



One man's plan to fix Congress: Bring back earmarks

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President Trump voiced displeasure with congressional gridlock over the weekend and criticized “archaic rules” in both the Senate and House for holding up his agenda.

But as the House tries to revive its repeal and replacement of Obamacare this week, some in Congress maintain that one way to overcome dysfunction and to help the president pass key legislation is to do something that might seem counterintuitive: Bring back earmarks.

Rep. Tom Rooney, R-Fla., said that if Republicans had restored a limited form of earmarks right after the election, the House might have already passed a health care bill and be on its way to tax reform. In 2010, after Republicans gained control of the House, they banned the practice of allowing members of Congress to set aside money for projects in their districts because the process had been abused.

By last November, however, there were enough votes to bring earmarks back, Rooney told Yahoo News. Yet he didn't push for a vote because House Speaker Paul Ryan, R-Wis., asked him to hold off.

“I was asked to sort of let this percolate for a while. We would address it in the first quarter, and then Paul asked if we could push it to the second quarter because we had health care and everything going on,” Rooney said.

Rooney remains hopeful the issue will be voted on in the next few months, but said he regrets he didn't push harder last year.

“There is a part of me that thinks about the fact that if I had insisted on a vote back in [November], it would have passed, we might have gotten s— for it for a week, but we wouldn't even be talking about it right now. Members would be requesting what they need in their districts. And health care may have passed,” Rooney said.

That last point — the argument that the House would have already passed a health care bill if earmarks existed — springs from the idea that the well-intentioned 2010 earmark ban has actually backfired and produced gridlock in Congress.

Republicans ended earmarks because the practice had been abused by lawmakers like Randy “Duke” Cunningham, a California Republican who took bribes from defense contractors in exchange for military contracts and ended up in prison for eight years.

But in eliminating one problem, Congress has created two more, say Rooney and others who want to bring back earmarks in a limited form. First, the money that Congress used to earmark is still being spent, but now it’s being allocated by unelected bureaucrats in federal agencies. It’s made the presidency more powerful by ceding constitutional authority over spending to the executive branch, and it’s placed decisions about how federal money is spent in the hands of people who are far less interested in and far more removed from the issues of specific congressional districts.

Speaker Ryan himself articulated this concern last November when earmarks first came up for discussion at the Republican retreat. “We’re going to be spending the first quarter of 2017 figuring out just how we can make sure we can restore the power of the purse to the legislative branch to hold the unelected branch accountable,” Ryan said. “When we say ‘drain the swamp,’ that means stop giving all this power to unelected people to micromanage our society, our economy and our lives, and restore the Constitution.”

The second problem is that members of Congress have lost a key reason for being, representing their constituents’ interests in the legislature. And some members have decided that they have to justify their existence through other means, such as opposing whatever leadership proposes. In other words, Congress doesn’t work and can’t solve problems — can barely even do the basic work of keeping the government up and running — in part because there’s very little reward for doing so.

Success for lawmakers used to mean securing federal money for roads, bridges or other projects in their districts. But since the earmark ban, they’ve had to look elsewhere for wins. Opposing leadership pleases antiestablishment voters.

“All members of Congress are parochial beasts. They respond to the parochial concerns of the district that sent them,” said former Wisconsin congressman Reid Ribble, who retired last year after being elected to Congress during the tea party wave of 2010. Ribble joined the Freedom Caucus at its formation in early 2015 but quit the group near the end of that year out of frustration with its tactics.

Rep. Mark Meadows’ district in North Carolina, for example, is “staunchly conservative and far to the right,” Ribble said. “It’s normal that he would respond to those voters in a way that gets them to stand up and cheer.”

“This grandstanding is a new form of showing your citizens back home you’re fighting for them,” Ribble said. “They get rewarded for what they’re doing and so they keep doing it.”

Earmarks would also give congressional leaders a tool to more effectively whip votes, something that has become increasingly difficult over the past several years. A deal to fund the government, or to reform the immigration system, would be more easily passed if members on the fence could bring something home to their constituents.

But critics say earmarks are just a form of corruption. “The real toxicity of earmarks is their use as favors — bribes in another context — to legislators who in exchange support other spending or legislation favored by congressional leaders, especially members of the appropriations committees,” wrote Michael Tanner, a senior fellow at the libertarian Cato Institute.

Rooney is on the House Appropriations Committee, so earmarks would increase his power in Congress. He was indignant at the thought of personally benefiting from his efforts to get federal money for work to strengthen the dike around Lake Okeechobee or for beach replenishment on Manasota Key.

“I’m not getting any kickbacks for that,” Rooney said of what would happen if he were able to secure an earmark for those projects. “You know, Heritage Action and these people that come out with these reasons why we shouldn’t bring these back, it’s like because people were doing illegal things. If they were doing illegal things they should go to jail, and they did. But when you’re talking about, that we’re so irresponsible here in the House, that we’re such children, that we can’t do our jobs for our district, it’s like why are we here?”

Rooney wants to limit earmarks at first to Army Corps of Engineers projects that deal with various forms of infrastructure.

“If there is something nefarious going on there, then it should come out and the guy shouldn’t get reelected. We’re all accountable every two years,” Rooney said. “At some point you want to have a work product at the end of the day that you helped accomplish. But there are people ... who are fine with being called congressman, getting reelected, and that’s it. And I think that that sucks, quite frankly.”

And proponents of earmarks say this is simply the way government works — through compromise and deal-making — even if it isn’t always pretty.

Political realism, journalist Jonathan Rauch wrote in 2015, “sees governing as difficult and political peace and stability as treasures never to be taken for granted,” and it “therefore values incrementalism and, especially, equilibrium — and, therefore, transactional politics.”

“Back-scratching and logrolling are signs of a healthy political system, not a corrupt one. Transactional politics is not always appropriate or effective, but a political system which is not reliably capable of it is a system in a state of critical failure,” Rauch wrote.

Rooney says he is still hoping for a vote in the House before the August recess. He's open to a provision requiring that any lawmaker seeking an earmark publicly argue for its merits on the floor of the House chamber.

But earmarks have some influential opponents. House Financial Services Committee Chairman Jeb Hensarling and Sen. Mike Lee, R-Utah, wrote a piece opposing such a move, and Sens. Jeff Flake, R-Ariz., John McCain, R-Ariz., Ben Sasse, R-Neb., Rand Paul, R-Ky., Ted Cruz, R-Texas, and Lee all wrote to Trump asking him to oppose earmarks.

When I asked the White House about whether Trump would support Rooney's proposal, press secretary Sean Spicer was noncommittal. "It's a House issue," he wrote in a terse email.

For now, that remains the case. But if it comes up in the House at any point in the next few months, Trump will have to choose a side.