

Statement by Senator John McCain  
before the Senate Rules Committee  
Hearing to Examine Procedures to Make the Legislative Process More Transparent  
February 8, 2006

Let me begin by commending the Chairman of the Rules Committee, Senator Lott, for holding today's hearing on one of the key components that must be addressed if our efforts to address comprehensive lobbying reform are to be effective—and that is, earmark reform. This is the second hearing on this subject held by this Committee in the last two Congresses, and I commend the committee members for their attention to this issue of growing concern.

You may recall the earmark growth charts I showed the Committee during a July 2003 hearing which illustrated the findings of the Congressional Research Service, showing the enormous growth in earmarks since 1994. Well, I am sad to report those numbers are even more alarming today.

[Refer to updated Charts]

In 1994, there were 4,126 earmarks. In 2005, there were 15,877, the largest number yet. That's an increase of nearly 300 percent! The level of funding associated with those earmarks has more than doubled from \$23.2 billion in FY 1994 to \$47.4 billion in FY 2005. I ask that a copy of the report prepared by CRS be made a part of the hearing record.

The focus of the July 2003 hearing was a rules change proposal I had introduced to allow points of order to be raised against unauthorized appropriations and policy riders in appropriations bills and conference reports in an effort to reign in wasteful pork barrel spending. Tomorrow I will introduce a modified version of that proposal. I will be joined in this bipartisan effort by Senators Feingold, Coburn, Bayh, Sununu, Graham, Ensign, DeMint, and Kyl.

Our bill, entitled the Pork-Barrel Reduction Act, would establish a new procedure under Rule XVI, modeled in part after the Byrd Rule, which would allow a 60-vote point of order to be raised against specific provisions that contain unauthorized appropriations, including earmarks, as well as unauthorized policy changes in appropriations bills and conference reports. Of importance is that successful points of order would not kill a conference report, but the targeted provisions would be deemed removed from the conference report, and the measure would be sent back for concurrence by the House.

To ensure that Members are given enough time to review appropriations bills, our proposal would also require that conference reports be available at least 48 hours prior to floor consideration. It also prohibits the consideration of a conference report if it includes matter outside the scope of conference.

Additionally, our bill includes the provisions of S. 1495, the Obligation of Funds Transparency Act, which Senator Corburn and I introduced last July, to prohibit Federal agencies

from obligating funds for appropriations earmarks included only in congressional reports, which are unamendable.

To promote transparency, our bill requires that any earmarks included in a bill be disclosed fully in the bill's accompanying report, along with the name of the Member who requested the earmark and its essential governmental purpose. Additionally, our bill would require recipients of federal dollars to disclose any amounts that the recipient expends on registered lobbyists.

In summary, this proposed rules change, if adopted, would allow any member to raise a point of order in an effort to extract objectionable unauthorized provisions from the appropriations process. **Our goal is to reform the current system by empowering all members with a tool to rid appropriations bills of unauthorized funds, pork barrel projects, and legislative policy riders and to provide greater public disclosure of the legislative process.**

I understand Chairman Lott and Senator Feinstein introduced a resolution that doesn't go quite as far as our proposal - it would only allow points of order against earmarks and provisions outside the scope of conference. Their bill is a good step in the right direction, although I am concerned that it would not allow us to go after a host of egregious earmarks. Nonetheless, I am pleased they have embraced the general concept that we are suggesting, which is to enable objectionable earmarks to be removed from bills and more importantly, conference reports, in a manner that would remove any suspicions that we are attempting to kill the whole conference report.

### **Examples**

I would like to mention some specific examples of recent earmarks, many of which clearly do not belong in the measures that they were included:

#### **From the Defense Conference Report for FY 2006**

- \$500,000 to teach science to grade-school students in Pennsylvania;
- \$900,000 for "Memorial Day" out of the Army Operations and Maintenance account
- \$4.4 million for a Technology Center in Missouri
- \$1 million to an Civil War Center in Richmond, Virginia
- \$850,000 for an education center and public park in Des Moines, Iowa
- \$2 million for a public park in San Francisco
- \$500,000 for the Arctic Winter Games, an international athletic competition held this year in Alaska
- \$1.5 million for an aviation museum in Seattle, \$1.35 million for an aviation museum in Hawaii, \$1 million for a museum in Pennsylvania, and \$3 million for the museum at Fort Belvoir. There's also \$1.5 million for restoring the Battleship Texas.
- Funding for farm conservation
- A provision protecting jobs in Hawaii and Alaska



- A provision transferring as a direct lump sum payment to the University of Alaska the unobligated and unexpended balances appropriated to the United States-Canada Railroad Commission
- And, of course, the ANWR provisions.

**From the FY06 Energy and Water Appropriations Bill Conference Report Statement of Managers:**

- \$500,000 for the Burpee Museum of Natural History in Illinois.
- \$500,000 for Chesapeake Bay submerged aquatic vegetation research.
- \$600,000 to study fish passage in Mud Mountain, Washington.
- \$3 million to study the beneficial uses of dredged material for Morehead City, North Carolina.
- \$1.25 million for the Sacred Falls demonstration project in Hawaii.
- \$2 million for the Desert Research Institute, Nevada.
- \$3.5 million for the Iroquois Bio-Energy Consortium Ethanol Project, Indiana.
- \$500,000 for the Washington State Ferries Biodiesel Demonstration Project, WA.
- \$1 million for the Canola-based Automotive Oil R&D, PA.
- \$1 million for the Mt. Wachusett Community College Wind Project, MA.
- \$7 million for the Arctic Energy Office, Alaska.

These Energy and Water projects that I just mentioned are just a few examples of report language earmarks, none of which are subject to an amendment to strike.

**From the Interior Appropriations bill for FY06 as Passed in the Senate**

- \$400,000 to complete a bear DNA sampling study in Montana– the fourth consecutive year this earmark has been added to an appropriations vehicle.
- \$450,000 for a well monitoring project in Hawaii.
- \$1.8 million for sea otter recovery work at the Alaska SeaLife Center.
- \$1 million for statewide cesspool replacement in the County of Maui, Hawaii.
- \$500,000 to continue research on pallid sturgeon spawning in the Missouri River.

**From the Agriculture Conference Report for FY06**

- \$1 million for statewide cesspool replacement in the County of Maui, Hawaii.
- \$1 million for the Ohio Livestock Expo Center in Springfield, Ohio.
- \$2.25 million for the Wisconsin Federation of Cooperatives for pilot Wisconsin-Minnesota health care cooperative purchasing alliances.
- \$350,000 for a report on the economic development of the sheep industry in the United States.
- \$1.8 million for river obstruction removal projects in Ohio.
- \$50,000 to control of feral hogs in Missouri.
- \$380,000 to continue control measures for minimizing blackbird damage to sunflowers in North Dakota and South Dakota.
- \$196,000 for geese control in the State of New York.

- \$75,000 for research into peanut production, Dawson, GA.
- \$75,000 for research into seafood waste, Fairbanks, AK
- \$250,000 for turf grass research, Beaver, WV.

**From the Agriculture Division of the Omnibus Appropriations Conference Report for FY05**

- \$3 million for the Center for Grape Genetics in Geneva, New York
- \$326,000 for fruit and vegetable market analysis in Arizona and Missouri
- \$347,000 to study grapefruit juice and drug interaction in Florida
- \$180,000 for hydroponic tomato production research in Ohio
- \$528,000 for the Midwest Advanced Food Manufacturing Alliance in Nebraska
- \$1 million for seafood harvesting, Processing and Marketing research in Alaska
- \$470,000 for pig waste management in North Carolina
- \$1.75million earmarked for chronic wasting disease research in Wisconsin.
- \$1 million for grasshopper and mormon cricket control in Utah.
- \$1.4 million for the Delta Conservation Demonstration Center in Mississippi
- \$1.2 million for a study by Clemson University to study land use change in South Carolina

**From the Defense Appropriations Bill for FY 2005**

- \$1.8 million for the Lewis and Clark Bicentennial celebration;
- \$1 million for the Center for Political Logic Devices;
- \$11 million for the Chameleon Miniaturized Wireless System;
- \$2 million for the Air Battle Captain program at the University of North Dakota;
- \$6 million for the LISA inspector;
- \$4 million dollars for Project Albert;
- \$4 million for Hibernation Genomics;
- \$5.5 million for the C-135 Improved Waste Removal System;
- \$8 million for the New England Manufacturing Supply Chain;
- \$9 million for the Medical Free Electron Laser;
- \$44 million for the Maui Space Surveillance System;
- \$1 million for the Brown Tree Snakes;
- \$200 million for Peer Reviewed Cancer Research Program;
- \$50 million Peer Reviewed Medical Research Program;
- \$25 million for Hawaii Federal Health Care Network;
- \$2.5 million for the Alaska Federal Health Care Network;
- \$5 million for Pacific Island Health Care Referral.

**From the FY 2003 Omnibus Appropriations Conference Report (H.J. Res 2):**



- \$1 million for a bear DNA sampling study in Montana;
- \$280,000 for asparagus technology and production in Washington;
- \$250,000 for research on the interaction of grapefruit juice and drugs;
- \$50,000 to combat “feral hogs” in Missouri;
- \$2 million for the Biomass Gasification Research Facility in Birmingham, Alabama;
- \$90,000 for the National Cowgirl Museum and Hall of Fame in Fort Worth, TX.
- \$500,000 for the gasification of switchgrass in Iowa; and
- \$202,500 to continue rehabilitation of the former Alaska Pulp Company mill site in Sitka, Alaska.

## **POLICY RIDERS**

### **From the FY 2002 and 2003 Defense Appropriations Conference Reports**

During conference negotiations on the Department of Defense Appropriations Act for FY 2002, unprecedented language was inserted into the final bill to allow the U.S. Air Force to lease 100 Boeing 767 commercial aircraft and convert them to tankers. The total cost to taxpayers, about \$30 billion.

However, Congress did not authorize these provisions in the Act, or in any other bill for that matter. In fact, the Senate Armed Services Committee was not even advised of this effort by the Air Force Secretary during consideration of the authorization measure. Moreover, these aircraft were not in the president's budget, the joint chiefs' unfunded priority list, or the pentagon's long range defense budget. Additionally, the purportedly compelling need for these aircraft (which the air force repeatedly cited for having taxpayers pay \$6 billion more for leasing these tankers than they would if the air force simply bought them outright) was, and continues to be, wholly unsupported by any serious study or analysis of alternatives.

Nonetheless, legislative language was again included in the Department of Defense Appropriations Act for Fiscal Year 2003 to modify the previous year's bill language on the Boeing 767 tankers. And, once again, the sweeping changes in procurement policy was made by the Appropriators without the input of the authorizing committee.

Ultimately, it was discovered that the air force broke a number of federal budgetary and leasing rules; that the lease terms were fiscally irresponsible; that this deal would have set a horrible precedent for the procurement of major defense systems; and that folks at the air force conspired with Boeing to break the law to make this deal happen in the first instance. Mr. Chairman, with some people, as a result, not only losing their jobs, but also serving time in jail, I think everyone in this room knows what an egregious mistake this turned out to be.

### **From Supplemental for War on Terror Conference Report (April 2005):**

A provision directing the Secretary of the Interior to analyze the viability of a sanctuary for the Rio Grande Silvery Minnow in Rio Grande Valley, TX.

A provision stating that the \$40M set forth in the Consolidated Appropriations Act of 2004 for construction of a Port of Philadelphia marine cargo terminal “be used solely for the construction by and for a Philadelphia-based company.”

**From the FY 2003 Omnibus Appropriations Conference Report:**

The conference report contained provisions which allow a subsidiary of the Malaysian-owned “Norwegian Cruise Lines” the exclusive right to operate several large foreign-built cruise vessels in the domestic cruise trade. This provides an unfair competitive advantage to a foreign company at the expense of all other cruise ship operators, and creates a de facto monopoly for Norwegian Cruise Lines in the Hawaii cruise trade. Interestingly, this provision stems from another earmark in 1998 that went awry.

The FY 1998 Department of Defense Appropriation Bill granted a legal monopoly for American Classic Voyages to operate as the only U.S. flagged operator among the Hawaiian islands. After receiving the monopoly, American Classic Voyages secured a \$1.1 billion loan guarantee from the U.S. Maritime Administration’s (MARAD) Title XI loan guarantee program for the construction of two passenger vessels known as Project America. Project America’s subsequent failure four years later resulted in the U.S. Maritime Administration paying out over \$187.3 million of the American taxpayers’ money to cover the project’s loan default, and recovering only \$2 million from the sale of some of the construction materials and parts. It is one hull and miscellaneous parts from these never-completed ships which cost the taxpayers nearly \$200 million which are now going to be used in a foreign shipyard for building the Norwegian Cruise ships that will operate in Hawaii under this latest special interest provision.

The conference report included an agriculture policy change to make catfish producers eligible for payments under the livestock compensation program, even though hog, poultry, and horse producers are not eligible.

Despite the fact that the U.S. Department of Agriculture had implemented new organic food standards after lengthy negotiations, language was added to the conference report to permit livestock producers to certify and label meat products as “organic” even if the animals had not been fed organic grain. Without any consideration or debate, this last-minute rider was added to override these standards. Interestingly, a few months later, the Congress approved legislation as part of the War supplemental to repeal this provision and restore the prior organic food labeling standards.

Obviously, I could go on and on and on citing examples of unauthorized earmarks and policy riders in appropriations bills. But I think you’ve got the picture. And I hope



that we have finally reached the point that we are going to do something to reform this very broken system of legislating.

### **Closing**

Our current economic situation and our vital national security concerns require that now, more than ever, we prioritize our federal spending. But our appropriations bills do not always put our national priorities first. The process is broken and it needs to be fixed.

In his farewell address, President Dwight D. Eisenhower reflected on the spending he believed to be excessive. His words then are all the more powerful in today's out of control environment:

**“As we peer into society's future,” he said, “we - you and I, and our government - must avoid the impulse to live only for today, plundering, for our own ease and convenience, the precious resources of tomorrow. We cannot mortgage the material assets of our grandchildren without risking the loss also of their political and spiritual heritage. We want democracy to survive for all generations to come, not to become the insolvent phantom of tomorrow.”**

And yet, if we cannot change, if we will not change, we risk precisely that – becoming the insolvent phantom of tomorrow. I wonder what President Eisenhower would think of this mess. But, then, perhaps others have contemplated the same question. After all, the Defense Appropriations bill we passed in December included a \$1.7 million earmark for a memorial on the National Mall that would honor none other than . . . .Dwight D. Eisenhower.

I thank the Committee.