



Now that earmarks are back, it's time to ban 'poison pill' riders

BY JAMES GOODWIN, OPINION CONTRIBUTOR — 04/24/21 11:00 AM EDT
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

8 SHARES



Just In...

CDC issues new guidance for summer camps

HEALTHCARE — 5M 24S AGO

Capitol riot probes home in on Oath Keepers

NATIONAL SECURITY — 32M 31S AGO

62 Kansas counties decline weekly vaccine allotment amid wane in demand

HEALTHCARE — 35M 28S AGO

Attack sends Chinese American New York man to hospital

STATE WATCH — 47M 6S AGO

To defend Democracy, we must protect truth online

OPINION — 1H 7M AGO

Man charged in shooting death of 7-year-old outside Chicago McDonald's

BLOG BRIEFING ROOM — 1H 14M AGO

EU preparing quick response to India request for coronavirus assistance

INTERNATIONAL — 1H 27M AGO

Ohio governor: 'There's a clear pathway in regard to police reform'

SUNDAY TALK SHOWS — 1H 28M AGO

VIEW ALL

View Latest Opinions >>

Making Congress functional again is having a moment. The debates over ending the filibuster and legislation to prevent [hyper-partisan congressional districts](#) have received the most attention in this space so far. But lawmakers did quietly take an important step forward on mending congressional dysfunction when they [reinstated the practice of earmarking](#) the federal budget, reversing a decade-old ban.

Lawmakers should build on this fix to the budget process by cracking down on “poison pill” appropriations riders, a gimmick that proliferated in the vacuum left by the earmark ban.

These riders are the inverse of earmarks, which direct federal agencies to spend a certain portion of funds on a specific activity (like building a bridge or community center, for example). Poison pill riders, on the other hand, [bar agencies from using funds](#) for certain activities. They don't repeal agencies' underlying authority to make rules, but they have the same effect, at least for the duration of the fiscal year.

These riders are often referred to as [“poison pills”](#) because they would not survive the legislative gauntlet if introduced as standalone legislation. (Though they go by the same name, they are distinct from the traditional type of “poison pill” amendments, which are added with the goal of killing legislation that would otherwise make it through Congress.) Because they're attached to “must-pass” appropriations bills, they enjoy a glide path to enactment. In what amounts to [legislative extortion](#), members of Congress and the president could be forced to swallow riders they oppose to prevent a government shutdown.

Poison pill riders took off during the Obama administration, as [Republican lawmakers sought](#) to block Democratic-led agencies from developing a broad range of new public interest regulations. Caught in the crosshairs were worker health and safety protections, controls on greenhouse gas (GHG) pollution, measures to promote women's access to family planning services and other crucial safeguards. If enacted, these riders would have made it illegal for agencies to spend a single penny on implementing the targeted regulations.

High stakes fights over riders increasingly intensified and threatened to blow up the entire spending process, forcing Republican lawmakers to

relent on the most egregious of them. To avert costly shutdowns on future budgets, congressional leaders eventually entered into an [uneasy truce over riders](#), which has largely held since the last years of the Obama administration.

The most immediate problem with poison pill riders is that they sabotage popular public interest regulations, putting people and the environment in harm's way. Indeed, that is their intended purpose.

A rider to a 2015 appropriations bill, for example, would have blocked the U.S. Environmental Protection Agency (EPA) from updating national [ozone pollution standards](#) — and preventing up to [4,300 deaths](#) per year. Another rider that year targeted a rule that sought to [prevent for-profit colleges from defrauding their students](#), many of whom are people of color and come from working-class families.

To make matters worse, despite these significant policy impacts, poison pill riders typically eschew rigorous congressional deliberation and public scrutiny. They're one- or two-line provisions tucked into mammoth spending packages that often run hundreds of pages. [Few ever receive consideration](#) during legislative hearings. Because they're so contrary to the public interest, it is easy to see why their supporters must resort to such legislative chicanery to get them enacted into law.

Then there's the impression — if not the reality — of corruption that surrounds the use of poison pill riders. In many cases, lawmakers who sponsor these riders have close ties to the industries that directly benefit from them. Rep. Tom Cole (R-Okla.), for example, sponsored another rider in 2015 that would have blocked the U.S. Department of the Interior (DOI) from establishing environmental and safety protections for hydraulic fracturing on federal lands. During that election cycle, Cole received at least \$114,500 in contributions from the oil and gas industry, campaign finance data show.

Even if there is no actual *quid pro quo* at work, such financial entanglements risk further eroding public confidence in Congress.

Democrats push for chokehold ban, limited immunity in police reform...

W.Va. senator: 'I hope that President Trump plays a role' in upcoming...

As the budget fights during the Obama administration illustrate, poison pill riders reinforce congressional dysfunction. Often pushed by members seeking to score cheap political points, these measures exacerbate the already toxic atmosphere on Capitol Hill.

Unlike the unfairly maligned budget earmarks, poison pill riders are the real perversion of how Congress exercises its “power of the purse.” That's why Congress should end them once and for all.

James Goodwin is a senior policy analyst at the Center for Progressive Reform.

**TAGS TOM COLE EARMARKS POISON PILL LEGISLATION BIPARTISAN REPUBLICANS DEMOCRATS
FILIBUSTER HYPER-PARTISANSHIP CONGRESS**

