Reforming and restructuring earmarks: What is the path forward?

Panel I: Analyzing fiscal year 2022 earmarking

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Co-Director, CMC Policy Lab
KEY POINTS

• Article I of the US Constitution gives Congress the authority to decide the amount of federal dollars spent and to direct how they are spent.

• The 2011 earmark moratorium was a reaction to incidents of corruption and budget deficits, but its primary effect has reduced Congress’ constitutional spending authority. The moratorium failed to eliminate directed spending and fomented the less-transparent, but equivalent, executive branch practice of lettermarking.
RECOMMENDATIONS

- Congress should revisit the earmark moratorium to re-empower legislators to deliver local benefits, reestablish Congress’ Article I spending authority over the executive branch, and decrease polarization and gridlock.

- This new system for enabling legislators to deliver local benefits should:

  - **BE TRANSPARENT** in how earmarks are reported and made available to the public

  - **REDUCE POTENTIAL FOR ABUSE** by enacting post-hoc audit, eliminate corporate earmarks, and strengthen conflict of interest policy.

  - **INCREASE EQUITY** by ensuring opportunity for funding is made available on fair and equal terms.
FY2022 House Earmarks
“Community Project Funding,” House Appropriations Committee

FINANCIAL LIMITS

• Members limited to 10 individual requests

• All CPF funding capped to 1 percent of discretionary spending (estimated at approximately $15 billion in FY2022)

• Appropriations subcommittee chairs issued guidance on which federal accounts accept requests

TRANSPARENCY

• Funded requests available the same day as the subcommittee markup, or 24 hours before full committee consideration, if there was no subcommittee markup.

• Members are required to post requests on their official House website simultaneously with their submission to the committee.

• Appropriations Committee posts all House members’ project requests, including a consolidated table of accessible data.
**REDUCE POTENTIAL FOR ABUSE**

- Evidence of “community support” required

- Members must certify that they, their spouse, and their immediate family have no financial interest in the projects they request. Exceeds House rules by including immediate families of Members.

- Ban on directing funding to for-profit grantees. Members may request funding for State or local governmental grantees and for eligible non-profits.

- Requiring the Government Accountability Office to audit a sample of enacted projects and report its findings to Congress.
### House Earmark Participation by Party

<table>
<thead>
<tr>
<th></th>
<th>Members Requesting</th>
<th>Non-participating</th>
<th>Total</th>
<th>% Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>GOP</td>
<td>122</td>
<td>92</td>
<td>214</td>
<td>57%</td>
</tr>
<tr>
<td>DEM</td>
<td>223</td>
<td>1</td>
<td>224</td>
<td>99%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>345</td>
<td>93</td>
<td>438</td>
<td>79%</td>
</tr>
</tbody>
</table>

Source: House Appropriations Committee “Community Project Funding Request Table,” June 22, 2021; “Transportation & Infrastructure Member Designated Projects Website Disclosure Table (Majority – Minority),” June 1, 2021.

### FY2022 House Member Requests by Committee

<table>
<thead>
<tr>
<th>Category</th>
<th>In Millions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriations</td>
<td>2,172</td>
</tr>
<tr>
<td>Transportation</td>
<td>1,778</td>
</tr>
</tbody>
</table>

- Democrat: 2,172
- Republican: 1,778

Source: House Appropriations Committee “Community Project Funding Request Table,” June 22, 2021; “Transportation & Infrastructure Member Designated Projects Website Disclosure Table (Majority – Minority),” June 1, 2021.
FY 2022 House Appropriations Requests by Subcommittee

Source: House Appropriations Committee “Community Project Funding Request Table,” June 22, 2021.
Total requested: 3,019
$7.1b

Total funded: 2,804 (92%)
$4.2b (59%)

Source: House Subcommittee reports on approved requests.
FY2022 Appropriations Committee Funded House Earmarks

GOP funded: $1.76b (49%)
DEM funded: $2.4b (69%)

Source: House Subcommittee reports on approved requests.
FY 2022 House Appropriations Funded Earmarks

Source: House Subcommittee reports on approved requests.
FY 2022 House Appropriations Approved Earmarks by Location

46 states + DC & Territories

Average earmark funding: $82m

Source: House Subcommittee reports on approved requests.
FY2020 House Appropriations Funded Earmarks Per Capita by State

$39.86 (3x average)

Source: House Subcommittee reports on approved requests, 2020 US Census.
Comparison of Participating House Appropriations Committee Members in FY2022 Funded Earmarks

<table>
<thead>
<tr>
<th></th>
<th>House Members</th>
<th>Funded earmarks</th>
<th>Average Amount Funded</th>
<th>Total Funding</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Appropriators</td>
<td>291</td>
<td>2,325</td>
<td>$1,517,692</td>
<td>$3,528,634,396</td>
<td>84%</td>
</tr>
<tr>
<td>Appropriators</td>
<td>54</td>
<td>479</td>
<td>$1,385,555</td>
<td>$663,680,876</td>
<td>16%</td>
</tr>
<tr>
<td>Total</td>
<td>345</td>
<td>2,804</td>
<td>$1,495,120</td>
<td>$4,192,315,271</td>
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</tr>
</tbody>
</table>

Source: House Appropriations Subcommittee reports on funded requests.
FY2022 Senate Earmarks
“Congressionally Directed Spending,”
Senate Appropriations Committee

FINANCIAL LIMITS

• All CDS funding capped at 1 percent of discretionary spending (estimated at approximately $15 billion in FY2022)

TRANSPARENCY

• Senators required to post their requests and financial certification disclosures online.

• Each request made publicly available online in a searchable format after committee markup.

• Funding decisions made publicly available for at least 48 hours before a floor vote.
“Congressionally Directed Spending,”
Senate Appropriations Committee

REDUCE POTENTIAL FOR ABUSE

• No personal or immediate family financial interest. Public certification required in writing that there is no such interest.

• Point of order against directed spending that was not included in either the House or Senate bills.

• Ban congressionally directed spending items to for-profit entities

• Government Accountability Office required to audit a sample of funded projects and report its findings to Congress
Senate Earmark Requests by Party

<table>
<thead>
<tr>
<th></th>
<th>Senators Requesting</th>
<th>Non-participating</th>
<th>Total</th>
<th>% Participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>GOP</td>
<td>16</td>
<td>34</td>
<td>50</td>
<td>32%</td>
</tr>
<tr>
<td>DEM</td>
<td>48</td>
<td>2</td>
<td>50</td>
<td>96%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>64</td>
<td>36</td>
<td>100</td>
<td>64%</td>
</tr>
</tbody>
</table>

FY2022 Funded Senate Earmarks

Total requested: 8,055
$26.85b

Total funded: 2,959 (38%)
$5.67b (21%)

Source: Senate Subcommittee reports on approved requests.
FY2022 Funded Senate Earmarks

GOP funded:  $2.5b (61%)

DEM funded:  $3.2b (14%)

Source: Senate Subcommittee reports on approved requests.
FY 2022 Senate Appropriations Funded Earmarks

Transportation, Housing and Urban Development: $200 million (Republican), $400 million (Democrat)

Military Construction: $800 million (Republican), $600 million (Democrat)

Energy and Water Development: $1,200 million (Republican), $1,000 million (Democrat)

Labor, Health and Human Services, Education: $1,400 million (Republican), $1,600 million (Democrat)

Interior: $1,000 million (Republican), $1,200 million (Democrat)

Commerce, Justice, Science: $800 million (Republican), $600 million (Democrat)

Financial Services and General Government: $400 million (Republican), $200 million (Democrat)

Agriculture: $200 million (Republican), $400 million (Democrat)

Department of Homeland Security: $1,400 million (Republican), $1,200 million (Democrat)

Source: Senate Subcommittee reports on approved requests.
FY 2022 Senate Funded Earmarks by State

Total: 38 states + DC
Average: $145m

Source: Senate Appropriations Subcommittee reports on funded requests.
FY 2022 Senate Approved Earmarks by State Receiving Funding

- $552 m (3.8x average)
- $145 m

Source: Senate Appropriations Subcommittee reports on funded requests.
FY2020 Senate Earmark Funding Per Capita (2020 Census)

$409.14 (18x average)

Source: Senate Appropriations Subcommittee reports on funded requests, 2020 US Census.
Comparison of Participating Senate Appropriations Committee Members in FY2022 Funded Earmarks

<table>
<thead>
<tr>
<th>Senators</th>
<th>Funded earmarks</th>
<th>Average Amount Funded</th>
<th>Average # Funded</th>
<th>Total Funding</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Appropriators</td>
<td>40</td>
<td>1,725</td>
<td>$1,365,636</td>
<td>$2,355,722,604</td>
<td>41.5%</td>
</tr>
<tr>
<td>Appropiators</td>
<td>24</td>
<td>1,234</td>
<td>$2,689,034</td>
<td>$3,318,267,861</td>
<td>58.5%</td>
</tr>
<tr>
<td>Total</td>
<td>64</td>
<td>2,959</td>
<td>$1,917,536</td>
<td>$5,673,990,465</td>
<td></td>
</tr>
</tbody>
</table>

Source: Senate Appropriations Subcommittee reports on funded requests.
Comparisons with Past Earmarks
Funded Congressional Earmarks by Subcommittee Comparison (in 2021 dollars)

CONCLUSIONS

- Broad participation helped process
- Spending was kept in check
- Equity increased
- Abuse reforms promising
- Transparency good, but could use improvement in publicizing funding decisions.

- GOP rules undermined broad participation
- Spending was kept in check
- Equity concerns, with appropriators overrepresented and uneven participation
- Abuse reforms promising
- Transparency good, but could use improvement in publicizing funding decisions.