

Center for American Progress



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How Congress is Spending the 18 Cents a Gallon You Pay in Gasoline Tax



*By Scott Lilly
Senior Fellow*

Record-Smashing Earmarks in 2005 Highway Bill Leave Many Districts Worse Off

By

Scott Lilly, Senior Fellow

Protestations by the House Speaker and Majority Leader in recent weeks that earmarks in the highway bill cannot be used for offsetting Katrina spending stand in stark contrast to the long record of their party in demanding restraint and accountability in federal spending.

Only three years before Republicans won control of the House, Congressman Cass Ballenger of North Carolina delivered the following message:

Instead of a highway bill the Democrats are offering the American people a seminar on pork. While the Nation needs roads and bridges, the Democrats squabble amongst themselves over the House brand of bacon, called special projects... Mr. Speaker, the highway bill is just another example of how the Democrats control this institution but are unable to make it work. When the Republicans control this body, the American people won't have to wait while we squabble among ourselves over how to make the taxpayer foot the bill for pork...

Earlier that year Congressman John Boehner of Ohio had stated,

Mr. Speaker, I have only been here 7 months, but during my years of public service I have seen some pretty outrageous activities occur in legislative bodies. But I have never seen anything as outrageous as the 1991 highway bill.... I stand opposed to this legislation because spreading pork around to secure enough votes to pass this turkey is wrong.

During consideration of the legislation, Congressman Dan Burton of Indiana offered a motion to kill the entire bill, citing the fact that it contained 487 earmarks, “*that is, special projects; some people call a lot of*

these porkbarrel projects.” During an all night talk-a-thon following passage of the highway bill, Congressman Tom DeLay of Texas told the House:

We made plenty of suggestions of how to prioritize the spending around here to pay for this unemployment benefit, and one of the ways we suggested was that this House give up all its foreign travel. That would be a good start. There were many other similar type of wasteful spending around this House that we suggested, including in the so-called highway bill yesterday.

By the time the 1991 highway bill cleared conference it had a total of 538 earmarks—more than any previous bill in history. But it would be difficult to portray it as irresponsible in today’s legislative environment.

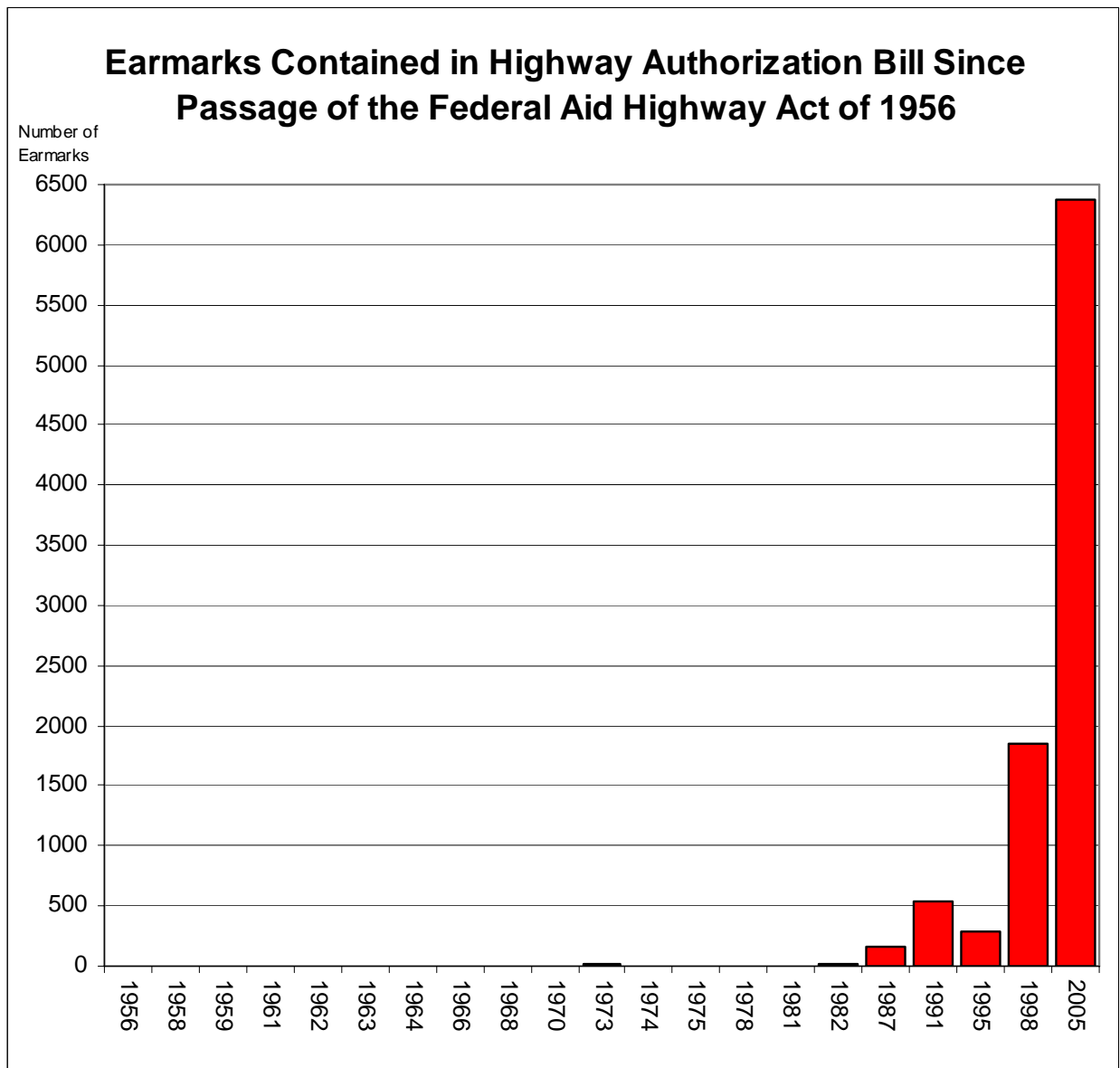
Since the passage of *The Federal Aid Highway Act of 1956*, the legislation that originally created the Highway Trust Fund, there have been 20 separate highway bills enacted including the one signed by President Bush last week. Prior to 1970 these bills provided money to the states based on a formula and allowed state highway commissions to determine the highest priorities for reducing congestion, repairing bridges or adding new interchanges. In 1970, Congress passed amendments to the federal highway law that included three specific projects to be built with federal funds based on the directives of Congress. For the next 16 years new highway legislation was passed by Congress every two or three years and the bills contained as few as two and as many as 14 earmarks.

In 1987, rank and file members of Congress decided that they wanted an opportunity to do what a few of the big shots had been doing for more than a decade—say specifically where in their districts a portion of the highway funds would be spent. That bill contained 155 earmarks and paved the way for the 1991 bill which was the subject of the outrage of many House Republicans.

Only three years after passage of that bill, Republicans won control of the House and the following year they passed their first highway

bill, a set of amendments to the six-year authorization adopted in 1991. Rather than rescinding any of the 538 projects contained in the 1991 bill, they added 283 new projects.

But a new era in the history of congressional earmarking began in 1998 as Congress began consideration of the Transportation Equity Act for the Twenty-first Century, or TEA-21. By the time that bill had worked its way through conference it contained 1,850 earmarks, or about two and a half times the number of earmarks that had been contained



in **all highway bills** since the creation of the Highway Trust Fund. The total cost of those earmarks was \$9.5 billion. The decision by Republican leaders to bring such a heavily earmarked piece of legislation to the House floor stood in stark contrast to the rhetoric that they themselves had used to describe a far more moderate use of the practice only a few years earlier.

Based on the behavior of Congress in crafting the 1998 highway bill, few observers would have predicted moderation in the practice of earmarking on subsequent highway legislation. But just as few would have predicted that the practice of earmarking would have risen to the level of excess found in the legislation that President Bush signed only last week. That bill contained 6,371 earmarks that will divert more than \$23 billion in transportation funding decisions from local authorities over the next six years.

Twice in a row, members of Congress who once decried the practice of earmarks have allowed legislation to come to the floor that

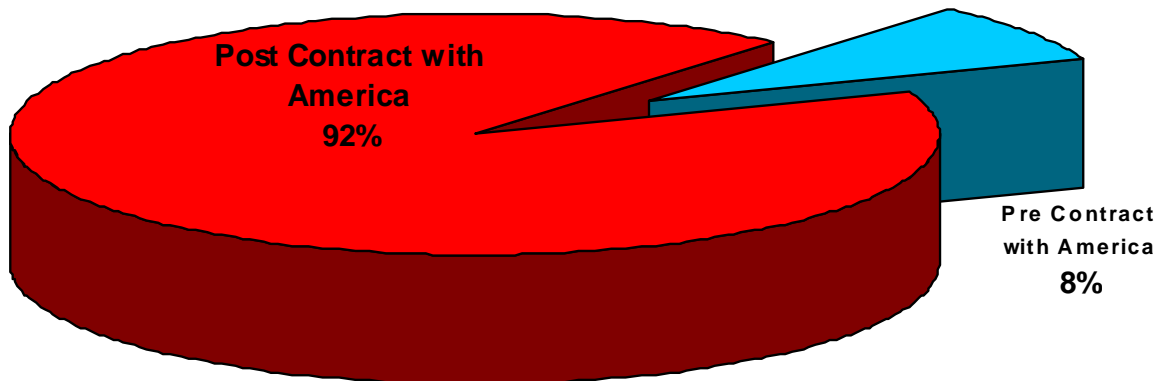
not only beat all previous records in earmarking but beat all previous records combined. The number of earmarks in this year's bill is three times the number in the previous record-breaking bill and well over twice the total number of earmarks in all previous highway bills—including TEA-21.

Another interesting statistic is the portion of transportation earmarks historically that have occurred since these stalwart protectors of the public purse gained control of Congress. My statistics indicate that over the past 50 years we have had 9,242 earmarks of which 8,504 have been inserted in the three highway bills enacted since Republicans gained control of the House of Representatives.

There is nothing inherently wrong with a member of Congress occasionally second guessing his State Highway Commission and directing that a long-standing problem in his community be resolved. But there is plenty wrong with earmarking on the scale that it is now taking place. First of all, there is the work involved. With over 6,300 earmarks,

"HIGHWAY" EARMARKS

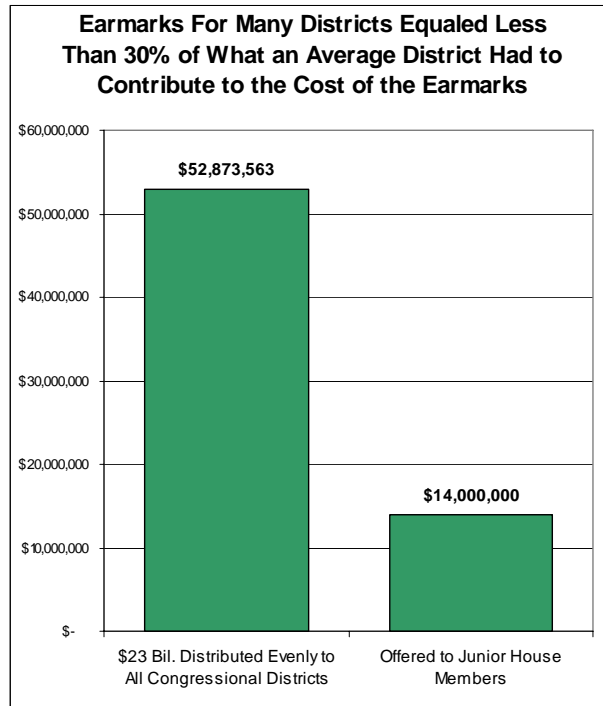
Since 1956 Congress has Earmarked 9242 Projects in Transportation Authorization Bills. 8504 Have Occurred Since 1995



members of Congress are selecting about a dozen projects apiece. Hopefully they are looking at a great many more traffic and safety issues in their districts to insure that the biggest problems get resolved first. But members simply don't have the time, staff or expertise to make those kinds of decisions. Is building an overpass for Route 6 more important than widening Route 5? Are members measuring traffic volumes during rush hour, at mid-day and on weekends? If so, it is hard to believe that they are staying up with what they need to know about Iraq, the nuclear program in North Korea or the impact that budget deficits are having on business creation and employment opportunities.

The second problem is that even the most conscientious members are not likely to make those decisions as well the state and local officials who spend 365 days a year studying precisely those issues. And the truth is that a great many members are not conscientious in the manner in which they make such decisions. The press has had a field day with some of the more obvious failures of the legislation to direct funds to high priority needs. In fact, there are a remarkable number of earmarks in the legislation that do not address transportation problems at all. The old mantra of the House and Senate public works committees that tax dollars paid into the Treasury for the purpose of building roads should be used solely for that purpose is being violated by the legislation those committees now send to the president to sign. Museums, restoration of historic estates, horse trails, theater remodeling and all manner of items that individual members think would be helpful to someone they wish to be helpful to have emerged in only the first few days of examination.

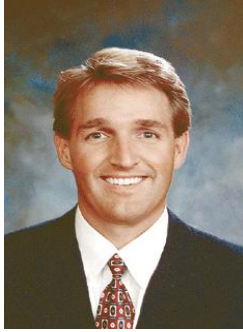
But equally troubling is the fundamental lack of equity in the latest "Transportation Equity Act." A huge percentage of the \$23 billion in earmarked funds went to a small number of



congressional districts. Press accounts indicate that just four congressional districts received more than \$2 billion, or about 10 percent of the total earmarks. Had the funds been divided equally, every district would have received about \$53 million, but because such huge amounts were lavished on people such as the speaker, the chairman of the Transportation Committee, the chairman of the Ways and Means Committee, and various other members of the 75-member Transportation Committee it was impossible to give districts represented by rank and file members of the House anything like the amount of project money that the typical district would expect to have to contribute to the Treasury to cover the cost of such projects.

Congressman Jeff Flake of Arizona, one of only eight members to vote against the legislation, told Bill Steigerwald of the *Pittsburgh Tribune-Review*, "We were all offered at least \$14 million for our districts to spend however we wanted – and just try to relate it to transportation somehow." That would leave the typical district with less than

thirty cents in projects for each dollar it contributed in taxes.



Congressman Jeff Flake (R-AZ)

But probably the worst thing about this practice is how it corrupts the larger legislative process. John Boehner had it right in 1991 when he said, “I stand opposed to this legislation because spreading pork around to secure enough votes to pass this turkey is wrong.” What has changed is that bills like the highway bill are being loaded with pork not just to secure their own passage but to win passage of other legislation that would not otherwise have the support in Congress to become law.

The highway bill was the cash register used to buy votes for the Central American Free Trade Agreement (CAFTA). I was in a Capitol Hill restaurant on the evening CAFTA passed and watched members of Congress getting up from their dinners to take phone calls offering earmarks in the highway bill in return for support of CAFTA. The going rate for a CAFTA vote was \$50 million. The argument was that even if most people in your district are going to be upset with the CAFTA vote, their displeasure on that issue will be more than offset by your effective representation on highways. In essence, earmarking places a great deal of additional power in the hands of a small number of already powerful people to persuade elected representatives to vote the way they want them to vote and not the way the people who chose those representatives would have them vote. CAFTA is just one example of legislation that probably passed only because of promises of pork on a subsequent bill. This type of negotiating has always been part of the legislative process. It is also true that the growth of these kinds of side deals is probably directly proportional to the growth of earmarking—in other words, astronomical.

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Center for American Progress
1333 H Street, NW, 10th Floor
Washington, DC 20005
Tel: 202.682.1611 • Fax: 202.682.1867
www.americanprogress.org