

## **Transportation/HUD Appropriations, Fiscal Year 2008**

### **Amendment XXXX – Prohibits spending federal transportation funds on earmarks until all structurally deficient bridges in the U.S. are repaired.**

On August 1, 2007, the Interstate 35 West (I-35W) bridge over the Mississippi River in Minneapolis, Minnesota, collapsed during rush hour, killing 13 people and injuring another 123.

This tragedy exposed both a nationwide problem of deficient bridges as well as misplaced priorities of Congress, which has focused more on funding earmarks than improving aging infrastructure.

According to the U.S. Department of Transportation (DOT), one out of every eight bridges in our nation is structurally deficient. Of the 597,340 bridges in the U.S., 154,101 bridges are deficient.

Yet, instead of addressing needed bridge maintenance, Congress has prioritized earmarks for politicians' pet projects, many which do not even involve roads or bridges.

The \$286 billion, five-year transportation authorization bill approved by Congress in 2005, for example, included 6,373 earmarks, totaling \$24 billion, including the infamous "Bridge to Nowhere" in Alaska.

In Fiscal Year 2006, Congress earmarked 1,541 projects in the Transportation Appropriations bill costing more than \$3.2 billion, according to the Congressional Research Service (CRS).<sup>1</sup>

An investigation by the Inspector General of the Department of Transportation found that in total "For FY 2006, there were 8,056

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<sup>1</sup> "Earmarks in FY2006 Appropriations Acts," Congressional Research Service, March 6, 2006.

earmarks within DOT programs with a total amount of more than \$8.54 billion, or over 13 percent of DOT's appropriation."<sup>2</sup>

There are over 500 earmarked projects costing more than \$2 billion listed in the transportation section of the Fiscal Year 2008 Transportation/HUD appropriations bill now before the Senate. These are not, however, all of the earmarks funded by the bill. Not included in this total, but still funded by the bill, are many other earmarks that were carved out in the 2005 transportation authorization bill.

Earmarks have siphoned away tens of billions of dollars that could and should have been spent to upgrade deficient bridges or improve aging roads rather than being spent on politicians' pet projects.

This amendment would set federal transportation spending priorities by simply requiring that all bridges that have been identified as being deficient be repaired before any more earmarks are funded.

### **Congress Has Long Been Aware of Road and Bridge Deficiencies**

Most bridges are inspected every 2 years and receive ratings based on the condition of various bridge components. Two terms used to summarize bridge deficiencies are "structurally deficient" and "functionally obsolete." Structural deficiencies are characterized by deteriorated conditions of significant bridge elements and reduced load-carrying capacity. Functional obsolescence is a function of the geometrics of the bridge not meeting current design standards.

According to the U.S. Department of Transportation (DOT), one out of every eight bridges in our nation is structurally deficient. Of the 597,340 bridges in the U.S., 154,101 bridges are deficient. This

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<sup>2</sup> "REVIEW OF CONGRESSIONAL EARMARKS WITHIN DEPARTMENT OF TRANSPORTATION PROGRAMS," Report Number AV-2007-066, Department of Transportation Office of Inspector General, September 7, 2007.

includes 73,784 “structurally deficient” bridges and 80,317 “functionally obsolete” bridges.<sup>3</sup>

“Dozens of the nation's highway bridges that fell into disrepair 25 years ago still need overhauls to fix cracks, corrosion and other long-festering problems,” according to a recent *USA TODAY* analysis of federal inspection records.

“At least 96 interstate highway bridges rated ‘structurally deficient’ by government inspectors in 1982 had the same rating last year, suggesting they weren’t fixed or had lapsed and again require repair, according to the records. Those spans carry 3.8 million cars and trucks every day.<sup>4</sup>

According to the Congressional Research Service, “The most recent needs assessment shows that in 2004, \$70.3 billion was spent on capital improvements to the nation’s highways and bridges. Of that amount, \$58.3 billion was spent on roadways and \$12.0 billion was spent on bridges. The expenditures on bridges are composed of \$10.5 billion on the rehabilitation of existing bridges and \$1.6 billion on the building of new bridges. Because of the modeling involved, DOT’s future needs estimates for bridges are limited to fixing deficiencies in existing bridges, thus are comparable with the \$10.5 billion figure. With that in mind, DOT estimates that it would cost a total of \$65.3 billion to fix all existing bridge deficiencies (in 2004 dollars), which is called the existing bridge investment backlog. This figure includes dealing with bridges classified as structurally deficient and functionally obsolete as well as other deficiencies, if the benefits outweigh the costs.”<sup>5</sup>

Repairing deficient roads is not just about money. Substandard road conditions take the lives of more than 13,000 Americans every year, according to the American Society of Civil Engineers.<sup>6</sup>

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<sup>3</sup> “The 2006 Conditions and Performance Report,” U.S. Department of Transportation, <http://www.fhwa.dot.gov/policy/2006cpr/>

<sup>4</sup> Brad Heath, “Scores of bridges ‘deficient’ since ‘80s,” *USA Today*, August 29, 2007; [http://www.usatoday.com/news/nation/2007-08-29-bridges\\_N.htm?csp=34](http://www.usatoday.com/news/nation/2007-08-29-bridges_N.htm?csp=34)

<sup>5</sup> Robert S. Kirk and William J. Mallett. “Highway Bridges: Conditions and the Federal/State Role,” Congressional Research Service, August 10, 2007.

<sup>6</sup> Jim Davis, executive director and CEO of the American Society of Civil Engineers, <http://www.asce.org/reportcard/index.cfm?reaction=news&page=6>

## **Congress Has Long Misprioritized Transportation Spending**

Despite the long noted road and bridge deficiencies, Congress has appropriated federal funds for earmarks at a continually-increasing rate over the past two decades.

The \$65.3 billion needed to fix all existing bridge deficiencies is not a small amount but this amount could be obtained by simply shifting the tens of billions of dollars both authorized and appropriated for earmarks. The 2005 transportation bill contained \$24 billion worth of earmarks and there is \$2 billion worth of earmarks in the Senate version of the Fiscal Year 2008 transportation appropriations bill.

Earmarks allow lawmakers to fund projects with little public scrutiny and without being subjected to many of the planning and programming processes that apply by law to other federal projects. This means an individual politician can make his personal whims priorities at the expense of national priorities, like maintain existing roads and bridges.

A recent study of federal, state, and local transit spending by the Transportation Department found that the rate of spending on new roads or transit projects has historically outpaced funding to maintain existing systems.<sup>7</sup>

Not all transportation earmarks are even for new roads, and in some cases are for projects that have little to do with transportation. Interest groups and lobbyists have discovered that earmarks can be a quick way to obtain government funding without having to deal with the normal bureaucratic process.

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<sup>7</sup> "Infrastructure: Priorities Hit a Pothole," Business Week, August 20, 2007; [http://www.businessweek.com/magazine/content/07\\_34/b4047049.htm](http://www.businessweek.com/magazine/content/07_34/b4047049.htm)

Not surprisingly, an investigation of transportation earmarks by the Inspector General concluded that “earmarks may not be the most effective or efficient use of funds.”<sup>8</sup>

While the nation is spending more money than ever on our highways, Transportation Secretary Mary Peters questions whether those funds are being put to the best use. She lays a lot of the blame for our neglected roadways on the congressional budget process. It gives federal politicians the to power to ‘earmark’ money for pet projects that sometimes have nothing to do with transportation and often usurp state priorities.<sup>9</sup>

The 1981 federal transportation bill contained 10 earmarks. In 1987, President Reagan vetoed a transportation bill that contained 121 earmarks, saying, “I haven't seen this much lard since I handed out blue ribbons at the Iowa State Fair.”<sup>10</sup>

In 2005, Congress passed a transportation authorization bill that included an astonishing 6,376 earmarks, which consumed nearly ten percent of the bill’s total \$286.4 billion cost.

The bill included \$223 million for a mile-long Alaska bridge linking an island with 50 residents to the town of Ketchikan on the mainland, which is now infamously known as the “Bridge to Nowhere.” It also contained another \$231 million earmark for a new bridge in Anchorage, to be named “Don Young's Way,” after its Congressional sponsor, and \$3 million for a film "about infrastructure that demonstrates advancements in Alaska, the last frontier."

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<sup>8</sup> “REVIEW OF CONGRESSIONAL EARMARKS WITHIN DEPARTMENT OF TRANSPORTATION PROGRAMS,” Report Number AV-2007-066, Department of Transportation Office of Inspector General, September 7, 2007.

<sup>9</sup> Infrastructure: Priorities Hit a Pothole,” Business Week, August 20, 2007;  
[http://www.businessweek.com/magazine/content/07\\_34/b4047049.htm](http://www.businessweek.com/magazine/content/07_34/b4047049.htm)

<sup>10</sup> Jeff Jacoby. “The Republican pork barrel,” The Boston Globe, August 4, 2005;  
[http://www.boston.com/news/globe/editorial\\_opinion/oped/articles/2005/08/04/the\\_republican\\_pork\\_barrel/](http://www.boston.com/news/globe/editorial_opinion/oped/articles/2005/08/04/the_republican_pork_barrel/)

The bill's nearly endless list of earmarks included many projects that have nothing to do with highways:

- Horse riding facilities in Virginia (\$600,000);
- A snowmobile trail in Vermont<sup>11</sup> (\$5.9 million);
- Parking for New York's Harlem Hospital (\$8 million);
- A bicycle and pedestrian trail in Tennessee (\$532,000);
- A daycare center and park-and-ride facility in Illinois (\$1.25 million);
- Dust control mitigation for rural Arkansas (\$3 million);
- The National Packard Museum in Ohio (\$2.75 million); and
- A historical trolley project in Washington (\$200,000).<sup>12</sup>

Another recent earmark was for a Colorado bridge, but a rather unusual one.

“More than 10,000 feet up in the Rocky Mountains, planning is under way for a multimillion-dollar bridge that will be as wide as a football field and covered with grass and shrubs. Dirt berms along its edges will reduce noise and lights from vehicles whizzing below on Interstate 70. The overpass isn't for cars or people. It's designed to help elk, coyote and other wildlife cross the four-lane highway.” A Congressional earmark for \$500,000 paid for “the first chunk of funding for the bridge.”<sup>13</sup>

There are over 500 earmarked projects costing more than \$2 billion listed in the transportation section of the Fiscal Year 2008 Transportation/HUD appropriations bill now before the Senate.

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<sup>11</sup> Louis Porter. “Federal money for Vt. highways, bridges may sit idle,” The Times Argus, June 5, 2007; <http://www.timesargus.com/apps/pbcs.dll/article?AID=/20070605/NEWS01/706050359/1002>

<sup>12</sup> Jeff Jacoby. “The Republican pork barrel,” The Boston Globe, August 4, 2005; [http://www.boston.com/news/globe/editorial\\_opinion/oped/articles/2005/08/04/the\\_republican\\_pork\\_barrel/](http://www.boston.com/news/globe/editorial_opinion/oped/articles/2005/08/04/the_republican_pork_barrel/)

<sup>13</sup> Brody Mullins. “Strings Attached; As Earmarked Funding Swells, Some Recipients Don't Want It,” Wall Street Journal, December 26, 2006, <http://online.wsj.com/article/SB116710120694259358.html>

These earmarks, again, include tens of millions of dollars for projects that are not related to highways, bridges or roads, including:

- Heart of America Bicycle/Pedestrian Bridge, Missouri (\$750,000);
- Paw Paw Bends Trail, Morgan County, West Virginia (\$1,000,000);
- Gwynns Falls Trail/CSX Bridge, Maryland (\$500,000);
- Statesman Boulevard and Trail, Mississippi (\$2,200,000);
- Lewis and Clark Legacy Trail, North Dakota (\$800,000);
- Illinois Bike Trails (\$3,000,000);
- CEMAR Trail, Iowa (\$500,000);
- Olympic Discovery Trail/Elwha River Pedestrian Bridge, Washington (\$575,000);
- Des Moines Creek Trail Access Project, Washington (\$500,000);
- Post Street Centennial Trail and Utility Bridge, Washington (\$2,000,000);
- Safety Project on the Environmental Effects of Dust Suppressant Chemicals on Federal Land Highways, Missouri (\$1,750,000);
- Grant City Downtown Square Street Improvements, Missouri (\$500,000);
- WVU Exhaust Emission Testing Initiative, West Virginia (\$1,000,000);
- Reading Lighting & Streetscape Enhancement Initiative, Pennsylvania (\$250,000);
- Virtual Accident and Injury Reconstruction Center, Mississippi (\$2,250,000);
- Swan's Island Ferry Facilities, Maine (\$2,500,000);
- North Main Street Streetscape Enhancements, Connecticut (\$350,000);
- River Ferry Boat Transportation Program in the City of Oklahoma City, Oklahoma (\$2,500,000);
- Alien Species Action Plan (\$1,600,000);
- Vermont Downtown Streetscape & Sidewalk Improvements in Springfield, Derby Vermont Downtown Streetscape & Sidewalk Improvements in Springfield, Derby (\$1,000,000);
- Wake Turbulence (\$3,775,000);

- South Lake Union Streetcar Project Capital Improvements, Washington (\$1,150,000);
- Research on Small Aircraft, Kansas (\$1,000,000);
- Vans for Vermont Senior Centers, Vermont (\$200,000);
- Next Generation Rail Tank Car (\$3,000,000); and
- Volcano Monitoring (\$3,000,000).

Again, not included in this list, but still funded by the bill, are many other earmarks that were carved out in the 2005 transportation authorization bill.

### **Transportation Earmarks Have Increased Dramatically Over the Past Decade and Cost More Than \$8.5 Billion in 2006**

A recent Department of Transportation Office of Inspector General investigation “identified 8,056 earmarked projects within the Department’s programs that received more than \$8.54 for FY 2006.”<sup>14</sup>

The Congressional Research Service has found that during the 10-year period from fiscal year (FY) 1996 to FY 2005, the number of earmarks within Department of Transportation (DOT) appropriations acts and accompanying conference reports increased by more than 1,150 percent—from 167 earmarks in FY 1996 to 2,094 earmarks in FY 2005. The amount of dollars earmarked also increased by more than 314 percent—from \$789 million in FY 1996 to about \$3.27 billion in FY 2005. Although down in numbers from FY 2005, DOT’s FY 2006 appropriations included 1,582 earmarks, of which 1,516 were specifically identified in the conference report accompanying the act.”<sup>15</sup>

The numbers do not represent the true total cost of earmarking.

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<sup>14</sup> “REVIEW OF CONGRESSIONAL EARMARKS WITHIN DEPARTMENT OF TRANSPORTATION PROGRAMS,” Report Number AV-2007-066, Department of Transportation Office of Inspector General, September 7, 2007.

<sup>15</sup> “REVIEW OF CONGRESSIONAL EARMARKS WITHIN DEPARTMENT OF TRANSPORTATION PROGRAMS,” Report Number AV-2007-066, Department of Transportation Office of Inspector General, September 7, 2007.

The Inspector General found that there are hidden administrative costs involved with earmarks but was unable to determine this added cost. “We were unable to quantify such costs because the Operating Administrations do not separately track the cost of administering earmarked projects. However, program officials we spoke with in Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA), and the Office of the Secretary all agreed that there are additional costs associated with administering earmarked projects, such as the additional staff time needed to review projects that are not normally eligible for Federal funding.”<sup>16</sup>

### **Earmarks Compromise Higher Transportation Priorities**

According to the Inspector General, “Many earmarked projects considered by the agencies as low priority are being funded over higher priority, non-earmarked projects. The IG notes that “Funding these new low priority projects in Fiscal Year 2006 added to the already substantial backlog of replacement projects from earmarks in prior fiscal years and caused FAA to delay the planning of its higher priority replacement projects by at least 3 years.”

There are real human costs to such misplaced priorities.

Considering that substandard road conditions take the lives of more than 13,000 Americans every year, according to the American Society of Civil Engineers,<sup>17</sup> every dollar that funds a lower-priority or unnecessary earmark is a dollar that isn’t available for an urgent repair that might save the life of someone’s son or daughter, or husband or wife.

The Inspector General identified at least five ways in which earmarks negatively impact the mission and goals of federal transportation programs:

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<sup>16</sup> “REVIEW OF CONGRESSIONAL EARMARKS WITHIN DEPARTMENT OF TRANSPORTATION PROGRAMS,” Report Number AV-2007-066, Department of Transportation Office of Inspector General, September 7, 2007.

<sup>17</sup> Jim Davis, executive director and CEO of the American Society of Civil Engineers, <http://www.asce.org/reportcard/index.cfm?reaction=news&page=6>

**1) Earmarks can reduce funding for the states' core transportation programs.** For example, in Fiscal Year 2006, Congress earmarked over 5,600 projects valued at over \$3.5 billion in just three transportation programs—almost. Transportation officials believed many of these projects would not have been high priority candidates for funding under the states' formula programs. They were required, however, to fund the projects because they were earmarked thereby reducing states' apportionments by \$3.5 billion.

**2) Earmarks do not always coincide with DOT strategic research goals.** For example, FTA has five research goals to support its research mission to deliver solutions to improve public transportation. These goals include (1) providing transit research leadership, (2) increasing transit ridership, (3) improving capital and operating efficiencies, (4) improving safety and emergency preparedness, and (5) protecting the environment and promoting energy independence. For Fiscal Year 2006, the IG found that all 46 earmarked projects, valued at about \$40.8 million, in FTA's National Research Program did not address the first goal and only partially addressed goals 2 through 4.

**3) Many low priority, earmarked projects are being funded over higher priority, non-earmarked projects.** For example, for Fiscal Year 2006, FAA considered 9 of the 10 new earmarked projects, totaling \$31.5 million, in its Tower/Terminal Air Traffic Control Facility Replacement Program within the Facilities and Equipment account to be low priority projects that would not have received funding without the earmark. These new projects have added to the already substantial backlog of replacement projects from earmarks in prior fiscal years and have caused FAA to delay the planning of its higher priority replacement projects by at least 3 years.

Earmarks for FAA's Instrument Landing Systems (ILS) Program within the Facilities and Equipment account represent another example of low, rather than high, priority projects receiving funds. For FY 2006, Congress earmarked almost \$11.7 million for 15 ILS projects. Of the 15 ILS earmarks, 8 were for new projects and 7 were for projects receiving earmarks in prior years. According to FAA officials, the Agency would not have selected any of the 15 earmarks

to receive funds because none of the earmarked projects would have met FAA's requirements for selecting a project, such as the requirement that a project's benefits are equal to or greater than its costs.

**4) Earmarks provide funds for projects that would otherwise be ineligible.** For example, for Fiscal Year 2006, 16 of 65 earmarked projects in FHWA's Interstate Maintenance Discretionary Program, totaling more than \$14 million, did not meet statutory program criteria and would not have received funding if not for Section 113 of DOT's appropriations law that allows funding for earmarks that do not meet the statutory requirements of a program.

Also, for FY 2006, 4 of 25 earmarked projects totaling \$28 million in FHWA's Projects of National and Regional Significance Program did not meet statutory criteria. However, a provision in SAFETEA-LU for this program directs that funds be allocated for these projects notwithstanding the program criteria set forth elsewhere in the statute for the program.

**5) Earmarks can disrupt the agency's ability to fund programs as designated when authorized funding amounts are exceeded by overearmarking.** In SAFETEA-LU, earmarks actually exceeded the authorized funding levels for three of the five FHWA research programs for FY 2006, resulting in across-the-board program cuts to stay within authorized funding levels for each of the three programs.

The Surface Transportation Research, Development, and Deployment Program (STRDD) was earmarked at \$234 million but only authorized funding of \$196.4 million for Fiscal Year 2006. This resulted in a 16.36-percent cut in all STRDD programs without a prescribed method to make the cuts.

The University Transportation Research Program included \$76.4 million in earmarks with an authorized funding level of \$69.7 million for FY 2006. This resulted in an 8.77-percent cut in the University Transportation Research Program without a prescribed method to make the cuts.

The Training and Education program had \$27.65 million in earmarks but was authorized only \$26.7 million for FY 2006. This resulted in a 3.44-percent cut in the Training and Education program without a prescribed method to make the cuts.<sup>18</sup>

### **Only 60 Percent of Gas Tax Money is Being Spent on Highways and Bridges**

As a result of Congress' failure to properly prioritize transportation spending, our infrastructure has continued to suffer.

Transportation Secretary Peters noted that "Our system is failing because federal gasoline taxes are deposited into a centralized trust fund and allocated based on political will. Major spending decisions often have nothing to do with underlying economics, engineering realities or consumer needs. New programs and pet project earmarks have proliferated in recent years."<sup>19</sup>

"Only about 60 percent of... gas tax money... actually goes into highway and bridge construction, according to Secretary Peters."<sup>20</sup>

The Federal-Aid Highway Act of 1956 established the Highway Trust Fund to ensure that revenues from a gas tax and other transportation taxes would be used only to fund the construction of the Interstate Highway System, which was considered a federal responsibility for national defense reasons. The system was supposed to be completed by 1969, at which time the gas tax would sunset. Of course, the gas tax not only *did not* sunset, it increased.

In 1983 it was hiked from 4 cents a gallon to 9 cents, with 1 cent diverted to the newly-created Mass Transit Trust Fund for projects, mostly in a handful of big cities, that have nothing to do with

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<sup>18</sup> "REVIEW OF CONGRESSIONAL EARMARKS WITHIN DEPARTMENT OF TRANSPORTATION PROGRAMS," Report Number AV-2007-066, Department of Transportation Office of Inspector General, September 7, 2007.

<sup>19</sup> Mary E. Peters. "The Folly of Higher Gas Taxes," The Washington Post, August 25, 2007, Page A15; <http://www.washingtonpost.com/wp-dyn/content/article/2007/08/24/AR2007082401697.html>

<sup>20</sup> Mary E. Peters, "Transportation Secretary Discusses Concerns About National Infrastructure," The Online News Hour, August 15, 2007; [http://www.pbs.org/newshour/bb/transportation/july-dec07/infrastructure\\_08-15.html](http://www.pbs.org/newshour/bb/transportation/july-dec07/infrastructure_08-15.html)

highways.

Since then, the misuse of Highway Trust Fund dollars has only worsened. In particular, since the passage of the 1991 highway bill, funds raised from motorists at the pump have been diverted to bicycle paths, scenic landscape designs, pedestrian walkways, parking garages, and any number of non-highway projects.

Even when the highway funds are actually spent on roads, Congress finds a way to earmark money for questionable projects like the "Bridge to Nowhere" in Alaska.

"Members (of Congress) want new projects. They want something they can have their name attached to, where they can cut a ribbon," says Steve Ellis of Taxpayers for Common Sense. "You don't get to cut a ribbon on a maintenance project to fill potholes."<sup>21</sup>

It is clear that Congress must do a better job prioritizing federal transportation dollars to ensure current national responsibilities are fulfilled first and foremost.

### **Minnesota Is a Tragic Example of the How the Focus on Pork Has Undermined Transportation Safety**

*The Wall Street Journal* recently reported "Minnesota's transportation auditors warned as long ago as 1990 that there was a 'backlog of bridges that are classified as having structural deficiencies.' In 1999 engineers declared that cracks found in the bridge that collapsed were 'a major concern.' Bike paths were deemed a higher priority by Congress, however, including its powerful Minnesota Representatives."<sup>22</sup>

The Minnesota *Star Tribune* explained that the state's Congressman Jim Oberstar has "long been well-positioned to help steer funds toward bridge safety, and has known of the seriousness of the

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<sup>21</sup> "Infrastructure: Priorities Hit a Pothole," Business Week, August 20, 2007; [http://www.businessweek.com/magazine/content/07\\_34/b4047049.htm](http://www.businessweek.com/magazine/content/07_34/b4047049.htm)

<sup>22</sup> "Of Bridges and Taxes," The Wall Street Journal, August 18, 2007; <http://www.opinionjournal.com/weekend/hottopic/?id=110010490>

problem since he held hearings on bridge conditions 20 years ago, he says. But he's had other priorities. For example, on July 25-- a week before the bridge collapse-- Oberstar issued a press release announcing his latest coup for Minnesota. He had obtained more than \$12 million for his home state in a recently passed House transportation and housing bill. Commuter rail was the big winner, getting \$10 million. The Cambridge-Isanti Bike/Walk Trail got \$250,000, and the KidsPeace Mesabi Academy in Buhl got \$150,000. Only \$2 million went for meat-and-potatoes road improvements. Not a penny was slated for bridge repair.”<sup>23</sup>

While the I-35W bridge had been listed as structurally-deficient for 17 years, Minnesota legislators chose to dole out funding for pet projects instead of addressing the bridge’s deficiencies.

Other Members of Congress with bridges in their states and districts with the same deficient classification as the bridge that collapsed in Minnesota have also misdirected transportation funds to lower priority infrastructure.

Despite the collapse of the I-35W bridge and the resulting exposure of the similar deficient state of thousands of bridges across the country, Washington politicians continue to find the lure of earmarking transportation funds to pay for their own pet projects too tempting to resist.

There are over 500 earmarked projects costing more than \$2 billion listed in the transportation section of the Fiscal Year 2008 Transportation/HUD appropriations bill now before the Senate. These are not, however, all of the earmarks funded by the bill. Not included in this total, but still funded by the bill, are many other earmarks that were carved out in the 2005 transportation authorization bill.

There is no question that earmarks have siphoned away tens of billions of dollars that could and should have been spent to upgrade

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<sup>23</sup> Katherine Kersten. “Until I-35W disaster, Oberstar's funding focus wasn't on bridges,” Star Tribune, August 22, 2007; <http://www.startribune.com/191/story/1378267.html>

deficient bridges or improve aging roads rather than being spent on politicians' pet projects.

### **This Amendment Would Only Place a Moratorium on Earmarks That Do Not Make Improvements to Deficient Roads and Bridges**

This amendment, while prohibiting most transportation earmarks as long as bridges and roads are categorized as deficient, ensures that any earmark directing funds to a truly needed national transportation priority is permitted by allowing an exemption on this earmark moratorium for deficient bridges and roads.

Some transportation projects that are earmarked could still be funded, however, if they are selected under the regular agency review and selection process.

Therefore, members of Congress would still have the discretion to earmark transportation dollars for any of the more than 73,000 bridges with identified deficiencies. Other lower priority earmark projects, however, would not be eligible for federal funding in Fiscal Year 2008 under this amendment.

Additionally, if an earmark unrelated to deficient roads and bridges has merit, the state would still have the discretion to fund that particular project but Congress could not mandate its funding via an earmark.

The prohibition contained within this amendment would also apply to earmarks not listed in the appropriations act or accompanying report but still funded by the act as a result of being authorized in another bill.

### **Earmarking Increases the Likelihood of Infrastructure Failures By Diverting Funds from Needed Bridge and Road Repairs**

In addition to wasting federal taxpayer dollars and increasing the likelihood that national infrastructure priorities remain unaddressed,

transportation earmarks are subtracted from federal funds that are allocated to each state to address state infrastructure needs.

Although some of the earmarks may be for projects considered priorities by the state transportation departments, many of them are not. Instead of allowing for these funds to be spent on infrastructure needs identified by state transportation departments, federal funds are spent on projects selected by politicians in Washington, DC.

Not surprisingly, many federal and state officials whose agencies receive earmarked money say they do not want it. The problem, they say, is that most earmarks don't come with extra money from Washington. They merely dictate how agencies must spend federal money they were already counting on.

"Earmarks make my life miserable," says Tom Norton, the head of the Colorado Department of Transportation. Earmarks, he complains, force him to use limited federal money to pay for lawmakers' pet projects.

"We hate earmarks," says Heather Copp, the department's chief financial officer, who keeps a tally of them in a thick black binder in her office. "Why do we spend 18 months at public hearings, meetings and planning sessions to put together our statewide plan if Congress is going to earmark projects that displace our priorities?" she asks.<sup>24</sup>

The North Carolina newspaper, the *News & Observer*, reported that "North Carolina's members of Congress quietly took control of more than \$135 million from the state Department of Transportation [in 2005] to help pay for dozens of highway projects they favored. That means other projects deemed more important by state and local officials must be delayed."

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<sup>24</sup>Brody Mullins. "Strings Attached; As Earmarked Funding Swells, Some Recipients Don't Want It," Wall Street Journal, December 26, 2006, <http://online.wsj.com/article/SB116710120694259358.html>

*The News & Observer* outlines how earmarking has upset state transportation priorities:

"The new projects dictated by Congress didn't have enough support in North Carolina to be included among the 2,337 funded in the state's 2006-2012 Transportation Improvement Program. But some local officials and others hired Washington lobbyists to plead their case for highway money. The congressional highway spending mandates in the transportation reauthorization bill, called earmarks, usually provide no additional money. They require that existing funds be spent on specific projects. ... To build projects earmarked by Congress, the state must almost always take money from other plans. ... Most of the time, there is no way to know which projects are being delayed because of earmarks."<sup>25</sup>

A recent *Baltimore Sun* editorial also detailed how federal earmarks for Maryland affected the state transportation budget:

"Maryland's \$3.5 billion share of the federal gas tax money was reduced by nearly \$308 million to pay for the preferred projects of the state's congressional delegation, which included upgrades, interchanges and bypasses around the state, water taxi terminals in Baltimore, Eastern Shore bike trails and a visitors center for Fort McHenry."<sup>26</sup>

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<sup>25</sup> Pat Stith. "Road planning short-circuited in Congress; N.C. delegation's add-ons to highway bills often delay or kill projects in state's long-range plan," *The News & Observer*, October 29, 2006; <http://www.newsobserver.com/114/story/504213.html>

<sup>26</sup>"The Trouble With Pork," *The Baltimore Sun*, August 30, 2007; <http://www.baltimoresun.com/news/opinion/editorial/bal-ed.gastax30aug30.0.5566325.story>

## **Earmarking Undermines Strategic Planning and Rewards the Politically Well Connected**

The earmarking process undermines strategic transportation planning made by local and state officials while rewarding those who are politically well connected.

Former Transportation Secretary Norm Mineta remarked at a Senate Commerce Committee hearing that “States and localities have tremendous flexibility and certainty of funding under the core programs. Unfortunately, Congressional earmarking has frustrated the intent of most of these discretionary programs, making it harder for States and localities to think strategically about their own transportation problems.”<sup>27</sup>

Typically, local transportation planning committees study their area's transportation needs, conduct public hearings and come up with a plan. Those plans are reviewed by the state Board of Transportation and incorporated in the statewide program.

Pat Mumford, a City Council member in Charlotte, North Carolina who heads the local transportation planning committee says members of the state's congressional delegation mean well, but they don't understand that when they earmark projects they are merely “shuffling the deck,” moving money from one project to another. He said planning committees must consider canceling or postponing planned projects to pay for earmarks that did not bring new money to the area.

Because earmarking bypasses the regular planning process, it also encourages those seeking funding for projects that have been rejected by local decision makers to lobby members of Congress for earmarks.

One of the reasons why earmarks are included in spending bills even though they provide no additional money is that they allow lobbyists and Members of Congress to preempt a state Department of

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<sup>27</sup> Senate Commerce Committee press release, June 17, 2003,  
<http://commerce.senate.gov/newsroom/printable.cfm?id=205136>

Transportation's investment priorities. The state may otherwise have concluded that a new lane on a congested highway in a Las Vegas suburb would be more beneficial than a hiking trail, but earmarks allow Washington players to overrule that decision and reallocate the money to other purposes while pretending that the earmark represents extra money.<sup>28</sup>

The North Carolina *News & Observer* reports that “Local officials and others, such as universities, are hiring Washington lobbyists, paying fees that can exceed \$100,000 a year and taking their case to Congress. They bypass the elaborate transportation planning process mandated by the federal government and end up killing or delaying other projects in their area. ‘When you have an earmark, you’ve got someone basically short-circuiting that process,’ said Mark L. Foster, the state transportation department’s chief financial officer. Every earmark that doesn’t bring in new money fuels the competition for more earmarks.”<sup>29</sup>

One of the most blatant recent examples of a politically motivated earmark is a \$10 million earmark set aside for an Interstate 75 exit in Lee County, Florida, that local officials did not request and do not want.

The Florida *Herald Tribune* explains “U.S. Rep. Don Young, R-Alaska, quietly slipped a \$10 million earmark into the federal budget last year, not long after a developer who owns 4,000 acres of land near the proposed route hosted a campaign fundraiser for Young in Fort Myers. Even by Capitol Hill standards, the earmark was an oddity. It’s not often that a congressman from Alaska takes such an intense interest in a Florida interchange-- more intense, it turned out, than the local officials designated to receive the money. Lee officials had twice decided not to seek federal money for the interchange, saying the exit was not a priority. Young’s earmark caught both them

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<sup>28</sup>Ronald Utt, “The Congressional Earmark Moratorium: Will It Last the Year?” The Heritage Foundation, March 15, 2007; <http://www.heritage.org/Research/Budget/bg2016.cfm>

<sup>29</sup> Pat Stith. “Road planning short-circuited in Congress; N.C. delegation’s add-ons to highway bills often delay or kill projects in state’s long-range plan,” The News & Observer, October 29, 2006; <http://www.newsobserver.com/114/story/504213.html>

and the congressman who represents the area, Republican Connie Mack, by surprise.”<sup>30</sup>

Carla Brooks Johnston, who leads Lee County's Metropolitan Planning Organization, commissioned a researcher to trace how the appropriation was designated and whether the county could use it for another purpose. The researcher found that either a member of Congress or a Congressional aide changed language in the earmark after Congress had voted on it, erasing I-75 and adding the words "Coconut Road," Johnston said. "At a time when the highway needs are growing enormously and our highway funds are shrinking rapidly, people are bothered by this," she said.<sup>31</sup>

This amendment would ensure that infrastructure needs rather than political connections determine transportation priorities.

### **In Addition to Diverting Funds from Other Priorities, Earmarks Come with Other Hidden Costs**

Earmarks have a number of hidden costs that further divert transportation dollars away from road and bridge upkeep.

Federal earmarks often do not cover the entire cost of the project earmarked for, leaving local, state and federal governments to pick up the remaining tab and further draining infrastructure budgets.

Department of Transportation Secretary Peters explains:

“The dirty little secret of earmarks is that they're not the true cost of the projects. In many, many cases it only partially funds a project. In most cases, and I certainly experienced this as a state administrator, we had to take more money out of the rest of our programs to supplement the earmark in order to

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<sup>30</sup> “The earmark that wouldn't die; Funds for unwanted exit should be used to widen I-75,” Sarasota Herald-Tribune, September 5, 2007; <http://www.heraldtribune.com/article/20070905/OPINION/709050688/1030>

<sup>31</sup> Greg Gordon and Erika Bolstad. “Young's \$10M earmark focus of inquiry,” Seattle Times, August 20, 2007; [http://seattletimes.nwsourc.com/html/politics/2003843373\\_young19.html](http://seattletimes.nwsourc.com/html/politics/2003843373_young19.html)

build that project because the earmark was rarely, if ever, the total cost of the project.

"What that did was usurp the other priorities, the priorities that were set by state departments of transportation and local governments that went out in the public process and established priorities based on trying to take care of the systems they had. And, instead, that whole process begins to get usurped by these earmarks. I would hazard to guess that maybe earmarks, at most, would give you about a third of the project costs, and that's on the high side. The fact is that the cost of earmarks is really understated in terms of what it really takes out of the program"<sup>32</sup>

Additionally, the Inspector General found that there are also unknown hidden administrative costs involved with earmarks. "We were unable to quantify such costs because the Operating Administrations do not separately track the cost of administering earmarked projects. However, program officials we spoke with in Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA), and the Office of the Secretary all agreed that there are additional costs associated with administering earmarked projects, such as the additional staff time needed to review projects that are not normally eligible for Federal funding."<sup>33</sup>

Finally, state officials must now compete with other professional lobbyists in Washington, DC to influence politicians' earmarking. This requires spending time and resources that could be spent on roads in the state lobbying Washington politicians.

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<sup>32</sup> Mary Peters, "Infrastructure: Priorities Hit a Pothole," Business Week, 08/20/2007, [http://www.businessweek.com/magazine/content/07\\_34/b4047049.htm](http://www.businessweek.com/magazine/content/07_34/b4047049.htm)

<sup>33</sup> "REVIEW OF CONGRESSIONAL EARMARKS WITHIN DEPARTMENT OF TRANSPORTATION PROGRAMS," Report Number AV-2007-066, Department of Transportation Office of Inspector General, September 7, 2007.

For several years, for example, the North Carolina Transportation Department has assigned one of its employees to work in Washington, lobbying members of the North Carolina delegation. Part of Caitlin H. Rayman's job is to ask members of the delegation to earmark projects that the state already intends to build. "If all they're doing is taking money that North Carolina would get anyway, we would much prefer to set priorities inside North Carolina than to have them set in Washington, period," North Carolina State Transportation Secretary Lyndo Tippett said. Earmarking a project that is already in the state's plans allows the delegation member to claim credit for the transportation work.<sup>34</sup>

### **Spending Priorities, Not Tax Increases, Will Ensure Safer Roads and Bridges**

With projected shortfalls in the highway trust fund, some politicians have proposed raising federal gasoline taxes to pay to repair deficient bridges.

Outside of Washington, few believe that raising taxes, when Congress wastes billions of tax dollars every year, is a solution.

Increasing the federal gas tax will not make American drivers safer, it will only put more money into a broken system.

As the *Baltimore Sun* concluded, "Before Congress asks taxpayers to pony up more money to fix failing bridges, it must abandon this pork barrel process and ensure instead that transportation dollars are directed to where they are most needed."<sup>35</sup>

Better planning and prioritization of existing transportation funds could improve road safety.

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<sup>34</sup> Pat Stith. "Road planning short-circuited in Congress; N.C. delegation's add-ons to highway bills often delay or kill projects in state's long-range plan," *The News & Observer*, October 29, 2006; <http://www.newsobserver.com/114/story/504213.html>

<sup>35</sup> "The Trouble With Pork," *The Baltimore Sun*, 08/30/2007, <http://www.baltimoresun.com/news/opinion/editorial/bal-ed.gastax30aug30.0.5566325.story>

DOT spends about \$60 billion per year, and the federal Highway Trust Fund takes in about \$40 billion from current gas taxes, meaning that there is \$100 billion available every year to fund bridge maintenance.

Not surprisingly, those politicians who have made it a habit to divert millions of dollars to their own pet projects are the ones calling for the tax increase.

The thousands of dubious pork-barrel projects funded by the gas tax revenues clearly demonstrate that money is not the problem; priority-setting is.

Until policymakers prove themselves more responsible with the tax money already available to them, tax increases will not improve driver safety or deficient roads and bridges.

## **Background on Select Earmarks Contained within 2009 Transportation Appropriations Bill**

### Lewis and Clark Legacy Trail, ND \$800,000 Conrad/Dorgan

- "The Legacy Trails offer visitors to North Dakota the unique opportunity to retrace the steps of Lewis and Clark and experience the adventure of their epic journey," Senator Conrad said. "These trails are also important because they are bringing visitors to our state, boosting North Dakota's tourism and economy."

The Lewis and Clark Legacy Trails are a network of walking, running, and biking trails along the Missouri River. Senator Conrad created the trails in an effort to boost tourism in North Dakota and recognize the state's role in Meriwether Lewis and William Clark's exploration to open the American West. To date, eight trail projects have been completed and another nine are under construction or in the planning stages.

Senator Conrad launched the Legacy Trails project in 2002."

### Illinois Trails, IL \$3,000,000 Durbin/Obama

- "\$3 million statewide for bike trails: Aurora bike trail, Cal-Sag Greenway Bike Trail, Harrisburg to Eldorado Bike Trail, Grand Illinois Trail, Village of Carbon Cliff, General Dacey Trail, SIU Trail Phase 2, Urbana to Danville Trail, Great River Trail near Savanna, Springfield bike trail, Manteno Trail System, and Edwardsville Morris Trail."

### CEMAR Trail, IA \$500,000 Harkin

- "These funds will be used to provide a hard surface trail from Cedar Rapids to Marion. The trail will run along an abandoned railroad corridor through densely populated neighborhoods in Cedar Rapids and a large nature preserve in Marion.

### Olympic Discovery Trail/Elwha River Pedestrian Bridge, WA \$575,000 Murray

- To support "the pedestrian crossing component of a new bridge across the Elwha River in Clallam County. The

pedestrian bridge will provide a link between the eastern and western halves of the Olympic Discovery Trail.”

Des Moines Creek Trail Access Project, WA \$500,000  
Murray/Cantwell

- “This funding will support efforts by the City of Des Moines to increase public access between the Des Moines Beach Park National Historic District, Des Moines Marina, and Des Moines Business District. This connection will support expanded recreational, cultural and historic tourism activities.”

Hofstra University’s Safe and Sustainable Campus Plan, NY  
\$1,000,000 Schumer, Clinton

- “Hofstra University’s Safe and Sustainable Campus Plan will receive \$1,000,000 of federal funds to revamp the University’s internal traffic and circulation system. By increasing signage throughout the campus and designating parking areas for specific purposes, Hofstra will make its campus more accessible, safer and more reliable for its own community and for visitors to the campus. In addition, internal circulation via Hofstra’s bus system will be enhanced and an express shuttle system organized.”

Valley View Business Park Access Road, PA \$1,000,000 Casey

- For the Valley View Business Park Access Road in Lackawanna County to redevelop abandoned mine lands turning them into a premiere commerce center.”

Federal Lands Program, State of Hawaii \$1,500,000 Inoyue

- “Federal property within Hawaii includes several extensive wildlife refuge and national parks located on four islands. These parks encompass rugged volcanic terrain, wetlands, tropical forests, coastline, and historical fishponds used in Native Hawaiian aquaculture. This appropriation will enable access to and within designated federal properties for proper park service maintenance and security.”

Wake Turbulence \$3,775,000 Murray

- “Included in the bill is \$2.2 million Murray added for the Rich Passage Wake study that is working to finalize the design plans

and specifications for a high speed passenger ferry service between Bremerton and Seattle. The funding will be used to study the response of the sands and gravels on the beaches along the route through Rich Passage, biological monitoring and analysis, financial feasibility analysis and public outreach including a website and newsletter. The funds will also include the use of an existing foil assisted catamaran to simulate actual operating conditions of a designed boat so that potential impacts, if any, can be assessed and appropriate measures can be taken to protect the shoreline.

"I know that an environmentally friendly high-speed ferry would be a great boon to the development goals and economic growth of Bremerton," said Senator Murray. "Therefore, I am committed to supporting the effort to design a ferry that will meet the region's transportation needs without damaging its fragile shores. These funds will finalize the design of a cutting edge, Washington-built catamaran and will continue studies to ensure the boat's wake does not threaten Rich Passage."

South Lake Union Streetcar Project Capital Improvements, WA  
\$1,150,000 Murray/Cantwell

- "This project will help complete the City of Seattle's South Lake Union revitalization plan by building a streetcar line connecting Westlake Center to the South Lake Union neighborhood. The Streetcar will increase access to the new waterfront park, is vital for attracting job development, and will help to improve and upgrade the Mercer Street corridor and essential utilities."

Research on Small Aircraft, Kansas \$1,000,000 Roberts and  
Brownback

St. Cloud, Land acquisition \$1,500,000 Coleman/Klobuchar

- For future airport development.

Volcano Monitoring \$3,000,000 Stevens

- "Since 1988, Senator Stevens has consistently boosted funding levels through the appropriations process for volcano

research and ash plume forecasting in the budgets for the United States Geological Survey, National Oceanic and Atmospheric Administration, and Federal Aviation Administration.”