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Transportation Policy and Congressional Earmarks

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In his State of the Union address, President Barack Obama promised that he would veto any bill Congress sent him if it included earmarks, thereby endorsing the November commitment by House Republicans to impose a two-year moratorium on earmarks. Although members of the Senate refused to make a similar commitment—and many Senators, including Majority Leader Harry Reid (D–NV), promised to seek earmarks—the President’s support of the House Republican ban makes it impossible for Senators to act on their contrary intention.

The House earmark ban reflects a dramatic change in congressional fiscal attitudes and practices. It also reflects important lessons learned, as past earmarks undermined the credibility of the federal transportation program (and Congress). For example, Alaska’s congressional delegation insisted on earmarks to fund the costly “bridges to nowhere” in 2004 and 2005. Those earmarks were two of the more than 7,000 in the last transportation reauthorization bill (SAFETEA-LU), reflecting a historic high point for a wasteful process that is a relatively new phenomenon in Congress.

Earmarks Defined and Described. Although there is no precise definition of what an earmark is, the more commonly used one is a legislatively mandated expenditure that specifies the location or company and the project to receive the funding.¹ For example, while it is perfectly appropriate for Congress—in fulfillment of its policymaking and appropriating responsibilities—to require that, say, the Department of Defense devote more resources to unmanned drones, that effort becomes an earmark when Congress specifies that such drones be made by company X in the city of Y.²

In such instances, Congress is sacrificing cost and quality to reward specific (and influential) businesses and to puff up the reputation of a Member among his or her constituents. Sadly, it is the public (and sometimes the nation’s security) that loses, because the absence of competitive bidding for the project leads to products of lower quality and higher costs or takes up funds that could be better used elsewhere.³

Even worse is the corrupting influence of earmarks: While a few may believe former Speaker of the House Denny Hastert’s claim that it is the Member “who knows best where to put a bridge or a highway or a red light in their district,”⁴ in fact, most earmarks—especially those in transportation—are achieved by lobbyists hired by towns and businesses whose pet projects have often been rejected by their states or the U.S. Department of Transportation (USDOT).

Despite these seemingly firm commitments to prohibit earmarks, many Members of Congress—including the majority of Senators—are unenthusiastic about the change or even hostile to it. They believe that earmarking is an integral and valuable part of their duties, a time-honored tradition, and an essential element of effective representation.

A Recent Phenomenon—and Problem. As the record indicates, extensive earmarking of transpor-

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tation bills is a relatively recent phenomenon, dating to the early years of the previous decade. During the 185 years prior to the mid-1980s, Congress authorized and appropriated money for transportation in accordance with a broad national policy framework without earmarks. There is no reason why this approach to federal budgeting and transportation policy could not be re-established.

Until 1984, earmarks in transportation appropriations bills averaged about three a year, and there were none at all between 1996 and 1998. In fiscal year (FY) 2010, there were 1,575 earmarks in the appropriations bill covering transportation and housing.⁵ Federal highway reauthorization bills—which have become lobbyist/client pork fests, most recently mandating more than 7,000 earmarks—had also been relatively free of earmarking in the past. The 1982 reauthorization bill included just 10 earmarks, while 1987's included 152. In those years, "earmarks" were called "demonstration" projects, but today they are called "high priority" projects, indicating that the process has also corrupted the language.

Of Little or Negative Value to States. Importantly—and something generally ignored or misunderstood by both the public and Members of Congress—transportation earmarks provide no additional money to any state or to transportation spending in general. Rather, most transportation earmarks are carved out of each state's formula allocation so that each dollar devoted to an earmark means one dollar less that is available to the state's own priority projects. Worse, only about half of the authorized earmarks are utilized by the end of the

bill's term, because many states view them as low-value projects and refrain from providing mandated matching funds.

Reflecting this disinterest, the continuing resolution passed by the House in mid-December rescinds \$700 million in unspent earmarks dating from the 1987 and 1991 reauthorization bills. Senator Bob Casey (D-PA) has recently introduced S. 198 to rescind unspent earmarks enacted prior to FY 2008. What this legislation reveals is that earmarks actually *reduce* the volume of federal transportation funds available to states from what was authorized initially.

President Needs to Complete the Reform.

Given that Congress will likely reduce or freeze transportation spending for FY 2011 and FY 2012, the earmark ban will allow government to get the maximum benefit from lower funding by allowing states to redirect wasteful earmark spending to higher-priority projects. President Obama's veto commitment is an important step, but it ignores the many costly "earmarks" promulgated by his political appointees at the USDOT.

Specifically, The Heritage Foundation has argued⁶ that, as part of an overall earmark ban, all competitive grant programs operated by the USDOT should be suspended by way of transitional legislation. The funds released by this suspension should be distributed to the states by existing allocation formulas so that the states can invest the funds according to their own priorities, not those of Washington bureaucrats.

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1. See Ronald D. Utt, "Primer on Lobbyists, Earmarks, and Congressional Reform," Heritage Foundation *Backgrounder* No. 1924, April 27, 2006, at <http://www.heritage.org/research/reports/2006/04/a-primer-on-lobbyists-earmarks-and-congressional-reform>.
2. See Ronald D. Utt, "Obama's Earmark Reforms Can Help Restore Federal Budget Discipline," Heritage Foundation *WebMemo* No. 2793, February 2, 2010, at <http://www.heritage.org/Research/Reports/2010/02/Obamas-Earmark-Reform-Promises-Can-Help-Restore-Federal-Budget-Discipline>.
3. *Ibid.*
4. See "McCain, Coburn to Force Votes on Pork Spending," *The Washington Times*, January 26, 2006, at <http://www.washingtontimes.com/news/2006/jan/26/20060126-115353-4436r> (February 1, 2011).
5. Taxpayers for Common Sense, FY 2010 tables, at http://taxpayer.net/search_by_category.php?action=view&proj_id=2789&category=&type=Project (February 1, 2011).
6. See Ronald D. Utt, "How to Create an Effective Transportation Program in an Age of Fiscal Austerity," Heritage Foundation *WebMemo* No. 3115, January 24, 2011, at <http://www.heritage.org/Research/Reports/2011/01/How-to-Create-an-Effective-Transportation-Program-in-an-Age-of-Fiscal-Austerity>.