



**OLD EARMARKS HAVE SURVIVED**

**SENATOR JEFF FLAKE**  
**JUNE 2015**





Dear Taxpayer,

For many years, gigantic and mysterious monstrosities roamed the land. Gigantic in size and number. Mysterious in origin. And monstrous in cost. No, these were not the dinosaurs, but congressional earmarks.

Then in a sudden burst, they seemingly ceased to be.

Like Tyrannosaurus Rex, brontosaurus, triceratops, and other terrible lizards of the past, the infamy of many congressional earmarks lives on to this day. The indoor rainforest in Iowa. A teapot museum in North Carolina. And of course, the notorious Bridge to Nowhere in Alaska. Like the cataclysmic event that killed off the dinosaurs, Washington politicians declared pork to be extinct five years ago when an earmark moratorium was enacted.

But something has survived.

By all accounts, the earmark ban has been a resounding success. Creating new pork projects as we knew them through the earmarking process is not and has not been permitted. Yet, in one form or another, legacy spending on earmarks, their recipients, or the projects they spawned remains. This is an issue that spans any partisan divide.

In some cases, including thousands of transportation earmarks, the original funding amounts reserved for earmarks remain unspent. In other cases, such as some national parks and preferences in the tax code, earmarks were permanently established by Congress. Still others simply evolved and found new sources of sustenance, like grant awards, within the federal budget.

This report, *Jurassic Pork*, examines many of the congressional earmarks and related spending that persist to this day. Fossilized within the federal budget, these projects continue to cost taxpayers hundreds of millions of dollars. Many have even outlasted the terms of the politicians who created them.

While providing a glimpse into the past and the corrupting nature of the earmark favor factory and pork barrel politics that politicians in both parties are seeking to revive, *Jurassic Pork* also offers recommendations for Congress. First and foremost, like the age of the dinosaur, it would be best if the practice of earmarking remained a thing of the past.

Sincerely,



JEFF FLAKE  
U.S. Senator



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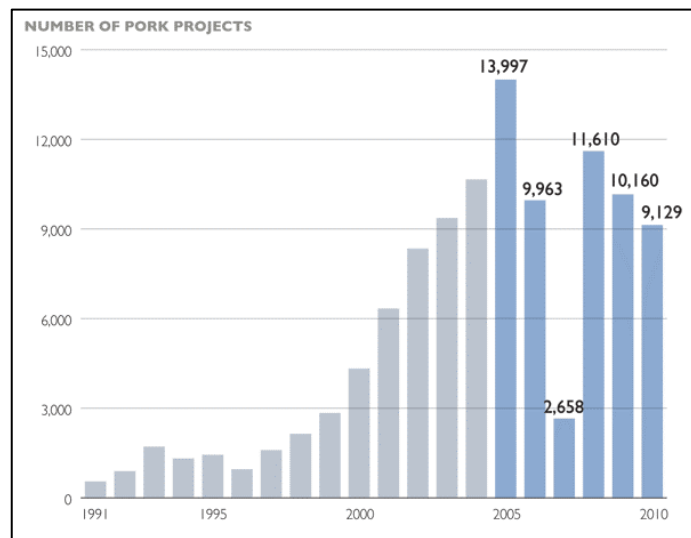
## SEC. I INTRODUCTION

### AN EXCAVATION OF CONGRESSIONAL EARMARKING *From Creation to Extinction and Maybe Back Again*

#### *The Rise of Congressional Earmarking*

In March of 1987, then-President Ronald Reagan vetoed a highway funding reauthorization bill because it contained 121 earmarks. “I haven’t seen so much lard,” President Reagan said, “since I handed out blue ribbons at the Iowa State Fair.” One could only imagine what he would have thought of the 6,300 earmarks used to lard up the over-budget transportation reauthorization bill signed into law in 2005 or the fact that the number of earmarks slipped into legislation by members of Congress that year peaked at just shy of 14,000.<sup>1</sup>

Congress instituted an earmark moratorium in 2010. But are taxpayers completely off the fiscal earmarking hook? It doesn’t look like they are that lucky. And, despite their history and Congress’ moment of fiscal clarity, are earmarks in fact gone for good? Let’s put it this way: if earmarks were dinosaurs, some in Congress would be pleased to see Stegosaurus roaming the Earth again tomorrow.



#### *The (Sordid) Earmarking Practice, Defended*

Arguments made in defense of earmarking are nearly as plentiful as the earmarks themselves – and in most cases, fail to stand up to any scrutiny just as miserably. Like modern day paleontologists, it is worthwhile to dig up a few and expose them to the light.

##### *The Nameless and Faceless*

Pitched arguments defending Congress’ role in handing out billions of taxpayer dollars’ worth of largess often begin with the canard that “we can’t let the nameless, faceless bureaucrats make all the spending decisions.” Sniping between the coequal branches of government is to be expected, particularly when money is at stake. However, this line belies the fact that there are untold programs in the administrative branch that are governed by merit-based selection processes. Merit-based selection processes are often proscribed by Congress itself using its legislative

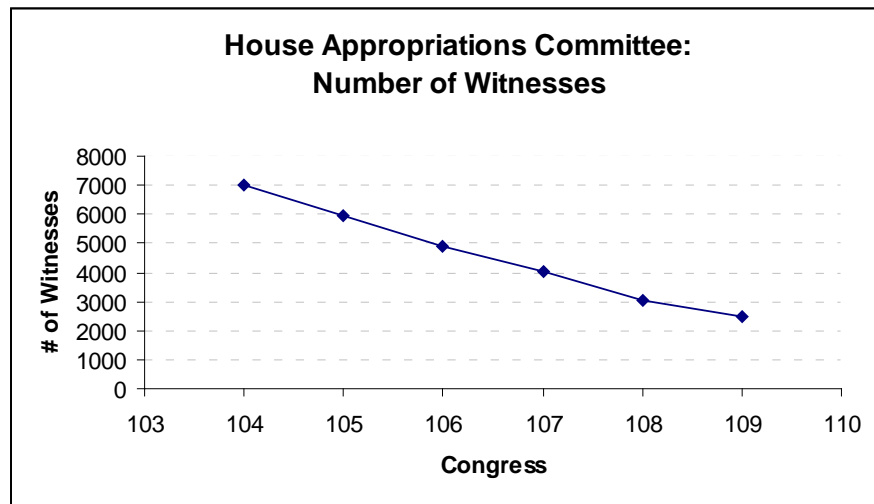
<sup>1</sup> Brian Reidl, “Federal Spending by the Numbers 2010,” The Heritage Foundation, June 1, 2010; <http://www.heritage.org/Research/Reports/2010/06/Federal-Spending-by-the-Numbers-2010>.



powers. The line also belies the apparent price that Congress itself has paid in allowing earmark numbers and values to explode.

As the legislative branch, Congress' duties include considering legislation that authorizes federal activity, approving annual appropriations bills that fund government operations (presumably those operations directed by authorizing legislation), and conducting oversight of federal activity related to both. According to the House Appropriations Committee's published activity reports (made available at the end of every Congress), Congress apparently became less interested in pursuing its oversight role as the practice of earmarking became more entrenched. These reports indicate that the number of witnesses called before the Committee fell from a high of nearly 7,000 witnesses in the 104<sup>th</sup> Congress to a low of nearly 2,500 in the 109<sup>th</sup>. Similarly, these reports indicate a steady decline in the number of congressional surveys and investigation reports, from a high of 72 reports in the 105<sup>th</sup> Congress to a low of 39 in the 108<sup>th</sup>, with only a slight rebound to 43 in the 109<sup>th</sup>. The reports also show that the number of printed hearing pages and days of hearings declined steadily between the 106<sup>th</sup> Congress and the 109<sup>th</sup>.

With the enormous increase in the number and cost of earmarks added to appropriations bills between the 104<sup>th</sup> and the 109<sup>th</sup> Congress, one would have hoped to see indications of an equivalent increase in congressional interest in exercising oversight authority and protecting taxpayers from waste, fraud, and abuse related to the earmarking



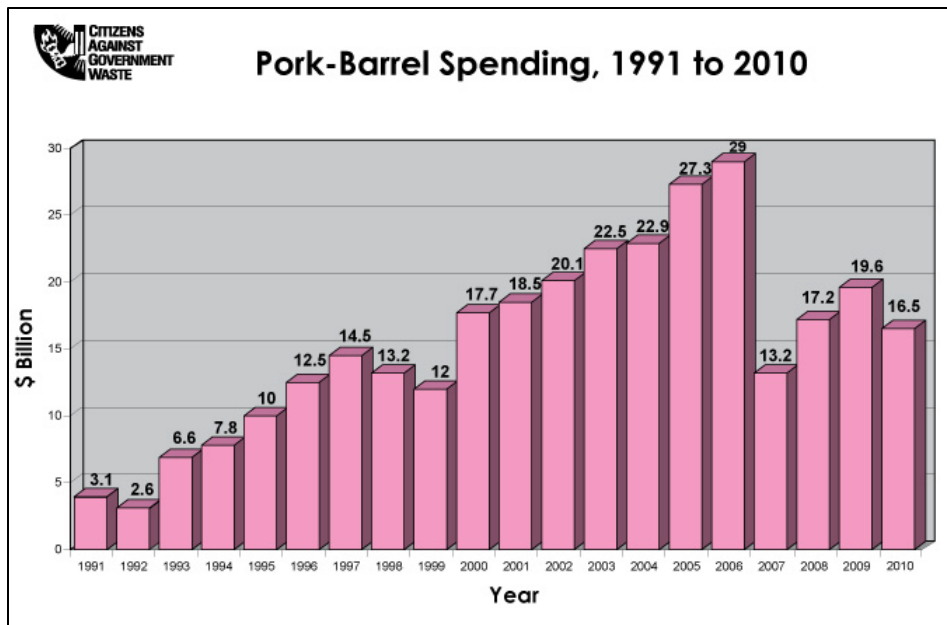
process. However, the numbers seem to indicate that, given the kind of wasteful spending buried in the typical earmark list, Congress reached a kind of détente with the Administration's nameless, faceless bureaucrats: you don't investigate our waste and we won't investigate yours. A more practical explanation may be that the very weight of the earmark process made doing anything else on Capitol Hill impractical. The effort associated with filing thousands upon thousands of earmark requests and then inserting thousands upon thousands of the requests into appropriations bills may well have made conducting any real congressional oversight impossible. Whatever the reason, it would appear that the rise of the earmarking process coincided with Congress giving those nameless, faceless bureaucrats greater authority and less oversight of the way they spent federal dollars.

*A Small (Billion Dollar) Piece of the Pie?*

Earmark proponents are infamous for feigning surprise at any opposition to the then-official and congressionally sanctioned practice of showering no-bid contracts on political patrons in the



form of earmarks. One of their favorite defenses of earmarking goes something like, “they’re only a small percent of the federal budget and you won’t even save money if you get rid of them.” According to Citizens Against Government Waste, earmarks cost taxpayers \$2.6 billion in 1991 and grew steadily to a tenfold increase of \$29 billion at their height in 2006. Certainly, when compared to the multi-trillion dollar annual federal budget, they do indeed represent a small fraction of the entire bill footed by taxpayers every year. But, even in Washington, billions of wasted taxpayer dollars are cause for concern.



This relativistic argument also fails to capture the true cost of earmarking. Former Senator Tom Coburn (R-OK) famously described earmarking as “the gateway drug to spending addiction in Washington.”<sup>2</sup> Earmarks were routinely used by leaders in Congress to leverage support for costly legislation that would not otherwise have

received sufficient support to pass. As mentioned, highway bills have a long history of being larded up in order to get them over the finish line. The 2005 highway bill, also known as SAFETEA-LU, included thousands of pork projects, including the infamous Bridge to Nowhere earmark that brought the wasteful nature of congressional earmarking to the attention of taxpayers from coast to coast. Unfortunately, while earmarking has gone the way of the diplodocus, taxpayers have yet to see the end of the costs associated with SAFETEA-LU’s pork projects.

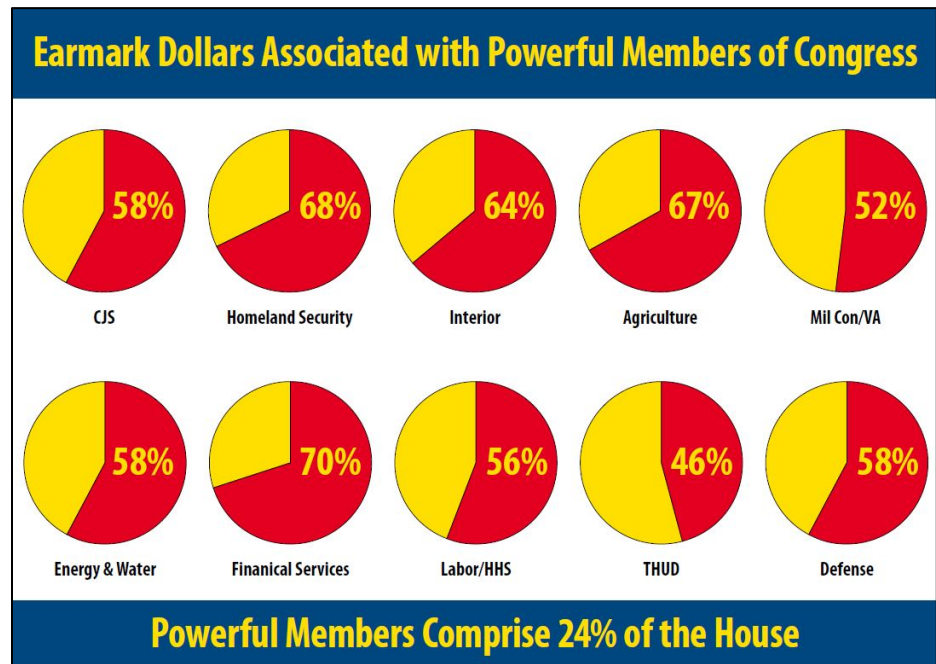
*Wasteful Pork in a Constitutional Blanket*

Eventually, like a woolly mammoth grasping for anything as it slowly sinks into a tar pit, someone defending earmarking will turn to the argument that “it is every member of Congress’ Constitutional prerogative, granted by the powers of the purse, to direct where federal dollars are spent and on what.” While asserting that they know the needs of their states and districts better than anyone, some members of Congress have even extrapolated these powers to suggest that the Founding Fathers would have supported the opaque and wasteful earmarking process. While the Constitution clearly grants Congress the power of the purse, and there is little question that local knowledge makes for better representation at the federal level, trying to wrap earmarks for local

<sup>2</sup> Tom Coburn, “Earmark Myths and Realities,” *The National Review’s The Corner*, November 10, 2010; <http://www.nationalreview.com/corner/253028/earmark-myths-and-realities-sen-tom-coburn>.

pet projects in a Constitutional blanket is a bridge too far. In fact, in commenting on federal funds going to local projects, none other than Thomas Jefferson wrote, “it will be a scene 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 meanest.”<sup>3</sup> Few at the time knew how prescient these words were. It is indeed telling that the country and the Congress managed to get by, decade after decade, without engaging in what some perceive to be a fundamental Constitutional duty. In fact, when one thinks of the Constitution, one often thinks of equal protection under the law. There is little to do with the earmarking process that could be described as promoting equality.

Take, for example, the fiscal year 2010 appropriations process in the House of Representatives. It was widely known that powerful members of Congress – members of leadership, committee chairs, appropriators – fared better in funneling federal dollars to their pet projects than rank-and-file members. In 2009, a little less than a quarter of members of the House of Representatives would



fall into such a ‘powerful member’ category. Yet, in appropriations bill after appropriations bill and earmark list after earmark list, that small sliver of the body consumed more than half of the earmarks doled out. In the least egregious case, the bill funding the Departments of Transportation and Housing and Urban Development, just 46 percent of earmarks went to powerful members. In the worst instances, more than two-thirds of earmarks in three of the 12 bills went to those holding the reins of power. All told, less than a quarter of members of the House were associated with nearly 60 percent of the earmarks that year.

It would appear that, according to the distribution of earmarks, some members appear to know their district a little better than others... and some constituents can expect to receive a little more of the largess supposedly guaranteed by the Constitution than others. Analysis like this makes selling the Constitutional defense for earmarking about as hard as selling snowballs during the Ice Age.

<sup>3</sup> Letter from Thomas Jefferson to James Madison, 6 March 1796, The National Archives, <http://founders.archives.gov/documents/Jefferson/01-29-02-0004>

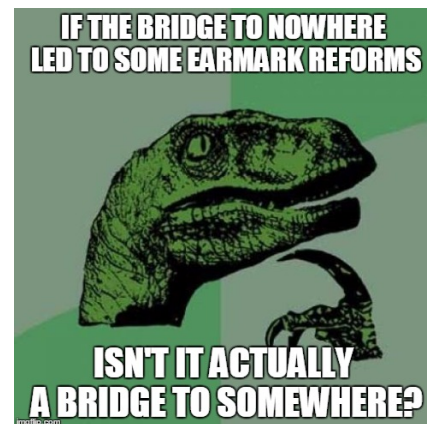
### *What They Never Bother to Tell You*

Of course, beyond the usual arguments in defense of the practice, there are more reasons for taxpayers to worry about earmarking than there are horns in a triceratops herd. There are the earmarks that were doled out by powerful members of Congress that were plainly a waste of taxpayer money. There are the no-bid federal contracts for private companies, such as defense contractors, that were routinely buried in appropriations measures. There is the corporate welfare bestowed upon successful corporate interests at taxpayer expense. There has been earmark after earmark signed into law, funding project after project that had absolutely no connection to any legitimate role of the federal government. While many of these were one-off expenses that soaked taxpayers for the earmarked amount and were never heard from again, many others remain on the books costing taxpayers year after year. In other cases, the initial earmark stimulated a hunger for federal funds that have continued to be awarded in various ways. Just like the pterodactyls of epochs gone by, many earmarks are gone – but some refuse to be forgotten.

### *An Earmark Mass Extinction Event*

When taxpayers awoke to find headlines about the wasteful Bridge to Nowhere earmark gracing the cover of *Parade Magazine* one Sunday in November 2005, one would have thought that Congress' reaction would be swift and absolute. In addition, a wave of corruption investigations and the subsequent convictions of Duke Cunningham, Jack Abramoff, Bob Ney, and others in 2005 and 2006 highlighted the confluence of congressional influence and taxpayer dollars. Sadly, it seems that it's easier to saddle a Tyrannosaurus Rex than it is to shame members of Congress for wasteful spending.

As the majority control of both the House and the Senate changed hands in 2007, both chambers sought to embrace reforms to the earmarking process. These included the requirement that members list their names next to projects they requested and a certification by these members that they had no financial interest in the earmarked project. Leadership in both the House and Senate went incrementally further and required members to post all of their earmark requests on their websites for public review. These reforms were limited in their effect and focused on transparency versus the eradication of earmarks. Unfortunately, Congress would have to pay a much steeper price with respect to its reputation before the path would become clear for an earmark moratorium. Soon, a scandal would break that would lead to the eventual mass extinction of earmarks.



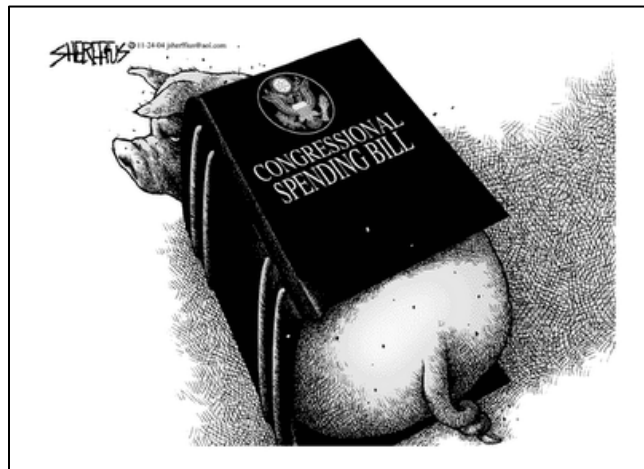
In early February 2009, media reports surfaced that the offices of PMA, a prominent lobbying firm specializing in defense appropriations, had been raided by the FBI in late 2008.<sup>4</sup> It was reported that the firm focused on obtaining defense earmarks and had earned more than \$14

<sup>4</sup> Tory Newmyer, "PMA Group Raided by FBI in November," *Roll Call*, February 9, 2009; <http://www.rollcall.com/news/-32217-1.html>.

million doing so.<sup>5</sup> In return, according to an analysis by Taxpayers for Common Sense, the firm’s clients received nearly \$300 million in earmarked funds.<sup>6</sup> *CQ Today* filled in a few of the gaps when they reported that “104 House Members got earmarks for projects sought by PMA clients” in the fiscal year 2008 defense appropriations bill and that almost 90 percent of that bipartisan group of members received campaign contributions from the raided firm.<sup>7</sup> In fact, they reported, “members who took responsibility for PMA’s earmarks in that spending bill have, since 2001, accepted a cumulative \$1,815,138 in campaign contributions from PMA’s political action committee and employees.” *The Hill* noted that, “[i]n all, PMA has given \$3.4 million to 284 members of Congress.”<sup>8</sup> Beyond the sheer magnitude of both the earmarks procured and campaign contributions bestowed, the timing of contributions by the firm’s employees and clients raised suspicions. *The Associated Press* noted that “political donations have followed a distinct pattern: the giving is especially heavy in March, which is prime time for submitting written earmark requests.”<sup>9</sup>

The *New York Times* summed it up best when it suggested that the firm had “set up shop at the busy intersection between political fund-raising and taxpayer spending, directing tens of millions of dollars in contributions to lawmakers while steering hundreds of millions of dollars in earmarks contracts back to [its] clients.”<sup>10</sup> The pay-to-play cloud hanging over Congress only darkened as further questions were raised regarding questions related to “straw man” contributions, the reimbursement of employees for political giving, and pressure on clients to give. Congress initially responded by addressing earmarks for for-profit companies.

In March 2010, House Democrats sought to ban all earmarks for for-profit enterprises – a move rejected by Senate Democrats. In response, House Republicans swore off earmarks completely for the year. In November 2010, Republicans were handed control of the House of Representatives and announced that they would ban earmarks outright in the 112<sup>th</sup> Congress. During his State of the Union address in January 2011, President Obama vowed to veto any legislation that included earmarks.<sup>11</sup> Despite having rejected an amendment that would have banned earmarks in March



<sup>5</sup> T.R. Goldman, “PMA to Cease Operations on March 31,” *Roll Call*, February 19, 2009; <http://www.rollcall.com/news/-32453-1.html>.

<sup>6</sup> Paul Kane, “3 Lawmakers Report Drop in Donations after Lobby Firm Closes,” *The Washington Post*, April 17, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/04/16/AR2009041603994.html>.

<sup>7</sup> Jonathan Allen and Alex Knott, “Firm with Murtha Ties Got Earmarks for Nearly One-Fourth of House,” *CQ Politics*, February 19, 2009; <http://www.freerepublic.com/focus/news/2189219/posts>.

<sup>8</sup> Aaron Blake, “PMA Politics May Infect 2010 Races,” *The Hill*, March 3, 2009; <http://thehill.com/homenews/news/18577-pmapolitics-may-infect-2010-races>.

<sup>9</sup> Pete Yost, “The Influence Game: Mixing Donations, Earmarks,” *The Associated Press*, March 23, 2009; <http://cnsnews.com/news/article/influence-game-mixing-donations-earmarks>.

<sup>10</sup> David D. Kirkpatrick and Charlie Savage, “Star Lobbyist Closes Shop Amid F.B.I. Inquiry,” *The New York Times*, March 29, 2009; [http://www.nytimes.com/2009/03/30/us/politics/30pma.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2009/03/30/us/politics/30pma.html?pagewanted=all&_r=0).

<sup>11</sup> Sam Youngman, “President Vows in State of the Union to Veto Any Bill ‘Larded’ with Earmarks,” *The Hill*, January 26, 2011; <http://thehill.com/homenews/administration/140189-obama-to-issue-earmark-veto-threat-in-state-of-the-union-address>.

2010, the Democrat-controlled Senate saw the writing on the wall and followed suit in announcing a ban on earmarks in February 2011.

### ***Earmarks: Gone but Hardly Forgotten***

Since the start of the 112<sup>th</sup> Congress, taxpayers have been able to breathe a little easier when it comes to the fear that their hard-earned tax dollars are being squandered on earmarks. Gone are the federal dollars tucked into legislation and directed to parochial streetscape projects, bike paths, museums and aquariums, corporate welfare, and no-bid contracts for politically connected lobbyists, companies and the like. While the earmark ban has remained intact, taxpayers should remain on guard – not unlike someone trapped in a visitor center with an angry pair of velociraptors.

#### *Congressional “John Hammonds”*

Like John Hammond, the billionaire CEO of the failed theme park in the first *Jurassic Park* film, not everyone in Congress is content to leave well enough alone. Some are seeking to dredge up the practices of the past and a return of the stain on congressional proceedings that earmarking represented. In fact, not a year after the earmark ban had been put in place in the Senate, then-Majority Leader Harry Reid (D-NV) chose to turn a blind eye to the collateral damage done to the U.S. Treasury and Congress itself and proclaimed, “I’ve done earmarks all my career, and I’m happy I’ve done earmarks all my career.”<sup>12</sup> Not seeking to be subtle, Senator Reid has previously emphasized his support for earmarks with an “underline, underscore, [and] big exclamation marks.”<sup>13</sup> Similar obstinacy knows no party boundary – nor is it limited to one chamber. Later that year, then-Representative Mike Rogers (R-MI) pushed for a return to earmarking in a closed door meeting of Republicans in the House. He later defended his position, saying, “I just got up ... and did it because I was mad because they were talking about how we can’t get 218 votes.”<sup>14</sup> Representative Tom Cole (R-OK), who serves on the House Appropriations Committee, reiterated the sentiment several months later when he suggested at the start of 2013 that “(without earmarks), you’re removing all incentive for people to vote for things that are tough.”<sup>15</sup>

This idea that Congress can’t legislate without earmarks is a favorite of those harkening back to the days when federal funds were squandered on those powerful enough to benefit, both on and off Capitol Hill. Then-Majority Whip Dick Durbin (D-IL), a member of the Senate Appropriations Committee, lamented the lack of lard with which to squeeze the next highway bill through the door when he suggested in 2014 that what earmark opponents did was “take the glue out of a federal transportation bill. That was the glue that held everybody together:

<sup>12</sup> Scott Wong, “Harry Reid: I’m Happy with Earmarks,” *Politico*, January 31, 2015;

<http://www.politico.com/news/stories/0112/72241.html#ixzz3XujBqEMo>.

<sup>13</sup> David Lightman, “Reid: I have been a fan of earmark,” *Miami Herald*, May 4, 2014;

<http://www.miamiherald.com/incoming/article1963999.html#storylink=cpy>.

<sup>14</sup> Richard Cowan, “House Republicans Discuss Reviving Earmarks,” *Reuters*, March 30, 2012; <http://www.reuters.com/article/2012/03/30/usa-congress-earmarks-idUSBRE82T10F20120330>.

<sup>15</sup> Brendan Greeley, “Earmarks: The Reluctant Case for Ending the Ban,” *Bloomberg Business*, January 10, 2013;

<http://www.bloomberg.com/bw/articles/2013-01-10/earmarks-the-reluctant-case-for-ending-the-ban>.



Democrats and Republicans working for a common goal.”<sup>16</sup> Unfortunately for taxpayers, all too often that common goal was feeding at the federal trough. When one is dealing with thousands upon thousands of earmarks worth billions and billions of dollars, there is often no end to the hyperbole. For example, former Representative Steve LaTourette (R-OH), a member of the House Appropriations Committee, believes that the loss of earmarks has been not only problematic, it has been cataclysmic. He suggested that “[b]y banning earmarks, we have made actually passing legislation through both chambers, already a herculean task in a Washington mired in partisan gridlock, a virtual impossibility.”<sup>17</sup>

Earmark proponents occasionally tell it like it is. In the waning days of his congressional service (including many years on the House Appropriations Committee), then-Representative Jim Moran (D-VA) suggested that earmarking “may be messy” and “may not pass muster with the good-government groups.”<sup>18</sup> Unfortunately, these proponents also continue to push for a return to what they view as business as usual and what taxpayers view as an opaque favor factory funded by their dollars. The latest salvo was an amendment reportedly offered to the House rules in November 2014 that would have allowed an exception to the moratorium for “sweeteners” or earmarks for a “state, locality (including county and city governments), or a public utility or other public entity.”<sup>19</sup> Gratefully, the amendment was defeated and the moratorium remains intact.

*Jurassic Pork - The Gifts that Keep on Giving*

As if the threat of a return to earmarking wasn’t as scary as being crushed by a brontosaurus, the continued legacy costs of past earmarks persist. Prior to the present-day ban, Congress approved, and the President signed into law, thousands upon thousands of earmarks. In some cases, the check (in the form of the budgetary authority that was written for a particular earmark in a given year) has yet to be cashed with actual spending or outlays. In fact, there are more than a thousand such checks written for earmarks by the federal government, worth at least a billion dollars, that remain on the books waiting to be charged to the nation’s taxpayers.

In addition, earmarked spending was rarely – if ever – scrutinized or thoroughly reviewed. While extravagant one-off earmarks shoveling federal dollars out of the U.S. Treasury to wasteful projects are terrible enough, earmarks set up future spending in some cases. For example, projects that were established with earmarked money have found ways to keep the federal cash spigot turned on year after year. Projects that once were kept afloat by earmarks are now finding other sources of federal funding.

<sup>16</sup> Stan Stein, “Dick Durbin Wants to Bring Back Earmarks and He’s Pushing Obama to Support Him,” *Huffington Post*, April 21, 2014; [http://www.huffingtonpost.com/2014/04/21/dick-durbin-earmarks\\_n\\_5187549.html](http://www.huffingtonpost.com/2014/04/21/dick-durbin-earmarks_n_5187549.html).

<sup>17</sup> Stephen C. LaTourette, “The Congressional Earmark Ban: the Real Bridge to Nowhere,” *Roll Call*, July 30, 2014; [http://www.rollcall.com/news/the\\_congressional\\_earmark\\_ban\\_the\\_real\\_bridge\\_to\\_nowhere\\_commentary-235380-1.html?pg=2&dczone=opinion](http://www.rollcall.com/news/the_congressional_earmark_ban_the_real_bridge_to_nowhere_commentary-235380-1.html?pg=2&dczone=opinion).

<sup>18</sup> Scott McCaffrey, “Rep. Moran: Eliminating Earmarks Hurt, not Helped, Legislative Process,” *InsideNova*, November 20, 2014; [http://www.insidenova.com/news/arlington/rep-moran-eliminating-earmarks-has-hurt-not-helped-legislative-process/article\\_1e3f4f92-70c4-11e4-9772-cbe0fdc5bd74.html](http://www.insidenova.com/news/arlington/rep-moran-eliminating-earmarks-has-hurt-not-helped-legislative-process/article_1e3f4f92-70c4-11e4-9772-cbe0fdc5bd74.html).

<sup>19</sup> Susan Ferrechio, “Dozens of Republicans Vote for Failed Bid to Revive ‘Pork Barrel Spending,’” *Washington Examiner*, November 14, 2014; <http://www.washingtonexaminer.com/dozens-of-republicans-vote-for-failed-bid-to-revive-pork-barrel-spending/article/2556202>.

To be clear, the earmark moratorium successfully put an end to earmarking as we knew it. However, this report highlights a number of federal projects and programs that received federal funding from past bipartisan congressional earmarks and on which legacy spending has continued. Given the persistent costs to taxpayers – and equally persistent calls to return to earmarking practices – taxpayers should remain vigilant when it comes to earmarks, their continued legacy costs, and any threat of returning to the practice.



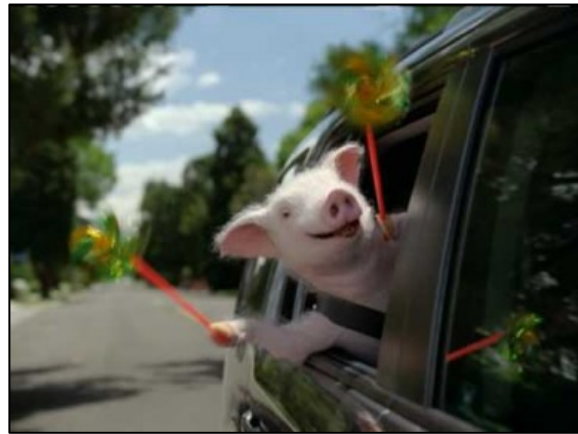
## SEC. II TRANSPORTATION PROJECTS

The transportation world has benefitted from much of the largess of congressional earmarks – largess that persists to this day. As the following examples demonstrate, while some fossils of unspent earmark monies languish in the coffers of the Departments of Transportation, others are being spent on dinosaur-themed buses. Still more pork barrel projects have avoided extinction altogether and continue to receive taxpayer dollars through other avenues, even after the institution of the earmark moratorium.

### **HIGHWAY PORK: TAXPAYERS SEE NO EXIT IN SIGHT** *Almost \$6 Billion in Highway Earmarks Remain Unspent*

Alaska’s egregious Bridge to Nowhere earmark grabbed national headlines and the teapot museum in North Carolina became notorious, but little attention has been paid to more than 6,000 unspent highway earmarks.

Unfortunately, they represent \$5.9 billion in federal bacon that sits idle in an account at the Department of Transportation (DOT). In fact, within the largess of these unspent transportation earmarks, there is a smaller group – often referred to as “orphan earmarks” – that have had less than 10 percent of their funding spent after 10 years. With a near bankrupt Highway Trust Fund, Congress should take a closer look in order to find a way to permanently park this unspent pork remaining on the books.



In 2005, Congress passed the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU), a transportation law ostensibly intended to authorize funding for highways, highway safety, and public transportation programs. With over 6,300 earmarks worth over \$25 billion, it included enough lard to drive this little piggy all the way home and back again.

In August 2015, SAFETEA-LU will hit its tenth anniversary and its earmarks that have been left virtually untouched will officially hit “orphan” status. According to data from the Federal



Highway Administration, as of September 2014, none or almost none of the taxpayer dollars provided for in nearly 1,300 of the earmarks from SAFETEA-LU had been spent. According to the non-partisan Congressional Research Service, these 1,282 earmarks embody a potential \$2 billion drag on the U.S. Treasury. Having taken a wrong turn on the way to fiscal discipline, many of these earmarks directed taxpayer dollars to projects that the federal government has no business dealing with. Out of the 1,282 orphan earmarks that have had less than 10 percent of their funding obligated, more than 120 projects

allocate scarce highway trust fund dollars to bicycle paths, museums, or landscaping – wasting nearly \$90 million in federal funds.

For example, Congress directed \$500,000 to the Georgia Department of Transportation to restore and renovate for historic preservation the 1906 AB&A Railroad Building in Fitzgerald.<sup>20</sup> Citizens Against Government Waste listed this project specifically as an example of the “egregious projects in the highway bill” in a press release on July 27, 2005.<sup>21</sup> As of September 2014, none of these funds had been obligated.



Three earmarks totaling \$5.6 million for the Massachusetts Executive Office of Transportation and Construction to “Design and Construct the Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, Rhode Island and Worcester, Massachusetts” were also slipped into SAFETEA-LU.<sup>22</sup> Nine years later, none of those funds have been obligated. The Blackstone River Valley website describes the 48-mile bikeway as a legacy project for the Blackstone Heritage Corridor, but there are few details about the construction of the pavilion.<sup>23</sup>

In addition to the \$5.6 million included in SAFETEA-LU, even older earmarks are still available from laws enacted before 2005 for Blackstone River Bikeway projects. More than \$13,000 is left from an appropriations earmark for the project in 1990 and nearly \$2 million is remaining from two earmarks in the 1998 highway bill, known as the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21).<sup>24</sup> According to the Federal Highway Administration, there is a total of more than \$8 million in federal earmark money that yet to be obligated for the Blackstone River bike path and various related projects involving bike path construction, the pavilion, or obscure ‘transportation enhancements.’ At some point, this funding needs to hit a red light.



These are not the only examples. SAFETEA-LU included two earmarks that awarded \$5.4 million to the “National Infantry Museum Transportation Network” located in Columbus, Georgia.<sup>25</sup> The 190,000-square-foot museum opened in June 2009 and, as of April 2012, the museum had welcomed one million visitors. However, almost 10 years later, over half a million dollars from two earmarks are still outstanding. It seems that the museum is quite successful at raising money in its own right, despite the \$5.4 million in earmarks. TripAdvisor lists the National Infantry Museum as

<sup>20</sup> Public Law 109-59, August 10, 2005, pg. 119 STAT. 1391; [https://earmarks.omb.gov/earmarks-public/resources/citations/citation\\_109.pdf](https://earmarks.omb.gov/earmarks-public/resources/citations/citation_109.pdf)

<sup>21</sup> Tom Finnigan, “CCAGW Slams Highway Bill,” Council for Citizens Against Government Waste, July 27, 2005; <http://ccagw.org/media/press-releases/ccagw-slams-highway-bill>

<sup>22</sup> Public Law 109-59, August 10, 2005, pg. 119 STAT. 1318; [https://earmarks.omb.gov/earmarks-public/resources/citations/citation\\_109.pdf](https://earmarks.omb.gov/earmarks-public/resources/citations/citation_109.pdf)

<sup>23</sup> Blackstone River Valley, “Bikeway Project Update,” National Park Service; <http://www.blackstonevalleycorridor.org/explore/bikeway/>

<sup>24</sup> Public Law 105-178, Sec. 1601; <http://www.fhwa.dot.gov/tea21/h240subf.htm>

<sup>25</sup> Public Law 109-59, August 10, 2005, pg. 119 STAT. 1314, 1388; <http://www.gpo.gov/fdsys/pkg/PLAW-109publ59/html/PLAW-109publ59.htm>

the number one attraction out of 40 things to do in Columbus, Georgia and the museum recently announced its campaign to raise \$20 million for ‘new features and improvements to the facility.’<sup>26</sup> It’s time to surrender these federal funds once and for all.

To be clear, some of these orphan earmarks will never have a dollar of their awards leave federal coffers. There may be a drafting error or the state or local government may have decided against moving ahead with the project. In SAFETEA-LU, Congress earmarked \$600,000 to design and construct the Upper Delaware Scenic Byway Visitor Center in Cochection, New York.<sup>27</sup> However, in 2010, local officials decided to build the Visitor Center in Narrowsburg instead of Cochection. Since the initial earmark specified the center’s location as Cochection, the money won’t be spent unless Congress redirects it to the new location. Given the current ban on earmarking, they stand a better chance of finding the Yellow Brick Road than seeing that happen. At an Upper Delaware Council meeting in July 2013, it seemed that hopes for federal funding for the project had been abandoned and the council’s focus had shifted to obtaining state funds. Notes from the meeting indicate that “they were aware that the federal funding was no longer available due to the change in location, but the state funding that [was] secured in 2007 was still in debate.”<sup>28</sup> As of September 2014, more than \$600,000 sits at the DOT for this earmark.

Similarly, an earmark for \$750,000 was included in SAFETEA-LU to “Construct a Rail Spur in Brookings.”<sup>29</sup> As of September 2014, none of those funds have been obligated. A 2012 article from the *Argus Leader* in South Dakota suggested that “Brookings is giving up on spending a \$676,000 earmark to create a new rail spur. City Manager Jeffrey Weldon said the money was meant to help a business that needed the spur, but the economy changed and it’s no longer needed.”<sup>30</sup> Yet, this money is still sitting idle in an account at the U.S. Department of Transportation.



Like planes in the aircraft boneyards in the Arizona desert, these moth-balled funding earmarks sit on the books. These unspent earmarks go back further than 2005, including some truly mummified orphan earmarks. According to the Congressional Research Service, more than \$12,000 is still floating around the DOT from orphan earmarks that date back to 1989, when legislation making appropriations for the Transportation Department for fiscal year 1990 was signed into law. That number jumps to nearly \$3.4 million when looking at the appropriations earmarks left unspent from 1990 and skyrockets to nearly \$80 million when

<sup>26</sup> Tony Adams, “National Infantry Museum launches campaign to raise \$20 million,” *Ledger-Enquirer*, April 23, 2015; <http://www.ledger-enquirer.com/2015/04/23/3684167/national-infantry-museum-launches.html>

<sup>27</sup> Public Law 109-59, pg. 119 STAT. 1320; <http://www.gpo.gov/fdsys/pkg/PLAW-109publ59/html/PLAW-109publ59.htm>

<sup>28</sup> Laurie Ramie, “Operations Committee Meeting Minutes”, Upper Delaware Council, July 23, 2013; [http://www.upperdelawarecouncil.org/minutes/pdfs/ops7\\_13.pdf](http://www.upperdelawarecouncil.org/minutes/pdfs/ops7_13.pdf)

<sup>29</sup> Public Law 109-59, August 10, 2005, pg. 119 STAT. 1444; [https://earmarks.omb.gov/earmarks-public/resources/citations/citation\\_109.pdf](https://earmarks.omb.gov/earmarks-public/resources/citations/citation_109.pdf)

<sup>30</sup> Jonathan Ellis, “Sioux Falls isn’t alone trying to save federal earmark cash; Delays with switching yard typical of woes for S.D. cities,” *Argus Leader*, April 24, 2012; <http://www.argusleader.com/article/20120425/NEWS/304250050/Sioux-Falls-isn-t-alone-trying-save-federal-earmark-cash>

you include the earmarks from the TEA-21, which was signed into law in 1998. These figures only apply to projects that haven't spent more than 10 percent of their funding in 10 years.

Such a blast from the past includes the Exit 26 Bridge project in Schenectady, New York that was originally included in the fiscal year 1990 transportation appropriations bill. Over two decades later, more than \$700,000 for the project still remains on the books.

It's not like the outlook for U.S. roads and highways is smooth sailing. The American Society of Civil Engineers (ASCE) 2013 report card gave the nation's roads a D grade, stating that "forty-two percent of America's major urban highways remain congested, costing the economy an estimated \$101 billion in wasted time and fuel annually."<sup>31</sup> The nation's bridges came in slightly higher with a C+ grade, despite the fact that ASCE asserts that one in nine of the nation's bridges are rated as structurally deficient.<sup>32</sup>

Despite the need for infrastructure improvements, highway funding has remained stalled as gas tax receipts dwindle. Since 2008, the Highway Trust Fund (HTF) has received six transfers from the U.S. Treasury's general fund to the tune of over \$60 billion and the DOT estimates current HTF funds will only be available through late July or early August 2015.<sup>33</sup> In terms of passing legislation to continue to build and repair the nation's infrastructure, the Congressional Research Service wrote that "the most salient issue for the 114<sup>th</sup> Congress will be funding the solvency of the highway trust fund."<sup>34</sup> Even with the current fiscal crisis of scarce HTF dollars, orphan earmark monies continue to sit in an account at DOT gathering dust.

Putting the brakes on the thousands of pork barrel projects that have remained unspent but potentially represent billions of dollars in wasteful spending on congressional pet projects and other largess certainly needs to be on any roadmap to fiscal sanity. In particular, it's long past time to send to the junk yard those "orphan" projects that have gone 10 years without allocating more than 10 percent of their funding.

## **DON'T WORRY, MY OTHER RIDE'S A DINOSAUR** *Taxpayers Spend Millions on Colorado Dino-Buses*

"Jimmy, what is it?" It's a velociraptor... or more accurately, Colorado's newest bus, the VelociRFTA. Seemingly in homage to the famous kitchen scene in the original *Jurassic Park* film, the federal government has brought the spirit of the velociraptor back to life with taxpayer dollars.

<sup>31</sup> "2013 Report Card for America's Infrastructure," American Society of Civil Engineers; <http://www.infrastructurereportcard.org/a/#p/overview/executive-summary>

<sup>32</sup> "2013 Report Card for America's Infrastructure," American Society of Civil Engineers; <http://www.infrastructurereportcard.org/a/#p/overview/executive-summary>

<sup>33</sup> Keith Lang, "Feds: Highway funding runs out in July," *The Hill*, April 2, 2015; <http://thehill.com/policy/transportation/237757-feds-highway-funding-to-run-out-in-july>

<sup>34</sup> Robert S. Krik, "Surface Transportation Funding and Infrastructure Challenges," Library of Congress, January 2, 2015; <http://www.crs.gov/pages/content.aspx?PRODCODE=IF10025&Source=search>



The VelociRFTA is a \$46 million Bus Rapid Transit system in Colorado that takes passengers from Aspen to Glenwood Springs.<sup>35</sup> The transit system was first earmarked for \$810,000 in the omnibus bill providing funding for the federal government for fiscal year 2010; in order to jumpstart the dino buses and new high-tech bus stations.<sup>36</sup> However, taxpayers weren't out of this dinosaur's clutches yet: in fiscal year 2011, the Department of Transportation's (DOT) New Starts program funded the project once again for over \$24 million.<sup>37</sup>

The VelociRFTA buses and stations include amenities like wireless internet service, heated sidewalks, dinosaur footprints, and even replica dinosaur eggs to play on.<sup>38</sup>



The VelociRFTA buses opened for operation in September 2013 and, according to news reports, the dino buses took only 160,000 trips over the course of their first year in service.<sup>39</sup> With an upfront cost of \$46 million and only 160,000 trips, a back of the envelope calculation finds that each trip cost around \$300.<sup>40</sup> This

surely represents the kind of “deal” whose extinction any taxpayer would hope for. It seems that the Roaring Fork Transportation Authority (RFTA) should concentrate more on running an efficient and busy transit system and less on marketing and branding schemes. RFTA has received numerous capital investment grants from the DOT after the earmark moratorium and continues to apply for federal assistance for their buses. They have received over \$36 million in federal assistance since the earmark ban.<sup>41</sup>

There is no doubt that RFTA officials are claiming victory over this government grab. However, taxpayers will be happy when federal spending like this is just as extinct as the dinosaurs that the buses claim to emulate.

<sup>35</sup> Bob Ward, “RFTA picking up pace with new express bus service,” *Aspen Journalism*, August 30, 2013; <http://aspjournalism.org/2013/08/30/valley-transit-to-pick-up-the-pace-with-new-brt/>

<sup>36</sup> “VelociRFTA Fact Sheet,” Roaring Fork Transit Authority; <http://n.b5z.net/i/u/6137465/f/PublicFactSheet.pdf>; House of Representatives Report 111-366, pg. 462; <http://origin.www.gpo.gov/fdsys/pkg/CRPT-111hrpt366/pdf/CRPT-111hrpt366.pdf>

<sup>37</sup> “Fiscal Year 2011 Annual Report on Funding Recommendations,” Federal Transit Administration, 2010; [http://www.fta.dot.gov/documents/NewStarts\\_mainText\\_Jan\\_2010.pdf](http://www.fta.dot.gov/documents/NewStarts_mainText_Jan_2010.pdf)

<sup>38</sup> Bob Ward, “RFTA picking up pace with new express bus service,” *Aspen Journalism*, August 30, 2013; <http://aspjournalism.org/2013/08/30/valley-transit-to-pick-up-the-pace-with-new-brt/>; Janet Urquhart, “Roaring Fork Transportation Authority laying giant eggs,” *The Aspen Times*, May 2013; <http://www.aspentimes.com/news/6598201-113/eggs-stations-bus-aspen>

<sup>39</sup> RFTA Roaring Fork Transportation Authority, Facebook, September 2013; <https://www.facebook.com/events/207374846052893/>

<sup>40</sup> Glenn K. Beaton, “Beaton: Dino doo-doo,” *The Aspen Times*, March 2014; <http://www.aspentimes.com/opinion/10369163-113/bus-million-rfta-veloci>

<sup>41</sup> “Roaring Fork Transit Authority,” USASpending.gov; <https://www.usaspending.gov/Pages/AdvancedSearch.aspx?sub=v&ST=G&FY=2014,2013,2011&A=0&SS=USA&k=Roaring%20Fork%20Transportation%20Authority>

## **TAKING A RIDE ON THE SEATTLE MONEY TRAIN**

### *Washington Light Rail Project a Heavy Burden for Taxpayers*

Seattle's \$1.9 billion light rail project, one of the most expensive in the United States, appears to be anything but a first class trip for taxpayers.<sup>42,43</sup>

The Sound Transit University Link light rail extension is a 3.15 mile tunnel that will connect downtown Seattle to the University of Washington's campus. Construction on the segment began in 2009 and is expected to open sometime in 2016, although the Central Puget Sound Regional Transit Authority (CPSRTA), which is responsible for the project, has been notorious for missing deadlines.<sup>44,45</sup>



Federal funds were earmarked for the extension in 2008 and over \$300 million in earmarked dollars were steered to it through 2010.<sup>46,47,48</sup> After the earmark ban took effect, the project received another \$400 million through federal grants, committee influence, and omnibus bills.<sup>49, 50,51,52,53</sup>

With respect to making federal funding for this project a priority, it doesn't hurt that its chief proponents include a senior member of the Appropriations Committee and longtime Chairman of the Transportation, Housing and Urban Development Subcommittee.

<sup>42</sup> "Building University Link," Sound Transit; [http://www.soundtransit.org/Documents/pdf/projects/link/north/Ulink/PRJ%20LINK\\_U-Link11x17\\_05\\_12\\_Final.pdf](http://www.soundtransit.org/Documents/pdf/projects/link/north/Ulink/PRJ%20LINK_U-Link11x17_05_12_Final.pdf)

<sup>43</sup> "Planned Light Rail Systems," *The Transportation Politic*; <http://www.thetransportpolitic.com/under-consideration/planned-light-rail-systems/>

<sup>44</sup> "Building University Link," Sound Transit; [http://www.soundtransit.org/Documents/pdf/projects/link/north/Ulink/PRJ%20LINK\\_U-Link11x17\\_05\\_12\\_Final.pdf](http://www.soundtransit.org/Documents/pdf/projects/link/north/Ulink/PRJ%20LINK_U-Link11x17_05_12_Final.pdf)

<sup>45</sup> "Would you trust Sound Transit with your tax dollars?," Shift, March 11, 2015; <https://shiftwa.org/would-you-trust-sound-transit-with-your-tax-dollars/>

<sup>46</sup> U.S. House of Representatives Report 110-446, pg. 262, November 13, 2007; <http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt446/pdf/CRPT-110hrpt446.pdf>

<sup>47</sup> Public Law 111-8, pg. 1973; <http://www.gpo.gov/fdsys/pkg/CPRT-111JPRT47494/pdf/CPRT-111JPRT47494-DivisionI.pdf>

<sup>48</sup> U.S. House of Representatives Report 111-366, pg. 422, December 8, 2009; <http://origin.www.gpo.gov/fdsys/pkg/CRPT-111hrpt366/pdf/CRPT-111hrpt366.pdf>

<sup>49</sup> "LIGHT RAIL: Murray Announces More Than \$100 Million in Federal Funding for the Sound Transit University Link Project," Office of Senator Patty Murray Press Release, September 24, 2013; <http://www.murray.senate.gov/public/index.cfm/2013/9/light-rail-murray-announces-more-than-100-million-in-federal-funding-for-the-sound-transit-university-link-project>

<sup>50</sup> "Senator Murray Includes Critical Investments for Washington State in Fiscal Year 2013 Appropriations Bill," Office of Senator Patty Murray Press Release, April 19, 2012; <http://www.murray.senate.gov/public/index.cfm/newsroom?ID=fc6eece3-911d-47e8-8c10-fedcb6dfb293>

<sup>51</sup> "OIL TRAINS/TRANSPORTATION: In 2015 Spending Bill, Murray Includes Safety Measures for Oil Trains, Directs Investments to Seattle, Vancouver, Walla Walla, and Pullman," Office of Senator Patty Murray Press Release, December 10, 2014; [http://www.murray.senate.gov/public/index.cfm/newsreleases?ContentRecord\\_id=d74eef27-4e41-4d55-a1a3-5e85ae27e4a3](http://www.murray.senate.gov/public/index.cfm/newsreleases?ContentRecord_id=d74eef27-4e41-4d55-a1a3-5e85ae27e4a3)

<sup>52</sup> "University Link," USA Spending, 2011, 2012, 2013;

<https://www.usaspending.gov/Pages/AdvancedSearch.aspx?sub=v&ST=G&FY=2013,2012,2011&A=0&SS=USA&RS=WA&k=university%20link>

<sup>53</sup> "University Link," USA Spending, 2014;

<https://www.usaspending.gov/Pages/AdvancedSearch.aspx?sub=v&ST=G&FY=2014&A=0&SS=USA&RS=WA&k=university%20link>

While light rail is sold as being lighter and more efficient, some transportation experts believe that light rail is more wasteful and inefficient.<sup>54</sup> Unfortunately, the incentive to build light rail infrastructure comes from the Federal Transit Authority’s (FTA) New Starts program, which promises to pay up to 50 percent of the cost of building new transit lines.<sup>55</sup> Hence, cities that spend more, get more. However, cities – at times with the help of willing congressional proponents – can tend to bite off more than they can chew when they know that the federal government will pay for a good portion of the project. Taxpayers can be taken for a ride twice. They pay once for the initial deluge of federal funds and again for the maintenance and upkeep of light rail systems after the original federal funding is long gone.

With the national debt topping \$18 trillion, spending under a scenario like this is anything but light and represents a heavy burden on taxpayers.

## **FERRY FUNDING FLOWS LIKE WATER IN BAY AREA** *San Francisco Ferry System Costing Taxpayers Millions*

San Francisco’s Water Emergency Transportation Authority (WETA) is responsible for operating and expanding ferry services in and around the San Francisco Bay.<sup>56</sup> As the manager of the ferry system, WETA has the authority to expand service areas and designate new terminals around the bay. With subsidies provided by local taxes and federal funding, WETA is able to operate throughout the bay as the premier ferry service with routes as far north as Vallejo and as far south as Harbor Bay.<sup>57</sup> Since 2008, WETA’s efforts to expand the ferry service from Albany and Berkeley to San Francisco have benefitted from the attention of the local congressional delegation.



In 2007, San Francisco politicians successfully procured an earmark worth \$750,000 for ferry boats and terminals for the Berkeley/Albany Ferry Service, and an additional \$475,000 earmark in 2009 for vessel and terminal construction.<sup>58,59</sup> In 2010, a particularly well-connected member of Congress from the City by the Bay jumped on board and helped earmark \$1 million for the

<sup>54</sup> Randal O’Toole, “Light Rail Is the Wrong Choice for Cities,” CATO Institute, June 2014; <http://www.cato.org/publications/commentary/light-rail-wrong-choice-cities>

<sup>55</sup> “Capital Investment Program Frequently Asked Questions,” Federal Transit Administration, U.S. Department of Transportation; [http://www.fta.dot.gov/12304\\_15522.html](http://www.fta.dot.gov/12304_15522.html)

<sup>56</sup> WETA, “Water Emergency Transportation Authority,” accessed May 12, 2015; <http://sanfranciscobayferry.com/weta>

<sup>57</sup> San Francisco Bay Ferry, “Expansion,” accessed May 12, 2015; <http://sanfranciscobayferry.com/node/332>

<sup>58</sup> GPO, “Conference Report to Accompany H.R. 3074,” pg. 245, accessed May 12, 2015; <http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt446/pdf/CRPT-110hrpt446.pdf>

<sup>59</sup> Public Law 111-8, pg. 2189; <http://www.gpo.gov/fdsys/pkg/CPRT-111JPRT47494/pdf/CPRT-111JPRT47494-DivisionI.pdf>



Berkley/Albany to San Francisco Ferry Service.<sup>60</sup> These pre-ban earmarks are emblematic of the thirst for federal funding that survives beyond the earmark ban.

In addition, it appears that, as of February 2015, over \$2 million in federal taxpayer funds that were directed to ferry-related expenditures have yet to be allocated and remain a drain on the U.S. Treasury.<sup>61</sup> What's more, the flow of federal funding has yet to stop.

In 2014, WETA received a \$3 million grant from the U.S. Department of Transportation to support more construction on terminals and maintenance facilities for ferries in the bay.<sup>62</sup> WETA Board Member Jeff DelBono even mentioned the importance of the Bay Area congressional delegation in securing this grant.<sup>63</sup>

Despite record deficits, the federal government continues to spend money on old earmarks, leaving taxpayers working desperately to try and stay afloat. The Bay Area's affinity for parochial spending is enough to give taxpayers the feeling that the entire federal budget is fiscally adrift.

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<sup>60</sup> U.S. House of Representatives Report 111-366, pg. 472, accessed May 12, 2015; <http://origin.www.gpo.gov/fdsys/pkg/CRPT-111hrpt366/pdf/CRPT-111hrpt366.pdf>

<sup>61</sup> "Ferry Boat Discretionary 2000 - 2012 Awards," Federal Highway Administration, U.S. Department of Transportation, Special Federal-aid Funding; <http://www.fhwa.dot.gov/discretionary/fbavailable.cfm>

<sup>62</sup> "Table 14: Prior Year Unobligated Section 5307(H) Passenger Ferry Grant Program Allocations," Federal Highway Administration, U.S. Department of Transportation, as of September 30, 2014; [http://www.fta.dot.gov/12853\\_16304.html](http://www.fta.dot.gov/12853_16304.html)

<sup>63</sup> "Media Advisory: WETA Wins \$3 million Grant for Alameda Operations and Maintenance Facility," San Francisco Bay Ferry, June 2, 2014; <http://sanfranciscobayferry.com/sites/default/files/weta/press/MediaAdvisories/AlamedaGrantAdvisory060214.pdf>

## SEC. III PARKS AND HISTORIC SITES

Far from national treasures, these historic relics of the earmark era continue to devour taxpayer dollars – even though there is little in their genetic legislative code to justify their existence. If only they, too, would go the way of the dinosaurs, we might be able to better safeguard the true crown jewels of the National Park System, rather than siphoning scarce dollars away from them.

### **MINING PARK EXCAVATING THE U.S. TREASURY** *Keweenaw Nat'l Park a Haven for Parochial Pennies*

The historic copper mines at Keweenaw have been mining the U.S. Treasury for far too long.

In 1991, then-Senator Carl Levin (D-MI) introduced S. 1664 to establish the Keweenaw National Historical Park and an advisory commission to assist with park management and land acquisition.<sup>64</sup> Although the measure initially lacked support from the Department of the Interior, Congress passed the bill in 1992, authorizing the Secretary of the Interior to acquire land and manage sites associated with the old copper mining operations located on the Keweenaw Peninsula in northern Michigan.<sup>65</sup> The area was home to prehistoric mines where early indigenous peoples harvested the copper from lava flows.<sup>66</sup> Eventually, this gave rise to a copper mining industry that accounted for 75 percent of U.S. copper production in the late nineteenth century.<sup>67</sup>



Since 1992, the Keweenaw National Historical Park has received cartloads of funding from U.S. taxpayers. In 2008, the Keweenaw National Historical Park Advisory Commission received \$200,000 in earmarked funds.<sup>68</sup> That same year, the historical park also received a \$504,000 earmark to turn the “Union Building” into a visitor center.<sup>69</sup> But that paled in comparison with the area’s haul in 2010, when the site saw a \$1 million earmark for construction work on the

<sup>64</sup> “Bill Summary and Status 102<sup>nd</sup> Congress S.1664,” The Library of Congress, accessed June 3, 2015; <http://thomas.loc.gov/cgi-bin/bdquery/z?d102:s1664>;

<sup>65</sup> U.S. Senate Report 102-480, Keweenaw National Historical Park General Management Plan Notice of Availability, Federal Register, Vol. 63, pg. 33091 (June 17, 1998); Keweenaw National Historical Park Establishment Act, (Oct. 8, 1992).

<sup>66</sup> Public Law 102-543, pg. 106 STAT. 3569; <http://www.gpo.gov/fdsys/pkg/STATUTE-106/pdf/STATUTE-106-Pg3569.pdf>

<sup>67</sup> U.S. Senate Report 102-480, U.S. Senate Committee on Energy and Natural Resources, “Keweenaw National Historical Park Establishment Act,” (Oct. 8, 1992).

<sup>68</sup> Public Law 110-161, pg. 1293, accessed May 11, 2015; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/html/CPRT-110HPRT39564-DivisionF.htm>

<sup>69</sup> Public Law 110-161, pg. 1298, accessed May 18, 2015; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionF.pdf>

Quincy Smelt Works and another \$1.38 million earmark for more construction on the Union Building.<sup>70</sup>

Thank goodness the lava isn't flowing as quickly as the cash after being jumpstarted by earmark dollars. However, the Advisory Commission continues to be funded by the Department of the Interior with "partner enhancement grants" and received tens of thousands of dollars in 2013 and 2014.<sup>71</sup> Unfortunately for taxpayers, this ancient mine has been a black hole for huge sums of federal funding.

## **TRYING AND TRYING AGAIN AT PATERSON GREAT FALLS** *Congress Ensures 'Unsuitable' Park is Built Anyway*

While Paterson Great Falls National Park in New Jersey is a pet project gone wrong, fiscal principles took a tumble long before the park's actual establishment.

The Paterson Great Falls area is remembered for its role in the early industrialization of America. Alexander Hamilton, who believed that the new nation needed to industrialize and become self-sufficient, helped to gather investors and bring textile manufacturing to the area.<sup>72</sup> Over the decades, the city fell in and out of decay as new industries tried to make use of the mills in the area.<sup>73</sup>



Beginning in 1992, members of the House and Senate secured \$4.15 million in National Park Service (NPS) funding for historic preservation projects in the area.<sup>74</sup> In 1996, as part of the Omnibus Parks and Public Lands Management Act, members secured an additional authorization for a \$3.3 million matching grant to develop and implement a preservation and interpretation plan for the Great Falls Historic District.<sup>75</sup> Five years later, not a single dollar had been matched and the grant had not been appropriated.<sup>76</sup> Regardless, Congress moved forward with legislation in 2001 to study the possibility of designating the Great Falls Historic District as a unit of the National Park System.<sup>77</sup>

<sup>70</sup> U.S. House of Representatives Report 111-316, pg. 158, accessed May 18, 2015; <http://origin.www.gpo.gov/fdsys/pkg/CRPT-111hrpt316/pdf/CRPT-111hrpt316.pdf>

<sup>71</sup> "Keweenaw FY2014 and FY2013," USA Spending.gov, accessed May 11, 2015; <https://www.usaspending.gov/Pages/AdvancedSearch.aspx?sub=y&ST=G&FY=2015,2014,2013&A=0&SS=USA&RN=KEWEENAW%20NATIONAL%20HISTORICAL%20P>

<sup>72</sup> U.S. Senate Committee on Energy and Natural Resources, "Report on the Great Falls Historic District Study Act of 2001," Senate Report No. 107-74 (Oct. 1, 2001); see also The National Parks Service, "Great Falls Historic District Special Resource Study – Paterson, NJ," accessed March 24, 2015; <http://parkplanning.nps.gov/document.cfm?parkid=261&projectid=16673&documentid=17397>

<sup>73</sup> Report on the Great Falls Historic District Study Act of 2001," U.S. Senate Committee on Energy and Natural Resources," Senate Report 107-74 (Oct. 1, 2001).

<sup>74</sup> U.S. Senate Committee on Energy and Natural Resources, "Report on the Great Falls Historic District Study Act of 2001," Senate Report 107-74 (Oct. 1, 2001).

<sup>75</sup> Joseph E. Doddridge, "Statement Before Committee," Subcommittee on National Parks, Recreation, and Public Lands (Mar. 13, 2001); <http://www.nps.gov/legal/testimony/107th/grtflsnj.htm>.

<sup>76</sup> Joseph E. Doddridge, "Statement Before Committee," Subcommittee on National Parks, Recreation, and Public Lands (Mar. 13, 2001); <http://www.nps.gov/legal/testimony/107th/grtflsnj.htm>.

<sup>77</sup> Public Law 107-59, pg. 115 Stat. 407, "Great Falls Historic District Study Act of 2001" (Nov. 5, 2001).

Upon the study's completion in 2006, the National Park Service concluded that the Great Falls National Historic District did not meet the criteria for potential inclusion in the park system.<sup>78</sup>

Despite the conclusions in the study and objections from the NPS, Congress once again charged forward, eventually designating the Great Falls Historic District as a National Historical Park in the Omnibus Public Land Management Act of 2009.<sup>79</sup> NPS funding for the park has hovered at around \$350,000 a year since Congress created the park in 2009, but in 2010 it received an extra infusion of cash via a \$500,000 earmark for construction costs.<sup>80</sup>

This is the national park that never should have been and still should not be today. In order to direct parochial benefits to one region, Congress willfully ignored the park proposal's failure to meet the NPS's "criteria for suitability, feasibility, or need for NPS management,"<sup>81</sup> as well as the fact that the park boundaries include "a resource with no relationship to the documented period of historic significance of the Great Falls Historic District or any determined national significance under established National Historic Landmark criteria."<sup>82</sup>

Once established and supported by earmark spending, there is likely no end in sight. Press reports indicate that the park has "newly rehabilitated parkland," "a new welcome center," and can expect to receive "improved landscaping and other amenities" valued at \$829,000 in federal and county funds in 2015.<sup>83</sup>

## **FEDERAL BUCKS FOR BUCKEYE STATE VALLEY** *NPS Resistance to 'Park Barrel' Had Little Impact in Ohio*

According to the National Park Service, the Department of the Interior leadership has a history of resisting "costly 'park barrel' initiatives that diverted funds from western 'crown jewels' such as Yellowstone."<sup>84</sup> And "[i]n 1973, the NPS director declared, 'I will tell you one thing: (the Cuyahoga Valley) will be a park over my dead body!'"<sup>85</sup> It wasn't one year later that President Ford took steps to make it just that.

<sup>78</sup> "Great Falls Historic District Special Resource Study – Paterson, NJ," The National Parks Service, Executive Summary, accessed March 24, 2015; <http://parkplanning.nps.gov/document.cfm?parkId=261&projectId=16673&documentID=17397>

<sup>79</sup> Public Law 111-11, pg. 123 Stat. 1183, March 30, 2009; see also U.S. Senate Committee on Energy and Natural Resources, "Paterson Great Falls National Historical Park," Senate Report 110-376, June 16, 2008, (Statement of Daniel N. Wenk, Deputy Director, National Park Service, Department of the Interior).

<sup>80</sup> GPO, "Conference Report to Accompany H.R. 2996", pg. 158, accessed May 11, 2015; <http://origin.www.gpo.gov/fdsys/pkg/CRPT-111hrpt316/pdf/CRPT-111hrpt316.pdf>.

<sup>81</sup> The National Parks Service, "Great Falls Historic District Special Resource Study – Paterson, NJ", Executive Summary, accessed March 24, 2015; <http://parkplanning.nps.gov/document.cfm?parkId=261&projectId=16673&documentID=17397>.

<sup>82</sup> U.S. Senate Committee on Energy and Natural Resources, "Paterson Great Falls National Historical Park," Senate Report No. 110-376 (June 16, 2008) (Statement of Daniel N. Wenk, Deputy Director, National Park Service, Department of the Interior).

<sup>83</sup> Joe Malinconico, "Great Falls National Park Getting New Amphitheater, Improved Landscaping", *NorthJersey.com*, April 16, 2015; <http://www.northjersey.com/news/great-falls-national-park-getting-new-amphitheater-improved-landscaping-1.1311030>.

<sup>84</sup> National Park Service, "Cuyahoga Valley: A Park for All People," accessed June 4, 2015; [http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People\\_final\\_for-web.pdf](http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People_final_for-web.pdf); see also National Park Service, "An Unbroken Historical Record: Ebey's Landing National Historical Reserve," (September 2013) (Noting that former-National Park Service director Russell Dickenson "fought only for additions to the park system that he considered truly meritorious; otherwise, he believed, they would bleed resources from established parks.") (Further explaining that "assistant interior secretary for fish and wildlife and parks, Robert L. Herbst, recognized that a cost-conscious White House was trying to restrain what some referred to as the 'parks barrel bill.'").

<sup>85</sup> National Park Service, "Cuyahoga Valley: A Park for All People," accessed June 4, 2015; [http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People\\_final\\_for-web.pdf](http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People_final_for-web.pdf)

The origin of a national park in the Cuyahoga Valley began in the early 20<sup>th</sup> century, when Cleveland and Akron established metropolitan parks in the area.<sup>86</sup> In 1929, a Cleveland businessman donated an additional 430 acres to be used for park purposes.<sup>87</sup> When New York and San Francisco were both awarded urban recreation areas to be administered by the NPS, some thought Cuyahoga could get a similar designation.<sup>88</sup>

Over the NPS's objection, President Ford signed legislation in 1974 establishing the Cuyahoga Valley National Recreation Area to preserve and protect "the historic, scenic, natural and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley."<sup>89</sup> With the help of then-Congressman and long-time appropriator Ralph Regula (R-OH), the recreation area was later promoted to a park via the bill making appropriations for the Department of the Interior in 2001.<sup>90</sup>



In fact, with much of Congressman Regula's district covered by the park, "[h]e helped guide over \$200 million to the park to purchase land, restore nearly 100 historic structures, and establish activities for the public's enjoyment."<sup>91</sup> For example, \$400,000 was earmarked for roads in 2005.<sup>92</sup> In 2008 and 2009, \$1.75 million and \$1 million respectively was earmarked for construction.<sup>93,94</sup> In 2010, the park received a major payment of \$4 million to acquire more land and \$500,000 for structural work.<sup>95</sup>

Congressman Regula retired in 2009 and the earmark ban took effect in 2011. However, those events have done little to slow the flow of federal funds toward this Buckeye State valley that has a history of parochial assistance and pork barrel politics. The park has continued to receive millions in contracts and grants. Those contracts add up to roughly \$6 million since 2011 to paint buildings, install new carpet, and pay for miscellaneous construction projects.<sup>96</sup>

Most shudder when they hear that the NPS has a backlog of \$11.5 billion in deferred maintenance and other costs.<sup>97</sup> However, given the propensity of members of Congress to

<sup>86</sup> "Cuyahoga Valley: A Park for All People," National Park Service, accessed June 4, 2015; [http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People\\_final\\_for-web.pdf](http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People_final_for-web.pdf)

<sup>87</sup> "Cuyahoga Valley: A Park for All People," National Park Service, accessed June 4, 2015; [http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People\\_final\\_for-web.pdf](http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People_final_for-web.pdf)

<sup>88</sup> "Cuyahoga Valley: A Park for All People," National Park Service, accessed June 4, 2015; [http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People\\_final\\_for-web.pdf](http://www.nps.gov/cuva/planyourvisit/upload/Park-For-All-People_final_for-web.pdf)

<sup>89</sup> Public Law 93-555, December 27, 1974; <http://www.gpo.gov/fdsys/pkg/STATUTE-88/pdf/STATUTE-88-Pg1784.pdf>

<sup>90</sup> Public Law 106-291, pg. 114 STAT. 956, October 11, 2000; <http://www.gpo.gov/fdsys/pkg/PLAW-106publ291/pdf/PLAW-106publ291.pdf>

<sup>91</sup> "Cuyahoga Valley: Ohio's National Park," National Park Service, accessed June 2, 2015; <http://www.nps.gov/cuva/learn/historyculture/upload/History7-final-for-web.pdf>

<sup>92</sup> Public Law 109-59, pg. 119 State. 1371; [https://earmarks.omb.gov/earmarks-public/resources/citations/citation\\_109.pdf](https://earmarks.omb.gov/earmarks-public/resources/citations/citation_109.pdf)

<sup>93</sup> Public Law 110-161, pg. 1298, accessed June 2, 2015; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionF.pdf>

<sup>94</sup> Public Law 111-8, pg. 1170, accessed June 2, 2015; <http://www.gpo.gov/fdsys/pkg/CPRT-111JPRT47494/pdf/CPRT-111JPRT47494-DivisionE.pdf>

<sup>95</sup> Public Law 111-316, October 28, 2009; <http://origin.www.gpo.gov/fdsys/pkg/CRPT-111hrpt316/pdf/CRPT-111hrpt316.pdf>

<sup>96</sup> "Cuyahoga Valley National Park," USA Spending, C, G, L, O, fiscal years 2011-2015," accessed June 2, 2015; <http://www.usaspending.gov>

<sup>97</sup> Library of Congress, "Deferred Maintenance of Federal Land Management Agencies: 2005-FY2014 Estimates", Congressional Research Service, April 21, 2015; <http://www.crs.gov/pages/Reports.aspx?PRODCODE=R43997>



designate just about any patch of land as a national park, site, or reserve, it is easy to see how that came to be. Hatched by parochial interests and fed on a steady diet of pork, some park units continue to eat their way through federal dollars with no end in sight.

## UNFORTUNATELY, THE EBHEY HAS LANDED

### *Parochial Pressure Leads to Novel Federal “Historic” Reserve*

Unfortunately for taxpayers, when it comes to national parks, exceptions are too often the rule. When no one could find a reason to make Ebhey’s Landing a site or a park, they had to invent a new classification: “historic reserve.”

Established in 1978, Ebhey’s Landing was the National Park Service’s first national historic reserve.<sup>98</sup> Despite initial concerns from the NPS regional director in Seattle, who questioned the national historical significance of the site, and formal opposition from the Assistant Interior Secretary for Fish and Wildlife and Parks, members of Washington’s congressional delegation established this special reserve designation as a means of resolving a local zoning dispute.<sup>99</sup> Classified as a historic reserve, the designation was tucked into a 1978 lands bill and the federal money spigot was turned on.<sup>100</sup>



In the 1850s, Colonel Isaac Neff Ebhey was one of the first to claim land on Whidbey Island in the newly organized Oregon Territory.<sup>101</sup> His prominence in the area did not last long. He was killed in 1857 by Indians seeking revenge after he had killed one of their chieftains.<sup>102</sup> Fast forward to the 20<sup>th</sup> century: some residents on Whidbey Island began to consider developing their farmland, leading to a significant feud among those who sought to conserve the island’s open spaces and those looking to exercise their private property rights.<sup>103</sup> After failing to secure sufficient protections with local commissioners, those opposed to development prevailed upon their congressional delegation to stop the threat of growth.<sup>104</sup> Since a park designation would require removing the farmland from production and reducing the local tax base, a new classification was used: the national historic reserve.<sup>105</sup> This was favored by the Washington

<sup>98</sup> “Ebhey’s Landing: Management,” National Park Service, accessed March 23, 2015; <http://www.nps.gov/ebla/learn/management/index.htm>; see also, National Park Service, “An Unbroken Historical Record: Ebhey’s Landing National Historical Reserve,” September 2013.

<sup>99</sup> “An Unbroken Historical Record: Ebhey’s Landing National Historical Reserve,” National Park Service, September 2013; Program Information, “Ebhey’s Landing National Historic Reserve and Ebhey’s Landing National Historical Reserve Trust Fund”, Catalog of Federal Domestic Assistance, accessed March 24, 2015; <https://www.cfda.gov/index?s=program&mode=form&tab=core&id=9d3825b9a5a932b7fc76146af72b265d>.

<sup>100</sup> Public Law 95-625 (Nov. 10, 1978), pg. 92 STAT. 3467, accessed May 15, 2015; [http://www.fs.fed.us/cdt/pdf\\_documents/pl\\_95-625.pdf](http://www.fs.fed.us/cdt/pdf_documents/pl_95-625.pdf).

<sup>101</sup> “Ebhey’s Landing: History & Culture,” National Park Service, accessed March 23, 2015; <http://www.nps.gov/ebla/learn/historyculture/index.htm>.

<sup>102</sup> “Ebhey’s Landing: History & Culture,” National Park Service, accessed March 23, 2015; <http://www.nps.gov/ebla/learn/historyculture/index.htm>.

<sup>103</sup> “An Unbroken Historical Record: Ebhey’s Landing National Historical Reserve,” National Park Service, September 2013.

<sup>104</sup> “An Unbroken Historical Record: Ebhey’s Landing National Historical Reserve,” National Park Service, September 2013; “Ebhey’s Landing National Historical Reserve,” pg. 5, September 2009; <http://www.nps.gov/hfc/pdf/ip/2010-02-22-EBLA-FinalDocument.pdf>

<sup>105</sup> “An Unbroken Historical Record: Ebhey’s Landing National Historical Reserve,” National Park Service, September 2013.

delegation as a suitable compromise, and the country's first national historic "reserve" was born.<sup>106</sup>



Since then, the Department of the Interior continues to request \$350,000 a year in funding for the reserve.<sup>107</sup> In addition, the reserve's political supporters secured earmarks of \$1.1 million<sup>108</sup> in 2002 and \$500,000 in 2008 to acquire more land for the reserve.<sup>109</sup>

It is unfortunate that taxpayers must now pick up the tab in order to pay for the special interests of the small community living in Ebey's Landing. What's more, the NPS has requested \$1.45 million for fiscal year 2016 to purchase easements on 165 acres of land with the objective of keeping landowners from engaging in "more lucrative means of land use."<sup>110</sup> Too often, parochial pet projects like this end up being the departure point for even more federal spending. Taxpayers would be better off if this historic reserve came in for a permanent landing.

## STEAMING OUR WAY TO FISCAL OBLIVION

### *Pennsylvania Train Collection Burns Taxpayer Dollars*

Steamtown USA, a collection of historic trains, relocated from Bellows Falls, Vermont to Scranton, Pennsylvania in 1984, hoping to resurrect local tourism in the city.<sup>111,112</sup> However, the plan to create a museum featuring these antique train cars and engines was slightly derailed.<sup>113</sup>

Two years after the trains arrived in Scranton, long-time local representative and ranking member on the House Committee on Appropriations Joseph McDade (R-PA) lifted Steamtown USA out of the red when he included \$8 million in funding for it in a massive appropriations bill, bypassing the traditional process of authorization of historical sites, which includes the National Park Service's standard two to five year site review.<sup>114,115</sup>

<sup>106</sup> Program Information, "Ebey's Landing National Historic Reserve and Ebey's Landing National Historical Reserve Trust Fund", Catalog of Federal Domestic Assistance, accessed March 24, 2015;

<https://www.cfda.gov/index?s=program&mode=form&tab=core&id=9d3825b9a5a932b7fc76146af72b265d>; National Park Service, "An Unbroken Historical Record: Ebey's Landing National Historical Reserve," September 2013.

<sup>107</sup> The United States Department of the Interior, "Budget Justifications and Performance Information Fiscal Year 2016," National Parks Service, ONPS Summaries p. 10, accessed March 24, 2015; [http://www.doi.gov/budget/appropriations/2016/upload/FY2016\\_NPS\\_Greenbook.pdf](http://www.doi.gov/budget/appropriations/2016/upload/FY2016_NPS_Greenbook.pdf)

<sup>108</sup> "Murray Announces Over \$57 million for Washington State Priorities in Senate Interior Committee Spending Bill," U.S. Senator Patty Murray, June 27, 2002; <http://www.murray.senate.gov/public/index.cfm/mobile/newsreleases?ID=c95a8581-bcfb-4517-9923-1477130de6d9>.

<sup>109</sup> Public Law 110-161, pg. 1300; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionF.pdf>.

<sup>110</sup> National Park Service "FY 2016 Budget Justification: Land Acquisition Core and Collaborative Landscape Acquisitions," pg. LASA 17; <http://www.nps.gov/aboutus/upload/FY-2016-Greenbook.pdf>.

<sup>111</sup> "Steamtown," National Park Service; <http://www.nps.gov/stea/learn/historyculture/index.htm>

<sup>112</sup> Bob Janiske, "Attendance Shortfalls at Steamtown National Historic Site Prompt Calls for Privatization," *National Parks Traveler*, September 14, 2008; <http://www.nationalparkstraveler.com/2008/09/attendance-shortfalls-steamtown-national-historic-site-prompt-calls-privatization>

<sup>113</sup> Sean Holton, "After All The Railing, Steamtown May Get Real," *Orlando Sentinel*, September 4, 1994;

[http://articles.orlandosentinel.com/1994-09-04/news/9409030978\\_1\\_steamtown-mcdade-railroad-engines](http://articles.orlandosentinel.com/1994-09-04/news/9409030978_1_steamtown-mcdade-railroad-engines)

<sup>114</sup> Public Law 99-500, pg. 100 STAT. 1783-248, October 18, 1986; <http://www.gpo.gov/fdsys/pkg/STATUTE-100/pdf/STATUTE-100-Pg1783.pdf>

<sup>115</sup> Michael deCourcy Hinds, "As 'Steamtown' Grows, so Does Park Debate," *The New York Times*, November 23, 1991;

<http://www.nytimes.com/1991/11/23/us/as-steamtown-grows-so-does-parks-debate.html>



James Stuart, the Park Service’s assistant director for planning, said, “the thing about Steamtown is it was a very backdoor way of creating an area.”<sup>116</sup> An NPS historian commented that his agency rejected an earlier plan to acquire the same collection of trains, stating that they “didn’t fit our basic mission, to preserve historic sites, actual places that are significant in American history.”<sup>117</sup>



After all the locomotion in the 1980s regarding Steamtown USA, federal taxpayers would end up paying a total of \$66 million for renovations for the park, thanks to Steamtown’s supporters in Congress.<sup>118</sup> Despite the controversy over whether or not the park should have been designated as a National Park, the federal government has allocated over \$27 million to the National Park Service specifically for Steamtown USA from 2011 through 2015.<sup>119</sup>

In 1991, the *New York Times* reported that a number of historians called Steamtown a “second-rate collection of trains on a third-rate site.”<sup>120</sup> The federal government shouldn’t be bankrolling such sites on the whim of influential members of Congress. This is another example of how, once the earmark train has left the station, taxpayers can expect it to continue to chug straight off the fiscal cliff.

<sup>116</sup> Sean Holton, “After All The Railing, Steamtown May Get Real,” *Orlando Sentinel*, September 4, 1994;

[http://articles.orlandosentinel.com/1994-09-04/news/9409030978\\_1\\_steamtown-mcdade-railroad-engines](http://articles.orlandosentinel.com/1994-09-04/news/9409030978_1_steamtown-mcdade-railroad-engines)

<sup>117</sup> Michael deCourcy Hinds, “As ‘Steamtown’ Grows, so Does Park Debate,” *The New York Times*, November 23, 1991;

<http://www.nytimes.com/1991/11/23/us/as-steamtown-grows-so-does-parks-debate.html>

<sup>118</sup> Pete Leffler, “Steamtown Survives Funding Assault in House,” *The Morning Call*, July 16, 1993; [http://articles.mcall.com/1993-07-16/news/2937795\\_1\\_steamtown-national-historic-site-steamtown-usa-federal-money](http://articles.mcall.com/1993-07-16/news/2937795_1_steamtown-national-historic-site-steamtown-usa-federal-money);

Julie E. Greene, “Grants may be museum’s only shot at survival,” *Herald Mail*, June 21, 1998; [http://articles.herald-mail.com/1998-06-21/news/25099137\\_1\\_steamtown-b-o-railroad-museum-csx](http://articles.herald-mail.com/1998-06-21/news/25099137_1_steamtown-b-o-railroad-museum-csx)

<sup>119</sup> U.S. Department of the Interior, “Budget Justifications and Performance Information FY 2016,” 2015 Enacted, 2014 Final, pg. 18;

[http://www.doi.gov/budget/appropriations/2016/upload/FY2016\\_NPS\\_Greenbook.pdf](http://www.doi.gov/budget/appropriations/2016/upload/FY2016_NPS_Greenbook.pdf); U.S. Department of the Interior, “Budget Justifications and Performance Information FY 2014,” 2013 PL 112-175, 2012 Enacted pg. 134;

[http://www.doi.gov/budget/appropriations/2014/upload/FY2014\\_NPS\\_Greenbook.pdf](http://www.doi.gov/budget/appropriations/2014/upload/FY2014_NPS_Greenbook.pdf); U.S. Department of the Interior, “Budget Justifications and Performance Information FY 2013,” 2011 Final, pg. 120;

[http://www.doi.gov/budget/appropriations/2013/upload/FY2013\\_NPS\\_Greenbook.pdf](http://www.doi.gov/budget/appropriations/2013/upload/FY2013_NPS_Greenbook.pdf)

<sup>120</sup> Michael deCourcy Hinds, “As ‘Steamtown’ Grows, so Does Park Debate,” *The New York Times*, November 23, 1991;

<http://www.nytimes.com/1991/11/23/us/as-steamtown-grows-so-does-parks-debate.html>

## SEC. IV MUSEUMS, AQUARIUMS, BALLETS, & MORE

As the following examples show, museums and other public venues have long been a favorite for members looking to further their parochial interests. The best that taxpayers can hope for is that there are no museum researchers currently looking for ways to bring earmarks back from extinction.

### EXPLORING NEW WAYS TO SPEND TAXPAYER MONEY

#### *SF Exploratorium Discovers Millions in Federal Dollars*

Columbus explored his way to the New World. Lewis and Clark found their way to the Pacific Ocean. And the Exploratorium has successfully navigated its way to a treasure trove of federal grants. In fact, the San Francisco institution has received over \$20 million in federal grants since 2009 alone.<sup>121</sup> While “X” almost never marks the spot, there does seem to be one on the roof of the U.S. Treasury where the San Francisco Exploratorium is concerned.



The Exploratorium was originally founded by renowned physicist Frank Oppenheimer in 1969.<sup>122</sup> It was located at first in the Palace of Fine Arts in San Francisco but moved in 2013 to Pier 15, where it has over 600 exhibits and six galleries spanning a new 330,000 square foot structure.<sup>123</sup> In its first year at the new location, the Exploratorium welcomed over one million visitors.<sup>124</sup> The center collected nearly \$50 million in revenue in 2014, but this has not slowed its appetite for federal funds.<sup>125</sup>

In 2008, nearly \$300,000 worth of earmarked funds found their way to the Exploratorium.<sup>126</sup> After the institution of the earmark ban, the museum steadily collected grants to fund new exhibits and projects worth millions of dollars. Grants included almost \$250,000 for a 2009 conference titled *Art as a Way of Knowing*, \$50,000 from the National Endowment of the Arts in 2010 to support the *New Frontiers* project, and \$1.58 million for a 2011 *Science of Sharing* project.<sup>127,128,129</sup> The museum has even gotten federal funding to find out if the federal funding

<sup>121</sup> “Exploratorium,” USASpending.gov, “CA,” for fiscal years: 2009, 2010, 2011, 2012, 2013, 2014, 2015, accessed May 18, 2015;

<https://www.usaspending.gov/Pages/AdvancedSearch.aspx?sub=y&ST=G&FY=2015,2014,2013&A=0&SS=USA&k=Exploratorium>

<sup>122</sup> “History”, The Exploratorium, accessed April 28, 2015; <http://www.exploratorium.edu/about/history>

<sup>123</sup> “Fact Sheet for Fiscal Year 2015”, The Exploratorium, accessed April 28, 2015; <http://www.exploratorium.edu/about/fact-sheet>

<sup>124</sup> “Fact Sheet for Fiscal Year 2015”, The Exploratorium, accessed April 28, 2015; <http://www.exploratorium.edu/about/fact-sheet>

<sup>125</sup> McGladrey Accounting, “Exploratorium: Consolidated Financial Report”, pg. 4, June 30, 2014;

[https://www.exploratorium.edu/sites/default/files/audited\\_financials/Exploratorium\\_14\\_Final.pdf](https://www.exploratorium.edu/sites/default/files/audited_financials/Exploratorium_14_Final.pdf)

<sup>126</sup> PL 110-161, Consolidated Appropriations Act, 2008, House Appropriations Committee Print, Division G, pg. 1657;

<http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionG.pdf>

<sup>127</sup> “Exploratorium 2009”, USASpending.gov, accessed April 28, 2015;

<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=0A0DCB12-ED2A-8F15-A56E-26849294B1C7&AwardID=9394918&AwardType=G>

was worth it, spending \$84,000 for “measuring the benefits of museum experiences as preparation for future learning.”<sup>130</sup> These are just a few of the nuggets funded by the federal treasure chest.

During the fiscal year 2008 appropriations process, an amendment was offered to block the \$300,000 earmark.<sup>131</sup> Then-Appropriations Chairman David Obey (D-WI), doing his best to mount a defense for this unjustifiable wasteful spending, argued that receiving lots of federal grants in the past should be a reason to receive even more. He pointed out that the Exploratorium had “been awarded more National Science Foundation grants than any other museum.”<sup>132</sup> The problem persists. Last year, this well-funded and newly expanded museum had revenues of nearly \$50 million, including almost \$11 million in admissions, but still received more than \$91,000 in taxpayer-subsidized grants from the National Science Foundation.<sup>133,134</sup> Hopefully, at some point, taxpayers will be able to chart a course out of these fiscal doldrums.

## TIPTOEING THROUGH OUR FISCAL TRAGEDY

### *Former Earmark Sponsor Joins American Ballet on Stage*

New York’s 12th congressional district, the richest in the United States, has the honor of hosting the American Ballet Theatre.<sup>135</sup> Oddly, that theater also receives hundreds of thousands of dollars in federal funding.<sup>136</sup> If one is looking for a tale of parochial spending and federal largess, this example is “en pointe.” In fact, so “en pointe” that the ballet’s former earmark-sponsoring Congressional patron joined the company on stage for a (non-dancing) performance two years ago.<sup>137</sup>

The American Ballet Theatre, housed at the Metropolitan Opera House in New York City, is one of the world’s premier ballet companies. The company performs every year in the United States and internationally for more than 450,000 people.<sup>138</sup> In its 75-year history, it has appeared in 136

<sup>128</sup> “Exploratorium 2010”, USASpending.gov, accessed April 28, 2015, <https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=33B4D84C-9F80-DBC5-4CE1-CAFEC9BA7EAF&AwardID=32795922&AwardType=G>

<sup>129</sup> “Exploratorium 2011”, USASpending.gov, accessed April 28, 2015; <https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=C1684990-E9D5-E8D3-761B-00190A6C1132&AwardID=10888284&AwardType=G>

<sup>130</sup> “Exploratorium 2014”, USASpending.gov, accessed April 28, 2015; <https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=27BD88C0-4259-46D4-B884-79D746A932DF&AwardID=30601661&AwardType=SG>

<sup>131</sup> H.Amdt 552 to H.R.3043, 110<sup>th</sup> Congress, 2007; <https://www.congress.gov/amendment/110th-congress/house-amendment/552>

<sup>132</sup> 153 Congressional Record H8077, July 18, 2007; <https://www.congress.gov/congressional-record/2007/07/18/house-section/article/H8037-2>

<sup>133</sup> McGladrey Accounting, “Exploratorium: Consolidated Financial Report”, Page 4, June 30, 2014; [https://www.exploratorium.edu/sites/default/files/audited\\_financials/Exploratorium\\_14\\_Final.pdf](https://www.exploratorium.edu/sites/default/files/audited_financials/Exploratorium_14_Final.pdf)

<sup>134</sup> “Exploratorium” USASpending.gov, in “CA” for fiscal year 2015; <https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=3021D840-F965-D500-3BCC-72851D92357D&AwardID=22602489&AwardType=G>

<sup>135</sup> As ranked by per capita income using districts from the 113<sup>th</sup> Congress and the 2011 American Community Survey, US Census Bureau, [http://www2.census.gov/acs2011\\_1yr/CD113/](http://www2.census.gov/acs2011_1yr/CD113/)

<sup>136</sup> National Endowment for the Arts, Grant Search; <https://apps.nea.gov/grantsearch/SearchMain.aspx>

<sup>137</sup> “Congresswomen Carolyn B. Maloney to Appear On-Stage with ABT,” American Ballet Theatre; [http://www.abt.org/insideabt/news\\_display.asp?News\\_ID=444](http://www.abt.org/insideabt/news_display.asp?News_ID=444)

<sup>138</sup> American Ballet Theatre, Company History; <http://www.abt.org/insideabt/history.asp>

cities, 43 countries, and all 50 states.<sup>139</sup> The ABT also generates tens of millions of dollars in revenue.<sup>140</sup>

Thanks to earmarks secured by Congresswoman Carolyn Maloney (D-NY), the American taxpayer has provided another revenue stream for the ballet. Between 2005 and 2009, Congresswoman Maloney was at least partially responsible for over \$810,000 of earmarks to the ballet. Her ballet earmarks are documented on her website (\$250,000 in 2005,<sup>141</sup> \$100,000 in 2006,<sup>142</sup>) and in congressional records (\$324,600 in 2008,<sup>143</sup> and \$143,000 in 2009<sup>144</sup>). Taxpayers would have to leap one serious grand jeté in order to reach a feasible justification for this spending.

Despite the earmark ban, the ballet continues to be the recipient of federal funding. In 2015, the ballet “won” \$90,000 in grants from the National Endowment for the Arts for a new full-length version of *The Sleeping Beauty*.<sup>145</sup> In addition, they received \$70,000 for the 2014 production of *Cinderella*, \$70,000 for a presentation of ballets by Alexei Ratmanský in 2013, \$70,000 for the 2012 production of *The Firebird*, and \$100,000 for the 2011 production of *The Bright Stream*.<sup>146</sup>



Simply put, the well-to-do congressional district on the upper east side of Manhattan is receiving hundreds of thousands of taxpayer dollars to enjoy the ballet. Despite its international renown, the American Ballet Theatre has managed to tiptoe around the earmark ban and continues to secure federal funds through the grant process despite generating tens of millions of dollars on its own merit.

As an encore, it would appear that Congresswoman Maloney’s support for the theater remains a priority – so much so, in fact, that she appeared with the ballet during a performance of *Romeo and Juliet* at the Metropolitan Opera House in the summer of 2013.<sup>147</sup> According to the company’s press release, “Congresswoman Maloney [took] her place as one of the ‘bodies’ at the Capulet family crypt in the ballet’s third act as Romeo enters to mourn the loss of his beloved

<sup>139</sup> American Ballet Theatre, Company History; <http://www.abt.org/insideabt/history.asp>.

<sup>140</sup> 2012 IRS Form 990, American Ballet Theatre; [http://www.abt.org/pdfs/ABT\\_Form990\\_2012.pdf](http://www.abt.org/pdfs/ABT_Form990_2012.pdf).

<sup>141</sup> Carolyn Maloney, Appropriations Obtained, 2005; <http://maloney.house.gov/my-work-in-congress/accomplishments/appropriations-obtained#2>.

<sup>142</sup> Carolyn Maloney, Appropriations Obtained, 2006; <http://maloney.house.gov/my-work-in-congress/accomplishments/appropriations-obtained#2>.

<sup>143</sup> Public Law 110-161, pg. 408; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionB.pdf>, Public Law 110-161, pg. 1647; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionG.pdf>.

<sup>144</sup> Public Law 111-8, February 232009; <https://www.congress.gov/crec/2009/02/23/CREC-2009-02-23-bk2.pdf>

<sup>145</sup> National Endowment for the Arts, Grant Search website, <https://apps.nea.gov/grantsearch/SearchMain.aspx>, search for Organization Grantee Name: American Ballet Theatre.

<sup>146</sup> National Endowment for the Arts, Grant Search website, <https://apps.nea.gov/grantsearch/SearchMain.aspx>, search for Organization Grantee Name: American Ballet Theatre.

<sup>147</sup> “Congresswomen Carolyn B. Maloney to Appear On-Stage with ABT,” American Ballet Theatre; [http://www.abt.org/insideabt/news\\_display.asp?News\\_ID=444](http://www.abt.org/insideabt/news_display.asp?News_ID=444)

Juliet.”<sup>148</sup> This goes to show that Congress and special interests are still buddies, and that business continues as usual in Washington, D.C.

When looking at this fiscal fiasco, taxpayers are most certainly lamenting, “Fiscal sanity! Fiscal sanity! Wherefore art thou, fiscal sanity?!” Unfortunately, this is simply the latest act in our fiscal tragedy, and the story’s end is all too well known.

## **A LITTLE OF THE OL’ MONEYBALL IN MOTOR CITY** *Funds to Restore Stadium Neighborhood Are Spent...As It’s Leveled*

Countless hot dogs were passed down the aisle to hungry fans in Tiger Stadium in Detroit over the years. This long-lived venue stood for nearly 100 years after its opening on April 20, 1912, and is still pushing pork even after its demolition in 2009.

In March 2009, Congress approved a spending bill worth \$410 billion to fund government agencies.<sup>149</sup> This bill was larded up with over 8,000 earmarks worth a whopping \$11 billion.<sup>150</sup> One of those earmarks, secured by a member of the Michigan delegation and worth \$3.8 million, was intended for the conservation of the much-beloved Tiger Stadium and associated community development.<sup>151</sup> Mind you, the country was still recovering from one of its greatest financial strikeouts of all time, including the near-collapse of Michigan’s auto industry. At the time, money – federal or otherwise – was not easy to come by. These federal funds were provided to the Old Tiger Stadium Conservancy, which intended to preserve a portion of the old field and redevelop the neighborhood.

In April 2000, the Detroit Tigers moved into their new stadium, Comerica Park, in downtown Detroit. Meanwhile, their former field sat idle as city commissioners, owners, and elected officials decided what to do with the property. When it became clear that the field and stadium would likely be destroyed, the Old Tiger Stadium Conservancy formulated a plan to preserve a portion of the old stadium. The \$3.8 million earmark in 2009 was dedicated to supporting their efforts<sup>152</sup>. However, news reports indicate that “despite the group’s fundraising efforts, Detroit’s Economic Development Corporation Commission voted 7-1 on June 2, 2009 to level the stadium anyway.”<sup>153</sup> Stadium demolition notwithstanding, the \$3.8 million stuck around to play taxpayer-funded extra innings.

While the dreams of the Conservancy were sent to the dugout, the earmarked funds were not returned to the U.S. Treasury. Earmark ban or no, Detroit has until 2016 to find a good use for

<sup>148</sup> “Congresswomen Carolyn B. Maloney to Appear On-Stage with ABT,” American Ballet Theatre; [http://www.abt.org/insideabt/news\\_display.asp?News\\_ID=444](http://www.abt.org/insideabt/news_display.asp?News_ID=444)

<sup>149</sup> Public Law 111-8; <https://www.congress.gov/bill/111th-congress/house-bill/1105?q=%7B%22search%22%3A%5B%22%5C%22p111-8%5C%22%22%5D%7D>

<sup>150</sup> Taxpayers for Common Sense, fiscal year 2009, Earmark Data lists, (8467 earmarks totaling \$11,001,596,542 included in the 9 bills comprising Public Law 111-8 and having either a House or Senate requesting member); <http://www.taxpayer.net/library/article/earmark-data>

<sup>151</sup> Explanatory Statement Submitted by Mr. Obey, Chairman of the House Committee on Appropriations, Regarding H.R. 1105, Omnibus Appropriations Act, 2009, Congressional Record Vol 155, No 31, pg. H2574, February 23, 2009; <https://www.congress.gov/crec/2009/02/23/CREC-2009-02-23-bk2.pdf>

<sup>152</sup> Congressional Record Vol 155, No. 38, pg. S. 2741, March 4, 2009; <https://www.congress.gov/congressional-record/2009/03/04/senate-section/article/S2734-2>

<sup>153</sup> Dan Austin, “Renderings reveal future of Tiger Stadium, field,” *Detroit Free Press*, December 16, 2014; <http://www.freep.com/story/money/business/michigan/2014/12/15/tiger-stadium-development-deal/20466685/>



those taxpayer funds, some of which have funded a bagel shop and a distillery in the Corktown neighborhood of Detroit.<sup>154</sup>

In December 2014, the Detroit Economic Development Corporation approved an \$11 million last-ditch plan to develop the stadium site and playing field using the \$3 million that remains of the original \$3.8 million earmark.<sup>155</sup> The \$8 million balance is expected to “be raised through grants and an extensive fundraising campaign.”<sup>156</sup> Detroit PAL and the Old Tiger Stadium Conservancy, the two organizations that developed the city-selected plan and are leading the fundraising initiative, have set fundraising deadlines between June 30, 2015 and March 31, 2016.<sup>157</sup>

In the 2011 movie *Moneyball*, Billy Bean, the general manager for the Oakland Athletics, says, “I hate to lose more than I need to win.” That sentiment appears to apply to Detroit’s earmark for Tiger Stadium and the reluctance to miss any chance to spend it. Appropriating \$3.8 million for the preservation of a historic baseball stadium neighborhood is strike one. To do so in the midst of the worst financial crisis our nation



has seen in decades is strike two. To keep those funds even after the city had demolished the stadium and plans change is strike three. When it comes to this earmark, taxpayers are hoping the fiscal umpires will yell “you’re out!”

## **MAKING FISH FOOD OUT OF TAXPAYER DOLLARS** *Shedd Aquarium Lands Millions in Taxpayer Handouts*

Most pork coming out of Washington smells like bacon, but these egregious earmarks have a rather fishy aroma. The Shedd Aquarium in Chicago is gobbling up tax dollars faster than a starving piranha can devour a bacon cheeseburger.

The Shedd Aquarium is the creation of John G. Shedd. A son of Chicago, Mr. Shedd amassed a fortune in the retailing industry and wanted to give back to the city by building an aquarium that rivaled those in other major cities around the world. With his initial donation of \$2 million, the Shedd Aquarium Society was founded on February 1, 1924 “to construct, maintain and operate

<sup>154</sup> Dustin Block, “Detroit Institute of Bagels set to open; Sen. Carl Levin celebrates reinvestment in the Old Tiger Stadium District,” *Michigan Live*, November 25, 2013; [http://www.mlive.com/news/detroit/index.ssf/2013/11/detroit\\_institute\\_of\\_bagels\\_se.html#incart\\_river\\_default](http://www.mlive.com/news/detroit/index.ssf/2013/11/detroit_institute_of_bagels_se.html#incart_river_default)

<sup>155</sup> “EDC selects developer for Michigan and Trumbull blocks of historic Tiger Stadium site,” Detroit Economic Growth Corporation, December 16, 2014; <http://www.degc.org/degc-news/edc-selects-developer-for-michigan-and-trumbull-blocks-of-historic-tiger-stadium-site>.

<sup>156</sup> “EDC selects developer for Michigan and Trumbull blocks of historic Tiger Stadium site,” Detroit Economic Growth Corporation, December 16, 2014; <http://www.degc.org/degc-news/edc-selects-developer-for-michigan-and-trumbull-blocks-of-historic-tiger-stadium-site>.

<sup>157</sup> “EDC selects developer for Michigan and Trumbull blocks of historic Tiger Stadium site,” Detroit Economic Growth Corporation, December 16, 2014; <http://www.degc.org/degc-news/edc-selects-developer-for-michigan-and-trumbull-blocks-of-historic-tiger-stadium-site>.

an aquarium... exclusively for educational and scientific purposes.”<sup>158</sup> Since then, the aquarium has grown to become one of the most famous and successful in the world.

The Shedd Aquarium in Chicago has been very financially fortunate throughout the years. For example, the aquarium generated over \$56 million in operating revenues in 2013.<sup>159</sup> The aquarium’s funding is distributed through earned revenue (77 percent), donations (16 percent), and the Chicago Park District (7 percent).<sup>160</sup> With 1.8 million visitors in 2014 and over 150 corporate donors, this aquarium should have no excuse for taking government handouts.<sup>161,162</sup> But that certainly didn’t stop congressional patrons from earmarking federal funds for it. In 2008, a slew of members of Congress from Illinois – including then-Senator Obama (D-IL) – went on a spending spree to earmark boatloads of money for the aquarium, including \$940,000 for invasive species research, \$260,000 to fund conservation education, \$47,000 for youth mentoring, \$401,000 for a juvenile delinquency program, and \$146,000 for community outreach and exhibits.<sup>163,164</sup> The water grows murky when trying to understand how an aquarium can generate so much revenue and still ask for more.

Since Congress banned earmarks, the Shedd Aquarium has obtained over \$750,000 in grants from the Department of Commerce, the Environmental Protection Agency, and the National Foundation for the Arts and Humanities.<sup>165</sup> These funds were collected as grants to improve outreach, education initiatives, and Museum of America programs.

It would certainly appear that, when it comes to federal funding, the Shedd Aquarium doesn’t have too many stories about the one that got away. Unfortunately, when it comes to shelling out federal dollars, taxpayers have been forced to swallow this whale of a tale – hook, line, and sinker. Given the aquarium’s success, it certainly would seem tough to justify this kind of largess. For example, the same year that the aquarium netted all of the earmarks listed above, the president and CEO of the



<sup>158</sup> “History and Architecture,” Shedd Aquarium, accessed May 4, 2015; <http://www.sheddaquarium.org/About-Us/History--Architecture/>.

<sup>159</sup> “Financial Statements,” Shedd Aquarium Society, December 31, 2013 and 2012; <http://www.sheddaquarium.org/Documents/Annual%20Reports%20and%20Financials/2013%20Shedd%20Aquarium%20Society%20Financial%20Statements.pdf>

<sup>160</sup> “Annual Impact Summary,” Shedd Aquarium, accessed May 4, 2015; <http://www.sheddaquarium.org/Documents/Annual%20Reports%20and%20Financials/Shedd%20Aquarium%202015%20Impact%20Summary.pdf>

<sup>161</sup> “Annual Impact Summary,” Shedd Aquarium, accessed May 4, 2015; <http://www.sheddaquarium.org/Documents/Annual%20Reports%20and%20Financials/Shedd%20Aquarium%202015%20Impact%20Summary.pdf>.

<sup>162</sup> Sharyl Attkisson, “Fishing For Your Tax Dollars,” *CBS Evening News*, April 18, 2008; <http://www.cbsnews.com/news/fishing-for-your-tax-dollars/>.

<sup>163</sup> Public Law 110-161, accessed May 11, 2015; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/html/CPRT-110HPRT39564-DivisionB.htm>.

<sup>164</sup> Public Law 110-161, accessed May 11, 2015; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/html/CPRT-110HPRT39564-DivisionB.htm>.

<sup>165</sup> “Shedd Aquarium Society,” USA Spending.gov, accessed May 4, 2015; <https://www.usaspending.gov/Pages/AdvancedSearch.aspx?sub=v&ST=G&FY=2012,2011&A=0&SS=USA&RN=Shedd%20aquarium%20society;> <https://www.usaspending.gov/Pages/AdvancedSearch.aspx?sub=v&ST=G&FY=2015,2014,2013&A=0&SS=USA&RN=Shedd%20aquarium%20society>.



Shedd Aquarium took home a pretty penny to run this non-profit. His income was \$894,752 in 2008.<sup>166</sup> Furthermore, “the aquarium has found friends among at least six of their home state members of congress... they each received campaign donations from aquarium officials, and then collectively channeled nearly \$1.8 million in earmarks for the Shedd Aquarium” in 2008.<sup>167</sup> On top of the campaign contributions, the aquarium spent \$120,000 in 2008 on lobbyists to grease the wheels of Congress.<sup>168</sup>

Earmarks may well have whetted or maintained the aquarium’s appetite for federal funds. Hopefully we’ll soon see a rising tide of fiscal restraint.

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<sup>166</sup> Oscar Avila, “High Price of Leadership”, *The Chicago Tribune*, June 13, 2010; [http://articles.chicagotribune.com/2010-06-13/business/ct-met-nonprofit-ceo-salaries-20100613\\_1\\_museum-executives-field-museum-president-ceo-ted-beattie/](http://articles.chicagotribune.com/2010-06-13/business/ct-met-nonprofit-ceo-salaries-20100613_1_museum-executives-field-museum-president-ceo-ted-beattie/)

<sup>167</sup> Sharyl Attkisson, “Fishing For Your Tax Dollars”, *CBS Evening News*, April 18, 2008; <http://www.cbsnews.com/news/fishing-for-your-tax-dollars/>.

<sup>168</sup> John G Shedd Aquarium, “Total Lobbying expenditures 2008,” Open Secrets; <http://www.opensecrets.org/lobby/clientsum.php?id=D000052590&year=2008>

## SEC. V FEDERAL FACILITIES & INFRASTRUCTURE

Federal facilities and infrastructure earmarks have long been a favorite pastime of congressional earmarkers. Earmarks funded projects that were notoriously parochial, benefitting local industries like wineries, or placing federal facilities and offices in home districts or states of specific members of Congress. To paraphrase the character of Dr. Ian Malcolm in *Jurassic Park*, earmarks were not some species that was obliterated by deforestation, or the building of a dam. Earmarks had their shot, and Congress selected them for extinction. However, some federal facilities found a way to survive with the help of their congressional patrons.

### PERENNIALY HEADING IN THE PORK DIRECTION

#### *Nearly \$17 Million a Year for Hawaii's East-West Center*

The East-West Center sits on 21 acres next to the University of Hawaii. Presumably wishing to be close to where the federal dollars are, it also maintains an office in Washington. It was established with the help of then-Senator Lyndon Johnson (D-TX), who introduced a bill in 1959 to “create an educational center in Hawaii to provide an ‘intellectual bridge’” and “a cultural and technical interchange” between the United States and countries in Asia and the Pacific Rim.<sup>169</sup>

The Center was first launched without being thoroughly vetted by congressional hearings and despite opposition from the State Department.<sup>170</sup> In 1960, then-Congressman Daniel Inouye (D-HI) joined his colleagues in the Hawaii delegation to press the Senate Appropriations Committee for funds to support the new Center – support that he would continue throughout his long tenure in the United States Senate, including as Chairman of the Appropriations Committee.<sup>171</sup>



The East-West Center runs exchange programs for Asian and American students, conducts research, and awards scholarships to study at the University of Hawaii. The Hawaii congressional delegation maintains that the Center is especially vital now, in light of the Administration’s “pivot” toward Asia.<sup>172</sup> However, grants like the one for \$750,000 that NASA recently awarded to the East-West Center to study Nepalese forests hardly seem “pivotal” to

<sup>169</sup> Staff Writer, “Hawaii Center Sought: Bills Call for an East-West Educational ‘Bridge,’” *New York Times*, June 10, 1959; <http://search.proquest.com/hnpnewyorktimes/docview/114785851/2F8135D97B2D4ED5PQ/1?accountid=45340>.

<sup>170</sup> Staff Writer, “East-West Center honors Inouye,” *Pacific Business News*, June 3, 2007; <http://www.bizjournals.com/pacific/stories/2007/06/04/daily1.html>.

<sup>171</sup> Chad Blair, “Outside Funding Is Helping Keep Hawaii’s East-West Center Afloat,” *Civil Beat*, January 30, 2013; <http://www.civilbeat.com/2013/01/18210-outside-funding-is-helping-keep-hawaiis-east-west-center-afloat/>.

<sup>172</sup> U.S. Senator Brian Schatz Press Release; <http://www.schatz.senate.gov/press-releases/senate-appropriations-committee-approves-167-million-for-east-west-center>

U.S.-Asia relations.<sup>173</sup> Even supporters of the Center’s mandate have been critical of its management, suggesting that all is not well in what many consider to be paradise. In fact, in late 2013, the Center’s energy team walked off the job in protest of the Center’s decision to move away from research in favor of “networked activities.”<sup>174</sup>

The Administration itself has sought to reduce funding for the Center in the recent years, even specifying that the reduced request in its most recent budget “encourages the East-West Center to raise revenue through private donors and to shift away from directly appropriated government funds.”<sup>175</sup> Since 1997, the Center has received \$104.5 million more than was requested on its behalf,<sup>176</sup> thanks to the continued support of the Hawaii delegation.<sup>177</sup> However, the Center’s leadership has expressed worry that it would eventually lose congressional backing – the source of its continued fiscal success – and began to raise private funds. The Center successfully increased non-appropriated funding from \$3.8 million in 1985 to \$15.8 million in 2012.<sup>178</sup>

Despite the fact that the Center has demonstrated its ability to raise private sector funds from individuals, foundations, and corporations, the Hawaii delegation continues to push for federal funds. In fact, a member of that delegation touted that, although the Administration requested “just \$10.8 million dollars” for the Center for fiscal year 2015, he was able to secure \$16.7 million, a \$6 million increase over the President’s request.<sup>179</sup> Likewise, other members of that state’s congressional delegation have vowed to continue congressional support for the Center.<sup>180</sup> While some favor showering the East-West Center with federal funds, taxpayers likely wish that the Center were headed in more fiscally sound direction.

## **A HEALTHY POUR OF FED FUNDS FOR GRAPE GENETICS**

### *Taxpayers Getting Squeezed for New York Wine Industry*

The United States Department of Agriculture’s Agriculture Research Service (ARS) has a unit spanning multiple locations dedicated to the research of grape genetics. The quest to understand the grape genome has been greatly aided by that trusty tool of porkers: earmarking. According to ARS, “the mission of the Grape Genetics Research Unit is the advancement of grape production through interdisciplinary research, breeding and technology transfer. The goals of the program are to reduce crop yield and quality losses to diseases, pests, and abiotic stress and improve grape and grape product quality and utilization.”<sup>181</sup>

<sup>173</sup> Lorin Eleni Gill, “NASA gives East-West Center in Hawaii \$750K to study Nepal forests,” *Pacific Business News*, January 29, 2015; [http://www.bizjournals.com/pacific/blog/morning\\_call/2015/01/nasa-gives-east-west-center-in-hawaii-750k-to.html](http://www.bizjournals.com/pacific/blog/morning_call/2015/01/nasa-gives-east-west-center-in-hawaii-750k-to.html)

<sup>174</sup> Ken Wills, “Exclusive: Turmoil at East-West Center in Hawaii as energy team quits,” *Reuters*, January 3, 2014; <http://www.reuters.com/article/2014/01/03/us-usa-eastwestcenter-resignations-idUSBREA020T720140103>

<sup>175</sup> Congressional Budget Justification, Department of State, Foreign Operations and Related Programs, Fiscal Year 2016, pg. 55; <http://www.state.gov/documents/organization/236395.pdf>.

<sup>176</sup> Congressional Research Service Memo, Emailed to Staff of U.S. Senator Jeff Flake, “Historical Funding for the East-West Center,” May 8, 2015.

<sup>177</sup> Chad Blair, “Outside Funding Is Helping Keep Hawaii’s East-West Center Afloat,” *Civil Beat*, January 30, 2013; <http://www.civilbeat.com/2013/01/18210-outside-funding-is-helping-keep-hawaiis-east-west-center-afloat/>.

<sup>178</sup> Chad Blair, “Outside Funding Is Helping Keep Hawaii’s East-West Center Afloat,” *Civil Beat*, January 30, 2013; <http://www.civilbeat.com/2013/01/18210-outside-funding-is-helping-keep-hawaiis-east-west-center-afloat/>.

<sup>179</sup> Office of Senator Brian Schatz Press Release, “Senate Appropriations Committee Approves \$16.7 Million for East-West Center,” <http://www.schatz.senate.gov/press-releases/senate-appropriations-committee-approves-167-million-for-east-west-center>.

<sup>180</sup> Chad Blair, “Outside Funding Is Helping Keep Hawaii’s East-West Center Afloat,” *Civil Beat*, January 30, 2013; <http://www.civilbeat.com/2013/01/18210-outside-funding-is-helping-keep-hawaiis-east-west-center-afloat/>.

<sup>181</sup> Grape Genetics Research, Agriculture Research Service; [http://www.ars.usda.gov/main/site\\_main.htm?modecode=80-60-10-00](http://www.ars.usda.gov/main/site_main.htm?modecode=80-60-10-00).

It seems that Congress is a one-stop shop for the wine industry. A favorite earmark of then-Senator Hillary Clinton (D-NY) was for the study of grape genetics, benefitting a select few wineries in New York since the mid-2000s. In fiscal year 2005, Congress increased funding for the study of grape genetics in Geneva, New York by \$125,000.<sup>182</sup> In fiscal year 2007, grape genetics received \$2.1 million in funding through a continuing resolution that maintained the previous earmark funding level.<sup>183</sup> Such earmarks persisted throughout the 2000s. In fiscal year 2008, then-Senator Clinton, Senator Chuck Schumer (D-NY), and three New York House members, Republican Jim Walsh (R-NY) and Democrats Mike Arcuri (D-NY) and Maurice Hinchey (D-NY), earmarked \$629,000 for Grape Genetic research.<sup>184</sup>



In addition, earmark ban or no, federal funding has persisted for this type of work. According to ARS' Office of Budget and Program, in fiscal year 2013, funding was marginally reduced to \$2 million – a funding level that has been maintained through fiscal year 2015.<sup>185</sup> According to the Research Leader at ARS' Grape Genetics Research Unit in Geneva, New York, federal funds were used to fund a full-time grape geneticist at the Grape Genetics Research Unit and support the viability of the wine and grape industry in New York. The wine and grape industry claims that it needs such research in order to develop new technologies and be a viable competitor in the global wine and grape market. However, most would agree that that is an appropriate responsibility for wine producers, rather than the role of the federal government. Using federal dollars for research undertaken on behalf of a single industry, overwhelmingly benefitting a single state, just doesn't pass the smell test.

According to a comprehensive study by MKF Research LLC, the U.S. wine, grape, and grape product industry is one of the most prosperous industries in the country, having accrued more than \$160 billion in revenue in 2007 (the latest available data).<sup>186</sup> The industry supports more than one million full-time employees and over 900,000 grape-bearing acres in the U.S.<sup>187</sup> Furthermore, according to the New York Wine and Grape Foundation, New York in 2013 had 320 wineries, compared with a reported 14 wineries in 1976.<sup>188,189</sup> The grape, grape juice, and wine industry in New York creates \$4.8 billion in economic benefits annually for the state.<sup>190</sup> This is an industry that can afford to bankroll its own research and development.

<sup>182</sup> U.S. House of Representatives Report 108-792, pg. 672; <http://www.gpo.gov/fdsys/pkg/CRPT-108hrpt792/pdf/CRPT-108hrpt792.pdf>.

<sup>183</sup> Email to Staff U.S. Senator Jeff Flake from Budget and Program Management Staff at Agricultural Research Service, May 4, 2015.

<sup>184</sup> Consolidated Appropriations Act, 2008, Division A, p. 113, <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionA.pdf>.

<sup>185</sup> Email to Senator Flake's Staff from Budget and Program Management Staff at Agricultural Research Service, May 4, 2015.

<sup>186</sup> MKF Research LLC, The Impact of Wine, Grapes, and Grape Products on the American Economy 2007: Family Businesses Building Value, 2007, pg. 3; [https://www.wineinstitute.org/files/mfk\\_us\\_econ\\_report07.pdf](https://www.wineinstitute.org/files/mfk_us_econ_report07.pdf).

<sup>187</sup> MKF Research LLC, The Impact of Wine, Grapes, and Grape Products on the American Economy 2007: Family Businesses Building Value, 2007, pg. 3; [https://www.wineinstitute.org/files/mfk\\_us\\_econ\\_report07.pdf](https://www.wineinstitute.org/files/mfk_us_econ_report07.pdf).

<sup>188</sup> Jim, Trezise, "Economic Impact of Grapes, Grape Juice and Wine: \$4.8 Billion," New York Wine & Grape Foundation, February 18, 2014; <http://www.newyorkwines.org/Articles?ArticleID=4205&FromHome=True>.

<sup>189</sup> Don Cazentre, *Syracuse.com*, March 31, 2014; [http://www.syracuse.com/drinks/index.ssf/2014/03/how\\_the\\_new\\_york\\_wine\\_industry.html](http://www.syracuse.com/drinks/index.ssf/2014/03/how_the_new_york_wine_industry.html).

<sup>190</sup> Jim, Trezise, "Economic Impact of Grapes, Grape Juice and Wine: \$4.8 Billion," New York Wine & Grape Foundation, February 18, 2014; <http://www.newyorkwines.org/Articles?ArticleID=4205&FromHome=True>.



It's worth noting that some of the largess showered on this industry has soured. In their zeal for wine and grapes, many members of the New York delegation earmarked funds for the construction of a new state-of-the-art lab and building for the Grape Genetics Research Center located in Geneva, New York. At least \$10.7 million of these funds came in the form of earmarks.<sup>191</sup> As confirmed by ARS's Office of Budget and Program, Congress appropriated a total of \$16.7 million for the design and initial construction of a new genetics center for fiscal year 2010.<sup>192</sup> However, these earmarked funds were even too much for Congress to handle. By fiscal year 2011, \$14.8 million of the unobligated funds were rescinded by Congress.<sup>193</sup>



Ultimately, due to the lack of funding, the new center was not built. Yet, according to ARS staff, the cost to taxpayers of *not* building the center was \$1.9 million, which had already been spent on design. Despite continued federal largess for this industry, taxpayers can breathe a sigh of relief that at least some of its funding died on the vine.

## **TAXPAYERS FUND A “FRESH” REDEVELOPMENT IN NY** *Buffalo’s Fruit Belt Benefits from Parochial Support*

The Fruit Belt neighborhood in Buffalo, New York is named for the early nineteenth century German immigrants who planted fruit orchards and gardens in the community.<sup>194</sup> In 2001, the Buffalo Niagara Medical Campus set up shop in an area nearby. The medical center now has 12,000 employees and the neighborhood is undergoing an era of revitalization.<sup>195</sup> Unwilling to miss a good opportunity to cherry-pick their pork, the area got taxpayer-funded congressional help.

Buffalo can thank their high-powered congressional delegation for securing an earmark for \$1.6 million in fiscal year 2008 for the Fruit Belt Redevelopment Plan.<sup>196</sup> The earmark was intended to cover the costs of community enhancements and to spur community development.<sup>197</sup> This

<sup>191</sup> U.S. House of Representatives Report 108-792, pg. 674; <http://www.gpo.gov/fdsys/pkg/CRPT-108hrpt792/pdf/CRPT-108hrpt792.pdf>, pg. 109; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionA.pdf>; Div. A (Agriculture and Rural Development), JES (Omnibus Appropriations Act, 2009), pg. 108; [https://earmarks.omb.gov/earmarks-public/resources/2009\\_citation\\_pdfs/conference\\_citation\\_1105.pdf](https://earmarks.omb.gov/earmarks-public/resources/2009_citation_pdfs/conference_citation_1105.pdf); Joint Explanatory Statement 111-279 (Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act, 2010) pg. 58, 91; [https://earmarks.omb.gov/earmarks-public/resources/2010\\_citation\\_pdfs/conference\\_citation\\_2250.pdf](https://earmarks.omb.gov/earmarks-public/resources/2010_citation_pdfs/conference_citation_2250.pdf);

<sup>192</sup> Email to U.S. Senator Flake's Staff from Budget and Program Management Staff at Agricultural Research Service, May 4, 2015.

<sup>193</sup> Email to U.S. Senator Flake's Staff from Budget and Program Management Staff at Agricultural Research Service, May 4, 2015.

<sup>194</sup> University of Buffalo Center for Urban Studies, "Our Community Partners and Neighborhood Initiatives," The Fruit Belt Neighborhood Initiative; [http://www.ub-esntp.com/content/pages/fruit\\_belt\\_ndi](http://www.ub-esntp.com/content/pages/fruit_belt_ndi)

<sup>195</sup> Buffalo Niagara Medical Campus, About, Our Team; <http://www.bnmc.org/about/our-team/>

<sup>196</sup> "U.S. House of Representatives Report 110-446, pg. 278; <https://www.congress.gov/110/crpt/hrpt446/CRPT-110hrpt446.pdf>

<sup>197</sup> City of Buffalo 2008 Federal Funding Requests; [http://www.city-buffalo.com/files/1\\_2\\_1/Mayor/2007-08%20Legislative\\_Agenda/FY08\\_Funding\\_Requests.pdf](http://www.city-buffalo.com/files/1_2_1/Mayor/2007-08%20Legislative_Agenda/FY08_Funding_Requests.pdf)



earmarked project was part of a larger revitalization plan expected to attract millions of dollars in additional public and private investment.<sup>198</sup> The revitalization effort includes the development of 49 rental townhomes, which were planned by the well-connected St. John Fruit Belt Development Corporation and were recently completed.<sup>199</sup>

Since that earmark and the subsequent earmark ban, taxpayers have continued to be on the hook as this housing project still receives substantial support from the federal government. By November 2014, when the project was completed, federal funding doled out by the state of New York comprised \$12.4 million of a total of \$15 million spent on the project. This included \$10 million through the New York State Division of Homes and Community Renewal's Low Income Housing Tax Credits, in addition to \$2.4 million in funds through the New York State HOME program.<sup>200</sup> The Federal Home Loan Bank of New York also awarded an \$857,500 grant to the project in January 2014.<sup>201</sup> The City of Buffalo also used \$2.7 million in HOME Investment Partnership grants from the Department of Housing and Urban Development for the project.<sup>202</sup>



Federal handouts are usually welcomed with open arms by the recipients and beneficiaries. That cannot be said about the Fruit Belt Redevelopment Plan. In fact, long-term residents of the area actually fear that the new townhouse units will drive up the prices, and therefore the property tax bills, of their homes, which could drive them out of the neighborhood.<sup>203</sup> While this earmark was purportedly secured to help the residents of the Fruit Belt, it could actually end up doing the opposite.

It appears that, when it comes to this neighborhood, the time is always ripe for parochial spending on local priorities.

## **THE MONEY SPIGOT THAT NO BAN WILL TURN OFF** *Corps Infrastructure Fund Keeps Parochial Dollars Flowing*

In 1992, two legendary bipartisan earmarkers, former House Transportation and Infrastructure Committee Chairman Bud Shuster (R-PA) and former appropriator John Murtha (D-PA),

<sup>198</sup> "Mayor Brown Hails Federal Delegation's Efforts to Support Funding for Buffalo Projects, City of Buffalo Office of the Mayor," July 2007, [http://m.ci.buffalo.ny.us/Home/Leadership/Mayor/Archive\\_Press\\_Releases/2007Archives/July2007/MayorBrownHailsFederalDelegationsEffortstoSupportF](http://m.ci.buffalo.ny.us/Home/Leadership/Mayor/Archive_Press_Releases/2007Archives/July2007/MayorBrownHailsFederalDelegationsEffortstoSupportF).

<sup>199</sup> Deidre Williams, "In Fruit Belt, some have soured on developer's plan for townhouses," *The Buffalo News*, October 20, 2013;

<http://www.buffalonews.com/city-region/development/in-fruit-belt-some-have-soured-on-developer8217s-plan-for-townhouses-20131020>.

<sup>200</sup> Governor Anthony Cuomo, "Governor Cuomo Announces Completion of Townhomes in Buffalo's Historic Fruit District," November 3, 2014; <https://www.governor.ny.gov/news/governor-cuomo-announces-completion-townhomes-buffalo-s-historic-fruit-district>.

<sup>201</sup> "FHLBNY Awards \$1.4 Million in Affordable Housing Frants in Buffalo, Lackawanna and Niagara County," Federal Home Loan Bank of New York, January 14, 2015; <http://www.fhlbny.com/community/housing-programs/ahp/grant-recipients/january-2014/buffalo-lackawanna-and-niagara-county.aspx>.

<sup>202</sup> "Governor Cuomo Announces Completion of Townhomes in Buffalo's Historic Fruit District," Governor Anthony Cuomo, November 3, 2014, <https://www.governor.ny.gov/news/governor-cuomo-announces-completion-townhomes-buffalo-s-historic-fruit-district>.

<sup>203</sup> "Some in Fruit Belt Concerned about gentrification," *WGRZ.com News* May 4, 2015; <http://www.wgrz.com/story/news/local/downtown/2015/05/04/fruit-belt-buffalo/26906473/>.

launched the U.S. Army Corps of Engineers' (USACE) environmental infrastructure program with a South Central Pennsylvania Environmental Infrastructure "pilot program."<sup>204</sup> The program allowed appropriators to funnel money to particular communities for municipal water supply, drinking water treatment, and wastewater treatment projects.<sup>205</sup> This infrastructure is normally paid for by the communities that use it, supplemented by a combination of utility bills and municipal bonds. There is also an existing federal program – EPA's Clean Water State Revolving Fund – that provides assistance in the form of low interest loans for water quality infrastructure programs. But, pork-loving lawmakers created another federal program to layer on top of these existing funding streams.

Despite the environmental infrastructure program's duplication of other federal efforts, and the facts that it gave out grants instead of loans, was not part of the USACE's primary mission, and was not subject to environmental and economic assessments, the program expanded. In the last spending bill before the earmark ban took effect in 2010, the initial "pilot program" had spawned earmarks for at least 21 similar programs throughout the United States, totaling over \$72 million. This funneling of money to USACE projects was hardly distributed evenly across the country. The 16 programs that were earmarked to the districts and states of party leadership and appropriators accounted for nearly all of the funds – just less than \$70 million in fiscal year 2010. In fact, the appropriators were so tied to these particular pipelines of pork that, following the redistricting resulting from the 2000 Census, the counties included in the South Central Pennsylvania Environmental Infrastructure fund were updated to match the new alignment of Representative Murtha's district.<sup>206</sup>



Although the environmental infrastructure funds began as earmarks, the 2010 earmark ban certainly did not stop the funding flow. Because Congress could no longer earmark to a particular environmental infrastructure project, it created a number of "slush-y funds" that allow the USACE to direct funds without congressional oversight.<sup>207</sup> One of these funds is designated for "environmental infrastructure projects."<sup>208</sup> No president has requested funding for environmental infrastructure projects – not Clinton, not Bush, not Obama – but Congress continues to appropriate millions of dollars for this fund. The fiscal year 2015 omnibus bill funding the federal government financed this environmental infrastructure fund to the tune of \$50 million.

<sup>204</sup> "Crossroads: Congress, The Corps of Engineers and the Future of America's Water Resources", National Wildlife Federation and Taxpayers for Common Sense, pg. 65, March 2004; <http://www.taxpayer.net/images/uploads/downloads/Crossroads2004.pdf>.

<sup>205</sup> Public Law 102-580, October 31, 1992, Section 313; <http://www.gpo.gov/fdsys/pkg/STATUTE-106/pdf/STATUTE-106-Pg4797.pdf>.

<sup>206</sup> Public Law 110-114, November 8, 2007, Section 3143; <http://www.gpo.gov/fdsys/pkg/PLAW-110publ114/pdf/PLAW-110publ114.pdf>.

<sup>207</sup> "Our Take: Congress Turns to Slush Fund Water Projects," Taxpayers for Commonsense, January 15, 2014;

<http://www.taxpayer.net/library/article/congress-turns-to-slush-to-fund-water-projects>

<sup>208</sup> Public Law 113-76, January 15, 2014; <http://www.gpo.gov/fdsys/pkg/CREC-2014-12-11/pdf/CREC-2014-12-11.pdf>.

The way that funds travel from these slush-y funds to a project is as murky as pond water. In the appropriations language, Congress provides that “the Corps retains complete control over project-specific allocations decisions,” but then goes on to list some criteria for the USACE to consider.<sup>209</sup> These criteria include “the extent to which the work will enhance national, regional, or local economic development,” “number of jobs created directly by the funded activity,” “projects with the greater economic impact,” and “projects in counties or parishes with high poverty rates.”<sup>210</sup> Noticeably absent from the criteria is any mention of water quality, water needs, cost effectiveness, or existing water infrastructure.

Somehow the USACE decides which projects receive funds from the environmental infrastructure slush fund and produces a Civil Works Work Plan that specifies the projects and funding levels.<sup>211</sup> Comparing the post-earmark ban fiscal year 2014 work plan<sup>212</sup> to the pre-ban list of earmarks for fiscal year 2010 shows an uncanny level of similarity. For example, Patient Zero, a South Central Pennsylvania Environmental Infrastructure program, received \$540,000 in the USACE fiscal year 2014 work plan – more than half a million dollars to celebrate its 22<sup>nd</sup> birthday. As of fiscal year 2014, at least 21 other environmental infrastructure programs that began as earmarks continued to receive funds from the Environmental Infrastructure fund.

Because there are no longer earmark requests to show that a particular member of Congress asked for a particular project, it is impossible to definitively know why any single project was funded. But some of the projects that began as earmarks and have endured are in the states and districts of powerful members. The largest single environmental infrastructure project in the fiscal year 2014 work plan is \$4 million for rural Nevada, specifically to “complete the Searchlight project,” which happens to be located in the hometown of then-Senate Majority Leader Harry Reid (D-NV).<sup>213</sup> The South Central Pennsylvania Environmental Infrastructure program continues to be funded well after the departure of Representative Bud Shuster from Congress. This might have something to do with the fact that his son, Representative Bill Shuster (R-PA), is now the chairman of the House Transportation and Infrastructure Committee, which has oversight over the USACE.

The Environmental Infrastructure program is a microcosm of all that was wrong with earmarks. It began as a pet project to bypass existing federal programs and direct infrastructure funds that were outside the mission of the USACE into a powerful member’s district. Other members of Congress got into the action and were soon piping close to \$90 million per year into their districts. After the earmark ban, which was an attempt to control this kind of spending spree, it appears that Congress simply diverted the pork pipeline into a slush fund. It turns out that you can divert the pork pipeline, but you can’t shut it off.

<sup>209</sup> Public Law 113-76, January 15, 2014; <http://www.gpo.gov/fdsys/pkg/CREC-2014-12-11/pdf/CREC-2014-12-11.pdf>.

<sup>210</sup> Public Law 113-76, January 15, 2014; <http://www.gpo.gov/fdsys/pkg/CREC-2014-12-11/pdf/CREC-2014-12-11.pdf>

<sup>211</sup> “Civil Works Budget and Performance: Work Plan,” US Army Corps of Engineers; <http://www.usace.army.mil/Missions/CivilWorks/Budget.aspx>

<sup>212</sup> “Civil Works Budget and Performance: Work Plan (Fiscal year 2014),” US Army Corps of Engineers; [http://www.usace.army.mil/Portals/2/docs/civilworks/budget/workplan/fy14wp\\_cg\\_09feb2015.pdf](http://www.usace.army.mil/Portals/2/docs/civilworks/budget/workplan/fy14wp_cg_09feb2015.pdf)

<sup>213</sup> “Civil Works Budget and Performance: Work Plan (Fiscal year 2014),” US Army Corps of Engineers; [http://www.usace.army.mil/Portals/2/docs/civilworks/budget/workplan/fy14wp\\_cg\\_09feb2015.pdf](http://www.usace.army.mil/Portals/2/docs/civilworks/budget/workplan/fy14wp_cg_09feb2015.pdf)

## SEC. VI DEFENSE SPENDING

The Department of Defense is the Tyrannosaurus Rex of federal agencies in terms of its size and budget. But, as the following examples illustrate, that doesn't mean the mighty T-Rex is all muscle. There's plenty of fat to be found lying around a department that still operates some dinosaur-like programs.

### **TAXPAYER REQUEST? SAY RIP TO THE RIF** *Slush Fund for Defense Pork Needs to Go Away*

Despite the fact that defense earmarks became symbolic of the dubious nature of the earmark process, supporters of defense pork appear downright militant in their desire to keep the federal funds flowing.

The last fiscal year in which earmarks were formally requested, approved, and signed into law was fiscal year 2010. That year, the bill making appropriations for the Department of Defense alone contained more than 1,100 earmarks when it was approved by the House of Representatives. Roughly half of those earmarks were directed to private, for-profit companies.

In the spring of 2010, the House leadership announced a ban on earmarks for for-profit companies. Not coincidentally, shortly thereafter the House Armed Services Committee authorized a program called the "Rapid Innovation Program." At the time, concerns were registered that the Rapid Innovation Fund (RIF), as it is now known, was going to be a way "to circumvent an initiative in the House to end all earmarking for for-profit companies."<sup>214</sup> However, its biggest advocate in Congress insisted that the program was meant "to direct the Defense Department to seek out and to work with small- and medium-sized companies to fund promising ideas and concepts."<sup>215</sup>



More than \$1 billion of taxpayer funds – which the Department of Defense has never requested – have gone to the RIF to address concerns over "the ability of small- and medium-sized companies to approach the Defense Department with innovative solutions."<sup>216,217,218</sup> In the original *Jurassic Park* film, Dr. Ian Malcom tries to explain that, no matter how you try to

<sup>214</sup> Frank Oliveri, "Procurement Plan Raises Earmark Questions," *CQ*, July 15, 2010; <http://www.cq.com/doc/news-3702684?0&search=ybDIXIN9>.

<sup>215</sup> Frank Oliveri, "Procurement Plan Raises Earmark Questions," *CQ*, July 15, 2010; <http://www.cq.com/doc/news-3702684?0&search=ybDIXIN9>.

<sup>216</sup> Dan Cundiff, Rapid Innovation Fund Program, Overview, January 2015, pg. 5; [http://www.defenseinnovationmarketplace.mil/resources/RIF\\_Overview\(Jan2015\).pdf](http://www.defenseinnovationmarketplace.mil/resources/RIF_Overview(Jan2015).pdf); More than \$500 million in FY 2011, \$200 million in FY 2012, \$250 million in FY 2013, \$175 million in FY 2014, and \$225 million in FY 2015.

<sup>217</sup> "Chairman Norm Dicks' Remarks to the Small Business Technology Council on Receiving the Milton Stewart Award," September 29, 2010, [http://www.nsba.biz/docs/norm\\_dicks\\_remarks\\_on\\_receiving\\_milton\\_stewart\\_award.pdf](http://www.nsba.biz/docs/norm_dicks_remarks_on_receiving_milton_stewart_award.pdf).

<sup>218</sup> Congressional Record, 112<sup>th</sup> Congress, H4964; <http://www.gpo.gov/fdsys/pkg/CREC-2012-07-18/pdf/CREC-2012-07-18-pt1-PgH4926.pdf#page=39>.



restrict it, “life finds a way.” The data made available by the Department of Defense on the RIF awards makes it clear that, no matter how you try to restrict them, formerly earmarked defense projects will also find a way.

For example:

- Two earmarks were doled out in fiscal years 2008 and 2010 for projects dubbed “Automated Test and Re-Test,” and “Submarine Test and Re-Test.”<sup>219</sup> Worth a total of \$3.6 million, these earmarks were requested by a former Congressman from Virginia for a company in Virginia.<sup>220</sup> The RIF provided the same company an award for a project called, “Automated Test and Retest for NGEN Information Assurance and Security” in fiscal year 2011.<sup>221</sup>
- A company in Washington received a \$4 million earmark in fiscal year 2010 for a project called “Global UAS Networking and Interoperability System (GUNIS).”<sup>222,223</sup> Just one year later, the same company received an award from the RIF for “GUNIS Phase 2: Aerial Router Live Testing (GP2).”<sup>224</sup>
- In fiscal year 2010, a for-profit company located in Wichita, Kansas was the recipient of an earmark worth \$1.6 million for “Development of Improved Lighter-Weight IED/EFP Armor Solutions,” at the behest of a sitting Senator and former Congressman from Kansas.<sup>225,226</sup> According to RIF data, the same company received an award in fiscal year 2011 for a project called, “Optimization and Development of a Light Weight SOF Ballistic Protection Insert System.”<sup>227</sup>
- A Texas company received a \$3 million earmark in fiscal year 2008 for “Crosshairs Hostile Fire Indicating System.”<sup>228,229,230</sup> The same company received a RIF award in fiscal year 2011 for “Extended Range CROSSHAIRS for Fixed Site Installation.”<sup>231</sup>

<sup>219</sup> Fiscal year 2008 earmark: Conference Report to Accompany HR 3222, fiscal year 2008, pg. 468; <http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt434/pdf/CRPT-110hrpt434.pdf>; FY 2010 earmark: Explanatory Statement, Department of Defense Appropriations Act Fiscal Year 2010, pg. 529; <http://www.gpo.gov/fdsys/pkg/CPRT-111HPRT53800/pdf/CPRT-111HPRT53800-Part2.pdf>.

<sup>220</sup> FY 2008 earmark: Conference Report to Accompany HR 3222, FY 2008, pg. 468; <http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt434/pdf/CRPT-110hrpt434.pdf>; FY 2010 earmark: Explanatory Statement, Department of Defense Appropriations Act Fiscal Year 2010, pg. 529; <http://www.gpo.gov/fdsys/pkg/CPRT-111HPRT53800/pdf/CPRT-111HPRT53800-Part2.pdf>.

<sup>221</sup> “FY 2011 RIF Awards,” Defense Innovation Marketplace, Rapid Innovation Fund; <http://www.defenseinnovationmarketplace.mil/rif.html>.

<sup>222</sup> Taxpayers for Common Sense, fiscal year 2010 National Earmarks; <http://www.taxpayer.net/library/article/earmark-data>.

<sup>223</sup> Explanatory Statement, Department of Defense Appropriations Act Fiscal Year 2010, pg. 497; <http://www.gpo.gov/fdsys/pkg/CPRT-111HPRT53800/pdf/CPRT-111HPRT53800-Part2.pdf>.

<sup>224</sup> Defense Innovation Marketplace, “FY 2011 RIF Awards,” Rapid Innovation Fund; <http://www.defenseinnovationmarketplace.mil/rif.html>.

<sup>225</sup> Open Secrets, Todd Tiaht Earmarks (Fiscal Year 2010); <https://www.opensecrets.org/politicians/earmarks.php?cid=N00008144>

<sup>226</sup> Explanatory Statement, Department of Defense Appropriations Act Fiscal Year 2010, pg. 466; <http://www.gpo.gov/fdsys/pkg/CPRT-111HPRT53800/pdf/CPRT-111HPRT53800-Part2.pdf>.

<sup>227</sup> “FY 2011 RIF Awards,” Defense Innovation Marketplace, Rapid Innovation Fund; <http://www.defenseinnovationmarketplace.mil/rif.html>.

<sup>228</sup> Office of Management and Budget, Earmark Database, “Crosshairs Hostile Fire Indication System, fiscal year 2008; [https://earmarks.omb.gov/earmarks-public/2008-earmarks/earmark\\_344842.html](https://earmarks.omb.gov/earmarks-public/2008-earmarks/earmark_344842.html).

<sup>229</sup> “Conference Report to Accompany HR 3222,” FY 2008, pg. 408, <http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt434/pdf/CRPT-110hrpt434.pdf>.

<sup>230</sup> “Crosshairs Hostile Fire Indication System,” fiscal year 2008, Office of Management and Budget, Earmark Database; [https://earmarks.omb.gov/earmarks-public/2008-earmarks/earmark\\_344842.html](https://earmarks.omb.gov/earmarks-public/2008-earmarks/earmark_344842.html).

<sup>231</sup> “FY 2011 RIF Awards,” Defense Innovation Marketplace, Rapid Innovation Fund; <http://www.defenseinnovationmarketplace.mil/rif.html>.



If defense earmarking before the earmark ban was a multi-billion dollar summer blockbuster, the RIF is simply its unfortunate sequel. When the RIF was established, it was only authorized through September 30, 2015. It's time for Congress put an end to this way of life for parochial defense projects and let the RIF rest in peace without reauthorization.

## **CALIFORNIA DREAMING FOR THE ARROYO CENTER** *Surf's Up for Influential Members & Parochial Think Tank*

The RAND Arroyo Center, part of the RAND Corporation, was founded in 1982 with a mission to serve as “the United States Army's sole federally funded research and development center (FFRDC) for studies and analysis.”<sup>232</sup> Its website touts that, “as an FFRDC, Arroyo enables the Army to maintain a strategic relationship with an independent, nonprofit source of high-quality, objective analysis that can sustain deep expertise in domains of direct relevance to perennial Army concerns.”<sup>233</sup>



Interestingly, the U.S. Army already operates the U.S. Army War College, which contains the Strategic Studies Institute. In addition, there are almost as many think tanks doing research on issues related to the Army as there are grains of sand on the beach. The RAND Corporation itself produced a report entitled, “Rand: How Think Tanks Interact with the Military.” The report states that the Department of Defense (DOD) has “used and nurtured a large array of sources for



[geopolitical trend research and the implications of different foreign policy] research, ranging from small institutes, such as the Center for Strategic and International Studies (CSIS) and the Lexington Institute, funded with corporate or individual donations, to larger policy research organizations such as the Institute for Defense Analyses under contract to the DOD.”<sup>234</sup> While the research produced by the Arroyo Center may be useful to the Army, it's tough to make the case that the RAND Arroyo Center isn't performing duplicative functions that are also being carried out by other entities.

The Arroyo Center is just one of the several FFRDCs that the RAND Corporation administers.<sup>235</sup> It is probably helpful that the RAND Corporation is strategically located in areas that are home

<sup>232</sup> Rand Arroyo Center, About Rand; <http://www.rand.org/ard/about.html>.

<sup>233</sup> Rand Arroyo Center, About Rand; <http://www.rand.org/ard/about.html>.

<sup>234</sup> Michael D. Rich, “RAND: How Think Tanks Interact with the Military,” *U.S. Foreign Policy Agenda*, Volume 7, Number 2, November 2002, pg. 22; <http://www.rand.org/content/dam/rand/pubs/reprints/2006/RP1050.pdf>.

<sup>235</sup> RAND Corporation, RAND Federally Funded Research and Development Centers (FFRDCs), accessed June 4, 2015 <http://www.rand.org/about/locations.html>.

to key congressional earmarkers: Santa Monica, California; Arlington, Virginia; and Pittsburgh, Pennsylvania.<sup>236</sup>

The RAND Arroyo Center, located in Santa Monica, has received four earmarks worth \$12.4 million since fiscal year 2005.<sup>237</sup> The Arroyo Center received an earmark of \$2.8 million in fiscal year 2005.<sup>238</sup> The Center received a program adjustment earmark in fiscal year 2008 for \$4 million.<sup>239</sup> In fiscal year 2009, an influential member of the California delegation doled out a \$4 million earmark for the Center and, as a member of the Senate Defense Appropriations Subcommittee, requested an earmark of \$1.6 million for it in fiscal year 2010.<sup>240,241</sup> Also in fiscal year 2010, a key member of the House Defense Appropriations Subcommittee from Virginia requested the same earmark for his state as well.<sup>242</sup>

The earmark ban has done little to slow this federal funding. The center received \$18.9 million in federal funding in fiscal year 2014, which was \$7 million above the President’s request in order to “restore [the] unjustified reduction,” and \$20.6 million in fiscal year 2015.<sup>243,244</sup>

In 2011, Navy Admiral Mike Mullen, who was then the chairman of the Joint Chiefs of Staff, suggested that “the single, biggest threat to our national security is our debt, so I also believe we have every responsibility to help eliminate that threat.”<sup>245</sup> Taxpayers are surely hoping that his sentiment applies to the military, and that we’ll soon see federal officials riding a wave of fiscal discipline.

<sup>236</sup> RAND Corporation, RAND Locations, accessed June 4, 2015; <http://www.rand.org/about/locations.html>.

<sup>237</sup> Office of Management and Budget, Earmarks: fiscal years 2005, FY2008, FY 2009, FY 2010; [https://earmarks.omb.gov/earmarks-public/earmarks/earmark\\_217299.html](https://earmarks.omb.gov/earmarks-public/earmarks/earmark_217299.html), [https://earmarks.omb.gov/earmarks-public/2008-earmarks/earmark\\_345037.html](https://earmarks.omb.gov/earmarks-public/2008-earmarks/earmark_345037.html), [https://earmarks.omb.gov/earmarks-public/2009-earmarks/earmark\\_500303562.html](https://earmarks.omb.gov/earmarks-public/2009-earmarks/earmark_500303562.html), [https://earmarks.omb.gov/earmarks-public/2009-earmarks/earmark\\_500303562.html](https://earmarks.omb.gov/earmarks-public/2009-earmarks/earmark_500303562.html).

<sup>238</sup> Office of Management and Budget, Fiscal Year 2005 Earmarks; [https://earmarks.omb.gov/earmarks-public/earmarks/earmark\\_217299.html](https://earmarks.omb.gov/earmarks-public/earmarks/earmark_217299.html).

<sup>239</sup> House of Representatives Report 110-434, pg. 4038; <http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt434/pdf/CRPT-110hrpt434.pdf>.

<sup>240</sup> Public Law 110-329, pg. 515; [https://earmarks.omb.gov/earmarks-public/2009-earmarks/earmark\\_500303562.html](https://earmarks.omb.gov/earmarks-public/2009-earmarks/earmark_500303562.html).

<sup>241</sup> =Explanatory Statement, Department of Defense Appropriations Act Fiscal Year 2010, pg. 484; <http://www.gpo.gov/fdsys/pkg/CPRT-111HPRT53800/pdf/CPRT-111HPRT53800-Part2.pdf>.

<sup>242</sup> = Explanatory Statement, Department of Defense Appropriations Act Fiscal Year 2010, pg. 484; <http://www.gpo.gov/fdsys/pkg/CPRT-111HPRT53800/pdf/CPRT-111HPRT53800-Part2.pdf>.

<sup>243</sup> “Explanatory Statement” to PL 113-76, pg. H725; <http://www.gpo.gov/fdsys/pkg/CREC-2014-01-15/pdf/CREC-2014-01-15-house-bk2.pdf>

<sup>244</sup> Department of Defense Fiscal Year 2016 President’s Budget Submission, Army Justification Book of Research, Development, Test & Evaluation, Budget Activity 6, pg. 40; <http://asafm.army.mil/Documents/OfficeDocuments/Budget/budgetmaterials/fy16/rforms/vol6.pdf>.

<sup>245</sup> Marshall Tyrone, “Debt is the Biggest Threat to National Security,” September 22, 2011; <http://www.defense.gov/news/newsarticle.aspx?id=65432>.

## SEC. VII NOT YOUR TYPICAL EARMARKS

In the original *Jurassic Park* movie, the dilophosaurus presents itself as an unassuming dinosaur, quite different from its dangerous counterparts like the velociraptor. But this dinosaur is just as lethal as its kin, even though it initially appears friendly. Earmarks are no different. Typical earmarks as we knew them used to involve specify specific sums of money for particular projects at the end of appropriations bills. However, atypical earmarks are not uncommon and manifest themselves in different forms. Make no mistake: these atypical earmarks are just as costly as their more common counterparts.

### DIAGNOSIS? A CASE OF THE BAY STATE BOONDOGGLES

#### *Medicare Carve Out for Mass. Costs Taxpayers Millions*

Diagnosing every parochial pork provision isn't always as easy as flipping to a clearly defined earmark table in a spending bill. This one, for instance, evolved from a lab in the deep recesses of Congress – genetically engineered pork that came right from the petri dish of a long-time Senator from Massachusetts. Under his direction, Congress approved legislation that is siphoning millions of dollars from Medicare towards the Bay State at the expense of every taxpayer in the nation.<sup>246</sup>



Only a real political scientist could have figured this one out. Masked in technicality, the rules were changed so that those governing Medicare payouts would direct more cash to the Bay State.<sup>247</sup> It works like this: before the passage of Obamacare in 2010, states were allotted money from Medicare to pay for the wages of doctors and staff.<sup>248</sup> Each state would divide the money among the hospitals, and according to the rules, the urban hospitals had to be compensated at least as much as the rural hospitals were.<sup>249</sup> Urban hospitals typically pay higher wages than rural hospitals to account for the higher cost of living. With this in mind, a change was discreetly

<sup>246</sup> Kimberly A. Strassel, "John Kerry's Obamacare Boondoggle," *The Wall Street Journal*, June 20, 2013; <http://www.wsj.com/articles/SB10001424127887323393804578557802237872788>.

<sup>247</sup> Kimberly A. Strassel, "John Kerry's Obamacare Boondoggle," *The Wall Street Journal*, June 20, 2013; <http://www.wsj.com/articles/SB10001424127887323393804578557802237872788>.

<sup>248</sup> Kimberly A. Strassel, "John Kerry's Obamacare Boondoggle," *The Wall Street Journal*, June 20, 2013; <http://www.wsj.com/articles/SB10001424127887323393804578557802237872788>.

<sup>249</sup> Kimberly A. Strassel, "John Kerry's Obamacare Boondoggle," *The Wall Street Journal*, June 20, 2013; <http://www.wsj.com/articles/SB10001424127887323393804578557802237872788>.

pushed into the new healthcare law that required the Medicare money to come from a national pool rather than the individual state allocations.<sup>250</sup>

Now, did this specifically mention Massachusetts? No. However, the most rural hospital in the Old Colony State was in Nantucket, described as “the tony playground of the superrich.”<sup>251</sup> The Boston Globe reported that the “Nantucket hospital previously had been paid under a different formula, but made the switch to the rural hospital payment system to help the rest of Massachusetts hospitals reap a financial reward even though its own Medicare reimbursement would decline as a result.”<sup>252</sup> In 2013, due to this gaming of the system in relation to the Affordable Care Act, hospitals all over Massachusetts gobbled up \$257 million in extra funding that came from a national pool of Medicare dollars, at the expense of other states.<sup>253</sup>

**FY13 ESTIMATED MEDICARE WAGE PAYMENTS**  
How states fare under the current Medicare system to calculate wage reimbursements using the rural floor:

The biggest winners		Number of hospitals	Receiving rural floor adjustment
Difference			
Mass.	\$256.6m	82	81
Calif.	\$131.2m	316	193
Ariz.	\$42m	70	55
Conn.	\$21.7m	35	13
N.J.	\$19.4m	78	42
The biggest losers			
N.Y.	-\$56.3m	168	1
Texas	-\$46.7m	414	3
Fla.	-\$36.7m	192	11
Ill.	-\$35.4m	139	8
Mich.	-\$29.1m	118	1

SOURCE: Federal figures provided by Congress. The Globe has verified its accuracy. GLOBE STAFF

Because Medicare costs are fixed for the whole country, “[Massachusetts] get[s] \$250 million more, [and] someone gets \$250 million less. In the Nantucket case, that ‘someone’ is much of the rest of the country which, having finally figured out what’s happening, is now mightily incensed.”<sup>254</sup> Even President Obama’s former administrator of the Centers for Medicare and Medicaid Services said “[i]t’s a zero sum game. What Massachusetts gets comes from everybody else.”<sup>255</sup> While Massachusetts is not the only benefactor, it is much farther ahead of the others. For example, California raked in an estimated \$131.2 million in 2013 and even Arizona received an estimated \$42 million, albeit far lower than the \$256.6 million that Massachusetts earned. On the other side of the spectrum, New York lost a whopping \$56.3 million in 2013, Texas lost \$46.7 million, and Florida missed out on \$36.7 million in potential payments.<sup>256</sup>

In January 2013, Senators Tom Coburn (R-OK) and Claire McCaskill (D-MO) made the first bipartisan attempt to amend this language in the Affordable Care Act by passing a sunset

<sup>250</sup> Kimberly A. Strassel, “John Kerry’s Obamacare Boondoggle,” *The Wall Street Journal*, June 20, 2013; <http://www.wsj.com/articles/SB10001424127887323393804578557802237872788>.

<sup>251</sup> Kimberly A. Strassel, “John Kerry’s Obamacare Boondoggle,” *The Wall Street Journal*, June 20, 2013; <http://www.wsj.com/articles/SB10001424127887323393804578557802237872788>; See also US Census Bureau, “Nantucket County, Massachusetts”, Accessed June 6, 2015, <http://quickfacts.census.gov/qfd/states/25/25019.html>.

<sup>252</sup> Tracy Jan, “21 States Take Aim at Mass. Hospitals’ Medicare Windfall,” *The Boston Globe*, January 13, 2013; <http://www.bostonglobe.com/news/nation/2013/01/13/states-planning-legislative-fight-for-massachusetts-medicare-windfall/HV4WGDUCSOISoTxicbwSUL/story.html#>.

<sup>253</sup> Tracy Jan, “21 States Take Aim at Mass. Hospitals’ Medicare Windfall,” *The Boston Globe*, January 13, 2013; <http://www.bostonglobe.com/news/nation/2013/01/13/states-planning-legislative-fight-for-massachusetts-medicare-windfall/HV4WGDUCSOISoTxicbwSUL/story.html#>.

<sup>254</sup> Tom Keane, “Curing the ‘Bay State Boondoggle,’” *The Boston Globe*, May 28, 2013; <http://www.bostonglobe.com/editorials/2013/05/27/curing-bay-state-boondoggle/oiphdbGemMmHxtLqgKVPgl/story.html>.

<sup>255</sup> Tracy Jan, “21 States Take Aim at Mass. Hospitals’ Medicare Windfall,” *The Boston Globe*, January 13, 2013; <http://www.bostonglobe.com/news/nation/2013/01/13/states-planning-legislative-fight-for-massachusetts-medicare-windfall/HV4WGDUCSOISoTxicbwSUL/story.html#>.

<sup>256</sup> Tracy Jan, “21 States Take Aim at Mass. Hospitals’ Medicare Windfall,” *The Boston Globe*, January 13, 2013; <http://www.bostonglobe.com/news/nation/2013/01/13/states-planning-legislative-fight-for-massachusetts-medicare-windfall/HV4WGDUCSOISoTxicbwSUL/story.html#>.



provision that would adjust the rates in the payment index in order to reset the wrong.<sup>257</sup> It was passed in the budget resolution with an astounding 68 senators in favor.<sup>258</sup> Similar language was proposed in the House but it has yet to receive a vote.<sup>259</sup>

This is yet another example of the damage that can be done once malignant and parochial provisions take hold. Beyond a remedy for this particular scenario, taxpayers are surely hoping that Congress uses preventive medicine to head off cases like these before the first symptoms appear.

## **PAROCHIAL IRS PROVISIONS: “TAXING” ON TREASURY** *Tax Carve-Outs for Special Interest Cost Taxpayers Millions*

Parochial provisions aren't only jammed into appropriations bills. With members of Congress seeking to take care of their special interests, they are cluttering up the already mind-bogglingly complicated tax code.

There is a parochial tax break trolling in the depths of the tax code waiting to be caught by those who know where to cast their nets. This special interest tax break came to life as part of the American Jobs Creation Act of 2004.<sup>260</sup> Commercial whaling is virtually banned in the United States, yet those who are allowed to partake enjoy a generous tax deduction for their participation. The Internal Revenue Tax Code allows whaling captains to count certain expenses incurred during a whale hunt as charitable contributions and therefore deduct up to \$10,000 a year from their income taxes.<sup>261</sup> Expenses that range from buying weapons to providing storage and even purchasing supplies like food for the crew all qualify for the captain's write off.<sup>262</sup>



This provision had been long sought by Alaska's congressional delegation.<sup>263</sup> The Alaskan pet provision was reportedly incorporated into the \$140 billion corporate tax cut bill in 2004, as a way to gain support for a bill with an anticipated close vote.<sup>264</sup>

Since 2005, native whaling captains (who are registered by the Alaska Eskimo Whaling Commission) have been eligible for a \$10,000 tax deduction because “subsistence bowhead whale hunting activities are important to certain native peoples of Alaska and further charitable

<sup>257</sup> Mike Abrams, “Time for Congress to Fix Medicare Hospital Rural Floor Payment ‘Boondoggle,’” *Bloomberg BNA*, February 21, 2013; <http://www.bna.com/time-for-congress-to-fix-medicare-hospital-rural-floor-payment-boondoggle/>.

<sup>258</sup> Mike Abrams, “Time for Congress to Fix Medicare Hospital Rural Floor Payment ‘Boondoggle,’” *Bloomberg BNA*, February 21, 2013; <http://www.bna.com/time-for-congress-to-fix-medicare-hospital-rural-floor-payment-boondoggle/>.

<sup>259</sup> Mike Abrams, “Time for Congress to Fix Medicare Hospital Rural Floor Payment ‘Boondoggle,’” *Bloomberg BNA*, February 21, 2013; <http://www.bna.com/time-for-congress-to-fix-medicare-hospital-rural-floor-payment-boondoggle/>.

<sup>260</sup> Public Law 108-755, The American Jobs Creation Act of 2004; <https://www.congress.gov/bill/108th-congress/house-bill/4520>.

<sup>261</sup> Internal Revenue Bulletin 2006-47, November 20, 2006; [http://www.irs.gov/irb/2006-47\\_IRB/ar12.html](http://www.irs.gov/irb/2006-47_IRB/ar12.html).

<sup>262</sup> Internal Revenue Bulletin 2006-47, November 20, 2006; [http://www.irs.gov/irb/2006-47\\_IRB/ar12.html](http://www.irs.gov/irb/2006-47_IRB/ar12.html).

<sup>263</sup> 103<sup>rd</sup> Congress: H.R.3189, S.1561; 104<sup>th</sup> Congress: H.R.1940, S.1229; 105<sup>th</sup> Congress: H.R.1267, S.379; 106<sup>th</sup> Congress: H.R.813, S.713.

<sup>264</sup> Jill Barshay, “\$140 Billion Corporate Tax Cut Legislation Heads to Showdown in the House,” *Taxes, CQ Today Online News*, June 11, 2004; <http://www.cq.com/doc/news-119845174&search=dJbm0AJD>.

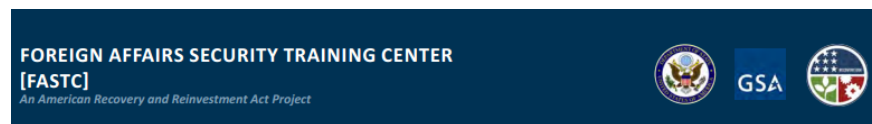


purposes.”<sup>265</sup> With carve-outs like these, it’s easy to see why congressional approval ratings floundering.

## **FASTC, FLETC, LET’S CALL THE WHOLE THING OFF** *An ARRA “Shovel-Ready” Project Still Hasn’t Been Built*

In December 2007, Congress included a requirement in the joint explanatory statement accompanying a massive, end-of-year spending bill that required the Bureau of Diplomatic Security (DS) at the State Department to “develop a comprehensive facility plan to consolidate and expand hard and soft skills training.” The provision set a deadline of May 1, 2008 for DS to report to Congress on its progress.<sup>266</sup> The report was transmitted and, in early 2009, \$70 million was included in the American Reinvestment and Recovery Act – the so-called “stimulus” bill, meant to provide funding for “shovel-ready” projects – for “urgent domestic facilities requirements” for “training functions” at the State Department.<sup>267</sup><sup>268</sup> The Government Accountability Office (GAO) reported that, in total, \$118 million in fiscal year 2009 funding was allocated by the State Department “to acquire a site for, design, and build the Foreign Affairs Security Training Center (FASTC).”<sup>269</sup>

But as the FASTC site selection process began for this “shovel-ready” project, it did not take



long for members of Congress to begin advocating for the State Department and General Services Administration (GSA) to select a site in their home state or district. Specifically, in early September 2009, then-Congressman Frank Kratovil (D-MD) penned a letter to Secretary of State Hillary Clinton and GSA Administrator Paul Prouty touting the attributes of a site in Queen Anne’s County, Maryland, which had been selected by the State Department and GSA as one of several potential locations. “Locating the Diplomatic Security Training Center in Queen Anne’s County would benefit both the Department of State and the local community,” Kratovil wrote, saying, “I am committed to working with my colleagues across all levels of government to provide the resources, support, and coordination that this important project would require.”<sup>270</sup> Maryland’s Senators followed suit a week later, writing to the Executive Director for Diplomatic Security at the State Department and a Realty Specialist at GSA that, “the local community and the State of Maryland heartily endorse the creation of a diplomatic training facility in Queen Anne’s County and thus stand ready to work closely with the General Services Administration and the State Department Bureau of Diplomatic Security to see this project come to fruition.”<sup>271</sup>

<sup>265</sup> House Report 108-548, pg. 181; <https://www.congress.gov/108/crpt/hrpt548/CRPT-108hrpt548-pt1.pdf>.

<sup>266</sup> Public Law 110-161, pg. 2148; <http://www.gpo.gov/fdsys/pkg/CPRT-110HPRT39564/pdf/CPRT-110HPRT39564-DivisionJ.pdf>

<sup>267</sup> House of Representatives Report 111-16, pg. 466; <http://www.gpo.gov/fdsys/pkg/CRPT-111hrpt16/pdf/CRPT-111hrpt16.pdf>.

<sup>268</sup> “Diplomatic Security: Expanded Missions and Inadequate Facilities Pose Critical Challenges to Training Efforts,” *Government Accountability Office*, Page 33 June 1, 2011, GAO-11-460, pgs. 33-34; <http://www.gao.gov/products/GAO-11-460>.

<sup>269</sup> “Diplomatic Security: Expanded Missions and Inadequate Facilities Pose Critical Challenges to Training Efforts,” *Government Accountability Office*, Page 33 June 1, 2011, GAO-11-460, pgs. 33-34; <http://www.gao.gov/products/GAO-11-460>.

<sup>270</sup> Letter to Secretary of State Hillary Clinton, Acting Administrator for GSA Paul Prouty, from Representative Frank Kratovil, September 4, 2009.

<sup>271</sup> Letter to Mr. Stephen Mergens of the State Department, Mr. Christian Townsend of GSA, from Senators Barbara Mikulski and Benjamin Cardin, September 15, 2009.

In November, the Maryland delegation members got their wish and issued a press release applauding the announcement by GSA and the State Department that their location in Queen Anne's County was the "preferred site" for the FASTC. "The training facility is good news for three reasons: jobs, jobs and more jobs," one Senator from Maryland was quoted as saying. The other Maryland Senator said that the selection of the site "is a winner for our country and for the residents of Queen Anne's County." Congressman Kratovil touted the creation of "hundreds of construction jobs" and "500 new full-time positions once completed."<sup>272</sup> There was only one problem: the local residents didn't want anything to do with it. Concerns over the potential noise and the environmental impact of the training center were paramount in the minds of those who lived near the preferred site and the opposition was so fierce that, in June 2010, the State Department abandoned its plan to build the FASTC there.<sup>273</sup> So much for "shovel-ready" – a year and a half after passage of the "stimulus" bill, shoveling hadn't even started for the FASTC.

After spending an undetermined number of taxpayer dollars to facilitate the requests made by members of Congress to build the FASTC in an area where the local populace rejected it due to environmental concerns, GSA and the State Department went back to the drawing board. More than two years later, having looked at more than 70 sites, GSA and the State Department determined in early 2013 that the only site that could work was Fort Pickett, in Nottoway County, Virginia,<sup>274</sup> and the cost of the new facility would be \$460 million.<sup>275</sup> Some members of Congress were concerned by that price tag, and inquired as to whether the State Department had considered the existing Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia, for its training needs.<sup>276</sup> The Office of Management and Budget subsequently asked the State Department to conduct a study on the feasibility of that alternative.

Thus began another round of members of Congress on both sides of the aisle fighting to secure federal dollars for their parochial interests. Both Democratic and Republican congressional proponents from Virginia and Georgia are pushing to ensure the economic activity related to the location of a training center will land in their state.

The Administration reaffirmed in April 2014 that the FASTC would proceed at Fort Pickett and resources have continued to be spent on this effort, despite its lack of approval from Congress.<sup>277</sup> In its fiscal year 2016 budget request, the State Department asked for \$99 million for construction at Fort Pickett and, according to the State Department, phased construction of the FASTC is scheduled to begin in the summer of 2015.<sup>278, 279</sup> The FASTC is expected to open in

<sup>272</sup> "Mikulski, Cardin, Kratovil: Queen Anne's County is Preferred Site for 1,200 Acre, Job-Rich Diplomatic Training Facility," November 30, 2009, U.S. Senator Barbara Mikulski Press Release; <http://www.mikulski.senate.gov/newsroom/press-releases/mikulski-cardin-kratovil-queen-anne-and-39s-county-is-preferred-site-for-1-200-acre-job-rich-diplomatic-training-facility>.

<sup>273</sup> "State Department nixes foreign affairs training facility on Eastern Shore," *Washington Business Journal*, June 28, 2010; <http://www.bizjournals.com/baltimore/stories/2010/06/28/daily13.html>, and "Porky project smells bad to locals," *Washington Times*, March 29, 2010, <http://www.washingtontimes.com/news/2010/mar/29/porky-project-smells-bad-to-locals/?page=all>.

<sup>274</sup> "Final Environmental Impact Statement for FASTC Nottoway County, Virginia," General Services Administration, April, 2015; <http://www.state.gov/documents/organization/241072.pdf>.

<sup>275</sup> U.S. Department of State, "Foreign Affairs Security Training Center"; <http://www.state.gov/recovery/fastc/>.

<sup>276</sup> "Policy Congressional Report, opened between 01/01/2014 and 01/31/2014;" <http://www.dhs.gov/sites/default/files/publications/dhs-congressional-log-january-2014.pdf>.

<sup>277</sup> "Final Environmental Impact Statement for FASTC Nottoway County, Virginia," General Services Administration, April, 2015, page ES-1; <http://www.state.gov/documents/organization/241072.pdf>.

<sup>278</sup> "Congressional Budget Justification, Appendix I: Department of State, Diplomatic Engagement," page 347; <http://www.state.gov/documents/organization/236393.pdf>.

early 2019.<sup>280</sup> However, GAO is expected to complete an investigation into the FASTC versus FLETC question in July 2015, when it will likely reveal that tens of millions of taxpayer dollars have been expended for the development of this training center which still – nearly eight years after Congress asked the State Department to develop this plan in the first place – does not have a permanent home.

The Senate Foreign Relations Committee has jurisdiction over authorizing the FASTC. Given the fact that one Senator from Virginia and two from Georgia sit on that Committee, it is not likely that this “shovel-ready” project will be built anytime soon.

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<sup>279</sup> “Final Environmental Impact Statement for FASTC Nottoway County, Virginia,” General Services Administration, April, 2015, page ES-5; <http://www.state.gov/documents/organization/241072.pdf>.

<sup>280</sup> Ben Kamisar, “Two years after Benghazi, State battles lawmakers over training site for agents,” *The Hill*, April 12, 2015; <http://thehill.com/policy/finance/238526-two-years-after-benghazi-state-battles-congress-over-training-for-agents>

## SEC. VIII CONCLUSIONS & RECOMMENDATIONS

### ***EARMARKING: CONTINUED EXTINCTION OR SAD SEQUEL?***

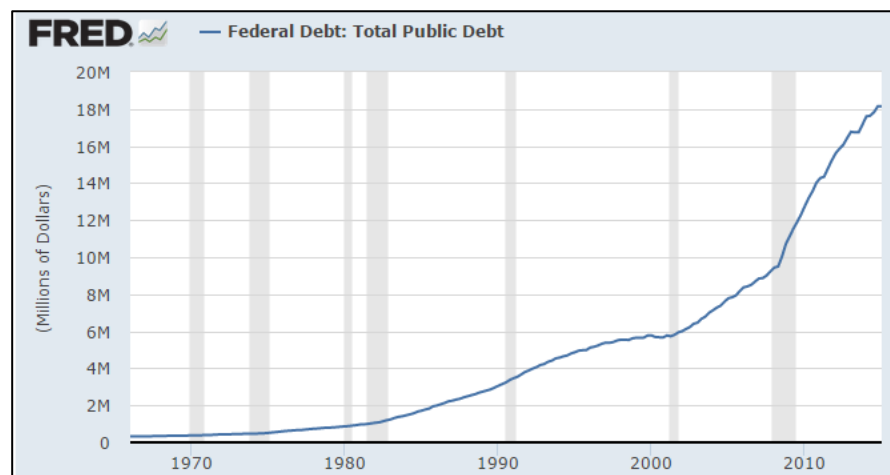
#### *Post-Mortem Conclusions & Policy Recommendations*

##### *Conclusions: A Practice Best Left in the Grave*

The most obvious conclusion that can be reached from the information presented in this report is the simplest: Congress cannot credibly consider returning to earmarking in any form.

Congress collectively rejected a practice that was fraught with waste and abuse and put an end to a process that had become synonymous with the very worst the legislative process can be contorted to produce. The earmark moratorium has been a success and taxpayers simply cannot afford the return of pork barrel projects.

With the national debt surging past the \$18 trillion mark, graphs depicting its escalation look like a brachiosaurs' neck reaching for a treetop. There is little to suggest that a significant downward trend in the debt will be seen any time soon. As has been demonstrated, an



initial earmark often represents just the beginning of federal spending. Prior to the ban, literally thousands upon thousands of parochial pork barrel provisions were included in legislation. As is so often suggested in the *Jurassic Park* film, it appears that “we’ve spared no expense.” Unfortunate news, indeed, for taxpayers.

In addition to maintaining the earmark moratorium, Congress needs to ensure that federal spending is intensely scrutinized. Pre- or post-earmark ban, this report highlights wasteful federal expenditure after wasteful federal expenditure. Certainly, the oversight tools at Congress’ disposal are numerous and crucial. Government Accountability Office reports and agency Inspector General reports are effective at uncovering wasteful spending and federal programs that have gone awry. Yet the most important tool at Congress’ disposal when it comes to spending is oversight –an entity as rarely seen these days as a pterodactyl on the National Mall.

Every year, leaders in the House and the Senate have the best of intentions to consider the annual appropriations measures that provide for discretionary spending under regular order. All too often, however, those intentions wither on the vine and Congress resorts to passing massive

omnibus spending measures that lack transparency and thwart attempts to go after wasteful spending.

Over the long term, by failing to get its work done, Congress has developed an alarming dependence on omnibus bills that avoid scrutiny due to looming deadlines, sheer volume, and must-pass conditions and continuing resolutions that allow agencies to continue spending taxpayer dollars on autopilot.

Congress has a dismal record of completing appropriations bills on time, which cheats taxpayers of their right to scrutinize spending. In fact, according to the Congressional Research Service, between fiscal year 1977 and fiscal year 2014, there were only four years in which each individual appropriations bill was enacted on time. With the exception of those years, there was only one other year in which more than half of the individual measures were completed by the start of the fiscal year. In a third of the 38 years in that period, not a single regular appropriations bill was enacted before the start of the fiscal year. Regrettably, fiscal year 1997 was the last time Congress got its work done on time by enacting all regular appropriations before the start of the new fiscal year. Since then, an average of six continuing resolutions per year have been enacted.

Taxpayers deserve to have earmarks remain extinct and, when it comes to appropriations bills, regular order must be revived. Regular order allows individual members the opportunity to offer amendments highlighting, limiting, or striking specific spending items in the annual federal budget and must be restored for the consideration of spending bills.

### ***Recommendations: An Evolutionary Path Forward***

If an invitation to attend a theme park or event involving revived prehistoric animals for present day amusement ever arrives, it's best to politely decline. Such diversions never seem to end well. Beyond that, the following are specific recommendations on actions that can and should be taken.

#### *Congress should make the earmark ban permanent.*

A return to earmarking is simply untenable. While having been consistently upheld since its establishment in both chambers, the current earmark moratorium lacks the force of law. Legislation should be considered and adopted that would make the ban on earmarks a permanent statutory prohibition.

#### *An opportunity to offer amendments striking spending is essential.*

As has been demonstrated in the past, continued pressure to limit wasteful spending through amendments to annual appropriations measures on the floor of the House and Senate can be effective. The public shaming of wasteful expenditures can shine a spotlight on a particular provision while also serving as a deterrent for future squandering of federal dollars. Any number of examples of wasteful spending highlighted in this report would be excellent targets for amendments during the upcoming congressional appropriations season. Members should have the opportunity to offer such amendments during the consideration and debate of appropriations measures under regular order.



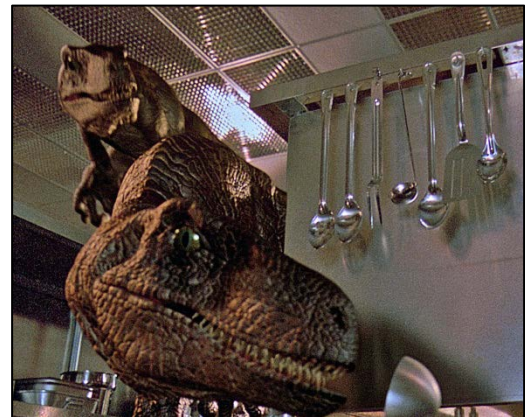
*Congress should strip balances of old and “orphan” earmarks.*

This report highlights the fact that, despite the current ban on future earmarks, balances on past earmarks linger, awaiting allocation. Some of these balances have languished for years and represent millions upon millions of taxpayer dollars in potential waste. Given the current state of federal transportation funding, the number of transportation “orphan” earmarks is particularly disturbing. Congress should strip the balances of old and “orphan” earmarks, with a special emphasis on returning unused dollars from transportation pork back to the ailing highway trust fund. Legislation has been introduced that will do just that and it should be considered without delay.

*Further investigation is needed on post-earmark ban slush funds.*

Highlighted in this report are two funds that appear to have persisted beyond the earmark ban or were created specifically in response to it. The projects and spending flowing from these funds bear an eerie resemblance to those funded during the days of earmarking largess. Converting the funds appropriated by earmark tables at the back of legislation into murky slush funds that direct federal funding to similar – or in some cases, identical – projects that were formerly earmarked is not a step in the right direction. In the case of the Department of Defense’s Rapid Innovation Fund, others are sounding similar alarms. In reauthorizing this program, the Senate Armed Service Committee report for the fiscal year 2016 National Defense Authorization Act warned that “the committee recommends that the [Department of Defense] takes steps to ensure that the selection of projects through the Program is not subject to improper influence outside of the established selection process.”<sup>281</sup> It is entirely likely that these two slush funds are not the only ones that exist and that further investigations are necessary in order to drain this primordial swamp in its entirety.

Like velociraptor claws on stainless steel kitchen counters, this report likely only scratches the surface of post-earmark ban spending on wasteful projects that originated with earmarks or were supported by them and continued federal spending related to previous earmark recipients. Rather than resurrect practices that will drive us to financial oblivion, both the conclusions and recommendations of this report seek to create an evolutionary path for federal spending that can lead to fiscal discipline. It would certainly be the hope that, in eras to come, the need for reports like this will be as extinct as the dinosaurs themselves.



<sup>281</sup> United States Senate Report 114-49, pg. 46; <https://www.congress.gov/114/crpt/srpt49/CRPT-114srpt49.pdf>





