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Perception and Reality in Congressional Earmarks

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Abstract

Earmarks added to appropriations bills have generated a considerable amount of attention from the media, politicians, and fiscal watchdog groups. Taken as a whole, three "truths" about earmarks are frequently discussed: 1) earmarks are the reason for large budget deficits, 2) using omnibus legislation instead of regular order leads to more earmarks, and 3) "airdropped" earmarks added at the conference stage compound the problem of pork. In this paper, we examine these "truths" and find the conventional wisdom does not stand up to empirical tests. Finally, we show how Congress easily worked around new rules concerning the addition of earmarks at the conference stage.

KEYWORDS: Congress, earmarks, pork, appropriations

From the \$223 million to build a "Bridge to Nowhere" to the \$3 million spent on studying bear DNA, pork barrel projects generate quite a bit of attention. In the recently enacted \$787 billion stimulus legislation, policymakers clashed over the inclusion of earmarks. Although the *Washington Post* and President Obama, among others, declared the bill free of "traditional" earmarks—funding for a project inserted by a lawmaker bypassing the normal budgeting process—others, most notably congressional Republicans, pointed toward what they viewed as billions of dollars in wasteful spending in the legislation.[1] The issue of pork barrel spending and earmarks also emerged as a contentious issue during the 2008 presidential campaign. Newspapers frequently run stories with headlines like "Pork Reform Drowned in Gravy" or "Bailout Dish has a Heaping Side of Pork," and several watchdog groups exist almost exclusively to monitor and advocate the limitation of wasteful government spending.[2] Negative publicity arising from recent lobbying scandals, in tandem with the work of outside groups and a small band of congressional reformers, have caused something of a backlash from the public and have prompted Congress to look into reforms of the process by which members add earmarks to appropriations bills.

According to Citizens Against Government Waste (CAGW), a fiscal watchdog group whose mission is to "eliminate waste, mismanagement, and inefficiency in the federal government," appropriators have tacked more than 100,849 earmarks worth more than \$290 billion onto spending legislation since 1991.[3] In 2005, the number of earmarks included in appropriations bills peaked at a record 13,492 projects carrying a price tag exceeding \$27.3 billion. For the 2006 budget, Congress reduced the number of projects to 9,963 but increased the dollar amount to \$29 billion. In 2007, just two of the regular appropriations bills were passed but legislators still managed to include over 2,500 projects worth \$13.2 billion. For fiscal year (FY) 2008, Congress appropriated just over \$17.2 billion dollars for earmarked projects. The most recent appropriations cycle marks a continuation of legislators' earmarking ways—the legislation contains more than 10,160 earmarks worth about \$19.6 billion. In addition, according to Congressional Quarterly, more than 100 House members requested earmarks in the spending bill for clients of the PMA group, a lobbying firm currently under investigation by the FBI.[4] The increasing trend in earmarks, coupled with other

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[1] Dan Eggen and Ellen Nakashima, "Despite Pledges, Package Has Some Pork," *Washington Post*, 13 February, 2009; "See No Earmarks," *Wall Street Journal*, 5 March, 2009.
[2] Brian Riedl, "Pork Reform Drowned in Gravy," *The Washington Times*, 2 December, 2007; Juan Gonzalez, "Bailout Dish has a Heaping Side of Pork," *New York Daily News*, 3 October, 2008.
[3] CAGW's mission statement and earmark data are available at the following URLs, respectively: http://www.cagw.org/site/PageServer?pagename=about_Mission_History and http://www.cagw.org/site/PageServer?pagename=reports_porkbarrelreport#trends (accessed October 28, 2008).
[4] Jonathan Allen, "House to Vote on Earmark Ethics Probe as PMA Clients Show up in Omnibus," *CQ Politics*, 24 February, 2009.

scandals involving lobbyists and elected officials, has led to a renewed campaign against earmarks by the media, groups like CAGW and Taxpayers for Common Sense, and Republican politicians like Arizona's Jeff Flake and John McCain as well as Senators Jim DeMint (SC) and Tom Coburn (OK).

In this article, we consider three common assertions that arise in the public discourse relating to pork. Our aim is not to stake out a pro or con position on pork in general, but rather to bring to bear recent data and in the process demonstrate some fallacies in the perceptions of policymakers and journalists. First, we look at the scope of earmarking within the broader context of federal spending. Next, we examine the degree to which omnibus legislation contributes to the rise in pork barrel spending that has occurred over roughly the past decade. Third, we consider the practice of "airdropping" projects in conference committees, which has recently come to light as one of the more controversial aspects of earmarking. Additionally, we use a short case study of the fiscal year 2008 defense appropriations bill to demonstrate how the recent reforms instituted by Congress did little to address the supposed problems with adding pork-barrel projects at the conference stage of the appropriations process.

Pork Barrel Spending and the Deficit

An oft-heard criticism of earmarks is that their procurement elicits a tendency to "damn the deficit, and pile on the pork."[5] Headlines such as this perpetuate the notion that pork projects attached to appropriations bills are a major contributor, if not the driving force, behind budget deficits and the burgeoning national debt. The media dutifully record the requests made by legislators, indicating that when tallied, the demand for pork has led to wasteful spending at the expense of pressing national issues.[6] Negative perceptions of pork are only exacerbated by reporting of the most obscure and seemingly profligate projects.

Of course, one difficulty with studying pork is trying to differentiate between wasteful spending and important projects, and it is not our intention or purpose to differentiate between efficient and inefficient government spending. To help solve the problem of identifying what is and what is not a pork project, we depend on earmark data from CAGW. Since 1991, CAGW has released an annual report summarizing the pork-barrel projects contained in the assorted appropriations bills that fund the various activities of the federal government. According to CAGW's definition, "a 'pork' project is a line-item in an appropriations bill that designates tax dollars for a specific purpose in circumvention of established budgetary procedures." In order to be included in the annual report, a project must meet at least two of the following criteria:

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[5] Jennifer Drew, "Damn the Deficit, and Pile on the Pork," *Business Week*, 9 May, 2005.
[6] Carl Hulse, "Congress Continues Its Pursuit of Earmarks," *New York Times*, 20 December, 2007.

requested by only one chamber of Congress, not specifically authorized, not competitively awarded, not requested by the president, greatly exceed the president's budget request or the previous year's funding, not the subject of congressional hearings, or serve only a local or special interest. CAGW notes that theirs is not a comprehensive list of earmarks, in that earmarks, which designate funds for a specific beneficiary or locality, may or may not be included via established budgetary procedures.[7] However, the media and politicians frequently rely on these data when discussing the problems with earmarks so it is only reasonable to use these data to test their assertions.

Unsurprisingly, members of Congress frequently state that any dollar spent in their district is vital for their constituents and everything else is just wasting taxpayer dollars. The media and watchdog groups frequently report specific and imprudent uses of earmarks by individual legislators, providing ammunition for claims of flagrant abuse and attention given to particularized constituencies. News articles and editorials constantly emphasize earmarks like one by Rep. David Hobson (R–OH) included in the FY2008 omnibus package. His earmark designated $800,000 for a Speedway SuperAmerica gas station, convenience store, and pizza parlor. When asked to justify the earmark, he described it as a "'vitally important' need in the community 'with hundreds of college students and no pizza delivery or nearby fast food options.'"[8] In another example, Sen. Judd Gregg (R–NH) defended the $18 million he secured for the Dartmouth Institute for Information Infrastructure Protection by calling the project "an important component in our overall counterterrorism preparedness."[9]

Another approach frequently adopted by critics of earmarks is to point out instances in which legislators seem to not only approve of pork, but also boast of their ability to obtain particularistic spending. A member of Congress frequently cited as a brazen abuser of earmarks is Rep. John Murtha (D–PA), chair of the Defense Appropriations subcommittee, requestor of $162 million in earmarks in 2007 alone, and "Pork King" according to editorial writers. The depiction of Mr. Murtha's actions is anything but flattering: while "procuring eye-popping chunks of pork…he exudes pride, not embarrassment, for delivering hundreds of millions of dollars in largesse to district beneficiaries. They, in turn, requite with hundreds of thousands of dollars in campaign donations."[10]

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[7] Congressional scholarship has defined pork—or distributive politics—in a variety of ways. For instance, Stein and Bickers (1995) look at programmatic policies that distribute federal funds, while Lee (2000) examines formulas setting the state-by-state allocation of federal highway funds.
[8] Michael Franc, "An End to Earmarks? It is Possible," *The Weekly Standard*, 8 January, 2008.
[9] Carl Hulse, "Spending Bill Is Approved, With Its Storehouse of Pork," *New York Times*, 14 February, 2003.
[10] "The Pork King Keeps His Crown," *New York Times*, 14 January, 2008.

Finally, as evidenced by the Emergency Economic Stabilization Act of 2008, more commonly known as the Wall Street bailout bill, earmarks are perceived by the media as deal breakers in the legislative process. With the bailout, the media credits the switch of fifty-eight representatives to favoring the second version of the bill to the addition of "sweeteners designed to increase support among Republicans."[11] Similarly, passage of the bill in the Senate was accredited to the inclusion of such constituent-specific tax breaks as exemptions for the production of children's wooden arrows and write-offs for NASCAR track owners.[12] Including such provision gives members incentives to support a bill they might not otherwise agree with.

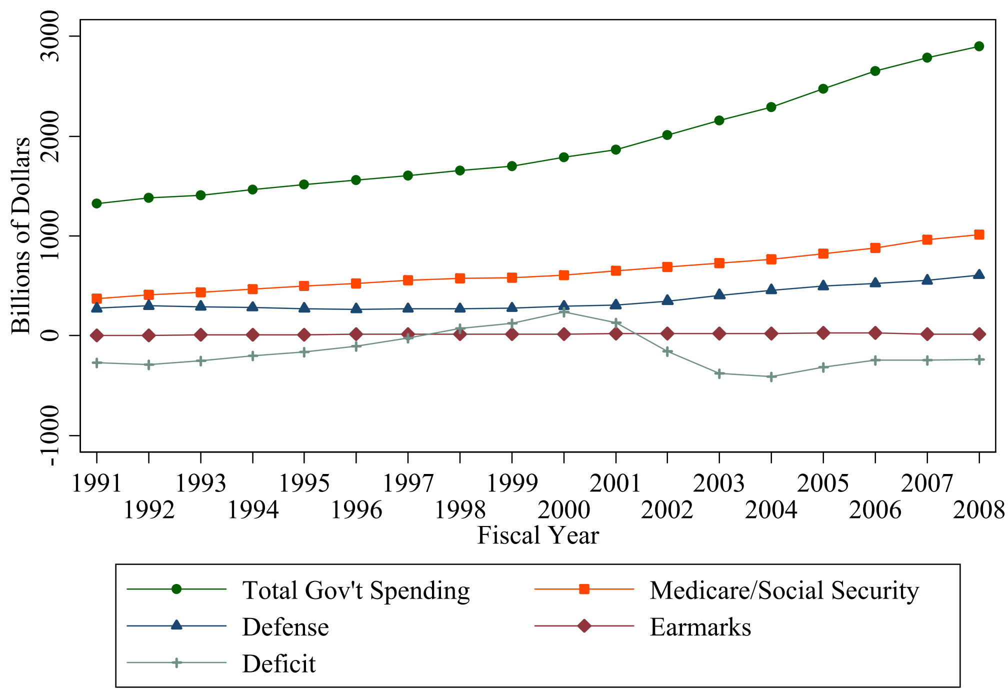
In sum, portrayals of earmarks tend to be characterized by a general negativity toward them and a focus on the sensational cases, which in turn fuels the perception of a negative relationship between earmarks and fiscal restraint. But to what extent are potentially unjustified projects—or, for that matter, earmarks as a whole—at the root of U.S. budgetary woes? When we look at the total amount of earmarks in comparison to the federal budget and the annual deficit, we see that earmarks account for very little of total spending. Figure 1 plots the amount of pork (as defined by CAGW) along with federal outlays and the size of the deficit from 1991-2008. In addition, we present spending on Defense as well as Medicare and Social Security. If we compare the size of the budget with the amount of pork, the total budget clearly trumps pork dollars by several orders of magnitude since we can measure total outlays in trillions of dollars and pork spending has yet to exceed $30 billion. The figure also demonstrates that the size of the deficit and the amount of pork in a given year are not directly related to one another. In fact, the correlation between pork and the size of the deficit is -0.09. Of course, this is not to say that earmarks are not contributing to the size of the deficit, only that any contribution is minimal.

Another way to think about earmarks is to consider their portion of federal spending in relation to particular programs and outlays. For 2008, discretionary spending (set annually by Congress) was approximately $1.1 trillion, while entitlement spending (required by law) was more than $1.5 trillion. Spending on interest alone surpassed $240 billion, which in tandem with discretionary and entitlement spending brought the total budget to $2.9 trillion.

[11] Sean Lengell and S.A. Miller, "Bush Signs Wall Street Bailout," *The Washington Times*, 4 October, 2008.

[12] "Top 10 Tax Sweeteners in the Bailout Bill," Taxpayers for Common Sense, http://www.taxpayer.net/resources.php?category=&type=Project&proj_id=1429&action=Headlines%20By%20TCS (accessed February 24, 2009).

Figure 1 – Pork, Federal Outlays and the Budget Deficit



Source - OMB for budget data and CAGW for pork data

When we look at specific programs, we find that funding Social Security required $610 billion and means-tested entitlements (including programs such as Medicaid) more than $390 billion. Over time, we see that spending for Defense and Medicare and Social Security is not only significantly greater than the amount of pork dollars but that it is also increasing at a greater rate. From the figure, it appears that spending on these two areas began to rise more quickly after FY2000 while pork spending remained comparatively even. Even Foreign Aid, which in comparison is just a drop in the bucket at around $35 billion, far exceeded the total spending due to earmarks of $17.2 billion in 2008.[13] Thus, to pin overspending and rising budget deficits on pork barrel spending is a severe overstatement since the latter made up about one-half of one percent of the $2.9 trillion spent by the federal government in the 2008 fiscal year and has never been more than 1.1 percent of total outlays. These observations are reinforced by the work of Lee (2005), who tracked earmarking in appropriations with total government outlays from 1992-2003 and found that expenditures for programs most likely to be secured through pork (transportation, water projects, community

[13] All federal budget data are from U.S. Office of Management and Budget (2008).

and regional development) have declined as a proportion of GDP. While increasing levels of pork may be symptomatic of a larger government spending problem, they are not the underlying cause.

Omnibus Legislation

Members of Congress and pundits alike often bemoan omnibus appropriations legislation, calling these combined spending packages "Christmas tree bills" because they include something for everyone.[14] Accounts often imply that omnibus bills foster an environment that promotes unbridled earmarking because the catch-all structure allows legislators to attach earmarks without having to worry about public or legislative scrutiny. Writing for the *Washington Times,* Donald Lambro described the omnibus as a "catchall spending package that has been used to hide tens of billions of dollars in wasteful pork, mysteriously tucked into its opaque provisions."[15] David Williams, vice president of policy for CAGW, condemned the 2008 measure, calling it "totally fiscally irresponsible to lump everything together in one spending bill and put it to a vote less than 24 hours later."[16]

Political scientists have also documented the rise in the use of omnibus legislation, addressing its proposed advantages and disadvantages. Scholars identified a trend towards omnibus legislating since the 1950s (Baumgartner et al. 1997; Howell et al. 2000; Mayhew 1991), with a majority appearing in the 1980s (Krutz 2001a). Krutz (2001b) finds that using the vehicle of omnibus legislation allows for eased passage during times of divided government and tight budgetary concerns. The drawbacks of these attachment practices have also been documented, with the most frequent complaint stemming from legislators being unacquainted with the details contained within the massive bills (Sinclair 1997; Smith 1989). However, as Hall (1996) documents, only a handful of legislators are typically involved in the committee drafting and deliberation of most pieces of legislation that move forward in the conventional way as individual, stand-alone bills. Furthermore, in point of fact, in many cases the individual appropriations bills that eventually get rolled into an omnibus were subject to separate votes when they first passed the House and Senate under the normal order of business.

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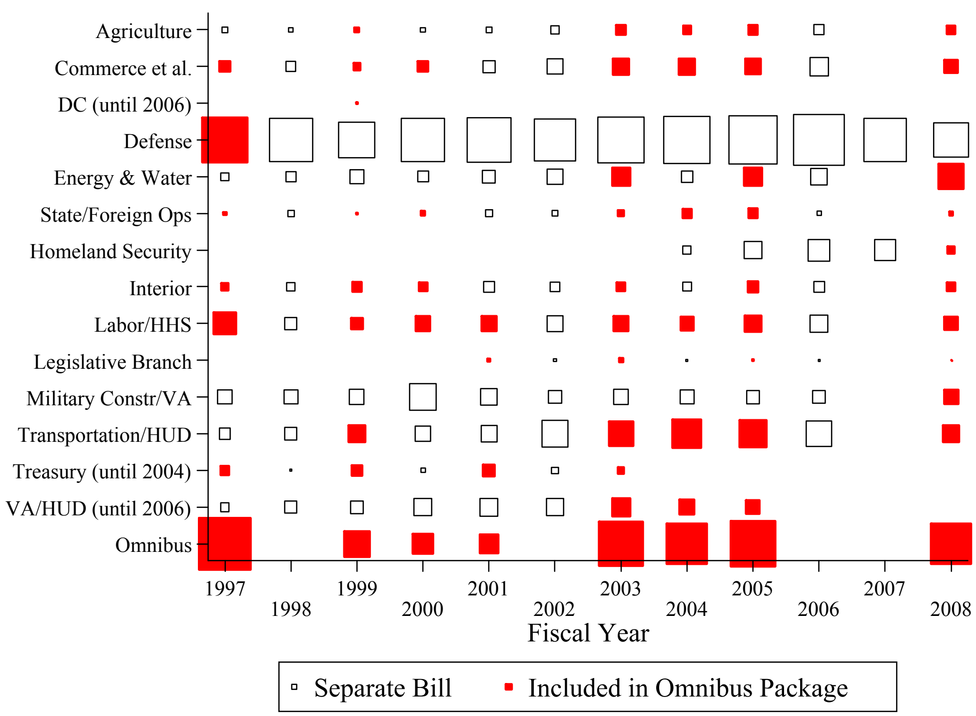
[14] For eighteen of the past thirty-one years (fiscal years 1977 to 2007), Congress condensed two or more of the regular appropriations bills into one large measure, or, as with FY2001, the bills were partitioned into two minibus bills (Streeter 1997).
[15] Donald Lambro, "Trimming the Fat from the Pork," *Washington Post*, 18 December, 2006.
[16] Paul Singer and Tory Newmyer, "Nearly 9,000 Earmark Requests in Omnibus," *Roll Call*, 18 December, 2007. http://www.rollcall.com/issues/53_73/news/21419-1.html (accessed November 2, 2008).

Again, we do not disagree with the assessment that omnibus bills include wasteful spending or that members may not have time to read over the legislation line by line. However, after examining the evidence, we disagree with the notion that omnibus bills bring about extra spending and that there would be substantively less pork if Congress passed the appropriations bills under "regular order." Rather than pointing to instances where dubious projects were included in omnibus legislation or simply citing the total amount of pork included in an omnibus bill, we look at the data separately for all appropriation bills from 1997 through 2008.

In Figure 2, we compare the appropriations bills across years in which they were included in an omnibus package with the years when they were passed on their own. The size of the box indicates the amount of pork while the shading identifies bills that were included in an omnibus package. Compared to cases in which Congress passed individual bills in the conventional fashion, when we look at spending bill by bill and over time, the amount of earmarked money depends very little on the legislative vehicle. To see this, compare the size of the shaded boxes with the empty boxes for each bill across the years. For example, in 2002

Figure 2 – Earmarks and Omnibus Appropriations



Congress passed each of the bills separately while in 2003 many of the regular appropriations bills were included in an omnibus bill.[17] If we compare the amount of pork in the Transportation Appropriations Bill in 2002 with the amount in 2003, there is actually a decline of roughly 17 percent (to about $3.5 billion). The same general pattern of little to no positive growth stands if we were to compare the amount of pork in the other appropriations bills. Over the time series presented here, only the Energy and Treasury bills included significantly more pork when they were included in an omnibus package ($p < .05$) and one bill, Interior, actually had slightly more pork when passed on its own ($p < .10$). It seems that omnibus bills are laden with pork because they are composed of multiple bills, each with a substantial amount of pork. In fact, the bill with the most pork (Defense) rarely ends up in omnibus packages. Thus, if limiting earmarks is the goal, critics would probably be better served by focusing on pork advanced in congressional committees long before the appropriations end-game.

We should be clear to note that direct spending allocated to districts is not the only way members of Congress can send pork back to their districts. Legislators can also utilize narrowly tailored tax credits to advantage their constituents. These tax breaks can be more valuable than project funding for some non-defense corporate interests.[18] For example, in the most recent stimulus package, legislators evaded President Obama's call to pass the plan earmark-free by artfully crafting the language of tax exemptions and new programs. Insurance tax credit provisions illustrate this—while appearing broad, the credits are only for companies employing recreation boats longer than 65 feet, seemingly benefiting those working on cruise ships, which happen to comprise a sizeable contingent within Rep. Debbie Wasserman Schultz's (D–FL) constituency.[19] Of course, measuring the money lost through tax breaks is much harder compared to adding up projects inserted into spending bills. This is why we focus on spending rather than tax breaks in this article.

Airdrops from Conference Committees

The third myth advanced by pundits and advocacy groups is that secretive and quick-moving "airdropped" earmarks added at the conference stage compound the

[17] As indicated in Figure 2, the jurisdictions of the appropriations subcommittees have been altered periodically over the period examined here. The data reflect earmarks as reported by Citizens Against Government Waste transformed to constant 2008 dollars. Congress failed to pass nine of the regular appropriations bills for 2007.

[18] We thank the anonymous reviewers and editors for raising this point.

[19] Michael Grabell and Christopher Weaver. "In the Stimulus Bill: An Earmark by Any Other Name," ProPublica, 5 February, 2009, http://www.propublica.org/feature/welcome-in-the-stimulus-bill-an-earmark-by-any-other-name (accessed February 24, 2009).

problem of pork. Currently, congressional rules attempt to prohibit the addition of new spending in conference committees, but as Rep. Jeff Flake (R–AZ) notes "every rule we have can be waived, and we do." The problem the media and watchdog groups have with airdropping is that the process is seen as "quick and secretive" with "virtually no accountability for lawmakers." Steve Ellis of Taxpayers for Common Sense maintains that "there is not an opportunity to scrutinize them because things go like greased lightning."[20] These earmarks, stemming from the conference committees' reconciliation of the House and Senate versions of the appropriations bills, have been portrayed by the media as adding to the growing amount of pork in the original appropriations bills, often times being included only to benefit vulnerable members.[21] A major criticism is that these types of earmarks are not subject to public comment or legislative review through the hearing process. While the appropriations committees hold public hearings and mark-up sessions, the real work in conference committees happens behind closed doors. Despite such strong assertions, we find little support for the claim that "airdrops" are the reason for bloated spending bills.

Figure 3 is a series of pie charts that illustrate earmark dollars by chamber for FY1995-2007.[22] When broken down by year we see that in only two years have conference committees accounted for more that 25 percent of total dollars spent on earmarks (FY1995 and FY2006). On average, 16 percent of total pork spending was added in the conference stage. So, while the dollar amounts vary from fiscal year to fiscal year and between the two chambers, the amount of earmarks arising from conference deliberation never surpasses the amount coming from the appropriations committees. Because the only way to prohibit such earmarks from being attached to the final bill is to vote against the conference report, a costly move considering the importance of passing appropriations bills, it seems justifiable that members express concern with the use of such "airdropping tactics." Yet, however reckless the practice, our results suggests it is misguided to blame conference committees for the amount of pork barrel spending—the individual committees in the respective chambers are responsible for the bulk of earmarks.

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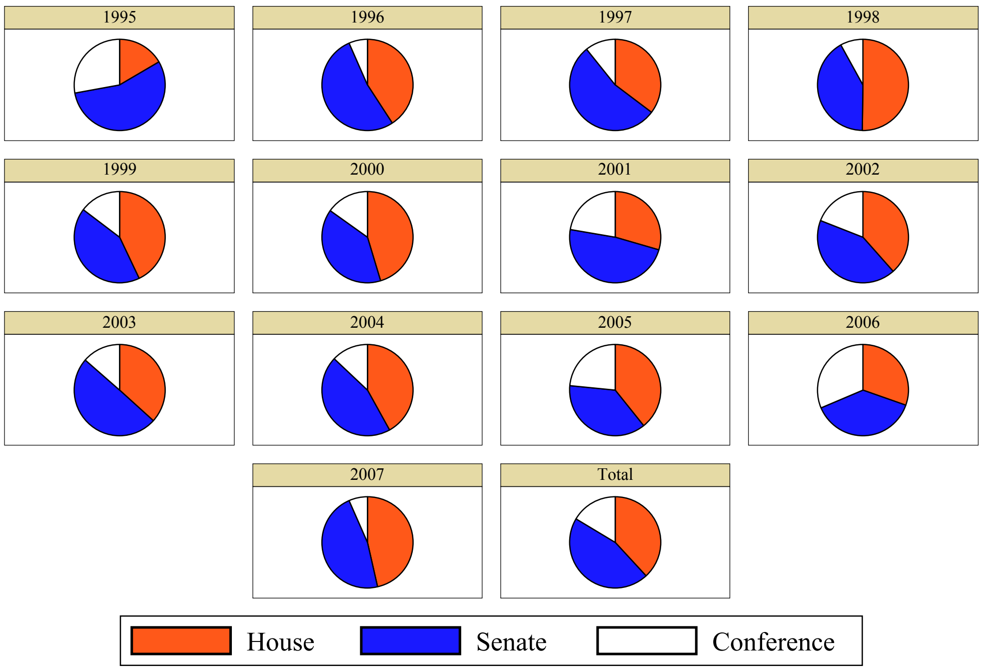
[20] Kristen B. Mitchell, "Earmarks, Quick as a Wink," *The Herald Tribune*, 5 October, 2008, http://www.heraldtribune.com/article/20081005/ARTICLE/810050351 (accessed November 2, 2008).
[21] Kevin Bogardus, "Earmarks 'airdropped' for Freshman," *The Hill*, 15 November, 2007, http://thehill.com/business--lobby/earmarks-airdropped-for-freshmen-2007-11-15.html (accessed November 2, 2008).
[22] CAGW did not designate chamber of origin for the FY2008 bill.

Figure 3 – Percent of Earmarks Dollars by Chamber



Graphs by Fiscal Year

The Political Challenges to Earmark Reform

Based on the data reported above—identifying the sources and scope of earmarks—we can conclude that earmarks are nowhere near the chief cause of problematic budgets and spending practices. We also show that most earmarks are not "airdropped" at the conference stage, but rather they go through the normal legislative process. Nevertheless, there have been continued calls for earmark reform by elected officials and budgetary watchdog groups, especially in light of recent scandals. For example, Roy Blunt (R–MO) called for "system-wide reform" and stated that "…for far too long members have dropped earmarks into bills in the dark of night."[23] CAGW also released a report detailing how Congress should reform the appropriations process.[24] Many of these proposals

[23] The Office of the Republican Whip, "Blunt Calls for Democrats to Join Republicans in Earmark Reform." Press release, 29 January, 2008, http://republicanwhip.house.gov/News/DocumentSingle.aspx?DocumentID=82809 (accessed October 29, 2008).
[24] Tom Finnigan, "All about Pork: The Abuse of Earmarks and the Need for Reform." Citizens Against Government Waste, 7 March, 2007, http://www.cagw.org/site/PageServer?pagename=reports_earmarks (accessed November 2, 2008).

demanded increased disclosure and mechanisms for lawmakers to eliminate earmarks added in conference.

In 2007, both the House and the Senate succumbed to the pressure and passed several new rules governing the procedures of the appropriations process, specifically addressing issues such as transparency and earmarks added in conference. In this section, we will detail the new reforms and then show, by examining the case of the FY2008 Defense Appropriations Bill, how Congress easily worked around the new rules regarding adding earmarks in conference.[25]

The House adopted the earmark reforms as part of H.Res. 6, the rules package for the 110th Congress, as well as H.Res. 491, while the Senate included their reforms in S. 1, the Honest Leadership and Open Government Act of 2007. The new rules in both chambers require a listing of earmarks and their sponsors and also detail how a bill can be delayed if the list of earmarks and sponsors is not available—basically, by allowing a member to raise a point of order against consideration of the legislation or conference report. The House rules also included a specific provision aimed at making it difficult to bypass the new reforms by not allowing blanket waivers of points of order in special rules.[26]

In terms of conference committees, the House now requires that a listing of any new earmarks added in conference be included in the conference report *and* the joint explanatory statement. The Senate rules on "air drops" *appear* to be stricter since they do not allow the addition of new earmarks to the conference report.[27] However, and this is why the new rules are essentially meaningless, they appear to be silent on including new earmarks as part of the joint explanatory statement. Technically, the *conference report* contains the text that will reconcile the differences between the legislation that passed in the House and Senate while the *explanatory statement* describes the conference report. The respective chambers vote on the conference report, but not the explanatory statement. As the following case will demonstrate, the difference between the two reports allowed the Senate to get around its new rules.

The new rules were tested when Congress decided to move forward with the conference proceedings for the FY2008 Defense Appropriations Bill. The agreement reported by the conference committee on November 6, 2007 included 24 new earmarks worth \$59 million (*Congressional Record* (hereafter, *CR*) 2007,

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[25] For even more details about conference reports and the new earmark rules see Schneider (1999), Bach (2001), and Rybicki (2007a, b).

[26] Most special rules in the House include a waiver of all points of order. If a member raises a point of order on the special rule for the appropriations bill, then it is resolved with a vote on the question of consideration, not the normal ruling from the chair.

[27] The new rules allow a Senator to object to an earmark added in the *conference report* by raising a point of order. The Senate can then strike the earmark from the report without rejecting the entire committee recommendation (by the Presiding Officer sustaining the point of order) but the House must then agree to the newly changed conference report.

H13312) but listed them in the joint explanatory statement, *not* in the conference report. On the 7th, the Rules Committee reported a special rule, H.Res. 806, that called for consideration of the conference report and included a waiver of *all* points of order against the report and consideration. This blanket waiver stood in clear violation of the new reforms that specifically stated that it is not in order to consider a rule that waives the requirement that new earmarks added in conference be made public.[28]

On the 8th, the House took up H.Res. 806 and Rep. Flake (R–AZ) quickly raised a point of order against the rule because it waived *all* points of order against the conference report. Rep. Slaughter (D–NY), chair of the Committee on Rules, defended the rule by arguing that the report properly disclosed all new earmarks. After some debate, the House voted on the question of consideration, which passed 220-191 largely along party lines (*CR* 2007, H13311-13314). The House then moved the previous question and passed the special rule, again with party line votes. Finally, the House voted to pass the conference report with 400 voting aye and only 15 against. So, even though the special rule clearly violated the new reform, the House easily bypassed it with a simple majority vote.

Later that same day, the Senate also moved to consider the conference report. However, since the report and not the joint explanatory statement that included the new earmarks was under consideration, there was no easy parliamentary redress to strip out the newly funded projects. Senator McCaskill (D–MO) summed up the objections to the conference report:

> Unfortunately, I have since discovered there are still some gaps in the ethics bill that need to be filled. One of which has to do with the difficulty of raising a 60-vote point of order on earmarks added during appropriations conference negotiations. S.1 says that we can do that. But in reality, we really can't. Most of these added funding earmarks are contained in the Joint Explanatory Statement of Managers, which, technically, isn't part of the conference report bill text. What that means is we can't raise a point of order against those earmarks to strike them out of the bill (*CR* 2007, S14147).

The Senate proceeded to pass the conference report with a voice vote and it moved on to the President.

Thus, it appears that in response to the "problem" of airdrops, the Senate passed a solution with no teeth and the new reforms did not have the (publicly-stated) intended consequences. The only real outcome of the reforms is a list of names attached to the appropriations bills designating who requested the earmarks. It is unlikely that any member will see this as a drawback because most

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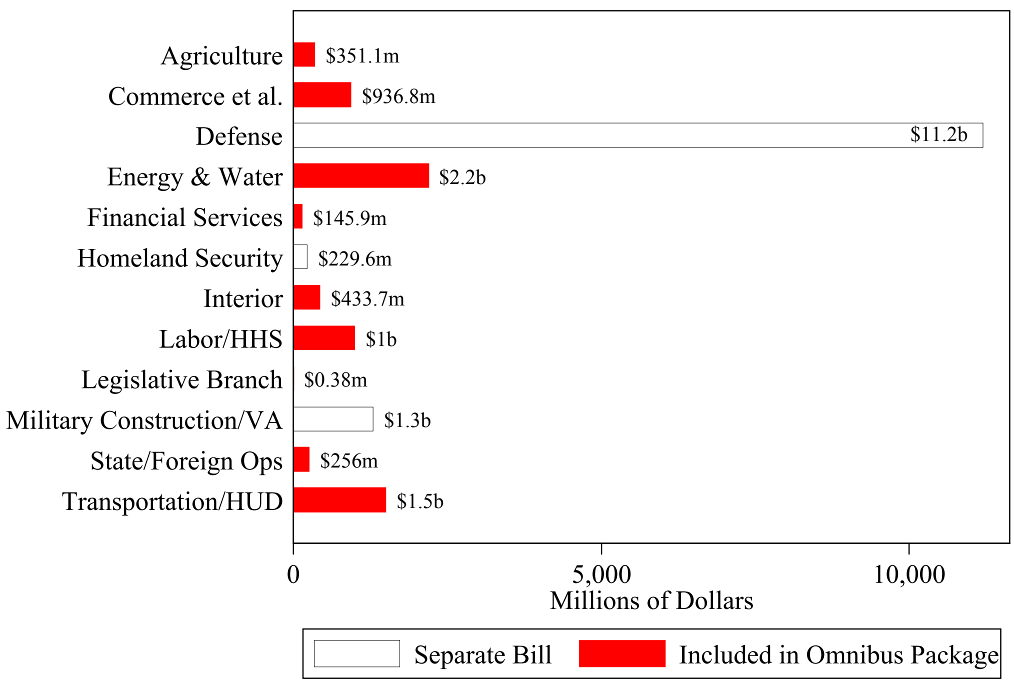
[28] Specifically House Rule XXI, clause 9.

already proudly report the money they are sending home to their districts in newsletters and press releases.

Earmarks for Fiscal Year 2009

In the most recent round of the appropriations process, members of both parties continued to include special projects in the individual bills funding government operations for FY 2009—$19.6 billion worth of earmarks in all, which represents an increase of $2.4 billion over the previous year. Figure 4 shows the totals for each of the separate bills. Three of the bills—Defense, Homeland Security, and Military Construction—passed as separate bills while the others were included in

Figure 4 – 2009 Appropriations Earmarks



Earmarks as reported by Citizens Against Government Waste

an omnibus appropriations package.[29] Similar to previous years, the Defense bill included the greatest amount of earmarks dollars followed by Energy and Water, Transportation, and Military Construction. The $11.2 billion in the Defense bill

[29] The list of earmarks in the FY2009 bills was not released in time to include in our other analyses.

represents a massive increase over the $7.3 billion added in fiscal year 2008, and although the new earmark reforms require members to claim earmarks, just over half of the dollars spent in the Defense bill were not linked with a particular member of Congress. In terms of trends, the dollar amount of earmarks went up from last year in five bills (Defense, Financial Services, Interior, Military Construction/VA, State/Foreign Operations), decreased in six bills (Agriculture, Commerce, Energy and Water, Homeland Security, Legislative Branch, Transportation/HUD), and remained the same in one bill (Labor/HHS). Because spending increased in some bills but decreased in others, it is difficult to speculate as to whether or not members are succumbing to the pressure to reduce the amount of earmarks.

Discussion and Conclusion

Myths propagated by the media, reformers, and outside groups surrounding the use of earmarks in the appropriations process paint a very grim picture for fiscal responsibility. Despite the large dollar amounts appropriated and questions surrounding the distributive practices under which decisions are made, the discourse surrounding earmarks seems to be focusing on the wrong issues. Earmarks are not responsible for the burgeoning national debt. "Airdropped" earmarks originating for the first time in conference committees, or pork added in omnibus packages, are not the places from which the lion's share of pork stems. To the degree that reform is warranted and practical, critiques of earmarks should be redirected to earlier in the budget process, starting with the appropriations committees and subcommittees. It is here, where the bulk of legislating occurs, that most earmarks are added to legislation. While much of the rhetoric regarding pork—in terms of its scope and the manner in which it is perpetuated later in the legislative process—is misguided, we do agree with the comments by some interest groups and members such as Senator Jim DeMint (R–SC) that earmarks help to "grease the skids for the passage of bloated spending bills."[30] Members of Congress reap electoral rewards for pork, and it is not surprising that they are disinclined to vote against measures containing goodies for their district.

[30] The Office of Senator Jim DeMint, Issues and Legislation, "Wasteful Spending," Press release, http://demint.senate.gov/public/index.cfm?FuseAction=Issues.Detail&Issue_id=3e3393d1-7993-46e4-919f-7c95185c71a8 (accessed October 29, 2008).

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