

Amendment 1475: To establish a permanent prohibition on Congressional earmarks

The amendment would extend the current two-year moratorium on earmarks by permanently banning them in all future legislation.

The amendment would create a point of order against any bill or resolution on the Senate floor if it contains an earmark.

Earmarks would be defined as they are in Senate Rules: 1) congressionally directed spending; 2) limited tax benefits; and 3) limited tariff benefits.

The Senate could waive the moratorium with a two-thirds majority vote.

Earmarks have been abused in the past to help members enrich themselves.

The STOCK Act was written to prevent many kinds of abuses within Congress, but does not address earmark abuse and other specific actions that lawmakers can take to enrich themselves.

Like insider trading, earmarks have been used at times to drum up campaign contributions or to secure personal benefits such as enhancing the value of personal landholdings..

Super-lobbyist Jack Abramoff, recently released from jail, has described in detail how earmarks were used by some to pedal influence and help their friends.

Former Rep. Duke Cunningham famously used his power to request earmarks to enrich himself in all kinds of ways.

He was so brazen as to create a “menu” for lobbyists to choose from, laying out in detail his earmark pay-to-play schemes.

Cunningham landed himself in jail for eight years, where he remains today.

Including a permanent earmark ban in the STOCK Act would help prevent the easiest current method of congressional abuse.

An earmark ban has received strong bipartisan support.

On November 18, 2010, Republicans in the House of Representatives unanimously approved a Republican Party policy banning earmark requests, effectively preventing earmarks from passing in the House. President Obama also indicated he would not support bills with earmarks, and the Senate Committee on Appropriations announced an earmark moratorium for the 112th Congress on February 1, 2011.

President Obama supported a similar earmark moratorium in 2008 when he was running for president. At that time, he said, “We can no longer accept a process that doles out earmarks based on a member of Congress seniority, rather than the merit of the project.”

In addition, President Obama stated, “We can’t afford Bridges to Nowhere like the one that was planned a few years back in Alaska.”

While the President held back from demanding a permanent earmark moratorium, he said that ending the practice, even temporarily, would help “take a step towards restoring public trust.”

The National Commission on Fiscal Responsibility and Reform’s draft document echoed this concept when it recommended the elimination of earmarks.

Its report stated, “Many of these earmarks are doled out by members of Congress for parochial interests and as currency with special interest groups. This type of spending is often used as a means to make pieces of legislation more palatable to specific members who would otherwise vote against them.”

For example, earmarks like the Cornhusker Kickback have been used to push through extremely costly and onerous bills.

This form of vote buying is at the heart of the corruption and abuses many lament in the legislative process.

Earmarking is an Unconstitutional Abuse of Power.

Nowhere does the Constitution give Congress the authority to do earmarks.

The concept of earmarking appears nowhere in the enumerated powers or anywhere else in the Constitution.

Earmark defenders are fond of quoting Article I, Section 9 of the Constitution which says, “No money shall be drawn from the Treasury, but in consequence of appropriations made by law.”

They also refer to James Madison’s power of the purse commentary in Federalist 58.

Madison said the “power of the purse may, in fact, be the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people.”

Yet, earmark proponents ignore the rest of the Constitution and our founders’ clear intent to limit the power of Congress.

Our founders anticipated earmark-style power grabs from Congress and spoke against such excess for the ages. James Madison, the father of the Constitution said, “With respect to the two words ‘general welfare,’ I have always regarded them as qualified by the detail of powers connected with them. To take them in a literal and unlimited sense would be a metamorphosis of the Constitution into a character which there is a host of proofs was not contemplated by its creators.”

Thomas Jefferson, in a letter to James Madison, spoke directly against federally-funded local projects. “[I]t will be the source of eternal scramble among the members, who can get the most money wasted in their State; and they will always get the most who are the meanest.”

Jefferson understood that earmarks and coercion would go hand in hand.

Eliminating Earmarks Would Save Billions in Taxpayer Dollars.

Despite claims to the contrary, the fact is earmarks do spend real money.

For instance, Congress spent \$16.1 billion on pork in Fiscal Year 2010.

In addition, earmarks are a gateway drug to the spending addiction in Congress because they encourage members of Congress to vote for bloated bills they would otherwise oppose.

As the number of earmarks has exploded so has overall spending.

In the past decade, the size of government has doubled while Congress approved more than 90,000 earmarks.

Many earmarks also are a simple waste of money, such as the infamous Bridge to Nowhere and the Woodstock Museum.

If Congress stopped earmarking we could restore confidence in Congress while also reducing spending waste and abuse.