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Highways sans pork? A rough road

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Mention earmarks and what springs to mind? The Bridge to Nowhere? Coconut Road? The Big Dig? John Murtha's airport?

The practice, notorious for embodying Washington's pay-to-play culture, nonetheless got lawmakers enthusiastic about the less-than-sexy process of funding the country's highway and transit systems.

Now, leaders are trying to figure out how to pass a \$260 billion, five-year transportation bill (in the House) or a \$109 billion, two-year bill (in the Senate) while at the same time telling lawmakers they may not have anything to show for it in their home districts to ward off headlines like: "Congressman X just voted for a bloated XXX billion highway bill."

"We've never done this on the transportation bill. There's always been earmarks," said longtime House Transportation and Infrastructure Committee member Rep. Jerry Costello (D-Ill.).

The 2005 highway bill, for instance, had the support of more than 90 percent of lawmakers in each chamber. It also had about 6,300 earmarks, according to the National Surface Transportation Policy and Revenue Study Commission.

"We had a different atmosphere here, and I could do things a little bit differently," said Rep. Don Young (R-Alaska), the former Transportation and Infrastructure Committee chairman and co-author, along with former Sen. Ted Stevens (R-Alaska), of the Bridge to Nowhere earmark in the 2005 effort, the last time a long-term bill was passed.

"The biggest difference was everyone had part of the action on that bill," Young added.

"It was the way that members of Congress bartered for support on policy provisions as well as funding allocations," said David Goldberg, a spokesman for the progressive advocacy group Transportation for America. "Without that lubricant, it has been all the more difficult to move the bill through a divided Congress."

Also lost is the opportunity for a member of Congress to stand next to a new bridge or transit project and say: "Because of me, that project got done."

"There's just a sense in election time that members of Congress would show they've brought home the bacon," Goldberg said. "That would lend a sense of urgency to the bill. There's still a sense of urgency, but it's more abstract."

Transportation Chairman John Mica (R-Fla.) insists he's happy he doesn't have to deal with earmarks, saying members can focus on nationwide legislation rather than provincial interests.

"I think people are hungry for a major infrastructure bill. We solve issues in the whole country. Everybody in every district benefits," Mica said.

“He has an awful difficult task,” Young said of Mica.

Other congressional veterans believe the earmark ban means a highway bill won't generate the same excitement. If lawmakers can't have that photo op next to the project they funded, what's the point?

“I think people would be more enthusiastic, don't get me wrong, but I think folks want to get something done,” said Rep. Elijah Cummings (D-Md.).

“I think when you're in a very difficult political climate where Congress is having difficulty getting anything done, removing earmarks is another strike against the highway bill,” said a former Senate transportation staffer.

Without earmarks, lawmakers may turn to the Department of Transportation in order to get their districts' projects funded, and experienced pols will still be at an advantage. That's because an earmark ban effectively translates to more power for state transportation departments and the Obama administration and less for individual members.

“I've always said that the anti-earmark crowd is actually pro-Obama,” said West Virginia Rep. Nick Rahall, the ranking Democrat on the transportation committee. “I'm surprised it's not spoken of more on the majority side because it's a fact.”

Costello said the discontent is simmering beneath the surface for many Republicans.

“They're just not saying that on the record. They're saying that to us,” he said. “We're hearing it from a number of members, not only on the transportation committee but off the committee as well. They think that it was a mistake to do away with earmarks.”

Young agrees, adding the Constitution gives Congress the power of the purse.

“Why would I vote for a bill that gives the money to the Federal Highway Administration ... and let them spend it where they think best?” Young said.

When asked if that widespread sentiment among the Republican Party would throw a wrench into negotiations, Young replied, “I have no doubt about that. Why would you vote for a bill when you don't have any say where the money is going to be spent?”

The new rules mean competition will ratchet up even further for yearly funding grants from DOT in the Transportation Investment Generating Economic Recovery and New Starts programs, which could lead to frustration at the local level.

“You're just kind of hoping your project gets picked. Are we wasting huge amounts of state resources on the projects?” said one GOP Senate staffer.

But House GOP freshmen, who only know an earmark-free Congress, are happy to take part in a process that theoretically will disgust the public less.

Rep. Chuck Fleischmann (R-Tenn.) said American people are now looking to Congress to “practice what we preach” on lawmaking and transparency.

“When I came to Congress, I campaigned for fiscal responsibility. And the earmarking problem and crisis caused a great erosion in the public’s confidence in Congress,” said Fleischmann, a transportation committee rookie. “We’ve got to find a way to do it without that. And I’m confident that we can.”

“It’s a paradigm shift in what we do. Now we have states decide,” said Rep. Chip Cravaack (R-Minn.), who supports the ban and unseated former congressman and transportation committee Chairman Jim Oberstar (D-Minn.) in a squeaker of an election in 2010.

Cravaack said the playing field is leveled for newer members, who would be at a disadvantage competing for earmarks against savvier senior members.

Disgust with earmarks is still palpable on the campaign trail, where former House Speaker Newt Gingrich and former Sen. Rick Santorum are being called out for their past spending ways.

“For decades, earmarks were a currency in Washington that led to a bigger, more intrusive government. The practice needs to be ended permanently, and when it comes to transportation, we need to move away from federal control, allowing states to handle their own affairs,” said Heritage Action for America CEO Michael Needham.

Of course, Washington being the way it is, there’s already talk of how to work around the earmark ban.

“Once you get to conference, that’s when you stick that language in ... if I were them, that’s what I would do,” said one D.C. insider. Though the possibility of last-minute additions of earmarks-by-any-other-name is ever-present, the optics of the ban are a rare positive for a Congress with record-low approvals. “You can say it’s insincere, but it’s working,” said the insider.

Oberstar said any way you look at it, earmarks will come back.

“I think eventually this ban on so-called earmarks — constituent-inspired initiatives — is going to pass from public view,” Oberstar said. “If the Republicans retain majority in the coming elections, they’ll find a way to undo that limitation in the next Congress. And if the Democrats win the majority, I know for sure that’s what they’ll do.”

Adam Snider contributed to this report.

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