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EMPTY CHAIRS IN AN EMPTY CHAMBER:
DECONSTRUCTING THE MYTH OF DEBATE IN THE U.S. SENATE

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Abstract

Debate in the U.S. Senate has been revered and mythologized throughout much of our history. The historical impression of Senate debate is that it is robust, civil, and well informed. At the same time, the terms deliberation and debate, particularly in the case of the U.S. Senate, are often used interchangeably by scholars, pundits, and average citizens to discuss Congress' upper chamber. This dissertation argues that while related, debate and deliberation are separate concepts that need to be studied independently. Likewise, it investigates some of the myths on which the Senate's reputation is built. To investigate the nuances of legislative debate in the U.S. Senate I analyze floor debate of 111 landmark pieces of legislation from the 103rd through 114th Congresses (1993-2016). I investigate factors that influence which senators participate in debate, shifts in the overall tone of legislative debate, and the types of information senators rely on to support their positions during debate. In general, I find that participation in floor debate is not robust and that senior senators, chamber and party leaders, and Democrats are more likely to participate in debate. I also find that the tone of legislative debate has not, overall, become more negative as the institution has become more partisan. Finally, I find that senators prioritize inserting items that convey political information rather than policy expertise into the Congressional Record during the course of legislative debate.

Chapter 1

Introduction

Monarchy was a rational form of government only if the greatest wisdom could reside in one individual; but the establishment of representative democracy suggested the belief that truth and wisdom could arise only from competition and compromise among countless points of view.
-Sen. Alan Simpson (R-WY)[1]

The United States Senate is lionized as one of the most prestigious elected legislative bodies in the world. If the U.S. Congress as a whole is one of the most revered institutions, Congress's "upper chamber" has been thought of as the one that gives the institution its poise and grandeur. This chamber has historically been characterized for its calmness, evenhanded measurement of policy proposals, and procedures and mannerisms that give equal deference to each senator. It is the cooling saucer that tempers the more boastful and knee-jerk reactions of the U.S. House of Representatives. The Senate is said to prize debate above all else. The pedestal on which we have placed the Senate is supported by the founders' notion, as Madison expressed in *Federalist* 58, that a good, well-reasoned, eloquently delivered speech can sway legislative bodies and convince them to do the right thing. Indeed, as Senator Simpson argues in the epigraph, it is only through the competition of multiple points of view that we as a society can derive the right course of action that extended debate and deliberation are essential to the preservation of our representative democracy. These are the sentiments that have carried the prestige of the Senate for much of our history.

Contrast that reputation with the current Senate. The House has regularly taken to calling the Senate a legislative graveyard (Keller 2021; Zanona 2021). The procedures and deference

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[1] Simpson, Alan K. 1997. Quoted in *Lessons and Legacies: Farwell Addresses from the Senate*, ed. Norman J. Ornstein, The Eisenhower World Affairs Institute, Pg. 185.

that individual senators afford each other have been used and abused by political parties to bring the chamber to a standstill (Smith 2014). As the nation faces an ever growing list of problems the "world's most deliberative body" routinely fails to act on any measure of note. The body has been revered as one that induces and encourages compromise yet when it comes to grappling with the big issues—such as gun reform—the country holds its breath just waiting for negotiations to fail (Scott et al. 2022; Quinn et al. 2022). What's more, these negotiations now routinely happen in a back room rather than through the formal, open, legislative process (Curry 2015).

The popular impression given by the pundit class and even senators themselves is that this phenomenon is relatively new. It is argued that congressmen and senators now believe their job is not to enact policy or persuade their colleagues but to perform for "…an outside audience that wants to see a dramatic enactment of culture-war animosity" (Levin 2020, 50). Numerous classes of retiring senators have lamented the same worsening problems for generations. Retiring senators at the end of the 104th Congress warned about the "decline of civility, the collapse of the center, and the rise of partisanship and rigid ideology in our politics" (Ornstein 1997, xi). The situation within Congress today has gotten so bad it has prompted some to ask, "is democratic debate dead?" (Good and Kosar 2022).

In order to answer this question, we must first have a clear understanding of how robust democratic debate was to begin with. We cannot hope to define a decline without first establishing a baseline. Existing research on the status of debate in the Senate has largely focused on the use of extended debate in the form of the filibuster. Perhaps the most central and important finding of this literature is that the procedure that has given the Senate much of its grandeur is not principled but rather is political—the filibuster has been and is used to influence political outcomes not to defend the rights of a beleaguered minority (Jentleson 2021; Binder and Smith 1997). However, extended debate is but one form of debate within the chamber. If we are to understand a supposed decline in democratic debate, we should first assess the robustness of normal and routine debate of legislation. That is what this dissertation sets out to do.

In order to learn more about the routine debate of legislation in the U.S. Senate I collect, code, and analyze the transcripts of debate of 111 important new laws enacted from 1993 to 2016. I combine this data with existing datasets related to senator career information, ideology, and legislative effectiveness to understand the nuances of legislative debate. Overall, this dataset contains information on the frequency a senator participates in debate, the emotional sentiments they tend to employ during debate, and the types of information senators insert into the *Congressional Record*, among other things. In the forthcoming chapters I use this original dataset to answer questions related to the texture and purpose of legislative debate in the U.S. Senate.

First, I examine which groups and types of senators are more likely to participate in debate. Specifically, in Chapter 2, I discuss how different institutional norms and procedures contribute to the likelihood of various senators participating in debate of important bills. I find that overall participation in debate is low and that less than a simple majority of senators participated in the debate of roughly three-quarters of the bills included in my dataset. That is to say, of the bills included in my dataset, only about one-quarter of them had a majority or more of senators debating the bill on the floor. I also find that senior senators and Democrats are more likely to participate in floor debate than their colleagues.

In Chapter 3, I move on to consider the words senators use during the course of debate and assess the overall positive and negative sentiments expressed during legislative debate. I find that legislative debate has not become substantially more positive or negative across the period of study. However, I find that Democrats and ideologically extreme senators are more likely to use negative sentiments during debate than their colleagues. I also find that seniority, being a

member of the majority party, and legislative effectiveness do not have a significant impact on the level positive or negative sentiment expressed during floor debate.

In Chapter 4, I continue to analyze the content of legislative debate. While Chapter 3 focuses on the words spoken by senators during debate, this chapter focuses on content within the *Congressional Record* that largely goes unspoken and unnoticed by analyzing items that are inserted into the *Record*. The aim of this chapter is to understand what types of information senators rely on to support the arguments they make during debate. I find that senators are more likely to insert items that convey political information such as interest group letters and media articles than they are to insert item that primarily convey expert information such as government agency and think tank reports. One of the more interesting findings is that senators seem to insert strikingly few items from their constituents into the *Record*. I also find that ideology has no influence on the likelihood that a senator will insert an item into the *Record*. Finally, Chapter 5 further summarizes my findings further and discusses their implications for democratic debate in Congress's upper chamber, places my dissertation in the context of what scholars know about legislative debate, and offers suggestions for future research.

Chapter 2

Who debates? Senatorial Participation in Debates on Important Legislation from 1993 to 2016

The most revered members of this institution accepted the necessity of compromise in order to make incremental progress… That principled mindset, and the service of our predecessors who

possessed it, come to mind when I hear the Senate referred to as the world's greatest deliberative body. I'm not sure we can claim that distinction with a straight face today.
-Sen. John McCain (R-AZ)[2]

2.1 Introduction

At the outset of the 117th Congress, Democrats, with their newfound trifecta of controlling the U.S. House of Representatives, U.S. Senate, and presidency, began the term with a breath of hope that they might finally be able to move forward with their expansive legislative agenda in a way they had been unable to do since the early days of the Obama administration. Almost immediately these hopes came to a crashing halt when numerous proposals, such as the John Lewis Voting Rights Act, the American Rescue Plan, and several infrastructure packages ran into issues involving the filibuster and budget reconciliation process. While some of these issues have found a path forward it remains clear that the majority of the Democratic agenda remains stalled by the Senate's continued use of the filibuster. This has, once again, led to a national conversation about the role of minority party rights, majority party power, and the virtue of "unlimited debate" in the upper chamber. This has sparked numerous conversations about potential reforms such as reviving the use of the talking filibuster by requiring filibustering senators to hold the floor and engage in actual debate on the measure being blocked to more subtle reforms like reversing the cloture rule to require 41 votes to sustain a filibuster rather than 60 votes to end one. Indeed, much ink has been spilled in scholarly treatments of the filibuster for decades (see, among others, Binder and Smith 1997, Wawro and Schickler 2006, Koger 2010, Bell 2011). Unlimited debate in the Senate has been studied from almost every angle

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[2] McCain, John. 2017. "American Health Care Act of 2017." *Congressional Record* Vol. 163, No. 125, Pg. S 4168.

imaginable. Largely left out of this conversation is a discussion of other, more "regular" forms of debate. What is the role of debate when not being used as a dilatory tactic? Or, on a more basic level, who even participates in legislative debate?

This chapter tackles these most basic questions of the role of debate in the U.S. Senate. Using a new dataset of senator participation in debate on important laws from 1993 to 2016, I evaluate which senators are more likely to participate in regular order debate as well as identify trends in how the Senate organizes itself for debate on major pieces of legislation. I find that overall participation in debate is quite low. It is rare for a majority of senators to participate in floor debate on a pending piece of legislation. I also find that a senator's seniority increases the likelihood of their participation in debate.

2.2 Debate and Deliberation

The terms deliberation and debate, particularly in the case of the Senate, are often used interchangeably by scholars, pundits, and average citizens to discuss Congress' upper chamber. The Senate is known as the "world's most deliberative body" and intertwined in that moniker is the reputation of the filibuster. The tool that protects the right of "unlimited debate," at least theoretically. Clearly, debate and deliberation are connected. Occasionally, they are discussed in tandem with other terms such as negotiation, bargaining, and discourse. In truth, a lot of these concepts are related and work together in operation. However, studying them independently can shed new light on our understanding of representation and the policymaking process.

Perhaps the most comprehensive study of this topic comes from Mansbridge and Martin (2016). In this edited volume the contributors seek to understand the "institutional conditions that facilitate successful political negotiation" (Mansbridge and Martin 2016, 1). A key take away

that is relevant to this study is that deliberation operates on a spectrum between pure deliberation and pure bargaining, and they add a middle ground concept they call "deliberative negotiation" (Warren and Mansbridge 2016, 151-156). Pure deliberation and pure bargaining are the methods by which actors, be they individuals, parties, companies, or even nations, determine outcomes. These two concepts, deliberation and bargaining, are models that prescribe different rules and constraints on determining those outcomes by structuring the ways in which those involved interact with one another and the power dynamics that shape eventual outcomes of those interactions. They argue that "In deliberative negotiation, the parties recognize conflicting interests but pursue mutual justification and respect and the search for fair terms of interaction and outcomes" (Warren and Mansbridge 2016, 152-153). This, I argue, shows an understanding that deliberation and debate are, at times, intertwined. In the quote above, "mutual justification" refers to "arguments on the merits" and "arguing about the terms of fair processes" (Warren and Mansbridge 2016, 151), which falls more into the camp of debate and discourse. The quote above also includes a focus on "outcomes," which refers to the ways in which involved parties can come to "agreement, a compromise, or a mixture of the two" (Warren and Mansbridge 2016, 153), which falls into the camp of deliberation. That is to say that deliberative negotiation is a process in which both deliberation and debate are used. Debate is used to make arguments by those involved to explain their "interests, needs and constraints" (Warren and Mansbridge 2016, 152). However, it also relies on deliberation in that specific policy proposals are on the table and under consideration. An example of debate and deliberation existing together from the congressional literature comes from Reynolds (2017). Reynolds' book on limitations to the filibuster opens with a chapter on debate in the Senate. She opens by discussing the three

"pillars" of unlimited debate on the senate floor, right of recognition, the lack of a germaneness rule, and the lack of a previous question motion (Reynolds 2017, 11).

These pillars are old hat to Senate scholars as they are some of the rules that undergird floor debate. However, Reynolds' discussion of these rules of debate quickly also involves a discussion of elements of deliberation. In the remainder of the book Reynolds discusses what she terms "majority exceptions" which are statutory limits that exempt future legislation from extended debates—filibusters—on the floor. However, these exemptions, as she explains, also have the effect of limiting other deliberative means of obstruction by restricting the ability of senators to introduce dilatory motions and amendments (Reynolds 2017, 18-20).

This strikes at the heart of the distinction I seek to draw between debate and deliberation. While deliberation often is accompanied by debate, it does not always have to be. For example, senators can argue and discuss the merits of a bill during post-cloture debate. Likewise, debate can exist in a way that is separate from deliberation entirely. For example, during morning hour speeches on the floor there is no pending business—votes—but that does not mean discussion of policy is not occurring, it simply means that it is "pure debate" as opposed to, thinking along the lines of Mansbridge and Martin (2016), deliberative negotiation-styled debate with policy proposals that are up for immediate consideration. It is for this reason that I argue much of the congressional literature on the subject focuses on deliberation or deliberation-centered debate, not debate in and of itself.

Even a brief overview of current and major works on Congress highlights the focus on deliberation. For example, Krehbiel (1998) developed a formal model to explain when policy proposals will be adopted over continuation of the status quo. While filibuster scholars take issue with Krehbiel's conceptualization of the mechanisms driving the use and prevalence of

filibusters (Koger 2010; Bell 2011), the filibuster itself does remain an important pivot point for determining the success or failure of a bill by forcing members to work towards consensus. However, this consensus building process is most commonly accomplished through the construction of the bills or the allowing of amendments to build consensus. More recent scholarship has focused on to the leadership's ability to circumvent the filibuster pivot in order to pass bills closer to the majority's preferred policy stance either through the use of reconciliation or strategic use of cloture votes (Reynolds 2017; Reynolds 2018; Binder 2018). The majority can use these tools to exact policy concessions and good behavior from the minority by threatening to cut the minority out of the process entirely. Additionally, scholars have pointed out that the minority can use filibusters as a way to exact policy demands from the majority, particularly as an important deadline draws near (Fong and Krehbiel 2018; Campbell 2019; Adler and Wilkerson 2012). This view of the legislative process, again, is reflected in the continuum of deliberation and bargaining that Mansbridge and Martin (2016) detail. Despite this fruitful and important literature on the implications of a deliberative, or not so deliberative, legislative process, this scholarship does not fully engage with the concept of debate.

Debate, as I conceptualize it, is the exchange of words, thoughts, and ideas between senators. One of the main goals of Congress is to legislate. However, the path to creating, perfecting, and passing legislation involves debate at every stage. As has been alluded to above, the study of debate in Congress has often been focused on the legislative aspect of it and how it is used to inform deliberation. However, debate can exist independent of deliberation. It can occur behind the scenes in closed party caucus meetings, over lunches in the Senate dining hall, or in the "Senators Only" elevators. Debate can also exist in public venues such as committee hearings, morning hour speeches, or open floor time. Whether in public or private, debate

between senators allows each of them to disseminate and obtain information about how policy problems are conceptualized and prioritized. These conceptualizations are then taken from the "pure debate" realm and turned into legislative proposals, be they amendments or standalone bills.

This broad conceptualization of debate influencing deliberation draws from the public policy literature on problem definition and information provision within the policy process as well as the congressional literature related to messaging (Schattschneider 1960; Rochefort and Cobb 1994; Baumgartner and Jones 2015; Bader 1996; Gelman 2018—among others). Likewise, my definition of debate is similar to the one used by Mucciaroni and Quirk (2006) in what appears to be the only book that focuses solely on debate in Congress. They draw a similar distinction between deliberation and debate. Building on Krehbiel (1992), they argue that deliberation is "the weighing of substantive information and consideration in making public policy decisions" (Mucciaroni and Quirk 2006, 4). I differ slightly, in that I tie deliberation to actual legislative proposals rather than abstract thinking about policy. However, both this work and my dissertation view debate as the avenue of deliberation, arguing that debate is crucial to obtaining and conveying information about policy decisions (Mucciaroni and Quirk 2006, 5-7). Though I assert a broad definition of debate here, for the purposes of this dissertation I can only focus on one, public aspect of it—speechmaking. This is because this aspect of debate is the most observable and measurable aspect of debate for a Senate outsider to study.

2.2.1 Why Debate?

The question remains, why study debate? The substance of policymaking comes from deliberation. Doesn't debate devoid of deliberation amount to nothing more than a room full of hot air? The answer to these questions is twofold. The first answer is, it is empirically necessary to look for other ways of studying legislative politics as the deliberative elements of Congress have become increasingly centralized and party driven. Second, there is a normative aspect to the value of debate in a representative democracy. If we restrict analyses of representation strictly to roll call votes and bills introduced, as many scholars are coming to realize, we are missing a substantial piece of the picture.

First, let me address the decline of deliberation. The decline of deliberation and the centralization of power in the party leadership has been well documented for some time when it comes to the House of Representatives (Curry 2015; Lee 2016; Sinclair 2017; Curry 2019— among others). However, a similar trend has been emerging in the Senate as partisanship and polarization have increased (Howard and Owens 2019; Tiefer and Clark 2019). There is some research showing that this is a purposeful strategy employed by party leaders, and the Majority Leader in particular, in order to keep the majority party from being rolled, not that dissimilar to theories of party control in the House. As Schiller and Manento (2019) argue, party leaders can "structure the debate on a bill to the point where they can limit the individual powers of senators to amend and debate the bill" (47). There is some disagreement among Senate scholars as to what is causing this since Senate party leaders lack the formal institutional powers to lock down aspects of the legislative process as much as they have (Smith 2014; Wallner 2013; Wallner 2017). So, while there is scholarly debate about the causes and mechanisms of decreased deliberation in the Senate, there appears to be an emerging consensus that such a decrease does exist.

The formal deliberative aspects of legislating for rank-and-file senators are clearly on a decline and going much the same way as they have in the House (Cox and McCubbins 2005). Therefore, we must turn to other ways of measuring the behavior of senators. Although there are many ways this can be accomplished, such as communication with constituents (Lipinski 2004; Evans et al. 2016), distribution of "pork" (Berry and Fowler 2016; Clemens et al. 2015), and congressional oversight activities (Minta 2011), I suggest that studying legislative debate, via speechmaking, is one of the more public and empirically available ways in which outsiders can study the behavior of senators and how they seek to influence the legislative process given the decreased capacity to use their formal deliberative tools. Debate, particularly as it will be examined in this dissertation through speechmaking, exists at every stage of the legislative process and allows Congress to "argue publicly" (Oleszek et al. 2016, 195). Debate allows senators to explain their priority-setting process. As Bader (1996) states, priority-setting is an "up-front activity by party leaders for the explicit purpose of influencing the tenor and substance of the policy debate in Congress and the policy dialogue with the president" (11). However, it is not just party leaders that engage in speechmaking activities. While rank-and-file members are often shut out of the deliberative aspects of the legislative process through procedural tools such as filled amendment trees and structured unanimous consent agreements all senators still retain the ability to debate.

Legislative debate has the ability to define the ways in which policy issues are thought of, the scope of possible solutions, and the narrative surrounding the issue—all of which have the potential to influence the policy outcome. As Riker (1986) argues, political winners are able to shape the images around issues to create better outcomes by identifying relevant frames or dimensions around potential outcomes. Being able to define problems and their solutions plays a

central role in agenda setting and policy adoption (Rochefort and Cobb 1994; Baumgartner and Jones 1993; Jones and Baumgartner 2005; Workman et al. 2017). Debate can change the scope of conflict and provide justification for policies through the incorporation of anecdotes and data that underly various policy proposals and thus influencing policy outcomes (Schattschneider 1960; Baumgartner and Jones 1993; Workman et al. 2017). For example, in his filibuster on the reauthorization of the Patriot Act in 2015, Senator Rand Paul attempted to reframe the issue of government surveillance from that of a security issue to one about individual privacy (Zezima 2015). Though he was unsuccessful at persuading his colleagues to change the bill at the time, he was able to raise awareness of the issue and impact future legislation that placed some limitations on the ability of the government to surveil U.S. citizens (Matishak 2020). In private, debate allows senators to define how policies are viewed within their own party and allows party leaders to set their narrative and agenda (Lee 2016). In public, through speeches and press releases, debate allows the public and other interested parties, such as interest groups, to adopt or combat these policy definitions (Lee 2016; Gillion 2016).

Debate is also important because it is essential in our understanding of democratic representation. Many scholars have acknowledged that determining the effectiveness of representation, whether it be descriptive or substantive, requires a broader view of member behavior than previously studied. For example, there is evidence that studying the subject matter and discourse within congressional oversight hearings of the executive branch exposes differences in behavior of minority lawmakers and that of their white allies in ways that simply looking at roll call votes does not expose (Minta 2011; Ellis and Wilson 2013). Even when not discussing representation of marginalized communities, democratic theorists argue that debate is essential for representation. Debate allows for the creation of mutual understanding and respect

that "serves as the lubricant" of democratic systems (Parkinson and Mansbridge 2012, 11). For democratic theorists, debate and deliberation allow the incorporation of more voices into the representative system which in turn provides legitimacy for governance (Parkinson and Mansbridge 2012). As Gillion (2016) notes, debate "lays the foundation for deliberative democracy. It establishes the rhetorical frames which allow politicians to explain their actions to the public" (25). Debate undergirds the public's understanding of policy decisions and therefore the legitimacy of governmental actions.

2.3 Theory

The first thing that any scholar of legislative politics will tell you is that the most precious, scarce, and important resource in any chamber is that of time, specifically time on the floor. The volume of business that Congress must conduct has only ever increased (Adler and Wilkerson 2012). An ever increasing workload under the same time constraints has tremendous implications for how Congress conducts its business. Likewise, it determines how Congress organizes itself and influences the winnowing of the thousands different bills and amendments that are considered each year (Krutz 2001). For example, this ballooning agenda and increased workload is what lead to the development of the committee system (Deering and Smith 1997; Frisch and Kelly 2006). Additionally, by "allowing a division of labor among members" (92), committees also afford members of Congress more opportunities to position take and credit claim thereby serving their electoral goals (Mayhew 1974).

The scarcity of floor time requires that not every legislative proposal be considered before the entire chamber. Therefore, chamber leaders needed to develop tools to control and limit the agenda. Historically, this happened first in the House of Representatives because of its larger membership. The ability of majority party caucuses to positively or negatively control the

agenda and determine the consideration of bills and amendments on the floor led to many theories of agenda setting and party politics all of which were mostly based on the House of Representatives (Aldrich and Rohde 2000, 2001; Cox and McCubbins 2005; Krehbiel 1998).

The floor of the Senate can be much more variable. Agenda setting, and thus control of the floor, has often been hard to understand and systematically theorize about. In fact, many of the original theories about the Senate argued that the majority party caucus was unable to systematically control the agenda because of the strong powers that individual senators retained (Matthews 1960; Sinclair 1989; Smith 1989). For example, Smith (1989) argued, "Excessive individualism and chaos on the floor appear to be as much of an equilibrium as the Senate can achieve" (348). This view of the Senate has begun to change as scholars have taken a closer look at the role of parties in the Senate and the development of procedures that aid in advancing majority party interests (Den Hartog and Monroe 2011; Smith 2014).

These theories of agenda and floor control, based on analysis of political parties' use of congressional procedures, largely focus on the deliberative aspects of lawmaking—as I described above, the consideration of specific policy proposals that are on the table. However, as I will lay out and test in the remainder of this chapter, the nature of these deliberative rules and procedures also have implications for the structure of debate on the floor.

I argue that the structure of floor debate is governed by two dimensions, *access* and *message.* Senators must first gain recognition to debate a bill on the floor and also must determine what she will say during the debate. The most important phrase in Senate procedure is "I ask unanimous consent." Any senator at any time can make a motion using unanimous consent and, without objection, whatever is moved becomes the pending order of business. Objections to unanimous consent routinely frustrate majority leaders because doing so increases the costs of

controlling the agenda and slows down the legislative process. In previous eras, majority leaders sought to preempt this problem through use of unanimous consent agreements (UCAs) made with the minority leader which specifies the consideration of legislation. UCAs are a pre-negotiated arrangement that determine which amendments will be in order and how long debate will last (Lynch 2009; Heitshusen 2017). Absent an UCA, majority leaders can only regain control of the floor and the agenda by invoking cloture and filling the amendment tree.

The cloture rule, or standing rule XXII, is the most prominent—and infamous—rule structuring floor debate. It was introduced in 1917 as a way to limit the ability of senators to filibuster. Since 1975 the text of this rule has required a supermajority vote of three-fifths of all senators duly chosen and sworn (usually 60) to limit debate on a motion pending before the Senate. This has changed slightly for cloture on confirmation debates due to recent developments with the use of the "nuclear option" by Senate Democrats in 2013 and Senate Republicans in 2017. As it currently stands, a simple majority, or fifty-one votes, is required to invoke cloture and limit debate on all types of nominees to the executive and judicial branches. However, a supermajority of sixty votes is still required to invoke cloture on legislation.[3] After cloture has been invoked, thirty hours of debate remain for all types of pending business. Post-cloture debate historically has been disposed of via unanimous consent agreements (UCAs) but, as the Senate has become more polarized and minority party rights have been eroded, post-cloture debate has become more difficult to dispense with and instead must be carried out (Smith 2014).

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[3] There are of course numerous, in fact hundreds, of exceptions to this rule. As recently as December 2021 the Senate passed an exception to the cloture rule so that only a simple majority was necessary to raise the national debt ceiling. For the most comprehensive accounting of the exceptions to the cloture rule see Reynolds (2017).

Studies of bill and amendment introduction or voting procedures have highlighted the

role that procedures play in shaping who participates in the policy outcomes. In this same way, I

argue that the formal rules and informal folkways governing debate create variation in who gets

to speak, for how long they get to speak, and—likely—what gets said. This chapter will lay out

and test my hypotheses related to debate *access*. The next chapter will do the same with

hypotheses related to debate *message*.

2.3.1 Controlling Access to Floor Debate

The mythology surrounding the filibuster and unlimited debate in the Senate has given

rise to a myth that participation in debate has always been egalitarian. That any senator, by virtue

of their equal right of recognition, could and would speak on any issue she deems fit at any

moment. This, of course, has never really been the case. Prior to the modern era of procedural

warfare, the Senate was strictly governed by a set of norms that restricted debate (Matthews

1960). Indeed, one of the reasons the filibuster exists—the lack of a previous question motion—

is because the Senate removed the motion by accident.[4] But, that accident went unnoticed for

years because "the Senate continued to adhere to the prevailing norms against superfluous

debate" (Jentleson 2021, 47).

In this early era of Senate history these norms were not as structured and sophisticated as

they would come to be in later eras. The more structured and persistent norms were eventually

given the name, folkways. Up until the mid-1980s debate access was largely structured by

informal folkways rather than formal rules. The creation and evolution of Senate folkways were

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[4] As Sarah Binder testified before the Senate in 2010, the previous question motion was removed
from the books, "not because senators in 1806 sought to protect minority rights and extended
debate. They got rid of the rule by mistake" (Binder 2010).

the result of the habits of behavior generated by past and current members of the Senate (Matthews 1960, Uslaner 1993, Overby and Bell 2004, Smith 2014). Donald Matthews (1960) laid out a series of folkways that govern behavior within the Senate. The two folkways that were most applicable to debate access are apprenticeship and reciprocity.

Apprenticeship refers to the practice of treating freshman senators as subordinate in as many ways as possible while still treating them as senators. This applies to things such as the committee assignment process and the requirement of junior senators of the majority party to sit as presiding officer over the Senate when the Vice President is not in the chamber. This norm was particularly important to debate in that a "new senator is expected to keep his mouth shut, not to take the lead in floor fights, to listen and learn" (Matthews 1960, 93). The norm of apprenticeship has largely eroded when it comes to matters of debate and deliberation. Freshman senators can no longer afford to spend their first term, or first and second terms, in office not speaking out or offering bills and amendments. This is a function of the nature of our current media and campaign environment. Taking a back seat to more senior legislators, except when absolutely necessary, would make the junior senators electorally vulnerable as their opponents could make credible claims that they are not doing their jobs.[5]

The reciprocity folkway is a double-edged sword when it comes to governing debate and deliberation. When thought of positively, it is often cited when discussing matters of vote trading and logrolling. The alternative to this is the tit-for-tat back and forth between the parties that has

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[5] Even when this folkway was at its most powerful it routinely frustrated many new senators, particularly ex-governors, who expected to come to the Senate and accomplish things as part of the "world's most exclusive club." As Matthews (1959) put it, "Not all professional politicians find the adjustment easy, however…governors from the larger states and federal executives often find the Senate a psychological demotion, their administrative skills irrelevant, their perceptions of the political process at odds with the Senate realities" (1088).

resulted in the decline of the chamber's legislative process and created the environment decried by the Senate's old guard, as exemplified by the Senator McCain quote at the beginning of this chapter. Most often reciprocity is thought of when discussing elements that I have classified as deliberation—the amendment process, calling witnesses in committee hearings, etcetera. However, it is also applicable when it comes to debate. Reciprocity is key to the structuring of how time is separated between the majority and minority during floor debate—as well as question time allotted to senators in committee. Reciprocity, as it pertains to deliberation and debate, has been the driver of decades of procedural warfare between the majority and minority parties in the Senate. Weaponized reciprocity has turned the Senate into "an institution historically distinguished for the flexibility and informality of its floor proceedings, that is more bound by formal rules and precedent and more frequently tied into parliamentary knots that at any time in its history" (Smith 2014, 18).

In the modern Senate, these informal folkways are all but dead and the rules governing debate access have become more party focused and formalized. Apprenticeship no longer governs the chamber in a way that completely shuts out junior senators from participating in debate. This is likely because party leaders have become cognizant of the fact that they cannot leave their junior colleagues completely out of the process if they wish for them to remain electorally competitive.

This does not mean that access to debate is not still structured. Senators are still at the mercy of party leaders on the floor when it comes to when and for how long they get to speak. The casual observer might look upon the Senate floor at any given moment and determine that whoever is speaking is there under their own prerogative. To be sure, under some procedures on the floor, say during morning business, that may be the case. However, when a measure is

pending—as this project examines—debate becomes more structured. Though party leaders

have no formal powers to limit who speaks individual senators defer to their leaders and take

their cues accordingly. This informal deferment is then formally structured through the use of

unanimous consent agreements negotiated by the majority and minority party leaders. Wallner

(2013) calls this phenomenon *structured consent* and argues that "decision-making is

characterized on the Senate floor by a prearranged process (either open or closed) once

legislation is made pending. There are moderate barriers to the participation of highly interested

members who are willing to devote the time and resources necessary to be involved" (26).

There are several reasons access to debate is highly structured. First, time within the

chamber is at a premium. The ability to manipulate debate time, particularly on the floor, is

essential to ensuring that the chamber does not grind to a halt (Dion 1997). Second, leaders must

ensure that the majority party does not get rolled (Krehbiel 1998; Cox and McCubbins 2005).

Party leaders must be strategic in their use of these tools of infringing on the individual rights of

senators but as the competition for majority control of the chamber has increased members have

increasingly allowed party leaders to take the lead (Schiller and Manento 2019; Lee 2016). For

example, during the 2015 debate on the authorization of the Keystone XL pipeline, Senate

Democrats were coordinating their message and had to wait until the floor manager for their

party scheduled them to speak.[6]

Given this environment, I derive the following hypotheses about which senators will

participate in debate. First, the increased role of partisan teamsmanship in the chamber cannot be

ignored. In the interest of ensuring that the party does not get rolled or that aspects of bills that

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[6] The author was an intern in a Senate office and witnessed a Senator waiting for a phone call
from the Senate cloak room to inform him to head to the floor so that he could speak.

will split the majority party coalition do not make their way into the final stage of debate, party leaders are going to be less willing to let ideologically extreme members of the party speak about pending legislation. General floor debate on a bill is likely to be restricted because it is where partisan messaging matters most. Therefore, the following hypothesis can be tested:

> *H1: Majority party senators are more likely to participate in general floor debate the closer they are to the ideological median of their party.*

The period of this study begins in 1993. While the period of folkways had already largely disappeared by this point, they were and are not entirely extinct. Some scholars point to the election of "Gingrich senators"—those that ran as part of the Contract with America coalition— as the mark of the end of the folkway era (Theriault and Rohde 2011; Theriault 2013). While others argue the full "Housification" of the Senate, and thus death of the folkways, did not happen until a decade later with the arrival of additional former-House members from partisan cohorts (Ragusa 2016). However, junior senators still argue today that they get treated differently than their senior colleagues. Despite the death of folkways, junior senators are still not as likely to participate in floor debate at equal rates as their senior colleagues for a few reasons. First, there is an information asymmetry. New senators must learn the nuances of policy issues, the daily/weekly/monthly flow of the Senate calendar, not to mention the proverbial web that is Senate procedure.[7] All of this means that they are not necessarily equipped to start speaking on the floor the minute they are sworn into office. Second, folkways have been replaced by parties as the central driver of norms in Congress and members of each party have become increasingly

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[7] Even senators who have been in the chamber for a while do not know the procedures that well. For example, during a recent attempt to reform the filibuster and "restore" the "two-speech rule" many Senators expressed confusion on exactly what procedures would need to be used to do so (Bolton 2022).

coordinated in their behavior and deferential to party leaders—who are often more senior (Lee 2016; Curry 2015). Therefore, the following hypothesis can be tested:

H2: Senior senators are more likely to participate in general floor debate than their junior colleagues.

As stated above, the breakdown in chamber folkways led to a greater reliance on formal rules to structure behavior of senators. The most important rule is that of priority recognition of the majority leader, and then the minority leader, before recognition of the other ninety-eight senators. While these are the only two members that receive procedural right of recognition, other leaders—such as committee chairs—play a greater role than rank-and-file senators during the legislative process.[8] So, while they do not have formal right of recognition over their colleagues, the majority and minority leader are likely to be more deferential to chairs when it comes to scheduling floor debate. Therefore, the following hypothesis can be tested:

H3: Chamber and Committee leaders are more likely to participate in general floor debate than rank-and-file senators.

2.4 Data and Methodology

To test these hypotheses, I look at the debate surrounding important laws enacted from the 103rd (1993) through the 114th (2016) congresses using transcripts of the debate of that legislation collected from the *Congressional Record*. My list is derived from Curry and Lee's (2020) list of important laws which is primarily based on *CQ Magazine's* lists of important legislation. I chose this timeframe and this set of bills for several reasons. First, the timeframe is

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[8] Chairs are often responsible for introducing a bill that has been reported out of committee and are also largely responsible for guiding a bill through floor consideration.

long enough to show how debate patterns might have shifted over time. Though the 103rd or 104th Congress marks the beginning of the modern polarized and partisan era for the House of Representatives (Sinclair 2006) most Senate scholars believe this effect was delayed in reaching the Senate until the 108th or 109th Congress (Campbell 2019, Smith 2014, Lee 2016). Therefore, studying debate in this timeframe will allow me to see the impact of rising partisanship on debate in the Senate, particularly in the next chapter when it comes to the substance of debate. Second, because I am focusing a narrower list of legislation it is necessary to have a longer timeframe in order to have enough cases to identify generalizable trends.

I chose Curry and Lee's (2020) list of important laws for two reasons. First, dealing with text-as-data as this project does means that I must find some way to narrow the scope of what is being analyzed in order to make the project feasible. For example, a one hour floor speech can yield about twelve pages of text in the *Congressional Record*. It is not clear that the value added of assessing all substantive legislation in the thirty year period that I am looking at would outweigh the empirical challenge of doing so. Second, looking at debate surrounding important legislation serves as a conservative test of these hypotheses. If senators were to want to participate in debate, it would likely be during debate of important legislation. Likewise, important legislation is oftentimes the only legislation that gets taken up in the modern Senate as both parties have prioritized confirming judges and executive branch appointees at the expense of legislating more and more. In other words, if debate is to matter anywhere it would be for important legislation.

Curry and Lee (2020) identify 471 important new laws that were enacted from 1993 to 2016. I further narrow this list to include only laws that made it to the floor via regular order. The literature is somewhat mixed on what regular order can mean, does it refer to bills going

through the committee process or does it mean an open and unwieldy floor amendment process or does true regular order require both? Even senators identify a myriad of different things when discussing a desire to return to "regular order." As a result of this disagreement, Curry and Lee identify violations of regular order during both committee processes and open floor deliberations (2020, 630). To narrow the scope for my purposes, I only included laws that earned a 0 for the "Senate Unorthodox Development" score on the Curry and Lee scale meaning that the bill followed a "fully regular order process (2020, 631)" at the committee stage.[9] Doing so ensures that the laws included in this study made it to the floor via similar procedures. Variation in pre-floor debate would likely impact how senators feel about a bill and whether or not they got to participate in debate at earlier stages of its development thereby impacting participation in floor debate.[10] Likewise, I excluded all appropriation bills which Curry and Lee had added to the list of important legislation.[11] This leaves me with a dataset of 111 important laws enacted from 1993 to 2016. Table 1 below shows some of the relevant information about the laws included in this study.[12]

Table 2.1 – Dataset of Important New Laws (1993-2016)

Congress	# of Important Laws	# of Calendar Days of Debate

[9] Specifically, it means that the laws included in my dataset all received a hearing in the committee(s) of jurisdiction and that there was a committee report accompanying each bill (ensuring leadership did not intervene over committee wishes).

[10] Limiting the dataset to bills that made it to the floor via regular order will also allow future iterations of this project to compare participation in debate of a bill at the committee level to participation on the floor.

[11] I exclude appropriations bills because they do not represent the typical political environment that surrounds other types of substantive legislation. Appropriations bills tend to be more bipartisan, can be passed at the last minute, and occasionally follow unusual procedural pathways. Even though appropriations bills take up a larger and larger share of the congressional workload—often because both chambers can seldomly accomplish much more—they do not help answer questions about what "normal" debate looks like.

[12] The list of all bills included in this study is available in Appendix I.

103rd (93-94)	15	34
104th (95-96)	11	40
105th (97-98)	6	29
106th (99-00)	11	39
107th (01-02)	10	103
108th (03-04)	7	55
109th (05-06)	10	76
110th (07-08)	10	69
111th (09-10)	7	96
112th (11-12)	12	89
113th (13-14)	4	28
114th (15-16)	8	70

After narrowing down the list of important laws I then started to collect the transcripts for the floor debate associated with each law. Transcripts of the *Congressional Record* were obtained by searching the bill number and bill title in *ProQuest Congressional* and downloading the documents from the Debate tab. Occasionally, the final bill was not brought to the floor for debate under the H.R. or S. number that it eventually passed under. This could be the result of numerous things including "ping-ponging" with the House, a substitution of a conference report, or—most commonly—the text of the bill being inserted into a different legislative vehicle. In these cases, I relied on Curry and Lee's (2020) collection of related bill numbers to find the transcripts associated with the Senate floor debate on the underlying measure.

Once I had collected the transcripts each was read into the qualitative analysis software, NVIVO. This program allowed me to sort the transcripts by speaker and execute various other coding schemes to explore the data. Following Hall (1996, 258), after the transcripts were sorted

by speaker I then went through each case and hand removed any text that was not substantive floor debate. This means that I uncoded all language that was purely procedural, such as "Mr. President, I move to concur in the House Amendment and ask unanimous consent that the time until 9:30 this morning be for debate with respect to the motion to concur."[13] Additionally, I removed language that was not strictly procedural but was so brief that it cannot be interpreted as substantive debate.[14] For example, "Mr. President, I cannot do that. I think Senator Edwards wants to use a little time."[15] This ensures that at the next stage of coding, senators' participation in debate, only those who substantively contributed to the debate were coded as having participated.

Measuring participation in debate can be accomplished in a few different ways. Matthews (1959, 1960) coded dichotomously only whether or not a senator spoke on the floor during debate. He defended this saying, "Despite these crudities, [the] measure seem[s] to be as adequate as can be constructed from published data without a prohibitively high expenditure of time and effort" (Matthews 1959, 1075). Coding speech or debate participation in a dichotomous manner is "crude" because it makes no allowance for how *much* someone participates in debate (i.e., the length of the speech). Though he was only studying the House, Hall (1996) attempted to improve on the measurement of debate participation by counting the number of lines of text that each speech took up in the *Congressional Record*. He argued that the *Record*'s typesetting rules was as close as one could get to a standardized formatting for measuring the amount of

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[13] Daschle, Thomas. 2002. "Job Creation and Worker Assistance Act of 2002." *Congressional Record* Vol. 148, No. 25, Pg. S 1689.

[14] As a rule, I excluded speeches which were shorter than twenty words from analysis.

[15] Kerry, John. 1999. "Y2K Act." *Congressional Record* Vol. 145, No. 81, Pg. S 6733.

participation in debate as other methods such as counting words or paragraphs are too variable

and depend on the speed with which a senator speaks or how the text is typed.

Although there are various means of measuring debate participation I have opted to stick

with a dichotomous measure of participation. My theory and hypotheses focus on the procedural

and party mechanisms at play that structure access to floor debate. Therefore, I am less

concerned with how much a senator speaks than I am concerned with the characteristics of

senators who are speaking. As such, I counted the total number of bills spoken on by each

senator for each congress. For example, in the 103rd Congress Senator Dianne Feinstein (D-CA)

spoke during the floor debate of 26% (4 of 15) of important laws debated that congress.

Additionally, I collected the number of senators speaking on each bill to ascertain the contours of

participation in debate. For example, during the debate on the Water Resources Reform and

Development Act of 2014, a total of 38 senators spoke while only 5 senators spoke during the

debate of the Defend Trade Secrets Act of 2016. Figure 2.1 below shows the general contours of

senatorial participation in debate on important laws from 1993 to 2016.

Figure 2.1- Debate of Important New Laws
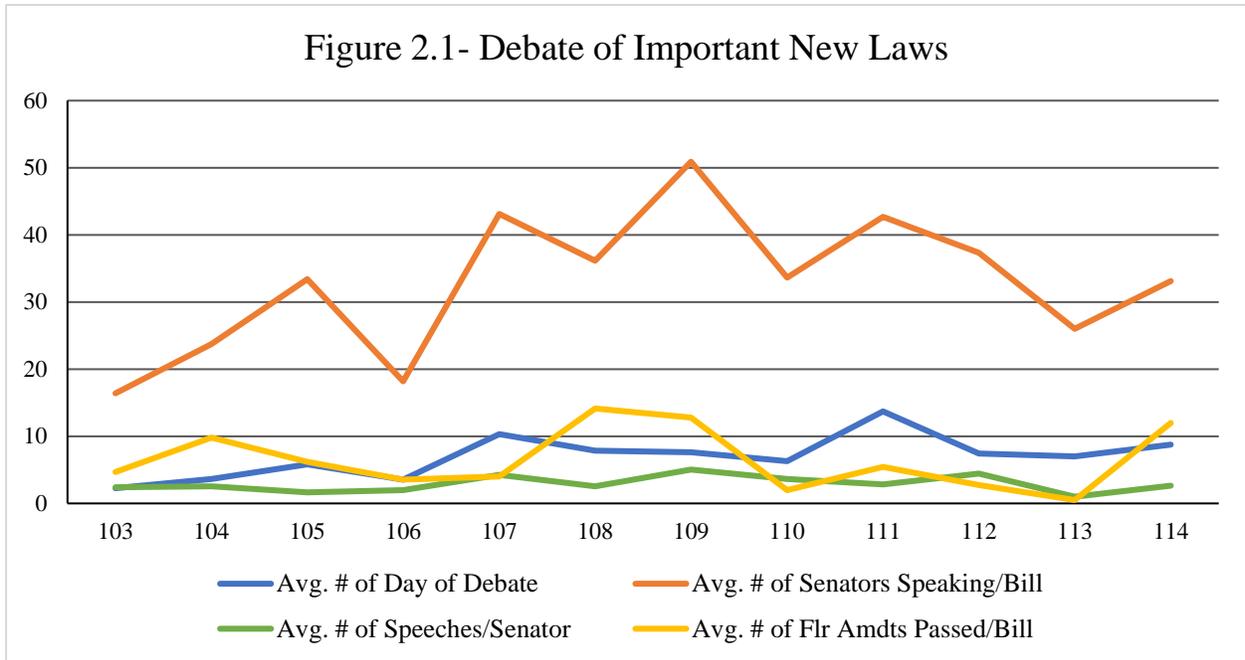
The dependent variable, whose collection and coding was described above, that will be used to test each of my three hypotheses is the number of speeches per senator.[16] The main independent variables used for my hypotheses will include the Absolute Distance in DW-NOMINATE Score from the Majority Party and Floor Medians, Seniority within the Chamber, and Leadership Position.[17] In addition to these independent variables I control for each senators' Legislative Effectiveness Score (LES), party, and majority status. I included the LES statistic as a control to serve as a proxy for senators who may introduce and pass more legislation and therefore might be speak more frequently on the floor than senators who do not in order to get a more accurate view of who participates in debate on important legislation. The next section will detail the analysis of this data.

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[16] See Appendix II for a descriptive statistics of the dependent variable.

[17] The data for all independent variables was taken from the Legislative Effectiveness Scores database (Volden and Wiseman 2018). For my purposes, I added the Leadership variable which combined their coding of Majority Leader, Minority Leader, and Committee Chair.

2.5 Findings

Table 2.2 displays the results of 5 multiple linear regression models with clustered

standard errors that estimate the influence of the key independent variables on the likelihood that

a senator will participate in debate of important laws.[18] The first model analyzes the impact of a

senator's ideological position on their likelihood to participate in debate. It considers the

senator's DW-NOMINATE score on the first dimension, the absolute distance of their score

from the floor and majority party medians. As the Model 1 results show, although the key

variable raised in H1—distance from the majority party median—is in the expected direction,

with the expectation that the further a senators' ideology is from the majority party median the

less likely they are to participate in floor debate, none of these tests of a senator's ideology are

statistically significant. Model 2 finds that there is support for H2 in that an increase in seniority

does, at a statistically significant level, increase the likelihood that a senator will participate in

debate. There is additional, non-statistically significant evidence, that freshmen senators, are less

likely to participate in debate. Model 3 assesses whether senators in leadership positions—

majority leader, minority leader, and committee chairs—are more likely to participate in debate.

There is support for H3 that members in leadership positions are statistically more likely to

participate in debate. To take another cut at the data, Model 4 looks just at the key independent

variables of interest and Model 5 includes all independent variables of interest and all control

variables. What we find in these models lends further support to H2 that senior senators are more

likely to participate in floor debate.

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[18] Supplemental model configurations are available in Appendix II.

Table 2.2: Who Participates in Debate of Important Laws

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	0.08 (0.23)			-0.20 (0.21)	0.10 (0.23)
Absolute Dist. Flr. Median	0.26 (0.18)			0.22 (0.17)	0.29* (0.17)
Absol. Dist. Maj. Party Median	-0.39 (0.33)			0.07 (0.14)	-0.43 (0.33)
Seniority		0.03*** (0.02)		0.04*** (0.02)	0.03** (0.02)
Freshmen		-0.16 (0.17)		-0.30 (0.17)	-0.16 (0.17)
Leadership			0.31* (0.21)	0.28 (0.20)	0.09 (0.22)
Democrat	0.52*** (0.15)	0.43*** (0.15)	0.47*** (0.15)		0.50*** (0.16)
Majority	-0.72** (0.32)	-0.37*** (0.11)	-0.51*** (0.11)		-0.68** (0.32)
LES	0.36*** (0.06)	0.28*** (0.07)	0.31*** (0.07)		0.28*** (0.07)
(Intercept)	2.79*** (0.31)	2.42*** (0.15)	2.59*** (0.12)	2.56*** (0.16)	2.66*** (0.33)
Adjusted R^2	0.052	0.058	0.051	0.032	0.061

N=1219, *p* < .05, **p*<.01, ***p*<.001

Interestingly, across all four models, it does appear as though the control variables—party, majority status, and legislative effectiveness—play an important role in determining participation in debate. Democrats appear to be more likely to participate in floor debate at the statistically significant level. Likewise, senators who have higher legislative effectiveness scores are more likely to participate in debate. Finally, it appears as though majority party members are less likely to participate in debate.

The unexpected finding that Democrats are more likely to participate in floor debate is particularly interesting. Democrats are often tagged as being poor at crafting and delivering

messages to the public (Rubin 2022, Calmes 2021; Parnes and Chalfant 2021; Peters 2021).

Perhaps the reason for this is that more members actively participate in trying to deliver the message and therefore, because senators rarely stick to pre-prescribed talking points, their message can be muddled. Or, perhaps Republicans see the futility in trying to get their message out through floor debate and instead opt for more appealing venues both in the chamber (i.e., committees) or directly to news programming.

The other two unexpected findings from the control variables do seem to make a bit more sense. Across all four models there is statistically significant support for the notion that more effective senators participate in legislative debate. This makes some sense when you consider that LES scores are, in part, calculated by the number of bills a senator is able to have considered and passed on the floor. Naturally then, more effective senators will be on the floor and participating in debate more often than senators whose bills do not make it to the floor.

Perhaps the most interesting, unexpected finding, at least to me, is that majority party members seem to be—again across all four models—statistically less likely to participate in floor debate. This could be the case for a few reasons. First, while it is often thought that majority members would take to the floor to defend their bill (Mucciaroni and Quirk 2006; Lee 2016) it could be the case that in the age of a "Houseified" Senate the majority knows that it will succeed and therefore does not need to drag out a floor debate to justify its actions. Second, it is possible that minority party members are likely to participate in debate at higher rates because they have been shut out of the deliberative aspects of legislating. So, they must voice their frustration, as we see in the epigraph of this chapter, at the lack of regular order as well as their displeasure with the underlying policy that under consideration.

2.6 Conclusion

This chapter examines the determinants of senatorial participation in debate of important new laws from 1993 to 2016. I find that party leaders, senior senators, and democratic senators are all more likely to participate in debate than their colleagues. Additionally, I find that majority party senators are less likely to take to the floor in defense of pending legislation. Finally, although results are in the expected direction it does not appear that ideologically extreme members participate in debate at statistically higher levels. While my dataset of 111 important new laws is relatively small, newly published research shows similar results. Gelman and Goplerud (2021) examine legislative debate in the U.S. House of Representatives and the U.S. Senate from 1921 to 2010. They find similar results to my own that "members who are endowed with special institutional or political responsibilities (committee chairs, ranking members, and party leaders) take the floor decidedly more than their backbench colleagues. This pattern persists throughout all historical periods and across both chambers. More subtly, we find that in the more majoritarian oriented House, ideological extremism, majority party status, and seniority all correspond to more activity. The Senate shows somewhat more inconsistent results, although the effect of seniority also persists" (819).

It is important to note, however, that though Gelman and Goplerud's (2021) dataset is more comprehensive in timespan they do not develop a rich theory connected to the nuances of the Senate's rich history. By failing to do so their analysis, while impressive and largely confirmatory, fails to account for the nuances and structure of debate. Future research on the subject should take a more nuanced approach to legislative debate and examine how the results shown here differ under various procedural arrangements such as during morning business, post-cloture debate, and outright talking filibusters. That being said, comparative literature on the

subject does seem suggest that similar results appear consistently in other legislative chambers around the world (Back, Debus, and Fernandes 2021).

Where does this leave us when considering the status of debate in "the world's most deliberative body?" Given the continued back and forth about the importance of *extended* debate via the filibuster one would expect to find high levels of participation in *ordinary* debate on important new laws. However, my results thus far, as displayed in Figure 2.1, show that on average less than half of the chamber bothers to participate in floor debate. When you then consider the other findings that debate is more likely to be led by party leaders or those who have accrued more seniority and that majorities are less likely to participate in debate it seems as though the world renowned robust debate of Congress's upper chamber is little more than a ghost of the past, if not a myth altogether. The next chapter will continue to explore the nature of legislative debate by turning to its timbre. Now that we have some idea of which senators are likely to participate in debate, we must now explore what is being said and the tone with which it is delivered.

Chapter 3

The Timbre of Senate Debate

Different members do more of an aggressive job of coordinating…But when it's a blockbuster, then members say, "I don't care what the play is, I'm going to have my moment."
-Sen. Brian Schatz (D-HI)[19]

3.1 Introduction

In September 2013, Senator Ted Cruz (R-TX) engaged in a talk-a-thon against Obamacare that lasted twenty-one hours and nineteen minutes. What is this marathon length speech remembered for? Not any of the arguments Senator Cruz made against Obamacare. It is remembered for the fact that during his speech Senator Cruz read aloud Dr. Seuss' *Green Eggs and Ham*, imitated Star Wars character Darth Vader, and quoted television show Duck Dynasty (Friedman and Warren 2013). More recently, when discussing inflation and supply chain issues ahead of the Christmas season Senator Joni Ernst (R-IA) spoke on the floor alongside a floor chart that was a picture of an "Elf on a Shelf" that was sitting on an empty store shelf. Stunts and antics such as these have become what many think of when they envision the filibuster or debate in the upper chamber. Long gone is the public perception that legislative debate is used to take a passionate stance in support of or opposition to a proposed law.[20] Looking back at the 1939 hit film *Mr. Smith Goes to Washington*, contemporary viewers would be forgiven for thinking the film was satire or farce since its depictions of the upper chamber are far from what we witness today.

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[19] Schatz, Brian. "Pod Save America Q&A with Senator Brian Schatz." *Crooked Media* May 10, 2019. https://www.youtube.com/watch?v=iopN_1gr5mU
[20] This does not necessarily mean the public doesn't *hope* for a return to more principled debate. A recent Monmouth University Poll found that only "4 in 10 favor reforming how the U.S. Senate uses the filibuster while about 2 in 10 want to eliminate it altogether" (Monmouth 2021).

The last chapter assessed the patterns of senatorial participation in debate and how that has changed over time. But as the previous paragraph suggests, senators can engage in all sorts of behavior once they actually hold the floor. Despite the colorful examples, any casual viewer of C-SPAN can see that most senators do engage with the pending legislation when they speak on the floor. But, beyond voicing support or opposition, what do senators say and how do they say it? Do they engage in a collegial exchange of ideas or more fire brand name calling? And, most importantly, has the timbre of debate over time shifted as partisanship has increased and control of the chamber has become increasingly up for grabs? This chapter uses the same dataset of important laws from 1993 to 2016 as the last chapter to answer this question: how has the timbre of legislative debate has changed in recent years?

To answer this question, I conduct a text analysis of the legislative debate for each of the 111 laws contained in the dataset. Using the AFINN lexicon a dataset that contains over 3,300 words scored for their emotional sentiment, I develop a score for how positive or negative each senator is during the course of legislative debate. I find that, overall, legislative debate has not become substantially more positive or negative across the period of study. However, I find that Democrats and ideologically extreme senators are more likely to use negative sentiments during debate than their colleagues.

3.2 Debating for Whom?

Before looking at the content of legislative debate we must first look at the potential reasons for senators wishing to engage in debate in the first place. In other words, who are they hoping is listening to floor speeches? Assessing the various audiences of congressional debate and the impact that has on the tenor of debate is not an unexplored concept. It has been examined by a multitude of scholars and Congress watchers alike and has even occasionally been the

subject of comment by senators and members of Congress themselves. As the last chapter

showed, a decent portion of senators routinely pass on participating in debate of pending

legislation. If they were actually interested in debating each other on the merits of legislation we

can assume participation rates, especially on important bills, would be much higher than

observed. Instead, the senators that do participate are likely "speechifying." But speechifying to

whom? Adam Jentleson (2021, 7-8) helpfully summarizes the popular understanding:

> On C-SPAN2, you may be lucky enough to catch a speech on the Senate floor. The
> senator giving it will probably be reading prepared remarks, which they'll be seeing for
> the first time as they read them aloud. The chamber they're speaking to will probably be
> mostly empty; if other senators are present, they won't be paying attention to the
> speaker…Whatever the senator's speech was about, it almost certainly will have no
> impact on the bill notionally under discussion, and will change no minds.

If senators are not actually debating one another and not attempting to change each other's minds

then why—to the extent that they participate at all—do they participate in floor debate? And, if

other senators are not the primary audience, how do outside audiences impact the substance of

what is spoken?

The literature informs us that senators have multiple motivations for participating in

debate and that those motivations have an impact on the substance of what is said during debate.

In his classic work, *Home Styles*, Richard Fenno (1978) asserted that members of Congress have

competing pressures that impact their decision making when it comes to casting votes. These are

the cross pressures of the need to be re-elected, building prestige within the chamber, and the

desire to create good public policy. For much of the history of congressional scholarship the idea

of home styles has been limited to the formal aspects of a member's job—the bills they

introduce, the votes they take, the committees they seek to serve on (Mayhew 1974, Campbell

1982, Krehbiel 1995, Frisch and Kelly 2006). However, this same logic can be extended to other

aspects of participation in Congress including participation in and the substance of debate (Hall 1996).

Mucciaroni and Quirk (2006) assess what they call "effect claims" to determine "whether debate provides members of Congress—and the other audiences and constituencies who hear or read about it—accurate, realistic, or at least defensible views of the effects of policies (6)." They aim to understand why "congressional debate sometimes is highly informed and realistic, while at other times is impoverished or misleading (10)." Moreover, they examine why some claims by members are challenged by others within the chamber while others go unanswered. To answer these questions they conduct three case studies of floor debate in the House and Senate for three important pieces of legislation. They find that "legislators generally prefer claims that can be dramatized, that lend themselves to anecdotal evidence, or that are in accord with common understandings of how the world works (15)."

Hill and Hurley (2002) view speechmaking as a symbolic activity that senators engage in to address their various constituencies noting that, "it is intended to sustain positive relationships between legislator and constituent, and some of those relationships have representational consequences (220)." In looking at senatorial speech activity they identified and code three types of speeches, 1) constituency identification speeches, 2) constituency empathy speeches, and 3) general policy speeches. They found, among other things, that "as state size increases, so does the volume of policy speeches…More senior senators are also more active in addressing policy concerns in their speeches (229)." Unfortunately, their sample of speeches analyzed only accounted for a random sample of speeches given during one year, 1990, and they excluded speeches that "addressed bills, resolutions, or amendments that were under immediate debate (224)." Additionally, their other exclusion criteria meant that they did not account for the

procedural rules under which debate was occurring nor does the broad categorization of types of speeches tell us much about their content. Still, connecting electoral incentives to symbolic activity is important as it reveals motivations behind senatorial action.

Some senators have other objectives beyond an electoral connection. Likewise, their electoral pursuits might require they appeal to something other than constituents. Thus, the audience that senators are speaking to in floor speeches might sometimes be different. For example, given the relatively low viewership of C-SPAN one can assume the average American is not always the main audience for whom senators are performing. A key audience that is more attuned to floor debate are interest groups. A host of research shows both at the committee and floor level that interest groups tend to pay more attention to congressional behavior than the average voter (Lohmann 1998). Therefore, it is likely that senatorial rhetoric is often colored by the need to appeal to interest groups for the purpose of raising campaign funds, getting better scorecard results, or auditioning for a future lobbying career (Box-Steffensmeier et al. 2018).

Research on the effect of this audience on speech and rhetoric is most prevalent at the committee level but there is no reason to believe it does not apply to floor debate as well. Ray (2018) provides a direct test of whether committee hearings are for grandstanding purposes or for playing for interest group audiences. Using hearing transcripts from 1990 to 2016 he finds that "legislators use committee hearings to read interest-group-like comments into the public record. Doing so publicly commits that legislator to their spoken statements, to a limited but highly germane audience (Ray 2018, 166). Park (2017; 2021) finds committees to be a venue for grandstanding and argues that such behavior may be linked to increasing polarization. However, Ray (2018) finds that "even as congressional polarization has increased, the level of acrimony and grandstanding in public hearings has not (166)."

Why are interest groups paying attention to senatorial rhetoric and are senators paying attention to the interest group audience? On one hand, senators might be paying attention to the interest group audience because they want to improve their scorecard from certain interest groups that voters pay attention to so they might adopt language or be more inclined to make statements that interest group leaders would find appealing (Chand et al. 2014; Magleby and Reynolds 2017). However, the more likely culprit is that senators are chasing campaign donations. Illiev and Brandt (2019) examine these dynamics in the Senate Committee on Energy and Natural Resources from 1997 to 2011. They find that rhetoric and campaign donations work in a mutual interest feedback loop, stating "the energy industry is attempting to establish working relations with new members of the committee, while senators use their rhetoric in an attempt to attract these interests—rhetoric attracts contributions, and contributions lead to favorable rhetoric (2)." Even here, the electoral connection is strong. Illiev and Brandt (2019) find evidence that "Senators who do not have stable electoral positions utilize reelection strategies with a focus on the electorate, while senators from states with vested energy interests exhibit stronger dynamics between rhetoric and contributions" (11).

The electoral connection to a senator's debate, or rhetorical, strategy has even been extended to how they broadcast messages outside the chamber. Senators and parties must develop brands that serve their strategic agendas—whether those agendas be reelection, prestige, or good policy. Grimmer (2013) argues that senators adopt certain representational styles to shape and leverage their constituents' perceptions of them. In analyzing thousands of press releases, Gimmer argues that senators do this by emphasizing certain activities they engage in over others while choosing to omit certain activities altogether (2013). This argument, that senators are purposeful and strategic in their communications with constituents, is important

because it likely has an effect on the types of activities senators engage in. Senators are likely to be strategic in their activities so that their actions remain on-brand with what they are communicating. For example, Grimmer (2013) finds that moderate senators are more likely to engage in credit claiming activities while attempting to avoid hot button policy debates. Given that, as moderates and those that feel out of step with their parties are more likely to retire (Reynolds 2022; Moore and Hibbing 1998), it is likely that the increased feeling of ugly politics is, in part, a result of the fact that the senators that choose to remain in the chamber are more likely to focus on policy debates that can result in fever pitched rhetoric and bitter partisanship in Congress (Sinclair 2006; Stuckey 2014).

Russell (2021) extends this theory outside of the Senate's formal communication apparatus and tests it by assessing senators' rhetorical agendas on Twitter. She argues "rhetorical agendas capture how senators want to be perceived…to advertise their dynamic congressional behavior that spans constituent service, legislation, and partisan politics" (31-32). Even more to the point, she says, "I offer as my central position that senators communicate their priorities for representation through their rhetorical agenda, adopting a style of communication intended to appeal to their specific constituency" (33). While Russell (2021) only looked at rhetorical agendas online, it is not a giant leap to assume that those same agendas and representational style appear in floor debate—if for no other reason than senators often clip and share floor speeches on their online profiles.

3.3 Theory

The previous chapter delt with debate access. This chapter, as already discussed, is about the substance of legislative debate. Like debate access, informal folkways have a historical role when it comes to debate message—namely, the courtesy folkway which dictates that member

speech on the floor is always respectful. This means that senators only refer to each other using official titles while on the floor and that language, even language of criticism, creates an air of dignity and respect between members. This folkway often makes it difficult to distinguish criticism from praise without the use of context or audio recording to capture tone. Matthews (1960) provides a great example of this, citing Senator Barkley's advice to a freshman senator, "if you think a colleague is stupid, refer to him as 'the able, learned and distinguished senator,' but if you *know* he is stupid, refer to him as 'the *very* able, learned and distinguished senator'" (99).

Unlike folkways and rules governing debate access, the folkway governing debate message are still applicable because they are enshrined in Rule XIX which ensures that in the course of debate senators only address the presiding officer and do not impute to another Senator or Senators any conduct or motive unworthy or unbecoming a Senator and referring offensively to any State of the Union (Davis and Greene 2018).[21] Additionally, the rule requires no senator may speak more than twice on a matter unless the Senate grants permission to do so, though this part of the rule is rarely enforced. It is very rare for senators to be reprimanded under Rule XIX in the modern Senate. However, Senator Elizabeth Warren (D-MA) was famously forbidden from continuing her speech about the confirmation of Senator Jeff Sessions (R-AL) as Attorney General in 2017 as a violation of Rule XIX (Hawkins 2017). Just like folkways governing

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[21] While Rule XIX codifies some aspects of the courtesy folkway it does not formalize the entirety of it which is why Matthews (1960) still considers it a norm. Matthews original conception of the folkway was much broader than what it has been reduced to in the modern era. It included things such as senators not openly campaigning against one another and political disagreements not influencing personal feelings but those aspects are not particularly relevant to this study. (Matthews 1960, 97-99).

access, the prominence and importance of the courtesy folkway matters less in the modern era as party messaging has become more important.

Recent scholarship about the increasing competitiveness for majority control of the chamber and rise of party organizations all point to the increased importance of coordinated party messaging (Lee 2016; Sinclair 2006). As Lee (2016) puts it, "when party control seemingly hangs in the balance, members and leaders of both parties invest more effort in enterprises to promote their own party's image and undercut that of the opposition" (2). Over time, this has led to a shift in party resources to prioritize communications staff and create party messaging campaigns (Crosson et al. 2020; Evans and Oleszek 2000). Likewise, it has caused party leadership to prioritize messaging votes (Lee 2009, 2016; Campbell 2019) and rank-and-file members have been increasingly willing to go along with party messaging efforts (Grimmer 2013; Lee 2016). As Lee (2016) points out, the main activities of messaging as a party do not differ from those of individual members. That is, party messaging is still tied to position taking, credit claiming, and advertising (Fenno 1973).

The rise of party messaging has also, in part, played a role in the shift we have seen toward a more "ugly politics" over the period of this dissertation. That is, politics today is often defined by "descending to personal attacks that are inflammatory and untrue" (Sinclair 2006, 364). Mucciaroni and Quirk (2006) find that "legislators generally prefer claims that can be dramatized, that lend themselves to anecdotal evidence, or that are in accord with common understandings of how the world works" (15). They argue that legislators restrain themselves from making extreme and unsupported claims "unless they expect a significant payoff" (15). At one time, "significant payoff" may have been measured by winning a policy battle or getting a major bill enacted. However, there is substantial evidence that as majority status has been

increasingly up in the air, the payoff most senators are focused on as a partisan team is the next

election (Lee 2016). Given that politics today are more heated, the fight for control of the Senate

is competitive, and that parties place more emphasis on unified rhetoric, I assert the following

hypothesis:

> *H4: Over the period of study, senators will make greater use of negative*
> *sentiments in their speeches.*

Out-parties—or in the context of Congress, minority parties—are more likely to engage

in combative and obstructive behavior. This is particularly true when the minority party is large

and cohesive—as has been increasingly the case in the U.S. Senate (Fong and Krehbiel 2018).

While the majority party is largely focused on enacting their governing agenda, minority

parties—increasingly marginalized from the legislative process—are likely to focus solely on

their messaging tactics to point out the flaws of the majority and make the case to the public to

return them to power. Likewise, because the minority does not need to worry about advancing

their own agenda, they can focus on introducing bills and amendments that divide the majority

party while projecting unity on their own behalf (Maltzman and Sigelman 1996; Cameron and

Gibson 2020). Because the minority is focused on tearing down the majority and their chief job

is to serve as public critic of the majority party's agenda, I assert the following hypothesis.

H5: Minority party senators will use more negative sentiments than majority party senators.

Because of their different electoral pressures and positions within their parties and the

chamber, different types of senators are more likely to be partisan warriors. A partisan warrior is

someone who prioritizes the political fight to serve their own policy and electoral interests

(Theriault 2015). Existing scholarship about the types of senators that decide to participate in the

party fight reveal some trends about what we might expect to see in the context of legislative

debate. Theriault (2015) argues that previous studies on the subject tend to focus on the ideological dimension of partisanship without paying sufficient attention to "the disgust not only registered by the American public, but also the participants in the process" (169). He goes on to point out that most scholars looking at this phenomenon use the narrow test of roll call behavior (Sinclair 2006, Lee 2009). However, he only marginally improves on testing the concept by looking at the debate and introduction of amendments during consideration of the Affordable Care Act, finding that minority party senators, particularly minority party leaders, are more likely to engage in messaging politics that reek of partisan warfare. Russell (2021) improves on the identification of partisan warriors significantly and argues that party leaders and more conservative senators are likely to be partisan warriors. Unfortunately, she does so by assessing rhetorical agendas on Twitter, not within the chamber. Maltzman and Sigelman (1996) also find that, in the House, ideologically extreme members are more likely to use debate to highlight their negative views of upcoming legislation because they are not able to meaningfully influence policy. Identifying partisan warriors is a concept that, when measured by traditional means, is clear as mud. When a warrior is named by an observer it makes complete sense, but trying to systematically analyze the concept is more difficult. While Maltzman and Sigelman's (1996) findings give us an indication of where to start looking, they do not actually assess the content of legislative debate. Rather, they code the number of lines spoken during debate and test a series of electoral and policy motivations based on the characteristics of individual legislators to draw conclusions about why certain members participate debate more than others. Here, looking to the thick description and rich context provided by legislative debate can allow for the advancement of the concept. Given the similarities of these findings across a range of deliberative aspects within the chamber, and an example outside the chamber, I assert the following hypothesis.

H6: Party leaders and ideologically extreme senators are more likely to use negative sentiments than the rest of the chamber.

3.4 Data and Methodology

To test these hypotheses, I analyze the text of speeches during the debate of important laws enacted from the 103rd (1993) through the 114th (2016) congresses using transcripts of the debate of that legislation collected from the *Congressional Record.* The full process of selecting these laws and collecting the transcripts is described in detail in the previous chapter. The list of important laws included is derived from a subsection of Curry and Lee's (2020) list of measures. Once the list of important measures was assembled, I collected the relevant transcripts from the *Congressional Record* by searching the bill number and bill title in *ProQuest Congressional* and downloading the documents from the Debate tab. Then, collected transcripts were read into the qualitative analysis software, NVIVO. Once the transcripts were in NVIVO I used the program to sort the transcripts by speaker.

As described earlier, I then went through each case and hand removed any text that was not substantive floor debate (Hall 1996). This means that I uncoded all language that was purely procedural, such as "Mr. President, I move to concur in the House Amendment and ask unanimous consent that the time until 9:30 this morning be for debate with respect to the motion to concur."[22] Additionally, I removed language that was not strictly procedural but was so brief that it cannot be interpreted as substantive debate.[23] For example, "Mr. President, I cannot do

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[22] Daschle, Thomas. 2002. "Job Creation and Worker Assistance Act of 2002." *Congressional Record* Vol. 148, No. 25, Pg. S 1689.
[23] As a rule, I excluded speeches which were shorter than twenty words from analysis.

that. I think Senator Edwards wants to use a little time."[24] This ensures that only substantive debate language will be analyzed.

After creating a corpus of text for each senator of each congress I analyzed the sentiment of each corpus. To measure the sentiment of the speeches included in my dataset I measure the AFINN score of each individual spoken word (Nielsen 2011; Ray 2018). AFINN scores are a corpus of individual words that were coded by human reviewers (Bravo-Marquez et al. 2014). The corpus gives each word a score between -5 and 5. Words that receive a score of -5 are the most "emotionally negative" words and words that receive a score of 5 are the most "emotionally positive" words. Neutral words receive a score of zero. Words only receive scores on a whole number basis between -5 and 5. The most common practice to ascertain the overall positive-negative score for a corpus of text is to take the mean of the AFINN scores for each word in the corpus (Ray 2018; Cambria et al. 2013).

Before creating an average AFINN score for each individual senator during each Congress, I removed stop words from the corpus of their speech. Stop words are common words that are not useful to analysis such as "the", "of", and "to" (Silge and Robinson 2017). Removing stop words is necessary when conducting analysis using AFINN scores as stop words are not included in the lexicon. After stop words were removed, I scored the remaining corpus for each senator using the AFINN lexicon scores and derived the senator's most negative, mean, and most positive scores.[25] Figure 3.1 below shows the average overall positive, negative, and mean scores for each Congress included in my study.

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[24] Kerry, John. 1999. "Y2K Act." *Congressional Record* Vol. 145, No. 81, Pg. S 6733.
[25] The use of dictionary methods of sentiment analysis coded at the individual word level provides some insight and is useful for my purposes. However, future work should use methods that better assess the context of words which might impact the overall positive or negative score of a corpus. For example, the method used here does not take into account qualifier words so a

Figure 3.1-AFINN Scores per Congress
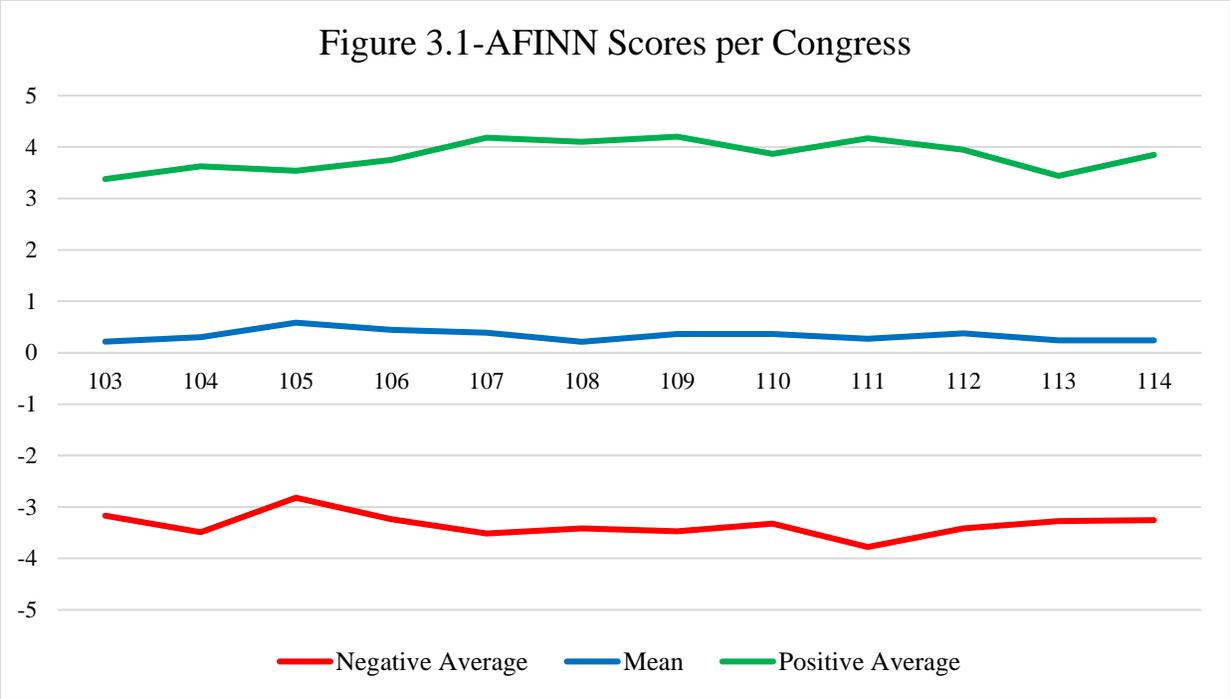
Another way we might get a better understanding of this data is by looking at the most positive and most negative senators in the dataset. This also allows for an assessment of the face validity of the measure. Table 3.1 below shows the scores of the senators with the most negative and most positive average AFINN scores across the dataset.

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negative sentiment like "no good" would not be coded as one negative sentiment. Rather, "no" and "good" would receive separate scores that are averaged together (Silge and Robinson 2019; Ballard et al. 2022).

Table 3.1-Most Positive/Negative Senators During Debate of Important New Laws

Senator	Congress	AFINN Mean
Joni Ernst (R-IA)	114	-1.44
Dale Bumpers (D-AR)	105	-1.28
Rob Portman (R-OH)	113	-1.14
Richard Shelby (R-AL)	104	-1.13
Lindsey Graham (R-SC)	110	-0.94
Mary Landrieu (D-LA)	105	1.64
Robert Bennett (R-UT)	110	1.65
Evan Bayh (D-IN)	110	1.67
Jack Reed (D-RI)	114	1.72
Max Cleland (D-GA)	105	1.72

Senator Joni Ernst (R-IA) during the 114th Congress has the most negative AFINN average across all 1,112 observations that were scored and Senator Max Cleland (D-GA) during the 105th Congress had the most positive AFINN average. While the concept of identifying partisan warrior is still opaque (Theriault 2015; Lee 2009; Sinclair 2006), the senators listed here being defined as among the more negative and positive in their rhetoric amongst their colleagues does seem at least facially valid.[26] Senators Ernst and Graham can regularly be seen lambasting

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[26] Perhaps the inclusion of Sens. Portman and Shelby in the most negative list would be perplexing to some observers. However, it should be noted these scores are generated per Congress, not overall in their careers. In this case, Senator Portman only spoke on one bill in my dataset during the 114th Congress and he used his time to lambast the IRS for targeting certain conservative non-profit organizations which was a major messaging point for Republicans at the

the other side during their floor speeches and use rather fiery rhetoric. For example, Senator

Ernst typically adds many adjectives to her statements that ultimately drag down her AFINN

score as she does here: "How twisted and convoluted has our immigration system become that an

illegal immigrant who, while driving drunk and drag racing, hits and either seriously injures or

kills an American citizen is not considered a priority for deportation?"[27] The words "twisted",

"convoluted", and "illegal" all contribute to a lower overall AFINN score and highlight a

particular tone that is more negative. Conversely, Senator Reed's criticism of the lack of library

resources in schools reads much more neutrally: "The results from a recent National Center for

Education Statistics survey shows there are still gaps in access to school libraries."[28] Likewise,

reading through the entire statement in context will reveal that his criticism of failings are

interspersed with areas of praise for policies and his colleagues.

3.5 Findings

While individual senators vary in how negative or positive they are from congress to

congress, the overall averages presented here show there is not much variation in the overall

sentiment expressed each congress. Figure 3.2 below shows the overall distribution of AFINN

means for each senator in each Congress. Given the relative flatness of the trendline and general

distribution of the data I do not find evidence in support of the fourth hypothesis that senators are

becoming more negative throughout the period of study.

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time (see Prokop 2015). Senator Shelby in the 104th Congress also only debated one bill and was attempting to get several amendments added to the Private Securities Litigation Act of 1995, a bill that ultimately opposed. So, within the context of the data available here, the measure does seem to hold.

[27] Ernst, Joni. 2016. "Federal Aviation Administration Reauthorization Act of 2016." *Congressional Record* Vol. 162, No. 59, Pg. S 2116.

[28] Reed, Jack. 2015. "Every Child Succeeds Act of 2015." *Congressional Record* Vol. 161, No. 104, Pg. S 4673.

Figure 3.2-Senator AFINN Means per Congress
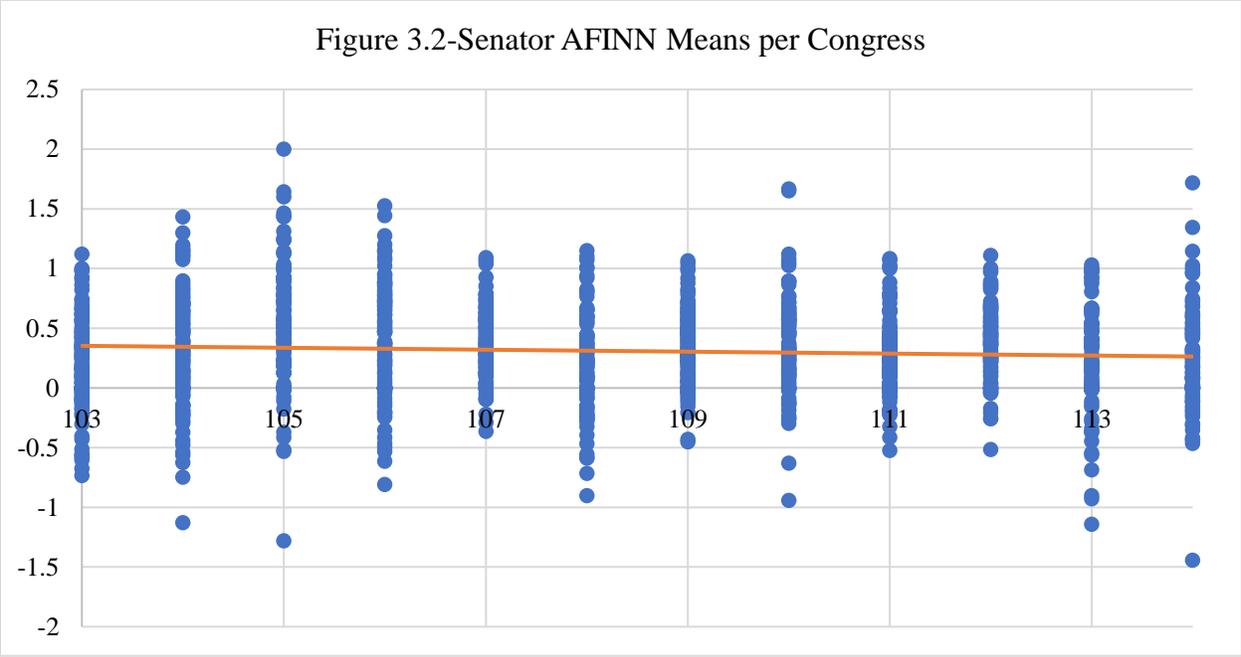
To test hypotheses five and six, I estimated a series of five multiple linear regression

models using clustered standard errors to estimate the influence of the key independent variables

on the likelihood that a senator will use more positive or negative language during debate.[29] The

dependent variable in Table 3.2 is a senator's AFINN score, coded as described above. The main

independent variables used for my hypotheses will include DW-NOMINTATE on the 1st

dimension, the Absolute Distance in DW-NOMINATE Score from the Majority Party and Floor

Medians, Seniority within the Chamber, and Leadership Position.[30] Model 1 shows the influence

of senator ideology on a senator's AFINN score. I included three measures of ideology, DW-

NOMINATE on the first dimension and the absolute distance from the floor and majority party

medians. I used three different measures to see if there was any potential difference in outcome

depending on how ideological extremity was measured. I included all three measures in Model 1

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[29] Supplemental model configurations are available in Appendix III.
[30] The data for all independent variables was taken from the Legislative Effectiveness Scores database (Volden and Wiseman 2018). For my purposes, I added the Leadership variable which combined their coding of Majority Leader, Minority Leader, and Committee Chair.

but due to the high correlation of the three I also conducted the analyses separately, which yielded similar results. Hypothesis six suggests that ideologically extreme senators are more likely to deploy negative sentiments during debate than their colleagues. Across the models, a senator's DW-NOMINATE score does show some evidence for this hypotheses as the results for all three measures of extremity are in the expected direction. However, ideology in general does not seem to matter at a statistically significant level unless it is considered in the context of the overall chamber median. Across Models 1, 4, and 5 there is evidence that the further a senator is ideologically from the chamber median the more likely they are to express more negative sentiments during debate. Hypothesis six also argued that party leaders were more likely to go negative than their colleagues. However, there is no evidence to support that claim in these results. In fact, there is some, albeit weak, evidence that party leaders might use more positive language than their colleagues.

Table 3.2: Which Senators Go Negative?

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	-0.06 (0.05)			-0.01 (0.04)	-0.06 (0.04)
Absolute Dist. Flr. Median	-0.14 *** (0.04)			-0.13*** (0.04)	-0.14*** (0.04)
Absol. Dist. Maj. Party Median	0.02 (0.07)			0.02 (0.03)	0.02 (0.07)
Seniority		0.01 (0.01)		-0.01 (0.01)	-0.01 (0.01)
Freshmen		-0.01 (0.04)		0.01 (0.04)	-0.01 (0.04)
Leadership			0.07* (0.04)	0.06 (0.04)	0.06 (0.04)
Democrat	-0.09*** (0.03)	-0.06** (0.03)	-0.06** (0.03)		-0.09*** (0.03)
Majority	0.01 (0.07)	0.05* (0.03)	0.04 (0.03)		0.01 (0.07)
LES	0.01 (0.01)	0.01 (0.01)	-0.01 (0.01)		-0.01 (0.01)
(Intercept)	0.40 (0.07)	0.33 (0.03)	0.34 (0.02)	0.35 (0.03)	0.41 (0.07)
Adjusted R^2	0.027	0.010	0.011	0.019	0.029

N=1112, *p* < .05, **p<.01, ***p<.001

Hypothesis five argued that minority party members were more likely to use negative language than majority party members. The results here do not suggest a strong relationship between majority status and sentiment use. Unexpectedly, there is evidence that party does play a role in sentiment. Across all models where the variable was included, it appears that Democrats are more likely to use negative sentiments than Republicans during debate. Legislative

effectiveness, seniority, and freshmen status all appear not to be statistically significant

predictors of sentiment use during debate of important legislation.[31]

3.6 Conclusion

As Jentleson (2021) described, senators are often giving canned remarks to an empty

chamber when they debate legislation. Conversely, Senator Schatz describes in the epigraph the

desire of senators to get their moment of fame and deliver good soundbites that can be clipped

and spread across cable news and social media alike. The question is, which is more

characteristic of debate on the Senate floor? Is it a sleepy backwater or an environment

characterized by impassioned performances filled with colorful rhetoric?

The results presented in this chapter seem to indicate that while certain senators have

moments of extreme rhetoric, by and large Senate debate is rather mundane. Overall, the average

AFINN score for senatorial debate each Congress is just above 0, indicating that it is mostly

neutral to slightly positive. Additionally, it does not appear that debate rhetoric has gotten more

negative even as the larger political environment has soured. This could be for a few reasons. As

was referenced earlier, the Senate is governed by a complex system of formal rules and informal

norms and while the informal norms of old (Matthews 1960) have weakened and are changing,

the norm of senatorial courtesy is still largely at play when it comes to floor debate. Likewise,

the threat of being reprimanded under Rule XIX for using discourteous language could be

enough to keep senators from going too far afield in their use of fiery rhetoric on the floor. While

the results presented here do show that ideologically extreme senators are more likely to use

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[31] Legislative Effectiveness Scores are calculated, in part, using some of the same variables that
this analysis includes as independent variables (see Volden and Wiseman 2018) leading to high
correlation among the variables. As such, I conducted these analyses while excluding
effectiveness scores and the same variables remained statistically significant as presented here.

more negative sentiments during debate than their colleagues, the substantive variation during debate is likely minimal.

It could also be that the Senate floor is not viewed as the appropriate venue for negative and extreme rhetoric. For example, Senators Sanders, Graham, and Cruz all seem to prefer taking debates out of the chamber and on the road (Quigley 2022; Choi 2017). Likewise, there is research that shows senators prefer to grandstand during debate at the committee level (Park 2021) because the interest groups they care most about are most attentive at this stage of debate (Ray 2018; Illiev and Brandt 2019). While this research and my own look at rhetoric at the committee stage and on the floor, there is no existing study that examines debate of a bill in committee and then on the floor. Future research should assess whether debate of particular pieces of legislation takes on different timbres at different stages of the legislative process.

The unexpected finding that Democrats are more likely to engage in the use of negative sentiments during debate than their Republican colleagues is interesting. Given the perception that Democrats are less likely to have a cohesive message and are less effective at criticizing the other party one would expect the results to show that Republicans as a party go more negative. It could be that different segments of the Democratic party in the Senate use negative rhetoric to criticize both Republicans and other Democrats that they see as part of the problem. On the other hand, maybe it is as Senator Schatz suggests in the epigraph that the desire for his colleagues to get their moment in the spotlight drives them to be more negative than Republicans. Yet it seems unlikely that this is a phenomenon unique to one party over another. Therefore, in addition to looking at debate at the various stages of the legislative process future research should also look at the within-coalition dynamics of legislative debate.

Finally, although the data and analysis presented here do not suggest that debate has become more negative over the period of study, I am not entirely ready to dismiss this hypothesis. The legislative debate analyzed in this project stops at 2016. Any casual observer of politics knows that there has been a shift in the standard operating procedure of politics since 2016. If the dataset were to be extended to present, and expanded to include a wider swath of legislation, it is possible that we might see a greater use of negative sentiment than we observed here. Likewise, although the AFINN lexicon is not calibrated to have a mean of zero when it is used to analyze large bodies of text, beyond that of a few pages, taking the mean of the word scores within the corpus to get an overall score can cause the negative and positive sentiments to balance out. This is why, as discussed earlier, future research should look at the sentence or paragraph level and use other methods that better assess the context of words to analyze large sections of content within the *Record* (Silge and Robinson 2019; Ballard et al. 2022). Further, analyzing debate and rhetoric has the potential to help uncover some of the qualitative and normative shift in the politics of late that are not fully captured in more quantitative evidence and therefore the topic merits further study.

Chapter 4

Building a Record: Items Added to the Congressional Record During Debate

We have had some 103 submissions to the record, and we have had testimony from eight Members of Congress both pro and con on this…So, Mr. President, what we are talking about here today is a piece of legislation that has been considered in great detail…So I think it is important for our colleagues and the public at large to know that this is how the Congress ought to do its business…Prior to this, Mr. President, when we first offered the legislation, there was the threshold debate of whether or not there was any problem at all.
-Sen. Christopher Dodd (D-CT)[32]

4.1 Introduction

The theatrics of the Senate floor often spark viral news coverage and social media popularity. For example, Senator Kyrsten Sinema (D-AZ) famously voted against raising the minimum wage with a quick "thumbs down" towards the dais which then turned into a viral meme while at the same time harkening back to her predecessor Senator John McCain (R-NV) when he voted against the repeal of the Affordable Care Act (Santucci 2021, Levine 2021). As the last chapter argued, individual senators, and to some extent political parties, use their time on the floor of the chamber to engage different audiences. The audience any individual senator is trying to appeal to can shift depending on the business at hand between constituents, other senators, the media, interest groups, or party activists, among others (Fenno 1973; Fenno 1998; Russell 2021). While trying to play to their various audiences many senators use floor debate to credit claim or to project their support or opposition to various policy proposals (Mayhew 1974; Fenno 1973). Throughout this process, senators are often hesitant to let the merits of their arguments stand on their own. Many senators try to build support for their ideas and lend credibility to their arguments through the use of everything from props and charts to constituent anecdotes about the impact a policy has on everyday Americans. For example, Senator James

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[32] Dodd, Christopher. 1995. "Private Securities Litigation Reform Act of 1995." *Congressional Record* Vol.141, No. 192, Pg. S 17953-54.

Inhofe (R-OK) famously brought a snowball to the Senate floor to aide in his speech arguing that climate change is a hoax (Cama 2015). One tactic senators use to drive home a point has routinely become the focus of media attention, the Senate floor chart. For example, Senator Joni Ernst (R-IA) routinely draws media attention to her speeches through the use of poignant…although not always well thought out…floor charts (Solender 2021; Mazza 2021). The phenomena has even obtained its own Twitter account, @FloorCharts.

While these aspects of Senate life and debate are habitual, if not entirely comical, they are not the main way senators seek to build a record in support of their argument, ideas, or bills. By a large margin, the most common way senators seek to build credibility for their positions is through inserting items into the *Congressional Record.* During the course of debate senators routinely insert all manner of documents into the record to lend support to their arguments. Sometimes senators will insert items such as Congressional Budget Office (CBO) reports to show the cost estimates of legislation. Other times they will insert a list of interest groups in support of or opposition to a bill. Additionally, senators will insert symbolic items such as the lyrics to their state song, a list of the names of the founders from their state, or a list of the names of staff members who helped work on a piece of legislation.

This chapter will explore the nuances of which types of senators are more likely to insert items into the *Record* and how the types of documents senators have contributed to the *Record* have shifted over time. More broadly, it will examine how analyzing additions to the *Record* can shed light on how senators think about crafting an argument, the audiences they are appealing to, and the types of information they rely upon when making decisions of what legislation to support or oppose. I find that more senior senators and chamber and party leaders are more likely to insert items into the *Record* than their junior and rank-and-file colleagues. I find that ideology

has no influence on the likelihood that a senator will insert an item into the *Record*. Finally, I

find that senators are more likely to insert items that convey political information than they are to

insert items that primarily convey expert information.

4.2 Building an Argument?

In chapter two I defined debate as "the exchange of words, thoughts, and ideas between

senators." Though this dissertation only uses data from one aspect of debate, speeches on the

floor, the purpose of debate is the same no matter where it occurs. That is, debate exists to assert

claims and/or challenge the claims of others as senators grapple with "the weighing of

substantive information and consideration in making public policy decisions" (Mucciaroni and

Quirk 2006, 4). Taken collectively, the claims a senator makes build an argument in favor of or

opposition to a policy proposal.

Thinking of debate in these terms might lead to the assumption that the primary purpose

of legislative debate is to build an argument—that it is meant to build a record of proof in

support of a policy to justify to future policymakers and citizens the evidence and rationale

behind a policy decision. Or, if you are against the proposal, to show that there was credible

dissent and that the majority was not making an informed policy decision. However, as we have

seen in the previous two chapters, not all debate attains such high ideals. Often, what we might

consider top-tier idyllic debate rarely occurs with the discourse of debate more focused on

emotional appeals and partisan messaging than on the merits of the policy at hand. Of course, the

quality of debate can be measured in many different ways and has been the subject of much

scholarly attention. One particular sticking point when it comes to assessing debate is whether or

not scholars can determine and measure the motivations behind legislative debate. That is to say,

some argue, we cannot assess whether senators—or politician more generally—engage in debate

and put forward particular arguments out of the public interest or for their own political interests (Mucciaroni and Quirk 2006, Lascher 1996). Likewise, it is difficult to determine how deeply someone grapples with and processes information they are given at a cognitive level.

While it is incredibly difficult to identify intention and cognitive processing, that does not mean that it is impossible to assess the quality of legislative debate. Mucciaroni and Quirk (2006) do so by measuring what they deem the *intelligence* of legislative debate and focus on whether debate is "informed, instrumentally rational, and consistent with decisionmakers' goals or values" (4) and they focus on "the ability to acquire and use information about the effects of policies" (5). In assessing the intelligence of legislative debate, they focus on the quality and accuracy of arguments made in the course of debate. They develop a scale of debate that includes five levels that range from *Very Good* to *Very Poor*. Each level is determined by the accuracy and robustness of the information included in a debate. For example, they argue in a *Very Good* debate, "Audience receives an accurate account, with no essential information omitted. All elements of debate are consistent with the best available evidence, and do not distract audience with extraneous information" (Mucciaroni and Quirk 2006, 52).

Their study is conducted using the case study approach and they focus on debate using just three important bills. However, their results do have important implications for this project. One interesting finding is that debate is more informed when it is longer. Given my results from chapter two and the general trend toward limiting debate and deliberation in the Senate (Smith 2014; Wallner 2013; Wallner 2017) it is not all that surprising that floor debate today is regarded as hollow, and not adequately long or robust to be wholly substantive. They also find that debate "is also superior when organized groups are mobilized on both sides of the debate; when legislative coalitions are bipartisan; and in the Senate rather than the House" (Mucciaroni and

Quirk 2006, 16). The role organized groups play in legislative debate will be explored more later in this chapter. However, the finding that bipartisan coalitions at one point sparked *better* informed debate and that the Senate has historically been better at having informed debate are normatively important given recent trends of rising partisanship and "Housification" in the Senate (Ragusa 2016; Theriault and Rhode 2011; Theriault 2013). While this dissertation does not quite assess the truthfulness or intelligence of debate, this chapter does examine the types of information relied upon in debate.

If a large portion of debate is not particularly well informed and the arguments crafted are not primarily meant to create a record of evidence justifying the merits of a policy, what other types of arguments and information are senators submitting for the record? It is worth pausing here to reflect on the different *types* of information that exist and the different purposes they serve. Baumgartner and Jones (2015) distinguish "between two forms of information: information that is relevant to the processes of problem discovery, definition, and prioritization, and information as solution expertise" (112). Previous research looking at the intelligence and truthfulness of debate measured how accurate claims about the potential effects of a policy were based on the universe of information available at the time the claims were made. In other words, they were assessing the second type of information, as solution expertise. However, we know that not all information is treated equally by policymakers and that different types of information are treated differently at the various stages of the policy process (Baumgartner and Jones 2015). It is possible that floor debate is not the stage of the policy process that lends itself to the detailing of how a "solution fit a problem" and expert driven policy analysis (Baumgartner and Jones 2015, 46). Rather, it might be the stage of debate that lends itself to justifying why Congress is focusing on a certain problem over the other myriad problems that the nation faces at

any given moment. After all, "politics is often about getting government to focus on one topic rather than another. Even if topics are not directly in conflict with one another, all topics compete for space on the agenda" (Baumgartner and Jones 2015, 6). Likewise, items on the agenda all compete for scarce floor time in legislative bodies (Dion 1997). It stands to reason then that at least part of the purpose of debate is to signal why government attention is focused on the topic it is dealing with and that the audience senators are concerned with during floor debate are not necessarily policy experts and bureaucrats.

Building the Record for Other Audiences

As the previous chapter and a litany of previous research has made clear, senators engage in debate for a host of reasons and attempt to engage multiple different audiences through their performances in committee and on the floor. While senators have many goals, the proximate goal is always reelection (Mayhew 1974). To service that goal elected officials engage in a wide variety of activities to appeal not only to voters, but also to interest groups, the media, and grassroots organizers, among others. The most prominent and engaged audience of the daily machinations of congressional operations are interest groups and that attentive audience drives a large portion of member behavior (Lohmann 1998). For example, "A member looking to gain favor with an organization may sign onto a bill that a group has endorsed, hoping her support will result in some benefit, whether in the form of a campaign contribution, checkmark on the organization's annual scorecard, or mention in a newsletter" (Box-Steffensmeier et al. 2018, 165). Signing on to a bill is not the only way that a senator can signal to a group that they are listening. They could grandstand in committee (Park 2021), send a dear colleague letter (Box-Steffensmeier et al. 2018), or—as this chapter argues—show that they are reliant on and supportive of a group by citing it in floor debate.

Likewise, senators often want to be seen as leaders on a policy issue. This could be because they deeply care about the issue or it could be because they see intense mobilization around an issue. Because senators have limited time and capacity "they invest their time where they see impressive lobbying sides. Where they see a great deal of lobbying resources supporting their preferred policy position, and where they see other prominent government officials leading the way, they join a bandwagon" (Mahoney and Baumgartner 2015, 202). Senators rely on interest groups in this way because they are in search of clear signals about the pros and cons of a policy and the electoral dynamics involved (Kingdon 1995). Often, we hear complaints that members of Congress are "beholden" to special interests because they seek campaign donations (Prokop 2015; Sides 2010). However, money is not the only reason for an elected official to care about these groups. Another, more positive, reason elected officials might care about interest group endorsement is because they believe ideologically aligned interest groups serve as a proxy for constituent opinion (Furnas et al. 2022). Therefore, by signaling to a particular interest group—or numerous groups—in the course of legislative debate senators are not only signaling to the lobbyists but also the membership of those groups.

Of course, interest groups aren't the only audience for senatorial debate. The media, other senators, other policymakers, and the public are all audiences that senators "perform" for during debate. For example, senators use debate during Supreme Court confirmation battles to highlight party differences for the public (Schoenherr et al. 2020). Likewise, senators use debate to identify and empathize with their constituents about the pressing events of the day to show that they are one with and understand the concerns of their constituents (Hill and Hurley 2002; Fenno 1978). While these types of speech are not rich in policy information they do still rely upon and convey political information and are important to the representative duties of elected officials.

That being said, the collective findings of this literature do not leave much to be inspired

by and do not lend much support to the notion that legislative debate regularly attains its ideal.

Thus far, it seems as though legislative debate is typically underinformed and primarily used for

signaling to different audiences rather than the measured weighing of evidence about a policy

proposal. As Mucciaroni and Quirk (2006) summarized, "the overall quality of debate is

somewhat disappointing" (181). However, if we are going to hold with Gillion (2016) that debate

is used to establish "the rhetorical frames which allow politicians to explain their actions to the

public" (25) then we should also take stock of the evidence politicians leverage to justify their

actions. In particular, we should assess what information politicians rely on when they are

making decisions. One way to do that is to look at what types of information they interact with,

seek out, and cite in their arguments.

4.3 Informational Influences

The previous section discussed the information that senators are trying to broadcast to

different audiences. In order to broadcast information senators must first have received it,

processed it, and determined its usefulness before employing it in their debate efforts. Indeed, the

search for and use of information in legislative bodies is a central focus for those that study

legislative organization and public policy. The types of information and the sources of

information that gain the attention of policymakers is of the utmost importance to understanding

the policymaking process that is highly complex and technical (Workman 2015). As Krehbiel

(1991) notes, "Long before national or state governments became involved in the wholesale

distribution of geographically targeted benefits, legislatures struggled with the problem of

obtaining independent sources of information and expertise" (5). In other words, before any

policy outputs can happen policymakers must first know the problem exists, define it, and

determine the realm of possible solutions—all of which relies on the input of different types of information.

Congress itself has created several formal avenues to process information. Perhaps the oldest and most prominent structure for information gathering in Congress is the committee system. As Woodrow Wilson tells us, "it is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in its committee rooms is Congress at work" (Wilson 1885, 69). The committee system is the genesis of Congress's complex structure (Polsby 1968) and is what allows it to address multiple issues at once (Workman et al. 2009; Jones 1994; Simon 1983). At the same time, committee work is what is supposed to give individual members and senators policy expertise on the issues over which their committees exercise jurisdiction, allowing them to be a knowledgeable resource for their colleagues (Curry 2019; Krehbiel 1991). Committees, theoretically, process information primarily by holding hearings. Hearings can be used to define the scope of the problem, raise the salience of an issue, and allow senators to signal their policy positions on issues (Lewallen 2020; Park 2021). However, there has been a dramatic decline in the functioning of committees in both chambers as they hold fewer hearings, receive less testimony, and allow election cycles to influence hearing and markup attendance (Lewallen 2020; Ban et al. 2022; Rackey et al. 2022; DeWitt 2020). As Lewallen, Theriault, and Jones (2016) show, members of Congress appear to no longer be interested in committee work as they once were stating, "Congressional information processing has changed as members find fewer benefits to focusing on their committee work, which, in turn, amplifies the dysfunction and breakdowns in problem solving" (183). The decline in committee work has impacted both legislative and oversight activities raising the alarm for many in the congressional reform and capacity realm that "There is real concern that Congress is losing its capacity to collect and

process the information it needs in order to effectively develop policy alternatives or conduct oversight inquiries" (Constitution Project 2017, 9).

Although the functioning of the current committee system may be bleak, Congress also created several support agencies to help inform its policymaking. The three main support agencies that Congress employs are the Congressional Research Service (CRS), the Congressional Budget Office (CBO), and the Government Accountability Office (GAO). Where congressional committee hearings are used to define problems and gather, to some extent, political information these agencies are used to process much more technical and nuanced information. While these agencies do have the ability to conduct research under their own prerogative they largely respond to requests by members; this is especially true for CRS (Brudnick 2008). Demand for information from support agencies changes as issues rise and fall in salience because legislators seek out the expertise and depth of information these agencies provide when they are considering acting on an issue (Fagan and McGee 2022; Baumgartner and Jones 2015). Like the decline of the committee system, the capacity of these agencies has also been limited in recent decades as their resources have been cut to satisfy political goals of congressional leadership (LaPira et al. 2020). Additionally, as a recent hearing conducted by the House Select Committee on the Modernization of Congress made clear, support agencies face several challenges in transferring their policy expertise to members of Congress and staff.[33]

Outside of congressional entities, Congress also relies on bureaucrats from the executive branch for information. Through their everyday work bureaucrats develop considerable policy

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[33] Hearing entitled, "Modernizing the Congressional Support Agencies to Meet the Needs of an Evolving Congress." *Select Committee on the Modernization of Congress*, October 21, 2021. https://modernizecongress.house.gov/committee-activity/hearings/10/14/2021/modernizing-the-congressional-support-agencies-to-meet-the-needs-of-an-evolving-congress

expertise in the issue areas that they oversee (Gailmard and Patty 2013). This expertise is invaluable when it comes to crafting legislation because of the unique insight bureaucrats have when it comes to policy implementation (Workman 2015; Workman et al. 2017). Bureaucratic expertise is particularly valuable in times of crisis (Shafran 2015). However, access to bureaucratic information in Congress can be limited as divided government can impose difficulties in congressional relations with the executive branch (Ban et al. 2022). More generally, rising partisanship the past several decades has created an environment where executive branch officials are less likely to be willing to testify before Congress because they do not want to subject themselves to the political theater of committee hearings (Rackey and Bell 2019).

In addition to government entities, Congress routinely seeks information from non-governmental entities and policy experts from interest groups, think tanks, and universities. As mentioned above, senators spend a lot of time signaling to interest groups that they want to extract good scorecards or campaign donations from. However, senators are also reliant on interest groups as sources of supplemental information because of scarce time and resources to address the plethora of demands on an increasingly complex agenda (Hall and Deardorff 2006; Mahoney and Baumgartner 2015). In the partisan era, information provided by sources that are viewed as ideologically aligned to member's positions is more likely to be used for legislative action and more likely to be viewed as representative of constituent opinion (Furnas et al. 2022). Senators also receive hundreds of thousands of calls and messages each year from their constituents. Such communications have been shown to have an impact on representation (Butler and Broockman 2011) and some groups have even created guides for constituents on how to make these interactions more meaningful (Greenberg and Levin 2019). In previous eras,

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constituent petitions were vital sources of information for elected officials in the carrying out of their democratic duties particularly for those groups that had not yet gained the right to vote (Blackhawk et al. 2021).

While the academic literature has assessed the role and use of information from each of these variety of sources independently, very little progress has been made in assessing them together in an information rich environment. Indeed, many of the articles cited above look at just interest group information or just expert information, to name a few (Furnas et al. 2022; Fagan and McGee 2020). The other major focus of this literature is the role of issue salience to determine when elected officials search for various types of information and attempt to get issues onto the institutional agenda (Baumgartner and Jones 2015; Jones and Baumgartner 2005). However, if one thing is clear it is that Congress is awash in a sea of information at all times. While previous research does an adequate job of dealing with sources of information independently and at various stages earlier in the policy process as Congress is trying to make policy decisions, there has still been little attention to how Congress uses this information to justify the decisions once they are made.

4.4 Theory

Members of Congress at different stages of their careers, with more or less extreme ideologies, leadership positions, or with different electoral prospects might seek to send signal and messages that vary depending upon their own unique circumstances which can influence the information they seek out and use. For example, strong partisans and ideological extremists are more likely to use the ideological alignment of certain think tanks as a cue for information that they should use and that the think tank serves as a good approximation of constituent opinion (Furnas et al. 2022). Ideologically extreme members are also less likely to toe the line when it

comes to party messaging and branding (Lee 2016) and therefore need to find ways to signal

what aligned groups their actions are in response to. Therefore, the following hypothesis can be

tested:

H7: Ideologically extreme senators are more likely to insert items into the Record than their colleagues.

As has been explored in previous chapters and previous research, party and committee

leaders have an outsized role and duty in the modern legislative process (Curry 2015; Lee 2016).

At the committee level, chairs exercise unilateral authority over setting the hearing agenda and

determining what bills are slated for markup (Lewallen 2020). On the floor, the majority leader,

in consultation with the minority leader, controls which bills are scheduled for a vote and which,

if any, amendments will be allowed (Smith 2014). The modern Senate is often viewed as a

legislative graveyard where legislation goes to die (Zanona 2021). Likewise, the death of

conference committees beginning in the late 1970s gave party leaders an outsized roll in the

legislative process as the two chambers "ping-pong" bills back and forth trying to reach a deal

(Park et al. 2017). Today, polarization within the chamber only further highlights the power of

party leaders (Algara and Johnston 2022). As such, leaders have the added responsibility of

messaging why Congress is tending to the issues it is focusing on as well as why policies are

substantively sound. Therefore, the following hypothesis can be tested:

H8: Chamber and Committee leaders are more likely to insert items into the Record than rank-and-file senators.

Baumgartner and Jones (2015) put information into two categories, information that is

used for problem discovery and definition and expert information used for solution-making. I

differ slightly not on the substance but on the label of these two categories and argue that the two

categories can be distinguished between political and expert information. Discovering problems, defining them, and fighting to get certain issues on the agenda over others are inherently political acts. Policy entrepreneurs actively seek to bring this type of information to new actors in the hope of generating policy change with their definition of the problem as the accepted definition (Schattschneider 1960). Political information in addition to addressing the substance of a policy also conveys information about the politics of a potential problem. For example, when the National Rifle Association (NRA) issues a report and shops it around to Congress the information in the report may in fact be substantive and technical but by virtue of having the NRA label on it the report also conveys to lawmakers that the proposals within the report are supported by conservative groups and the primary purpose is to convey the political knowledge not expert information. Likewise, a letter writing campaign organized by a local business association conveys the political knowledge of what constituents in a district are thinking more than any expert information contained within the letters. On the other hand, a CRS report contains—by design—very little to no political information and instead focuses solely on a neutral presentation of policy analysis.[34]

As previous research has shown, congressional debate is not typically all that well informed when it comes to the factual nature of how certain policies will impact the public (Mucciaroni and Quirk 2006). Likewise, floor debate is used, in part, to signal why Congress is taking on the issues it has and why it is pursuing the policies it does (Gillion 2016). This leads one to expect that floor debate is less likely to involve much expert information. Therefore, the following hypothesis can be tested:

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[34] In conversations with the author several current and former CRS analysts have gone so far as to say that they are discouraged from drawing conclusions in their reports for fear of being viewed as political.

H9: Senators will insert more items that convey political information into the Record than items that reflect expert information.

4.5 Data and Methodology

To test these hypotheses, I collected the items inserted into the *Record* during the debate of important laws enacted from the 103rd (1993) through the 114th (2016) congresses using transcripts of the debate of that legislation collected from the *Congressional Record.* The full process of selecting these laws and collecting the transcripts is described in detail in chapter two. To briefly restate, the list of important laws included is derived from a subsection of Curry and Lee's (2020) list of measures. Once I had my list of important measures assembled, I collected the relevant transcripts. Relevant transcripts from the *Congressional Record* were obtained by searching the bill number and bill title in *ProQuest Congressional* and downloading the documents from the Debate tab. Then, collected transcripts were read into the qualitative analysis software, NVIVO.

Items used to support a senator's arguments can be referenced in a few different ways. In the course of debate a senator may reference a report, a newspaper article, or even a letter in passing, as shown by the example from Senator Baucus below.[35]

"My colleagues might be surprised and disturbed, then, to learn that-at the direction of the State Department-OFAC diverts more of its personnel resources to imposition of the Cuba travel ban than to any other country or project specific issue.

According to their records, the equivalent of 21 full-time OFAC employees are allocated to the Cuba travel ban. On the other hand, only 16 are allocated to the search al-Qaida's financial sources of support."

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[35] Baucus, Max. 2004. "National intelligence Reform Act of 2004." *Congressional Record* Vol. 150, No. 124, Pg. S 10388.

Another way outside documents could be referenced is a senator reads from the item

directly but only for a short excerpt, as shown by the example from Senator Gregg below.[36]

"Let me read to you from the commentary of the Federal Reserve staff on section 106, which is now, I believe, section 714. Here is what the Federal Reserve staff said about this approach:

Section 106 would impair financial stability and strong prudential regulation of derivatives; would have serious consequences for the competitiveness of United States financial institutions; and would be highly disruptive and costly, both for banks and their customers."

Finally, a senator may enter the item in its entirety into the *Record* either as they are

speaking or ask that it be entered at the conclusion of their remarks. For my purposes, I only

include items from this last category in my coding of items inserted into the *Record*. I do so for a

two reasons. First, items that are referenced in the *Record* by other means sometimes do not

include documentation of the source of the item or the form the item took (i.e., a letter,

newspaper article, speech, etc.). Therefore, to be able to consistently code insertions into the

Record I could only include items that were submitted in their entirety. Second, my theory relies

on several assumptions about the nature of defending arguments and message signaling that

require I only analyze items inserted into the *Record* in their entirety. As referenced above, I

argue that senators insert items into the *Record*, in part, to signal to outside interest groups or

other interested observers their intent and in some circumstances to prove that they are listening

to their various audiences. Items referenced in the *Record* in other ways, while they may support

a senator's arguments, do not sufficiently convey this to outside groups and observers that

senators are trying to appeal to, particularly because the sources of the item are not always

identifiable.[37]

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[36] Gregg, Judd. 2010. "Restoring American Financial Stability Act of 2010." *Congressional Record* Vol. 156, No. 65, Pg. S 3068.

[37] There is perhaps meaningful variation in the types of items that are referenced in the *Record* via means other than insertion in their entirety and could meaningfully build on the theory

As mentioned above, items can be inserted into the record in their entirety in two ways. First, at the place they are mentioned in the course of debate in the *Congressional Record*. To include items in this manner senators simply state, "I ask unanimous consent that X be inserted into the record." The presiding officer responds, "There being no objection the following was inserted into the record and reads as follows:". The item then appears and the senator's speech continues at the beginning of the next paragraph. A second method of inserting the entirety of an item into the record is at the conclusion of a senator's remarks before the next speaker begins. When items are included in this manner the senator says, "I ask unanimous consent that X be inserted into the record at the conclusion of my remarks." The presiding officer then responds, "there being no objection it is so ordered" and the *Record* then notates "see Exhibit" and at the end of the senator's speech the material appears marked as Exhibit 1, 2, 3, etc.

To locate and code the items inserted into the *Record* I used NVIVO analysis software to keyword search the *Congressional Record* transcripts of each important law included in the study for the term "record" and "exhibit." In addition to this I also performed a close reading of the transcripts to identify any items that may have been missed in the key word searches. In total, 1330 items were inserted into the *Record* in their entirety during the debate of the laws included in my study. Once an item was located, I identified which senator was speaking and the type and source of item that was being inserted into the *Record*. Items inserted into the *Record* generally took the form of letters, memos, and reports. However, senators would sometimes insert unusual

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developed in this chapter. However, the inability to consistently identify the sources and form of items via these other means sufficiently limits potential theoretical development that it is inappropriate to include these items in this project at that time. This could be a fruitful avenue for future research.

items such as song lyrics from their state songs or lists of names of staff or prominent outside

individuals.

Figure 4.1- Items Insterted into the Congressional Record
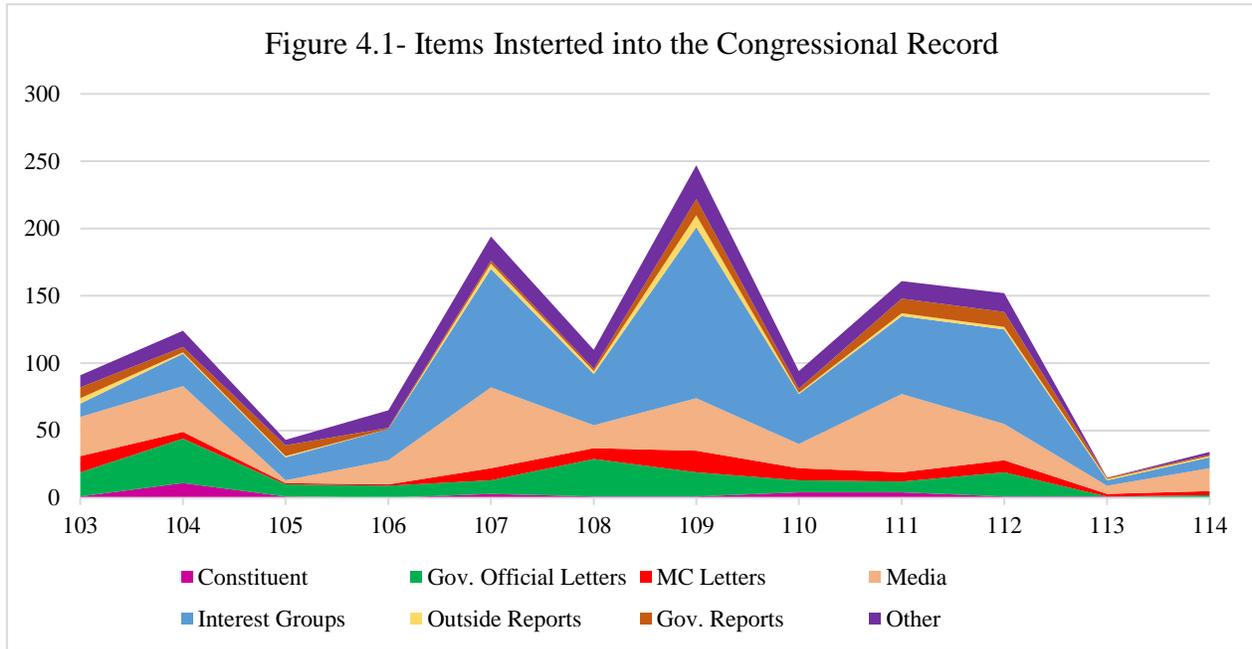
Regardless of the form of an item inserted into the *Record* I focused the coding scheme

on the *source* of said item. The coding scheme employed for items inserted into the *Record* was

based loosely on coding schemes developed for the coding of congressional witnesses. For

example, Burstein and Hirsch (2007) coded witnesses using five different categories. Rackey and

Bell (2019) expanded on Burstein and Hirsch's coding scheme and use a total of seven

categories. For this project, I allowed the items inserted to guide my coding scheme keeping

these other standardized coding schemes in mind. Ultimately, I developed eight different codes

by which to categorize items.[38] As can be seen in the figure above, different types of items were

inserted at vastly different rates. Far and away the most common item inserted into the *Record*

came from interest groups. These items took the form of letters from different interest group

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[38] See Appendix IV for a full description the of coding scheme and examples of items included
in each code.

leaders in support or opposition of various proposals, lists of interest groups that senators had

been contacted by, and public statements by interest groups.[39] The second most popular item

inserted into the *Record* came from media outlets. Most commonly, this came in the form of

newspaper articles from either *The New York Times*, *Washington Post*, *Wall Street Journal*, or

the senator's home state newspapers. The most striking result from the initial coding of this data

is the relatively low to nonexistent inclusion of items from constituents. The 104th Congress was

the high-water mark with eleven items inserted into the *Record* from constituents out of the 124

items coded that congress. Even here though, nine of the eleven items were inserted by one

senator, Patty Murray (D-WA). This was quite striking given the sheer volume of constituent

communication that senators receive on a regular basis (Congressional Management Foundation

2011).

　　While the variation of items inserted into the *Record* is interesting, the picture of the

types of information that senators rely on during debate becomes clearer when they are binned

together. As stated above, generally, we can think of source of information in two ways—

political information and expert information. To assess this, I binned the categories above into

these two broader categories. Items that convey technical, analytical, and nuanced policy

information were binned as expert information. This includes Government Reports, Outside

Reports, and Government Official Correspondence.[40] All of the other categories—Interest Group

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[39] It should be noted, for the purposes of my coding I did not distinguish between public and private interest groups. Rather, I categorized them all in one group to assess the overall influence of organized interests. This also made sense given the relatively small set of bills included in my analysis. However, future research looking to build on this analysis that includes a wider collection of bills should separate different types of interest groups into different categories.

[40] Government Official Correspondence is included in the Expert Information category because it includes correspondence primarily from federal and state level bureaucrats and cabinet secretaries about the policy implications of various proposals. While the category also includes

Correspondence, Media, Constituent Letters, and Member of Congress Correspondence—are included in the political information category because they provide more information about the political and electoral impacts of potential policy decisions than they provide any actual policy analysis.[41] The Other category, which contained 137 items, was excluded from the binning process.

Figure 4.2-Political and Expert Information Inserted into the Congressional Record
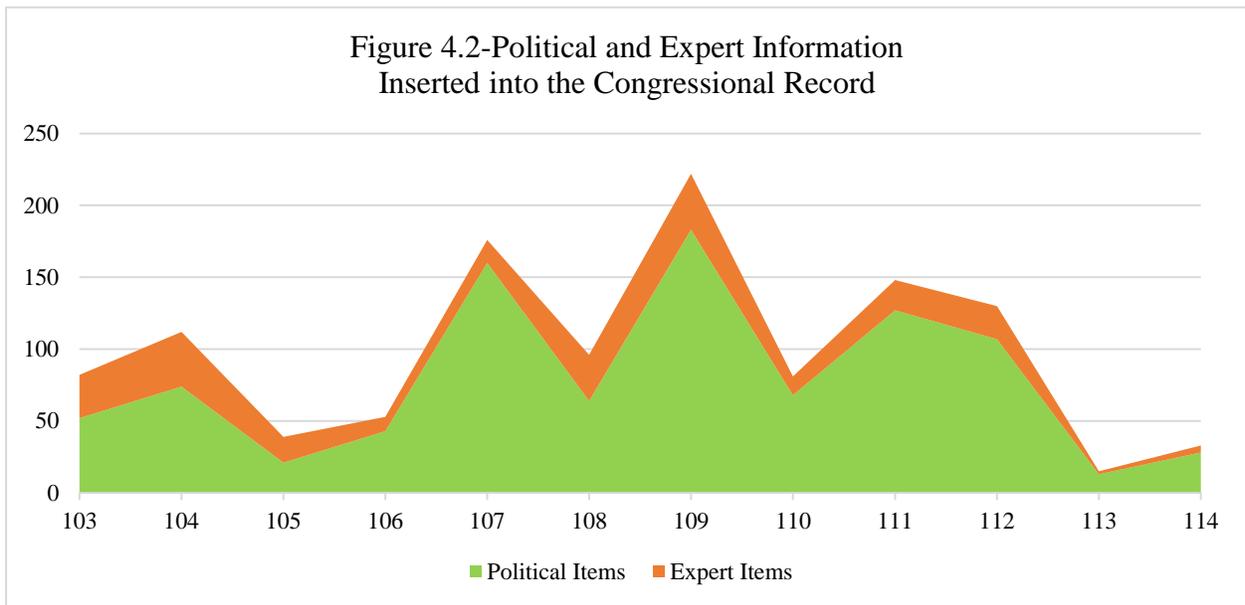
Figure 4.2 above shows the results of the binned types of information that senators insert into the *Record* during floor debate of important bills. Grouped this way, it becomes

letters from elected officials, those letters typically contain more analytical information than they do political information.

[41] While it is theoretically true that interest group correspondence could provide expert information as well as political information because these groups represent affected parts of society, I grouped the correspondence as political information for two reasons. First, the interest group letters contained in this dataset focus mainly on political information such as stating the number of voters that their group represents and they advocate for particular policy positions without the use of expert level data. Meaning that the letter is intended to signal electoral consequences rather than policy analysis. Second, information supplied by interest groups that contained expert level data such as white papers and memos were coded as Outside Reports for this project. (See Appendix IV for details).

tremendously apparent that senators rely on and insert more political information into the *Record* than expert information during the course of floor debate. Even in congresses where fewer items were inserted, such as the 105th, 113th, and 114th Congresses, political inserts still made up 54%, 87%, and 85% of all inserts that Congress, respectively.[42]

4.6 Findings

To test hypotheses seven and eight, I estimated five multiple linear regression models using clustered standard errors to examine the influence of the key independent variables on the likelihood of different types of items being inserted into the *Record*.[43] The dependent variable in Table 4.1 is a count variable of the total number of items inserted into the record by each senator, collection was as described above. The main independent variables used for my hypotheses will include DW-NOMINTATE on the 1st dimension, the Absolute Distance in DW-NOMINATE Score from the Majority Party and Floor Medians, Seniority within the Chamber, and Leadership Position.[44] Model 1 shows the influence of senator ideology on the likelihood that they will insert items into the *Record*. I included three measures of ideology, DW-NOMINATE on the first dimension and the absolute distance from the floor and majority party medians. I used three different measures to see if there was any potential difference in outcome depending on how ideological extremity was measured. I included all three measures in Model 1 but due to the high correlation of the three I also conducted the analyses separately, which yielded similar results.

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[42] While these Congresses had comparatively fewer laws included in my dataset, the 108th and 111th Congresses include a similar number of laws. These Congresses saw more items into the record but the trend of more political information than expert information inserted into the *Record* holds at 67% and 86%, respectively.

[43] Supplemental model configurations are available in Appendix V.

[44] The data for all independent variables was taken from the Legislative Effectiveness Scores database (Volden and Wiseman 2018). For my purposes, I added the Leadership variable which combined their coding of Majority Leader, Minority Leader, and Committee Chair.

While the results in Model 1 are in the expected direction with ideologically extreme senators inserting more items than their peers these results are not statistically significant.

Table 4.1: Who Inserts Items into the Congressional Record

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	0.26 (025)			0.13 (0.22)	0.32 (0.24)
Absolute Dist. Flr. Median	0.10 (0.26)			0.13 (0.25)	0.18 (0.26)
Absol. Dist. Maj. Party Median	0.23 (0.60)			0.24 (0.17)	0.11 (0.61)
Seniority		0.09*** (0.03)		0.10*** (0.03)	0.09*** (0.03)
Freshmen		0.02 (0.19)		-0.19 (0.16)	0.02 (0.19)
Leadership			0.65*** (0.26)	0.51** (0.31)	0.09 (0.27)
Democrat	0.28 (0.23)	0.12 (0.19)	0.22 (0.20)		0.22 (0.22)
Majority	-0.43 (0.59)	-0.52*** (0.15)	-0.79*** (0.16)		-0.36 (0.60)
LES	0.61*** (0.19)	0.43*** (0.18)	0.48*** (0.18)		0.44*** (0.18)
(Intercept)	0.43 (0.59)	0.25 (0.28)	0.80*** (0.20)	0.19 (0.18)	-0.01 (0.64)
Adjusted R^2	0.046	0.069	0.050	0.053	0.072

*N=1218, *p < .05, **p<.01, ***p<.001*

As can be seen in Models 2 and 3 above, more senior senators and those that hold committee or party leadership positions are more likely to enter items into the *Record* than junior and rank-and-file senators.[45] Surprisingly, majority party senators are less likely to insert items

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[45] Results presented in chapter two suggest that these types of senators are also more likely to participate in debate than their colleagues. Given that under my coding scheme senators have to have participated in debate in order to insert items into the *Record* I also analyzed these relationships while controlling for the number of bills a senator has spoken on during a Congress.

into the *Record* than minority party senators. Likewise, legislators who are more effective are more likely to insert items into the *Record* than their peers.[46] To take another cut at the data, Model 4 assesses just the key independent variables of interest and Model 5 includes all independent variables of interest and all control variables. These models further show that ideology does not appear to be associated with which senators insert items into the *Record*, contrary to hypothesis seven. They do however lend further support to hypothesis eight, that senators in leadership positions are more likely to insert items into the *Record* than rank-and-file members. Likewise, more senior members and more effective senators insert more items into the *Record* than their colleagues. Interestingly, there does seem to be some evidence that members of the majority party are less likely to insert items into the *Record* than minority party senators. Additionally, it appears as though party does not have a statistically significant influence on who inserts items into the *Record*.

While Figure 4.2 above begins to paint a picture of how senators use different types of information during legislative debate, it does not tell the complete picture. Hypothesis nine argues that senators will insert more items that convey political information than expert information into the *Record*. Across my dataset, on average, senators will insert 1.08 items into the record per congress. On average, senators will insert 0.77 items that convey political information per congress and 0.20 items that convey expert information per congress. The descriptive statistics presented support the initial hypothesis, however they do not tell us much

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The results were robust under these conditions and the same independent variables remained statistically significant as they are presented here.

[46] Legislative Effectiveness Scores are calculated, in part, using some of the same variables that this analysis includes as independent variables (see Volden and Wiseman 2018) leading to high correlation among the variables. As such, I conducted these analyses while excluding effectiveness scores and the same variables remained statistically significant as presented here.

about who is more likely to insert political information rather than expert information into the

Record. To investigate who might be more likely to insert political items I estimated several

multiple linear regressions with clustered standard errors using the same independent variables

used for hypotheses seven and eight as well as in previous chapters. The dependent variable for

the models presented in Table 4.2 is a count variable of the number of political items inserted

into the record, the results are presented below.

Table 4.2: Who Inserts Political Information Items into the Congressional Record

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	0.12 (0.21)			0.03 (0.19)	0.16 (0.21)
Absolute Dist. Flr. Median	0.18 (0.21)			0.19 (0.20)	0.24 (0.21)
Absol. Dist. Maj. Party Median	0.24 (0.46)			0.11 (0.14)	0.15 (0.45)
Seniority		0.07*** (0.02)		0.08*** (0.03)	0.07*** (0.02)
Freshmen		0.04 (0.17)		-0.13 (0.13)	0.04 (0.17)
Leadership			0.36* (0.21)	0.28 (0.25)	-0.07 (0.21)
Democrat	0.23 (0.19)	0.11 (0.16)	0.19 (0.17)		0.17 (0.19)
Majority	-0.21 (0.45)	-0.38** (0.12)	-0.56*** (0.13)		-0.14 (0.45)
LES	0.46*** (0.17)	0.33*** (0.16)	0.39*** (0.16)		0.35*** (0.16)
(Intercept)	0.18 (0.44)	0.14 (0.24)	0.54*** (0.17)	0.13 (0.15)	-0.17 (0.49)
Adjusted R^2	0.039	0.056	0.039	0.041	0.058

N=1218, *p < .05, **p<.01, ***p<.001

From the descriptive statistics shown in Figure 4.2 we know that senators, in general, are more

likely to rely on and insert political information than expert information to support their

arguments on the Senate floor. In trying to look at whether certain types of senators are more likely to rely on political information than others I find that senator ideology and party are not significant influences on inserting this type of information to the record. However, there is some evidence to suggest that seniority, leadership position, majority status, and legislative effectiveness are all statistically significant influences on the likelihood a senator will (or won't) insert political information into the *Record*.[47]

4.7 Conclusion

The epigraph at the outset of this chapter by Senator Dodd discusses how there were 103 items inserted into the *Record* during consideration of the Private Securities Litigation Reform Act of 1995. Here, Dodd asserts that the items included here along with other activities helped build a record as to why the piece of legislation was necessary and to show that the legislation was thoroughly debated and deliberated. This supports Gillion's (2016) argument that speech and debate is how politicians justify their actions to the public. Further, it supports the notion that debate is one method used by politicians to justify why government is focusing on one policy issue instead of others (Baumgartner and Jones 2015). Through my investigation of 1330 items inserted into the *Record* during the debate of important new laws from the 103rd to the 114th Congresses, I find that that the information used to justify Senate action on a subject is more heavily reliant on political information than expert information. I also find that senior senators, party leaders, and those with higher legislative effectiveness scores are more likely to include items in the *Record* to justify their positions than other types of senators. Additionally, I find that

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[47] Like the analyses presented in Table 4.1, analyses for results presented in Table 4.2 were also conducted without the inclusion of effectiveness scores and the same variables remained significant. Supplemental model configurations are available in Appendix V.

majority party senators are less likely to insert items into the *Record* than minority party senators.

The finding that most items inserted into the *Record* fall under political information, and more specifically come from interest group sources, lends further support to the idea that senators use floor debate to "gain favor with an organization" (Box-Steffensmeier et al. 2018). Moreover, the raw data showing the underwhelming level of constituent communication that is included in the *Record* at this stage of debate is striking. It highlights that, for most senators, when they participate in floor debate their primary audience is not the wider public.

Additionally, the finding that senior senators and those in leadership positions are more likely to insert items into the *Record* than their colleagues leads to two conclusions. First, less senior senators may find the formal floor process less important than their colleagues and do not appear to find it as necessary to justify their actions here. Second, minority party leadership seems more likely to insert items into the *Record* than majority party leadership. In the partisan era, minority party leadership likely views floor debate as venue to criticize the majority and build a record of opposition. Meanwhile, majority party leadership does not appear to view it as necessary to build a record through debate or including items in the *Record* to justify its action.

The lesser use of expert information during debate comports with previous research that congressional debate is typically underinformed (Mucciaroni and Quirk 2006). Given that many members of Congress gain and retain policy expertise through the committee process (Curry 2019) and choose not to portray such expertise during debate through the inclusion of expert items in the *Record* suggests that many senators view floor debate as performance rather than the high minded ideal they often prattle on about. The next chapter will summarize the findings across the three empirical chapters and paint a more holistic view of the conclusions we can draw

about debate in Congress's upper chamber as well as point to directions for fruitful future research.

Chapter 5

Conclusion

We should all agree that we should have a robust, informed debate on something that is this important. Anything less is a disservice to the people who sent us here to work for them.
-Sen. Elizabeth Warren (D-MA)[48]

Where does this leave the status of democratic debate in the U.S. Senate? This

dissertation set out to establish a base line from which we could understand if there has been a

decline in democratic debate in Congress's upper chamber. As with much of the previous

literature on the filibuster, the main takeaway from this investigation is that ordinary and routine

debate of important legislation in the Senate does not live up to the myth the chamber has built

for itself. Chapter 2 investigated the contours of who participates in debate in the first place and

found that overall participation in debate is low. The debate of the 111 important laws included

in this dataset reveal that most bills had less than a majority of senators participate in debate.

Consistent with other research, I also find that senior senators and those with institutional

leadership positions are also more likely to debate legislation than chamber backbenchers

(Gelman and Goplerud 2021). That so few senators regularly participate in debate, that

Democrats participate more than Republicans, and that party leaders participate more than their

colleagues hardly lives up to the idea of robust legislative debate. Gillion (2016) argues that

debate "lays the foundation for deliberative democracy. It establishes the rhetorical frames which

allow politicians to explain their actions to the public" (25). If debate is to support the public's

understanding of policy decisions and therefore the legitimacy of governmental actions it is

concerning that there is clearly a bias in whose views are represented most often during

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[48] Warren, Elizabeth. 2015. "Ensuring Tax Exempt Organizations the Right to Appeal Act." *Congressional Record* Vol. 161, No. 79, Pg. S 3210.

legislative debate. This could become even more problematic when you consider the imbalances in demographic and regional representation within the Senate, though future research should more explicitly explore how these factors impact representation in debate. Additionally, the filibuster as a procedural tool and historical anomaly has increasingly become salient and the subject of public debate. Defenders have suggested that the right to *extended* debate is important to preserving democracy so that all sides have equal opportunities to exhaustively challenge or defend particular policy proposals (Arenberg and Dove 2015). However, if, as Chapter 2 shows, senators do not make extensive use of *ordinary* debate while considering important new legislation the case for protecting extended debate is much weaker.

Chapter 3 sought to understand if the Senate was living up to the idea that it maintains a collegial atmosphere that refrains from personal attacks. I find that legislative debate has not become substantially more positive or negative across the period of study and that it leans slightly more positive. As noted in the chapter, this finding does seem slightly at odds with the contemporary view of the Senate. Given that this dataset stops in 2016 it is worth exploring further whether there has been a greater decline in civility amongst senators in more recent years. This would be particularly interesting to explore after the January 6th, 2021, insurrection and attack on the Capitol as relationships on the Hill have become increasingly strained. Future research should also look to see whether different areas of debate have become more contentious than others. For example, confirmation battles for Supreme Court justices and other appointments have long been extremely partisan and contentious (Schoenherr et al. 2020; Bell 2002). Likewise, there is research showing the committee hearings are often the venue in which Senators prefer to do rhetorical battle and grandstand (Park 2021). I also find that ideologically extreme senators are more likely to use negative sentiments during debate than their colleagues.

This could be a concerning trend as the chamber continues to polarize and as elected officials increasingly view political office as a platform to speechify rather than govern (Levin 2020).

Chapter 4 turns to an analysis of the types and sources of information that inform legislative debate and that senators use to justify their positions. I find that senators are more likely to insert items that convey political information such as interest group letters and media articles than they are to insert items that primarily convey expert information such as government agency and think tank reports. If, as Senator Warren asserts, legislative debate should be well informed, this finding is somewhat concerning in discovering *how* it is informed. Political information is certainly important to democratic debate. In order to have a representative democracy we should want some degree of political information influencing elected official's decision-making. However, as Chapter 4 shows, senators seem to insert strikingly few items from their constituents into the *Record*. If democratic debate is supposed to be an expression of the will of the people on this count the Senate has failed to provide supporting documentation that constituents are at all involved in influencing the decision-making process. Likewise, the comparative dearth of expert information used to support policy decisions is concerning. Given that there has been a dramatic decline in expert witnesses during congressional hearings (Ban et al. 2022; Rackey et al. 2022.) that there is also relatively little expert information entering debate at the floor stage of consideration is problematic. At a time when congressional delegation of bureaucratic rulemaking is potentially under attack by the courts (Savage 2022) the fact that Congress lacks the capacity to (LaPira et al. 2020) or is uninterested in processing expert information is concerning and could potentially upend the policymaking process and government's ability to appropriately respond to crises.

Finally, throughout this dissertation I have mentioned the concept of venues of debate with floor debate being one such venue. This dissertation has focused just on floor debate when a legislative matter is pending. However, there are a litany of other rules that govern floor and committee debate in the U.S. Congress. Previous research has looked at how debate has taken place in some of these venues (Maltzman and Sigelman 1996; Binder and Smith 1997; Overby and Bell 2004; Koger 2010; Bell 2011; Park 2021, among others). However, they all fail to look at the nuances of debate across venues and how each venue shapes and controls factors of participation, timbre, or information flow within legislative debate. Gelman and Goplerud (2021) provide a wholistic account of debate participation by analyzing the whole of the *Record* for their period of study but they do not disaggregate their analysis by venue. In order to have a full accounting of legislative debate and the potential decline in it, future research should seek to close this gap. Analyzing the bills contained in my dataset in other venues, since they came to the floor via regular order, is potentially one way to accomplish this future goal.

Dataset of Important New Laws
1993-2016

Congress	Law	Bill Title
103	HR20	Hatch Act Reform Amendments of 1993
	HR2010	National and Community Service Trust Act of 1993
	HR3345	Federal Workforce Restructuring Act of 1994
	HR3450	North American Free Trade Agreement Implementation Act
	HR3474	Riegle Community Development and Regulatory Improvement Act of 1994
	HR3841	Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994
	HR4217	Federal Crop Insurance Reform and Department of Agriculture Reauthorization Act of 1994
	HR5110	Uruguay Round Agreements Act
	HR920	Emergency Unemployment Compensation Amendments of 1993
	S1	National Institutes of Health Revitalization Act of 1993
	S1587	Federal Acquisition Streamlining Act of 1994
	S21	California Desert Protection Act of 1994
	S24	Independent Counsel Reauthorization Act of 1994
	S636	Freedom of Access to Clinic Entrances Act of 1994
	S714	Resolution Trust Corporation Completion Act
104	HR1058	Private Securities Litigation Reform Act of 1995
	HR1975	Federal Oil and Gas Royalty Simplification and Fairness Act of 1996
	HR3005	National Securities Markets Improvement Act of 1996
	HR3107	Iran and Libya Sanctions Act of 1996
	HR831	To amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes.
	S1316	Safe Drinking Water Act Amendments of 1996
	S4	Line Item Veto Act
	S440	National Highway System Designation Act of 1995
	S641	Ryan White CARE Act Amendments of 1996
	HR3103	Health Insurance Portability and Accountability Act of 1996
	S652	Telecommunications Act of 1996

105	HR1151	Credit Union Membership Access Act
	HR2676	Internal Revenue Service Restructuring and Reform Act of 1998
	HR6	Higher Education Amendments of 1998
	HR668	Airport and Airway Trust Fund Tax Reinstatement Act of 1997
	HR2400	Transportation Equity Act for the 21st Century
106	HR1000	Wendell H. Ford Aviation Investment and Reform Act for the 21st Century
	HR1180	Ticket to Work and Work Incentives Improvement Act of 1999
	HR1658	Civil Asset Forfeiture Reform Act of 2000
	HR3671	Fish and Wildlife Programs Improvement and National Wildlife Refuge System Centennial Act of 2000
	HR4444	To authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China, and to establish a framework for relations between the United States and the People's Republic of China.
	HR5164	Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act
	HR775	Y2K Act
	S2045	Kids 2000 Act
	S2796	Water Resources Development Act of 2000
	S335	Deceptive Mail Prevention and Enforcement Act
	S900	Gramm-Leach-Bliley Act
107	HR1	No Child Left Behind Act of 2001
	HR1088	Investor and Capital Markets Fee Relief Act
	HR2603	United States-Jordan Free Trade Area Implementation Act
	HR2646	Farm Security and Rural Investment Act of 2002
	HR3090	Job Creation and Worker Assistance Act of 2002
	HR3295	Help America Vote Act of 2002
	HR5005	Homeland Security Act of 2002
	S1372	Export-Import Bank Reauthorization Act of 2002
	HR3009	Trade Act of 2002
	HR3763	Sarbanes-Oxley Act of 2002
108	HR2115	Vision 100--Century of Aviation Reauthorization Act
	HR2622	Fair and Accurate Credit Transactions Act of 2003
	HR5107	Justice for All Act of 2004
	S877	CAN-SPAM Act of 2003
	HR4520	American Jobs Creation Act of 2004
	S150	Internet Tax Nondiscrimination Act
	S2845	Intelligence Reform and Terrorism Prevention Act of 2004
109	HR3045	Dominican Republic-Central America-United States Free Trade Agreement Implementation Act

	HR3199	USA PATRIOT Improvement and Reauthorization Act of 2005
	HR4297	Tax Increase Prevention and Reconciliation Act of 2005
	HR5682	Henry J. Hyde United States and India Nuclear Cooperation Promotion Act of 2006
	HR6143	Ryan White HIV/AIDS Treatment Modernization Act of 2006
	HR9	Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006
	S1932	Deficit Reduction Act of 2005
	HR6	Energy Policy Act of 2005
	S256	Bankruptcy Abuse Prevention and Consumer Protection Act of 2005
	HR3	SAFETEA-LU
110	HR1	Implementing Recommendations of the 9/11 Commission Act of 2007
	HR1424	Amendments to Employee Retirement Income Security Act of 1974
	HR1429	Improving Head Start for School Readiness Act of 2007
	HR2669	College Cost Reduction and Access Act
	HR4137	Higher Education Opportunity Act
	HR493	Genetic Information Nondiscrimination Act of 2008
	HR556	Foreign Investment and National Security Act of 2007
	HR6124	Food, Conservation, and Energy Act of 2008
	HR1495	Water Resources Development Act of 2007
	HR2419	Food, Conservation, and Energy Act of 2008
	HR5501	Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008
111	HR2751	FDA Food Safety Modernization Act
	HR4173	Dodd-Frank Wall Street Reform and Consumer Protection Act
	S3307	Healthy, Hunger-Free Kids Act of 2010
	S454	Weapon Systems Acquisition Reform Act of 2009
	HR3590	Patient Protection and Affordable Care Act
	S386	Fraud Enforcement and Recovery Act of 2009
	HR627	Credit CARD Act of 2009
112	HR1249	Leahy-Smith America Invents Act
	HR3078/79/80	United States-Colombia/Panama/Korea Trade Promotion Agreement Implementation Act
	HR4	Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011
	HR4348	MAP-21
	HR6156	Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012
	HR8	American Taxpayer Relief Act of 2012

	S679	Presidential Appointment Efficiency and Streamlining Act of 2011
	HR3606	Jumpstart Our Business Startups
	S2038	STOCK Act
	S3187	Food and Drug Administration Safety and Innovation Act
	S990	PATRIOT Sunsets Extension Act of 2011
	HR658	FAA Modernization and Reform Act of 2012
113	HR3080	Water Resources Reform and Development Act of 2014
	HR678	Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act
	S330	HIV Organ Policy Equity Act
	HR2642	Agricultural Act of 2014
114	HR2262	U.S. Commercial Space Launch Competitiveness Act
	HR2576	Frank R. Lautenberg Chemical Safety for the 21st Century Act
	HR720	Gerardo Hernandez Airport Security Act of 2015
	S1890	Defend Trade Secrets Act of 2016
	HR2146	Defending Public Safety Employees' Retirement Act
	HR636	FAA Extension, Safety, and Security Act of 2016
	S1177	Every Student Succeeds Act
	S524	Comprehensive Addiction and Recovery Act of 2016

Distribution of Senator Participation in Debate

Who Participates in Debate of Important Laws with Congress Fixed Effects

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	0.03 (0.14)			-0.27** (0.16)	0.04 (0.14)
Absolute Dist. Flr. Median	0.36** (0.15)			0.27* (0.15)	0.39** (0.15)
Absol. Dist. Maj. Party Median	-0.38 (0.26)			0.05 (0.12)	-0.41 (0.26)
Seniority		0.02** (0.02)		0.03** (0.01)	0.02 (0.01)
Freshmen		-0.14 (0.15)		-0.28* (0.15)	-0.12 (0.15)
Leadership			0.27* (0.14)	0.37** (0.15)	0.15 (0.15)
Democrat	0.56*** (0.09)	0.48*** (0.09)	0.51*** (0.09)		0.55*** (0.09)
Majority	-0.61** (0.25)	-0.35*** (0.09)	-0.46*** (0.10)		-0.61** (0.25)
LES	0.36*** (0.05)	0.31*** (0.05)	0.32*** (0.05)		0.29*** (0.05)
(Intercept)	2.15*** (0.27)	1.93*** (0.18)	2.03*** (0.17)	2.15*** (0.18)	2.09*** (0.28)
Adjusted R^2	0.384	0.382	0.380	0.355	0.387

N=1219, *p* < .05, **p<.01, ***p<.001

Who Participates in Debate of Important Laws without Legislative Effectiveness Scores

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	-0.02 (0.18)			-0.20 (0.16)	0.06 (0.17)
Absolute Dist. Flr. Median	0.22 (0.17)			0.22 (0.17)	0.28* (0.17)
Absol. Dist. Maj. Party Median	-0.41 (0.32)			0.07 (0.14)	-0.46 (0.32)
Seniority		0.05*** (0.01)		0.04*** (0.01)	0.03*** (0.02)
Freshmen		-0.32* (0.18)		-0.30 (0.18)	-0.29 (0.18)
Leadership			0.70*** (0.15)	0.29 (0.18)	0.39** (0.18)
Democrat	0.51 (0.12)	0.43*** (0.11)	0.49*** (0.11)		0.50*** (0.12)
Majority	-0.45 (0.31)	-0.12 (0.11)	-0.37*** (0.12)		-0.56* (0.31)
(Intercept)	3.03*** (0.30)	2.49*** (0.13)	2.74*** (0.09)	2.56*** (0.12)	2.82*** (0.31)
Adjusted R^2	0.014	0.037	0.030	0.027	0.040

N=1219, *p* < .05, **p*<.01, ***p*<.001

Appendix III
Supplemental Information for Chapter 3

Which Senators Go Negative? With Congress Fixed Effects

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	-0.06 (0.04)			-0.02 (0.04)	-0.06 (0.04)
Absolute Dist. Flr. Median	-0.12*** (0.04)			-0.11*** (0.04)	-0.12*** (0.04)
Absol. Dist. Maj. Party Median	-0.02 (0.07)			0.01 (0.03)	-0.02 (0.07)
Seniority		0.01 (0.01)		-0.01 (0.01)	0.01 (0.01)
Freshmen		-0.01 (0.04)		0.01 (0.04)	0.01 (0.04)
Leadership			0.06* (0.04)	0.05 (0.04)	0.06 (0.04)
Democrat	-0.08*** (0.03)	-0.06** (0.03)	-0.05** (0.02)		-0.08*** (0.03)
Majority	-0.01 (0.07)	0.05** (0.03)	0.04 (0.03)		-0.03 (0.07)
LES	0.01 (0.01)	0.01 (0.01)	-0.01 (0.01)		-0.01 (0.01)
(Intercept)	0.30*** (0.07)	0.20*** (0.05)	0.22*** (0.05)	0.23*** (0.05)	0.31*** (0.27)
Adjusted R^2	0.067	0.055	0.057	0.061	0.067

N=1112, *p* < .05, **p<.01, ***p<.001

Which Senators Go Negative? Without Legislative Effectiveness Scores

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	-0.06 (0.04)			-0.01 (0.04)	-0.05 (0.04)
Absolute Dist. Flr. Median	-0.14 *** (0.04)			-0.13*** (0.04)	-0.14*** (0.04)
Absol. Dist. Maj. Party Median	0.02 (0.07)			0.02 (0.03)	0.02 (0.07)
Seniority		0.01 (0.01)		-0.01 (0.01)	-0.01 (0.01)
Freshmen		-0.01 (0.04)		0.01 (0.04)	-0.01 (0.04)
Leadership			0.06* (0.04)	0.06 (0.04)	0.05 (0.04)
Democrat	-0.09*** (0.03)	-0.06** (0.03)	-0.06** (0.03)		-0.09*** (0.03)
Majority	0.01 (0.07)	0.05** (0.03)	0.03 (0.03)		0.01 (0.07)
(Intercept)	0.40*** (0.07)	0.33*** (0.03)	0.34*** (0.02)	0.35*** (0.03)	0.40*** (0.07)
Adjusted R^2	0.022	0.006	0.009	0.014	0.022

N=1112, *p* < .05, **p<.01, ***p<.001

Appendix IV
Coding of Items Inserted into the Congressional Record

The coding scheme employed for items inserted into the record for chapter four is based loosely on coding schemes developed for the coding of congressional witnesses. For example, Burstein and Hirsch (2007) coded witnesses using five different categories. Bell and Rackey (2022) expanded on Burstein and Hirsch's coding scheme and use a total of seven categories. For this project, given the smaller dataset of 111 important laws (Appendix I), I allowed the items inserted to guide my coding scheme keeping the other standardized coding schemes in mind.

Items inserted into the record take various forms though the most typical item inserted in the record takes the form of personal correspondence (i.e., letters). However, insertions do take other forms such as, charts, song lyrics, lists of staff names, and lists of interest group names. No matter the form of material being inserted into the record, items were coded based on the *source* of the material. Category details and examples of what was included in each are detailed below. In total, 1330 items were inserted into the record in their entirety during the debate of the pieces of legislation included in my study.

1. Constituents.
Criteria for inclusion: Items included under this code were given to the senator by individuals. When entered, the senator typically identified the letters as "from a constituent." Items that were given to the senator by individual businesses were also included in this category. When entered, the senator typically identified the letters as "from a business in my state."

Example: Murray, Patty. 2001. "Better Education for Students and Teachers Act." *Congressional Record* Vol. 147, No 62, Pg. S4465-66.

Exhibit 2
April 30, 2001.
Dear Senator Murray: As the U.S. Congress has its focus on educational programs, I want to take time to thank you for your tireless efforts on behalf of quality education funding for our public schools! As a primary classroom teacher in Washington State, I know first hand the challenges we face in making sure no child is left behind. While the challenges are tremendous, it is a challenge which public school teachers take on day after day, unwilling to give up and unwilling to do anything less that the very best we can and know how to do in each moment we have in the classroom. When I interviewed for my current teaching position ten years ago, one of the comments I made about my goals as a teacher was that it was very, very important that I hear each child's voice at school each day so that each child would know he/she: (1) had multiple opportunities to be listened to and heard; (2) had the opportunity to tell me what he/she understood and what he/she needed help with; and (3) had multiple opportunities to know he/she was greatly valued as a learner and person. That is a promise that needs to be reality in order for no child to be left behind. It is a promise that can only come true if we have small enough classes with enough qualified teachers in place to meet the individual learning needs of each child and to mentor children in meeting the expectations we share for them as teachers, parents, community, state, and country.

Each school day, I try to live to that promise ... and as I come to the end of each day, I know I have come up short... because of the sheer numbers of children in our classroom, it is not humanly possible to have the educational conversations I need and want to have with each child to best assess their understandings, struggles, challenges, and progress that can inform where the next day's learning needs to go. In order to best and most effectively and efficiently teach primary children, I need time each day to interact with them as individuals, in small groups and as a cohesive whole class without distractions and interruptions. I need time to build the math, literacy, science and social studies concepts, problem solving and critical thinking skills they need for today's complex and ever

dynamically changing world. When I have a large class of primary children with very diverse academic, social and emotional needs and with no additional adult in the classroom to assist children, the importantly needed and valued time to work on learning with children individually and even in small groups or as a cohesive whole class can be lost.

Presently, every classroom teacher in my building is well qualified for his/her assignment and has special outstanding abilities. But we can not do the job we know how to do and keep learning new and better ways to teach in response to changing needs and in today\'s schools, when: (1) the numbers of students in each class makes it impossible to meet the challenges each student faces; (2) the number of adults needed to help provide education is too low; and (3) the energy toll of the teaching day (which requires planning, preparation, reflection, collaboration with colleagues and parents far beyond the time our 8:00 to 3:30 contract time) leaves teachers unable to engage in much needed professional development beyond the needs of the daily classroom instruction. We hear people say that throwing money at the challenges in education won\'t help, but I don\'t know how we can provide the number of qualified teachers needed to provide the best education possible for each child without funding those positions, without providing the funding for teaching materials and for safe, healthy learning environments that are needed, and without funding support for teachers to keep learning and growing professionally!

During this school year, I received a Milken National Teacher\'s Award as well as the Presidential Award for Excellence in Teaching Elementary Science, the Peace Corps World Wise Schools Paul D. Coverdell Award for Excellence in Education (which was presented at the U.S. Senate building with comments from Sen. Edward Kennedy and Sen. Christopher Dodd), a national Blue Ribbon Classroom Website Award, and just recently a grant for funding a co-teacher in our classroom for the remaining weeks of the school year to sustain and document our innovative primary curricular program where children are developing the literacy, science, social studies and math skills they need to meet state learning goals through local to global collaborative telecommunications service learning projects. I am continually learning how to teach. I often work 12 hours per school day developing and sustaining our curricular program as well as usually a full weekend day. I often spend recess time with children as well as after school time building team support for a child and communicating with parents. I spend summers reviewing the past school year and preparing for the next. I spend time taking the course work I need to improve my teaching skills and keep my certification updated. That is what it takes to even come close to a goal of leaving no child behind. Yet, even with developing a classroom which is being recognized as outstanding, I feel that I come up short at the end of each day in providing each of the children in my class the full measure of what they need, deserve, and are capable of doing. If only we had been able to have two teachers for this many children all school year, the sky would not even be the limit for what these children could be accomplishing!!! There is no substitute for educational success for all children than critically needed time with an adult to teach them and enable them to soar! And I don\'t know anyway to insure that those adults are in place each day with needed qualifications without funding!!! There is no substitute for having the funds to prepare qualified teachers and have them in classrooms in great enough numbers so we can do the job of teaching that is needed for today\'s schools.

Almost every public school class today faces challenges of helping children with behavior. Some days, the biggest challenge comes down to making sure each child is safe from harmful physical and verbal hurt by other peers. Large class sizes greatly, exponentially exacerbate these challenges of classroom management to the point of taking away from valuable teaching and learning time. Additionally problems are compounded by not having enough school personnel to assist children facing emotional behavior needs often caused by circumstances not of their fault. Primary grades are the school years with the first opportunities for helpful interventions for children and their families on issues of academic successes and for meeting the emotional needs that affect that success. We know what to do to help. We know how to design learning programs to help children succeed but we simply can\'t do it unless we have the people we need to implement those programs. I can\'t tell you how frustrating it is to know how to teach and not be able to do the very best teaching every moment because it is difficult with too large a class and without enough teachers on board as a team to meet the learning needs of the children. People will say to me, "You are trying to do too much, Kristi, ... your expectations for what we can do in school are too high" ... but, to me, lowering the expectations of what\'s possible means some children will be left behind and I\'m not willing to accept that option. How can we ever possibly be doing too much until we know every child is succeeding to the best of his/her abilities? And wouldn't it be wonderful to be at that place where we say, we have enough of what we need to meet the challenges of educating our children and we are indeed leaving no child behind? I dream of someday hearing that conversation nationally ... and, until that conversation is truly there, we must do all we can and more just to insure we meet our educational vision and goals for all the children in our country!!!

And how can we assess if children are meeting those educational goals and we as teachers are meeting our teaching vision ...We can administer standardized test to a whole class to measure how students are doing according to a norm and against the skills a particular test identifies as priorities. But, those measurements provide only one form of reference on student learning and, depending on the integrity and quality of a standardized assessment, the test data may or may not be an accurate assessment of what students understand. I can't tell you how many times, in working with primary children, I have seen a child's standardized test results communicate an assessment profile that does not provide the full measure of what I have seen that child demonstrate in the classroom learning environment lessons. Performance on an isolated skill assessment with primary children simply cannot document the whole of who they are as learners.

Primary children are growing along a developmental continuum where many of the skills and understandings that we need to see in place in these years as indicators of ongoing successful learning are best demonstrated within the context of active learning with the teacher rather than being only demonstrated in individual performance by themselves. Rather than just being able to demonstrate mastery of individual, isolated skill tasks that are assessed in a standardized test without support of a teacher and outside the context of lesson learning ... many, many of the skills and understandings that we need to have in place in the primary years for ongoing school success are in the category of: Being able to engage in lessons with the teacher; being able to learn when being taught during a lesson; being able to actively think and talk within a teachable moment; and being able to generate a product or comment when asked to contribute and work with the teacher and peers on ideas and work directly with curricular learning materials ...

While I am successfully using the standardized tests that are required in our district and state to provide data on student progress, if I were to rely only on those standardized skills assessments to measure the success of our children in our public schools, I would miss important documentation of learning that is taking place but simply is best revealed in the interactive teaching and learning between the student with his/her teacher and peers. A standardized test, while providing specifically focused insights on a child's progress, is just a moment of time in a child's school learning. This is especially true when assessing primary children. Sometimes, a standardized assessment presents a profile of student learning that shows a child not succeeding when in actuality, he/she has been demonstrating some successes. I have seen a standardized assessment provide data that looks like the child and the teaching is failing when in actuality neither is true. Often, the observation of a child's behaviors when responding to the challenges of an individual standardized test tell me as much about that child's learning strategies and performance as the actual numerical score that child receives. I often make documentation notes on a child's behavior during the process of administering a standardized test. This takes time for individual observations and writing on my part while also devoting energy and focus on the rest of the class ... which is no easy task but an important one to fully understand and interpret the results of a standardized score.

Many of the standardized assessments we are required to do with our primary students require extended, individual, uninterrupted time with each student. After we give the initial instructions, we must time and record their performance. This is especially true of reading assessments as those are done while listening to, recording, timing and notating each child's reading aloud performance (while also keeping track of the rest of the class). Often these assessments can take ten to fifteen minutes per child to implement and additional time to score.

While the information from these assessments can be very valuable, you can well imagine the time involved in a school day to do this accurately and reliably with each child when you have a large class of primary children without any other adult assistance in the classroom. In order to do the best possible job on all assessments of student progress, we need to have smaller class sizes.

Often, the best insights I have had on children's learning progress have emerged in the process of having a cohesive whole class, small group or individual conversation about important basic skills and concepts we have been working on together and sometimes it comes from listening in on conversations a child is having with a peer as they work on their learning with one another. Those avenues of assessment tell us so much about the successes in children's learning as well as direction for ongoing learning. Those conversations will not happen unless we have small enough classes with enough teachers to hear the voices of what children are learning each school day.

Sincerely,
Kristi Rennebohm Franz.

2. Government Officials (Correspondence).

Criteria for inclusion: Items included under this code were given to the senator by the executive branch, bureaucracy, judicial branch, President's cabinet or sub-cabinet, independent government agency, state government, local government, or Native American tribal government officials.

Example: Sarbanes, Paul. 1995. "Private Securities Litigation Reform Act of 1995." *Congressional Record* Vol.141, No. 103, Pg. S 8904-05.

Exhibit 1
Securities and Exchange Commission, Washington, DC, May 19, 1995.
Hon. Alfonse M. D'Amato,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: As Chairman of the Securities and Exchange Commission I have no higher priority than to protect American investors and ensure an efficient capital formation process. I know personally just how deeply you share these goals. In keeping with our common purpose, both the SEC and the Congress are working to find an appropriate "safe harbor" from the liability provisions of the federal securities laws for projections and other forward-looking statements made by public companies. Several pieces of proposed legislation address the issue of the safe harbor and the House-passed version, H.R. 1058, specifically defines such a safe harbor.

Your committee is now considering securities litigation reform legislation that will include a safe harbor provision. Rather than simply repeat the Commission's request that Congress await the outcome of our rulemaking deliberations, I thought I would take this opportunity to express my personal views about a legislative approach to a safe harbor.

There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward- looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company\'s prospects. The more investors know and understand management's future plans and views, the sounder the valuation is of the company\'s securities and the more efficient the capital allocation process. Yet, corporate America is hesitant to disclose projections and other forward-looking information, because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

As a businessman for most of my life, I know all too well the punishing costs of meritless lawsuits-costs that are ultimately paid by investors. Particularly galling are the frivolous lawsuits that ignore the fact that a projection is inherently uncertain even when made reasonably and in good faith.

This is not to suggest that private litigation under the federal securities laws is generally counterproductive. In fact, private lawsuits are a necessary supplement to the enforcement program of the Commission. We have neither the resources nor the desire to replace private plaintiffs in policing fraud; it makes more sense to let private forces continue to play a key role in deterrence, than to vastly expand the commission's role. the relief obtained from Commission disgorgement actions is no substitute for private damage actions. Indeed, as government is downsized and budgets are trimmed, the investor\'s ability to seek redress directly is likely to increase in importance.

To achieve our common goal of encouraging enhanced sound disclosure by reducing the threat of meritless litigation, we must strike a reasonable balance. A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital market-the two goals of the federal securities law.

The safe harbor contained in H.R. 1058 is so broad and inflexible that it may compromise investor protection and market efficiency. It would, for example, protect companies and individuals from private lawsuits even where the information was purposefully fraudulent. This result would have consequences not only for investors, but for the market as well. There would likely be more disclosure, but would it be better disclosure? Moreover, the vast majority of companies whose public statements are published in good faith and with due care could find the

investing public skeptical of their information.

I am concerned that H.R. 1058 appears to cover other persons such as brokers. In the Prudential Securities case, prudential brokers intentionally made baseless statements concerning expected yields solely to lure customers into making what were otherwise extremely risky and unsuitable investments. Pursuant to the Commission's settlement with Prudential, the firm has paid compensation to its defrauded customers of over $700 million. Do we really want to protect such conduct from accountability to these defrauded investors? In the past two years or so, the Commission has brought eighteen enforcement cases involving the sale of more than $200 million of interests in wireless cable partnerships and limited liability companies. Most of these cases involved fraudulent projections as to the returns investors could expect from their investments. Promoters of these types of ventures would be immune from private suits under H.R. 1058 as would those who promote blank check offerings, penny stocks, and roll-ups. It should also address conflict of interest problems that may arise in management buyouts and changes in control of a company.

A safe harbor must be balanced-it should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information. A safe harbor must be thoughtful-so that it protects considered projections, but never fraudulent ones. A safe harbor must also be practical-it should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue in a complex industry, and it raises almost as many questions as one answers: Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements (e.g. pension liabilities and over-the-counter derivatives)? Should it extend to oral statements? Should there be a requirement that forward-looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions that should be subject to additional conditions?

There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response, and held three days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject: corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, state and federal regulators, law professors, and even federal judges. The one thing I can state unequivocally is that this subject eludes easy answers.

Given these complexities-and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject-my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor. If you wish to provide more specificity by legislation, I believe the provision must address the investor protection concerns mentioned above. I would support legislation that sets forth a basic safe harbor containing four components: (1) protection from private lawsuits for reasonable projections by public companies; (2) a scienter standard other than recklessness should be used for a safe harbor and appropriate procedural standards should be enacted to discourage and easily terminate meritless litigation; (3) "projections" would include voluntary forward-looking statements with respect to a group of subjects such as sales, revenues, net income (loss), earnings per share, as well as the mandatory information required in the Management's Discussion and Analysis; and (4) the Commission would have the flexibility and authority to include or exclude classes of disclosures, transactions, or persons as experience teaches us lessons and as circumstances warrant.
As we work to reform the current safe harbor rules of the Commission, the greatest problem is anticipating the unintended consequences of the changes that will be made in the standards of liability. The answer appears to be an approach that maintains flexibility in responding to problems that may develop. As a regulatory agency that administers the federal securities laws, we are well situated to respond promptly to any problems that may develop, if we are given the statutory authority to do so. Indeed, one possibility we are considering is a pilot safe harbor that would be reviewed formally at the end of a two year period. What we have today is unsatisfactory, but we think that, with your support, we can expeditiously build a better model for tomorrow.

I am well aware of your tenacious commitment to the individual Americans who are the backbone of our markets and I have no doubt that you share our belief that the interests of those investors must be held paramount. I look forward to continuing to work with you on safe harbor and other issues related to securities litigation reform.

Thank you for your consideration.

Sincerely,
Arthur Levitt.

3. Members of Congress or Senators.

Criteria for inclusion: Items included under this code were given to the senator by other sitting U.S. Senators or sitting members of the U.S. House of Representatives.

Example: Bennett, Robert. 1999. "Air Transportation Improvement Act." *Congressional Record* Vol. 145, No. 103, Pg. S 11911.

U.S. Senate, Washington, DC, August 23, 1999.
Hon. John McCain,
Chairman, Committee on Commerce, Science, and Transportation, Washington, DC.

Dear Chairman McCain: We are writing to commend you on your efforts to improve access to the western United States from Ronald Reagan Washington National Airport. We support creating a process which fairly balances the interests of states inside the perimeter and those of western states without convenient access to Reagan National.

These limited exemptions to the perimeter rule will improve service to the nation\'s capital for dozens of western cities beyond the perimeter-while at the same time ensuring that cities inside the perimeter are not adversely impacted by new service. This is a fair balance which is consistent with the overall intent of the bill to improve air service to small and medium-sized cities.

The most important aspect of your proposal is that the Department of Transportation must award these limited opportunities to western hubs which connect the largest number of cities to the national transportation network. In our view, this standard is the cornerstone of our mutual goal to give the largest number of western cities improved access to the Nation\'s capital. We trust that the Senate bill and Conference report on FAA reauthorization will reaffirm this objective.

In a perfect world, we would not have to make these types of choices. These decisions would be better left to the marketplace. However, Congress has limited the ability of the marketplace to make these determinations. Therefore, we must have a process which ensures that we spread improved access to Reagan National throughout the West.

We look forward to working with you as the House and Senate work to reconcile the differences in the FAA reauthorization bills.

Sincerely,
Orrin G. Hatch, U.S. Senator.
Larry E. Craig, U.S. Senator.
Conrad Burns, U.S. Senator.
Craig Thomas, U.S. Senator.
Robert F. Bennett, U.S. Senator.
Mike Crapo, U.S. Senator.
Max Baucus, U.S. Senator.

4. Interest Groups.

Criteria for inclusion: Items included under this code were given to the senator by representatives of a collection of corporate entities, non-profit organizations, or educational institutions. The item typically indicates that the sender is offering the position of the identified organization. Though items included here typically came in the form of correspondence, senators would sometimes include lists of interest groups in support or opposition of a piece of legislation. Those lists were included in this category.

Example: Boxer, Barbara. 2002. "Homeland Security Act of 2002." *Congressional Record* Vol. 148, No. 111, Pg. S8266.

<div align="center">

Air Line Pilots Association,
International,
Washington, DC, September 5, 2002.
Hon. Barbara Boxer, U.S. Senate,
Washington, DC.

</div>

Dear Senator Boxer: On behalf of the 67,000 members of the Air Line Pilots Association, International, I want to offer our thanks and support for your amendment to the pending homeland security legislation. The Boxer-Smith amendment creates a program allowing volunteer pilots who meet strict federal qualification standards to receive training to become federal flight deck officers, authorized to defend the cockpit against acts of criminal violence and air piracy.

Our nation has suffered greatly as a result of the events of September 11. More than 3,000 people were murdered, billions of dollars of property damage was incurred, the nation's economy was rocked, thousands of people were laid off and life in America will never be the same again-all because terrorists were able to kill eight pilots and take over the cockpits of their airliners on that day.

This must never happen again. Providing more armed federal air marshals and enhanced cockpit doors will help. However, not all flights will have the protection of air marshals and new, more secure cockpit doors will not be installed overnight. As an absolute last line of defense our government has authorized U.S. jet fighters to shoot down an airliner if hijackers gain control of it. To authorize such an action, without empowering pilots to defend the cockpit against hijackers, is both illogical and unacceptable.
We are confident that the program, created by your legislation, would not only add a genuine security enhancement in the very near term, but also give passengers and crews the added confidence that their government had provided all possible resources needed to defend against a terrorist hijacking.

The scrutiny and training our members undergo during their preparation for a career as professional airline pilots, we believe, provides a ready-made pool of individuals who would be well-equipped to participate in such a voluntary program: highly educated, physically and mentally fit men and women who are conditioned to react calmly and deliberately in a crisis.

In this period of attempting to find money for security initiatives that will have the most immediate and direct impact on preventing another terrorist attack, we believe that this legislation provides the most practical program for cockpit defense.

Thank you again for all your efforts on this important issue of safety and security.

Sincerely,
Duane E. Woerth,
President.

5. Media. Items included under this code take the form of newspaper or magazine articles. These items were typically identified by source, publication date, and author.

Example: Alexander, Lamar. 2015. "Every Child Achieves Act of 2015." *Congressional Record* Vol. 161, No. 106, Pg. S 4905.

[From Newsweek, July 3, 2015]
The Education Law Everyone Wants to Fix
(By Emily Cadei)

When it comes to setting standards for America\'s public schools, there\'s a remarkable degree of consensus: The system the federal government has in place-known as No Child Left Behind-doesn't work. Fixing it, however, is about to set off a new round of fierce political combat in Washington, D.C., and draw in 2016 candidates as well.

Both the House and Senate are set to debate the 2001 No Child Left Behind law next week. Passed with bipartisan support-including the unlikely pairing of President George W. Bush and Massachusetts liberal Sen. Ted Kennedy-it sought to set national standards for school and student achievement, and mandated testing to make sure they were keeping up as well as funding incentives to keep schools on track.
But the goals that the 2001 law set turned out to be far too ambitious and, the chorus of critics say, too rigid. "Teaching to the test" is a refrain heard across the country. Test results have become an end-all, be-all, complain teachers and parents, Democrats and Republicans, alike.

No Child Left Behind "simplified all of school accountability to be a performance on a math test or a reading test," says Mary Kusler, director of government relations for the National Education Association, which lobbies on behalf of teachers and other education professionals. That, Kusler says, "has corrupted the education our children are receiving because it has reduced our schools to this reduce and punish system."

The two parties have very different visions for overhauling the law, however. Those in the middle, the House and Senate leaders that have drafted the legislation, are now faced with walking a tightrope between a measure that will win sufficient Republican support in the House but still get a signature from President Obama. That\'s no easy task-the law has technically been expired since 2007, but Congress has not been able to muster the political consensus to reauthorize it since then. It\'s still being implemented, though, because Congress continues to provide funding for the vast majority of its programs.

In the Senate, Tennessee Republican Lamar Alexander, a former Secretary of Education, and Washington Democrat Patty Murray have crafted a proposal that passed their Health, Education, Labor and Pensions Committee unanimously in April. Their legislation would maintain the testing regimen put in place by No Child Left Behind but give states more flexibility in how they use test results to measure performance. That\'s earned the hearty endorsement of teachers and groups like NBA, as well as business associations-which are usually on opposite sides of the education policy debate. In order to get Democrats on board, Alexander dropped one big Republican priority from the bill-a provision that would link federal funding for students from low-income areas to the individual child, rather than the school district in which they reside, which is how the system works now. Republicans argue this "portability" measure gives children and their families an opportunity to go to better schools but Democrats say it will just weaken already struggling schools. It\'s part of a broader fight over "school choice" and whether students can use public funds to go to the school they want-even private school-via things like vouchers. That, says Kusler, defeats the whole purpose of the law, which is aimed at improving low-performing schools and "serving historically underserved populations."

The House bill, sponsored by Minnesota Republican John Kline, includes the portability provision Republicans favor. That prompted a veto threat from the White House in February. But even with that provision, Kline\'s bill has had trouble winning conservative support. Republican leaders initially planned to hold a vote on it in late February but changed their minds at the last minute when it became apparent they didn't have enough GOP support. Members aligned with the Tea Party argue the overhaul still spends too much money and leaves too much power in the hands of the federal government. They\'re insisting on a vote on an amendment that would give states the option of opting out of No Child Left Behind requirements entirely, a proposal known in shorthand as A-PLUS.

"There's just no conceivable way they can bring the Kline bill onto the floor without bringing up A-PLUS," says Dan Holler, spokesman for Heritage Action for America, the advocacy arm of the conservative Heritage Foundation. Holler's group came out in strong opposition to the bill in February and plans to continue to oppose it unless that provision is included in the House bill. He argues that the House needs to pass the most conservative bill possible, given that they'll then have to negotiate a final text with the Senate.

Given how toxic No Child Left Behind has become, 2016 candidates on the campaign trail are going to be hard pressed to avoid the debate. There could be 100 amendments or more filed in the Senate, which means the four Republican senators running for president will have to weigh in on plenty of thorny questions surrounding education policy as it relates to race, inequality and states' rights.

Even those candidates who won't be voting, however, are bound to be questioned on the topic. Education policy has become a litmus test on the Right, with conservatives rallying against any attempts to nationalize what they believe should be state or local decisions. They've mainly focused on plans for a national curriculum, known as Common Core, which is not part of the No Child Left Behind law. But Common Core is indirectly linked, since states have adopted it to meet the testing and accountability standards that No Child Left Behind created.

Many Republican governors that initially embraced the Common Core standards, including 2016 long shots Chris Christie of New Jersey and Bobby Jindal of Louisiana, have backed away from them amidst the conservative backlash. Former Florida Gov. Jeb Bush is one of the few (along with Gov. John Kasich of Ohio) who has stood by Common Core. He also once offered the Obama administration support in its efforts to reauthorize No Child Left Behind, according to an email the website Buzzfeed published last month. Those education stands are a big reason for conservatives' simmering distrust of this son and brother of past presidents.

The teachers' unions, meanwhile, continue to hold tremendous sway in the Democratic primary, and their endorsements remain up for grabs in 2016. Dark horse candidate Martin O'Malley, the former governor of Maryland, is clearly eyeing that vote, and is scheduled to hold an education event followed by a meeting with the NBA of New Hampshire next week.

The presidential race also offers a rationale to conservative holdouts opposed to the No Child Left Behind reauthorization, which would be effective for as long as five years. With the possibility of a Republican sweeping into the White House, some argue it's best to stick to the status quo for now, and tackle a more ambitious overhaul once a more conservative president is in office (they hope).

But Kusler, for one, is hopeful that the pressure from all sides to fix an unworkable law will ultimately force a political compromise-opposed to kicking the can down the road further. "I am entirely optimistic that we will get this done. We have never been so close," she says. "We have created a perfect storm here."

6. Government Reports.

Criteria for inclusion: Items included under this code typically came from government research institutions, such as the Congressional Research Service, Congressional Budget Office, Office of Management and Budget, or the Food and Drug Administration. To be included in this category the item needed to primarily contain data and/or analysis of a policy, rule, or problem. It could not simply advocate for a policy position.

Example: Coburn, Tom. 2009. "Service Members Home Ownership Tax Act of 2009." *Congressional Record* Vol. 155, No. 180, Pg. S 12462.

Memorandum December 1, 2009.

To: Senator Tom Coburn,
Attention: Evan Feinberg.
From: Thomas L. Hungerford, Specialist in Public Finance, Congressional Research Service.
Subject: Public and Private Expenditures for Health Care, 2007.

This memorandum responds to your request for information on total national health expenditures for health care and the proportion funded by the federal, state and local governments. In particular you are interested in incorporating tax expenditures into the estimate of the proportion of national health expenditures coming from public sources. It can be argued that some private health expenditures should be attributed to the public sector because of tax subsidies available for health care spending.

Table 1 reports the breakdown of national health expenditures by source of funds. In 2007, national expenditures amounted to $2.24 trillion, of which 53.8% came from private sources such as private health insurance and 46.8% came from public (federal, state, and local government) sources. This breakdown, however, does not take into consideration the tax subsidies for private funding for health care. For example, the exclusion of employer provided health care provides a subsidy for private health insurance, which could be counted as public funds rather than private funds. Incorporating tax expenditures into the breakdown of health expenditures into public and private sources will change the results that are reported in Table 1. The intuition behind the analysis is fairly simple. For example, take a dollar an employer pays for a premium for an employees health insurance. This dollar is part of the employees compensation, but it is not taxed like other income (at an average federal, state, and local tax rate of 15%); it is excluded from income for income tax purposes. In essence, the employee receives a 15 cent government subsidy for this dollar spent on health insurance-the government pays 15 cents and the employee pays 85 cents. This suggests that some funds that are classified as private in Table 1 could arguably be classified as public funds.

TABLE 1-NATIONAL HEALTH EXPENDITURES BY FUNDING SOURCE, 2007
Source of funds Amount (billions) Total National Expenditures $2,241.2 Private Funds 1,205.5 Out-ofpocket payments 268.6 Private Health Insurance 775.0 Other Private Funds 162.0 Public Funds 1,035.7 Medicare 431.2 Medicaid (federal, state and local) 329.4 Other Federal 137.0 Other state and local 138.1

Source: Center for Medicare and Medicaid Services, Office of the Actuary, National Health Statistics Group, National Health Expenditure Data, table 3, available at http://www.cms.hhs.gov/NationalHealthExpendData/downloads/tables.pdf.

Table 2 reports the results of applying this reasoning to total national health expenditures. The table shows the funding sources and public/private breakdown as reported by the Center for Medicare and Medicaid Services (CMS) in the first column. The two columns of numbers show the revised split between public and private funds based on applying the reasoning described above to tax expenditures (the method is described below).

TABLE 2-REVISED NATIONAL HEALTH EXPENDITURES BY FUNDING SOURCE, 2007
[Billions of dollars] Source of funds Private Public Private
(CMS definition) 894.8 a 310.7 Out-of-pocket payments 257.1 a 11.5 Private
Health Insurance 482.1 a 292.9 Other Private Funds 155.7 a 6.3 Public
Funds (CMS definition) 1,035.7 Medicare 431.2 Medicaid 329.4 Other
Federal 137.0 Other State and local 138.1 >/entry>Total 894.8 1,346.4

FOOTNOTES Note: The public portion is due to tax expenditures.
Source: CRS analysis of CMS data.

CMS attributes $268.6 billion of out-of-pocket expenditures to private sources. However, taxpayers are allowed to deduct out-of-pocket medical expenditures exceeding 7.5% of adjusted gross income on their federal and state tax forms. The Joint Committee on Taxation estimates that the federal government lost $8.7 billion in tax revenue in 2007 from this deduction. Other tax expenditures for out-ofpocket expenses amount to $0.3 billion. State and local income tax revenues are about 28% of federal income tax revenues; it is assumed that state and local revenue losses from tax expenditures will also be 28% of federal revenue loss estimates. Consequently, it is estimated that state and local governments lost $2.5 billion from these tax expenditures. The total tax subsidy for out-of-pocket health expenditures is $11.5 billion. The Joint Committee on Taxation estimates that federal government forgoes $251.0 billion in income and payroll tax revenue due to the exclusion of employer provided health insurance and other health insurance deductions. State and local government lose $41.9 billion in income tax revenue because of these exclusions and deductions. Consequently, $292.9 billion of the $775.0 billion for health insurance is classified as coming from public funds. Other private funds for health expenditures include charitable contributions to hospitals

and other providers. These charitable contributions are deductible and reduce federal, state, and local tax revenues by $6.3 billion. This analysis estimates that $310.7 billion of health expenditures that CMS attributes to private funds could be considered public funds. The last row of Table 2 reports the revised breakdown of national health care expenditures between private and public sources. It is estimated that public funding sources account for $1,346.4 billion-60% of national health expenditures can be attributed to public sources.

7. Outside Reports.

Criteria for inclusion: Items included under this code typically came from outside research institutions such as universities and think tanks, such as UC Berkeley (below) or Brookings Institution. Occasionally, they would come from non-profit organizations or interest groups, such as the ACLU. To be included in this category the item needed to primarily contain data and/or analysis of a policy, rule, or problem. It could not simply advocate for a policy position.

Example: Collins, Susan. 2013. "Water Resources Development Act of 2013." *Congressional Record* Vol. 159, No. 65, Pg. S 3303-04.

[From the UC Berkeley Labor Center]

Which workers are most at risk of reduced work hours under the Affordable Care Act?

The Affordable Care Act (ACA) requires employers to provide coverage or pay a penalty based on the number of employees working 30 or more hours per week. This data brief looks at which industries have a high percentage of employees working fewer than or slightly above 30 hours, placing them at risk for reduced hours by an employer wishing to avoid penalties. We also look at the distribution of hours worked by type of health coverage. While the penalty only applies to firms with more than 50 full-time equivalent employees, due to data limitations we show all results for workers in firms with more than 100 total employees. Thus, the tables may slightly understate the number of potentially affected workers.

Table 1 below shows the distribution of hours worked by industry in the United States. From this we see that 6.4 million U.S. workers, 8.9 percent of the workers in firms of 100 or more, work 30 to 36 hours a week. An additional 3.6 million workers report that their "work hours vary" and may also be vulnerable to a reduction in work hours.The industries with the highest percentage of employees working slightly over 30 hours are Restaurants, Nursing Homes, Accommodation, Healthcare, Retail Trade, Education and Building Services. The right most columns show the number of workers who are most vulnerable to work reduction, namely, those working 30 to 36 hours, with incomes below 400% of the Federal Poverty Level and not covered by their own employer. The industries with the highest concentration of such workers are Restaurants, Accommodation, Building Services, Nursing Homes and Retail Trade. Retail and Restaurants account for 47 percent of the most vulnerable group. While Healthcare has a higher than average share of employees working between 30 and 36 hours, most in that hours category are in higher income families and/or receive health coverage through their employer.

TABLE 1-HOURS WORKED BY INDUSTRY, WORKERS IN FIRMS OF 100 OR MORE EMPLOYEES, U.S.

	Number of workers (thousands)					Percent of workers				
Hours vary	Hours vary	Below 30 hrs	30 to 36 hrs	37 + hrs	Most vulnerable to work reduction*	Hours vary (percent)	Below 30 hrs (percent)	30 to 36 hrs (percent)	37 + hrs (percent)	Most vulnerable to work reduction* (percent)
Agriculture, Forestry, Mining	53	15	19	661	10	6.0	5.0	3.4	85.5	1.5
Construction	103	41	63	1,801	20	6.8	2.3	4.8	86.0	1.0
Manufacturing	361	157	276	8,227	88	2.9	2.4	4.2	90.5	1.0
Utilities, Transp, Communication	353	298	242	4,478	77	8.3	5.0	4.9	81.8	1.4
Wholesale	81	51	46	1,652	19	3.4	3.7	7.7	85.2	1.0
Retail Trade	572	1,589	1,217	5,319	570	3.8	13.0	10.6	72.5	6.5
Financial	170	215	213	4,850	59	3.5	5.1	4.4	86.9	1.1
Education	438	1,495	1,040	7,331	237	4.3	14.5	10.1	71.1	2.3
Accommodation	55	72	119	574	68	6.7	8.8	14.5	70.0	8.3
Other Services	723	1,092	966	13,912	324	4.3	6.5	5.8	83.3	1.9
Restaurants	314	815	719	1,328	515	11.3	23.8	20.7	44.2	16.2
Bldg. Services	11	48	38	232	25	6.4	14.9	9.9	68.8	7.6
Healthcare	359	872	1,280	6,094	194	5.5	12.0	13.7	68.7	2.3
Nursing Homes	53	118	194	723	82	5.0	9.6	18.8	66.6	7.6
Total	3,647	6,876	6,431	57,182	2,288	5.3	9.2	8.9	76.6	3.1

Source: Current Population Survey month of March for 2010-2012; ages 19-64, hours worked at main job* Those in the industry working 30-36 hours, below 400% FPL and do not have insurance through their own employer.

Table 2 shows the distribution of worker health coverage by the number of hours worked. While 68.8 percent have insurance through their employer, this only holds for 23.5 percent of employees working fewer than 30 hours a week. For this part-time group, 33.5 percent have insurance through a family member, 10.7 percent have public coverage, 10.3 percent purchase coverage through the individual market and 21.9 percent are uninsured. Slightly more than 50 percent of those working between 30 and 36 hours do not have coverage through their own employer, though only slightly more than one quarter are uninsured or purchase coverage in the individual market. These workers are the most likely to receive subsidized coverage through the Exchanges.

TABLE 2-HOURS WORKED BY HEALTH COVERAGE, WORKERS IN FIRMS OF 100 OR MORE EMPLOYEES, U.S.

	Hours vary (percent)	Below 30 hrs (percent)	30 to 36 hrs (percent)	37+ hrs (percent)	Total (percent)
Coverage type:					
Employer-sponsored insurance thru employer	52.1	23.5	49.4	77.5	68.8
Employer-sponsored insurance thru family member	17.1	33.5	17.4	9.8	13.0
Public	6.5	10.7	7.4	2.3	3.7
Individual Market/Other	5.3	10.3	4.8	2.0	3.2
Uninsured	19.1	21.9	20.9	8.5	11.3
Total	100.0	100.0	100.0	100.0	100.0

Source: Current Population Survey month of March for 2010-2012; ages 19-64, hours worked at main job.

The 2.3 million workers identified as at greatest risk for work hour reduction represent 1.8 percent of the United States workforce. This is consistent with the research on the impact of Hawaii\'s health care law on work hours. Hawaii requires firms to provide health insurance to employees working 20 hours a week or more, so the cost to employers for full-time workers are much greater in Hawaii than under the ACA, while the hour threshold is lower.

Buchmueller, DiNardo and Valetta (2011) found a 1.4 percentage point increase in the share of employees working less than 20 hours a week as a result of the law. In Massachusetts, where the employer penalty is smaller than in the ACA ($295 per year), there was no evidence of a disproportionate shift towards part-time work compared to the rest of the nation.

8. *Other*.
Criteria for inclusion: Items included under this code did not fit any of the other existing criteria. For example, items included in this category include, letters where the sender's signature indicates a "former" title, the individual is from a foreign government, statements of administrative purpose (SAPs), lists of staff, or state song lyrics.

Example: Mikulski, Barbara. 2008. "Higher Education Opportunity Act." *Congressional* Record Vol. 154, No. 129, Pg. S 7866-67.

List of Staff Thank-You's for HEA
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Chairman Miller: Mark Zuckerman, Alex Nock, Gabriella Gomez, Julie Radocchia, Jeff Appel.

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Senator Mikulski: Julia Frifield, Dvora Lovinger, Robin Juliano.

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Distribution of Senators Inserting Items into the Record
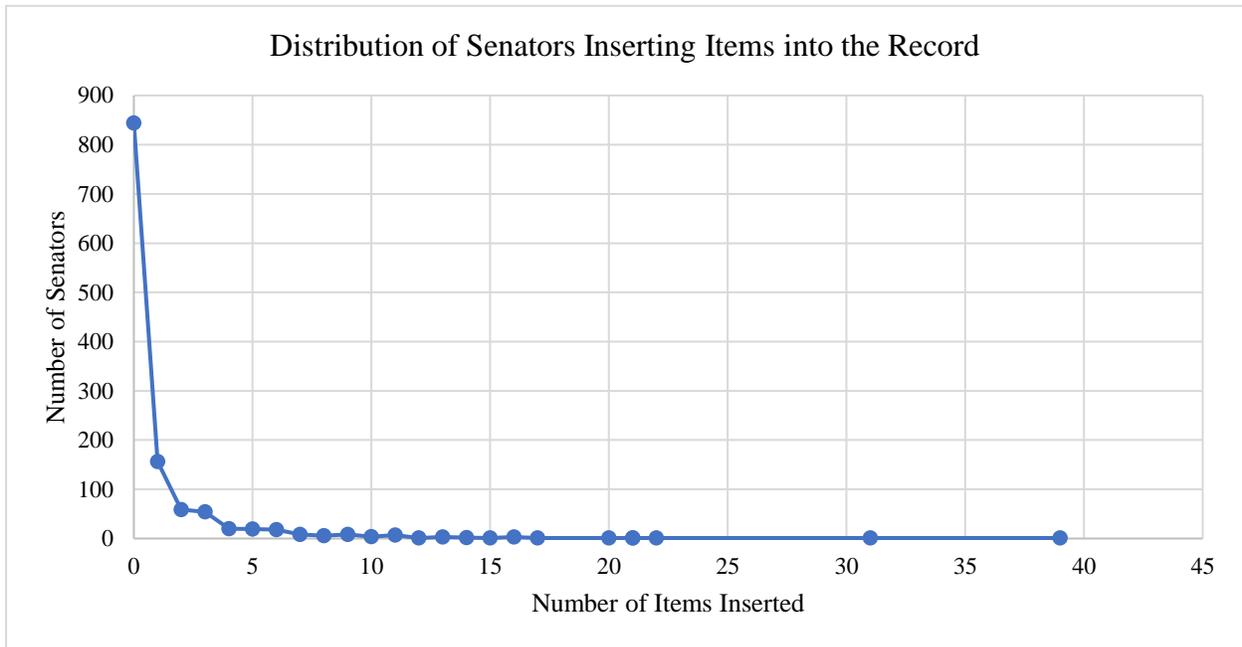
Who Inserts Items into the Congressional Record with Congress Fixed Effects and

Controlling for Total Number of Bills Spoken On

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	0.24 (024)			0.24 (0.23)	0.29 (0.24)
Absolute Dist. Flr. Median	0.08 (0.25)			0.10 (0.25)	0.14 (0.25)
Absol. Dist. Maj. Party Median	0.40 (0.45)			0.22 (0.20)	0.30 (0.44)
Seniority		0.08*** (0.02)		0.08*** (0.02)	0.07*** (0.02)
Freshmen		0.07 (0.26)		-0.08 (0.25)	0.07 (0.26)
Leadership			0.56** (0.24)	0.45* (0.25)	0.11 (0.26)
Democrat	0.08 (0.17)	-0.05 (0.16)	0.03 (0.16)		0.04 (0.17)
Majority	-0.12 (0.44)	-0.39** (0.17)	-0.61*** (0.17)		-0.09 (0.43)
LES	0.47*** (0.08)	0.33*** (0.08)	0.36*** (0.09)		0.33*** (0.09)
(Intercept)	-0.65 (0.49)	-0.61* (0.33)	-0.16*** (0.31)	-0.79** (0.32)	-0.98** (0.49)
Adjusted R^2	0.128	0.144	0.132	0.136	0.143

N=1218, *p* < .05, **p*<.01, ***p*<.001

Who Inserts Items into the Congressional Record Without Legislative Effectiveness Scores

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	0.08 (026)			0.18 (0.18)	0.21 (0.45)
Absolute Dist. Flr. Median	0.05 (0.25)			0.13 (0.24)	0.15 (0.24)
Absol. Dist. Maj. Party Median	0.20 (0.47)			0.19 (0.21)	0.21 (0.17)
Seniority		0.12*** (0.02)		0.11*** (0.02)	0.10*** (0.02)
Freshmen		-0.22 (0.26)		-0.17 (0.27)	-0.16 (0.27)
Leadership			1.02*** (0.19)	0.39* (0.22)	0.41* (0.22)
Democrat	0.26 (0.18)	0.11 (0.16)	0.26 (0.16)		0.21 (0.17)
Majority	0.01 (0.46)	-0.13 (0.16)	-0.47*** (0.17)		-0.15 (0.45)
(Intercept)	0.85* (0.44)	0.36* (0.19)	0.95*** (0.15)	0.18 (0.18)	0.21 (0.45)
Adjusted R^2	0.001	0.047	0.022	0.048	0.048

N=1218, *p* < .05, **p<.01, ***p<.001

Who Inserts Political Information Items into the Congressional Record

with Congress Fixed Effects

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	0.12 (0.21)			0.02 (0.19)	0.15 (0.21)
Absolute Dist. Flr. Median	0.22 (0.21)			0.20 (0.21)	0.26 (0.21)
Absol. Dist. Maj. Party Median	0.28 (0.38)			0.08 (0.17)	0.19 (037)
Seniority		0.06*** (0.01)		0.08*** (0.02)	0.06*** (0.02)
Freshmen		0.03 (0.22)		-0.12 (0.22)	0.03 (0.22)
Leadership			0.27 (0.17)	0.20 (0.18)	-0.03 (0.18)
Democrat	0.23 (0.14)	0.11 (0.13)	0.18 (0.13)		0.18 (0.14)
Majority	-0.15 (0.37)	-0.38** (0.14)	-0.53*** (0.14)		-0.09 (0.37)
LES	0.46*** (0.06)	0.34*** (0.07)	0.40*** (0.07)		0.36*** (0.07)
(Intercept)	-0.11 (0.40)	-0.08 (0.27)	0.26 (0.25)	-0.08 (0.26)	-0.43 (0.41)
Adjusted R^2	0.074	0.088	0.075	0.071	0.088

N=1218, *p* < .05, **p<.01, ***p<.001

Who Inserts Political Information Items into the Congressional Record

without Legislative Effectiveness Scores

	Model 1	Model 2	Model 3	Model 4	Model 5
NOMINATE-1st Dimension	-0.01 (0.21)			0.02 (0.19)	0.09 (0.21)
Absolute Dist. Flr. Median	0.14 (0.20)			0.19 (0.20)	0.22 (0.20)
Absol. Dist. Maj. Party Median	0.21 (0.14)			0.07 (0.17)	0.10 (0.38)
Seniority		0.09*** (0.01)		0.08*** (0.02)	0.08*** (0.02)
Freshmen		-0.14 (0.22)		-0.13 (0.22)	-0.13 (0.22)
Leadership			0.64*** (0.16)	0.17 (0.18)	0.17 (0.18)
Democrat	0.20 (0.14)	0.11 (0.13)	0.21 (0.13)		0.16 (0.14)
Majority	0.12 (0.37)	-0.08 (0.13)	-0.31** (0.14)		0.04 (0.37)
(Intercept)	0.48 (0.36)	0.22 (0.16)	0.67*** (0.12)	0.13 (0.15)	0.01 (0.37)
Adjusted R^2	0.001	0.036	0.013	0.035	0.035

N=1218, *p* < .05, **p<.01, ***p<.001

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