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Commentary: Earmark Ban's Potential Impacts Unclear

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Earmarks took center stage during the week of Nov. 15 when congressional Republicans pledged to "ban" the controversial appropriations tool for the coming fiscal year in a bid to answer the supposed call of midterm voters to reform Washington. Long used by members of Congress to guide federal spending toward certain projects, earmarks can be seen as a form of corruption by the public. While proponents of the ban argue that eliminating earmarks is good for both transparency and the budget, critics of the ban argue this is not necessarily the case.

Earmarks, like most aspects of government, are not good or bad in and of themselves. Contrary to popular belief, Congress can use earmarks in a responsible manner. Because earmarks currently lack key transparency requirements, however, they can be difficult to track, which adds to the public's perception that they are a form of corruption in Washington. But with appropriate changes, such as creating a central, open, government-run earmark database, earmarks could be more transparent than the average spending measure. With full transparency, the public could know who asked for an earmark and who would benefit from it, information lacking in most federal spending bills.

Senate Republicans pledged to ban earmarks when Minority Leader Mitch McConnell (R-KY), an ardent supporter of earmarks, agreed to the ban. However, the ban is not binding, and several Republican senators do not agree with the move. A push for a binding ban, offered as an amendment to the pending food safety bill by Sen. Tom Coburn (R-OK), would put a moratorium in place until FY 2013 and faces even less support.

Sen. Richard Lugar (R-IN) warned that elimination of earmarks effectively cedes control over spending to the executive branch without reducing spending. Lugar said, "The Constitution explicitly states that it is the responsibility of Congress to make decisions on the appropriation of federal taxpayer funds. Earmarks should be considered and treated like amendments to any underlying spending bill. Members should have the opportunity to offer earmarks, review them, and offer motions to strike or modify them."

Sen. Lisa Murkowski (R-AK) echoed those sentiments. "The notion that Congress would abdicate its constitutional duty and turn federal spending over to government bureaucrats is wrong and goes against the Constitution's mandate that says the power of the purse lies with the legislative branch of government," she asserted.

These and other issues raise a question as to what impact the non-binding resolution to ban earmarks will have. What is one person's pork is another person's bacon. Those who dislike earmarks have gained national attention, but less visible are the many state and local policymakers and voters who appreciate nationally elected officials who bring resources back home. The federal money translates into jobs, safer communities, and more vibrant economies.

Even calculating the size of earmarks is somewhat controversial. One approach by Legistorm calculated roughly \$37 billion in earmarks in Fiscal Year 2010, or roughly one percent of the total federal budget. Since it is difficult to determine whether a particular spending item is an earmark, the group relied on Taxpayers for Common Sense, an organization opposed to earmarks, to help it determine whether something is an earmark. The New York Times, on the other hand, estimates earmarks as equal to about half a percent of overall federal spending.

Either way, if Congress cut all of the funds associated with today's earmarks, doing so would not have much impact on the federal deficit. Considering the budget deficit was about \$1.5 trillion, cutting less than \$50 billion a year is small in scope. Ironically, the debate over earmarks has dominated discussion in Washington about controlling spending.

Additionally, advocates for earmarks argue that a ban on earmarks would not result in even modest deficit savings. They make this argument based on the fact that appropriations committees are given limits on spending. Thus, when earmarks are inserted into an appropriations bill, they must come out of other spending in the legislation. This is why advocates, such as Lugar and Murkowski, argue that banning earmarks will have no bearing on the deficit.



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Some fear that banning earmarks, without creating significant leaps on general spending transparency, could create perverse outcomes, pushing deal-making behind closed doors. For instance, members of Congress may lobby the executive branch itself. Federal agencies have some discretion when awarding federal funds, although they are often bound by many needs- and performance-based considerations. However, members of Congress can try to influence the awards process by sending letters to federal agencies requesting projects in their districts, a practice called "lettermarking." While it is unclear how influential the practice is, lettermarking is not bound by any disclosure process beyond Freedom of Information Act (FOIA) requests, making it almost impossible to track. Part of the Jack Abramoff scandal involved lettermarking, with the lobbyist making donations to members of Congress who would contact federal agencies on behalf of his clients.

The end result for the district is the same, with or without earmarks: the district receives federal funding. However, lettermarking is far less transparent than not-so-transparent earmarks. The Center for Public Integrity (CPI) recently released letters showing that members of Congress were directly lobbying federal agencies for Recovery Act projects in their districts. Such letters normally never see the light of day, and CPI had to go through a long FOIA process to obtain them.

Congressional lobbying efforts around Recovery Act projects show that even without earmarks, lawmakers will still try to win federal funding for their districts. Without earmarks, lawmakers' lobbying efforts are simply forced into other channels, which are rarely affirmatively disclosed.

While an outright ban on earmarks seems controversial, there seems to be widespread support for improved transparency of the earmarking process. Right now, it would be fairly easy for Congress to create a [framework that tags and tracks earmarks](#). In fact, Jerry Brito of the Mercatus Center at George Mason University; Jim Harper, the webmaster of WashingtonWatch.com (and Director of Information Policy Studies at the Cato Institute); and Gunnar Helleckson of Red Hat have created a website with a proposed method for cataloging all earmarks. They argue that their organizational framework provides all the information advocates need to know about the proposed spending. They also note that advocates widely agree on the need for transparency, even as there is dissension over whether to ban earmarks.

Retiring Sen. Christopher Bond (R-MO) argues that politicians who know the needs of their home states are better positioned to make spending decisions than "unknown, unaccountable bureaucrats" from Washington. He also indicates that most politicians want to disclose information about earmarks. "I disclose what I'm going to ask for," he said. "I brag about it when I get it. I answer any questions about it. Does a bureaucrat do that with any money they send? No." With many members of Congress just as willing to disclose the earmarks they obtain, it should be relatively simple for Congress to bring transparency to the earmarking process, a reform that would likely be far more meaningful to fiscal discipline and government openness than an outright ban on earmarks.

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