
Bill add-ons draw critics' comparison to earmarks

By Theo Emery

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WASHINGTON — For years, members of Congress have used earmarks to funnel billions of taxpayer dollars to favored recipients in districts in Massachusetts and across the country. After House and Senate leaders established a two-year ban, earmark critics cheered a new era of fiscal discipline.

The celebration, it turns out, may have been premature.

Under a new system instituted just months after House GOP leaders pledged to clamp down on earmarks, the \$690 billion defense bill that the House passed late last month included hundreds of millions of dollars in added spending authorizations. Though the process is nominally competitive, the requests in many cases appear destined for districts of lawmakers who proposed them.

Among them is \$4 million that Representative Niki Tsongas of Massachusetts requested “to develop innovative nanomaterials and nanomanufacturing processes for warfighter systems.”

The Center for High-rate Nanomanufacturing at the University of Massachusetts Lowell benefited from a \$4 million earmark in 2010 that the Lowell Democrat and other lawmakers promoted. Although the center is not guaranteed the money this year, the amendment appears tailor-made for the center's study of microscopic technology.

Budget watchers say that the new system deployed in the defense bill shows how difficult it is to root out earmarks, which are a pittance relative to the overall budget but have become symbolic of the influence of special interests.

After last fall's election, both the House and Senate leaders announced a two-year moratorium on all earmarks, which are pet projects that individual lawmakers were allowed to slip into appropriations bills without public hearings and debate.

Under the new policy set up in the House Armed Services Committee, lawmakers filed amendments asking for funds that would eventually require competitive bidding. For the funds to actually be set aside, the Senate Armed Services Committee — which takes up its version of the bill this week — would have to adopt the same policy, and then the budget bills would have to put the money aside.

It is not clear that the amendments in the defense legislation will result in money flowing back to recipients in districts, because the legislation passed last week does not allocate the money; it only authorizes the Pentagon to spend it. And, it is not yet clear whether the Senate will approve of the House approach.

But even so, members of Congress can claim credit for trying to secure money for their districts, even if the measures do not pass, said Benjamin H. Friedman, a research fellow at the libertarian Cato Institute.

“As long as Congress has the power of the purse, something like earmarks [is] going to be possible,” he said.

Tsongas's amendment was among almost 250 that members of the House Armed Services Committee sought to tack onto the defense bill. Most of the amendments were lumped together in committee, approved in blocks, and then passed on May 26 with the main bill, along with new amendments added on the floor.

The money for all of the added expenditures comes from a new fund called the Mission Force Enhancement Transfer Fund. The account contained about \$1 billion intended to help the Pentagon pay for unfunded priorities. Instead, it became a slush fund for Congress, said Steve Ellis, vice president of the watchdog group Taxpayers for Common Sense.

“That became a cash cow for the offsets for these earmarks. Lawmakers raided that to the tune of more than \$600 million,” Ellis said.

Tsongas's request tracks closely with her 2010 appropriations request seeking \$4 million for UMass Lowell, which is part of a collaboration with Northeastern University and the University of New Hampshire called the Center for High-rate Nanomanufacturing. A UMass-Lowell spokeswoman said the school hoped to be "well-positioned to compete for [this year's] funding."

Like other lawmakers, Tsongas said the request is not an earmark because it requires competition for the funds. UMass Lowell could apply, she said, but so could the Massachusetts Institute of Technology or institutions anywhere in the country.

"It's been presented as competitive. If it proves not to be, then I think that will raise some issues and some changes will have to be made," she said.

The amendments, which came from both Republicans and Democrats, describe a general request, such as one from Representative Allen West of Florida, a Republican and a Tea Party favorite, seeking \$2.5 million for Navy research into "magnetic and electric fields of the coastal ocean environment."

In the 2010 appropriations bill, West's predecessor and other Florida lawmakers gained a \$2 million earmark for the same purpose that went to Florida Atlantic University, according to an earmark database maintained by Taxpayers for Common Sense. West's spokeswoman, Angela Sachitano, said West "does not consider it an earmark," and that none of his requests were intended for specific recipients.

Tsongas is not the only New England lawmaker to back amendments with potential benefits for their districts. Rhode Island Democrat Jim Langevin's seven amendments included one to boost Army research on explosives detection by \$4.5 million. Along with other lawmakers, he secured \$3.2 million for that purpose in 2010.

A Langevin spokesman, Jonathan Dworkin, said in an e-mail that the request was not an earmark. All of Langevin's amendments are aimed at programs the congressman appreciates, he wrote, and while Rhode Island organizations could qualify for the money, "it's up to them if they would want to bid for this funding."

Chellie Pingree, a Maine Democrat, had an amendment aimed at keeping open the commissary at the now-closed Brunswick Naval Air Station for the region's active-duty personnel and veterans.

Willy Ritch, a spokesman for Pingree, said the Pentagon rejected proposals to keep the Brunswick store open, and the congresswoman filed the amendment with support from other lawmakers to keep it from closing. But the request is not an earmark, he said, because it could apply to other bases around the country.

"Congresswoman Pingree is certainly going to do everything she can to make sure that this pilot program is utilized in Brunswick, but that doesn't mean it can't be utilized somewhere else as well," he said.

Senator Claire McCaskill, a Missouri Democrat, fired off a sharp letter late last month to the House Armed Services Committee chairman, Howard P. "Buck" McKeon, a California Republican, saying the new policy circumvents the original earmark ban, which she called a "charade." She said she will urge the Senate not to follow the House's example.

A spokesman for the Senate Armed Services Committee said the Senate bill would contain no earmarks, but declined to comment on the policy established by the House.

"What is remarkable is that the new earmarking procedure you have instituted not only circumvents the current moratorium but is actually less transparent than the earmarking process that was in place prior to the moratorium," McCaskill wrote.

McKeon defended the policy in a response to McCaskill, saying it was in line with the GOP leadership's moratorium and his own pledge not to allow earmarks in the bill. McCaskill, he said, was misrepresenting the new policy.

"These statements are inaccurate. In fact, it distorts and sensationalizes a policy that has drawn bipartisan praise from both members and outside groups," he wrote.

Watchdog groups say the amendments resemble earmarks — or at the least, circumvent the ban — because any entity that has been receiving money for years has a huge leg up on any upstart bidder, so the process is not truly competitive.

"If there's only one runner in the race, then it's not really a competition," said Ellis of Taxpayers for Common Sense.

President Obama, who has threatened to veto any bill with earmarks, has also signaled his unhappiness with the policy. In its policy statement over the defense bill, the White House said that it objected to using the \$1 billion transfer fund to support efforts that the administration didn't request, though it did not threaten a veto.

Ellis said he had been pleased about the House earmark ban. Now he is "cautiously pessimistic" about whether lawmakers truly want to end them, in light of the rush to secure funds in the defense bill.

"Clearly, when you see something that was an earmark before, you have to question what has changed that makes it not an earmark anymore. I don't think enough has," he said.

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