



Bipartisan Policy Center

Power Restored

**CONGRESSIONALLY
DIRECTED SPENDING IN
THE 117TH CONGRESS AND
RECOMMENDATIONS FOR
IMPROVEMENT**

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Executive Summary

The 117th Congress (2021-2023) reformed and restored one of the legislative branch's oldest and most basic powers under Article I of the Constitution: the ability of individual members to direct federal funds to priority projects in their local communities. In 2011, through a series of formal and informal policies, Congress placed a moratorium on this mechanism, known as "earmarks." Congress's legislative capacities suffered since it established the moratorium, and the executive branch accumulated additional discretion over where and how federal funds should be invested.

In 2021, the House and Senate Appropriations Committees announced their intention to reinstate directed spending under a new system designed to foster transparency, accountability, and fiscal responsibility. Beginning with fiscal year 2022, members could submit funding requests to each chamber's Appropriations Committee, which would consider and approve a portion of those requests before final floor consideration. The annual appropriations bills for FY2022 and FY2023 included directed funds for projects.

This report provides a detailed overview of directed spending during the 117th Congress. The report includes background information on the history of directed spending, information about new rules and restrictions meant to improve the process, and a data-driven analysis of the trends that emerged, with comparisons to trends in the pre-moratorium period. The data reflect the requests and approvals as published by the Appropriations Committees before floor consideration and final passage. The report concludes with recommendations for further improving Congress's use of its directed spending authority.

Introduction

In 2021, when congressional leaders announced they would seek to establish a reformed system of congressionally directed spending, formerly known as “earmarks,” skepticism predictably abounded about whether the new system could avoid the pitfalls of the old. Just 10 years before, amid partisan fervor for restrained spending and in the wake of high-profile but isolated instances of abuse, Congress ended the practice of funding specific projects requested by members. Could a new system with new rules and accountability measures produce more responsible outcomes? Against expectations, after two years of directed spending in the annual appropriations process, the 117th Congress demonstrated it is possible.

Congress’s power of the purse, found in Article I of the Constitution, is one of the legislative branch’s most effective means of guiding the executive branch and shaping federal policy. The budget and appropriations processes are “primary mechanisms by which Congress both directly controls and, perhaps more importantly, signals its priorities to bureaucratic agencies.”¹

From the republic’s early days, Congress has exercised this power by directing federal funds to important projects across the country, especially for public works.² Earmarks reached their height in the 1990s and early 2000s, when they became a more prominent feature of appropriations and some authorization bills, such as the surface transportation reauthorization.³ Unfortunately, some members abused the system. In 2007, after a few high-profile corruption cases, Congress implemented new transparency and ethics rules, including public disclosure of members’ requests.⁴ In 2011, congressional leaders and President Obama made clear that the practice of earmarks was over. The era that followed became known as the “earmark moratorium.”

**ALL CONGRESS DID, IN THE END, WAS SWAP ITS
OWN MEMBERS’ JUDGMENT FOR THAT OF AN
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An ironic consequence of this moratorium was that it contributed to Congress’s declining power relative to the executive. Congress may have taken the authority to direct funds away from itself, but that authority did not disappear entirely. It was transferred seamlessly to agencies in the executive branch. Members of Congress were left having to petition, lobby, cajole and sometimes

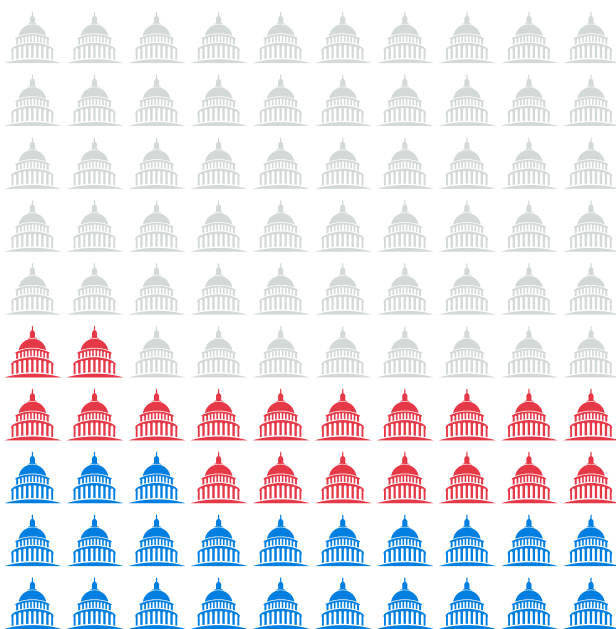
pressure federal agencies to consider local priorities.⁵ All Congress did, in the end, was swap its own members' judgment for that of an unelected bureaucracy. Research has shown that presidents will direct funds based on their own interests and motivations, just as members of Congress did.⁶

At the start of the 117th Congress, 58% of senators and 70% of representatives came to office during the moratorium (Figure 1). By inference, the same lack of institutional knowledge existed among congressional as well as federal agency staff. This loss of institutional knowledge during the moratorium, coupled with new transparency and accountability measures, created a steep learning curve for many members and staff in both personal offices and committees.

Figure 1: Members of Congress with Prior Experience of Earmarking in the 117th Congress

Senate, 117th Congress

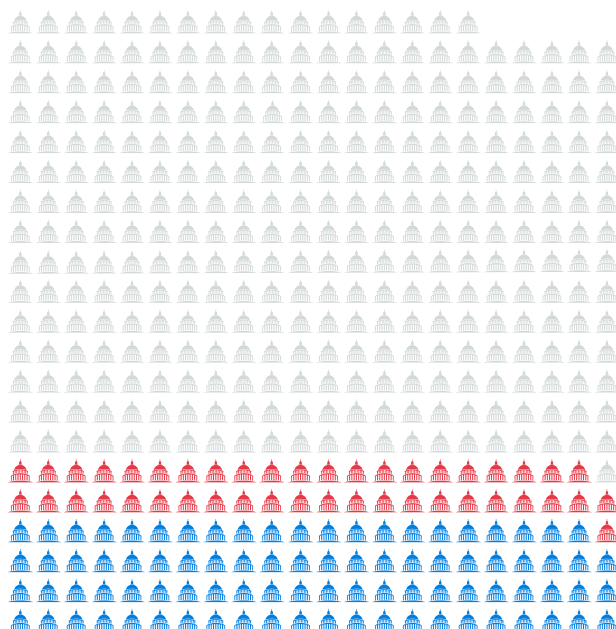
42 of 100 Senators had some prior experience with earmarks or congressional directed spending.



 23 Democrats  19 Republicans

House of Representatives, 117th Congress

131 of 435 House Members had some prior experience with earmarks or congressional directed spending.



 87 Democrats  44 Republicans

Source: Analysis by [BPC staff](#).

When the chairs of the House and Senate Appropriations Committees announced their intent to restore directed spending, new safeguards to prevent abuse were front and center.^{7, 8} During the earmark moratorium, a variety of experts made recommendations to Congress for responsibly restoring members' directed spending authority. BPC provided recommendations through several mediums, most notably 2018 testimony to the House Rules Committee from then-BPC

President Jason Grumet, as well as resources provided by a partner organization, Bipartisan Policy Center Action.^{9,10} Zachary Courser and Kevin R. Kosar outlined recommendations in their 2021 report for the American Enterprise Institute, “Restoring the Power of the Purse: Earmarks and Re-Empowering Legislators to Deliver Local Benefits.”¹¹ The Select Committee on the Modernization of Congress, established in the House in 2019, made detailed recommendations during the 116th Congress for a Community-Focused Grant Program.¹²

Table 1 summarizes recommendations made by BPC and other experts, and compares them with the rules and practices instituted by the House and Senate during the 117th Congress.

Table 1: Directed Spending Reforms Recommended versus Implemented

	Recommendations			Implemented	
	House Modernization Committee	Bipartisan Policy Center	Courser-Kosar	House	Senate
Cap total directed spending at 1% of discretionary spending.	✓	✓		✓	✓
Cap total number of requests per member.	✓	✓		✓	
Ensure a more equitable distribution among members, noting urban and rural disparities.	✓		✓	✓	
Members post each request on their website.	✓	✓		✓	✓
Appropriations committees post all requests and approvals on their websites.	✓	✓		✓	✓
Singular, public website with information on Member requests, accompanying documentation, and selected projects. The website will be easily accessible and sortable.	✓		✓		
Must appear in a bill—or its accompanying report—that has passed out of a committee.	✓	✓		✓	✓
Prohibit insertion of new projects via floor amendment or in conference reports.	✓	✓		✓	✓
Combine all rules governing congressionally directed spending into the Rules of the House.	✓				
Prohibit for-profit recipients.	✓	✓	✓	✓	✓
Members certify no financial interest for themselves or family.	✓	✓	✓	✓	✓
Require evidence of community support for requests.	✓			✓	
GAO audit sample of directed spending.	✓	✓	✓	✓	✓
Routine training for members and staff on application process.	✓				
Member offices develop training for constituents and grant applicants.	✓				
Uniform request process/applicants and members will use a standardized grant application.	✓				

Source: Analysis by BPC staff.

These reforms generally fell into five broad categories: fiscal responsibility, equitable distribution, transparency, accountability, and efficiency and effectiveness. Placing a cap on total directed spending at 1% of discretionary spending would ensure fiscal responsibility. A cap on the total number of requests any one member could make would keep directed spending from growing too large, while also helping to reduce disparities between members, such as appropriators and non-appropriators, as well as between rural and urban communities. Requiring public disclosure of requests and approvals on congressional websites would increase transparency; procedural restrictions would prevent projects from being included in legislation surreptitiously. Accountability and ethics would be furthered by prohibiting for-profit recipients, certifications that members had no financial interest in projects independent audits by the Government Accountability Office (GAO) and requiring a demonstration of local community support for requests. Finally, robust staff training and resources for staff and constituents would build efficiency and effectiveness into the process.

This report evaluates directed spending in the 117th Congress, comparing FY2022 and FY2023 in terms of spending trends and reforms. This analysis provides insight into how spending was distributed across parties, chambers, and appropriators and non-appropriators. Additionally, the distribution across appropriations subcommittees, which are grouped into broadly related categories such as health and labor or transportation and housing, sheds light on the priority of subject areas. The reforms that were instituted are among the most impactful for ensuring fiscal responsibility, transparency, accountability, and avoiding corruption. Where the House and Senate fell short or are in need of further refinement, recommendations at the end of this report show how the two chambers can further improve this already much reformed process.

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In general, this report refers to this practice as directed spending, previously known as earmarks. The House and Senate Appropriations Committees each use different terminology, and this report reflects that when referring to directed spending specific to each chamber. In the House, directed spending is known as “community project funding.” In the Senate, it is known as “congressionally directed spending.” The House Committee on Transportation and Infrastructure in 2021 considered directed spending requests as a part of the surface transportation bill, referring to them as “Member Designated Projects.” These surface transportation projects were not ultimately enacted into law and will not be analyzed here.¹³

Fiscal Years 2022 & 2023 Analysis and Comparison

The detailed analysis that follows is made possible by the release of data by the House and Senate Appropriations Committees on their respective websites. Importantly, the data here reflect the requests and approvals as published by the Appropriations Committees before floor consideration and final passage. Additional information is also required to be posted on member websites, which taken together makes the new directed spending programs the most transparent of all past similar processes.

Requests and funding increased significantly in both the House and Senate from FY2022 to FY2023, as members likely had more time to plan for and field requests than in the somewhat hurried rollout for FY2022. This development, along with an increased per member request limit, contributed to a 57% increase in the number of requests in the House, while approved project funding more than doubled from \$4.2 billion to \$8.7 billion.¹⁴ Requests rose 74% in the Senate, while approved project funding increased 40%.

**FY2023 DIRECT SPENDING REMAINS NEARLY
HALF OF PRE-MORATORIUM EARMARK
SPENDING, THANKS TO A CAP OF 1% OF
DISCRETIONARY SPENDING.**

FY2023 direct spending remains nearly half of pre-moratorium earmark spending, thanks to a cap of 1% of discretionary spending. Spending patterns and priorities continue to reflect a reformed system that bans for-profit entities, requires conflict-of-interest certification, and is transparent to the public. The House's spending decisions continue to be mostly equitable, while the Senate continues to have distributional concerns: Senate appropriators are overrepresented, there is uneven participation due to Senate GOP rules, and there are outliers like Alaska, Vermont, and Hawaii that are far above average in their share of funding.

House of Representatives – FY2023 Community Project Funding

The most significant change in House Appropriations guidance governing community project funding (CPF) was a 50% increase in the cap on member requests, which rose from 10 to 15 from FY2022 to FY2023. This increase is

reflected in the total number of requests rising 57% and the average number of requests nearly doubling to 13.7 (see Table 2 and Figure 3a). The total amount of CPF requests rose by 78% to \$22 billion, whereas the average member request rose only 10% to \$2.6 million. These increases demonstrate increased member participation in CPF for FY2023 that likely reflects several factors, including staff who were better prepared to field requests and additional time for members to solicit and communities to submit projects.

The rollout in FY2022 was very short, with the Appropriations Committee announcing the program in March 2021 and all requests due by the end of April. About 70% of House members that year had no prior experience with the previous earmark regime, which had ended in 2010 (see Figure 1). Therefore, staff and members had to rush to create systems to field, evaluate, and submit CPF requests in two short months. For FY2023, offices had much more lead time to develop their approaches to CPF.

Another difference between FY2022 and FY2023 concerned House Transportation and Infrastructure Committee (T&I) Member Designated Projects (MDP). While FY2022 appropriations were under consideration, T&I was considering its own directed spending—MDPs—which would have included member projects in the surface transportation reauthorization bill. T&I received more than 2,300 requests totaling \$14.8 billion.¹⁵ However, without the Senate’s participation in developing a similar system, House T&I Member Designated Projects were not ultimately enacted into law.^{16,17} By the time the FY2023 appropriations process began, there was no longer an active, parallel T&I process as in FY2022. In FY2023, transportation related CPF requests nearly doubled to about 2,000. Transportation and Housing and Urban Development CPFs lead in both the number and amount of requests in both years (see Figure 2).

Table 2: Comparison of FY2022 and FY2023 House Community Project Funding (CPF)

	FY22	FY23	% Change
Average CPF Requests	6.9	13.7	+ 98%
Average CPF Amount	\$2.4m	\$2.6m	+ 10%
Total Requests	3,019	4,743	+ 57%
Total Projects Approved	2,804	4,440	+ 58%
Approval Rate	93%	94%	+ 1%
Total CPF \$ Requested	\$12.3b	\$22b	+ 78%
Total CPF \$ Approved	\$4.2b	\$8.7b	+ 107%
Approval Rate	34%	39%	+ 5%

Source: House Appropriations Committee, [“Community Project Funding Request Table,” June 6, 2021](#); [“FY23 CPF Requests,” June 6, 2022](#).

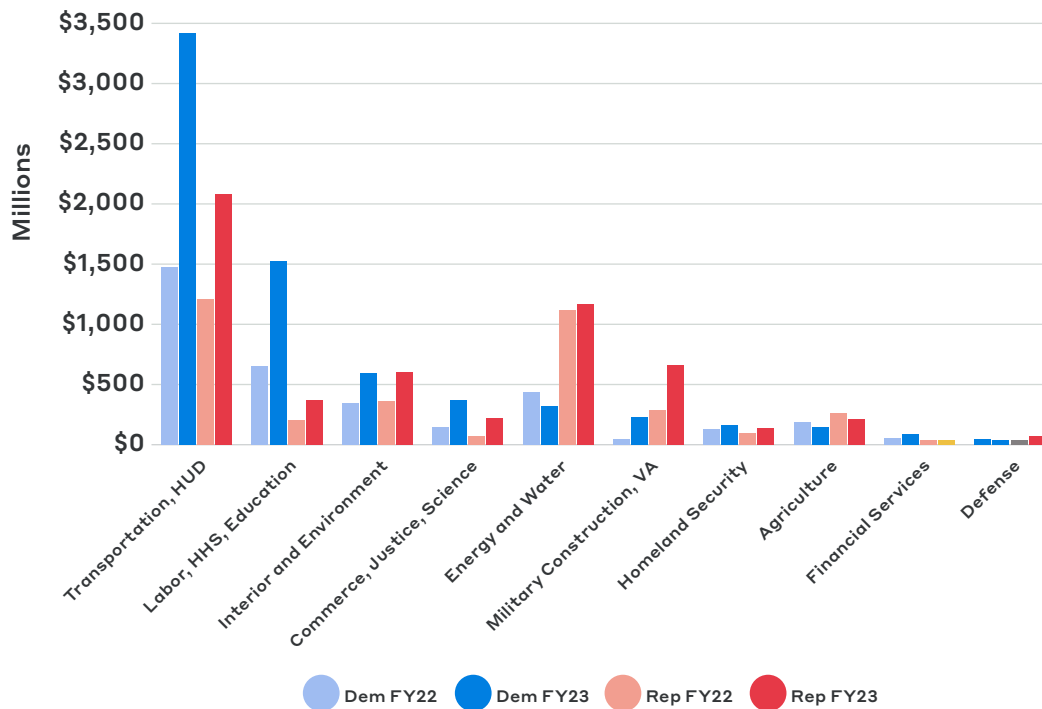
Note: Multi-member requests are separated by individual members, and the project funding divided by the number of members, to demonstrate individual, state, and partisan distributions.

The House has a high level of participation among both caucuses, with close to 60% of Republicans joining nearly all Democrats in FY2023 for a participation rate of 80%. The Republican participation rate rose 2 percentage points, and Rep. Katie Porter (D-CA) is still the lone House Democrat who does not submit requests. Spending requests differ slightly: Republicans prefer Energy and Water and Military Construction and Veterans Administration projects, and Democrats prefer Labor and Health and Human Services projects. This pattern is consistent from FY2022 and reflects each party's legislative priorities. CPFs for defense-related requests are quite small, due to the limited eligibility of accounts within the subcommittee and the ban on requests that benefit for-profit entities. Accounts are the basic unit of appropriations bills under which funding for each department is organized.¹⁸

THE HOUSE HAS A HIGH LEVEL OF PARTICIPATION AMONG BOTH CAUCUSES, WITH CLOSE TO 60% OF REPUBLICANS JOINING NEARLY ALL DEMOCRATS IN FY2023 FOR A PARTICIPATION RATE OF 80%.

Although CPF requests have risen dramatically from FY2022, the Appropriations Committee's decision-making process is similar. The project approval rate continues to be in the low 90s, and the amount of overall funding approved in the low 30s (see Table 2). Also similar is the average CPF amount approved per member, which rose 10%. Overall, the committee appears to be approving the most requests as possible while maintaining an equitable distribution per member. However, as in FY2022, there is a pronounced partisan split: The majority Democrats received 60%, while Republicans received 40% (see Figure 3b). Before the earmarking moratorium in 2011, this partisan split was also used, which House members agreed at the time was a fair distribution.¹⁹

Figure 2: Comparisons of FY2022 and FY2023 House Community Project Funding Requests by Party and Appropriations Subcommittee



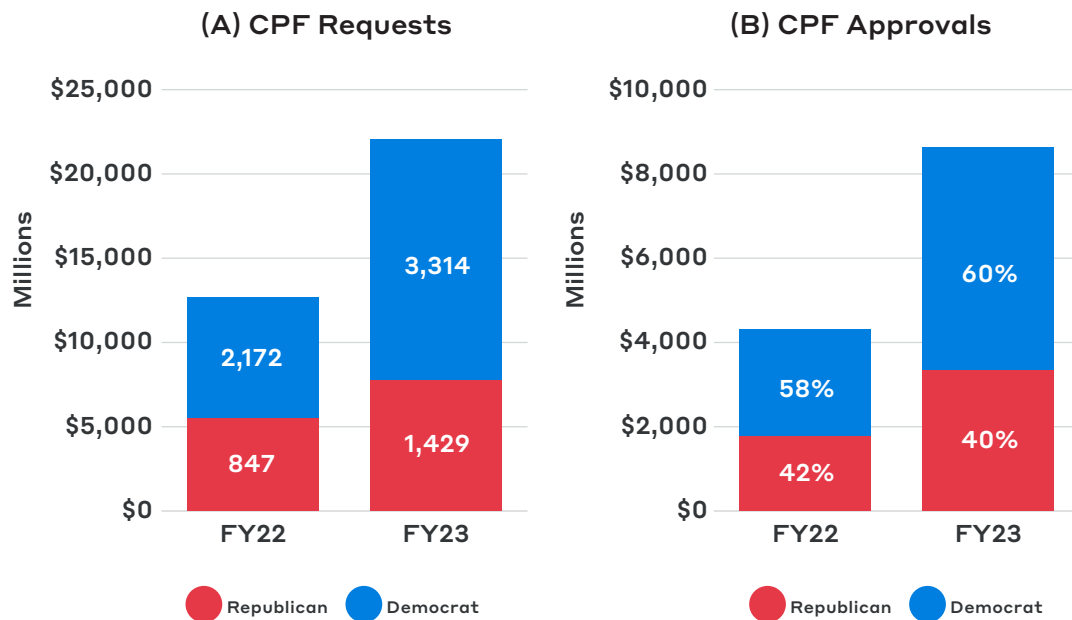
Source: House Appropriations Committee, [“Community Project Funding Request Table,” June 6, 2021](#); [“FY23 CPF Requests,” June 6, 2022](#).

The House has done a comparatively good job of equitably distributing CPF funding on a state-by-state basis and does not seem to give preference to appropriators’ requests. Considering 40% of Republican members do not submit requests, some states fared worse than others in CPF funding. The death of Republican Rep. Don Young meant that Alaska was not able to participate in FY2023 CPF through the House, while the Republican members in Montana, North Dakota, and South Dakota chose not to submit requests (see Figure 4). Some states with mixed partisan delegations were limited by Republican nonparticipation. Colorado, for example, had four of seven members participate, with all three Republicans submitting no requests. This pushes down the total state CPF per capita, placing Colorado well below average.

THE HOUSE HAS DONE A COMPARATIVELY GOOD JOB OF EQUITABLY DISTRIBUTING CPF FUNDING ON A STATE-BY-STATE BASIS AND DOES NOT SEEM TO GIVE PREFERENCE TO APPROPRIATORS’ REQUESTS.

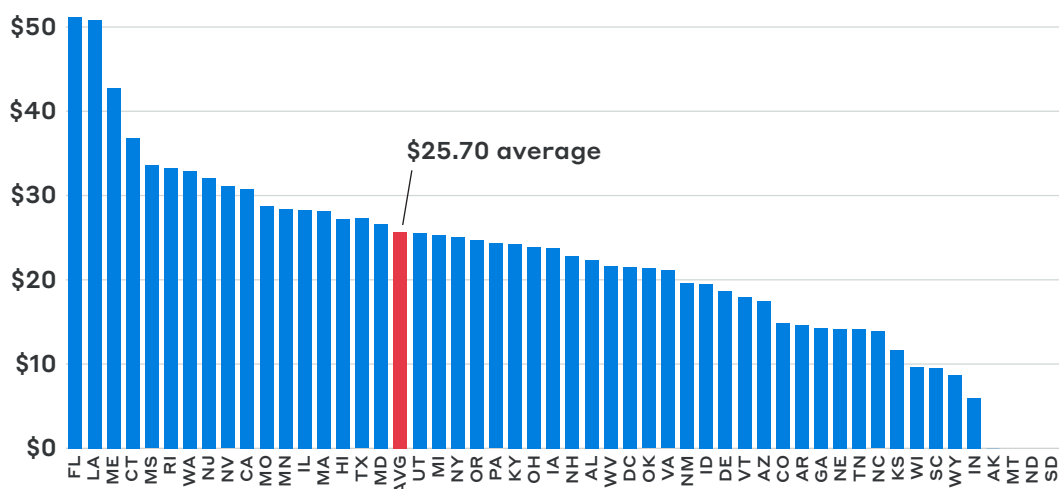
Considering these differences in participation, the per capita state distribution was generally equitable, with only Florida, Louisiana, and Maine standing out as receiving nearly twice the average.²⁰ Moreover, unlike the pre-moratorium period, House appropriators are not overrepresented in their share of CPFs. As represented in Table 3, appropriators received only slightly more than average.

Figure 3: FY2022 and FY2023 House Community Project Funding (CPF)



Source: House Appropriations Committee, [“Community Project Funding Request Table,” June 6, 2021](#); [“FY23 CPF Requests,” June 6, 2022](#); Fiscal Years [2022](#) and [2023](#) “Projects Included in House Bills.”
Note: Multi-member requests are separated by individual members, and the project funding divided by the number of members, to demonstrate individual, state, and partisan distributions.

Figure 4: FY2023 House Total State Community Project Funding Approvals Per Capita



Source: “Projects Included in House Bills,” House Appropriations Committee, Fiscal Years 2022 and 2023; United States Census Bureau, 2021 population estimate.

Table 3: Comparison of Participating House Appropriations Committee Members in FY2023 Community Project Funding

	Members	Approved CPFs	Average Total per Member	Total CPF Approvals	Percent
Non-appropriators	289	3,632	\$24.6m	\$7.1b	81.6%
Appropriators	56	808	\$28.0m	\$1.6b	18.3%
Total	345	4,440	\$25.3m	\$8.7b	100%

Source: “Projects Included in House Bills,” House Appropriations Committee, Fiscal Years 2022 and 2023

Senate – FY2023 Directed Spending

The Senate has nearly the same guidance as the House governing its process for member funding requests, which it styles as congressionally directed spending (CDS), but differs in a few key ways. The most important difference is that the upper chamber has no limitation on how many requests each senator can submit. This led to senators submitting nearly three times as many requests as the House in FY2023 (see Tables 1 and 4). The second major difference is in how few Republicans participate in the Senate: Slightly less than a third of Republican senators have submitted CDS requests since the program started in FY2022. Only two Democratic senators, Jon Tester (D-MT) and Maggie Hassan (D-NH), did not submit CDS requests both years.

These differences shaped the outcomes of the Senate process differently in both FY2022 and FY2023, with a much larger number of requests coming from fewer states than the House. The volume of Senate CDS requests increased by 74% in FY2023, while the total amount requested rose by nearly 50% (see Table 4

and Figure 6a). As in the House, this increase likely reflects increased staff experience, more developed office procedures, and generally better preparation to process CDS requests in FY2023 than the somewhat hurried introduction in the previous year.

The much higher volume of requests and the CDS cap of 1% of discretionary spending require the Senate Appropriations Committee to be more selective in what it can approve. Only about 20% of CDS funding requests are approved for about a third of projects submitted, which is down slightly from FY2022. The total amount approved in the Senate comes to \$8 billion, about half of 1% of the enacted discretionary spending for FY2023.²¹

REPUBLICAN AND DEMOCRATIC SPENDING PRIORITIES IN THE SENATE DIFFER SLIGHTLY FROM THE HOUSE, WITH INTERIOR AND ENVIRONMENT DISPLACING LABOR AND HHS FOR THE SECOND MOST FUNDING REQUESTS

Republican and Democratic spending priorities in the Senate differ slightly from the House, with Interior and Environment displacing Labor and HHS for the second most funding requests (see Figure 5). This might reflect more public lands and statewide project needs in Senate CDS requests. In FY2023, funding requests rose across all spending bills except Financial Services. For the second year, the Senate had no defense spending requests, as the subcommittee does not open any accounts to CDS. As in the House, Transportation and HUD continue to be the most requested and funded spending bill for Senate CDS from both parties.

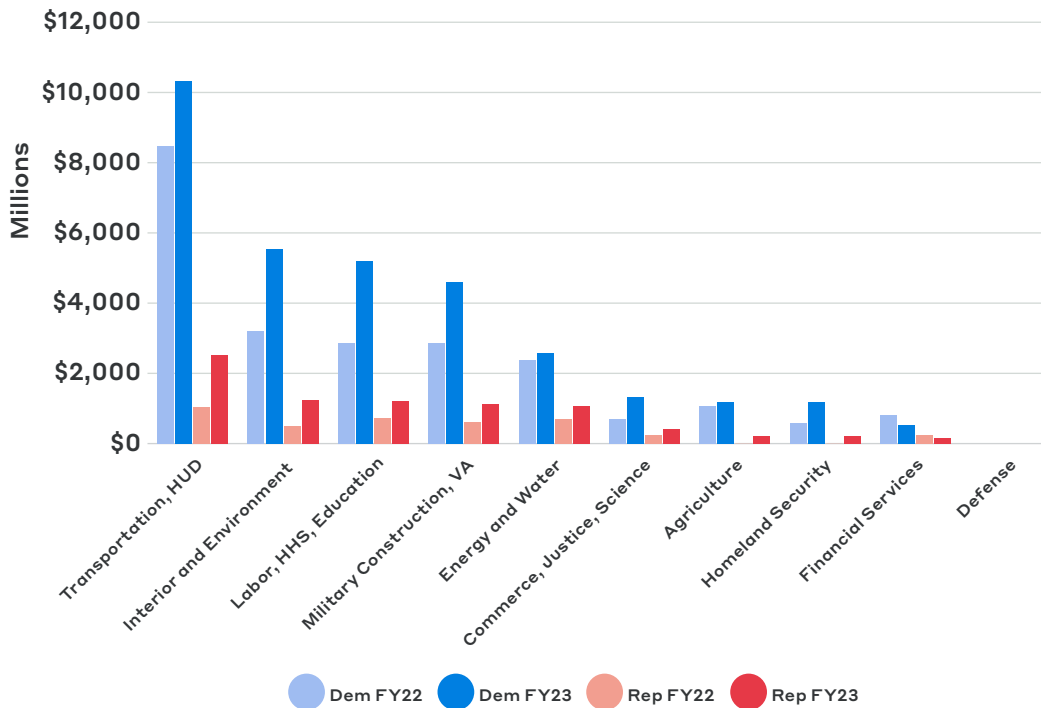
Table 4: Comparison of FY2022 and FY2023 Senate Congressionally Directed Spending Requests

	FY22	FY23	% Change
Average CDS Requests	46	69	+ 50%
Average CDS Amount	\$1.9m	\$1.8m	- 5%
Total Requests	8,055	14,048	+ 74%
Total Projects Approved	2,959	4,412	+ 49%
Approval Rate	37%	31%	- 6%
Total CDS \$ Requested	\$26.9b	\$39.9b	+ 48%
Total CDS \$ Approved	\$5.7b	\$8b	+ 40%
Approval Rate	21%	20%	- 1%

Source: Senate Appropriations Committee, “[FY 22 Member Requests](#)” and “[Congressionally Directed Spending Requests](#)” for FY2023.

Note: Multi-member requests are separated by individual senators, and the project funding divided by the number of senators requesting, to demonstrate individual, state, and partisan distributions.

Figure 5: Comparison of FY2022 and FY2023 Senate Congressionally Directed Spending Requests by Party and Appropriations Subcommittee



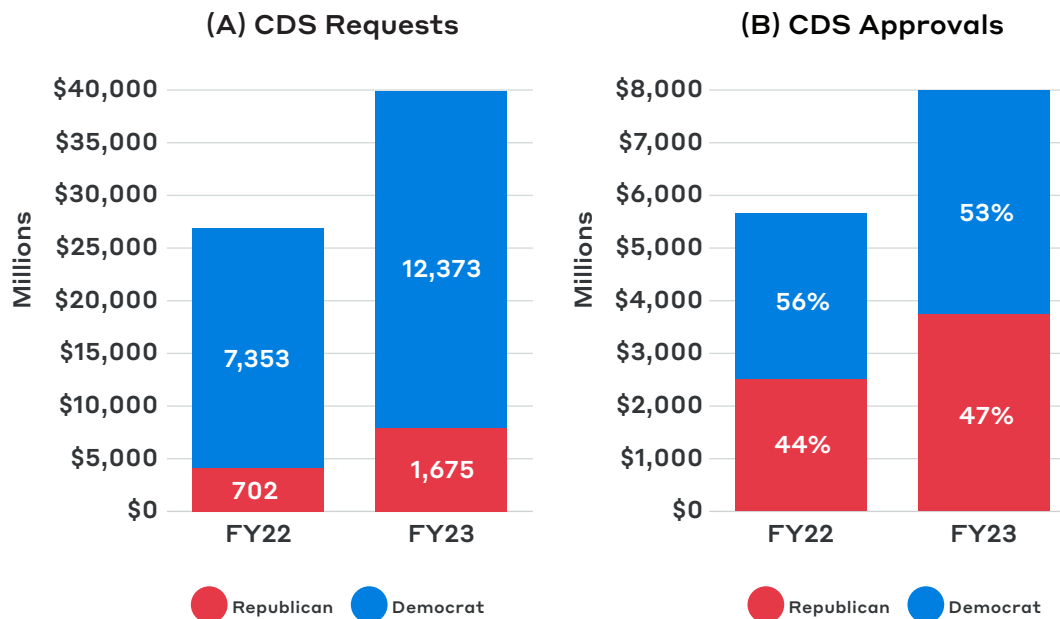
Source: Senate Appropriations Committee, “[FY 22 Member Requests](#)” and “[Congressionally Directed Spending Requests](#)” for FY2023.

The Senate Republican Conference is the least likely to participate in directed spending of the four party caucuses/conferences on Capitol Hill, and this has created continuing distortions in the distribution of Senate CDS. Although the earmarking moratorium took effect in 2011 through a series of formal and informal policy changes, the Senate Republican Conference did not update its conference rules until May 2019 when it “permanently” banned any form of directed spending.²² When the Democratic-majority Appropriations Committees announced a reformed system of directed spending in March 2021, the House Republican Conference debated and voted to update its rules to allow directed spending so long as specific accountability standards were met. An about-face by Senate Republicans to again allow directed spending less than two years after their “permanent” ban was more politically difficult. In April 2021, the conference did not change its rules. Because conference rules are nonbinding, interested Republican senators expressed their intention to submit requests.²³ However, despite the voluntary nature of Republican participation, the rule has apparently discouraged many senators from submitting requests.

THE SENATE REPUBLICAN CONFERENCE IS THE LEAST LIKELY TO PARTICIPATE IN DIRECTED SPENDING OF THE FOUR PARTY CAUCUSES/ CONFERENCES ON CAPITOL HILL, AND THIS HAS CREATED CONTINUING DISTORTIONS IN THE DISTRIBUTION OF SENATE CDS.

The disparities in participation between Senate Republicans and Democrats is clearly represented in Figure 6A: Republicans submitted only 12% of overall requests in FY2023. However, despite the relatively few requests submitted, Republicans received 47% of overall CDS funding (see Figure 6B). Thus, the upshot of the Senate Republican Conference’s continued opposition to CDS is to advantage the third of its membership that chooses to submit requests, vastly increasing their relative share of overall CDS funding.

Figure 6: FY2022 and FY2023 Senate Congressionally Directed Spending (CDS)



Source: Senate Appropriations Committee, “[FY 22 Member Requests](#)” and “[Congressionally Directed Spending Requests](#)” for FY2023.

Note: Multi-member requests are separated by individual senators, and the project funding divided by the number of senators requesting, to demonstrate individual, state, and partisan distributions.

Distortions continue in distributions being skewed to states with participating Republican senators. First, 12 states received no Senate CDS funding due to their delegations choosing not to participate (see Figure 7). Second, the per capita CDS funding levels are distributed unequally throughout the states with participating senators. Out of the top 10 states that received the most per capita funding, nine had members of the Appropriations Committee. In fact, comparing appropriators to the chamber averages demonstrates that they take home much more of CDS funding than other participating members: 23 appropriators received nearly 60% of the total (see Table 5).

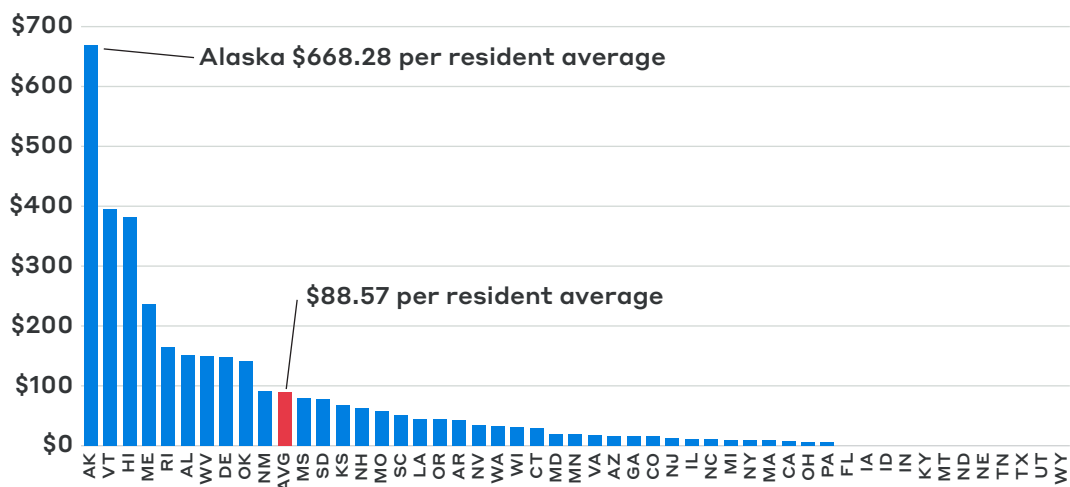
Table 5: Comparison of Participating Senate Appropriations Committee Members in FY2023 Congressionally Directed Spending

	Senators	Approved Requests	Per Capita Average	Average Approved	Total Approved	Percent
Non-appropriators	41	2,444	\$24.45	59.6	\$3.4 b	42.5%
Appropriators	23	1,968	\$102.74	85.6	\$4.6 b	58.5%

Source: Senate Appropriations Committee, “[FY 22 Member Requests](#)” and “[Congressionally Directed Spending Requests](#)” for FY2023.

Note: Multi-member requests are separated by individual senators, and the project funding divided by the number of senators requesting, to demonstrate individual, state, and partisan distributions.

Figure 7: FY2023 Total Senate Congressionally Directed Spending Approvals per Capita



Source: Senate Appropriations Committee, “[FY 22 Member Requests](#)” and “[Congressionally Directed Spending Requests](#)” for FY2023; United States Census Bureau, [2021](#) population estimate.
Note: Multi-member requests are separated by individual senators, and the project funding divided by the number of senators requesting, to demonstrate individual, state, and partisan distributions.

Comparisons with Pre-Moratorium Earmarking

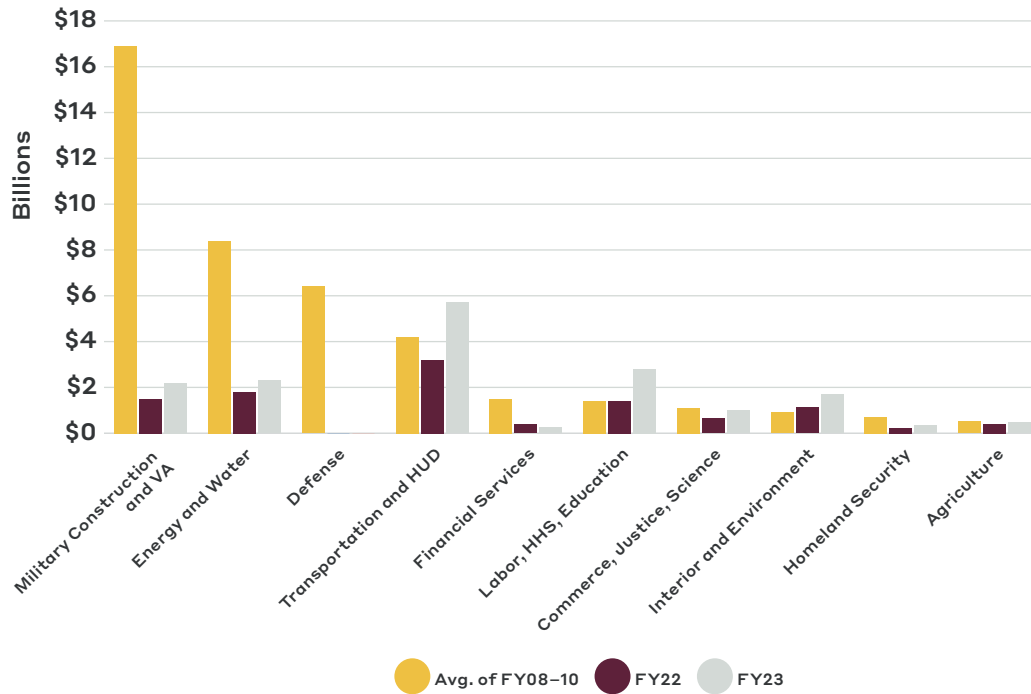
Directed spending requests and spending rose dramatically in FY2023, reflecting that Congress has managed to put systems and procedures in place since their introduction in March 2021. Despite the increased demand for directed spending, spending did not similarly increase. Due to rules adopted by the House and Senate, directed spending will be capped at 1% or less of discretionary spending. This makes it distinct from the pre-moratorium era, where earmark spending totaled 3% of discretionary spending on average from 2008 to 2010 (see Figure 8).

IN THE PRE-MORATORIUM ERA, MILITARY CONSTRUCTION AND VA AND DEFENSE WERE THE FIRST AND THIRD MOST REQUESTED SPENDING BILLS. TODAY, TRANSPORTATION AND HUD LEADS OVERALL AND NOW EXCEEDS PRE-MORATORIUM DIRECTED SPENDING LEVELS.

Likewise, the new rules—which require evidence of community support, ban for-profit recipients, provide stricter conflict of interest protections, and close certain accounts—have led to very different spending priorities. In the pre-

moratorium era, Military Construction and VA and Defense were the first and third most requested spending bills. Today, Transportation and HUD leads overall and now exceeds pre-moratorium directed spending levels.

Figure 8: Comparison of Pre-Moratorium Earmarks and FY2022 and 2023 Directed Spending (in 2022 dollars)



Source: “Table 5” in “Earmarks Disclosed by Congress: FY2008-FY2010 Regular Appropriations Bills,” Congressional Research Service, April 16, 2010; Bureau of Labor Statistics; House & Senate FY22 and FY23 Appropriations Subcommittee reports on committee approved directed spending.

Issue Focus: GAO Auditing and Tracking of Directed Spending

An important feature of reforming directed spending centered on a first-ever, post-enactment review of requests by an independent, nonpartisan entity, the Government Accountability Office (GAO). This reform is key to establishing further transparency and accountability to distinguish the new system from the pre-moratorium system's isolated incidents of abuse. A comprehensive, independent review will allow many interested parties—members, staff, the press, civil society, and constituents—to interpret the merits or demerits of both individual projects and this type of spending over a longer time horizon.

The Consolidated Appropriations Act of 2022 (P.L. 117-103), the vehicle for inaugural directed spending under the new system, directed GAO to review the approved projects in the bill. Its text specifies amounts of funds for designated recipients to use for specific projects that were requested directly by members. These funds were appropriated to 18 federal agencies, in addition to their regular programmatic funding. Upon receipt of the money, the agencies are responsible for distributing the funds to designated recipients and monitoring their use.

The Legislative Branch Subcommittee division of the bill provided the direction for GAO to review FY2022 directed spending with two goals:

1. Help the Appropriations Committees understand and prepare for the FY2023 budget process by auditing directed spending from the previous fiscal year. This would inform the committee about appropriate changes for future fiscal years.
2. Audit and provide specific information about a sampling of projects across agencies and subcommittees, including the performance of agencies in distributing and monitoring funds and recipients' preparedness and use of funds.

The delayed enactment of FY2022 funding in March 2022 provided only a small window before the FY2023 process began. Consequently, GAO focused first on the funds directed to the federal agencies, setting up a central website for related information called [Tracking the Funds](#). Last fall, GAO released an overview [report](#) examining which agencies received funds to distribute; the steps in the funding execution process from Congress to designated recipients; how funding was distributed across broad budget categories (e.g., health, transportation, energy); the types of recipients; the geographic distribution of projects; and the period of availability for the funds to be spent.

GAO also provided reports for each agency responsible for distributing funds, each of which includes details on the projects within each account. The reports showed where projects were funded, agencies' specific plans for distributing and monitoring the funds, and when recipients will have access to the funds.

GAO is now setting up the process for auditing a sampling of the FY2022 requests, as directed by Congress, and beginning its review of the FY2023 requests.

Recommendations for Improving the Directed Spending Process

Significant improvements accompanied the directed spending system that members reestablished in the 117th Congress, demonstrating that the process is more transparent, accountable, and robust. For those members who chose to participate, directed spending provides an outlet for them to exercise their Article I powers and serve their constituents. Below are five recommendations that would further enhance and improve the system based on the two years that it has been in place.

MORE USER-FRIENDLY RELEASE OF DIRECTED SPENDING DATA

Availability does not always equal accessibility, and the sometimes scattershot and inconsistent ways in which directed spending data are made available to the public make evaluation difficult. The House and Senate Appropriation Committees post requests within Excel spreadsheets or webpage frames; they also post approved requests in a series of inconsistently formatted PDFs. In addition, requests are mandated to be posted on each member's website. GAO has instituted a new website that analyzes directed spending, including reports that evaluate projects in depth and spreadsheets with more useable datasets. However, this information is available only after enactment. Consequently, congressional staff, the general public, journalists, and researchers can only assess the request and approval process with difficulty. The data also lack information that would further aid evaluation, such as the location of projects and recipients. The Appropriations Committees need to offer more detailed and consistent reporting of directed spending requests and approvals to aid the public's understanding of the process.

Continuity is also a concern for the availability of directed spending data. At present, crucial components, such as funding requests and approval tables and links to members' requests on their websites, exist only on the basis of guidelines issued by the House and Senate Appropriations Committees. These guidelines are temporary and at the discretion of the chairmen of the respective committees. No standards govern how long, where, and in what formats the data should be available. Changes in committee leadership could result in this data becoming more difficult to locate. Additionally, the information required to be provided on individual member websites could easily be lost when

their website is retired at the termination of their congressional service. To better serve the public and promote transparency, Congress should maintain a permanent repository of directed spending data—especially request and approval tables—outside of the Appropriations Committee and member-specific websites. The Congress.gov website is a natural location. In support of longer-term accountability and transparency, the House and Senate should also consider more permanent standards for the availability of this data through the Appropriations Committees.

MORE RESOURCES, TRAINING, AND SUPPORT ARE NEEDED AT DIFFERENT STAGES OF THE PROCESS

Given the decadelong moratorium, one of the biggest challenges was the fact that many members of Congress and staff had little or no experience with directed spending. Although member requests may only be 1% of the discretionary budget, the preparation, submission, review, and enactment of these requests requires significant staff time throughout the appropriations cycle. Adequate resources would better allow offices to develop transparent, equitable processes that engage more than the “usual suspects,” or larger and better-resourced applicants. Additional training and template resources from the Appropriations Committees would be highly beneficial to members and staff seeking to make requests, engage their constituents, and comply with program requirements.

SUGGESTED IMPROVEMENTS

- Members’ personal staff repeatedly expressed their appreciation for committee staff helping answer questions and provide feedback on specific member requests. The Appropriations Committees, or other committees of jurisdiction, should, to the extent possible, continue to help field questions and provide feedback on member inquiries to ensure higher quality requests.
- In terms of training, the Appropriations Committees should work with appropriate entities, such as the Congressional Staff Academy in the House and Webster in the Senate, to host in-person training sessions and provide recorded webinars for staff. These should include best practices and tips for offices to efficiently and effectively solicit, review, and submit requests. The committees should also invite offices themselves to share their best practices in these trainings for the benefit of other offices.
- The Appropriations Committees, or other committees of jurisdiction, should provide clearer and more consistent standardized guidelines and templates

for offices. For example, this help could include sample application forms, constituent-facing FAQ guides, and user-friendly information on eligible accounts. The committees should also clarify the rules around allowing staff to share nonpartisan, factual third-party resources with constituents on the earmarks process.

- The Appropriations Committees should examine whether additional committee resources, including staff capacity, would improve Congress's ability to exercise its Article I authority through directed spending, especially to implement the above recommendations.
- Federal agencies, in some cases, reported an insufficient number of contract staff to process enacted member requests in a timely fashion. The committees may consider language to allow agencies to temporarily increase contract staff to process member requests more expeditiously.

INCREASE PARALLEL ELIGIBILITY OF HOUSE AND SENATE ACCOUNTS

When the member request process was reinstated in spring 2021, each chamber identified specific Appropriations subcommittee accounts that would be eligible. Although some other elements of the reformed process were in alignment between chambers, a stark difference was the number of eligible accounts. In [FY2022](#), the House had 41 accounts open in 10 subcommittees, while the Senate had 60 open in nine subcommittees. In [FY2023](#), some efforts were made toward alignment, with the House having 50 accounts open in 10 subcommittees and the Senate having 59 open accounts in nine subcommittees. This misalignment has led to confusion among some delegations and constituents over which accounts are open and to questions about the implications of submitting a request to an account open only in one chamber. Going into the 118th Congress, the House and Senate subcommittees should continue to make strides toward consensus to reduce confusion caused by the asymmetrical nature of qualifying accounts.

CLARIFY MORE PERMANENT MISSION AUTHORITY FOR GAO

GAO's current assessment of member requests is based on congressional direction that is enacted annually and limited to funding for those requests. For the past two years, Congress has provided that direction in the Appropriations Committee's Legislative Branch Subcommittee report. Consequently, GAO's evaluation remains somewhat ad hoc and focused on near-term work. A more permanent mandate should be added to extend it beyond just an annual cycle of funds. Without longer-term direction, GAO staffing and mission outreach will remain constrained. Congress should provide more robust direction to

GAO to review future directed spending as long as member requests are enacted and projects are being implemented.

IMPROVE DISTRIBUTION OF DIRECTED SPENDING IN THE SENATE

The chairman and ranking member of the Senate Appropriations Committee should seek a more equitable distribution of directed spending across participating members and states.

In the 117th Congress, the Senate Appropriations Committee maintained an equitable partisan distribution of funds between participating Democratic and Republican members, and this should continue. States represented by appropriators, however, received approval for an outsized share of directed spending than did those represented by non-appropriators.

A common criticism of the old earmark system was that certain members—especially members of the Appropriations Committees—received a disproportionate share of the funds. The chairman and ranking member of the Senate Appropriations Committee have considerable clout to influence and shape the directed spending process through committee protocols and their agenda-setting powers. In the spirit of the reforms with which the Senate restored directed spending, the leadership of the Senate Appropriations Committee should take formal or informal steps to reduce this disparity.

Conclusion

The 117th Congress restored members' directed spending in a fiscally and ethically responsible manner by instituting transparency and accountability reforms that make the practice more resistant to the abuses of the past. The new approach to directed spending is markedly different from the old earmarks system. Total directed spending was capped at 1 percent of discretionary spending, and the House achieved widespread equity in the distribution of funds. The prohibition on for-profit entities receiving funds and limitations on eligible appropriations accounts shifted funds away from typical accounts seen under the old system, such as defense. Importantly, new transparency measures gave the public unprecedented insight into the directed spending process by making information about requests and approvals available.

Both chambers can improve the transparency and accessibility of data provided and make training and other resources more available to staff to improve efficiency and effectiveness. Making more permanent GAO's direction to review these funds can also improve accountability. The Senate can also take steps to ensure that certain members and states do not receive outsized benefits.

Further improving how Congress exercises this aspect of its Article I power of the purse will benefit members and constituents alike, foster bipartisanship, integrity and trust, and strengthen the legislative branch as an institution.

Endnotes

- 1 Josh Chafetz, *Congress's Constitution: Legislative Authority and the Separation of Powers* (New Haven, CT: Yale University Press, 2019).
- 2 "Earmarks Can Achieve Good Things," *Mitchell Republic*, December 21, 2010. Available at: <https://www.mitchellrepublic.com/opinion/editorial-earmarks-can-achieve-good-things>.
- 3 Jeffrey Lazarus, "Democrats Are Bringing Earmarks Back. Aren't Earmarks Bad?" *Washington Post*, February 18, 2021. Available at: <https://www.washingtonpost.com/politics/2021/02/18/democrats-are-bringing-earmarks-back-arent-earmarks-bad/>.
- 4 "House and Senate Procedural Rules Concerning Earmark Disclosure," Congressional Research Service, November 18, 2009. Available at: https://www.everycrsreport.com/files/20091118_RL34462_5af862b52471f8a33e7a6f6cec319c503d41ffb7.pdf.
- 5 Russell Mills and Nicole Kalaf-Hughes, "The Evolution of Distributive Benefits: The Rise of Letter-Marking in the United States Congress," *Journal of Economics and Politics*, 22(1), 2015. Available at: <http://www.jstor.org/stable/26336724>.
- 6 John Hudak, *Presidential Pork: White House Influence Over the Distribution of Federal Grants* (Washington, DC: Brookings Institution Press, 2014).
- 7 Cristina Marcos, "Key Democrat Unveils Plan to Restore Limited Earmarks," *The Hill*, February 27, 2021. Available at: <https://thehill.com/homenews/house/540787-key-democrat-offers-bill-to-restore-limited-earmarks/>.
- 8 "Leahy Announces Restoration of the Power of the Purse: Reforms for a Return to Congressionally Directed Spending in Fiscal Year 2022," U.S. Senate Committee on Appropriations, April 26, 2021. Available at: <https://www.appropriations.senate.gov/news/majority-leahy-announces-restoration-of-the-power-of-the-purse-reforms-for-a-return-to-congressionally-directed-spending-in-fiscal-year-2022>.
- 9 *Testimony of Jason Grumet: Hearing on "Article I: Effective Oversight and the Power of the Purse" Before the House Comm. on Rules*, 115th Con. (2018), Written Testimony, Jason Grumet, President, Bipartisan Policy Center. Available at: <https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2019/03/BPC-Testimony-Jason-Grumet-House-Committee-on-Rules.pdf>.
- 10 Bipartisan Policy Center Action, "Strengthening Representative Democracy by Reviving and Reforming Congressionally Directed Spending." Available at: <https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:12cd4110-14f8-42b9-b4c5-ac0661641f03>.
- 11 Zachary Courser and Kevin Kosar, "Restoring the Power of the Purse: Earmarks and Re-empowering Legislators to Deliver Local Benefits," American Enterprise Institute, February 2021, pp. 12-13. Available at: <https://www.aei.org/wp-content/uploads/2021/04/Restoring-the-power-of-the-purse-3.pdf?x91208>.

- 12 Select Committee on the Modernization of Congress, “Reduce Dysfunction in the Annual Budgeting Process Through the Establishment of a Congressionally-directed Program That Calls for Transparency and Accountability, and That Supports Meaningful and Transformative Investments in Local Communities Across the United States. The Program Will Harness the Authority of Congress Under Article One of the Constitution to Appropriate Federal Dollars.” Available at: <https://modernizecongress.house.gov/final-report-116th/chapter/recommendation/reduce-dysfunction-in-the-annual-budgeting-process-through-the-establishment-of-a-congressionally-directed-program-that-calls-for-transparency-and-accountability-and-that-supports-meaningful-and-transformative-investments-in-local-communities-across-the-united-states-the-program-will-harness-the-authority-of-congress-under-article-one-of-the-constitution-to-appropriate-federal-dollars>.
- 13 Owen Minott, “Unpacking the Earmark Requests for Surface Transportation,” Bipartisan Policy Center, May 27, 2021. Available at: <https://bipartisanpolicy.org/blog/infrastructure-earmarks-tracker/>.
- 14 The House Appropriations Committee released an “Energy & Water CPF Disclosure Table” in June of FY2023 that added three new columns that differ from FY2022 disclosures: “Budget Request Amount,” “Additional Amount,” and “Total Amount Provided.” The Senate released a similar disclosure table formatted with these same new columns. House Appropriations also noted at the top of their FY2023 disclosure table that “Amounts shown over the presidential budget request level (“Additional Amount” column) are considered Community Project Funding for purposes of House rules.” This distinction was not made in FY2022, and for purposes of comparison we have used the “Total Amount Provided” column to make equal comparisons to the “Amount” columns provided by the House and Senate in FY2022 Energy & Water disclosure tables.
- 15 House Transportation and Infrastructure Committee, “Member Designated Projects,” June 7, 2021. Available at: <https://transportation.house.gov/committee-activity/issue/member-designated-project>.
- 16 Tyler Olson, “Dems’ reconciliation bill has \$6B transportation ‘slush fund’ that GOP aide warns could fund backdoor earmarks,” *Fox Business*, September 25, 2021. <https://www.foxbusiness.com/politics/reconciliation-6-billion-slush-fund-transit-earmarks>.
- 17 Robert S. Kirk, “House Committees Release Guidance for Transportation Earmarks,” Congressional Research Service, April 8, 2021. Available at: <https://crsreports.congress.gov/product/pdf/IN/IN11647>.
- 18 James V. Saturno, Bill Heniff Jr., and Megan S. Lynch, “Review of The Congressional Appropriations Process: An Introduction,” Congressional Research Service. 2016. Available at: https://www.everycrsreport.com/files/20161130_R42388_bb055582808c21e04d885d0597961815c4d64e38.pdf.
- 19 Zachary Courser and Kevin Kosar, “Restoring the Power of the Purse: Earmarks and Re-empowering Legislators to Deliver Local Benefits,” American Enterprise Institute, February 2021, p. 6. Available at: <https://www.aei.org/wp-content/uploads/2021/04/Restoring-the-power-of-the-purse-3.pdf?x91208>.

- 20 Note that no senators from Florida submitted any directed spending requests, so Florida's average in Congress overall was closer to the average. Also, Republican Brian Mast (FL-18) submitted an Energy and Water request for \$318 million, which pushed up the entire state's average significantly.
- 21 "FY 2023 Omnibus Means over \$700 Billion Boost to Baseline Spending," Committee for a Responsible Federal Budget, accessed January 23, 2023. Available at: <https://www.crfb.org/blogs/fy-2023-omnibus-means-over-700-billion-boost-baseline-spending>.
- 22 Benjamin Wermund, "Senate Republicans permanently ban earmarks," *Politico*, May 24, 2019. Available at: <https://www.politico.com/story/2019/05/24/senate-republicans-permanently-ban-earmarks-3323611>.
- 23 Emily Cochrane, "Senate Republicans agree to keep a symbolic ban on earmarks, but may use them anyway," *New York Times*, April 21, 2021. Available at: [Senate Republicans agree to keep a symbolic ban on earmarks, but may use them anyway](#).



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