



# Ridding Congress of Riders: The Case for a Single Subject Amendment

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**I**t is no secret that Americans are upset with their political system. Congress' approval rate is dishearteningly low, and the bitter partisan divide that continues to fracture American society hampers any meaningful compromise or reform. So, the question arises: How can Americans improve their political system to ensure that

the government is accurately representing the desires of its citizens?

Most Americans rightly condemn rampant government waste and “pork barrel spending,” but few realize that a simple solution would be to eliminate “rider amendments,” those unrelated provisions tacked onto bills and omnibus

federal legislation that squander taxpayer money, corrode the legislative process, and reduce government transparency. Non-germane provisions on bills, commonly called “riders,” are amendments added to legislation that do not relate to the subject of the bill and generally cannot pass on their own merits.

In his 1994 article, “Appropriations Riders,” William and Mary law professor Neal Devins defines riders as “nongermane amendments that change existing law, impose additional duties on government, or require judgments and determinations not otherwise required by law.”<sup>1</sup> Devins also notes later in the article that no constitutional regulation currently exists to keep Congress from using such amendments, though many have argued that adding riders – especially adding them to appropriations bills – neutralizes the president’s veto power. Congress must pass appropriations bills to function, leaving such legislation particularly vulnerable to the addition of unrelated provisions.

Even when a rider is unpopular, the only way for Congress or the president to eliminate it is to repeal the bill entirely.<sup>2</sup> In a particularly noteworthy example, Democrats defeated a 2015 bill which would have appropriated funds to fight the Zika virus due to the addition of partisan riders by Republicans.<sup>3</sup> Like appropriation bills, omnibus legislation is governed by the same “all-or-nothing” process.<sup>4</sup> Omnibus bills result from the combination of several different appropriations bills. They often contain multiple subjects and are extremely long.<sup>5</sup> Despite these characteristic complications, as with normal appropriations bills, the only way to prevent

one part of an omnibus bill from becoming law is to concurrently prevent the entire bill from passing.

Because riders are often covertly tacked onto appropriation legislation as a way for members of Congress to appear to be generating funds for their own districts, taxpayer money is wasted on provisions that benefit politicians in search of re-election campaign points. A common practice among members of Congress is to use appropriations riders to offer or trade favors with other members in exchange for their support of a certain bill. This practice, commonly known as “logrolling,” can often be an effective mechanism to prevent congressional gridlock, but it can also result in billions of dollars of excessive spending.<sup>6</sup> To convince others to vote for a bill, members of Congress often attach riders to the original legislation that bring government money unnecessarily to the home districts of members they are seeking to convince, portraying these targeted members as successful, effective representatives to their constituents and increasing their base of support.

In omnibus bills, excessive, wasteful spending is hidden within the massive legislation. Satirically dubbed “Christmas Tree Bills,” omnibus legislation can be ornamented by unrelated provisions that hand federal money to members of Congress, and lobbyists.<sup>7</sup>

In 2015, Kentucky Senator Rand Paul voted against a major omnibus spending package, explaining, “it was over a trillion dollars... my biggest complaint is that I have no idea what kind of things they stuck in the bill.”<sup>8</sup> Senator Paul also acknowledged that there was not one group or party at fault;



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politicians from both sides of the political spectrum use omnibus riders to benefit themselves and their political parties.<sup>9</sup> Because there is no restriction ensuring that bills pertain to a specific subject, members of Congress can use taxpayer money to promote personal or partisan agendas.

Of greater concern than wasteful spending, however, is the corrosive effect riders and omnibus legislation have on the legislative process. University of Tennessee law professor Glen Reynolds points out that most rider provisions would never succeed if voted on individually.<sup>10</sup> “Individually, most of these lousy provisions wouldn’t pass, but when banded together for mutual protection they can.”<sup>11</sup> This means that Congress regularly passes provisions that on their own would not garner majority support, circumventing its constitutional obligations. Moreover, the use of riders gives Congress a method to effectively nullify the system of checks and balances established by the Constitution.

In *Clinton v. City of New York*, the United States Supreme Court ruled that the

president did not have the power to veto specific provisions within bills (termed line-item veto). The effect of this ruling is that Congress can bypass the executive branch’s checks through riders and omnibus packages.<sup>12</sup> The Pennsylvania Supreme Court addressed this issue in *Commonwealth v. Barnett*, stating that, because of the attachment of riders to appropriation legislation,

the executive branch is forced to “approve obnoxious legislation, or bring the wheels of the government to a stop for the want of funds.”<sup>13</sup> At times presidents are forced to accept riders, which occurred in “The Truth-in-Legislation Amendment,” due to the repercussions that would undoubtedly occur from vetoing the entire bill<sup>14</sup>.

Most importantly, the use of riders and omnibus bills decreases government transparency and allows Congress to conceal its manipulation of the system. Omnibus bills are excessively long to read and cover too many subjects to be truly understood in totality. Not only does this mean that Congress spends money unnecessarily, but it also means that other, more controversial provisions of a bill can pass Congress buried deep within the countless pages of confusing legislation. Reynolds explains, “A bill that’s so long that nobody can read it is, naturally, pretty likely to escape scrutiny. With thousands of pages and hundreds or thousands of provisions in the bill, what’s the chance that any particular provision will

be noticed or criticized?<sup>15</sup> Similarly, riders hitched to popular legislation are shielded from scrutiny due to large support for the overall bill.

The result of all of this is a Congress that says one thing and does another. Riders and omnibus bills allow members of Congress to hide double-dealing and misconduct from the American people, contributing to the current widespread distrust of the government. Because bills in Congress are not limited to one clearly-defined subject, members are able to abuse the power granted to them by the voters and deceive the public, using their positions to benefit themselves rather than the people they claim to serve.

Amending the United States Constitution to mandate that all federal legislation adhere to a single, clearly defined subject that must be plainly expressed in the bill's title would help prevent and deter the challenges caused by riders and omnibus legislation. Such an effort would constitute truly meaningful reform and require more stringent regulations on the legislative process. However, because riders work to the benefit of its members, Congress is not likely to establish and enforce this rule on its own. According to Reynolds, "The public isn't really represented at all. That's

not an accident --- it's by design.<sup>16</sup>"

Many of the issues present at the federal level have been effectively addressed in state legislatures by single subject rules. In fact, 41 states have single subject restrictions in their state constitutions.<sup>17</sup> "Single-subject

and title requirements have served to curb some egregious abuses of the legislative process in the states for over a century and a half.<sup>18</sup>" State rules have prevented legislatures from passing the long, indecipherable legislation commonly seen today in Congress.<sup>19</sup> The state-level successes of constitutional single subject rules illustrate the reform potential of similar regulations on Congress. A single subject amendment

would encourage Congress to legislate truthfully and transparently, curbing corruption and holding politicians accountable to the American people<sup>20</sup>.

American government today is plagued by waste, distrust, and deceit on countless levels. But there are steps that can be taken to truly improve the political system. One path we can take to repair our broken system is by working together as responsible citizens to add a single subject amendment to the United States Constitution. While it may not solve all our problems, a single subject amendment would establish a tremendous step towards creating a government that

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truly represents and serves the American people.

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*limiting the content of bills introduced in Congress to a single subject. He has also worked in constituent services for former United States Representative Gwen Graham and has served as a messenger in the Florida House of Representatives. This paper was written for his AP language and composition class.*

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- 13 Duhaime, supra.
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