine*, March 14, 2009, <http://www.nationaljournal.com/njmagazine/socialstudies.php>.

shed light on what they call “pork” spending. Steve Ellis, a spokesman for Taxpayers for Common Sense explained that earmarks are, “Congress picking the winner that happens to be in the lawmakers’ district, rather than unleashing America’s promise and saying, ‘Here’s the problem, here’s what we are trying to fund, and let companies across America see if they can actually meet that need.”<sup>20</sup>

Opponents of earmarking often criticize the practice because it directs funding outside of the peer review process. The federal government takes into account the opinion of a panel of experts in a given field when deciding how to award grant funding.<sup>21</sup> In contrast, lay congressional staff, who decide where to direct earmark spending, can base decisions on political considerations and not professional expertise. Bill Allison, a senior fellow at the Sunlight Foundation, which focuses on increasing government transparency, explains that with earmarks, legislators make “decisions that are way beyond their level of expertise or the expertise of the staff...That just isn’t a good way to spend money, even if those programs are good, we are potentially missing out.”<sup>22</sup> In this case, the argument is that a government agency is better equipped to make decisions about where such money should be spent, and how it should be fairly distributed across the nation.

One example is medical research. The National Institutes of Health (NIH) subjects funding proposals to a lengthy peer review process before they receive funding.<sup>23</sup> Many times, organizations that receive earmarks have been passed over during an agency’s regular funding competition.<sup>24</sup> Opponents of earmarks argue that even though some earmark supported activities may be valuable, they may be less worthy than other projects that could have been funded. Thus, opponents contend that objective bureaucrats should make these decisions.

As indicated earlier, some supporters of earmarks argue that there is bias within the peer review system and contend that a specific set of institutions receive the majority of government funding. However, opponents of earmarking suggest that the earmarking process is not immune to this. While the top 20 recipients of federal research funds received 37 percent of the total, they also received 32 percent of earmarked research funds.<sup>25</sup> Thus, opponents of earmarking contend that earmarking does not create a more level playing field for funding competition or necessarily support greater innovation than the government process.

---

<sup>20</sup> David M. Herszenhorn and Ron Nixon, “Old Problems Resurface in New Earmark Rules,” *The New York Times*, March 18, 2009, [http://www.nytimes.com/2009/03/18/washington/18earmarks.html?\\_r=1&hp](http://www.nytimes.com/2009/03/18/washington/18earmarks.html?_r=1&hp) .

<sup>21</sup> Department of Health and Human Services, “Peer Review Process,” [http://grants.nih.gov/Grants/peer\\_review\\_process.htm](http://grants.nih.gov/Grants/peer_review_process.htm) .

<sup>22</sup> Cynthia Dizikes, “Congressional Earmarks: Pros and Cons – and Minnesota’s Cut,” *Minnesota Post*, March 4, 2009, [http://www.minnpost.com/stories/2009/03/04/7141/congressional\\_earmarks\\_pros\\_and\\_cons\\_-\\_and\\_minnesotas\\_cut](http://www.minnpost.com/stories/2009/03/04/7141/congressional_earmarks_pros_and_cons_-_and_minnesotas_cut) .

<sup>23</sup> US Department of Health and Human Services, “Peer Review Process,” [http://grants.nih.gov/Grants/peer\\_review\\_process.htm](http://grants.nih.gov/Grants/peer_review_process.htm) .

<sup>24</sup> David M. Herszenhorn and Ron Nixon, “Old Problems Resurface in New Earmark Rules,” *The New York Times*, March 18, 2009, [http://www.nytimes.com/2009/03/18/washington/18earmarks.html?\\_r=1&hp](http://www.nytimes.com/2009/03/18/washington/18earmarks.html?_r=1&hp) .

<sup>25</sup> James D. Savage, “Twenty Years Later: The Rise of Academic Earmarking and Its Effect on Academic Science,” AAAS Science and Technology Policy Yearbook, American Association for the Advancement of Science, 2002, <http://www.aaas.org/spp/yearbook/2002/ch11.pdf> , 100.

### *Fairness and Earmarking*

Another central issue is the fairness of the earmark process itself. Often, larger organizations that can more effectively lobby their representatives are more successful in obtaining earmarks.<sup>26</sup> A 2007 *Business Week* study found that for every dollar an organization spends on lobbying, it receives \$28 in earmark revenue.<sup>27</sup> This funding disparity can put smaller organizations at a disadvantage when they compete for earmarked funds.

Additionally, earmark critics argue that legislative committee assignments largely determine which earmarks get funded. Steve Ellis explains, "if earmarks were merit-based, you wouldn't see them flowing disproportionately to appropriations committee members."<sup>28</sup> For example, in 2008, Mississippi State University and the University of Mississippi received the first and second highest earmark awards of any university in the country. These earmarks were sponsored by Sen. Thad Cochran (R-MS), who is the ranking member on the Senate Appropriations Committee.<sup>29</sup> Opponents claim that the pet projects of senior legislators on powerful committees become the "winners" while other districts come up short.

### *Political Considerations and Corruption*

According to critics, earmarks are self-reinforcing because the more earmarks a legislator obtains, the better he is perceived in his district and the more likely he is to be re-elected, and the process repeats itself.<sup>30</sup> Various studies have found a correlation between earmark inclusion and the likelihood of re-election.<sup>31</sup> Some critics express concern about cases where earmark funding has been traded for campaign contributions, and worry about the implications of this type of earmark bartering on legislative decision making.<sup>32</sup> Earmark opponents explain that a legislator sacrifices the best interests of his district if he decides to fund a less effective program over another based on campaign contributions.

The case of former Rep. Randy "Duke" Cunningham (R-CA) is a prime example of this type of corruption. From his position on a defense appropriations subcommittee, Cunningham traded \$70 million in earmarks to defense contractors for \$2 million in bribes.<sup>33</sup> On March 2, 2006, Cunningham pleaded guilty to conspiracy to commit bribery, mail fraud, and wire fraud, and was sentenced to eight years and four months in prison.<sup>34</sup>

---

<sup>26</sup> David M. Herszenhorn and Ron Nixon, "Old Problems Resurface in New Earmark Rules," *The New York Times*, March 18, 2009,

[http://www.nytimes.com/2009/03/18/washington/18earmarks.html?\\_r=1&hp](http://www.nytimes.com/2009/03/18/washington/18earmarks.html?_r=1&hp) .

<sup>27</sup> Eamon Javers, "Inside the Hidden World of Earmarks," *Business Week*, September 17, 2007, [http://www.businessweek.com/magazine/content/07\\_38/b4050059.htm?chan=search](http://www.businessweek.com/magazine/content/07_38/b4050059.htm?chan=search) .

<sup>28</sup> Jonathan Rauch, "Earmarks are a Model Not a Menace: Obsessing about Earmarks Has the Perverse, If Convenient, Effect of Distracting the Country From Its Real Spending Problems," *National Journal Magazine*, March 14, 2009, <http://www.nationaljournal.com/njmagazine/socialstudies.php>.

<sup>29</sup> Alan Finder, "Study Finds Record Education Earmarks," *The New York Times*, March 24, 2008, <http://www.nytimes.com/2008/03/24/washington/24earmarks.html> .

<sup>30</sup> Ibid.

<sup>31</sup> R. Michael Alvarez and Jason L. Saving, "Deficits, Democrats, and Distributive Benefits: Congressional Elections and the Pork Barrel in the 1980s," *Political Research Quarterly* 50, No. 4, 1997.

<sup>32</sup> Jonathan Riskind, "Earmarks help benefactors' re-election bids," *Springfield News*, June 8, 2008, <http://www.sunlightfoundation.com/presscenter/articles/2008/06/08/earmarks-help-benefactors-re-election-bids/> .

<sup>33</sup> Mark Mazzetti, "Report Spells Out Abuses by Former Congressman," *The New York Times*, October 18, 2006,

Even if transparency is increased through legislative reforms, the question of whether earmarking is better than the regular merit-based approach and how committee assignments impact the process remain. This is why some opponents of earmarks have proposed eliminating them completely.

## RECENT EARMARK REFORMS

Congress recently enacted several procedural and legislative changes to reform the earmarking process. On January 4, 2007, the House of Representatives adopted an internal rules package (H. Res. 6) to restrict earmarks. This rule required that all earmark requests be submitted to the chairman and ranking member of a relevant committee and include the name of the sponsoring member, the name and address of the earmark recipient, information about the purpose of the earmark, and certification that the sponsoring member and member's spouse have no financial interest in the earmark. According to the rule, these requests would become public only for earmarks eventually included in a measure reported out of committee or included in a conference report. Earmark requests that were not funded would not become public. The resolution did not include a timeline for disclosure of funded requests.<sup>35</sup>

On September 14, 2007, former President George W. Bush signed ethics reform legislation, the Honest Leadership and Open Government Act of 2007 (Pub. L. 110-81), into law.<sup>36</sup> The law places new requirements on earmarks, mandating that each bill, joint resolution, or conference report that reaches the Senate or House floor identify the name of the legislator who requested any included earmarks.<sup>37</sup> The legislation requires that this information be made available on a publicly searchable website at least 48 hours before a scheduled vote on legislation that includes the earmark.<sup>38</sup> The information will also be printed in the Congressional Record before a floor vote.<sup>39</sup>

On January 6, 2009, House Appropriations Committee Chairman David R. Obey (D-WI) and Senate Appropriations Chairman Daniel K. Inouye (D-HI) reaffirmed the Democratic leadership's previous promise to scale back earmarks by 50 percent from the \$17 billion in funded earmarks in 2006.<sup>40</sup> This year's omnibus package cut funding from this benchmark by 43 percent.<sup>41</sup> Rep. Obey and Sen. Inouye also announced a plan to require legislators to post all earmark requests online by April 4, well in advance of the appropriations committee work for fiscal year 2010.<sup>42</sup> This is a change from previous rules because it requires that all earmark requests, not just

---

<http://www.nytimes.com/2006/10/18/washington/18inquire.html?scp=3&sq=randy%20cunningham%20earmarks&st=cse> .

<sup>34</sup> CNN, "Crooked Congressman going to Prison," March 3, 2006,

<http://www.cnn.com/2006/LAW/03/03/cunningham.sentenced/index.html> .

<sup>35</sup> Citizens Against Government Waste, "Guide to Earmark Reform," January 26, 2007,

[http://www.cagw.org/site/PageServer?pagename=reports\\_earmarkguide](http://www.cagw.org/site/PageServer?pagename=reports_earmarkguide) .

<sup>36</sup> Tom Finnigan, "All About Pork: The Abuse of Earmarks and the Needed Reforms," March 2, 2007, [http://www.cagw.org/site/PageServer?pagename=reports\\_earmarks](http://www.cagw.org/site/PageServer?pagename=reports_earmarks) .

<sup>37</sup> Craig Holman and Nicole Lazaris, "Detailed Comparison of the Lobbying Laws and Ethics Rules Approved by the 110<sup>th</sup> Congress," Public Citizen, April 10, 2008,

<http://www.citizen.org/documents/s.1%20chart%203.doc> .

<sup>38</sup> Ibid.

<sup>39</sup> Craig Holman and Nicole Lazaris, "Detailed Comparison of the Lobbying Laws and Ethics Rules Approved by the 110<sup>th</sup> Congress," Public Citizen, April 10, 2008,

<http://www.citizen.org/documents/s.1%20chart%203.doc> .

<sup>40</sup> Paul M. Krawzak, "Skeptical Welcome for Earmark Cut," *CQ Today*, January 6, 2009.

<sup>41</sup> Kyle Trygstad, "Republican Earmarks Taint Spending Criticism," *Real Clear Politics*, March 13, 2009, [http://www.realclearpolitics.com/articles/2009/03/republican\\_earmarks\\_pork.html](http://www.realclearpolitics.com/articles/2009/03/republican_earmarks_pork.html).

<sup>42</sup> Paul M. Krawzak, "Skeptical Welcome for Earmark Cut," *CQ Today*, January 6, 2009.

earmarks that are funded, become public. On the same day, House Minority Leader Rep. John A. Boehner (R-OH) criticized the Democratic leaders for not going far enough –specifically for not banning “airdropping” – a process where earmarks are dropped into conference reports at the last minute.<sup>43</sup>

The combination of ethics reform legislation and Sen. Inouye and Rep. Obey’s new appropriations committee rules means that currently, each earmark request must:

1. Be submitted to a relevant committee with information that identifies the requesting member, specifies the earmark’s recipient, describes the earmark’s purpose, and certifies that the sponsoring member or the member’s spouse will not benefit financially from the earmark. For funded earmarks, the request would become available on a publicly accessible website at least 48 hours prior to a vote on legislation that contains the earmark.<sup>44</sup>
2. Be made public on the requesting legislator’s website far in advance of appropriations committee consideration. This allows the public to analyze the earmark requests of their members, regardless of whether the requests are ultimately funded.

## CURRENT REFORM PROPOSALS

Despite recently enacted earmark restrictions, supporters of reform have continued to push for more. Debate over earmarks erupted during consideration of the 2009 omnibus appropriations package. Many Republicans lambasted these spending provisions, although both Republicans and Democrats sought earmarks in the final package. Earmarks accounted for \$7.7 billion of the \$410 billion package, nearly 2 percent of the total.<sup>45</sup>

During the 2008 presidential campaign, President Obama took a strong stance on earmarks commenting, “we can no longer accept a process that doles out earmarks based on a member of Congress’ seniority, rather than the merit of the project.”<sup>46</sup> Obama even voted on an amendment in March 2008 to place a one-year moratorium on earmarks for fiscal year 2009. Many critics felt that by signing the 2009 omnibus into law, Obama had sacrificed his campaign promise of earmark reform. Obama called work on the 2009 omnibus “last year’s business,” because it concluded work on fiscal year 2009 that had begun during the Bush presidency. Immediately after signing the omnibus, Obama pledged to move forward with his own budget proposal to create a “new era of responsibility and accountability,” including earmark reform.<sup>47</sup>

Following debate over the omnibus, President Obama’s press secretary Robert Gibbs said that the president did plan to address earmark reform in the future. Gibbs said, “I think that you’ll see that the president is going to draw some very clear lines about what’s going to happen going

---

<sup>43</sup> Office of the House Republican Leader, “Boehner: Democrats’ Earmark Reforms are Welcome, But Don’t Go Far Enough,” January 6, 2009, <http://republicanleader.house.gov/News/DocumentSingle.aspx?DocumentID=108152> .

<sup>44</sup> Common Cause, “Honest Leadership and Open Government Act of 2007,” <http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=4773635>.

<sup>45</sup> Bennett Roth, “Pelosi Vows to Work With Obama to Examine Earmarking After Omnibus,” *CQ Today*, March 5, 2009.

<sup>46</sup> Jake Tapper, “Obama & Earmarks: One Year Ago This Week,” *ABC News*, March 11, 2009, <http://blogs.abcnews.com/politicalpunch/2009/03/obama-earmark-1.html> .

<sup>47</sup> Peter Baker and David M. Herszenhorn, “Obama Signs Spending Bill but Criticizes Earmarks,” *The New York Times*, March 11, 2009, <http://www.nytimes.com/2009/03/12/us/politics/12earmarks.html?partner=rss> .

forward.”<sup>48</sup> Even though Gibbs’ comments did not detail a plan of action, they still drew the ire of some Democrats who were resistant to the White House taking a lead role in earmark reform. House Majority Leader Steny Hoyer (D-MD) said that although the administration could, “suggest ways for us to reform...I don’t think the White House has the ability to tell us what to do.”<sup>49</sup> House Speaker Nancy Pelosi (D-CA) adopted a more conciliatory tone and commented that deciding spending priorities “is an appropriate function of the Congress.” Pelosi continued, “I do certainly agree with the president that we need to try to have fewer earmarks, that we have transparency and accountability.”<sup>50</sup>

Sen. Inouye and Rep. Obey’s new appropriations committee rules mandated that legislators post their earmark requests for FY 2010 on their official websites by April 4, 2009.<sup>51</sup> As of this writing, there has been some confusion about the required method of disclosing information on members’ websites, resulting in the presentation of earmark requests in diverse, and often confusing formats. Additionally, a number of members failed to post information about their earmark requests by the deadline.<sup>52</sup>

The debate over earmarks will likely emerge again as Congress responds to the April 4 disclosure of earmark requests and begins work in committee to finalize the details of the FY 2010 appropriations bills.

### *Reform Proposals*

Since the beginning of 2009, President Obama and a number of Republican and Democratic senators have introduced proposals for earmark reform.

#### President Obama’s Proposal

On the campaign trail, President Obama said, “we need earmark reform...And when I’m president, I will go line by line to make sure that we are not spending money unwisely.”<sup>53</sup> Two months into his presidency, following the debate over the omnibus package, Obama took a public stance on earmark reform. During comments on March 11, Obama said:

On occasion, earmarks have been used as a vehicle for waste, and fraud, and abuse. Projects have been inserted at the 11th hour, without review, and sometimes without merit, in order to satisfy the political or personal agendas of a given legislator, rather than the public interest. There are times where earmarks may be good on their own, but in the context of a tight budget might not be our highest priority. So these practices hit their peak in the middle of this decade, when the number of earmarks had ballooned to more than 16,000, and played a part in a series of corruption cases.<sup>54</sup>

---

<sup>48</sup> Alex Isenstadt, “Hoyer to W.H.: Hands off our earmarks,” *Politico*, March 3, 2009, <http://dyn.politico.com/printstory.cfm?uuid=CD50B53B-18FE-70B2-A8D7295F7C876030> .

<sup>49</sup> Ibid.

<sup>50</sup> Bennett Roth, “Pelosi Vows to Work With Obama to Examine Earmarking After Omnibus,” *CQ Today*, March 5, 2009.

<sup>51</sup> Paul M. Krawzak, “House’s Earmark Disclosures Create a Few Headaches,” *CQ Today*, April 8, 2009.

<sup>52</sup> Jimmy Orr, “New earmarks – some are transparent, some are like Jimmy Hoffa,” *The Christian Science Monitor*, April 8, 2009, <http://features.csmonitor.com/politics/2009/04/08/new-earmarks-some-are-transparent-some-are-like-jimmy-hoffa/> .

<sup>53</sup> William Douglas and David Lightman, “Earmark Reform? 2009 Spending Bill Contains 9,000 of Them,” *Miami Herald*, February 22, 2009.

<sup>54</sup> The White House Office of the Press Secretary, “Remarks by the President on Earmark Reform,” March 11, 2009, [http://www.whitehouse.gov/the\\_press\\_office/Remarks-by-the-President-on-Earmark-Reform/](http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-on-Earmark-Reform/) .

Obama proposes that all future earmarks have a “legitimate and worthy” purpose.<sup>55</sup> This purpose would be addressed through requirements that:

1. Members place all earmark requests on their websites so that the public and the media can see what spending priorities they promote;
2. All earmarks directed to for-profit organizations be subject to a competitive bidding process. Obama did not describe how the competitive process would work, but it would likely allow potential recipients to apply and compete for a newly designated earmark funding opportunity;<sup>56</sup> and that
3. Each earmark undergo a 20 day review by the appropriate executive branch agency.<sup>57</sup>

Obama also expressed an interest in resurrecting the “rescissions” process. Through rescissions, the president could evaluate the earmarks in a spending package and submit a list of cuts for Congress to consider. There is no binding power in the rescissions process, but it would allow the executive branch to assert its opinion on specific earmarks.<sup>58</sup> While Obama has expressed an interest in working with Congress on earmark reform, he has not yet offered a clear timeline for when he plans to offer a formal proposal.

#### McCain / Feingold / McCaskill / Coburn Proposal

In response to Obama’s proposed reforms, Sen. Russ Feingold (D-WI) said, “rather than trying to fine tune a fundamentally flawed process, we should take aggressive steps to prevent unauthorized earmarks.”<sup>59</sup> In January, Sen. Feingold and Sen. John McCain (D-AZ) introduced S. 162, the Fiscal Discipline, Earmark Reform and Accountability Act. This legislation is also sponsored by Sens. Claire McCaskill (D-MO) and Sen. Tom Coburn (R-OK).

The Fiscal Discipline, Earmark Reform and Accountability Act would require all earmarks that are placed in appropriations bills and conference reports to be subject to a point of order. Any member could object to an earmark by raising a point of order against an individual earmark. If that occurred, the point of order would require 60 votes on the Senate floor to keep the earmark in a bill, creating a large obstacle for all congressionally directed funding projects. The legislation also mandates that all appropriations and authorization conference reports be electronically searchable by the public at least 48 hours before full Senate consideration. Additionally, earmark recipients would be required to disclose how much money they spend on registered lobbyists.<sup>60</sup>

---

<sup>55</sup> Ibid.

<sup>56</sup> Paul M. Krawzak, “House’s Earmark Disclosures Create a Few Headaches,” *CQ Today*, April 8, 2009.

<sup>57</sup> Philip Elliott, “Obama OKs ‘imperfect’ spending bill, with earmarks,” *Associated Press*, March 11, 2009, <http://www.forbes.com/feeds/ap/2009/03/11/ap6155642.html> .

<sup>58</sup> Ibid.

<sup>59</sup> Senator Russ Feingold’s Office, “Feingold Statement on Obama Earmark Reform Effort,” March 11, 2009, <http://yubanet.com/opinions/Feingold-Statement-on-Obama-Earmark-Reform-Effort.php> .

<sup>60</sup> Senator Russ Feingold’s Office, “Bipartisan Group of Senators Introduce Major Earmark Reform Bill,” January 7, 2009, <http://feingold.senate.gov/record.cfm?id=306392> .

## McCaskill / Udall Proposal

Sen. Claire McCaskill (D-MO) has been an active opponent of earmark spending. On March 4, Sen. McCaskill and Sen. Mark Udall (D-CO) introduced an earmark reform proposal, S. Res. 63. The proposal would amend the Senate rules to:

1. Require all earmarks to be included in the text of legislation. It is current practice to place earmarks in conference reports, which means they often escape full committee review. Earmarks placed in conference language can be difficult for the public and press to locate and analyze;
2. Mandate that earmark requests be placed on the requesting senators website within 48 hours of the request. The disclosed information must include the name of the recipient and information about the earmark's purpose;
3. Subject authorization bills to the same requirements for strict scrutiny as appropriations bills. Authorization bills often include earmarks, but do not offer the same transparency through committee review as appropriations bills;
4. Require all appropriations and authorization reports to be electronically searchable for at least 48 hours prior to consideration by the full Senate; and
5. Eliminate earmarks for non-profit organizations and private companies.<sup>61</sup>

The final provision has the greatest potential to impact the memberships of the Alliance and UNCA. Sen. McCaskill argues that since private earmarks do not go through a competitive, merit-based process, and are decided based on the subjective preferences congressional offices, they should be eliminated. However, the proposal does not extend this reasoning to projects for state and local government. There is no evidence that the proposal to ban non-profit earmarks has gained broad support in Congress.

## **Conclusion**

The earmark debate has both strong supporters, who argue for the importance of local spending initiatives, and staunch critics, who are committed to curtailing what they see as wasteful "pork." Momentum has been building for new restrictions on the practice of earmarking and President Obama and the 111<sup>th</sup> Congress have signaled an interest in working towards reform. At this time, it appears most likely that any change will maintain the practice of earmarking, but promote increased transparency.

— o —

## **About the Alliance for Children and Families and United Neighborhood Centers of America**

The Alliance for Children and Families, a nonprofit association, was formed by the 1998 merger of Family Service America and the National Association of Homes and Services for Children. The Alliance represents over 370 nonprofit organizations across the nation that provide services and economic empowerment to children and families. Alliance agencies cover a wide spectrum of providers, including a diversity of faith-based organizations and nonsectarian agencies. Together, these organizations deliver more than \$2 billion annually in services to more than 8

---

<sup>61</sup> Senator Claire McCaskill's Office, "McCaskill Calls for Tougher Pork Barrel Spending Reform in Congress," March 4, 2009, <http://mccaskill.senate.gov/newsroom/record.cfm?id=309111> .

million people in nearly 6,700 communities across the United States. More information about the Alliance is available at [www.alliance1.org](http://www.alliance1.org).

United Neighborhood Centers of America (UNCA) is a voluntary, nonprofit, national organization with neighborhood-based member agencies throughout the United States. Formerly known as the National Federation of Settlements and Neighborhood Centers, it was founded in 1911 by Jane Addams and other pioneers of the settlement movement. More information about UNCA is available at [www.unca.org](http://www.unca.org).

For more information, contact the Washington office of the Alliance and UNCA at:

Alliance for Children and Families  
United Neighborhood Centers of America  
1001 Connecticut Ave., NW, Suite 601  
Washington, DC 20036  
(202) 429-0400  
[policy@alliance1.org](mailto:policy@alliance1.org)