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Taming the Senate:
Party Power and the Rise of Omnibus Appropriations Bills in the U.S. Congress

By

Peter Christopher Hanson

A dissertation submitted in partial satisfaction of the
requirements for the degree of

Doctor of Philosophy

in

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in the

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of the

University of California, Berkeley

Committee in charge:

Professor Eric Schickler, Chair
Professor Robert Van Houweling
Professor John Ellwood

Fall 2010

Taming the Senate:
Party Power and the Rise of Omnibus Appropriations Bills in the U.S. Congress

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Abstract

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Doctor of Philosophy in Political Science

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Theories of party power in Congress differ on the circumstances under which majority parties have the ability to shift policy outcomes away from the preferences of pivotal voters and toward the majority's preferred position. The theory of Pivotal Politics states that it is unlikely parties have such power. The theory of Conditional Party Government states that parties can influence policy outcomes when they are ideologically unified, while the Cartel theory suggests that parties can influence outcomes all of the time by controlling the agenda.

In this dissertation, I propose and test three hypotheses addressing the extent of party power using an original dataset of the legislative history of federal appropriations bills and case studies of two time periods in Congress. Appropriations bills are an effective way to study trends in Congress because they must be passed every year. In the last three decades, Congress has shifted from its traditional method of passing the 13 bills that fund the federal government individually to packaging them together in massive "omnibus" bills. I show that the decision of party leaders to create omnibus bills is a form of agenda control that allows party leaders to meet a variety of goals ranging from protecting the majority party's reputation to adopting partisan policy. Omnibus bills help party leaders meet their goals because they are multidimensional, "must pass" bills that members are reluctant to oppose. They are particularly useful in the Senate, where they provide an effective counter to the ever present threat of a filibuster.

I make three major arguments. First, I contend that the ability of a majority party to control the agenda with omnibus spending bills is independent of its degree of ideological diversity. In the last 30 years, omnibus bills have been used both when the majority party is ideologically diverse and when it is unified. Second, I contend that the likelihood a majority party will seek to control the agenda with omnibus bills depends on the ideological distance from the majority's median voter to other pivotal voters on the floor. These distances have varied over time with the ideological diversity and margin of control of the majority party. Large ideological gaps between pivotal voters are an indication that the floor is a challenging arena for the majority party and create an incentive to control the agenda. Third, I contend that the policy consequences of omnibus bills vary with the majority party's ideological diversity. Diverse parties are

likely to use omnibus bills to “keep the trains running” by passing the budget, while unified parties are likely to use omnibus bills to pursue partisan policy goals.

My findings expand our understanding of the motivations of members of Congress. Theories of Congress rooted in the reelection motive state that individual behavior, and by extension, the behavior of parties, is motivated primarily by the desire to improve prospects for reelection. Evidence from the history of appropriations bills over the last 30 years suggests that ideologically unified parties will use omnibus bills to pursue policy goals even if those goals create some additional risk of not being reelected.

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This dissertation has its roots in my years working on the staff of Senate Democratic Leader Tom Daschle from 1996 to 2002. As such, the first thanks I offer go to my fellow Daschle staffers – one of the most outstanding groups of people with whom I have ever worked. They include Pete Rouse, Laura Petrou, Eric Washburn, and many others who had faith in me, were patient training me into a challenging position and who trusted me with responsibility far beyond my years. Thanks to their decision to assign me the responsibility of tracking our office’s appropriations requests, I began to learn how the annual schedule of Congress revolved around the passage of federal spending bills. I learned the arcane details of the bills and noted the apparently annual trend of combining them into omnibus packages.

As years passed in the office, I came to learn that the creation of an omnibus package was both valued and dreaded. Did we have a bill stuck in committee because of a stubborn chairman? No problem, we’ll put it on the omnibus. Did we need additional funding for a project? No problem, we’ll get it on the omnibus. Yet, as I show in this dissertation, these bills ultimately could be used by a determined majority party to steamroll its opposition – as Senator Daschle himself experienced two years after I left the office. I became fascinated with the appropriations process and its history, and I was determined to learn more about it when I started graduate school at the University of California, Berkeley in 2004.

There, I had the benefit of outstanding scholars to guide my way. I came to know one of the great students of Congress, Nelson Polsby, in the last few years of his life. He knew that I would write a book on Congress before I did, and when my colleagues in Congress tried to lure back to Washington with a job, he bellowed – eyes bulging – “Tell them no!” Thank you Nelson for helping me stick to this path.

This dissertation simply could not have been possible without the support, guidance and feedback of my committee members, Rob Van Houweling, Eric Schickler and John Ellwood. Rob and I first became acquainted in my first years of graduate school when we discovered our common history as Daschle staffers. During a year in which no course on Congress was being offered at Berkeley, he took me on as a student on his own and personally guided me through the major literature on the institution. I continue to be amazed by Rob’s ability to see any idea from multiple directions at once and to offer thoughtful feedback.

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IGS Director Jack Citrin has been a friend and mentor. He was continually there with advice, support and research opportunities when I needed them, and without him my path through school would have been much more challenging. And, I deeply appreciate the wonderfully supportive staff at IGS, including people like Corey Flynn, Janeen Jackson, Barbara Campbell and Liz Weiner.

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Any failings in this dissertation are of course my own. I have come to believe that a good dissertation not only sheds light on an interesting question, but provides a foundation for continuing to ask thoughtful questions in the future. It is my hope that this project will give me a chance to do exactly that.

PH
Berkeley, California
July 2010

Chapter 1

The All Powerful Pivotal Voter?

Senate Democratic Leader Tom Daschle (D-SD) was deeply frustrated when he took to the floor in January of 2004. After an exhausting debate, the Senate was set to deal his party a major defeat on hot button issues like media concentration and overtime pay. It was a serious reversal of fortune for the Democrats, who just weeks before had been celebrating their victories on the Senate floor. Issues like protecting overtime pay were popular with the public and had the virtue of uniting the Democrats while dividing the Republican majority. Sensing a political opportunity, the Democratic minority had utilized the Senate's rules of open debate to offer and pass amendments on this and other issues to a spending bill worth hundreds of billions of dollars. It was a rare moment of triumph for the Democrats at a time when Republicans controlled both chambers of Congress and the White House.

It was also short lived. When the bill reached conference with the House of Representatives, the Republicans used the strict rules favoring the majority to strip the Democratic provisions from the bill. Democrats were predictably outraged, but while they could thunder away at the unfairness of the Republican action, the truth was they had few ways to fight back. They could not offer their amendments again because under House and Senate rules a conference report could not be amended. They also lacked the numbers to defeat the bill outright. The only choice in the Senate was to filibuster – a dangerous proposition since the money in the bill was needed to keep the federal government from shutting down.

Unwilling to surrender, the Democrats gambled with the filibuster and blocked a final vote on the bill. Their slim reed of hope was that the Republicans would back down when faced with a combination of public outrage over the stripped provisions and a pressing need to fund the government. Instead, Majority Leader Bill Frist (R-TN) turned up the heat on Democrats by calling a second cloture vote. He saw a win-win for Republicans: either the filibuster would fail, and Republicans would pass the bill they wanted, or the filibuster would succeed and he could blame Democrats for shutting down the government. With a Republican president on his side, he was confident that he could win any blame game if one ensued. As the second vote approached, Democrats reached the same conclusion. Their support for the filibuster wavered, and then crumbled. An expert vote counter, Daschle knew that his hard-won victories had slipped away. Hours before the vote, he took to the floor in frustration.

“I worry about this precedent from the point of view of the institution,” Daschle said. “What does it mean in a democracy when 100 Senators vote, take a position, and when 435 Members of the House vote and take a position, and a cabal in the dark of night with no roll call vote can overrule that position willy-nilly, with absolutely no record, with no fingerprints, and nullify the actions taken by the bodies themselves?” Despite his frustrations, Daschle understood the dilemma facing Democrats as they decided whether to filibuster the bill for a second time. Absent the passage of the regular appropriations bills, the government was operating on a temporary continuing resolution. The billions of dollars provided by the bill were needed to keep government offices open and to fund widely popular programs. “I know why we will probably get cloture today,” Daschle said. “Nobody here wants to be accused of shutting the government down”

(*Congressional Record*, January 22, 2004, S128). His assessment was correct. Shortly after he yielded the floor, the Senate approved a cloture motion 61 to 32.¹ Eleven members of Daschle's Democratic caucus abandoned their earlier position to vote with the Republican majority. He had lost the fight.

For scholars of Congress, the fate of the fiscal year 2004 omnibus appropriations bill adds fuel to a long-standing debate over the strength of political parties in Congress. The debate centers on whether party leaders have the power to move legislative outcomes away from the preferences of pivotal voters in each chamber and toward those of the majority party. By all appearances, this is exactly what the Republican majority did. They utilized conference procedures to rewrite legislation in a way that favored their party, and neutralized the ability of Democrats to change or filibuster the legislation. Faced with a high-stakes decision about whether to shut down the government or protect party positions, the Democrats blinked and abandoned their policy positions.

The defeat of Senate Democrats that winter suggests that the United States has entered a new era of strong congressional parties. In this dissertation, I examine theories of party power in Congress. My findings expand the cartel and Conditional Party Government (CPG) theories of congressional parties. I show that the incentive of parties to exercise power has varied over the last 30 years with the relative ideological distance between pivotal voters on the chamber floor. Large ideological gulfs between pivotal voters are a sign that the chamber floor is a dangerous place for party leaders, where critical legislation will face unfriendly amendments or filibusters. Faced with this challenge, party leaders are likely to exercise their power to structure the agenda in a way that will help them advance their goals. These goals vary over time. A primary job of party leaders is to make strategic choices about how to advance the reelection and policy preferences of their membership when these interests conflict with each other. I show how majorities with diverse policy preferences exercise their control over the agenda to "keep the trains running" by meeting basic tasks of governance like passing the budget. As parties become homogenous, they are more likely to seek to advance partisan policy interests even at the risk of damage to their electoral prospects.

I reach these conclusions by leveraging two trends in American politics: growing partisan polarization in Congress and patterns in passage of federal spending bills. The last decades have wrought a substantial change on the American political landscape. Since the 1960s, Democrats and Republicans in the electorate and at the elected level have become more distinct from each other. The membership of Congress has evolved from one with a moderate bipartisan middle in which the parties overlapped ideologically, to one in which Democrats and Republicans are at separate ideological poles and there is a yawning gap between them. At the same time, Congress now routinely abandons a method of passing federal spending bills that it practiced for decades. Historically, Congress funded the federal government by passing 13 individual appropriations bills, each of which covered a separate set of agencies. In recent times, the practice of passing each bill individually has given way to bundling the bills together into so-called "omnibus" packages worth hundreds of billions of dollars. The bills are the subject of intense criticism by members because they are difficult to digest and are

¹ Roll Call Vote 2. U.S. Senate, 108th Congress, 2nd Session, January 22, 2004.

laden with pork barrel spending, but most members check their criticism when it comes time to vote and pass the bills anyway.

I explain the rise in the use of omnibus spending bills by analyzing an original dataset of the legislative history of federal spending bills over three decades and conducting case studies of the appropriations process in the 1980s and 2000s. I show how the multi-dimensional and “must-pass” nature of omnibus bills provides a solution to common problems congressional leaders face as they seek to pass legislation on the floors of the House and Senate. I next show how the incentive of party leaders to seize control of the agenda with omnibus bills varies with the ideological distance between pivotal voters on the chamber floor. I pinpoint omnibus bills as typically originating in the Senate, where distances between pivotal voters have been high empirically and where the chamber rules give substantial power to individual members to disrupt floor proceedings. Omnibus bills help Senate leaders tame the Senate floor by providing an opportunity to set the policy agenda, limiting amendments and reducing the incentive to filibuster. Leaders turned to them initially to quell infighting among a heterogeneous group of Senate Republicans during their period in the majority in the 1980s, and later to pursue party policy goals as the parties became more homogenous in the 1990s and after.

Party Power and Theories of Congressional Organization

Theories of congressional organization based in the “reelection motive” contend that much of what we observe of Congress can best be explained as the consequence of individual members seeking reelection. Members may have a variety of goals, such as pursuing desired policies, but they can do nothing if they do not first win their seat. The desire for reelection is said to provide the best explanation for individual voting records and the policy output of the Congress, especially its famed love of pork barrel spending. It also has been used to explain the major structural features of Congress, such as political parties and committees (Fenno 1973; Mayhew 1974; Cox and McCubbins 1993).

The theory of pivotal politics refines and formalizes this theory by assuming that members of Congress have single-peaked preferences on policies that can be arrayed along a left-right spectrum. When legislative proposals come up for a vote, members’ voting decisions are determined by the relative distance of each member to the new policy versus the status quo. The success or failure of a proposal depends on the preference of pivotal voters in each chamber. In the House, the median voter is pivotal, while in the Senate, the 60th voter may be critical due to the need to secure cloture. New proposals win only when they are more satisfactory to pivotal voters than the status quo (Krehbiel 1998, 1992).

The reelection motive and the theory of pivotal politics raise serious questions about the nature of party power in Congress. There is a rich lore in American politics about powerful party bosses issuing orders to members, who spinelessly do what they are told. Theories based on the reelection motive turn this tradition on its head. They portray parties as tools of their members, with little ability to compel members to take a policy position that conflicts with one required for reelection. In theoretical terms, debate centers on the question of whether parties have the ability to shift the content of a successful policy away from the preference of the pivotal voter and toward those of the median of the majority party. Krehbiel argues that such a shift is theoretically implausible given that members are independently elected and focused on the need to win

reelection. If forced to choose between their party and a policy important to their constituents, Krehbiel believes that members will choose their constituents. At best, each party influences its members equally and thus cancels out the effect of its opponent. Empirically, he finds that the null hypothesis that congressional leaders do not affect the voting decision of their members cannot be disproved. Congressional parties are not “outcome consequential” and cannot account for the basic facts of lawmaking, such as gridlock or large bipartisan coalitions (1998, 228).

Two theories offer contrasting accounts of the ability of party leaders to influence policy outcomes. Under the cartel theory, members of Congress are interested primarily in reelection and form political parties in order to develop a brand name that will aid in that task (Cox and McCubbins 2005, 1993). Brand names are based upon a party’s record of legislative accomplishment in Congress, and party members delegate procedural powers to their leaders in order to maximize their record. The key assumption in this theory is that parties are “procedural cartels,” or coalitions of legislators who use their majority status to set the legislative agenda by blocking bills that split the majority party (negative agenda control) and advancing bills that unify it (positive agenda control). While parties use negative agenda control all of the time to protect their brand name, they only use positive agenda control when the policy preferences of party members are unified. By controlling what policy alternatives reach the floor, majority parties can shape policy outcomes. Using these two techniques, they can push them toward the majority’s preferred position, or at least ensure that the policies they support in existing law will not be overturned.²

The nature of the party’s brand name in the cartel theory is relatively undeveloped. Cox and McCubbins describe a party’s record as the “central tendency in citizens’ beliefs about the actions, beliefs, and outcomes attributable to the national party” (2005, 110). Components of the record can include scandal, displays of competence, honesty and integrity, and evaluations of the party’s policy platform. Under this broad definition, leaders of a heterogeneous party might be motivated to use their power to promote a reputation for competency, such as by passing a budget to avoid the embarrassment of a government shutdown. By contrast, leaders of a homogeneous party might pursue partisan policy goals they believe will be popular with the electorate. Regardless of how the majority exercises its power, under the cartel theory the overriding purpose is to win reelection.

Under the theory of Conditional Party Government, members must agree to delegate power to party leaders in order for the party to take action. In this case, party power is conditional upon the degree of homogeneity in the majority party. When a party caucus disagrees about a policy, then little power is likely to be delegated to the leadership and no action is taken. When a party caucus is unified over policy goals, members are likely to empower leaders to take action on behalf of the caucus to advance

² In 2004, for example, House Speaker Dennis Hastert (R-IL) implemented a policy in which he would bring legislation to the floor only if it was supported by a “majority of the majority.” Speaker Hastert refused to bring an intelligence bill to the House floor for a vote despite the backing of President George W. Bush because a majority of his caucus opposed it and he would have been forced to pass it with most support coming from Democrats (*Washington Post*, November 27, 2004, page A01.)

that goal (Rohde 1991). Such actions include suppressing minority viewpoints, but they may also include disciplining the occasional majority party dissident (Aldrich and Rohde 1997-1998). These measures have the effect of moving policy outcomes away from the median voter and toward the majority party.

While these theories apply in general to both the House and the Senate, there are major differences in the rules, organization and membership of the two chambers. This suggests that party power will be expressed in different ways in the House and Senate. In the House of Representatives, the majority party has important tools at its disposal to maintain order. The rules of debate in the House today are based upon Speaker Thomas Reed's rules abolishing dilatory floor tactics and establishing the Rules Committee as a clearinghouse for deciding how legislation will reach the floor, including whether a bill will be subject to amendment and when a vote will occur. There is also a germaneness requirement for amendments that prevents members from bringing unrelated policy matters into a debate on legislation (Cox and McCubbins 2005). While these rules do not change the pivotal nature of the median voter in the House, they do ensure that bills taken up for debate in the House can be considered with relative efficiency.

Party power is presumed to be weaker in the Senate (Smith 2007). The Senate is distinguished from the House by the right of its members to unlimited debate. It takes a supermajority of 60 votes to end debate in the Senate on both procedural and substantive matters, creating numerous opportunities for delay and making it difficult for leaders to bring bills to a vote without the cooperation of at least some minority members (Smith 1989). In Krehbiel's terms, the filibuster makes the 60th voter in the Senate pivotal rather than the median voter as in the House. The Senate also is distinguished from the House because members may offer unlimited amendments regardless of whether they are germane to the issue at hand. Offering non-germane amendments is routinely used to force debates on a range of controversial issues against the wishes of the majority party. As a consequence, "Senate party leaders cannot protect their members from tough votes in the way that House leaders sometimes can" (Sinclair 2005). The combination of the right to unlimited debate and amendment is typically thought to make it difficult for a majority party in the Senate to control the agenda in the way leaders of the House take for granted.

Recent scholarship suggests that Senate party leaders are developing new tools in an effort to reign in such tactics and regain control over the agenda (Smith 2010). Tactics such as "filling the amendment tree" can be used by a majority to block minority amendments in the Senate (Koger 2002). Complex unanimous consent agreements can also prevent amendments, but require the agreement of the minority. Budget reconciliation bills, which cannot be filibustered, provide a third tool for controlling the agenda (Cox and McCubbins 2005). Still, amending is frequent and 35 percent of major measures between 1993 to 1998 had 10 or more amendments decided by a recorded vote (Sinclair 2005). Senate leaders may be expanding their tools for controlling the floor, but exercising their power is still a far more difficult task than in the House.

A More Unified Theory of Congress

Scholars continue to debate which of the major theories of Congress best describes the organization of the institution without definite conclusions. I take a different approach. Rather than focusing on what distinguishes the theories, I draw from

them to explore new theoretical ground to describe the incentives for parties to exercise power and the ways in which they act on member preferences. At the same time, I take note of the differences between the House and Senate to develop a better account of how the rules of each chamber shape outcomes. My argument centers on three key propositions on the ability of parties to control the agenda, their incentive to do so, and the policy consequences of their actions.

The Ability of Parties to Control the Agenda

My first contention is that the ability of parties to control the agenda in recent decades by packaging the annual spending bills into an omnibus is independent of their degree of ideological unity. This claim is important for several reasons. First, Krehbiel's challenge to party power stems from his belief that any policy passed by Congress is constrained by the preferences of pivotal voters on the floor. This conceptualization has proven to be extraordinarily useful in understanding the behavior of members when they are faced with particular policy alternatives. However, a drawback with his argument stems from the fact that he understates how control over the agenda can be used to choose which alternatives are placed before pivotal voters, and thus help to shape the final policy outcome. This claim is also theoretically important for a second reason, as it wades directly into the debate between proponents of CPG and the cartel theory about whether a party must be ideologically unified in order for it to exercise power.

The Incentives of Parties to Wield Power

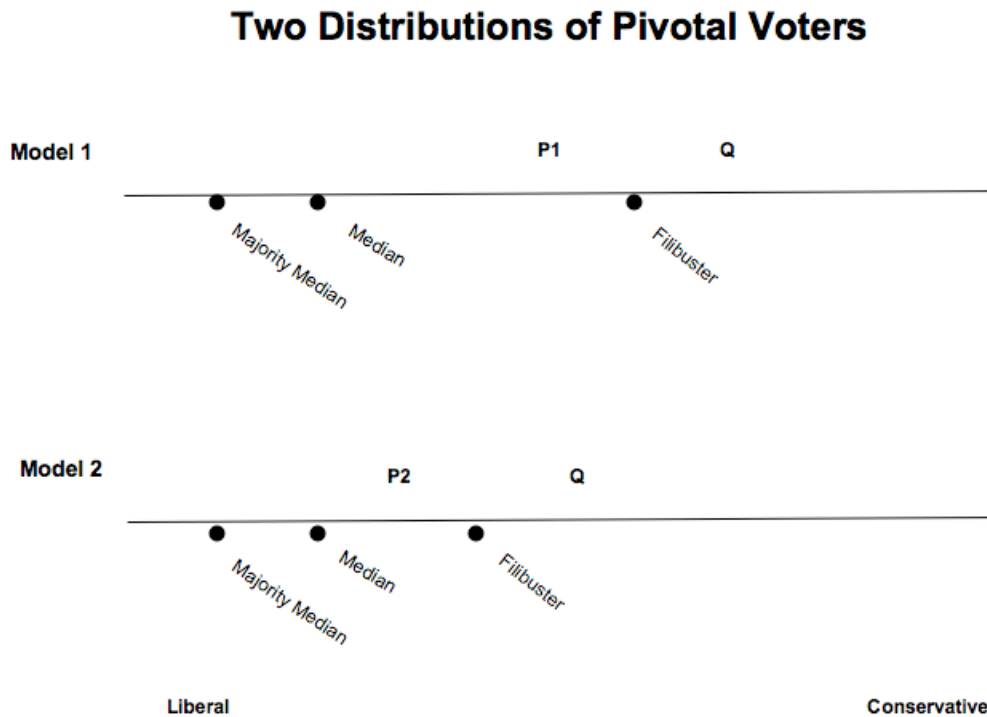
In a departure from both CPG and the cartel theory, I argue that the incentive of parties to control the agenda with omnibus bills depends upon the ideological distance between pivotal voters on the chamber floor. Specifically, I show how majority parties use omnibus spending bills to control the agenda when they anticipate or experience trouble meeting their goals on the chamber floor due to unfriendly amendments from the minority or filibusters. When Congress is studied over a period of decades, it is clear that this type of trouble is more likely at some points in time than in others. Filibusters were once rare but are now a common practice (Sinclair 2002). This change is due at least in part due to the shifting ideological preferences of members of Congress. Each new election adds and subtracts members and changes the distribution of ideological preferences in the House and Senate. Sometimes the change is dramatic, such as when Ronald Reagan's landslide victory in 1980 shifted control of the Senate from a liberal-leaning Democratic majority of 58 to a more conservative Republican majority of 53 that included firebrands like Senator Jesse Helms (R-NC).

As the ideological distribution of the membership changes, so too does the ideological placement of pivotal voters in the chamber. Rounding up 60 votes in the Senate during the 96th Congress (1979 – 1980) only required the Democratic leadership to win the support of a relatively liberal Republican like Senator Lowell Weicker (R-CT). By contrast, finding 60 votes in the highly polarized 110th Congress (2007 – 2008) required the Democratic leadership to win the support of a much more conservative senator like John Warner (R-VA) or George Voinovich (R-OH). Assuming that ideological positions equate into real policy preferences, this kind of variation suggests that a typical member of a majority party might find the policies preferred by the filibuster pivot reasonable in one era and anathema in another. When ideological gulfs

between pivotal voters are large, it is likely that the majority will respond by attempting to impose greater control over the agenda in order to avoid trouble on the floor and meet its goals.

I illustrate these differences in Figure 1.1, which shows two hypothetical distributions of pivotal voters. In this case, there are three voters in my model legislature: the majority's median voter, the median voter on the floor and the filibuster pivot. In the first model, the filibuster pivot is ideologically distant from the other two voters in the chamber. Since the filibuster pivot will block any policy more distant than the status quo (Q), the only policy that can pass (P1) is one that is distant from the ideal point of the chamber's median voter. By contrast, in the second model, the filibuster pivot is ideologically close to the other two voters. In this case, a policy that can win the support of the filibuster pivot (P2) is much closer in ideological terms to the majority's median voter and the chamber's median voter than in Model 1.

Figure 1.1



I will develop this logic in greater detail later in this chapter, but it illustrates the core of my argument about the incentive of parties to use their power to control the agenda: they are more likely to use it when voters such as the filibuster pivot are distant from the majority's median voter. Packaging bills together in an omnibus bill allows parties to control the agenda and pass legislation even when interests on the floor are arrayed in a way that makes a deadlock likely. Policy proposals that might fail to gain the support of pivotal voters if considered individually can win necessary support when combined with other issues. Pivotal voters are still consequential in that they control the

fate of any given vote on the floor, but leaders can structure the choices members make on the floor to make the passage of legislation more likely and to influence its policy content.

Just as the location of pivotal voters creates an incentive to use party power, so do the different rules of the two chambers. In the House, leaders are advantaged by their strong control over the agenda and use that power to bring forward bills likely to unify their party. In the Senate, leaders risk the derailment of their agenda by non-germane amendments and the possibility of a filibuster. These differences give Senate leaders a particular incentive to create omnibus packages. Omnibus bills are consistent with Senate rules but due to their size and mix of issues mute the influence of issues that may generate a filibuster. The size of the packages also forces senators to pick and choose which amendments to offer, paradoxically limiting the number of potential amendments about which leaders must worry. In some cases, such as when final conference reports are brought to the floor, the majority can avoid amendments altogether.

The Consequences of Party Power

Finally, the goals of using party power vary with the degree of internal homogeneity within a party. Leaders of an ideologically diverse party are more likely to aid reelection with lowest-common-denominator strategies like passing the budget on time to demonstrate competence. By contrast, leaders of an ideologically uniform party are primarily tasked with identifying ways to enact the party's policy goals, even if those policies carry some electoral risk.

This argument develops our understanding of party goals by exploiting a little noticed distinction between the cartel theory and CPG: the different weight they place upon the reelection motive. Unlike the cartel theory, CPG assumes that members are at times willing to pursue policy goals even if it puts their reelection at risk. "Some members, because they have policy goals, may be willing to take some electoral risks to achieve them. Moreover, some issues offer electoral uncertainty on both sides, making an emphasis on policy ends in such a situation more palatable" (Aldrich and Rohde 2001). CPG envisions members like Senators George McGovern (D-SD) or Rick Santorum (R-PA), proud partisans who pursue their policy goals in defiance of their states' electoral leanings and risk of being defeated at the polls. At times, the hard charge toward a desired but electorally-dangerous policy can overtake the entire majority party, as it did when Speaker Newt Gingrich and the Republican caucus challenged President Bill Clinton on federal spending by allowing the federal government to partially shutdown in 1995 – 1996. The consequence was a stinging defeat at Clinton's hands and a sharp decline in public approval for congressional Republicans.

Members of Congress are willing to pursue risky policies because reelection is not their only goal (Schickler 2001; Fenno 1973). Moreover, the constraint imposed on member behavior by the need to seek reelection is relatively weak. Constituents are only dimly aware of the thousands of issues considered each year by Congress and only a handful of readily identifiable issues are likely to become salient in a reelection campaign. Moreover, members may justifiably believe that they have the ability to lead public opinion on some issues (Zaller 1992). Farm state senators may believe that voting against crop subsidies would end their career in Congress; that their constituents will follow their lead on defense policy; and that that their votes on funding for the space

program are “free” because their constituents will never base a voting decision on them. The path to reelection is broad, contains a few obvious pitfalls and plenty of room for members interested in policy to maneuver if they so choose. Members who push the envelope on policy may ultimately find themselves in reelection trouble if the tides turn against their party in a particular year, but they could conceivably push the envelope for many terms before that occurs.

Methodology

I break from and develop the existing theories of Congress by focusing on when parties have the incentive to use power and when they are likely to use that power to pursue potentially competing goals. These propositions can be restated as hypotheses suitable for testing by the usual methods of political science. In this dissertation, I test them by combining quantitative analysis with a set of case studies to assess how party leaders manipulate the legislative agenda in Congress and to measure the policy effects of their action.

The hypotheses are:

- A. The ability of party leaders to control the agenda with omnibus bills is independent of party homogeneity.*
- B. The incentive of party leaders to exercise power depends upon the distance of the majority party's median voter to other pivotal voters in the chamber.*
- C. Heterogeneous majority parties are likely to use power to aid reelection, while homogeneous majorities are more likely to pursue policy goals.*

The Dependent Variable: Appropriations Bills

There is a longstanding tradition by scholars of using spending bills as a window into understanding larger trends in Congress such as the nature of party power (Kiewiet and McCubbins 1991; Evans 2004). This is in part because they are an ideal way to study change in Congress over time. Unlike most other types of legislation, appropriations bills must be passed every year by Congress in order to fund the government, and there has been a high level of consistency in the number and jurisdiction of these bills. The accumulated legislative history of spending bills over a period of years is a treasure trove of information about how parties respond to changing circumstances in order to meet their goals.

Fenno's initial study of appropriations in the House of Representatives in the 1960s found that the process was non-partisan with an emphasis on budget control and providing distributive benefits in the form of federal spending to all members regardless of party (Fenno 1966). This classic model of the committee began to break down during the tumultuous reform period in the House during the 1970s. The passage of the Congressional Budget and Impoundment Control Act of 1974 changed the process for passing spending bills, and it is the point at which I begin my study. The budget law centralized decisions about taxing and spending just as the onset of deficit politics raised the stakes of those choices. Meanwhile, a more liberal House membership broke down the seniority system and made committees (including Appropriations) more responsive to their interests (Rohde 1991). By the 1980s, appropriations bills were squarely at the center of partisan debates in Congress even as many of the bipartisan traditions of the committee, such as the universal distribution of benefits, lingered on (Schick 1980,

2000). The process become further polarized in the 1990s, when Speaker Newt Gingrich sought to use appropriations bills to advance Republican policy initiatives in the face of veto threats from President Clinton (Aldrich and Rohde 2000).

Since 1976, the first year the Budget Act was implemented, it has grown more difficult to pass spending bills and scholars have documented the rise of “unorthodox lawmaking” in the effort to do so. The most prominent change in the process is the rise of omnibus appropriations bills in the late 1970s. Under this procedure, two or more of the 13 annual spending bills are packaged together for passage instead of being passed individually. One line of argument explaining the rise of these bills is that omnibus bills are negotiated between a president and congressional leaders to break through gridlock caused by divided government (Sinclair 2005). Others argue that delays in passing the federal budget, which compress the time frame in which appropriations bills must be passed, promote the creation of last minute omnibus packages needed to keep the government running (Krutz 2001b; LeLoup 2005).

Omnibus bills are said to be “unorthodox lawmaking” because Congress traditionally followed a standard set of procedures known as the “regular order” to pass spending bills (Oleszek 2007). Under the regular order, the House Appropriations Committee initiates all spending bills. There are 13 (now fewer) of these bills, each covering a separate set of federal agencies such as the Department of Agriculture or Department of Defense. Each of the bills is passed individually, first by the committee and then by the full House after an opportunity for amendment under an open rule. From there, bills are sent to the Senate Appropriations Committee. Each bill is approved by the committee and referred to the Senate floor for amendments and a final vote. Once both chambers approve the bill, the House and Senate meet in conference to negotiate a final version. Historically, the chambers passed the bill back and forth before a final version was adopted and sent to the president. Since 1995, Congress has utilized an alternative conference procedure in which a final, non-amendable version of the bill is sent to each chamber for a final vote. The regular order is relatively open, providing numerous opportunities for amendment and the ability for members to vote on each bill individually.

When Congress writes omnibus spending bills, it deviates from the regular order (Keith 2005). The 13 spending bills are still written in the House and Senate appropriations committees, and then brought to the floor of each chamber for debate. At that point, the debate may be short-circuited by party leaders who pull the bill from the floor before calling a vote. Pulling a bill prevents debate on further amendments, and, if a bill is being filibustered, allows the Senate to move onto other business. Leaders then package the spending bill together with others to form an omnibus bill. This can be done either prior to or during conference proceedings between the two chambers. If the omnibus package is created before conference and brought to the floor of the House and Senate, it can still be amended before it is voted on. If it is created in conference, then the omnibus package sent to each chamber for a final vote cannot be amended under the rules of the two chambers.

Table 1.1 illustrates a typical appropriations year by showing the movement of the fiscal year 1997 appropriations bills through the legislative process. In this case, the House of Representatives started out following the regular order. It passed on each of the 13 spending bills individually and sent them to the Senate. There, the regular order broke

down. The Senate passed nine bills individually, but failed to vote on four: Commerce, Justice and State (CJS); Interior; Labor, Health and Human Services (Labor-HHS); and, Treasury-Postal. Since federal spending bills must be passed in order to fund the government, the failure of the Senate to vote on these bills forced leaders to find an alternative way of providing funding. In this case, leaders opted to create an omnibus package in conference. They took the Defense bill, which was already in conference, and created a six-bill package by adding the four unpassed bills to it as well as the Foreign Operations bill. Since this version of the bill was technically a final conference report, it was not open to amendment when it was brought to the House and Senate floors for a final vote before being sent to the president. Both chambers passed it with minimal debate. The remaining seven spending bills were all passed in regular order.

Table 1.1. Legislative History of Fiscal Year 1997 Appropriations Bills

Bill	House Vote	Senate Vote	Included in Omnibus
Agriculture	Yes	Yes	Passed Individually
Commerce, Justice and State	Yes	Skipped	Yes
District of Columbia	Yes	Yes	Passed Individually
Defense	Yes	Yes	Yes
Energy and Water Development	Yes	Yes	Passed Individually
Foreign Operations	Yes	Yes	Yes
Interior	Yes	Skipped	Yes
Labor, Health and Human Services	Yes	Skipped	Yes
Legislative Branch	Yes	Yes	Passed Individually
Military Construction	Yes	Yes	Passed Individually
Treasury-Postal	Yes	Skipped	Yes
Transportation	Yes	Yes	Passed Individually
Veterans Administration, Housing and Urban Development	Yes	Yes	Passed Individually
# Out of Regular Order	0	4	6

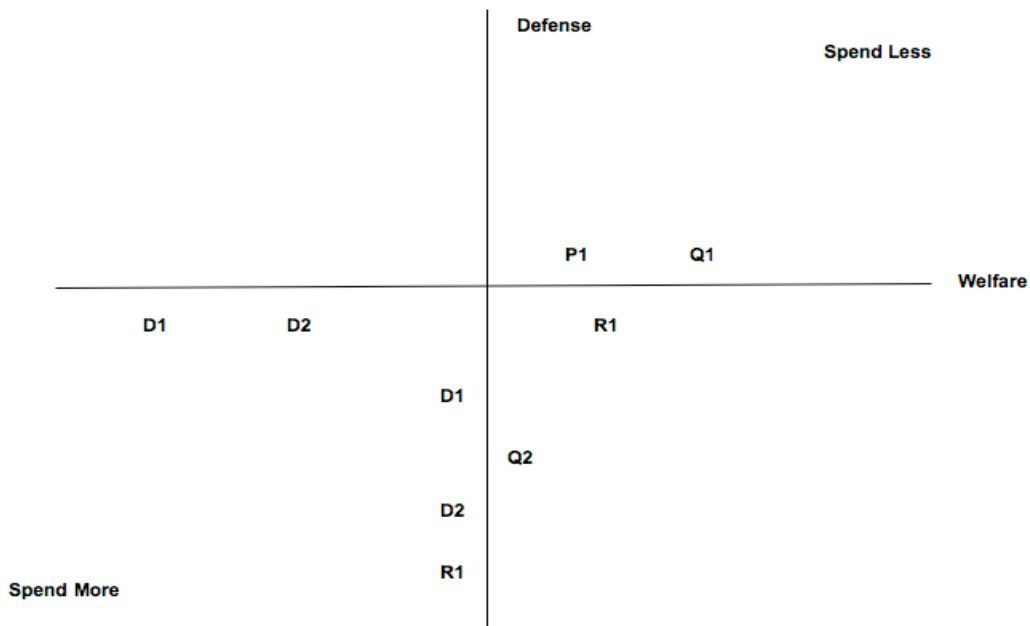
The flexibility of these procedures gives leaders vast powers over the agenda of both chambers, but they are particularly useful in the Senate, which lacks the strong rules of the House. This utility is based in some of the unique qualities of omnibus bills. First, the bills are multi-dimensional. By combining two or more unlike policy areas, such as defense spending and social welfare, they can more easily win the support they need to pass the chamber (Krutz 2000, 2001a). Second, they are “must-pass” bills. If Congress fails to pass an omnibus bill, then all the government agencies covered by the bill will

shut down. If it instead passes a temporary measure like a continuing resolution, it faces other kinds of negative consequences. These factors put heavy pressure on members to pass omnibus bills and make delaying tactics costly. Third, they permit leaders to restrict the right to open amendment. Leaders can pull an individual bill from the floor before it can be amended and return that bill to the floor as part of a non-amendable omnibus conference report. In other words, they can impose an effective closed rule on the free-wheeling Senate where the right to amend is sacrosanct. I will discuss each of these issues in turn.

Multi-Dimensionality

Figure 1.2

Two Dimensional Model: Welfare and Defense



Many scholars have noted that adding more than one policy domain to a bill can make it easier to pass legislation by muting the presence of undesirable policies and giving everyone something to vote for (Krutz 2000; Shepsle and Bonchek 1997). Figures 1.2 and 1.3 illustrate the advantage of multidimensional bills for coalition building. In this example, assume there is a legislature composed of two Democrats and one Republican and two issues that are being voted on, spending on social welfare programs and defense. D1 and R1 are the filibuster pivots on the left and right, while D2 is the median voter. First assume that each dimension of the bill is voted on as a separate bill. On the horizontal social welfare spending axis in Figure 1.2, all three members would support a policy located at P1, which is preferable to the relatively extreme reversion point of the status quo (Q1). On the vertical defense spending axis, the Democratic majority faces a problem. The two Democratic voters are divided by the status quo (Q2),

and there is no policy that can win the support of both filibuster pivots. In this model, a defense bill would be unable to pass the floor.

Figure 1.3

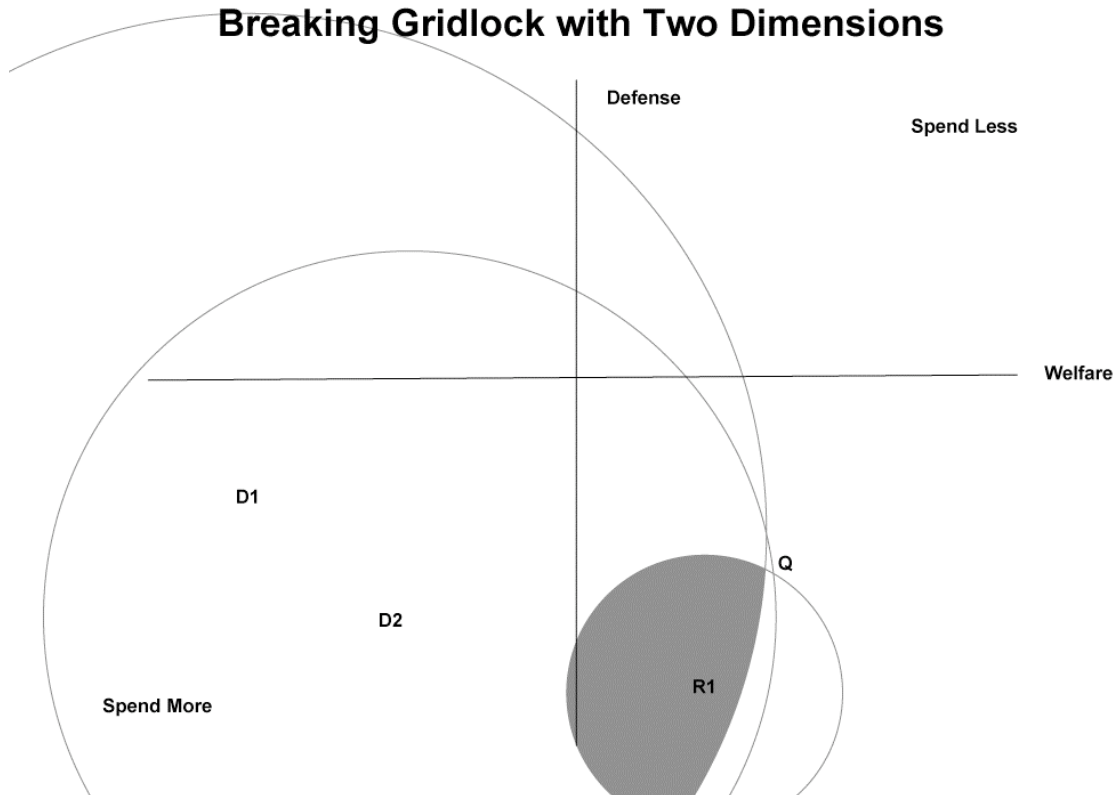
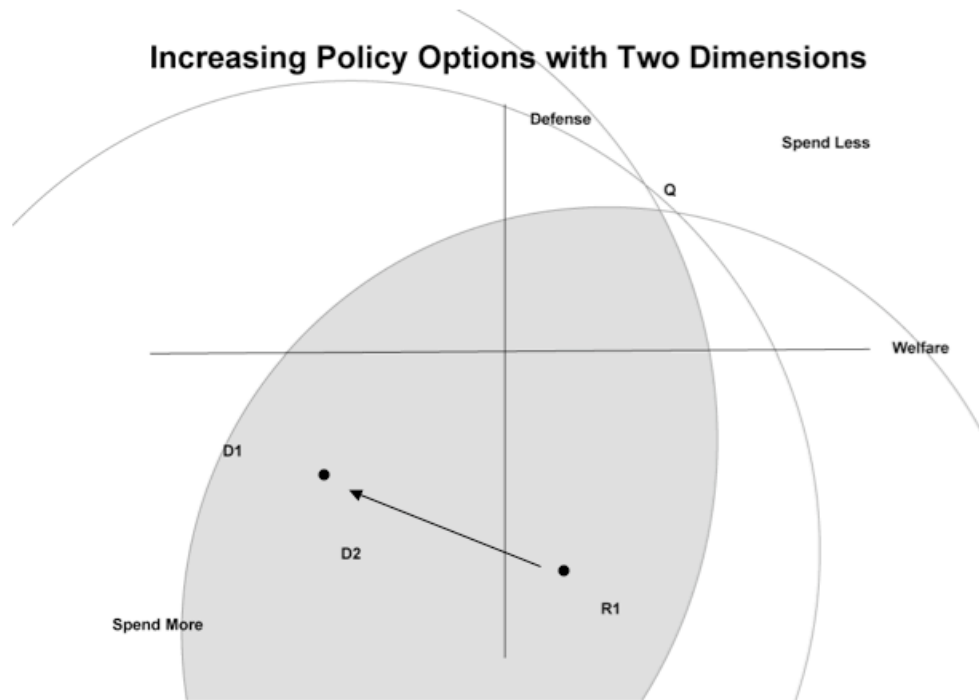


Figure 1.3 shows the positions of the chamber's three voters in two-dimensional space. Now, assume that the two dimensions are voted on simultaneously. The circles around each voter indicate the different combinations of social welfare and defense spending levels that would be preferable to each voter to the status quo, and the area in which all three circles overlap indicates the set of policy combinations that would win the support of all three voters. As the chart shows, once social welfare spending and defense have been combined into a single bill, there is a range of policies that could potentially win unanimous support in the chamber. The problem facing the Democratic majority in the example has disappeared, and the combined bill can clear the floor. While the final policy is constrained by the preference of R1, the lone Republican voter, gridlock has been broken.

Figure 1.4



By altering the example slightly to make the reversion point on the defense dimension more extreme, the power of multidimensionality becomes even more apparent. As Figure 1.4 shows, when both dimensions have an extreme reversion point, the resulting multidimensional bill could contain a wide array of policy combinations that would win the support of both filibuster pivots (shaded in gray). If the Democratic majority in this example had the power to control the agenda, it could set policy in a preferred location close to its two voters and still win the support of the lone Republican. In the first example shown in Figure 1.3, policy was constrained to a position close to the lone Republican, and far less was spent on social welfare programs than the Democrats preferred. Armed with the power to control the agenda, the Democratic majority in Figure 1.4 could take advantage of the extreme reversion points to raise spending on social welfare programs to its desired level.

Must Pass Bills

The importance of the reversion point discussed in the last example points to a unique aspect of spending bills distinguishes them from other types of legislation. Most policies can be debated and deferred for years before they are passed. By contrast, Congress must pass spending bills every year or the government will cease its operation. Most of the time, the overriding need to fund the government ensures that the spending bills pass Congress, either individually or as part of an omnibus package. When the bills prove to be particularly contentious, Congress falls on its backup plan: bills known as “continuing resolutions” that provide funding at the same levels, terms and conditions as

the previous year (Streeter 2005). These resolutions are usually temporary, and they are viewed as undesirable because they don't adjust for normal growth in spending or make any of the policy adjustments that come in a regular appropriations bill. While continuing resolutions are undesirable, they are preferable to a third potential outcome: a government shutdown. If neither an appropriations bill nor a continuing resolution passes, then government offices are required to send their workers home and close their doors. A shutdown can be politically catastrophic for the party that takes the blame for it. In 1996, a budget showdown between President Bill Clinton and congressional Republicans led to a partial government shutdown. Republicans took the blame, and the confrontation helped to revive Clinton's presidency from its lowest point after the Republican takeover of Congress.

In spatial terms, one way of thinking about appropriations bills is that there is some degree of uncertainty about the status quo "reversion point." In spatial models, members only vote for a policy if it is closer to their preference than the status quo. Technically, the reversion point for an appropriations bill is zero dollars – usually an unacceptable alternative – since the failure to pass a bill means that money cannot be spent by the Treasury. But, members know that this outcome is unlikely. While there is always a chance for a train wreck if Congress is deadlocked, a continuing resolution is a more likely alternative to a shutdown. In that case, the reversion point is likely to be substantially less than what members might prefer, but it is not zero. There is also uncertainty created by time. Appropriations bills are usually written in the spring, debated over the summer, and adopted in the fall. The risk of a shutdown only becomes critical when Congress approaches the beginning of a new fiscal year on October 1 (or a later date, if Congress passes a temporary extension) since that is when the previous year's funding expires.

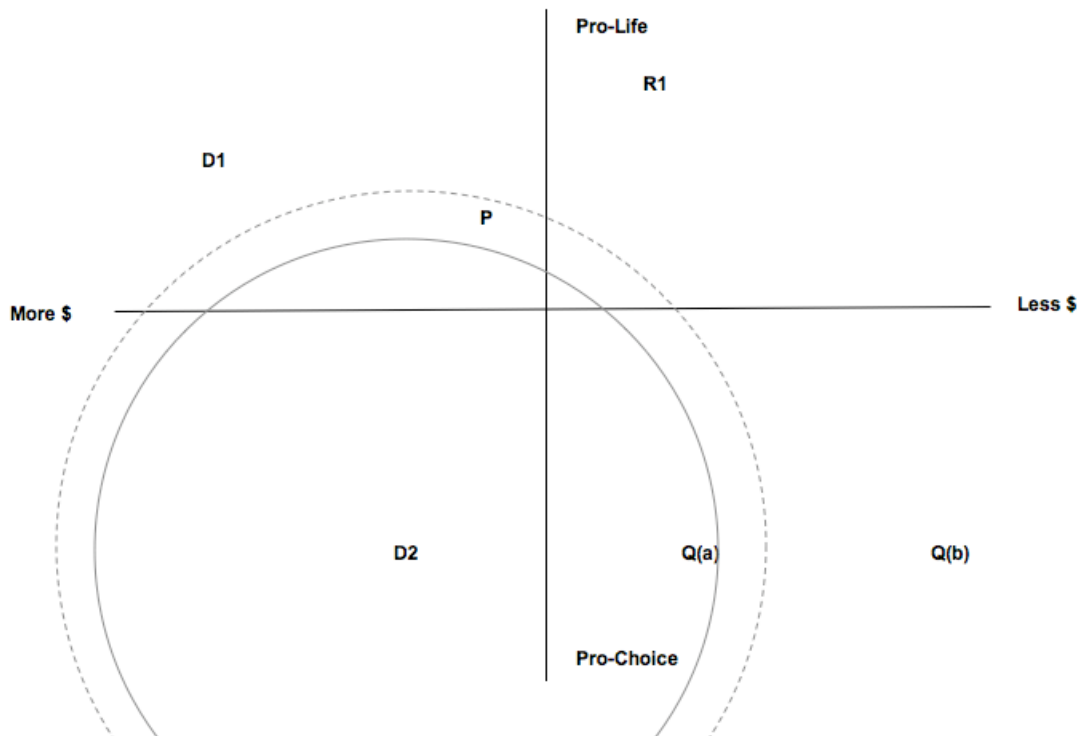
The unusual nature of the reversion point for appropriations bills makes it challenging to model in spatial terms. I address this problem by following the lead of members of Congress, who appear to feel a growing sense of unease and anxiety when debating omnibus bills as compared to regular spending bills. In their eyes, the consequences of failing to pass an omnibus bill are more undesirable than failing to pass an individual spending bill. This is because omnibus bills are usually offered at the end of the year, when the clock has run out, as the last opportunity to fund the government. Since omnibus bills provide funding for a broad swath of government agencies, rather than just the few that might be covered by an individual bill, the consequences of failing to pass the bill are high. At best, those agencies would be funded with an undesirable continuing resolution, while at worst, the agencies might shut down, the public would be outraged, and Congress would be called back to deal with the emergency. Following this intuition, I characterize the reversion point of an omnibus bill as falling in a more extreme location on a spatial map than the reversion point for an individual bill.

An important feature of the extreme reversion point of the bills is that it likely deters members from obstructing its passage with a filibuster or poison pill amendment. For example, consider a situation in which the Labor, Health and Human Services bill contains a provision prohibiting federal funds from being used to pay for abortions for poor women. When the bill is brought to the floor, it is filibustered by the pro-choice 60th voter in the chamber, who demands that the provision be removed. After the filibuster extends for several days, the Senate leadership pulls the bill from the floor, adds it to an

omnibus package with five other spending bills, and returns it to the floor just before government funding is set to expire. Now, the 60th voter's decision to filibuster has become a high-stakes game that could imperil funds for a large number of government agencies. Faced with an extreme reversion point, the pro-choice senator decides not to filibuster the bill.

Figure 1.5

Deterring a Filibuster on Abortion



I illustrate this example in a two-dimensional model of Congress in Figure 1.5. Once again, it shows a legislature with two Democrats and one Republican. Since the abortion policy must be renewed every year, the reversion point on abortion is on the pro-choice side of the spectrum. Q(a) represents the status quo reversion point when the Labor, Health and Human Services bill is considered on an individual basis. The reversion point is closer to D2 than the pro-choice policy in the bill. Q(b) represents the reversion point for the omnibus package. Now, the reversion point has shifted toward the extreme, and D2 prefers the policy in the bill to a potential shutdown. D2 votes for the bill, and a filibuster is avoided.

From this example, it appears that omnibus bills are a win-win for leaders. They passed a bill containing the provision they sought over the objection of a pivotal voter, while apparently making no sacrifices of their own. In reality, omnibus bills are not cost free. Prior to the 1980s, Congress only passed an omnibus spending bill once in 1950 as an experiment aimed at determining whether it would be easier to cut spending from a single large bill. The practice was abandoned the following year after members

complained that the bill was too large to digest, disempowered subcommittee members, and that members were afraid to oppose it for fear of shutting down the government (Nelson 1953). Similar complaints can be heard in modern times when Congress passes omnibus legislation. Omnibus bills are a useful fallback strategy for leaders when they are faced with the need to ensure that spending bills are passed, but not the desired approach.

Non-Amendability

An important feature of omnibus bills is that they offer a variety of ways to restrict the normal process of open amendment on the Senate floor and allow the majority to set the policy agenda with less interference from the minority. The most powerful way of avoiding amendments is by utilizing conference to set policy in a non-amendable conference report (Davidson et al. 2010). However, omnibus bills tend to be amended less overall than bills that are considered on an individual basis on the floor. This is because they tend to be considered under heavy time pressure in the last days of a session and because the “must-pass” nature of omnibus bills deters members from offering amendments that they know will attract controversy. When leaders decide to pull an individual bill from the floor and place it in an omnibus package, they do so knowing that they are putting it in a new context that will likely reduce the number of amendments the subject matter in the bill will face.

Overview of Dissertation

Chapter 2 presents descriptive data and the results of a series of logit analyses that assess the relationship between the legislative history of individual federal spending bills, my variables measuring distances to pivotal voters, and my control variables. I show that omnibus bills are more likely when the majority party’s median preference is distant from the preference of pivotal voters. This distance is an indicator that majority party leaders face a challenging environment for passing spending bills on the floor. Leaders turn to omnibus bills because they are a useful way to pass bills in this environment. In Chapters 3 and 4, I present evidence from case studies of two different time periods in Congress. Chapter 3 analyzes the Reagan era to show that Republican leaders in the Senate expanded the use of omnibus spending bills at that time to overcome disputes within their caucus over issues like school prayer and abortion. Chapter 4 presents evidence from the first administration of President George W. Bush to show how a unified Republican party used omnibus bills to shift policy away from the preference of pivotal Democratic voters and toward the Republican party median. Overall, I conclude that omnibus bills have provided a powerful tool for majority parties to control the agenda when the floor is a challenging place for them to meet their goals.

Chapter 2

Quantitative Analyses of Omnibus Spending Bills

Over the last 30 years, Congress ended its decades old tradition of passing spending bills individually in favor of bundling them together into omnibus packages for passage. What accounts for this change? I contend that the likelihood they will create such packages is tied to the ideological distance from the majority party's median voter to other pivotal voters in the chamber. In this chapter, I use descriptive data and quantitative analysis to provide empirical support for this hypothesis. First, I show how the distance between pivotal voters in the House and Senate has varied over time due to changes in the majority's margin of control and in the ideological distribution of the parties. I use logit analysis to test whether three variables measuring the distance to pivotal voters in the House and Senate are related to the proportion of bills in omnibus packages and the practice of skipping votes on individual spending bills. My results show that the distance from the majority party's median voter to other pivotal voters in the chamber is closely related to the size of omnibus bills and vote skipping, and that this relationship is stronger in the Senate than in the House. I also provide evidence supporting my argument that omnibus bills effectively control the agenda. Omnibus bills tend to reduce opportunities to offer amendments, and bills that receive more opposition on the floor are more likely to be skipped on the floor in favor of being put in an omnibus package.

Methodology

Omnibus bills developed as a way for the majority party to control the agenda, and a decision by a majority to pass appropriations bills in an omnibus package instead of individually is a decision about whether to exercise party power. In this dissertation, I use two dependent variables to capture this decision: "skipped votes" and "inclusion in omnibus." Drawing on the legislative history of all appropriations bills between 1976 and 2009, I created an original dataset that tracks the fate of each of the 13 spending bills considered annually during that time period. It contains a total of 33 years of data and includes 437 individual spending bills. A "skipped vote" is a dummy variable that indicates whether or not an individual spending bill, such as the Agriculture bill, received a vote in a given year in the House and Senate. "Inclusion in omnibus" is a dummy variable that indicates whether a particular bill was included in an omnibus package. It is distinct from the "skipped vote" variable since it reflects the combined action of the House and Senate, and since a bill might still be included in an omnibus bill even if it receives an individual vote. I use logit analysis to assess whether the decision to skip a vote on a bill or include it in an omnibus is related to the ideological distance between pivotal voters in the House and Senate.

Distance to Pivotal Voters

I test whether the likelihood that a party will exercise power by creating an omnibus package varies with the ideological distance between pivotal voters on the floor. This dissertation uses two independent variables to capture these distances: the "majority-to-median" distance and the "majority-to-filibuster" distance. I test whether the majority is more likely to pursue an omnibus strategy when these distances are larger

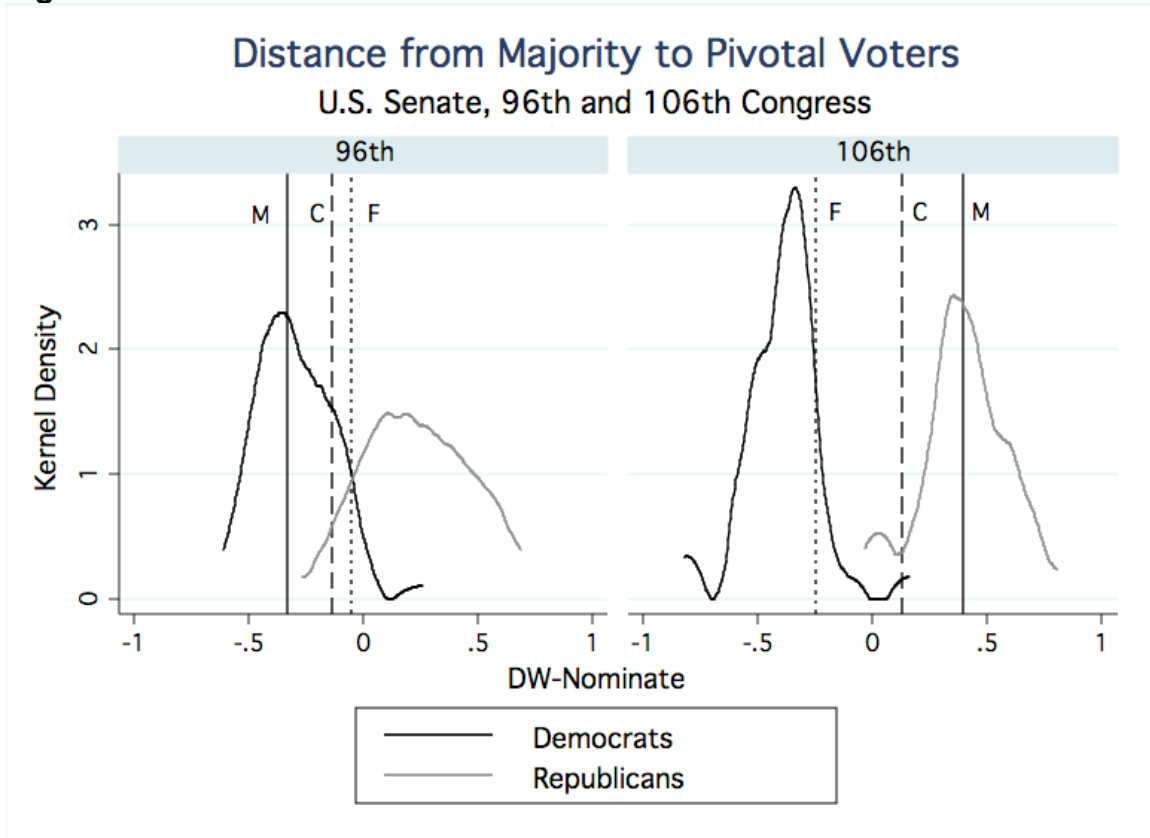
rather than smaller. I assume that the shorter distances reduce the likelihood of an omnibus package because disputes over policy are less likely when the preferences of pivotal voters are similar. By contrast, large distances between pivotal voters are an indication that the floor is a contentious place where bills are more likely to face filibusters or divisive amendments.

To measure distances between pivotal voters, I use DW-Nominate and Common Space scores developed by Poole and Rosenthal (Poole and Rosenthal 2007). These scores are created by analyzing the votes of every member of Congress to place members on a scale ranging from -1 and 1. DW-Nominate scores for members of the House and Senate are based on the votes cast in each chamber respectively, and so scores for the two chambers cannot be directly compared to each other. Common Space scores use members that served in both chambers as a bridge to place all members of the House and Senate on the same scale. I use both scores as appropriate to identify the majority party's median ideological position, and the distance of that position on Poole and Rosenthal's scale to the chamber's median voter and the filibuster pivot in the Senate.

Poole and Rosenthal identify two major dimensions associated with DW-Nominate and Common Space scores. The first dimension measures preferences on government intervention in the economy in most periods, or a standard liberal-conservative spectrum in the modern era. The second dimension appears to vary over time in its meaning. Prior to the Civil War, it identifies variation in preferences over slavery, while between the 1930s and 1970s it estimates preferences on issues relating to race. Since the 1980s, there is evidence that the second dimension has collapsed onto the first and no longer carries significant explanatory power. For both dimensions, -1 indicates the most liberal preference and 1 indicates the most conservative position.

While not perfect, these scores are roughly comparable over time and exist for all members of Congress. Their major flaw is that they are based on revealed preferences, which we must assume are accurately tied to actual member preferences. Their accuracy is also subject to question due to the nature of the roll call record itself, since one effect of party leaders structuring the agenda may be to artificially inflate the appearance of divisions between the parties.

Figure 2.1



I use Poole and Rosenthal's first dimension estimates to measure the ideological distance between the majority's median voter and the floor median (House and Senate), and the majority's median voter and the filibuster pivot (Senate only). These distances vary over time according to size and degree of heterogeneity within the two parties in Congress. Figure 2.1 illustrates this concept with the relative positions of the majority median voter (M), the median voter in the chamber (C) and the filibuster pivot (F) using the ideological distribution of Democrats and Republicans in the Senate in the 96th Congress (1979 – 1980) and the 106th Congress (1999 – 2000) as an example. In the Democratic-controlled 96th Congress, the distance from the median Democratic voter to the chamber median and the filibuster pivot is relatively less than it was in the Republican-controlled 106th Congress. Assuming that the distance of these voters on the DW-Nominate scale translates into actual distance in policy preferences, the Senate floor was a less contentious place for the Democratic majority of the 96th Congress than it was to the Republican majority of the 106th Congress.

There are theoretical reasons to believe that large distances from the majority median position to either the filibuster pivot or the chamber median could provide an incentive for the majority party to use an omnibus bill. First, the Senate's median voter could be pivotal since the high reversion point of appropriation bills makes filibusters less likely. A significant majority-to-median distance could indicate a heterogeneous majority party that will fight amongst itself over policy, damaging the party's reputation. Alternatively, it could indicate a narrow margin of majority control in which an out-of-step moderate holds the decisive vote. In both cases, leaders might have an incentive to mute opposition to the bill with the omnibus strategy.

The theoretical case for the significance of the filibuster pivot is straightforward. As it grows distant from the majority median, the policy consequences for the majority of making concessions to the 60th voter grow increasingly large and less acceptable to the majority caucus. These concessions might be particularly difficult to accept in a highly polarized legislature if there is a narrow majority that can only reach 60 votes by appealing to members of a minority with sharply divergent views. The example of the 106th Congress in Figure 2.1 illustrates the considerable policy distance the Republican majority at that time had to travel in order to satisfy the 60th voter, a Democrat, needed to overcome a filibuster.

One challenge of using first dimension DW-Nominate and Common Space scores to predict the use of omnibus spending bills is that they only capture the main dimension of preferences in Congress. It would be ideal to have measures of preference on all major policy dimensions. Then, I could assess whether particular issues off the main dimension trigger disagreement on the floor that is likely to lead to an omnibus spending bill. Since these measures are not available, I instead follow the standard practice of relying primarily on first dimension scores for my analysis. This approach is imperfect, but it is the best available. Substantial evidence indicates that preferences on major dimensions are highly correlated with each other. All things being equal, I assume that it is more likely that an issue off the main dimension will cause trouble on the floor for the majority when distances between pivotal are high than when they are low.

Budget Delays and Divided Government

In addition to measures of member preference, I also use variables related to the passage of federal spending bills that have been used to explain the passage of omnibus bills in other studies. These include variables measuring delays in the passage of the budget resolution and representing divided government. I measure delays in the passage of the budget resolution by determining what proportion of 365 days the budget passed after its deadline. My variable for divided government is a dummy variable that indicates whether the House, Senate and Presidency were controlled by one party or not.

The Changing Location of Pivotal Voters

I contend that majority parties are more likely to turn to omnibus bills when the distances between pivotal voters are high. Since these distances are a function of the margin of control and heterogeneity of the majority party, I begin my analysis by reviewing changes in both of these variables over the last three decades. As both variables have changed over time, so has the relative position of pivotal voters on the ideological scale.

**Table 2.1. Common Space Standard Deviations
U.S. House and Senate, 94th to 110th Congress**

Congress	House		Senate	
	Democrat	Republican	Democrat	Republican
94 th (1975 – 1976)	0.19	0.16	0.16	0.23
95 th (1977 – 1978)	0.20	0.16	0.17	0.23
96 th (1979 – 1980)	0.20	0.17	0.14	0.20
97 th (1981 – 1982)	0.21	0.17	0.14	0.19
98 th (1983 – 1984)	0.20	0.16	0.12	0.19
99 th (1985 – 1986)	0.18	0.15	0.12	0.19
100 th (1987 – 1988)	0.18	0.16	0.12	0.18
101 st (1989 – 1990)	0.18	0.16	0.11	0.18
102 nd (1991 – 1992)	0.18	0.16	0.12	0.17
103 rd (1993 – 1994)	0.18	0.15	0.14	0.17
104 th (1995 – 1996)	0.17	0.15	0.13	0.16
105 th (1997 – 1998)	0.16	0.15	0.12	0.15
106 th (1999 – 2000)	0.16	0.15	0.14	0.15
107 th (2001 – 2002)	0.15	0.15	0.14	0.15
108 th (2003 – 2004)	0.15	0.15	0.14	0.13
109 th (2005 – 2006)	0.15	0.15	0.12	0.14
110 th (2007 – 2008)	0.16	0.15	0.11	0.14
Average	0.18	0.16	0.13	0.17

Table 2.1 illustrates the changes in the ideological distribution of Democrats and Republicans in the House and Senate between the 94th Congress (1975 – 1976) and the 110th Congress (2007 – 2008) using common space scores that place members of both chambers on the same scale. The story it reveals for the House of Representatives is well known and has been told well by others (Rohde 1991; McCarty et al. 2006). In the House, the Democratic caucus historically has been more heterogeneous than its Republican counterpart. Over the last 30 years, Democrats have slowly become more similar to each other and in recent years their degree of ideological uniformity has nearly matched that of Republicans. The standard deviation of common space scores for the Democratic caucus in the House was 0.19 in the 94th Congress and fell to 0.16 in the 110th Congress. By contrast, the standard deviation for the Republican caucus began at 0.16 in the 94th Congress and varied only slightly over time to finish at 0.15 in the 110th Congress (Appendix A).

The pattern of the Senate during this same time period has been the opposite of the House of Representatives. In the Senate, Democrats have been more homogenous than Republicans. The common space standard deviation for Democrats in the 94th Congress was 0.16, and it fell to 0.11 in the 110th Congress. Republicans were much more ideologically diverse by comparison. Their common space standard deviation was 0.23 in the 94th Congress, and fell to just 0.14 in the 110th Congress. The differences between the two chambers are revealed by their average common space standard

deviation over this time period. House Democrats were on average more diverse with a standard deviation of 0.18 compared to 0.16 for House Republicans, while Senate Republican averaged at 0.17, much higher than their Democratic colleagues, who averaged just 0.13 (Appendix B).

**Table 2.2. Majority Common Space Standard Deviation and Margin of Control
U.S. House and Senate, 94th to 110th Congress**

Congress	Standard Deviation of Majority		Majority Margin of Control*	
	House	Senate	House	Senate
94 th (1975 – 1976)	0.19	0.16	73	11
95 th (1977 – 1978)	0.20	0.17	74	11
96 th (1979 – 1980)	0.20	0.14	59	8
97 th (1981 – 1982)	0.21	0.19	26	3
98 th (1983 – 1984)	0.20	0.19	54	5
99 th (1985 – 1986)	0.18	0.19	35	3
100 th (1987 – 1988)	0.18	0.12	40	5
101 st (1989 – 1990)	0.18	0.11	43	5
102 nd (1991 – 1992)	0.18	0.12	53	6
103 rd (1993 – 1994)	0.18	0.14	41	7
104 th (1995 – 1996)	0.15	0.16	12	3
105 th (1997 – 1998)	0.15	0.15	10	5
106 th (1999 – 2000)	0.15	0.15	5	5
107 th (2001 – 2002)	0.15	0.14	4	1
108 th (2003 – 2004)	0.15	0.13	11	1
109 th (2005 – 2006)	0.15	0.14	14	5
110 th (2007 – 2008)	0.16	0.11	15	1
Average	0.17	0.15	33.5	5
(SD)	(0.02)	(0.03)		
Dem Average	0.18	0.13	46.6	6.1
Rep Average	0.15	0.16	9.3	3.8

* Margin of control at the beginning of each Congress, with the exception of the 107th Senate, which changed from Republican to Democratic control when Senator Jim Jeffords (I-VT) left the Republican party.

Gray shading indicates Republican control.

Just as the ideological distribution of the two parties has varied, so too has the margin of control of the majority party (Table 2.2). Beginning in the 94th Congress (1975 – 1976), Democrats had unified control of Congress with large majorities, including a filibuster-proof Senate majority. Republicans narrowly took control of the Senate during the Reagan era, in the 97th Congress (1981 – 1982) to the 99th Congress (1985 – 1986), before losing it again to the Democrats. The Republican Revolution of 1994 brought with it a new era or razor-thin margins of control in Congress. Republicans took control of both chambers in the 104th Congress (1995 – 1996) and held it through the 109th

Congress (2005 – 2006) with one brief interlude of Democratic rule in the Senate. Democrats retook both chambers in the 110th Congress (2007 – 2008).

**Table 2.3. Distance from Majority Median to Pivotal Voters
94th Congress to 110th Congress**

Congress	House Floor Median	Senate Floor Median	Filibuster Pivot
94 th (1975 – 1976)	0.13	0.15	0.25
95 th (1977 – 1978)	0.14	0.15	0.26
96 th (1979 – 1980)	0.16	0.18	0.32
97 th (1981 – 1982)	0.27	0.25	0.44
98 th (1983 – 1984)	0.18	0.25	0.43
99 th (1985 – 1986)	0.22	0.26	0.44
100 th (1987 – 1988)	0.20	0.21	0.38
101 st (1989 – 1990)	0.20	0.17	0.38
102 nd (1991 – 1992)	0.19	0.16	0.38
103 rd (1993 – 1994)	0.19	0.18	0.37
104 th (1995 – 1996)	0.23	0.28	0.56
105 th (1997 – 1998)	0.25	0.23	0.60
106 th (1999 – 2000)	0.28	0.24	0.58
107 th (2001 – 2002)	0.28	0.31	0.59
108 th (2003 – 2004)	0.22	0.29	0.58
109 th (2005 – 2006)	0.21	0.19	0.58
110 th (2007 – 2008)	0.24	0.32	0.63
Average	0.22	0.23	0.47
(SD)	(0.05)	(0.06)	(0.12)
Dem Average	0.20	0.21	0.42
Rep Average	0.25	0.25	0.53

Gray shading indicates Republican control.

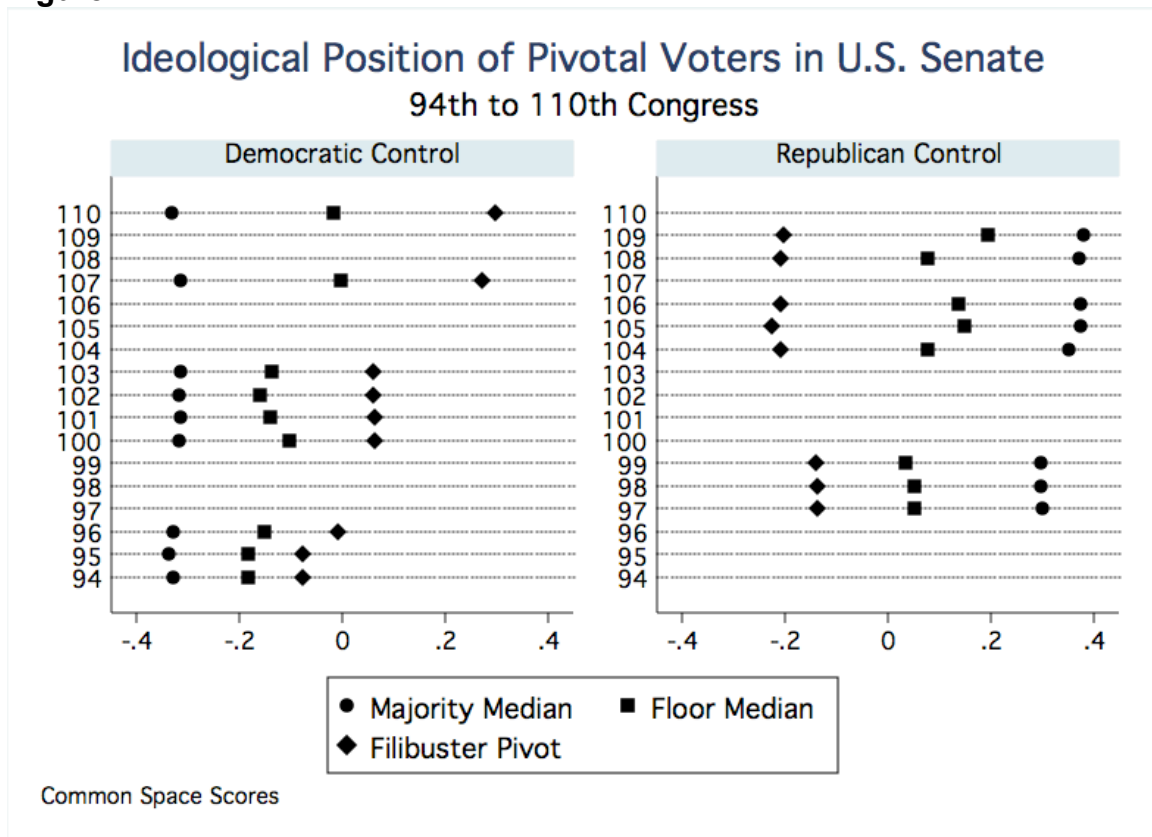
All measures in Poole and Rosenthal Common Space scores.

Together, the majority's margin of control and its ideological distribution determine the relative distance between pivotal voters in the House and Senate. Table 2.3 shows the distance between the majority party median and the floor median in the House and Senate, and between the majority median and the filibuster pivot in the Senate using common space scores. All three variables have varied substantially over time, and at times change abruptly when the majority party faces major losses or a new party takes control of a chamber. The majority-to-median distance in the House has varied from 0.13 to 0.28, while the Senate has ranged between 0.15 and 0.32. The Senate's average majority-to-median distance has exceeded that of the House at 0.23 as compared to 0.22. The standard deviation of the majority-to-median distance in the Senate also exceeded that of the House at 0.06 as compared to 0.05, indicating that there has been wider variation in the Senate. It is notable that Republicans have generally faced larger majority-to-median distances during their periods of majority control than have Democrats. The average Democratic majority-to-median distance was 0.20 in the House

and 0.21 in the Senate, as compared to 0.25 for both chambers when they were under Republican control. The greater distance suggests that Republican majorities have faced a more difficult task controlling the floor than have Democrats (Appendix C).

The distance of the Senate majority median to the filibuster pivot also has varied over time, with a consistent upward trend. It increased from 0.25 in the 94th Congress to 0.63 in the 110th Congress, with overall mean of 0.47 during this time period and a standard deviation of 0.12. As with the majority-to-median distance, Republicans have generally faced larger distances from their median to the filibuster pivot than Democrats during their periods in the majority. The average distance for Republican majorities to the filibuster pivot was 0.53, as compared to 0.42 for Democrats. The increase in the distance to the filibuster pivot over time may help to explain why the number of filibusters in the Senate has gone up. From an ideological standpoint, the filibuster pivot is more likely to find policy advocated by the majority objectionable than in the past, while the majority would find the concessions necessary to win the 60th vote increasingly unacceptable. Figure 2.2 illustrates how these distances have grown over time by placing the majority's median voter, the floor median and the filibuster pivot from the U.S. Senate on the common space scale.

Figure 2.2



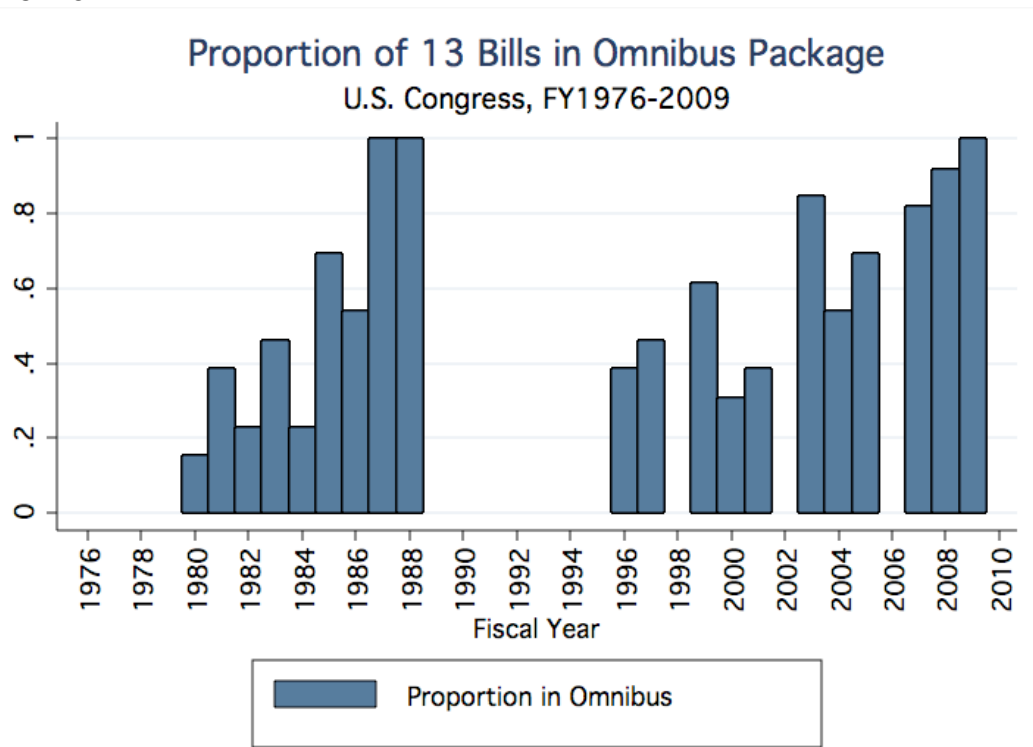
Distance to Pivotal Voters and Omnibus Bills

Over the last 30 years, packaging the 13 annual individual spending bills into an omnibus package has been a common practice. Still, the vast majority of bills pass under the regular order. Since FY1976, 278 appropriations bills (64 percent) have passed under regular order, while 139 (32 percent) have been wrapped into omnibus packages. On a

handful of occasions, bills were passed under individual continuing resolutions that extended the previous year’s funding by an additional year. While the use of omnibus bills by Congress is common, it is not consistent.

Figure 2.3 shows the percentage of individual spending bills wrapped into an omnibus package by fiscal year (see Appendix D for full chart). It reveals that there are two separate periods in which Congress wrote omnibus spending bills. The first began in FY1980 and continued until FY1988. The second began in FY1996 and continues today. In both cases, Congress began by including a small number of bills in the package, but gradually increased the size of the packages to include all of the annual spending bills. Also notable is the puzzling gap in the use of omnibus bills between the two periods. After a decade of increasing use of omnibus bills in the 1980s, Congress chose to pass all spending bills individually for a 6-year period from FY1989 until FY1995.

Figure 2.3



What is the cause of the boom and bust nature of omnibus bill writing? Several potential explanations have been put forward. One line of reasoning is that omnibus bills are tied to the passage of the federal budget resolution, which sets the amount of spending available for the appropriations bills (LeLoup 2005). A second explanation is that omnibus bills are a feature of divided government and high-stakes negotiations between Congress and the president (Sinclair 2005). My explanation is that omnibus bills grow more likely as the distance from the majority party median to pivotal voters in each chamber increases because leaders face a more difficult task managing the floor.

Specifically, I have put forward two hypotheses. My first hypothesis is that the ability of party leaders to package bills together in the last 30 years has been independent of their degree of ideological unity. My second hypothesis is that party leaders have the

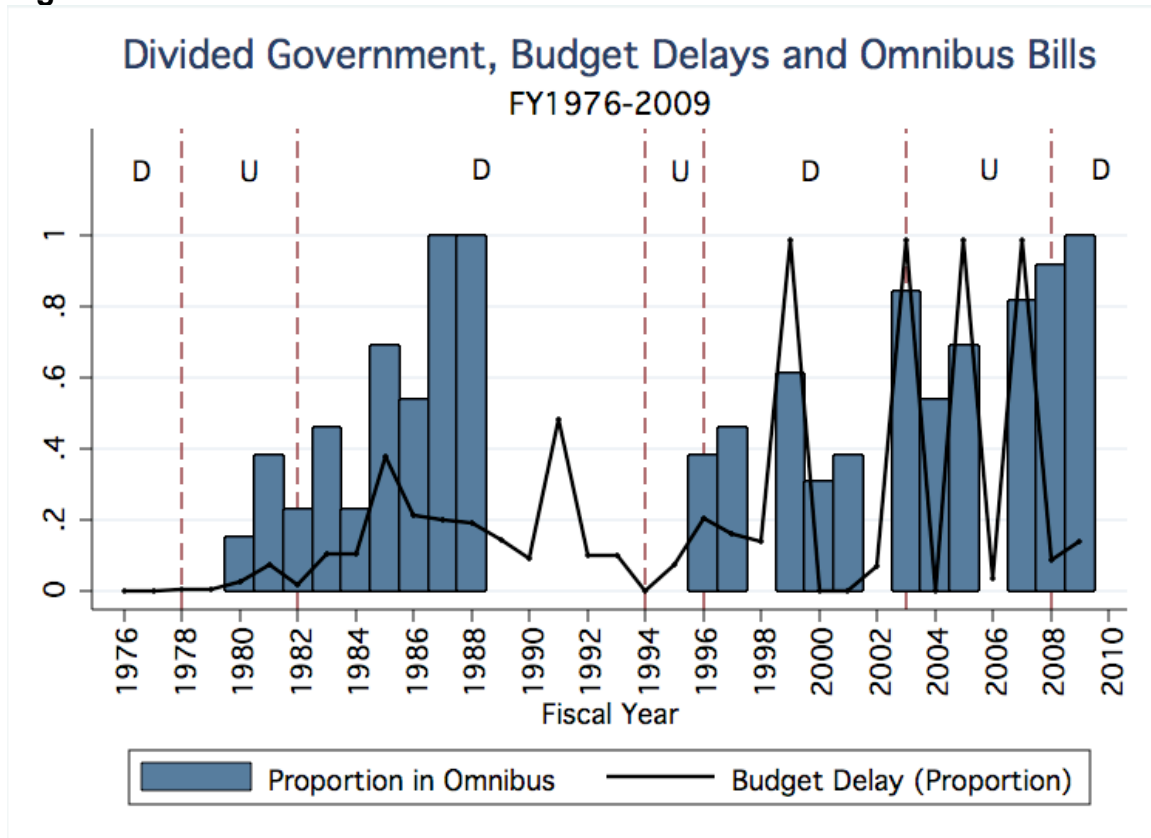
incentive and at times the need to exercise power when distances to pivotal voters are high. With these hypotheses in mind, my expectation is that I will find a positive relationship between the use of omnibus spending bills and distances to pivotal voters when other variables are taken into account. By contrast, I should find no relationship between the use of omnibus bills and the heterogeneity of the majority party since I contend that parties do not need to be ideologically homogenous in order to exercise power.

Correlations

To test these ideas, I first present basic correlations and descriptive data. My variable for the creation of an omnibus bill is the proportion of bills each year included in an omnibus package. I use the number of days past deadline the budget is passed (0 - 365) as my budget delay variable, a dummy variable for divided government and the distance to pivotal voters variables I explained earlier in the chapter. The data provide strong support for the budget delay hypothesis and my hypothesis on the distance to pivotal voters, but fail to support the divided government hypothesis. They also cast doubt on the relationship between majority party heterogeneity and omnibus bills.

Basic Pearson's correlation coefficients provide initial support for the budget and distance to pivotal voters hypotheses. Budget delays are correlated with the proportion of bills in omnibus packages each fiscal year at a level of 0.48. The majority-to-median distance in the House is correlated at a level of 0.38. The majority-to-median distance in the Senate is correlated with omnibus packages a 0.65, the highest level of all variables tested, while the distance of the majority median to the filibuster pivot is correlated at a level of 0.51. By contrast, the correlation of divided government to the creation of omnibus packages is near zero. Similarly, the standard deviation of the majority party's common space score in the House – a proxy for its ideology diversity – was negatively correlated with the proportion of bills in omnibus packages at a level of -0.19. In the Senate, the correlation was near zero at 0.07. Both correlations suggest that the majority's diversity lacks a clear relationship to the creation of omnibus bills.

Figure 2.4



The basis of budget delay and divided government correlations is illustrated in Figure 2.4, which overlays whether control of government was divided (D) or unified (U) and the proportion of days of 365 that the passage of the budget was delayed with the proportion of bills in an omnibus package. It shows no relationship between omnibus bills and divided government. Omnibus bills were a routine feature of government when control was divided under Republican presidents and a Democratic Congress in the late Reagan and George H.W. Bush administrations, and they were routine when Republicans had unified control of government under George W. Bush. A stronger relationship is visible between the budget variable and omnibus bills, but here as well notable exceptions are evident. Protracted negotiations on the federal budget between congressional Democrats and President George H.W. Bush did not lead to the passage of an omnibus bill in the late 1980s and early 1990s, while passing the budget on time was not a guarantee of passing all bills individually throughout the time period.

Multivariate Analysis

I conducted a logit regression to control for each variable’s individual relationship to the creation of omnibus packages. I tested two models. In each, the dependent variable is a dummy variable indicating whether an individual spending bill was packaged into an omnibus package. In Model I, the independent variables are budget delays, divided government and the majority-to-median distances for the House and Senate derived from common space scores. In Model II, I replace the Senate majority-to-median distance with the distance to the Senate filibuster pivot.

Table 2.4 displays the results of the analysis. Standard errors are in parentheses. The results provide strong support for my hypothesis, and point toward the Senate as the primary culprit in the creation of omnibus packages. Since logit coefficients are not easily interpreted, I discuss these results in terms of first differences, or the change in likelihood that a bill will be included in an omnibus package when the variable moves from its lowest value to its highest.

**Table 2.4. Relationship of Distance to Pivotal Voters to Inclusion in Omnibus Bill
FY1976 – 2009
(Logit Analysis)**

Variable	Model I	Model II
Budget Delay	0.01*** (0.00)	0.01** (0.00)
Divided Government	0.26 (0.52)	0.52 (0.58)
Majority-to-Median Distance (House)	-9.36 (7.29)	-2.30 (7.34)
Majority-to-Median Distance (Senate)	25.11*** (5.64)	
Majority to Filibuster Distance (Senate)		6.31* (3.69)
Constant	-5.20 (1.56)	-3.96 (1.25)
Log Pseudolikelihood	-207.19	-234.30
Pseudo R²	0.26	0.16
N	437	437

Effects are significantly different from zero at *p<.10, **p<.05, ***p<.01

Distance variables based on Poole and Rosenthal common space scores.

The two models provide consistent results. Both show that budget delays have a statistically significant effect on the creation of omnibus packages. Delaying the passage of the budget resolution by a year as compared to passing it on time raises the likelihood of a bill being included in an omnibus package by 53 percent in Model I and 46 percent in Model II. The results of the variables measuring the distance to pivotal voters require a bit more interpretation. Neither of the models shows a statistically significant relationship for the majority-to-median distance in the House, and the coefficient is in the

opposite direction predicted.³ By contrast, the Senate majority-to-median distance is highly significant in Model I. In terms of first differences, going from the minimum to maximum majority-to-median distance in the Senate raises the likelihood of a bill being included in an omnibus package by 75 percent. Results for the filibuster pivot in Model II are less robust, but statistically significant. Moving from the minimum to maximum distance in the filibuster pivot raises the likelihood of a bill being included in an omnibus by 46 percent. Finally, the effect of divided government is close to zero in both models and not statistically significant.

These results provide strong initial support for my hypothesis that omnibus bills are tied to the distance of the majority party to pivotal voters in each chamber, but the role of the Senate appears to be particularly important. The Senate majority-to-median distance has a stronger effect than any other variable controlled for in the analysis, washing out the effect of the House of Representatives almost entirely. This is consistent with the greater majority-to-median distance and variation in the Senate as compared to the House. And, it is consistent with the fact that the freewheeling Senate floor is particularly hard to control. Senate leaders may reach first for omnibus bills because they lack the tools to control the floor of their counterparts in the House.

Skipping Votes in the House and Senate

I hypothesize that party leaders turn to omnibus spending bills because they provide a way of controlling debate on the chamber floor. Omnibus bills help parties to control the agenda because they allow leaders to skip votes on individual spending bills in favor of wrapping them into a broader legislative package. Skipping a vote on a spending bill may be particularly useful in the Senate, where senators enjoy the right to open debate and unlimited amendments. However, the House has traditionally debated spending bills under an open rule. Vote skipping might be a useful alternative for House leaders who don't wish to rile the minority by breaking tradition with a closed rule.

In the next section, I test the relationship between the distance to pivotal voters and skipped votes in each chamber. This is a more sensitive test of my hypothesis than analyzing the relationship between the distance to pivotal voters and a bill being included in an omnibus bill. An omnibus bill is typically negotiated between both chambers and reflects the dynamics of both. A bill may be included in an omnibus package because it faced trouble in one chamber despite sailing smoothly through the other. It is also common for bills that have successfully passed both chambers to be added to an omnibus to sweeten an otherwise bitter pill. By contrast, I assume that it is a sign of trouble on the floor when a chamber breaks from regular order and skips a vote on a bill. The fact that the Senate skips votes more often than the House and that the majority-to-median distance of the Senate carries greater explanatory power than that of the House in my logit analysis suggests that the Senate is the key player in the formation of omnibus packages. For that reason, I turn first to the harder case: the House of Representatives.

³ I conducted a separate logit analysis (not shown here) in which the Senate variables were dropped and only the House majority-to-median distance, budget delays and divided government were tested. Once the Senate variables were removed, the House variable was statistically significant and in the predicted direction.

House of Representatives

My hypothesis predicts that a relationship should be visible between the majority-to-median distance and skipped votes in both chambers, but there is good reason to believe that this effect should be weaker in the House. The House is known for its strong rules favoring the majority and for the majority's strong control over the agenda through the House Rules Committee. It is reasonable to expect that party leaders in the House would have an easier time passing appropriations bills than Senate leaders, and that they would find it less necessary to package bills into an omnibus bill. The data bear out this expectation.

Figure 2.5

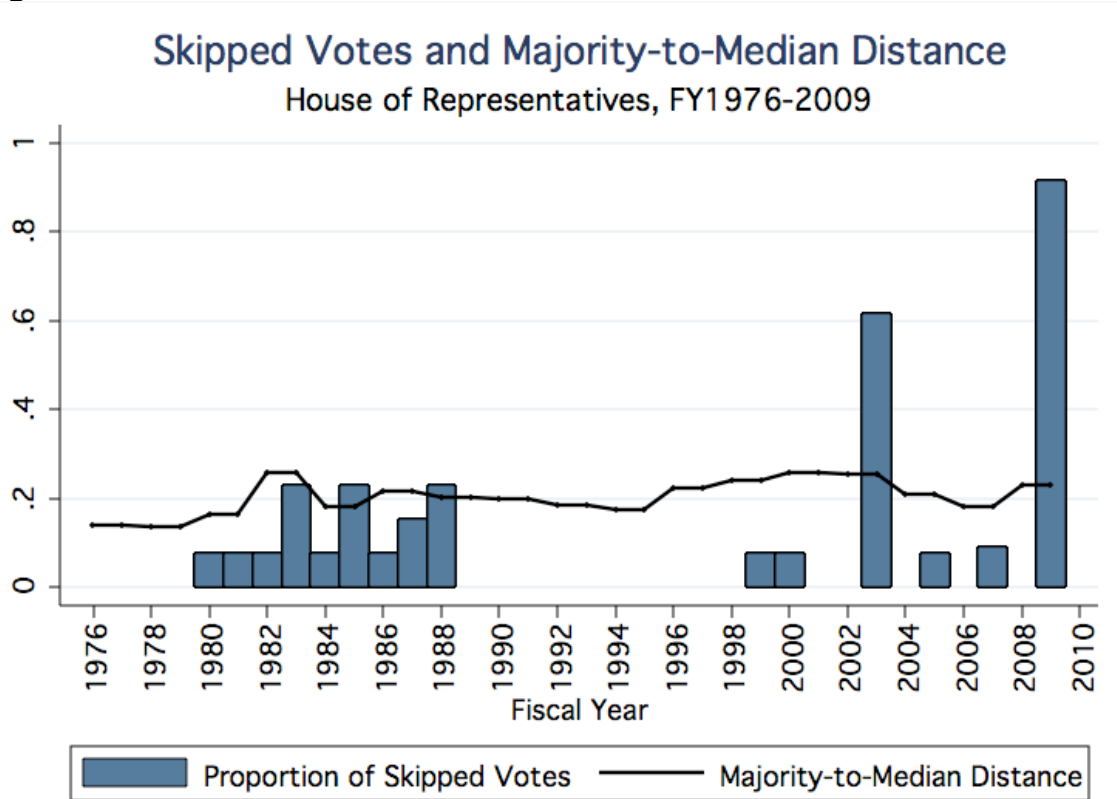


Figure 2.5 shows the relationship between the proportion of votes skipped on appropriations bills for each fiscal year and the majority-to-median distance. Overall, there is little variation to explain. Vote skipping is rare in the House of Representatives, and there is little variation in its majority-to-median distance. Between FY1976 and FY2009, the House skipped votes on 39 (9 percent) of the 437 bills I track in my dataset. Of the 148 appropriations bills included in omnibus packages, the House skipped votes on 26 percent of them.

**Table 2.5. Skipped Votes
and House Majority-to-Median Distance, FY1976 – 2009
Logit Analysis**

Variables	Coefficient
Budget Delay	0.00* (0.00)
Divided Government	-0.08 (0.74)
Majority-to-Median Distance (House)	18.56** (8.07)
Constant	-6.61 (1.48)
<hr/>	
Log Pseudolikelihood	-119.06
Pseudo R²	0.09
N	437

Effects are significantly different from zero at *p<.10, **p<.05, ***p<.01

Distance variables based on Poole & Rosenthal DW-Nominate scores.

I tested the relationship of skipped votes to my standard set of controls, using a dummy variable indicating whether the House skipped a vote on each spending bill as my dependent variable. Standards errors are once again clustered by fiscal year. Table 2.5 displays the results of the analysis. Again, the results are discussed in terms of first differences. Two variables in this case are statistically significant: the majority-to-median distance in the House and budget delays. Increasing from the minimum to maximum distance raises the likelihood of skipping a vote in the House by 15 percent. The difference between passing the budget resolution on time and a full year's delay raises the likelihood of skipping a vote on a bill in the House by 12 percent. Once again, divided government has no significant result.

Given the lack of real variation in the data on the House of Representatives, it is noteworthy that the majority-to-median distance has a statistically significant, if modest, effect. The lack of vote skipping in the House also explains why the House appears to have little effect overall on the formation of omnibus spending bills. Left to its own devices, the House appears to be perfectly capable of passing most spending bills in regular order.

Senate

By contrast, the Senate has been a much livelier place for skipping votes on federal spending bills. In the last 30 years, the Senate has skipped votes on 88 (20 percent) of the 437 bills it has considered. Of the 148 bills that have been included in omnibus packages, the Senate skipped votes on a full 60 percent of them. One explanation for the high rate of vote skipping in the Senate is the chamber's open rules and requirement for 60 votes to end debate. A likely effect of such openness would be to exacerbate the potential problems caused by large distances to pivotal voters by giving senators who oppose majority policy the means and opportunity to create mischief.

Figure 2.6

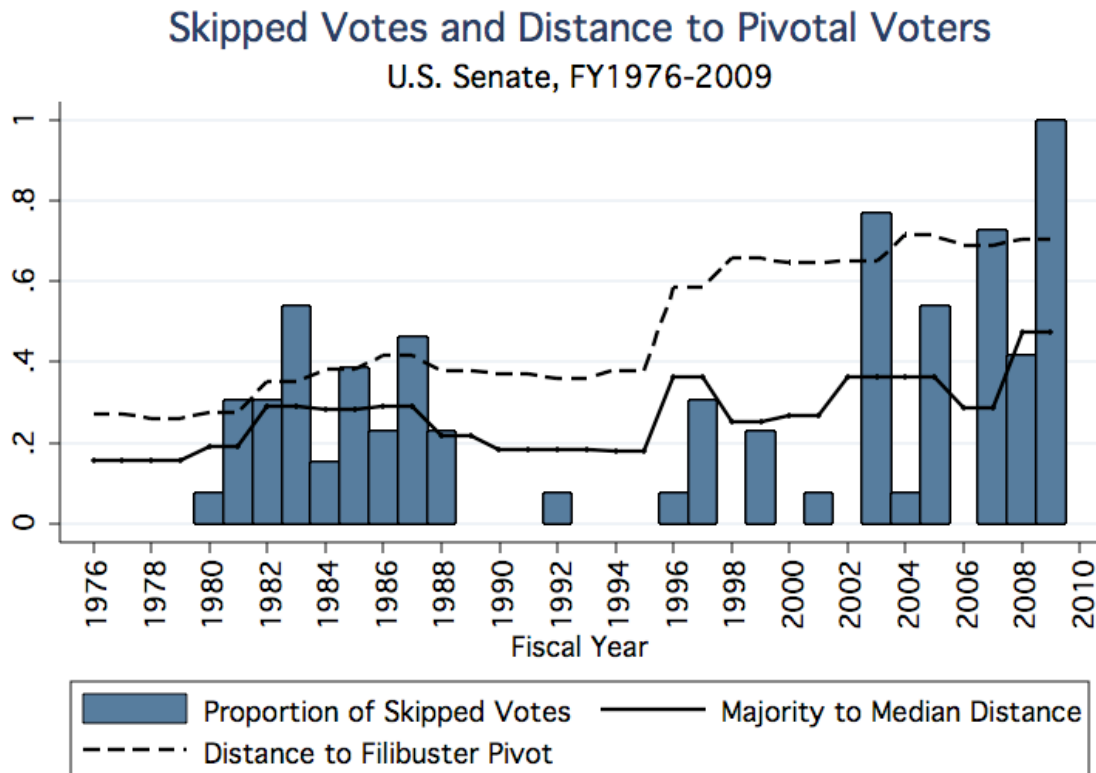


Figure 2.6 illustrates the proportion of votes skipped on the 13 annual appropriations bills by fiscal year and the corresponding majority-to-median and majority-to-filibuster distances. The Senate data show much more variation than the data for the House of Representatives. The frequency of skipping votes much higher, and there is a visual relationship between changes in the majority-to-median distance and the occurrence of vote skipping in the Senate. The Senate began to skip votes with the first uptick in the majority-to-median distance in FY1980 and stopped again in FY1989 when that distance decreased. Vote skipping began again in FY1996 when the distance jumped along with the Republican takeover over the Senate, and it remained high for the rest of the time period. It is also noteworthy that the majority-to-filibuster distance was relatively closely tied to the majority-to-median distance until FY1996, when the majority-to-filibuster distance increased sharply. This suggests that there may be two

different causal stories for the bursts of omnibus legislating: one tied to the majority-to-median distance, and a second tied to the majority-to-filibuster distance.

**Table 2.6. Skipped Votes and Distance to Pivotal Voters
U.S. Senate, FY1976-2009
Logit Analysis**

Variables	Model I	Model II
Budget Delay	0.01*** (0.00)	0.01** (0.00)
Divided Government	0.10 (0.53)	0.30 (0.55)
Majority-to-Median Distance (Senate)	11.30*** (2.89)	
Majority-to-Filibuster Distance		2.06 (2.10)
Constant	-5.26 (1.08)	-3.14 (1.13)
Log Pseudolikelihood	-170.16	-194.20
Pseudo R²	0.23	0.12
N	437	437

Effects are significantly different from zero at *p<.10, **p<.05, ***p<.01

Distance variables based on Poole & Rosenthal DW-Nominate scores.

I use a logit analysis to test the relative influence of each variable on vote skipping in the Senate with two separate models (Table 2.6). Model I includes budget delays, divided government and the Senate majority-to-median distance as independent variables. In Model II, the majority-to-median distance is replaced with the majority-to-filibuster distance. The results confirm a strong relationship between the majority-to-median distance and vote skipping in the Senate at a high level of statistical significance.

Putting the logit coefficients in terms of first differences, going from the minimum to maximum majority-to-median distance in the Senate raises the likelihood of skipping a vote on a spending bill by 60 percent in Model 1. By contrast, delaying passage of the budget resolution by a year raises the likelihood of skipping a vote by 35 percent. Budget delays remain significant in Model II, but the majority-to-filibuster distance has only a weak effect. Going from the minimum to maximum distance between the majority median and the filibuster pivot raises the likelihood of skipping a vote by 14 percent. This finding is in the correct direction, although it is short of traditional levels of statistical significance. Once again, divided government has no effect on vote skipping in any of the models.

It is difficult to weigh the separate effects of the majority-to-median distance and the majority-to-filibuster distance with available data. The two variables are highly correlated at a level of 0.78. Still, the message to be drawn from this analysis is that there is clear relationship between the distance to pivotal voters and the likelihood of skipped votes in the Senate. The majority-to-median distance has a stronger effect on vote skipping than either standard explanation for omnibus spending bills. This finding lends credence to my story that the majority-to-median distance is an indicator of the degree to which the floor is a challenging arena for the majority party, and that majorities go the omnibus route because it allows them to skip votes on difficult bills.

An Alternative Explanation: Party Homogeneity

The theory of Conditional Party Government predicts that parties exercise power when they are ideologically unified. By contrast, I predict that parties can bundle bills together independent of their degree of ideological unity, but only have the incentive to do so when pivotal voters are distant from the majority median. To test whether party homogeneity is related to the use of omnibus spending bills, I conducted three logit regressions (Table 2.7). In the first, I regressed the DW-Nominate standard deviation of the majority party in the House and my standard variables for the majority-to-median distance, budget delays and divided government on skipped votes in the House. In the second, I regressed the standard deviation of the majority party in the Senate and my standard set of variables on skipped votes in the Senate. In the third, I regressed the common space standard deviation of the majority parties in both the House and Senate along with my standard variables on the inclusion of bills in an omnibus package. As Table 2.7 indicates, the heterogeneity of the majority party was not significant in explaining skipped votes or the inclusion in an omnibus package in any of the results, while the majority-to-median distance was significant in both the House and Senate. As in my previous analyses, the variable for budget delays was significant in explaining variation in skipped votes in the Senate and in the inclusion of bills in an omnibus package.

Table 2.7. Effect of Majority Standard Deviation on Skipped Votes and Inclusion in Omnibus

	House Skipped Vote	Senate Skipped Vote	In Omnibus
Budget Delay	0.00* (0.00)	0.01*** (0.00)	0.01*** (0.00)
Divided Government	-0.08 (0.68)	-0.11 (0.55)	0.10 (0.60)
Majority Standard Deviation (House)	17.07 (17.48)		17.75 (14.70)
Majority Standard Deviation (Senate)		12.71 (9.59)	-5.08 (13.55)
Majority-to-Median (House)	21.58** (6.96)		-6.83 (7.04)
Majority-to-Median (Senate)		11.75*** (3.38)	27.63*** (6.96)
Constant	-10.40 (3.88)	-7.60 (2.31)	-8.61 (2.19)
Log pseudolikelihood	-117.1691	-167.30351	-205.05552
Pseudo R²	0.1086	0.2378	0.2670
N	437	437	437

Effects are significantly different from zero at *p<.10, **p<.05, ***p<.01

The Omnibus Advantage

My argument assumes that party leaders write omnibus bills because the bills impose a degree of discipline over the chamber floor and help parties meet their goals. This section substantiates that claim. I first show how vote skipping and omnibus procedures reduce the opportunities to amend legislation on the chamber floor and help parties control the agenda. I then present suggestive (though not conclusive) evidence that the parties choose which votes to skip strategically by showing that the two parties vary substantially in their level of support for each bill and for which bills they choose to skip votes. Finally, I show that votes on omnibus bills generally receive more opposition than individual spending bills, suggesting that omnibus bills carry more controversial policy.

Reducing Amendments

Traditionally, appropriations bills are open to amendments in both chambers. One of the major effects of passing the 13 annual spending bills as part of an omnibus package rather than individually is to reduce the opportunity for members to amend legislation on the chamber floor. The first step of restricting amending opportunities occurs when party leaders skip a vote on a bill. While leaders sometimes bring an

individual bill to the floor for debate and then pull it before a vote, at other times they fail to bring it to the floor on an individual basis at all. The only alternative for members seeking to amend the bill is to attempt to amend the omnibus package itself, if that package is amendable. This is a far more difficult proposition since it requires members to deal with a larger and more complex piece of legislation and since the bills typically arise at the end of session, when the clock is ticking for members to go home and the omnibus is their final opportunity to fund the government.

To assess the effect of vote skipping on the amendment process, I gathered data on the frequency of amending appropriations bills in both chambers for the years FY1997 to 2009 and created dummy variables for each spending bill indicating whether it received amendments. During this time period, the House of Representatives skipped votes on 23 bills and the Senate skipped votes on 51 bills. In both chambers, bills that were voted on were amended over 90 percent of the time, and bills that were not voted on were not amended over 90 percent of the time. With few exceptions, skipping a vote has had the effect of preventing members from offering amendments on an individual spending bill.

The second way in which omnibus packages restrict amending is that the omnibus bills may be closed to amendments. The more open method of writing the bills, used during the initial period of omnibus legislating in the 1980s, is to bring omnibus bills to the floor before finalizing them in conference. Like other legislation, these bills can be amended, although it is still possible for leaders to change the bill in conference. Alternatively, leaders sometimes take an individual bill that is already in conference and add to it bills that have not passed. This practice bypasses any opportunity for amendment for individual bills that have skipped floor consideration. It has been common in the second period of omnibus legislating starting in FY1996.

Since FY1976, Congress has created omnibus packages 21 times, and it has used restrictive procedures such as writing the bill in conference to prevent amendments from being offered to these packages 8 times (38 percent). As noted above, restrictive procedures are used primarily in the second period of omnibus legislating, which coincides with the time period for which I track amending. These restrictive procedures not only ensure that the final package cannot be changed on the floor, but in combination with vote skipping, they prevent some of the individual bills that make up the omnibus from ever being amended at all. Between FY1997 and FY2009, 162 spending bills were considered by Congress. Of those, the freewheeling U.S. Senate, famous for its rules permitting unlimited debate, had no opportunity to amend 18 (11 percent) either on an individual basis or after they were included in an omnibus package. In effect, party leaders developed a way to consider these bills under the Senate equivalent of a closed rule.

Strategic Vote Skipping

If skipping votes on spending bills is just a matter of convenience for party leaders, it would be reasonable to expect it to be distributed evenly across bills. Instead, I argue that vote skipping is strategic. Party leaders do not skip votes at random, they anticipate potential problems on the floor and skip votes when it is in their advantage to do so. This hypothesis is difficult to prove conclusively with available data. It would be ideal to assess the relationship between the opposition each bill faces each year and

whether a chamber skips a vote on it, but by definition there is no way to measure opposition to a bill in a year it receives no vote. Instead, I measure the average level of opposition a bill received each time it received a vote in the Senate between FY1976 and 2009. Since the bills cover separate jurisdictions that have remained largely stable, I can use their average level of opposition to assess whether some bills are on average more controversial than others. Variance in the average levels of opposition to a bill is an indication that leaders face different incentives to skip votes on each bill, possibly because the bills trigger different conflicts within or between the parties.

**Table 2.8. Average Opposition to Appropriations Bills by Senate Control and Party
FY1976 - 2009**

Bill	Senate Democrats		Senate Republicans	
	% Opposition in Majority	% Opposition in Minority	% Opposition in Majority	% Opposition in Minority
Agriculture	0.06	0.05	0.11	0.13
Commerce, Justice and State	0.08	0.07	0.06	0.21
District of Columbia	0.11	0.12	0.26	0.40
Defense	0.06	0.14	0.01	0.07
Energy and Water	0.04	0.06	0.04	0.10
Foreign Operations	0.19	0.08	0.10	0.32
Interior	0.02	0.07	0.08	0.09
Labor, Health and Human Services	0.06	0.16	0.19	0.32
Legislative Branch	0.06	0.04	0.09	0.23
Military Construction	0.01	0.12	0.04	0.02
Treasury-Postal	0.03	0.05	0.08	0.21
Transportation	0.05	0.03	0.07	0.17
Veterans Administration-Housing and Urban Development	0.04	0.18	0.08	0.17
Average	0.06	0.09	0.09	0.19

Table 2.8 presents the average percent of each party that opposed a spending bill when it received a vote in the Senate between FY1976 and FY2009. It shows differences between the parties and across bills. Some bills routinely generate substantial opposition

within both the majority and minority party, while others receive broad bipartisan support. Over the last three decades, Democrats have had stronger support for spending bills than Republicans. Only 6 percent of Democrats on average oppose the bills when they are in the majority, and the level of opposition rises to only 9 percent when they are in the minority. By contrast, 9 percent of Republicans oppose individual spending bills during periods of Republican control, while the level of opposition spikes to 19 percent when Democrats are in control of the Senate. Within those averages, there is substantial variation by bill. The Labor, Health and Human Services bill, which funds spending on social welfare programs, is highly controversial among Republicans. It receives the opposition of 32 percent of the caucus when they are in the minority and 19 percent when they are in the majority. By contrast, only 6 percent of Democrats oppose the bill when they are in the majority, but that level rises to 16 percent when Republicans are in control. The variety of opposition rates for each bill suggests that the strategic environment faced by party leaders on the Senate floor varies by bill and by control over the chamber. If I am right that party leaders skip votes strategically based on their assessment of whether a bill may face trouble on the floor, then there should be substantial variation in the rate at which the Senate skips votes on the 13 spending bills.

**Table 2.9. Vote Skipping and Inclusion in Omnibus by Majority Control
U.S. Senate, FY1976 – 2009
(proportion and N)**

Bill	Dem Control Votes Skipped	Rep Control Votes Skipped	Average Votes Skipped	Average in Omnibus
Agriculture	0.22 (4)	0.19 (3)	0.21 (7)	0.32 (11)
Commerce, Justice and State	0.11 (2)	0.43 (6)	0.25 (8)	0.44 (14)
Defense	0.06 (1)	0.07 (1)	0.18 (6)	0.21 (7)
District of Columbia	0.11 (2)	0.25 (4)	0.07 (2)	0.30 (8)
Energy and Water	0.21 (3)	0.25 (4)	0.23 (7)	0.24 (7)
Foreign Operations	0.25 (4)	0.38 (6)	0.31 (10)	0.47 (15)
Interior	0.17 (3)	0.38 (6)	0.26 (9)	0.35 (12)
Labor, Health and Human Services	0.17 (3)	0.44 (7)	0.29 (10)	0.52 (17)
Legislative Branch	0.22 (4)	0.19 (3)	0.21 (7)	0.24 (8)
Military Construction	0.00 (0)	0.07 (1)	0.03 (1)	0.10 (3)
Transportation	0.13 (2)	0.50 (6)	0.07 (2)	0.21 (6)
Treasury-Postal	0.06 (1)	0.08 (1)	0.29 (8)	0.43 (12)
Veterans Administration- Housing and Urban Development	0.07 (1)	0.07 (1)	0.07 (2)	0.24 (7)

The data support this expectation (Table 2.9). There is substantial variation in the rate by which each party skips votes on individual spending bills when it is in the majority. Republicans skipped a vote on the Labor, Health and Human Services bill a full 44 percent of the time, while Democrats skipped a vote on the Foreign Operations bill 25 percent of the time. By contrast, votes on military spending were rarely skipped. The high rates of vote skipping on certain bills have a corresponding effect on which bills are most frequently included in omnibus packages. Over the last 30 years, the Labor, Health and Human Services bill was included in an omnibus package over 50 percent of the time, while the Military Construction bill was included just 10 percent of the time.

Table 2.10. Opposition Levels and Skipped Votes (Logit Analysis)

	Majority Opposition Only	Minority Opposition Only	Minority and Majority Opposition
Mean Majority Party Opposition	4.68 (2.99)		10.85** (4.54)
Mean Minority Party Opposition		0.45 (1.53)	-3.67 (2.48)
Divided Government	0.21 (0.51)	0.21 (0.52)	0.25 (0.52)
Budget Delay	0.01*** (0.00)	0.01*** (0.00)	0.01*** (0.00)
Constant	-2.57 (0.47)	-2.29 (0.44)	-2.50 (0.46)
Log pseudolikelihood			
Pseudo R²	-188.19	-189.18	-187.18
	0.12	0.11	0.12
N	431	431	431

Effects are significantly different from zero at *p<.10, **p<.05, ***p<.01

I tested the theory that high levels of opposition to a bill are associated with vote skipping with a logit regression in which a dummy variable representing a skipped vote on a bill was a dependent variable, and the average level of majority and minority level opposition to a bill when it received a vote were independent variables. The regression also included my standard control variables of budget delays and divided government. This is a particularly conservative test, given the lack of data on opposition levels on bills in years in which votes are skipped, so it is noteworthy that the findings are consistent with the theory that party leaders skip votes on bills that receive higher historic levels of opposition. When mean majority party opposition and mean minority party opposition are separately included in the regression, their coefficients are in the predicted direction. Both are below standard levels of statistical significance, but majority party opposition is substantially more robust than minority party opposition. When both variables are

included in the regression, it is notable that majority party opposition to a bill is statistically significant, while the coefficient for minority party opposition shifts its sign to negative. This finding may be an indication that party leaders are likely to include bills in an omnibus when they have trouble building support for a bill within their own party. Indeed, in terms of first differences, going from the minimum to maximum level of historic majority party opposition for a bill increases the likelihood that a vote on it will be skipped by 25 percent.

Partisan Voting

The evidence presented above shows that the individual spending bills generally receive majority support from both parties regardless of which controls the Senate. Even the most unpopular bill over the last 30 years, the District of Columbia Appropriations bill, received the support of 60 percent of Republicans on average during their years in the minority. By contrast, votes on omnibus bills have been much more controversial and more partisan.

Table 2.11 shows the percentage of the Senate Democratic and Republican caucuses opposing individual and omnibus spending bills between FY1976 and FY2007. Individual appropriations bills generally receive strong support in both parties regardless of party control. During each party's time in the minority, Democratic opposition averaged under 10 percent in the Senate, and while Republican opposition averaged under 20 percent. By contrast, omnibus bills had a much more partisan cast. Opposition jumped to 38 percent for Democrats and 44 percent for Republicans when each party was in the minority. Omnibus voting also shows more variation than voting on individual bills. During periods of Republican control, for example, Democratic opposition to individual spending bills ranges between 0 and 29 percent, while the party's opposition to omnibus bills ranges between 0 and 75 percent. While individual bills are generally regarded as non-controversial, omnibus bills more often appear to be regarded as partisan bills. They also generate more internal opposition from the majority party – 19 percent for Democrats and 16 percent for Republicans during their respective periods of majority control.

**Table 2.11. Mean Opposition to Individual and Omnibus Spending Bills by Party
U.S. Senate, FY1976-2007**

FY	Democratic Control				Republican Control			
	% Dem No (Ind)	% Rep No (Ind)	% Dem No (Omni)	% Rep No (Omni)	% Dem No (Ind)	% Rep No (Ind)	% Dem No (Omni)	% Rep No (Omni)
1976	0.06	0.17						
1977	0.05	0.14						
1978	0.05	0.19						
1979	0.08	0.20						
1980	0.09	0.22	0.33	0.29				
1981	0.11	0.16	0.20	0.68				
1982					0.16	0.17	0.75	0.04
1983					0.10	0.19	0.59	0.29
1984					0.10	0.18		
1985					0.16	0.18	0.15	0.10
1986					0.07	0.14		
1987					0.23	0.14		
1988	0.06	0.18	0.23	0.46				
1989	0.05	0.16						
1990	0.05	0.20						
1991	0.10	0.20						
1992	0.02	0.12						
1993	0.06	0.23						
1994	0.05	0.26						
1995	0.04	0.25						
1996					0.29	0.04	0.00	0.21
1997					0.10	0.05		
1998					0.01	0.03		
1999					0.02	0.04	0.22	0.38
2000					0.06	0.06	0.27	0.22
2001					0.12	0.06		
2002	0.01	0.12						
2003	0.03	0.11					0.41	0.02
2004					0.00	0.03	0.53	0.08
2005					0.01	0.01	0.51	0.13
2006					0.00	0.02		
2007			0.00	0.31	0.00	0.00		
Avg.	0.06	0.18	0.19	0.44	0.09	0.08	0.38	0.16

While not conclusive, this evidence provides additional support for the idea that omnibus bills are used to overcome a challenging floor environment. The contents of omnibus bills are much more contentious than those of bills considered and passed on an individual basis. This is consistent with the idea that they are used by leaders as vehicles for policy that might face more serious opposition if considered on an individual basis.

Conclusion

In this chapter, I examine the link between the creation of omnibus spending bills and the distance of the majority party's median voter to other pivotal voters on the chamber floor. The evidence presented tells a compelling story. Both chambers appear to respond to increased distances to pivotal voters by skipping votes on individual spending bills and placing them in omnibus packages. This effect is particularly strong in the Senate, likely due to the effect of loose Senate rules governing debate and the substantial variation in the majority's distance to pivotal voters. This variation is rooted in the ideological heterogeneity of Senate Republicans in the 1980s and the narrow majorities of the polarized 1990s and beyond. Senate leaders have faced a more contentious floor than their House counterparts and have had fewer tools at their disposal to control it. Their response has been to skip votes on contentious legislation and place it in omnibus packages instead, raising the stakes and making it more difficult for potential opponents to cause trouble on the bill. Omnibus bills are effective at controlling debate because opponents lose the opportunity to offer amendments, sometimes completely, and because members are unwilling to risk being blamed for a disruption of government services.

These findings suggest that majority parties are highly effective at controlling debate through their influence over the agenda, even in a loosely-governed arena like the Senate. Moreover, majority parties exercise this control regardless of whether their membership is ideologically diverse or homogenous. What the data presented in this chapter cannot address is the type of policy gains majorities achieve by exercising this control. Majorities may succeed in passing spending bills and keeping the government in operation, but do they achieve partisan policy gains beyond preventing a government shutdown? How are such policy gains related to the degree of heterogeneity in the majority party? I address these questions next through a series of case studies on the consideration of appropriations bills in two different eras in Congress.

Chapter 3

Keeping the Trains Running (1977 – 1984)

Omnibus spending bills emerged in the late 1970s during a period of contentious debate over the size of the federal budget and hot button social issues like abortion. These new challenges threw a wrench into the orderly budget process Richard Fenno had observed just a decade before. In this new era, the old method of passing 13 spending bills individually was failing. Weighed down by “riders” and filibuster threats, spending bills could not clear the floor on their own. Congress repeatedly pressed up against deadlines at which funding for the federal government would expire, and when it failed to meet them, federal offices were temporarily shuttered. Party leaders learned to adapt to this era haphazardly and over the loud protests of many members by bundling bills together to ease their passage on the floor. At first, they did so out of necessity and with only a few bills, but as the utility of the omnibus strategy became clear, it became a standard part of their legislative toolkit.

In this chapter, I conduct a case study of Congress’ consideration of appropriations bills between 1977 and 1984 (95th to 98th Congress). This time period covers the administration of President Jimmy Carter, the first term of President Ronald Reagan, and the takeover of the Senate by Republicans in 1980. My aim is twofold. First, I continue to test my distance-to-pivotal-voters hypothesis. The results of my quantitative analysis are consistent with the idea that majority parties are more likely to skip votes on individual bills when distances to pivotal voters are high. In this chapter, I further evaluate that claim with a close examination of the legislative record. Second, I test my hypotheses that omnibus bills are likely to be used to “keep the trains running” when the majority party is heterogeneous, and to pursue policy goals when the majority party is unified, by analyzing the way in which policy disputes in the spending process were resolved in omnibus bills.

The case study supports my expectation that skipping a vote on an individual spending bill and including it in an omnibus often is a response to a dispute on the floor that cannot otherwise be resolved. Between 1977 and 1984, these disputes typically arose when policy riders pushed by conservatives on individual spending bills were filibustered by a coalition of Republicans and Democrats. The evidence suggests putting individual bills into an omnibus package defused these disputes both because of the multidimensional nature of omnibus bills and because of the related risk that a sustaining filibuster might lead to a government shut down. Despite the power of the omnibus strategy, the policy results were mixed. Disputes were at times resolved in favor of the filibuster pivot, and at times in favor of the majority party. I interpret this fact as an indication that party leaders used omnibus bills primarily to pass the budget and avoid perceptions of incompetence rather than systematically to take sides in policy debates.

Methodology

Appropriations bills provide numerous advantages for the study of Congress. First, they must be passed every year, and variation in the way in which they are passed provides insight into the dynamics shaping Congress. Second, the 13 bills that fund the federal government each cover different policy areas – such as agriculture or defense – that are largely the same over time. It is common for the same issues to arise each year

on a particular bill and for similar debates to occur each year. In the 1980s, issues like abortion, busing for integration purposes and school prayer sparked annual debates for periods of time. This kind of regularity makes it possible to observe Congress over time and draw conclusions about its processes.

Still, it is wise to begin a case study of the appropriations process with a word of caution. The most important is that the budget process is complicated and it is affected by a large number of variables. Most of all, it covers an enormous amount of ground. Each appropriations bill and its accompanying report might include hundreds of pages of text. Omnibus bills can be thousands of pages long. In a given year, there can be hundreds of separate disputes, most of which sound arcane even to seasoned observers of Congress. In a study like this, in which I try to understand the fate of 13 annual bills over a period of three decades, it is simply not possible to provide an exhaustive account of the legislative history of each bill.

Instead, my goal is to assess whether the arguments I make are consistent with the major debates over spending bills. My method is to use the descriptive data I have gathered to identify bills that regularly received a skipped vote or were included in omnibus bills. I then analyze the legislative history of those bills drawing from *CQ Weekly*, the *CQ Almanac*, the *Congressional Record*, legislative histories maintained by the Library of Congress, and databases of congressional voting records prepared by Poole and Rosenthal. In accordance with my quantitative analysis finding that the Senate is the primary mover in the creation of omnibus bills, I identify the major disputes on those bills in the Senate and assess whether those disputes appeared to cause the decision to skip a vote or include a bill in an omnibus. Overall, I look to see whether the way in which members talk about the appropriations process and the major reported incidents of the year fit with the hypotheses I present.

**Table 3.1. Bills Included in Omnibus Appropriations Packages
1978 – 1984**

Bill	1978	1979	1980	1981	1982	1983	1984	Total
Agriculture						X	X	2
Commerce, Justice and State			X	X	X			3
District of Columbia							X	1
Defense						X	X	2
Energy and Water					X			1
Foreign Operations		X	X		X	X	X	5
Interior							X	1
Labor, Health and Human Services		X	X	X	X		X	5
Legislative Branch			X					1
Military Construction							X	1
Treasury Postal			X	X	X	X	X	5
Transportation							X	1
Veterans Administration – Housing, Urban Development								0
Total	0	2	5	3	6	3	9	

* From 1975 to 1978, all bills were passed on an individual basis.

Table 3.1 reveals clear patterns in the appropriations bills that were included in omnibus packages. Some bills, such as Commerce, Justice and State or Labor, Health and Human Services, were routinely included in omnibus packages for years at a time. Other bills, such as the Veterans Administration – Housing, Urban Development bill were not included in an omnibus bill at all in this time period. I focus my attention on those bills that were routinely included in omnibus package, specifically the Commerce, Justice and State bill (CJS), the Treasury-Postal bill (TP) and the Labor, Health and Human Services bill (Labor-HHS). Table 3.1 shows that each of them was regularly included in omnibus packages during this time period. The issues that spark controversy on them are clear and easy to trace through the legislative process. The pivotal voters hypothesis claims that controversy is more likely as pivotal voters in the chamber grow more ideologically distant from the majority’s median voter. As these distances increase, votes on bills are more likely to be skipped and bills are more likely to be added to omnibus packages. Given that, the following trends should be observable in the case studies. First, a failure to vote on a bill or the inclusion of a bill in an omnibus package should be directly traceable to a policy dispute that cannot be resolved on the individual bill. Second, since this is a period of relative heterogeneity in the majority party,

omnibus bills should be used primarily as a means to pass the budget rather than to move policy toward the majority median.

The major disadvantage of my approach is that I cannot make broad claims about bills that pass in the regular order, or bills that are included in omnibus packages despite the absence of an obvious dispute. On the other hand, I can sift through a large volume of data to clearly illustrate this particular at mechanism work. I show how disputes on the floor over individual spending bills can lead to the inclusion of those bills in an omnibus package, and then analyze the policy consequences of that action.

The Budget Act: A New Appropriations Era

Omnibus appropriations bills first appeared during a volatile period of change in American politics, with Congress adapting to a new budget process, sharp new debates breaking out over federal spending and the size of government, and a ragtag group of Senate Republicans assuming control of the chamber for the first time since the 1950s. For much of the 1970s, Democrats appeared to be firmly in power in Congress, with large majorities in the House and supermajorities in the Senate. In the House of Representatives, Democrats were reforming the chamber's committees and leadership structures to empower more liberal members of the caucus (Rohde 1991). Frustrated with rising deficits and the Nixon administration's efforts to reduce spending through a controversial policy of impounding funds appropriated by Congress, Congress reformed the budget process as well. In 1974, it inaugurated a new era in appropriations when it adopted the recommendations of a bipartisan commission and passed the Budget Control and Impoundment Act. This act put into place the basic structure still followed today for adopting the federal budget (LeLoup 2005).

One purpose of the act was to improve the standing of Congress vis-à-vis the president, since it lacked any means of analyzing spending similar to the role played by the Office of Management and Budget in the Executive Branch. The law gave Congress a new institutional capacity to challenge the president by creating a Budget Committee and the Congressional Budget Office. It also centralized decisions about spending by requiring the passage of a budget resolution each year and established reconciliation procedures to bring revenues and expenses in line with each other (Keith and Schick 2003). These changes amounted to a sharp break from the piecemeal manner in which Congress had considered the budget in the past, and allowed decisions about spending on individual programs to be made in the context of their effect on the overall budget rather than in isolation.

The Budget Control and Impoundment Act was first implemented in 1975 for the drafting of the budget resolution and appropriations bills for FY1976. The transparency in spending decisions created by the new law brought with it heightened conflict as congressional conservatives sought to challenge federal spending. Despite these noisy debates, overwhelming Democratic majorities helped the new budget process work relatively smoothly in its opening years. It faced more trouble as conservatives gained momentum following the election of Jimmy Carter. Trade-offs between the needs of different categories of spending such as social welfare and defense programs combined with the need to reduce the federal deficit led to sharp clashes over budget priorities.

Pressed by these challenging circumstances, congressional leaders began to adapt a standard legislative device known as a "continuing resolution." The resolutions, known

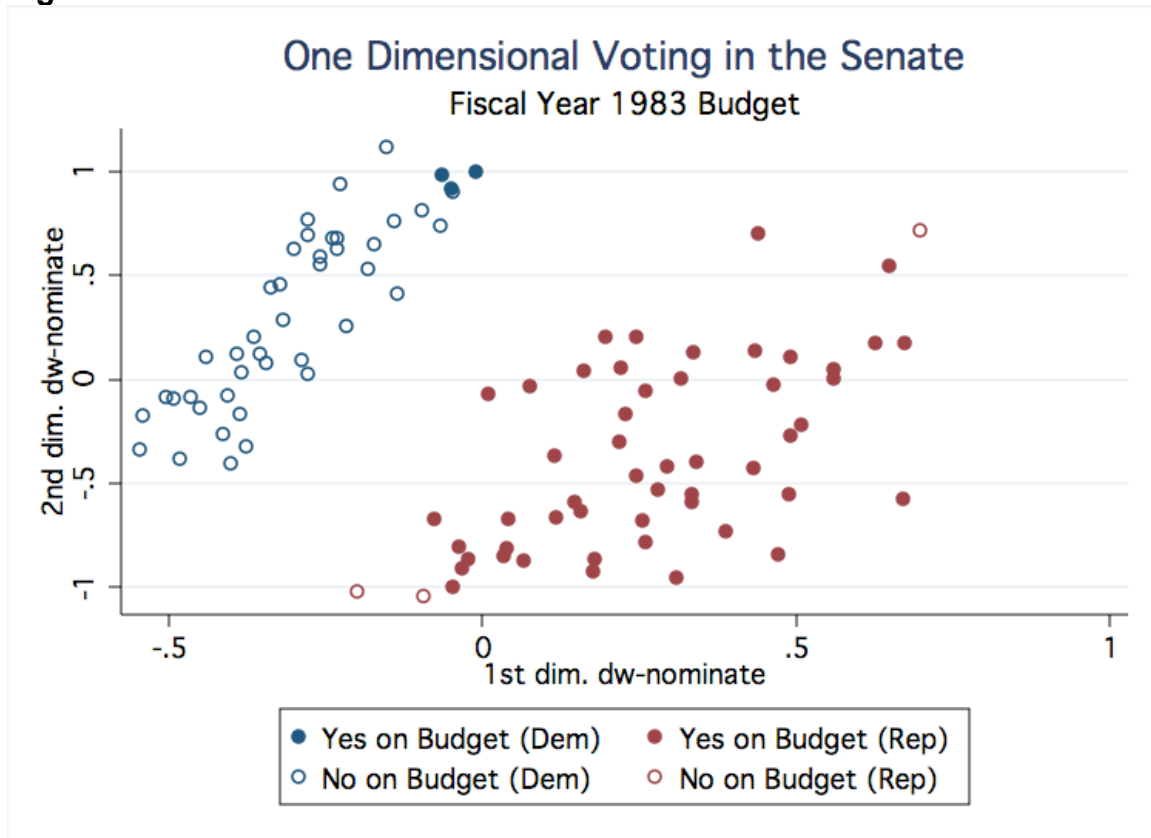
as a “CR” in congressional shorthand, are used by Congress to provide interim funding for the government when the legislative branch fails to pass new spending bills prior to the start of the fiscal year on October 1. Historically, CRs provided a few additional weeks or months of funding in place of a group of bills in order to provide members with the time to pass the bills on an individual basis through the House and Senate. However, as the political environment grew more contentious, two things happened. First, fights on overall spending levels pushed the passage of more bills past the October 1 deadline, requiring more bills to be covered by CRs for longer periods of time. Because government offices would be required to close if the October 1 deadline was missed, budget brinkmanship and the politics of threatened shutdowns of government became commonplace. No one – no member of Congress or the President – wanted to be blamed for shutting down the government. That said, political advantage could be gained by blaming someone else for a shutdown. President Ronald Reagan twice sent federal workers home during his first administration and blamed the crisis on Congress. The fear of being on the receiving end of the blame for a shutdown proved to be useful in forcing Congress to make difficult decisions and in pushing spending bills or equally contentious continuing resolutions through Congress.

As the case studies will demonstrate, the mix of bills that was ultimately covered by continuing resolutions was often determined by policy disputes over social issues. While a CR might initially cover many bills in order to give Congress additional time to complete them, in the early years of this period most would “drop out” of the CR once the regular bill was passed. In the late 1970s and early 1980s, this process of dropping out stopped occurring because some bills could not pass on their own. In part, this was a consequence of a conservative strategy of attaching social riders on issues like abortion to spending bills, calculating that they were more likely to succeed by attaching these issues to “must-pass” spending legislation than by going other legislative routes.⁴

Fights over social issues were particularly challenging in Congress because they raised a new, second dimension of issues separate from the main dimension of debate on spending levels. Issues like abortion and school prayer divided both parties, and frequently sparked filibusters that were difficult to resolve. Common targets for riders during this era included Commerce, Justice and State, which had jurisdiction over the Justice Department and issues like school prayer and school integration; Labor, Health and Human Services, which provided Medicaid funding for abortions, and; Treasury-Postal, which funded federal employee health plans that also covered abortion. As filibusters of bills became more common, the only way funding could be passed was through a CR covering many bills at once.

⁴ See *CQ Weekly Report*, November 1, 1980, page 3251 for an excellent discussion of the rise of legislative “riders” on spending bills. In the article, a congressional staff member describes riders as “vampire politics” because, “You bite, draw blood, and let it fall where it will.”

Figure 3.1

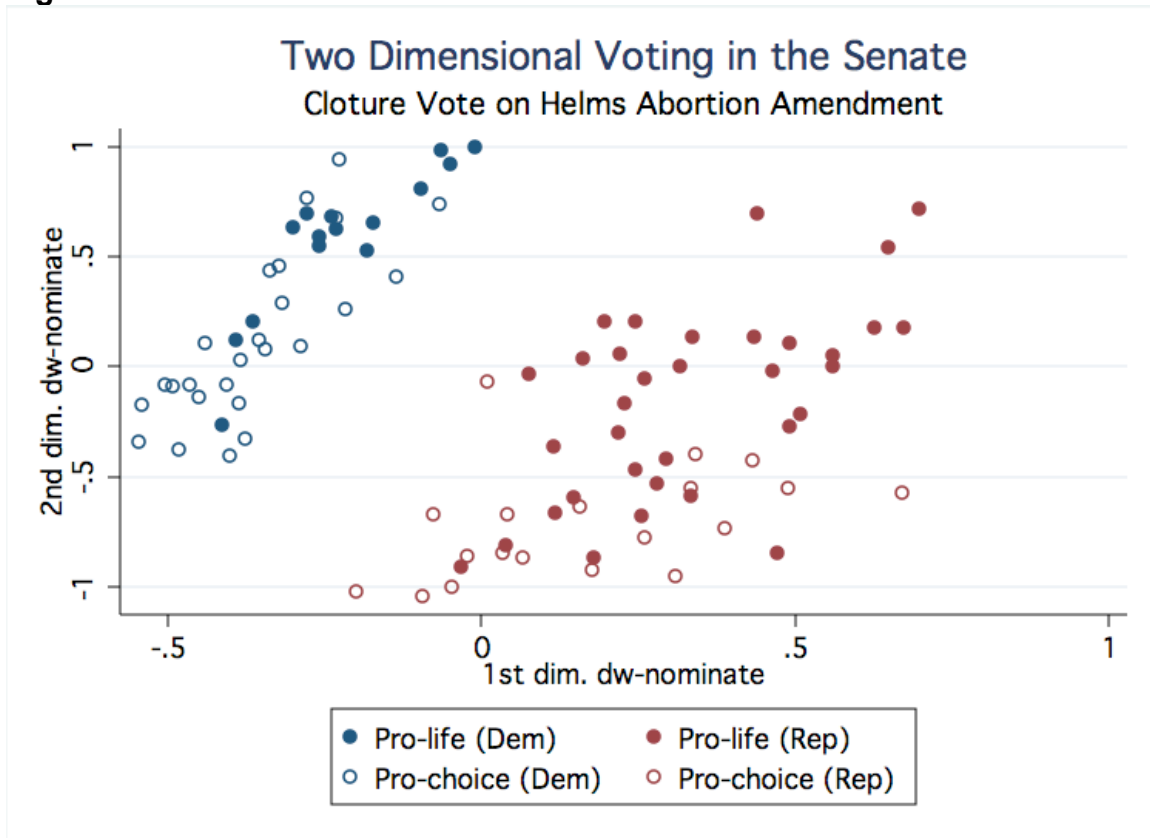


Figures 3.1 and 3.2 demonstrate the challenge that social riders created for the parties using scatter plots of two votes in the U.S. Senate in the 97th Congress (1981 – 1982). The first is the vote to approve President Reagan’s Fiscal Year 1983 federal budget.⁵ The second is a vote to impose cloture during a debate on an amendment by Senator Helms to restrict abortion.⁶ Figure 3.1 (above) shows the Senate’s vote on the budget. The X axis is the 1st dimension DW-Nominate score of members, which is typically thought of as the main left-right dimension of Congress. The Y axis is the 2nd dimension DW-Nominate. Its meaning has shifted over time, but in the modern era, it has captured social issues. In the case of the vote on the budget, the 2nd dimension adds little explanatory power, as the two parties are almost perfectly divided on the X axis.

⁵ Roll Call 194, U.S. Senate, 97th Congress, 2nd Session, June 23, 1982.

⁶ Roll Call 344, U.S. Senate, 97th Congress, 2nd Session, September 15, 1982.

Figure 3.2



By contrast, Figure 3.2 shows the vote on a motion to end debate on an abortion amendment. For ease of interpretation, I have labeled yes and no votes as “Pro Life” and “Pro Choice.” In the case of abortion, the second dimension is salient. For each party respectively, pro-life votes are more heavily concentrated on the positive end of the spectrum, while pro-choice votes are concentrated in the negative end of the spectrum. It is noteworthy that pro-life and pro-choice voters can be found in both parties, and on both sides of the main first dimension. Similar patterns can be found on votes for other issues, such as school prayer (Appendix E).

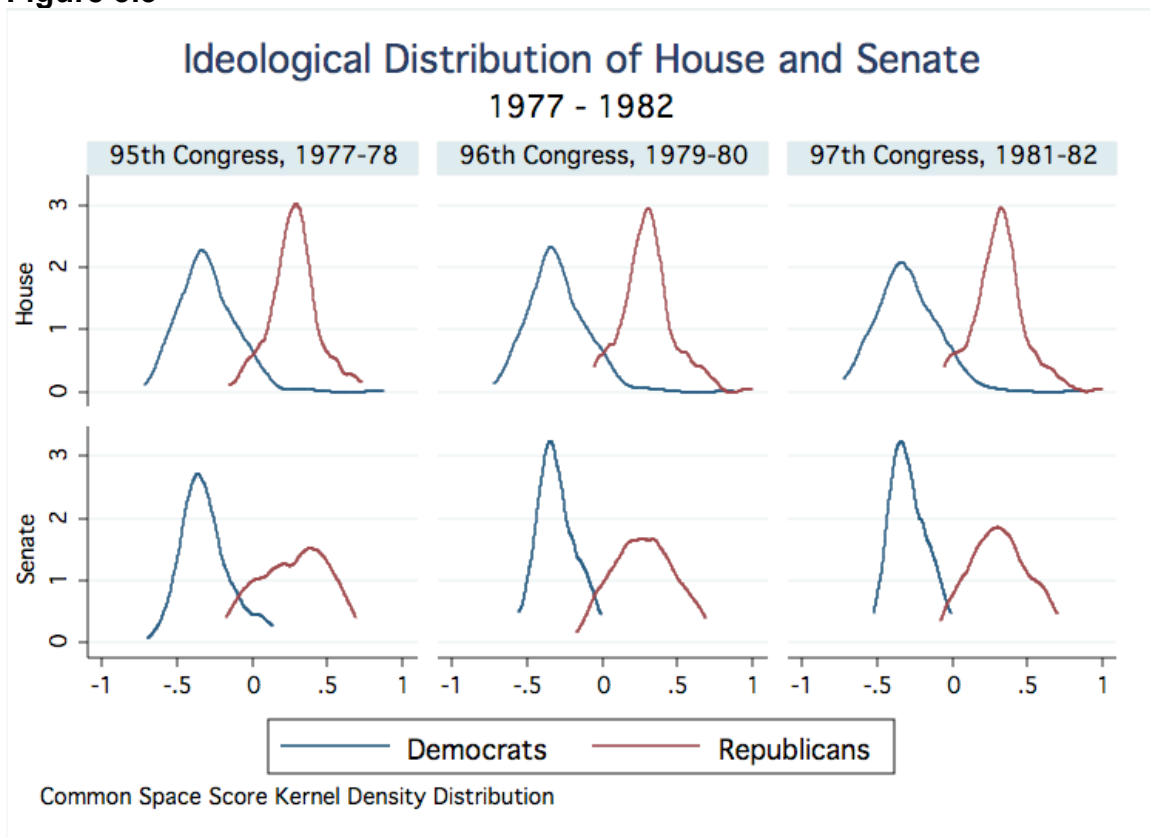
The multidimensional context of CRs made it easier for members to swallow controversial legislation that divided Congress along the second dimension. Moreover, members were reluctant to filibuster legislation needed to fund many government agencies. Omnibus bills truly began when members began to write CRs that covered entire fiscal years instead of a few weeks, and stopped trying to pass bills on an individual basis once the CR had cleared.

Republicans and the Changing Pivotal Voter

Underlying the contentious new budget process of the late 1970s was the fact that Republicans were more internally divided than is commonly appreciated, the consequences of which were significant and disruptive when Republicans took control of the Senate in 1981. Most scholarship focuses on the House of Representatives, where a Democratic majority composed of liberals and conservatives faced off against a tightly unified Republican minority. By contrast, in the less-studied Senate, Democrats were comparatively more homogenous than their Republican counterparts. Figure 3.3

illustrates these differences using kernel density distributions of the common space scores of members of both parties in the House and Senate from the 95th to the 97th Congress. Senate Democrats were less ideologically diverse than their Republican counterparts throughout the time period, even when they were in the majority. The common space score standard deviation of Senate Democrats was 0.19 in the 95th Congress, 0.15 after suffering losses in the 96th Congress and 0.14 while in the minority in the 97th Congress. By contrast, Senate Republicans had a standard deviation of 0.28 in the 95th Congress, 0.23 in the 96th and 0.22 upon assuming control of the chamber in the 97th (see Figure 3.3).

Figure 3.3

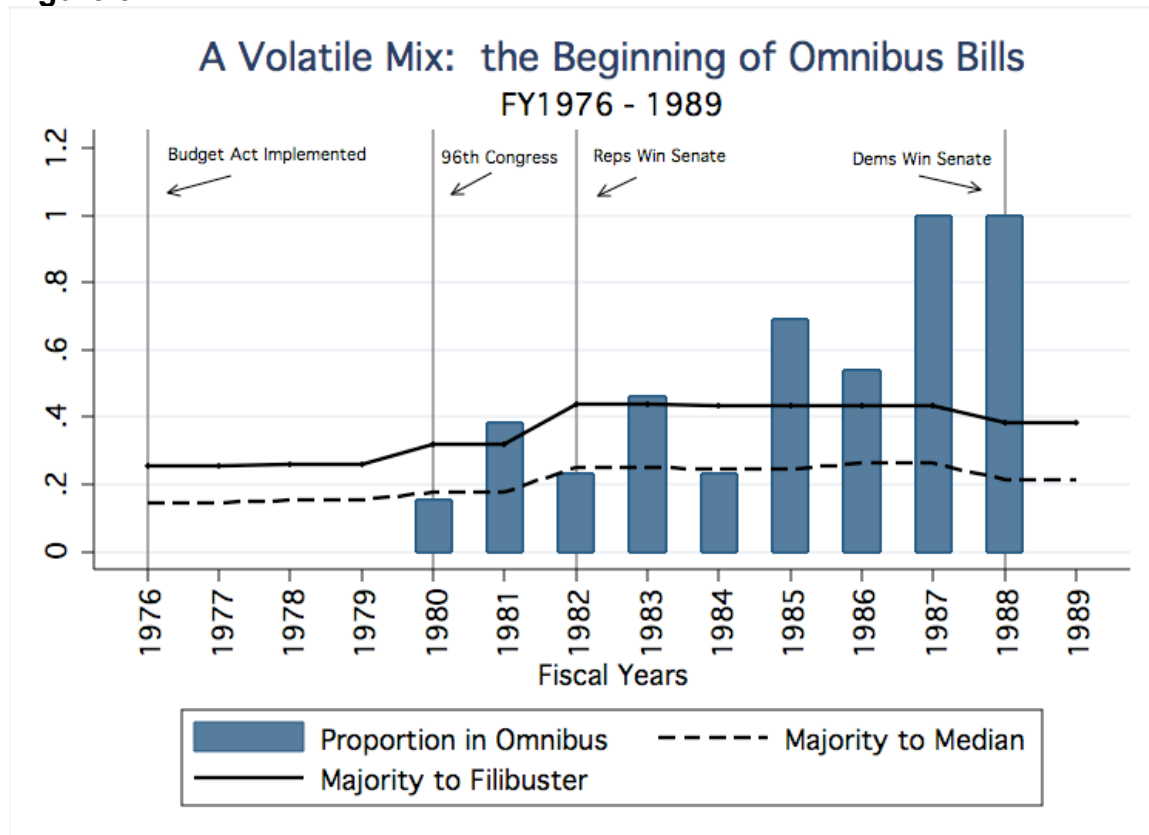


The ideological diversity of Senate Republicans was no statistical artifact, and it created a serious challenge for Republican leaders seeking to prove they could govern when they unexpectedly won control of the chamber in the 1980 election. The new Republican majority in the 97th Congress consisted of liberals like Senators Charles Mathias (R-MD), Lowell Weicker (R-CT) and Bob Packwood (R-OR). Mathias was reported to “gall his conservative colleagues to a degree wholly unwarranted by his actual influence” and was blocked from assuming the chairmanship of the Judiciary Committee by his party. Weicker “elevated righteous indignation to a political art form” and frustrated President Ronald Reagan so much that the president referred to him as a “pompous, no good fathead” in his diaries (Hayward 2009; *Politics in America* 1981). Packwood was known for his strong views favoring abortion rights. On the other side of the ideological divide were senators such as Senator Jeremiah Denton (R-AL), Steven Symms (R-ID) and Jesse Helms (R-NC). Denton, a Navy veteran, former POW and

religious conservative, was firmly anti-abortion. Symms was a “veteran of four years of guerilla warfare in the House, where he and allies on the right used demands for roll-call votes, frequent quorum calls and numerous amendments to tie up the Democratic leadership” (*Politics in America* 1981). Helms was regarded as the “apostle of conservatism” and known for a mastery of Senate rules that had allowed him to become a “force in the insitution” (*Politics in America: Members of Congress in Washington and at Home* 1982).

Omnibus bills appeared during this time of rapid change, as the budget process was being reformed, economic pressures forced difficult choices and conservatives were on the rise. As Figure 3.4 shows, the first omnibus bill appeared in Fiscal Year 1980, following Republican gains in the 1978 elections that ended the Democratic supermajority in the Senate. That year, as the majority’s distance to the filibuster pivot increased, Congress packaged the Foreign Operations bill and the Labor-Health and Human Services bill together into an omnibus package. Omnibus bills continued to be a regular feature of the appropriations process as Republicans took control of the Senate, eventually including all 13 of the spending bills. This era was characterized by high distances to pivotal voters. These distances were a reflection of the wide ideological variance of the Republicans, their small margin of control and a comparatively unified Democratic minority. Notably, once Democrats retook control of the Senate following the 1986 elections, they passed one omnibus bill and then ceased using them altogether. Congress did not pass another omnibus bill until Republicans retook control of Congress following the 1994 elections.

Figure 3.4



A variety of explanations have been put forward to explain the rise in the use of omnibus spending bills, including that they arise out of divided government or that they are a consequence of delays in the passage of the budget resolution. The evidence I will present in this chapter suggests a third causal explanation: the majority turned to omnibus bills because they were an effective way of passing legislation at a time when contentious floor debates in the Senate routinely snarled individual spending bills. The more contentious nature of the floor was a consequence of the heterogeneous nature of Senate Republicans and was reflected in the rising distance from the majority's median voter to other pivotal voters in the Senate chamber. In the 1980s, these distances appear to predict the increased likelihood of second dimension issues creating deadlocks in the Senate that made it difficult to clear individual spending bills from the floor.

Figure 3.5

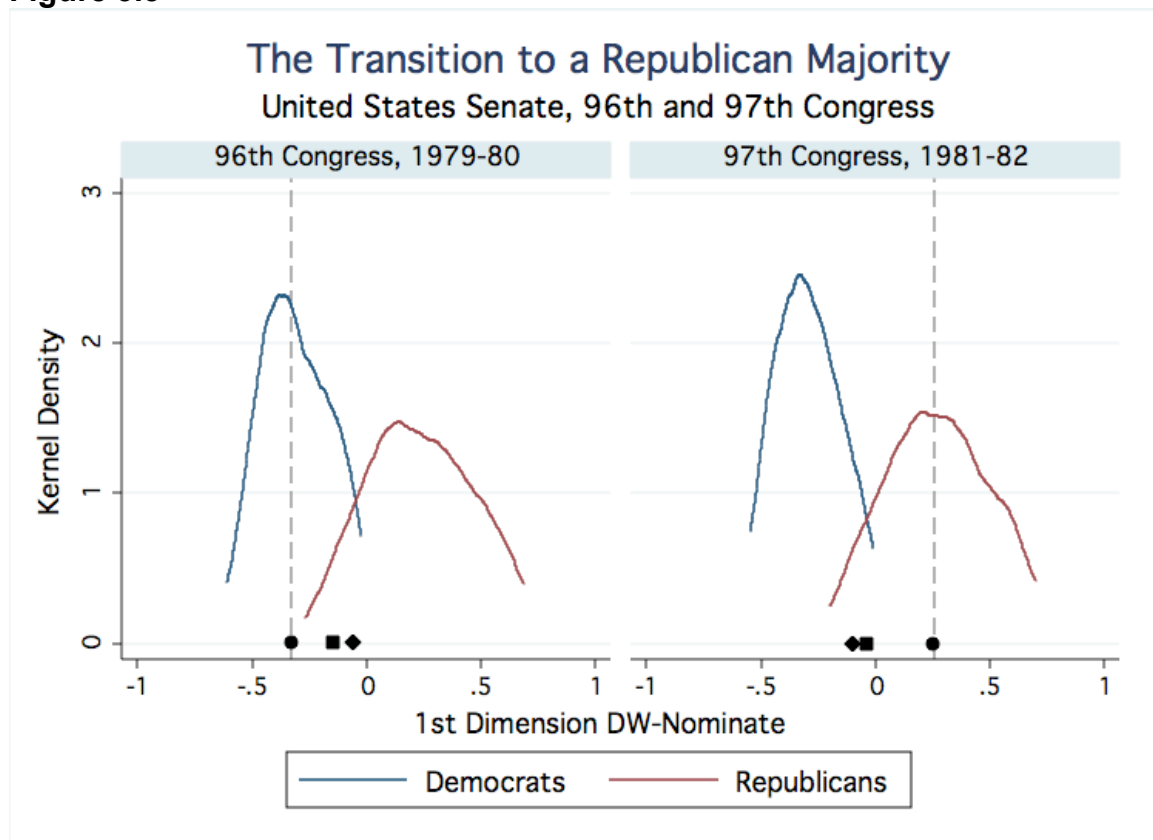


Figure 3.5 shows the location of pivotal voters at the time of the transition to Republican rule in the Senate. The majority's median voter is indicated by a dotted line and circle, while the chamber median and filibuster pivot are indicated by a square and diamond respectively. It is noteworthy that the distance from the majority's median voter to the floor median and filibuster pivot increased substantially when control of the chamber shifted. The close distance between the majority's median voter and other pivotal voters in the Democratic-controlled 96th Congress was a consequence of the size and homogeneity of the Democratic majority, as well as the significant number of liberal Republicans. By contrast, in the Republican-controlled Senate of the 97th Congress, the combination of a narrow but diverse Republican majority and a homogenous Democratic party pushed the location of pivotal voters away from the Republican median. Policy

outcomes constrained by pivotal voters on the floor would likely have been less satisfactory to the Republican majority of the 97th Congress than to the Democratic majority of the 96th. In short, the ragtag nature of the new Republican majority in the 97th Congress in combination with its more unified opposition meant that Howard Baker faced a more difficult task in managing the floor than had his Democratic counterparts.

Case Studies

I now turn to a year-by-year case study of the appropriations process for three Congresses: the 95th, 96th and 97th. I trace out the policy disputes on three bills that were routinely included in omnibus packages: Commerce, Justice and State; Treasury-Postal; and, Labor-HHS. In the early years under study, the story I tell does not always fit well with the theory I present. Disputes between the House and Senate over abortion, and between Congress and the President, were prominent causes of omnibus bills. By contrast, later years in my time period fit my argument well, and show how internal divisions within the Senate delayed the passage of individual spending bills and spurred the creation of omnibus packages.

95th Congress (1977 – 1978)

1977

The 95th Congress elected with President Jimmy Carter in 1976 was overwhelmingly Democratic, with 61 Democratic senators and 292 Democratic members of the House. In the first year after the passage of the Budget Act, large Democratic majorities helped the budget resolution to pass through the House and Senate in a timely fashion and appropriations bills to pass in regular order. Still, the first warning signs of a difficult new era for appropriations bills were emerging. Frustrated by the inability to pursue their agenda through the regular legislative process, conservatives began to attach social riders to spending bills. One of the first areas to get conservative attention was the rising issue of abortion, which started to snarl the passage of the predecessor to the Labor-HHS bill, the Departments of Labor, Health, Education and Welfare bill. Delays in its passage would force the passage of continuing resolutions. These resolutions in turn became wrapped into the debate over abortion and central to the effort of each side to win the policy debate. Conservative victories using spending bills and continuing resolutions to restrict abortion helped to embolden further conservative activism on issues like school prayer and busing.

In 1976, Representative Henry Hyde (R-IL) pushed through an amendment to the bill in the House of Representatives that banned Medicaid funding for abortion unless the life of the mother was at risk. This provision was enacted into law, but because appropriations bills only extend for a single year, it needed to be passed each year in order to be effective. In 1977, as the new 95th Congress settled down to work, activists on both sides of the issue geared up for an extended battle. That summer, Hyde once again won support in the House for his amendment banning Medicaid funded abortions unless the life of the mother was in danger. Hyde's amendment was opposed in the Senate, which was more protective of abortion rights. There, Republican Senators Edward Brooke (R-MA) and Bob Packwood (R-OR) led a successful effort to loosen those restrictions to include medically necessary abortions and exceptions for rape and incest, winning the support of 37 Democrats and 19 Republicans (a majority of

Republicans voting).⁷ When conferees met, the two chambers quickly resolved all other issues in the bill but found themselves locked in disagreement on abortion. For the next 5 months, as other appropriations bills were adopted in regular order, neither chamber would move from its position on Labor-HEW. With the coming of the new fiscal year in October, Congress was forced to pass two successive continuing resolutions to keep the government in operation while negotiations continued. Agreement was reached only in early December after the second continuing resolution expired on November 30 and affected agencies were preparing to reduce the paychecks of 240,000 workers. The exhausted conferees agreed to adopt key elements of the Senate position, passed the Labor-HEW bill, and finally went home for the year (*CQ Weekly Report*, December 10, 1977, 2547).⁸

1978

Despite growing fears of an economic downturn and an anti-government mood fueled by the passage of the anti-tax initiative Proposition 13 in California, the budget process again flowed relatively smoothly in 1978. With a few exceptions, appropriations bills were adopted in regular order before the October 1 start of the new fiscal year. The major exception to that trend was again the Labor-HEW bill, which was again delayed on account of the abortion issue.

The House once again passed the Hyde amendment banning abortions unless the life of the mother was in danger, and the Senate again adopted a less restrictive provision permitting abortions in the case of rape and incest. Rather than face another deadlock, the conferees agreed to resolve all spending issues in conference and send the abortion provisions back to the chambers in disagreement for separate votes. This strategy yielded predictable results. The House and Senate refused to adopt each other's positions in votes on the floor (*CQ Weekly Report*, October 7, 1978, 2754). By early October, Congress was scheduled to adjourn for midterm elections and the House and Senate were deadlocked. Meanwhile, HEW was running out of money and had cut the pay of its employees in order to keep in operation. Members were anxious to finish their business and go home (*CQ Weekly Report*, October 21, 1978, 3067).

Since the 95th Congress was ending, Democratic leaders wrote a new continuing resolution (H.J. Res. 1139) that would provide funding through March 31 for any bills that did not pass before adjournment. In what would prove to be a critical advantage for abortion rights members, the resolution that was drafted simply extended the previous year's bill, and with it, the 1977 abortion compromise that was far less restrictive than what the House as a whole was insisting on for the new bill. Chairman George Mahon (D-TX) eased passage of this resolution through the pro-life House by telling members that they would still have an opportunity to revisit the abortion issue when the chamber took up the regular Labor-HEW bill after it passed the temporary CR:

I also wish to note that on page 2 of the resolution the existing abortion language is continued. I emphasize that it would be continued in the same manner and to the same extent that exists under current law. It would be continued until the matter is resolved in

⁷ Notably, only 17 Republicans opposed the Brooke amendment.

⁸ Also see H.J. Res. 412, a continuing resolution providing temporary funding for government operations. It expired on November 30, 1977.

the regular bill. There seems to be no practical alternative on this measure to continuing what the Congress agreed to last year and what is contained in existing law. Any further abortion controversy must be resolved in the regular bill which hopefully will be in conference later this week (*Congressional Record*, September 26, 1978, 31716).

Chairman Mahon's reasoning made sense. Continuing resolutions were typically short-term measures passed by Congress to keep the government running until the regular appropriations bills were passed. With anti-abortion members expecting to pick up the fight again shortly when Congress considered the Labor-HEW bill, the resolution passed the House easily, 349 to 30.⁹ This proved to be a strategic mistake by pro-life members. With funding for months now in place and the Senate's abortion language extended, abortion rights members in the Senate now had no incentive to make a deal on the regular Labor-HEW bill and refused to negotiate. On the last day of the session, abortion opponents found themselves chided for disrupting the smooth operation of government when the abortion issue had been settled on the continuing resolution. Rep. David Obey (D-WI) urged them to stop their "charade" and accept the Senate's language on the regular bill. "The only question is whether the Departments of Labor and HEW will be funded under the regular process or the irregular process of a continuing resolution, which in fact gives departments an excuse to squirrel out from whatever recommendations and admonitions we lay down in our reports on regular appropriations bills....There is no issue left on abortion. This House already passed the continuing resolution" (*Congressional Record*, October 14, 1978, 38233). Belatedly realizing they had been outmaneuvered, anti-abortion House members finally capitulated to the Senate, choosing to pass a new bill rather than rely on the continuing resolution (*CQ Weekly Report*, October 21, 1978, 3067). This defeat proved to be only temporary, and it taught an important new lesson: CRs were as important a battleground for determining policy as spending bills.

96th Congress (1979 – 1980)

Republicans gained seats in both chambers in the 1978 midterm elections. The 96th Congress was still overwhelmingly Democratic in numbers, but Republicans were wielding increasingly influence as the Carter administration weakened. The Senate took a more conservative turn (*CQ Weekly Report*, November 11, 1978, 3244). Senator Edward Brooke (R-MA), a key opponent of the House position on abortion, was defeated in his race for re-election in part because of his activism on the issue. Conservative senators like Jesse Helms (R-NC), Strom Thurmond (R-SC) and Jeremiah Denton (R-AL) saw an opportunity to put Democrats on the defense and perhaps score some policy victories on issues like abortion and busing. Over the next two years, conservative activism on these issues would imperil passage of three bills within the Senate: Labor-HEW, Treasury-Postal and CJS.

⁹ Roll Call Vote 838, U.S. House of Representatives, 95th Congress, 2nd Session, September 26, 1978.

**Table 3.2. Legislative History of Appropriations Bills, 1979
1st Session, 96th Congress**

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus
Agriculture			
Commerce Justice, and State			
District of Columbia			
Defense			
Energy and Water			
Foreign Operations			X
Interior			
Labor, Health Education and Welfare			X
Legislative Branch	X	X	
Military Construction			
Treasury Postal			
Transportation			
Veterans Administration - HUD			
Total	1	1	2

The new 96th Congress also faced a sharply changed economic environment. Inflation was on the rise, the nation was on the edge of recession and both parties were emphasizing the need for a balanced budget. With members in disagreement over how to cut spending, the passage of appropriations bills in 1979 was delayed. As October 1 approached, the Democratic leadership found it necessary to prepare a continuing resolution to fund the government while Congress attempted to complete most of the appropriations bills. In the meantime, disputes over a pay raise for Congress and the reoccurring battle over abortion language were creating serious problems.

In the summer of 1979, the House again adopted its standard ban on Medicaid-funded abortions unless the life of the mother was threatened in the FY1980 Labor-HEW bill (*CQ Weekly Report*, June 30, 1979, 1287). Bowing to pressure from Right-to-Life groups and without the leadership of Senator Brooke in the Appropriations Committee, the Senate backed away from its typical insistence on “medically necessary” abortions and instead adopted the compromise language Congress had passed in 1977 and 1978. Senator Helms viewed this change as a victory, predicting that the weakening of the Senate’s position would allow House negotiators to take a tougher stand and impose additional restrictions in conference (*CQ Weekly Report*, July 28, 1979, 1531).

As fall approached and Congress began to prepare a continuing resolution (H.J. Res. 412) to keep the government in operation until November 20, the House and Senate once again found themselves deadlocked on the Labor-HEW bill (*CQ Weekly Report*, September 29, 1979, 2118). Given the crucial role the CR had played in negotiations the year before, debate focused on the abortion language that the CR would include. Abortion opponents won a critical victory when the version put forward by the House adopted the restrictive language of the Hyde amendment (*Congressional Record*, October

9, 1979, 27532). The Senate rejected this language and sent back its own. As the back and forth between the chambers continued, Chairman Magnuson warned that the consequences of delay were unacceptable:

We have worked for over 3 weeks to try to resolve these differences. Today we face the impending breakdown of Government over the weekend unless we reach some common ground. Today, the paychecks for almost 2 million Government employees are already in jeopardy. More importantly, the entitlements of millions of young children and adults are in jeopardy: 27 million school lunch recipients; 4 million individuals covered by the blind, aged, and disabled programs; and over 500,000 black lung beneficiaries. These are just 3 of those entitlement programs where our fellow citizens are now in jeopardy. By tomorrow morning, well over 2.7 million Government employees – including 1.6 million uniformed members of the Armed Forces – will face half-pay or even no-pay next week. This is intolerable and your conferees, both the Senate and House, could not allow that to happen. I recommend adoption of the conference report. The alternative is unacceptable disruption of the basic services and operations of Government (*Congressional Record*, October 12, 1979, page 28018).

Chairman Magnuson was frustrated. Personally, he felt that abortion had no place on appropriations bills and should be resolved in appropriate legislative committees. As he put it, senators frustrated by inaction turned to the appropriations process to break the logjam because those bills had to be passed every year. Instead, the issues threatened to hold up funding for the government. Still, he felt that the Senate had no choice but to accept the compromise language to avoid a disruption of government services (28028). Under this threat, members of the Senate agreed to a version of the abortion language more restrictive than Congress had agreed to the year before, with exceptions only for threats to the life of the mother, and cases of rape or incest (28027 – 28033).

With a brief reprieve now granted, Congress moved to pass the remaining appropriations bills in regular order. But, time was limited. As November 20 approached and the threat of a new potential shutdown took shape, six bills remained: Interior, Defense, Transportation, Labor-HEW, Foreign Operations and Military Construction. Another continuing resolution, H.J. Res. 440, was written in response. It contained the same language agreed to in the earlier continuing resolution, but it provided funding for an entire year, unless an appropriations bill was passed in regular order before Congress adjourned. The Republican ranking member of the Appropriations Committee, Senator Milton Young (R-ND), noted that the main sticking point on the resolution was the abortion issue, and that the compromise it contained was the best possible solution for the moment. He urged senators to pass the resolution quickly, warning darkly that the Department of Defense needed funding in three days to pay employees. At this point, abortion rights senators conceded that they had lost the battle for the year, with even stalwart abortion rights activists like Senator Bob Packwood (R-OR) announcing they would support the compromise (*Congressional Record*, November 16, 1979, 32967). The resolution passed 51 – 23.¹⁰ The language of the earlier continuing resolution was extended, and restrictions on abortions were tightened (*CQ Weekly Report*, November 17, 1979, 2624). Of the six bills initially covered by the CR, all were passed individually but Labor-HEW and Foreign Operations. With abortion the

¹⁰ Roll Call Vote 417, U.S. Senate, 96th Congress, 1st Session, November 16, 1979.

only sticking point between the House and Senate, there appeared to be no reason to revisit the bill since funding for the year had already been passed.

1980

**Table 3.3. Legislative History of Appropriations Bills, 1980
2nd Session, 96th Congress**

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus
Agriculture			
Commerce, Justice and State			X
District of Columbia			
Defense			
Energy and Water			
Foreign Operations	X	X	X
Interior			
Labor Health and Human Services		X	X
Legislative Branch		X	X
Military Construction			
Treasury Postal		X	X
Transportation			
Veterans Administration - HUD			
Total	1	4	5

The tensions that were building on appropriations finally burst out in 1980, with President Carter locked in a tight race for re-election against former California Governor Ronald Reagan. The economy was in a full-scale crisis as inflation soared to 18.2 percent, and Democrats were receiving the lion's share of the blame. Under pressure to balance the budget, President Carter revised his budget proposal three times, causing disarray among congressional Democrats. A long delay in the passage of the budget resolution put Congress behind schedule in completing the appropriations bills, and as October 1 approached, none had been passed (*CQ Almanac*, 1979, 107).

Meanwhile, conservative riders lobbed over from the House and supported by conservative senators caused additional problems as Senate leaders tried to navigate bills through the floor. On the Labor-HHS bill, the House added the Hyde amendment with a new provision allowing states to make further restrictions of abortion. Broadening the debate, it also adopted an amendment to the Treasury-Postal bill prohibiting federal health plans from covering abortions. On the CJS bill, it adopted a rider preventing the Department of Justice from initiating lawsuits requiring busing for racial integration (*CQ Weekly Report*, July 26, 1980, 2139). Combined with a terrible economic environment and difficult spending decisions, the consideration of the budget verged on chaos.

Ultimately, Senate leaders did not bring the Labor-HHS bill or the Treasury-Postal bill to the floor. They did make an effort to pass the Commerce, Justice and State bill before the October 1 deadline, but the controversy over busing brought the Senate to a halt. Since Chairman Ernest Hollings (D-SC) was a strong opponent of busing and

could be counted on to support the House position, Senator Lowell Weicker (R-CT), the ranking Republican on the subcommittee, led the opposition. On September 25, 1980, he opened the debate on the Senate floor with an amendment to strip the anti-busing provision from the bill, and met with immediate opposition from conservative Senators Helms and Strom Thurmond (R-SC). Thurmond responded with a motion to table Weicker's amendment. In the sign of the politically charged climate just over a month before election day, 24 Democrats joined 25 Republicans to oppose Justice's involvement in busing and Thurmond's motion won 49 to 42.¹¹ The next day, Weicker offered an amendment stating that nothing in the bill would prevent Justice from enforcing the 5th and 14th amendments – a backdoor attempt to circumvent the busing restriction with the claim that the busing amendment was unconstitutional. Senator Helms moved to table the amendment. Helms' motion failed, but Republican Leader Howard Baker (R-TN) warned that members of his conference would not permit a quick vote on Weicker's amendment (*Congressional Record*, September 26, 1980, 27548). Faced with the prospect of a lengthy debate and the demands of members to adjourn, Majority Leader Robert Byrd (D-WV) announced that completing action on the bill was impossible that day. Unable to bring the bill to a vote, he pulled it from the floor (*Congressional Record*, September 26, 1980, 27550).

With the fiscal year about to expire, most appropriations bills still pending, and members desperate to get home to campaign, the next step was to pass a continuing resolution. The House drafted a measure (H.J. Res. 610) that would keep the government in operation until December 15, when a lame duck session could be held after the election. However, even the must-pass continuing resolution brought no relief from controversy. While it was silent on the issue of busing, it provided funds for the Labor-HHS bill and included the Hyde language on abortion. Since that bill had not reached the floor in the Senate, the CR was an immediate target for amendments on abortion. Senator Weicker offered an amendment to add a rape and incest exception, and remove the language on states. Helms failed in an effort to table the amendment, but before Weicker's amendment reached a final vote, the Senate adopted a substitute that kept the rape and incest exception, but added back in the language on states. When the resolution reached conference, the two chambers deadlocked on the rape and incest exception, and for 16 hours the federal government lacked funding authority. Finally, the two sides compromised on an exception that permitted abortions in the case of rape or incest if the incident was reported within 72 hours (*CQ Weekly Report*, October 4, 1980, 2910). With the CR passed, Congress adjourned for the election.

Stunned Democrats returned to Washington later that fall, having lost both the Presidency and the Senate. Still, the continuing resolution had only extended government funding until December 15, and so Democrats had no choice but to finish their work in a lame duck session before the new Congress was seated in January. The first bill on the docket was the Commerce, Justice and State bill, but as soon as Majority Leader Robert Byrd called it to the floor, the skirmishing between Weicker, Helms and Thurmond began again. Weicker won an initial victory on November 12 when the Senate failed to table his amendment on the 5th and 14th amendments, but it was subsequently modified by

¹¹ Roll Call Vote 443, U.S. Senate, 96th Congress, 2nd Session, September 25, 1980. Democratic total includes Senator Harry Byrd (I-VA) who organized with the Democrats.

Helms to prevent Justice from pursuing busing as a remedy for discrimination.¹² The Senate passed this version of the bill and sent it to conference with the House, where the Senate language was promptly discarded in favor of the original House amendment. With both chambers now facing votes on the final version of the bill, President Carter weighed into the debate. Contending that the busing provision improperly prohibited the Executive Branch from protecting constitutional rights, he threatened to veto the bill unless the provision was removed. Despite this threat, the Senate rejected Weicker's final efforts to modify the bill and passed it with the anti-busing language intact. As promised, President Carter vetoed the bill (*CQ Weekly Report*, December 6, 1980, 3523).

In the wake of the veto, with the December 15 deadline upon it, Congress had still failed to pass four bills: CJS, Labor-HHS, Legislative Branch and Treasury-Postal. Once again, it drafted a continuing resolution to keep the government running until June of 1981 (H.J. Res. 637). On the Labor, Health and Human Services bill, the resolution extended the earlier compromise banning abortion with exceptions for the life of the mother and cases of rape and incest, and the new language permitting states to make further restrictions (*CQ Weekly Report*, December 20, 1980, 3602). The resolution also included the CJS bill and the controversial busing language, prompting President Carter to threaten another veto (*CQ Weekly Report*, December 27, 1980, 3664). Exhausted by the debate and ready to clear the decks for the new Congress, the Senate at last adopted an amendment by Senator Weicker to strip the anti-busing provision from the resolution. The amendment passed by voice vote, with Helms and Thurmond both giving way with the predictions of an easy victory on the issue the following year under a new Republican president and Senate. The House agreed to the Senate's position in conference, and the final version of the resolution was signed by President Carter without the anti-busing provision (*CQ Weekly Report*, December 13, 1980, 3541).

Analysis

The history of the appropriations process in the 95th and 96th Congress confirms my theory in some respects and departs from it in others. My distance to pivotal voters hypothesis predicts that disputes internal to the House or Senate lead to the creation of omnibus bills. By contrast, the debates on abortion that threatened passage of the Labor-HHS bill during the 95th Congress were mostly inter-cameral in nature. That fact is not inconsistent with my hypothesis, since distances to pivotal voters are low in the 95th Congress and fewer disputes internal to the Senate would be predicted. In the 96th Congress, as the distances started to increase, busing and abortion began to cause more disputes within the Senate itself. It is noteworthy that the issues caused divisions in both parties, consistent with the idea that they are second dimension issues more easily resolved in a multi-dimensional context. There also is strong evidence from floor statements that the threat of shutdown that accompanies debates on continuing resolutions was effective in placing pressure on members to adopt bills despite misgivings over particular policy provisions. Chairman Magnuson's speech in 1979 about schoolchildren going without lunch and black lung beneficiaries not receiving their

¹² See Roll Call Votes 464 and 465, U.S. Senate, 96th Congress, 2nd Session, November 12 and 13, 1980.

payments suggests that members understood the stakes on spending bills were high and that delaying them was a risky strategy.

97th Congress (1981 – 1982)

Ronald Reagan took office with the goal of dramatically reshaping the federal budget by cutting taxes and domestic spending to reduce the size of government. Meeting these goals would prove to be highly contentious in Congress. Meanwhile, conservative Republicans viewed the party’s control of the Senate and Presidency as an opportunity to pursue long-awaited goals in social policy on issues like abortion and school prayer. Conservative amendments that had bedeviled Democrats at the end of the 96th Congress posed an even more serious challenge to Majority Leader Howard Baker, who was now responsible for leading his party to pass the budget. As the 96th Congress got to work, an alliance of Republicans and Democrats continued to work together in an effort to block conservative social amendments from being passed. Their obstruction combined with delays in the passage of the federal budget contributed to a growth in the use of omnibus continuing resolutions to fund the government for an entire fiscal year.

1981

**Table 3.4. Legislative History of Appropriations Bills, 1981
1st Session, 97th Congress**

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus
Agriculture			
Commerce, Justice and State		X	X
District of Columbia			
Defense			
Energy and Water			
Foreign Operations			
Interior			
Labor Health and Human Services		X	X
Legislative Branch	X	X	
Military Construction			
Treasury Postal		X	X
Transportation			
Veterans Administration - HUD			
Total	1	4	3

President Reagan’s ambitious budget goals threw a wrench in the already contentious process of passing spending bills. The administration spent the summer of 1981 pushing through a budget reconciliation bill that cut spending by \$130.6 billion over a 3-year period. But, as the projected budget deficit skyrocketed, the Reagan administration felt compelled to push for a second round of cuts later that summer by demanding that congressional appropriators reduce spending by an additional \$13 billion. This caused the new Republican majority in the Senate Appropriations Committee to balk, and with the President and Congress locked in disagreement over basic spending

levels, the movement of the spending bills through Congress ground to a halt (*CQ Almanac*, 1981, 245).

With controversy centering on spending cuts, the ongoing debate over abortion was muted for a year. The House passed a Labor, Health and Human Services bill that banned funding for abortions unless the life of the mother was in danger, and the Senate adopted this language as well, dropping its past insistence on an exception for rape and incest. The bill was not brought to the floor due to disagreements between the House, Senate and Reagan administration over funding levels (*CQ Weekly Report*, November 7, 1981, 2203). Meanwhile, the House again adopted an amendment restricting federal health plans from covering abortion on the Treasury-Postal bill. In this case, the Appropriations Committee in the Republican-controlled Senate voted 14-7 against including it in its version of the bill, with the issue muddled by the fact that Reagan administration had announced it was discontinuing abortion coverage in all federal health plans (*CQ Weekly Report*, October 3, 1981, 1894). The bill cleared the Appropriations Committee only a few days before the beginning of the new fiscal year, but it was not immediately brought to the floor.

Meanwhile, conflict was also brewing on the Commerce, Justice and State bill, with the focus of the dispute shifting from busing to school prayer. Conservatives wanted to restrict the Department of Justice from interfering with programs promoting voluntary prayer in public schools. Early in the summer of 1981, the House of Representatives adopted an amendment to its version of the bill to meet that goal. This amendment met with an unfriendly reception in the Senate, where Senator Lowell Weicker had taken over the chair of the Commerce, Justice and State subcommittee. He prepared an amendment to strike the House language when the bill was considered on the Senate floor. However, like other appropriations bills, it was caught up in the thicket of unfinished business created by the dispute between President Reagan and Congress on overall spending levels.

By the beginning of the new fiscal year on October 1, 1981, the agreement on spending was still unresolved and so leaders put forward a temporary continuing resolution (H.J. Res. 325) to keep the government in operation until November 20. Sidestepping the major disputes on funding with the administration and within Congress on abortion and prayer, it simply extended the previous year's laws and funding levels established by the House and Senate in the committee versions of the bills. Once again, Congress pushed up against a deadline that threatened to shut down the government, and the late passage of the bill – a few hours after the new fiscal year had begun – had the effect of triggering automatic pay increases for judges that Congress had hoped to avoid (*CQ Almanac*, 1981, 292).

The extension did Congress little good. Still in disagreement with the president over spending levels, it remained unable to pass the spending bills. As the November 20 deadline drew nearer, one bill had been enacted and two were ready for the president's signature, but the remaining 10 bills had not yet cleared Congress. Fearing the prospect of a shutdown, Congress prepared a new continuing resolution, H.J. Res. 357. In the meantime, Majority Leader Baker rushed to complete Senate action on as many bills as possible in order to put the Senate's position on spending levels on the record in the hope of improving its position in negotiations on the CR with the House of Representatives.

Under pressure to complete Senate action the CJS bill, Chairman Weicker brought it to the floor and offered a committee amendment to strike the language on school prayer. He was opposed with a tabling motion from his ranking member, Senator Hollings, that passed 70 -12 (*Congressional Record*, November 16, 1981, 27489-90). Chairman Weicker then offered a new amendment to replace the House language with language stating that Justice would not interfere with “constitutional” programs of voluntary prayer. Helms successfully tabled this amendment on a vote of 51-34, drawing the votes of 18 Democrats but losing 12 Republicans.¹³

As the back-and-forth continued, Majority Leader Baker was under pressure to pass the bill. Taking to the floor, Baker urged his colleagues to pass the bill: “[I]t is the intention of the leader to ask the Senate to continue consideration of appropriations bills as they are here and available. The reason for that, I think, is obvious; that is, the continuing resolution as it is likely to pass in either body will reference perhaps the lower of the House- or Senate-passed version or the conference level so there is still an opportunity for the Senate to make its mark” (*Congressional Record*, November 16, 1981, 27520). Despite the urging of the Majority Leader, the debate on CJS dragged into another day. Continuing the debate on prayer, Weicker won his first victory with an amendment adding the language of the First Amendment in an effort to demonstrate that the language on prayer was unconstitutional. Helms countered with a successful amendment reinforcing the original language.¹⁴

After this defeat, Weicker took to the floor in frustration and entered into a debate with Helms and Thurmond. He argued that there was no dispute over money in the bill, and that the committee had faithfully discharged its work. “Our job is done. The Senator from South Carolina and the Senator from Connecticut and the members of the Appropriations Subcommittee have done our job. Now it has all gone for naught, while we sit here hung up on a couple of points which should have stood on their own feet, as a matter of the own debate, as a matter of their own legislation. This all is going onto a continuing resolution. All this time will have been lost and nobody regrets it more than I do.” He said his fellow Republicans could not refrain from legislating on appropriations bills. “I do not understand how it is that he and some of his conferees here on the Senate floor have managed to take the appropriations process and so convolute it that we cannot get any business done.” He noted that the rise of social legislation on appropriations bills had created a situation in which “no appropriations bill can now clear the floor. The net result is that we are now going from continuing resolution to continuing resolution” (*Congressional Record*, November 18, 1981, 27895-7). Chairman Weicker then refused to bring the bill to a vote, and it was pulled from the floor.

With the opportunity to pass CJS lost and other bills still pending, Majority Leader Baker brought up the new continuing resolution. In an extraordinary step, the House for the first time had drafted a resolution that extended unpassed bills for the entire fiscal year – a step that would have negated the need to pass the regular bills at all. The full-year extension sparked an uproar in the Senate, where it was viewed as handing power to the president and a restriction of the Senate’s traditional right to debate and

¹³ Roll Call Vote 377, U.S. Senate, 97th Congress, 1st Session, November 16, 1981.

¹⁴ See Roll Call Votes 380 and 393, U.S. Senate, 97th Congress, 1st Session, November 17 and 18, 1981.

amend legislation. Senator William Proxmire, the ranking Democratic member of the Appropriations Committee, condemned the approach.

What this basically means is that we are attempting to handle funding for the entire Federal Government for the remainder of the fiscal year in a 26-page resolution covering hundreds of departments, bureaus and agencies and thousands of individual programs. And we are working under an almost unendurable time pressure – we have to complete action on the resolution by midnight on Friday or the entire Government comes to a screeching halt...We are wrapping up all the days and week of debate that normally occur when these bills come to the floor, all the dozens of amendments, all the colloquies and criticisms, all the close questioning and careful examination, in 12 to 18 hours of debate at the very most. It means we are helter-skelter pushing these extraordinarily complex pieces of legislation through Congress from committee through conference in about 3 working days (*Congressional Record*, November 18, 1981, 27903).

The resolution and debate over how to meet the budget cuts demanded by President Reagan led to an intense all night debate in the Senate. Ultimately, a resolution with a deadline of March 30, 1982 and a 4 percent spending cut was agreed to on the morning of November 20. Hours later, Reagan vetoed the bill on the grounds that it spent too much money, and federal workers were sent home for the day for the first ever broad government shutdown (*CQ Almanac*, 1981, 298). Congressional leaders scrambled to end the crisis with another continuing resolution that simply extended the terms of the original CR, H.J. Res. 325, another few weeks until December 15 (*CQ Weekly Report*, November 28, 1981, 2324).

Given the Senate's refusal to pass a year-long continuing resolution, it was imperative to pass the appropriations bills individually. However, even if the major disputes over spending with the President were resolved, there were still thorny issues of social policy to decide. Exhausted and frustrated, the Senate returned to the CJS bill on December 9 in an effort to pass it again before the temporary CR expired. However, the prayer issue proved to be impossible to resolve. Faced with Chairman Weicker's refusal to bring the bill to a vote, Senator Helms filed a cloture motion (*Congressional Record*, December 9, 1981, 30126). Two days later, the Senate narrowly failed to end debate and Chairman Weicker and 14 other Republicans joined 20 Democrats to filibuster the bill.¹⁵ With the Senate deadlocked, Baker returned CJS to the calendar.

Majority Leader Baker turned his full attention to negotiating a new continuing resolution with the House and administration. Ultimately, Congress and the President agreed on a continuing resolution (H.J. Res. 370) with a deadline of March 31, 1982 that would provide funds in place of any bill that did not pass in regular order. The new continuing resolution handed Chairman Weicker a victory: it was silent on the issue of school prayer. It also handed proponents of abortion rights a victory by requiring that federal employee health benefits funded by the Treasury-Postal bill be provided according to the terms of the Senate bill, which permitted coverage of abortion. On the other hand, the Labor-HHS bill maintained the tight restrictions on Medicaid-funded abortions that both chambers had already agreed upon (*CQ Weekly Report*, December 12, 1981, 2428).

¹⁵ Roll Call Vote 483, U.S. Senate, 97th Congress, 1st Session, December 11, 1981.

Once the continuing resolution had been passed, the Senate spent its last days before the Christmas break in an attempt to clear as many of the bills covered by the resolution as possible. Ultimately, only the CJS bill, Treasury-Postal and Labor-HHS bills did not clear the chamber.¹⁶ While Senate leaders never attempted to debate Labor-HHS, they did bring the Treasury-Postal bill to the floor. Senator Jeremiah Denton (R-AL) offered an amendment with language identical to the abortion restrictions passed by the House, but Senator Packwood (R-OR) objected repeatedly when Senator Denton tried to lift a quorum call for a vote on his amendment (*Congressional Record*, December 14, 1981, 31101). The Senate moved on to other legislation, and Treasury-Postal was never passed individually. Observers noted “parliamentary confusion, the controversial nature of the [amendment], and the end-of-session pressure to adjourn” led leadership to pull the bill from the floor (*CQ Weekly Report*, January 9, 1982, 38). As a consequence, a CR intended to provide temporary funding for a few months became the primary vehicle for providing funding for those bills. When it expired in March, it was extended again for the remainder of the fiscal year.

1982

Table 3.5. Legislative History of Appropriations Bills, 1982
2nd Session, 97th Congress

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus
Agriculture			
Commerce, Justice and State		X	X
District of Columbia			
Defense		X	X
Energy and Water	X	X	X
Foreign Operations	X	X	X
Interior			
Labor Health and Human Services		X	X
Legislative Branch	X	X	
Military Construction			
Treasury Postal		X	X
Transportation			
Veterans Administration - HUD			
Total	3	7	6

¹⁶ A retrospective on the abortion issue published by *CQ Weekly Report*, September 25, 1982 confuses this issue by reporting that the abortion provision was included in the continuing resolution. This appears to be a mistake. The 1981 *CQ Almanac* citing the article provides makes no mention of the abortion provision being included in the continuing resolution.

When the 97th Congress returned to session in early 1982, it was presented with new proposals from the Reagan administration to cut entitlement spending and discretionary programs in its FY1983 budget. Facing an election year and exhausted by the previous year's budget debate, Congress balked. Rather than accept President Reagan's proposed cuts, congressional leaders negotiated modest cuts in the defense budget and \$98.3 billion in new taxes. By the time a budget resolution finally passed Congress on June 23, the negotiations had consumed five months and Congress was six weeks past its statutory deadline for passing a budget. This meant a late start for the House Appropriations Committee, which traditionally wrote its bills first and then presented them to the Senate. By September, with the new fiscal year about to begin, it had only just begun to pass the spending bills.

As the House was struggling to pass the spending bills, the Senate was being consumed by debates over hot button social issues. A bill to raise the debt ceiling was targeted by conservative senators with riders on abortion and school prayer. Senator Bob Packwood (R-OR) took to the floor to filibuster the bill the old-fashioned way, by reading at length from a history of abortion in the United States. For six long weeks, a coalition of Republicans and Democrats prevented conservative amendments from coming to a vote (*CQ Almanac*, 1982, 403). In one key cloture vote on an amendment offered by Senator Helms to restrict abortion, 19 Republicans joined with 25 Democrats to sustain the filibuster.¹⁷ Finally, the conservatives admitted defeat and a version of the bill without the amendments was passed, but an enormous amount of time had been consumed by the debate.

In the aftermath of the debacle on the debt ceiling bill, Republican leaders of the Senate had to decide how to proceed with the spending bills that were finally starting to trickle out of the House in September. A temporary CR was inevitable given the late date and the need to adjourn to campaign for the upcoming midterm elections, but the question remained of whether the bills could still be passed in regular order later in the fall. The problem was that bringing bills like Treasury-Postal and CJS to the floor even in a lame duck session risked reigniting the debates on school prayer and abortion. With little choice, leaders drafted a continuing resolution to give Congress until December 17, 1982 to adopt the regular spending bills. It passed Congress with little controversy and was signed by the President on October 2.

When Congress reconvened after the elections, it attempted to finish up the spending bills. However, with the 98th Congress due to be seated in January and most of the spending bills not yet passed, members faced a serious challenge in completing their unfinished business. Two sticking points were on the CJS bill and the Treasury-Postal bill. The House had adopted its usual limitations on the involvement of the Department of Justice in school prayer cases on the CJS bill and prohibited federal health insurance policies from covering abortion in the Treasury-Postal bill. Both threatened to trigger intense debates in the Senate, as had just occurred on the debt ceiling bill. Ultimately, neither was brought to the Senate floor and both were instead included in the second continuing resolution that Senate leaders brought to the floor in December.

The new continuing resolution was problematic. Since the 97th Congress was ending and all unfinished legislative action would expire with it, the CR extended

¹⁷ Roll Call Vote 344, U.S. Senate, 97th Congress, 2nd Session, September 15, 1982.

funding for agencies whose bills had not passed for the remainder of the fiscal year. While leaders expected that a few bills would still be passed before adjournment, it was clear that six bills would be included in a year-long CR. Few appeared to be satisfied with this arrangement, but the year-long resolution provoked none of the recriminations of the previous year. Instead, Chairman Mark O. Hatfield (R-OR) of the Appropriations Committee explained why the committee had been unable to pass the 13 appropriations bills in regular order. As he explained, the reasons were budgetary constraints, the tight timeline imposed by delays in the passage of the budget resolution and debates over riders:

Beyond the procedural impediments of the congressional budget process is still another serious and growing obstruction to the timely enactment of appropriations bills – this is the wide acceptance of the use of appropriations bills as a vehicle for legislative “riders.” The inability of the normal authorizing and legislative process to provide an adequate forum in which to address these issues has led to increasing pressure on appropriations measures which must be enacted on a regular basis. The subjects of these legislative riders range from the divisive subject of abortion to the regulation of used car sales, and now include almost every major concern facing the Congress. . . . Not only must the committee grapple with issues and provisions outside its area of expertise, it must frequently endure the prolonged debate and consideration surrounding controversial issues. . . . Such delays are the reason that continuing resolutions are necessary, despite the inefficiencies they engender in the management and operation of Government programs (*Congressional Record*, December 16, 1982, 31313-4).

Despite these controversies, Chairman Hatfield urged his colleagues to pass the bill quickly; once again the government was operating on a temporary continuing resolution that would expire in 26 hours, threatening the government with a shutdown.¹⁸ Aiding the smooth passage of the resolution through the Senate was the fact the resolution had been stripped of the House language on prayer for the CJS bill and abortion in the Treasury-Postal bill. Still, it took four days for the Congress to complete its work and for President Reagan to sign the bill. Despite the fact that the government was technically out of funds, President Reagan indicated he would sign the bill and the Executive branch ordered all employees to remain at work (*CQ Weekly Report*, December 25, 1982, 3092).¹⁹

Analysis

Ronald Reagan’s first two years in office were extraordinarily contentious due to his ambitious goals to cut taxes and domestic spending. Without question, the major cause of delays in the appropriations process and in the subsequent need to create omnibus spending bills was the inability of Congress and the president to reach an agreement on overall spending levels. Within that context, disputes in the Senate over

¹⁸ H.J. Res. 599 expired on December 17, 1982.

¹⁹ A separate amendment on prayer appears in the Department of Education section of the bill (H.J. Res. 631). The provision states: “Prohibits the use of any of the funds appropriated in this Act to prevent the implementation of programs of voluntary prayer and meditation in the public schools.” This provision does not appear in either summary of the versions of the CR adopted on the floor of either chamber. It may have been added in conference.

social policy helped to determine which bills ended up in omnibus packages and which did not. Intense opposition to conservative policy riders on school prayer in the CJS bill and abortion in the Treasury-Postal bill prevented both bills from passing individually in 1981. In 1982, an extended filibuster on the debt ceiling bill on abortion and prayer among other matters likely contributed to leadership’s decision not to bring CJS and Treasury-Postal to the floor individually that year, in favor of placing them in an omnibus package.

The decision to go the omnibus route did not lead to more conservative policy. In both 1981 and 1982, the final continuing resolution did not include the conservative language on school prayer or on banning health coverage of abortions – a particularly significant outcome since a majority of the Senate was on record favoring the conservative position for both policies. Instead, the CR upheld the position of the Senate’s filibuster pivot. The fact that the CR was not used to move policy toward the majority’s position suggests that its main purpose was to secure passage of the budget rather than to weigh in on the specifics of policy disputes over abortion and prayer.

98th Congress (1983 – 1984)

1983

**Table 3.6. Legislative History of Appropriations Bills, 1983
1st Session, 98th Congress**

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus
Agriculture			X
Commerce, Justice and State			
District of Columbia			
Defense			
Energy and Water			
Foreign Operations	X	X	X
Interior			
Labor Health and Human Services			
Legislative Branch			
Military Construction			
Treasury Postal		X	X
Transportation			
Veterans Administration - HUD			
Total	1	2	3

The 1982 midterm elections led to some limited gains for Democrats in Congress. Democrats picked up 26 seats in the House of Representatives, while the party balance was unchanged in the Senate with control remaining in the hands of Republicans. Observers at the time declared the end of the Reagan era as the Senate’s “moderate Republican bloc” took hold of power in Congress (*Politics in America: Members of Congress in Washington and at Home* 1983). Indeed, President Reagan’s first budget

sent to the new Congress was effectively declared dead by both Republicans and Democrats, who scrambled to write their own (*CQ Almanac*, 1983, 423).

On the appropriations front, the year proceeded unusually smoothly. By the start of the new fiscal year on October 1, Congress had completed action on more appropriations bills than any year since 1978. Four bills had been signed into law, and two more were awaiting the president's signature. That left seven bills that still needed to be passed, and so Congress passed a continuing resolution giving itself until November 10 to pass the remaining bills. Ultimately, it passed all but three: Agriculture, Treasury-Postal and Foreign Operations. These bills were funded through a continuing resolution (H.J. Res. 413) that extended their funding through the following year.

Abortion once again proved to be the decisive issue on the Treasury-Postal bill. The House Appropriations Committee again passed the bill with a rider prohibiting federal employee health plans from covering abortion. The bill initially failed on the House floor when a coalition of conservatives objecting to spending and liberals objecting to the abortion rider combined to oppose it. A slightly trimmed second version of the bill, still containing the abortion rider, passed on a voice vote after leaders pled to with members to send the issue to the Senate (*CQ Weekly Report*, October 29, 1983, 2269). By contrast, the Senate version of the bill did not contain the rider, but the bill never was brought to the floor individually (*CQ Weekly Report*, October 22, 1983, 2174).

The fate of the Treasury-Postal bill came to a head that November. Anticipating that at least some bills would not clear Congress, both the House and Senate Appropriations Committees had prepared their own versions of a continuing resolution for the remainder of the fiscal year. Discussion in the Senate centered on the most effective way to bring the CR before the Senate, while in the meantime, passing as many of the remaining regular appropriations bills like Treasury-Postal as quickly as possible. The problem was that the abortion issue was certain to generate controversy.

In order to bring up the Treasury bill, Majority Leader Baker needed to ask unanimous consent for the Senate to adopt a motion to proceed to the bill. This proved to be impossible. Senator Don Nickles (R-OK) warned that a filibuster was certain if the Senate turned to the Treasury bill, burning up valuable working time as the Senate was racing to adjourn for the year (*Congressional Record*, November 9, 1983, 31661). Sure enough, Baker reported that after hours of negotiation, he was unable to reach an agreement on how to proceed to the Treasury bill (31664). That meant the bill would have to be funded through the continuing resolution, shifting the ground of the abortion debate from the individual bill to the yearlong CR. Since the resolution providing funding for government operations expired at midnight the next day, the Senate did not have long to act. Meanwhile, matters on the House side had been complicated by the narrow defeat of a continuing resolution in that chamber. For the time being, the Senate would continue to operate off the version of the resolution that had been written on the Senate side, which contained no provision on abortion.

Majority Leader Baker called up the continuing resolution, and soon Senator Jeremiah Denton offered an amendment to prohibit federal employee health plans from covering abortion (31669). It was opposed by Republican senators Weicker and Packwood, who argued that the controversial amendment threatened the passage of the continuing resolution and the critical funding it provided. "The current continuing resolution expires at midnight tomorrow night," Weicker noted. "If ever there was an

argument for keeping what should be as simple continuing resolution clean, we have one now” (31671). Senator Weicker’s move to table the amendment failed 44-51, leading Senator Packwood to filibuster the amendment by once again reading from his book on the history of abortion in America, picking up from where he had left off during the debate on the debt ceiling with the year 1842 (*Congressional Record*, November 9, 1983, 31675).²⁰ With Packwood determined to keep the floor as long as the amendment was being debated, Senator Baker turned to other business.

While the Senate deadlocked on abortion, the House of Representatives finally passed its own version of the continuing resolution. It contained the language restricting the coverage of abortion in federal employee health plans. The next morning, with the current CR set to expire that night and the Senate hung up on Denton’s abortion amendment, Baker shifted gears and called up the House version of the continuing resolution. The House language shifted the ground in favor of anti-abortion senators. With the abortion language now in the bill, the only option of Packwood and Weicker was to offer an amendment to strike the language, which would almost certainly fail, or to filibuster the entire continuing resolution. This was a far more dangerous prospect than filibustering an amendment, since the delay in passage would appear to be their responsibility rather than Denton’s.

Under an agreement negotiated with both sides, Chairman Hatfield offered an amendment to strike the rider. While Hatfield opposed abortion, he also believed it was inappropriate to micromanage the coverage of employee health plans. He and Majority Leader Baker voted in favor of striking the abortion language along with Senators Weicker and Packwood. Their effort narrowly failed, 43-44.²¹ The only option left for Weicker and Packwood now was to filibuster the entire continuing resolution, with funding for the government set to expire in just hours. Majority Leader Baker and Chairman Hatfield took to the floor to plead with the pair to let the debate on the continuing resolution move forward, noting that funding for the government was about to expire. “It is time to move now to other things. I urge Senators to consider that we have to finish this bill tonight, and do so, if possible, before 12 o’clock” Baker told the chamber. With no good options left before them, Weicker and Packwood abandoned the fight. They had been filibustered abortion on the debt ceiling bill for weeks and won their fight. Weicker had held up the Department of Justice authorization bill on a dispute over busing for months. But faced with the prospect of shutting down the government, they ended their filibuster (*Congressional Record*, November 10, 1983, 31949).

The success of conservatives on the abortion provision when it was debated on the CR stands in contrast to the fate of a busing amendment offered by Senator Jesse Helms on the CJS bill, which was debated on an individual basis. In late October, an amendment on busing was offered by Senator Helms on the Senate floor to restrict the Department of Justice from bringing suit to require busing for racial integration. According to the *Congressional Record* debate on this amendment, Majority Leader Baker indicated he supported the amendment but that it would be filibustered by Senator Weicker if it was not withdrawn. Weicker concurred and noted that busing tied up the Senate for 9 months on the Department of Justice authorization bill. Objecting to a time

²⁰ Roll Call Vote 345, U.S. Senate, 98th Congress, 1st Session, November 9, 1983.

²¹ Roll Call Vote 349, U.S. Senate, 98th Congress, 1st Session, November 10, 1983.

agreement on the amendment, he sarcastically noted: “I would be willing to enter into a 9 month time agreement.” As a result, Baker offered a motion to table the Helms amendment. The motion failed, but Senator Helms agreed to Baker’s request that he withdraw his amendment (*Congressional Record*, October 21, 1983, 28951).

1984

**Table 3.7. Legislative History of Appropriations Bills, 1984
2nd Session, 98th Congress**

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus
Agriculture			X
Commerce, Justice and State			
District of Columbia			X
Defense	X	X	X
Energy and Water			
Foreign Operations	X	X	X
Interior		X	X
Labor Health and Human Services			X
Legislative Branch			
Military Construction		X	X
Treasury Postal			X
Transportation	X	X	X
Veterans Administration - HUD			
Total	3	5	9

By the final year of President Reagan’s first term, debates on budget cuts and hot button social issues had become a familiar routine in Congress. A smooth initial start in writing the budget turned contentious when the House and Senate could not agree on a deficit reduction plan. Despite the lack of a final budget, the House of Representatives began to pass its version of the spending bills anyway and send them to the Senate. There, the budget train began to derail. With the budget still not passed, spending bills were subject to a point of order that would block their passage unless the Senate passed a motion to waive the normal rules for each of the 13 bills. In an effort to protest the disruption of the normal budget process and levels of defense spending, Senator Lawton Chiles (D-FL) filibustered the first waiver for the Agriculture bill, talking for a full week before cloture was imposed. When he started to filibuster the next bill, leadership finally granted his demand for a summit on defense spending. By then, then the new fiscal year had nearly begun and a continuing resolution was needed to keep the government in operation (*CQ Almanac*, 1984, 367). Ultimately, the snarl created by the pressure to get out of town to campaign and the inability to resolve controversial issues in individual bills would lead Congress to lump an unprecedented nine spending bills together into a year-long continuing resolution (*CQ Weekly Report*, October 20, 1984, 2732).

Three stories emerge from the appropriations process in 1984. The first is the frustration that leaders repeatedly report over extraneous riders being added to the must-

pass continuing resolution. The second is the apparent political advantage that President Reagan saw in blaming Democrats for minor government shutdowns. The third is how shifting the ground of debate for a rider from an individual spending bill to a continuing resolution changed the calculations of members, as they weighed the pros and cons of blocking a massive, end-of-year spending bill.

Majority Leader Howard Baker called H.J. Res. 648, the massive new continuing resolution, to the Senate floor on September 27, 1984 – just a few days before government funding would expire with the new fiscal year. Already it was obvious that the resolution itself could not be passed before October 1, and that a second, temporary resolution would have to be passed in the meantime. Chairman Hatfield opened the debate with a plea to members to restrain themselves from offering amendments. He warned that the new tradition of legislating on appropriations bills was doing violence to the spending process and the Senate as an institution.

I do not want to revive the whole history, but I stood in this same position in 1981 and said ... when we put an abortion amendment on the first appropriation bill we were going to ask for trouble down the road, and this is the result. Now we are going to end up here with all the legislative matters that we have not been able to resolve on this CR, and I can tell you it is going to go down – if the CR ever survived in the conference it is going to be vetoed by the President. Then we are going to be back here next week, or going to be here at a time when some should be out, because of these riders when we should have done our business in a reasonable time. So let us be aware of what we are asking for down the road from this point when we begin to hang all of these matters on the CR. The Government and its operations on which our constituents depend, will be shut down (*Congressional Record*, September 27, 1984, 27457).

Hatfield's warning went unheeded. Over the next few days, members proceeded to load up the resolution with new water projects, an omnibus crime bill and dozens of other measures. Sensing a political opportunity in the midst of his presidential campaign, President Reagan indicated he would veto the bill as it was developing. For good measure, he also ordered the shutdown of eight Cabinet agencies and sent 500,000 federal employees home for half a day when Congress failed to pass a short-term CR to keep the government running while it debated the year-long resolution. Appearing at a campaign rally, he laid responsibility for the shutdown at the feet of House Democrats (*The New York Times*, October 5, 1984, 18). With the continuing resolution now fodder in the presidential campaign and under pressure to adjourn, Congress eventually abandoned most of the add-ons that had been tacked onto the bill in favor of its core components of the spending bills. The omnibus crime bill was kept.

Ultimately, nine bills were included in the CR. The debate over abortion on the Labor-HHS bill illustrates how shifting the grounds of debate from an individual bill to a continuing resolution affected the incentives facing members. When the 98th Congress began, Lowell Weicker took over the chairmanship of the Labor-HHS subcommittee. While his first year on the committee was uneventful, by 1984 Weicker was using his power as chairman to influence the debate on abortion. Breaking from the routine passage of the Hyde amendment, which by this time prohibited Medicaid funding of abortion in all cases unless the mother's life was at risk, he offered a committee amendment when the Labor-HHS bill reached the floor to reinstate an exception for abortions in the case of rape and incest. Rather than fight Weicker, anti-abortion senators

opted to accept his amendment, noting that they felt they would be better off working to remove the language either in conference or when Labor-HHS was added to the continuing resolution (*CQ Weekly Report*, September 29, 1984, 2359). Thus, the individual Labor-HHS bill passed the Senate with a rape and incest exception for the first time in three years.

The House and Senate ultimately both agreed on a conference report for the bill, but were unable to resolve the abortion issue and left it in dispute. Instead, Congress included Labor-HHS in the continuing resolution, H.J. Res. 648. It continued the previous year's more restrictive limits on Medicaid funding for abortion, with an exception only for the life of the mother. Once again, Weicker found himself in the position of deciding how strongly he would oppose the provision given that he would be forced to filibuster the entire continuing resolution. When the CR was debated, his first move was to offer an amendment to the provision to add an exception for rape and incest that was successfully tabled by Majority Leader Baker successfully 54-44.²² With the tabling option gone, Weicker's only option was to filibuster the entire CR. He chose instead to stand down. Days after his win on the stand-alone version of the Labor-HHS bill, Weicker was defeated by anti-abortion senators on the continuing resolution. Ultimately, the Labor-HHS bill dropped out of the continuing resolution. With the House abortion restriction now guaranteed by the continuing resolution, Weicker allowed the conference report of the original bill to be adopted by the Senate without objection so that the rest of the work that Congress had done on the bill would not be lost for the year (*CQ Weekly Report*, October 13, 1984, 2619).

Analysis

The years 1983 and 1984 provide strong support for the distance to pivotal voters hypothesis. My expectation is that internal debates in the Senate prevent the chamber from adopting bills on an individual basis, and that leaders instead pass those bills in omnibus packages because members are unwilling to filibuster them in that context. In 1983, Majority Leader Baker was unable to bring the Treasury-Postal bill to the floor individually due to objections over abortion policy, and as a consequence, he brought the bill to the floor as part of an omnibus. While Senator Weicker and his allies were willing to filibuster an abortion amendment offered by Senator Denton to the CR, they were not willing to filibuster the CR itself once that language had been incorporated into it. By contrast, Senator Weicker successfully used a filibuster threat to prevent busing language from being adopted to the CJS bill. Similarly, in 1984, opponents of abortion chose their battleground well when they opted not to challenge Senator Weicker on abortion policy on the Labor-HHS bill when it was passed individually, and instead had their language included in the version of the bill added to an omnibus package. Senator Weicker chose not to filibuster the continuing resolution, likely because of the dire consequences that could follow from delaying the package.

It is noteworthy that in 1983 and 1984, Weicker and his allies were successful in their effort to uphold their policy positions when the debate occurred on an individual spending bill, but lost those fights once the ground was shifted to a continuing resolution. In theoretical terms, policy on continuing resolutions was constrained by the median

²² Roll Call Vote 274, U.S. Senate, 98th Congress, 2nd Session, October 3, 1984.

voter in the Senate rather than the filibuster pivot – a change from earlier years when continuing resolutions included the policy positions sought by those like Senator Weicker. These mixed results again support the notion that party leaders were primarily concerned with using continuing resolutions to pass the budget, rather than to influence the outcome of these particular policy debates.

Conclusion

Over the course of two presidencies, continuing resolutions transformed from a tool used by Congress to temporarily extend government funding when it was late passing the regular appropriations bills into a substitute for those bills entirely. This transformation was fueled by the compressed time frame in which Congress had to write the bills in the wake of growing disputes about the overall spending of the federal government, and by the growing difficulty of Congress in resolving disputes among members over legislative riders. One of the key lessons learned during this period was that actual or threatened filibusters capable of derailing individual spending bills could be defused by shifting the context of the debate to an omnibus continuing resolution. With President Reagan only too willing to send federal workers home and then blame Congress for disrupting the government, failing to pass spending bills was politically risky. Members might be willing to filibuster one spending bill, but faced with the prospect of blocking many bundled together, they backed down.

I make two major claims in this chapter that are consistent with the evidence I present. The first is that high distances to pivotal voters should be reflected in policy disputes on the Senate floor that were difficult to resolve. Consistent with that expectation, debates over spending bills during this era evolved from one that occurred mainly between the House and Senate to heated debates within the Senate itself on issues like school prayer and abortion in the Senate. In the case of the Commerce, Justice and State bill, threatened filibusters over busing and prayer were a factor in that bill being added to a continuing resolution in 1980, 1981 and 1982. On the Treasury-Postal bill, disputes in the Senate over whether federal employee health plans should cover abortion blocked passage of that bill on an individual basis and forced it into a continuing resolution between 1981 and 1983. These issues appear to be particularly challenging because they raised a second dimension of policy that split the usual party coalitions, fueling filibusters that delayed the passage of bills. Omnibus bills solved this problem because they were multidimensional and dangerous to obstruct.

The second claim is that the policy results of putting legislation into omnibus bills were mixed due to the heterogeneous nature of the majority party. Consistent with this claim, the evidence suggests that policy outcomes at times favored the filibuster pivot in the Senate and at other times did not. Table 3.8 summarizes the major disputes on appropriations bills identified in this chapter, focusing on the period from 1981 – 1984 that most clearly illustrate the theory. In 1981 and 1982, disputes over prayer and abortion were resolved in favor of the position of filibuster pivots like Senators Lowell Weicker and Bob Packwood. In 1983 and 1984, they are resolved in favor of the more conservative positions favored by the Senate's median voter.

**Table 3.8. Policy Consequences of Omnibus Strategy for U.S. Senate
Reagan Era, 1981-1984**

Year	Bill	Dispute	Policy on Individual Bill	Policy on CR	Direction
1981	Commerce, Justice and State	School prayer	Allow prayer	No rider	Filibuster
1981	Treasury – Postal	Federal Employee Health Coverage of Abortion	No rider (removed by committee)	No rider	Unclear
1982	Commerce, Justice and State	School prayer	Allow prayer	No rider	Filibuster
1982	Treasury – Postal	Federal Employee Health Coverage of Abortion	Ban coverage	No rider	Filibuster
1983	Treasury – Postal	Federal Employee Health Coverage of Abortion	Ban coverage	Rider included	Median
1984	Labor, Health and Human Services	Medicaid Funding of Abortion	Loose restrictions	Tight restrictions	Median

Overall, the pivotal voter hypothesis fares well when tested against the legislative history of appropriations bills in the late 1970s and early 1980s. Next, I turn to an analysis of the appropriations process during the first administration of President George W. Bush (2001 – 2004). This era shows some striking similarities and differences from the findings of this chapter. As Congress became more polarized in the 1990s, distances to pivotal voters increased. Ideologically unified majorities reached beyond using omnibus bills simply to pass the budget and instead used them to push policy in their preferred direction. Omnibus bills evolved from being used as a tool to keep the trains running to a way to steamroll the minority.

Chapter 4 Steamrolling the Opposition (2001 – 2004)

In the 1980s, disagreement over spending levels and infighting within the Republican Senate caucus helped to transform temporary continuing resolutions into year-long measures to fund the federal government. This first wave of omnibus appropriating continued until 1988, at which point Congress returned to passing appropriations bills on an individual basis. That period of passing bills in the regular order ended with the Republican takeover of Congress in 1995, when omnibus bills again were used routinely by Congress to fund the government. In Chapter 4, I investigate the second wave of omnibus appropriating that began with the Republican Revolution of 1994 and continues to this day. I focus specifically on the first administration of President George W. Bush from 2001 to 2004.

The second wave of omnibus appropriating is broadly consistent with the hypotheses I present in Chapter 1. In Congress, there were large distances between the majority's median voter and other pivotal voters as a consequence of high levels of partisan polarization combined with small margins of control. Consistent with my expectations, the floor, particularly in the Senate, was an extraordinarily challenging arena for the majority party. The seeds of contention that had emerged on bills like Labor, Health and Human Services and Commerce, Justice and State in the 1980s now spilled across almost all of the spending bills in the form of controversial policy riders. In some cases, these sparked intense debates and filibusters that prevented bills from being passed on an individual basis. In others, the majority found its policy goals blocked when amendments supported by the minority and a few majority renegades were adopted.

In response to these challenges, majority party leaders turned to omnibus spending bills. Consistent with my hypothesis that unified parties use omnibus bills to pursue partisan policy goals, they developed new procedures to write the packages during House-Senate conference meetings and overturn policy gains won on the floor by the minority. Party leaders returned these partisan packages to the floors of the House and Senate as non-amendable conference reports for final passage. Their goal was to force the minority to decide whether to block passage of the bills and risk shutting down the government, or to abandon their earlier policy gains by adopting the bill. Typically, the minority backed down and approved the bills, and the majority succeeded both in passing a budget and adopting its preferred policy.

Methodology

My aim in this case study is to illustrate the mechanisms that lead to the creation of omnibus spending bills and the policy consequences associated with them. I rely heavily on the *CQ Almanac*, *CQ Weekly Report* and *Congressional Record* for my data. Due to the vast amount of data available, I do not provide an exhaustive account of the appropriations process. Instead, I use these accounts to assess how members of Congress and other observers characterize the appropriations process. I then discuss the subset of bills that most clearly illustrate my hypotheses.

Unlike Chapter 3, I do not examine the initial transition into the use of omnibus spending bills, but rather why and how they were used “mid-stream” during a period of

largely unified and polarized government when they were common. This approach is ideal for illustrating how omnibus bills can be used to move policy closer to the majority's preferred position. I do not seek to generalize more broadly about the role omnibus bills might play under other configurations of power, such as when control of the government was divided between Democratic President Bill Clinton and a Republican Congress.

**Table 4.1. Evolution of Appropriations Subcommittee Structure
107th – 110th Congress**

107th	108th	109th		110th
		House	Senate	
Agriculture	Agriculture	Agriculture	Agriculture	Agriculture
Commerce, Justice and State	Commerce, Justice and State	Defense	Commerce, Justice, Science	Commerce, Justice, Science
Defense	Defense	Energy and Water	Defense	Defense
District of Columbia	District of Columbia	Foreign Operations	District of Columbia	Energy and Water
Energy and Water	Energy and Water	Homeland Security	Energy and Water	Financial Services
Foreign Operations	Foreign Operations	Interior-Environment	Homeland Security	Homeland Security
Interior	Homeland Security	Labor, Health and Human Services	Interior	Interior-Environment
Labor, Health and Human Services	Interior	Military Quality of Life – Veterans Affairs	Labor, Health and Human Services	Labor, Health and Human Services
Legislative Branch	Labor, Health and Human Services	Science, State, Justice and Commerce	Legislative Branch	Legislative Branch
Military Construction	Legislative Branch	Transportation, Treasury, HUD and DC	Military Construction and Veterans Affairs	Military Construction – Veterans Affairs
Transportation	Military Construction		State and Foreign Operations	State-Foreign Operations
Treasury, Postal	Transportation - Treasury		Transportation, Treasury, the Judiciary and HUD	Transportation - HUD
Veterans Admin - HUD	Veterans Admin - HUD			

One complicating factor of this era is that the structure of the Appropriations Committee and the substantive areas covered by the annual spending bills changed in response to the terrorist attacks of September 11, 2001. In just a few years, Congress substantially altered the decades-old jurisdictions of the 13 subcommittees and tinkered with the number of individual bills (Table 4.1). This study covers the 107th Congress (2001 – 2002) and 108th Congress (2003 – 2004) just as that change was beginning. The 108th Congress created a subcommittee for the new Department of Homeland Security and abolished the Treasury-Postal subcommittee by merging its functions with those of other subcommittees. The 109th Congress continued the restructuring, but the House and Senate did so in different ways. The number of subcommittees dropped to ten in the House of Representatives, while the number of Senate subcommittees dropped to 12. The committee structures of the two chambers were reconciled in the 110th Congress when Democrats took control of the House and Senate. Both chambers established 12 subcommittees. Their jurisdictions were identical, but they had evolved substantially beyond those that existed in the 1980s and 1990s.

While the change in the jurisdiction means that the legislative history of some bills cannot be consistently followed over time, the process of bundling some portion of each year's group of spending bills together for passage during this time period was routine. Table 4.2 shows which appropriations bills were added to omnibus packages between 2001 and 2008. In the table, an "X" indicates that a bill was included in an omnibus package, an open space indicates it passed individually in regular order and gray shading indicates that a subcommittee was not in existence in that year. In only two years, 2001 and 2005, all bills passed in regular order. Both years have exceptional circumstances. In 2001, Congress was responding to the attacks of September 11 and normal partisan conflict was suppressed. In 2005, it was responding to the destruction of New Orleans by Hurricane Katrina. In the remaining years, omnibus bills were adopted and incorporated the majority – and at times all – of the annual appropriations bills.

Table 4.2. Appropriations Bills included in Omnibus Packages, 2001-2008

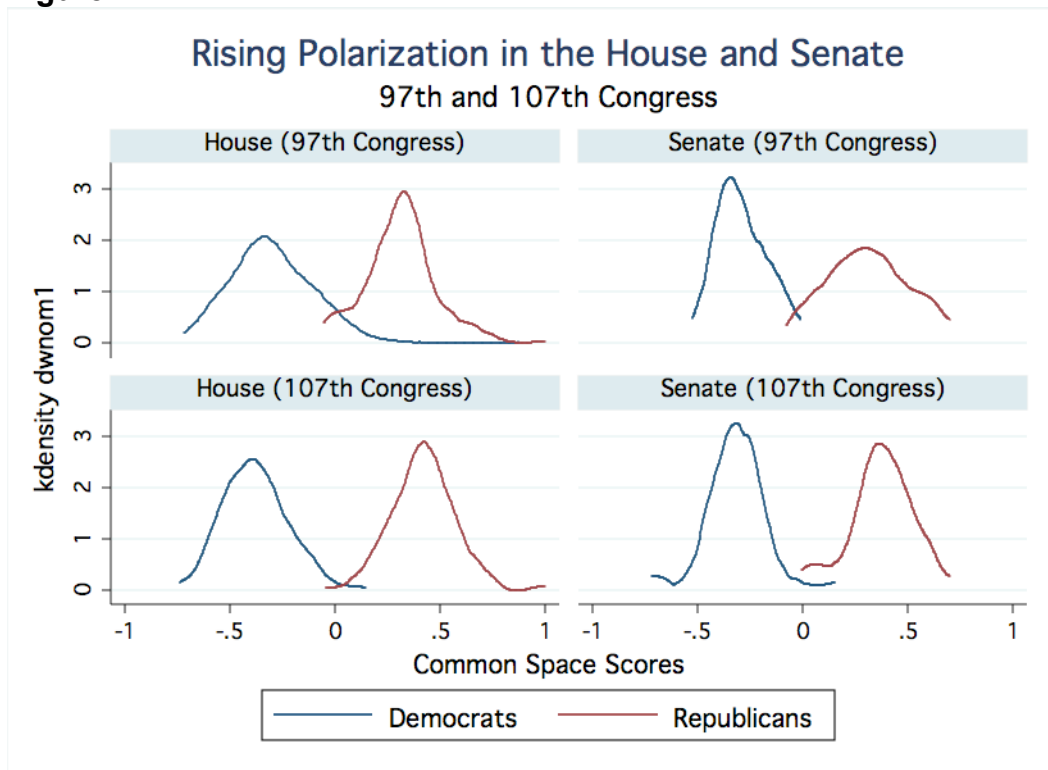
Bill Name	2001	2002	2003	2004	2005	2006	2007	2008
Agriculture		X	X	X		X	X	X
Commerce, Justice, State		X	X	X				
Commerce, Justice, Science							X	X
Defense								X
District of Columbia		X	X					
Energy and Water		X		X		X	X	X
Financial Services							X	X
Foreign Operations		X	X	X		X		
Homeland Security							X	X
Interior		X		X				
Interior – Environment						X	X	X
Labor Health and Human Services		X	X	X		X	X	X
Legislative Branch		X		X		X	X	X
Military Construction								
Military Construction - Veterans Affairs						X	X	X
Science, State, Justice and Commerce						X		
State - Foreign Operations							X	X
Transportation - HUD							X	X
Transportation		X						
Transportation, Treasury, HUD, and DC						X		
Transportation - Treasury			X	X				
Treasury Postal		X						
Veterans Administration – HUD		X	X	X				
Total in Omnibus	0	11	7	9	0	9	11	12

The Modern Polarized Congress

Congress in the 1990s and 2000s was characterized by rising partisanship and razor sharp margins between Republicans and Democrats. Republican control of Congress began in 1995 and was disrupted by the election of 2000, which gave both parties 50 seats in the Senate. Republicans controlled the Senate in the opening months of 2001 thanks to the tie-breaking vote of Vice President Dick Cheney, but the decision of Senator Jim Jeffords (R-VT) to switch parties that summer put Democrats in control of the chamber for the remainder of the 107th Congress. Republicans took back control of the Senate in the 2004 elections, but the party's continued hold on Congress became tenuous as President George W. Bush's popularity waned. Democrats retook control of both chambers in the midterm elections of 2006, and expanded their hold with the election of President Barack Obama in 2008.

The close margins and sharp polarization of the modern era stand in contrast to wider margins and heterogeneous majorities of the earlier era of omnibus bills. Figure 4.1 illustrates the differences in the degree of ideological unity between the two eras using the common space score distribution of Republicans and Democrats in the 97th Congress (1981 - 1982) and the 107th Congress (2001 - 2002). As it shows, the parties in both chambers became more homogenous and distinct from each other during the 20 years that separate the two periods. In the House the movement is primarily among Democrats, while in the Senate it is primarily among Republicans.

Figure 4.1

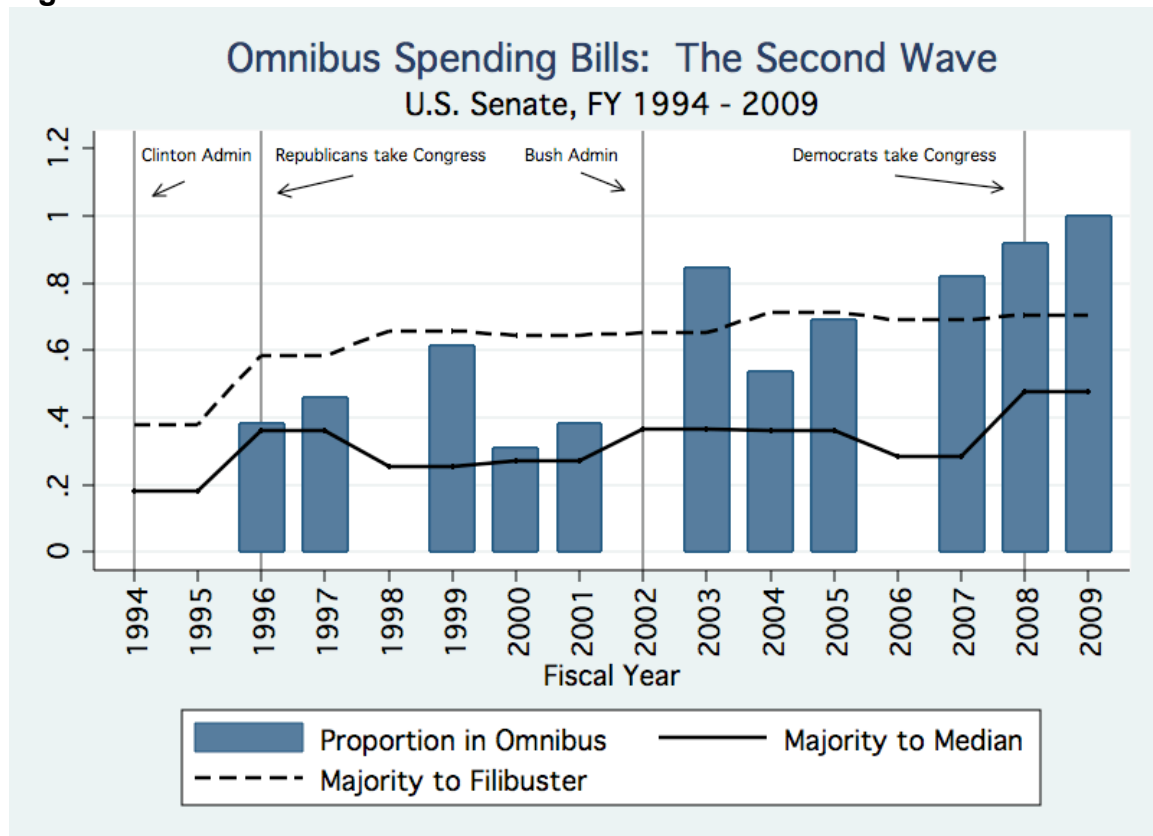


The onset of the second wave of omnibus spending bills corresponds with the Republican takeover of Congress in 1994.²³ These massive omnibus bills carried some or

²³ The first fiscal year of Republican control was FY1996.

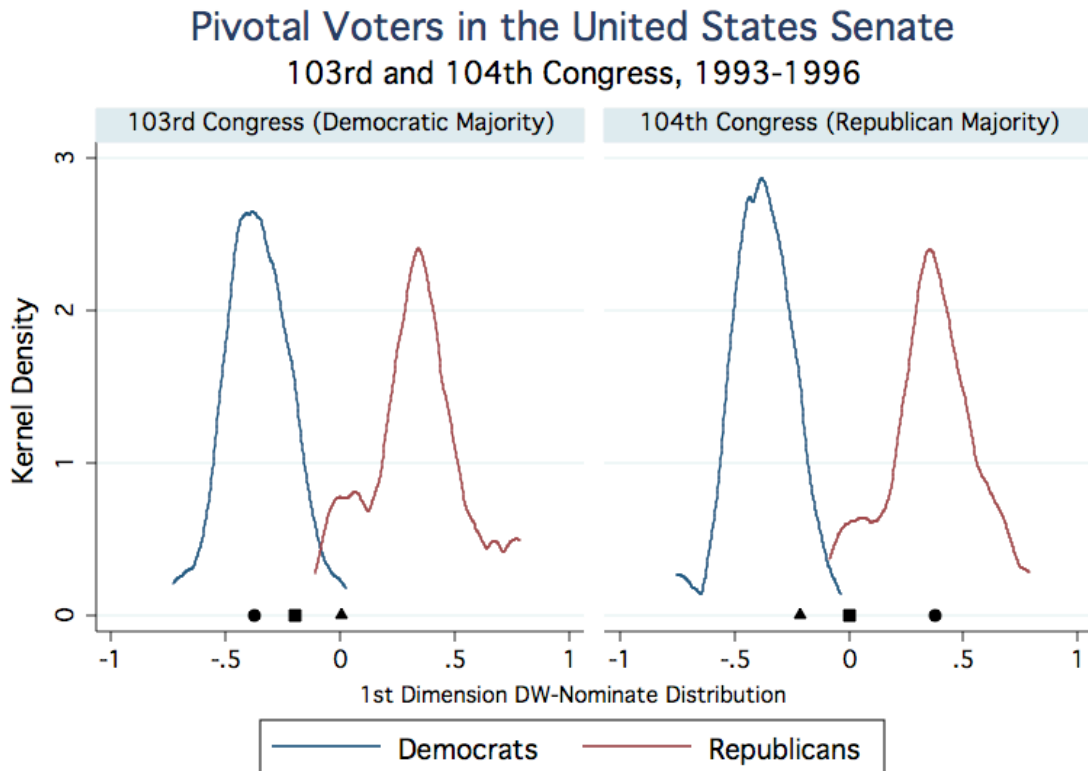
all of the spending bills during all but three years after the 104th Congress took office in 1995. Figure 4.2 illustrates the proportion of spending bills included in omnibus packages between fiscal years 1994 and 2009 (calendar years 1993 to 2008) along with the corresponding distance to the chamber median and filibuster pivot in the U.S. Senate. It shows an increase in the distance to the filibuster pivot beginning with the 104th Congress that endures through the time period, along with a steady increase in the majority-to-median distance. Omnibus bills grew steadily larger in size during this time period as well.

Figure 4.2



The beginning of the second wave of omnibus bills corresponds with a sharp jump in the distance to pivotal voters in the Senate resulting from the transition from the Democratic 103rd Congress (1993 – 1994) to the Republican 104th Congress (1995 – 1996). This jump is a consequence of changes in the margin of control and the homogeneity of the majority party. The Senate of the 103rd Congress initially consisted of a majority of 57 Democrats, while the Senate in the 104th Congress was controlled by narrower majority of 53 of comparatively heterogeneous Republicans. Figure 4.3 illustrates the how the placement of pivotal voters on the ideological scale moved along with these changes. In the chart, the circles represent the majority’s median voter, squares the chamber’s median voter and triangles the filibuster pivot. The sharp jump in the majority’s distance to pivotal voters in the 104th Congress suggests that the new Republican majority faced a more challenging environment on the floor than did their Democratic counterparts in the 103rd Congress.

Figure 4.3



Case Studies

Next, I turn to a year-by-year analysis of the spending process during the first term of President George W. Bush from 2001 and 2004. The debates surrounding the bills each year are consistent with my expectation that the creation of omnibus bills is associated with difficulty passing bills on an individual basis on the floor. First, they show that the legislative process for passing spending bills was being strained and at times broken by rising partisanship Congress. Congress failed twice during this time period to pass a budget resolution, and once gave up entirely on passing the spending bills and deferred them for an incoming Congress to resolve. The case studies reveal strong disagreement between the parties on almost all dimensions of the bills, including overall spending levels and the routine legislative “riders” attached to the bills. Several of these debates on issues such as trade with Cuba, overtime pay standards and other matters occur annually for periods of time. Faced with filibusters and the risk of losing important policy disputes on the floor, majority party leaders adopted a variety of extreme tactics, including skipping floor debates on individual spending bills and using conference procedures to create non-amendable, must-pass packages that shifted policy their preferred direction.

107th Congress (2001 – 2002)

The extraordinary setting of the 107th Congress is without precedent in American history. Disputed election results in the state of Florida prevented a clear outcome in the presidential race between Governor George W. Bush of Texas and Vice President Al Gore, ultimately leading the Supreme Court to resolve the conflict in Governor Bush’s

favor by stopping a recount of votes in the state. In the House of Representatives, Republicans held onto a thin majority, but in the Senate, the parties were tied at 50 seats each. Control of the Senate was initially in the hands of Republicans, but the decision of Senator Jim Jeffords (R-VT) to switch parties in the summer of 2001 put the Democrats led by Senator Tom Daschle (D-SD) in the majority. Rising partisan rancor in Congress ground to sudden halt on September 11, when New York and Washington were attacked by terrorists. Then on October 15, a letter containing anthrax was opened in the office of Senator Daschle, leading to the temporary closure of the Hart Senate Office Building and a serious disruption of the ability of Congress to carry out its duties. By that winter, American troops were deployed in Afghanistan and within a year, an invasion of Iraq was being debated. The nation shifted from peace to war, and grappled with serious questions about how to improve security and prevent future terrorist attacks. These events initially suppressed the usual partisan debates over the budget during 2001 and led to an unusually smooth year for the appropriations, but by 2002 partisan wrangling returned and both chambers resumed their practice of skipping votes on spending bills in favor of packaging them into an omnibus bill (*CQ Almanac*, 2001, 1-3 – 1-12).

2001

As the 107th Congress sat down to business in January of 2001, several major questions dominated the writing of the budget. The nation had a budget surplus for the first time in decades, and a major issue in the 2000 presidential campaign had been the extent to which that surplus would be used to finance tax cuts or preserved to finance Social Security and Medicare. The initial budget, passed when Republicans controlled both chambers, was viewed by Democrats as too low to properly fund the spending bills without either reducing the size of the tax cuts or raiding the Social Security and Medicare trust funds. When Democrats took control of the Senate in June, they vowed to find more money for the bills (*CQ Weekly Online*, July 7, 2001, 1646). Instead, the appropriations process ground to a halt.

A filibuster on the once non-controversial Transportation bill illustrates the challenge facing Democrats as they sought to pass the spending bills on the polarized Senate floor. The major issue that emerged was whether long-haul trucks from Mexico should be allowed to drive to destinations in the United States as agreed to in the North American Free Trade Agreement (NAFTA). The House of Representatives version of the bill banned truck traffic from Mexico altogether. The Senate took a milder approach. Senator Patty Murray (D-WA), the chair of the Transportation subcommittee, attached an amendment to the bill lifting the ban, but adding substantial safety requirements. The amendment was opposed by the Bush administration, which threatened a veto over it, and by Republican senators from border states such as John McCain (R-AZ), Pete Domenici (R-NM), and Phil Gramm (R-TX) who favored increased trade (*CQ Almanac*, 2001, 2-43).

The bill was held up repeatedly by its opponents filing amendments and it ultimately took two weeks for it to clear the Senate floor (*CQ Weekly Online*, July 28, 2001, 1860-1861). The key moment of the debate occurred when Senator McCain and his allies, having lost every vote in their attempt to modify Senator Murray's safety rules, filibustered the entire Transportation bill and successfully blocked a cloture motion with

a vote of 57 to 27.²⁴ The bill ultimately only cleared the Senate by voice vote after Majority Leader Daschle reached an agreement with Senator McCain that no members of the conference committee would be appointed until after the August recess, during which time McCain hoped to be able to gain more support for his position.

By August, none of the spending bills had gone to conference and a “major showdown” was expected between Senate Democrats and Republicans over total spending levels for the bills. Instead, the attacks of September 11 occurred, partisan squabbling fell out of favor, and concerns about spending caps were set aside as emergency bills to respond to the disaster were passed. The artificial calm produced by the attacks appears to have suppressed conflict over proposed legislative riders in virtually every field policy. Controversial riders were quietly dropped or ignored. On the Agriculture and Treasury-Postal bills, debates on opening U.S. trade with Cuba were widely expected but did not emerge. On the Labor-Health and Human Services bill, Democrats pressed an amendment granting emergency workers the right to unionize, but they dropped it after losing a cloture vote (*Congressional Record*, November 6, 2001, S11452-3).²⁵ On the Transportation bill, Congress adopted a weakened version of the Murray language that was acceptable to the Bush administration (*CQ Almanac*, 2001, 2-46). For the first time in years, each of the appropriations bills received an individual vote in the House and Senate and was passed in regular order.

2002

**Table 4.3. Legislative History of Appropriations Bills, 2002
2nd Session, 107th Congress**

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus*
Agriculture	X	X	X
Commerce, Justice and State	X	X	X
District of Columbia	X	X	X
Defense			
Energy and Water	X	X	X
Foreign Operations	X	X	X
Interior		X	X
Labor Health and Human Services	X	X	X
Legislative Branch			X
Military Construction			
Treasury Postal		X	X
Transportation	X	X	X
Veterans Administration - HUD	X	X	X
Total	8	10	11

* Omnibus approved by 108th Congress.

²⁴ Roll Call Vote 259, U.S. Senate, 107th Congress, 1st Session, July 27, 2001.

²⁵ See Senate Amendment 2044, 107th Congress, 1st Session.

By 2002, politics as usual returned to Washington. With Democrats hanging onto a narrow one-vote majority in the Senate and mid-term elections approaching, Republican made an all-out effort to win back the Senate. Problems for the budget process began early in the year when President Bush proposed a \$759 billion limit on domestic discretionary spending. The House endorsed this approach in its budget resolution, but Senate Democrats were unable to agree upon an overall budget number and failed to bring a budget resolution to the floor. Complicating matters was the fact that members of the Appropriations Committee in both the House and Senate viewed the administration's \$759 billion limit as insufficient to fund all 13 appropriations bills. In the House of Representatives, progress on the bills stopped when it became apparent that Speaker Hastert could not muster the support the floor to pass them without adding more money. In the Democratic Senate, the bills received bipartisan support and were passed in committee at levels that exceeded President Bush's budget. But, with House leaders and President Bush both unwilling to compromise with Democrats on spending levels, the House and Senate passed only three bills (Defense, Military Construction and Legislative Branch) before progress on the rest simply stalled in August (*CQ Almanac*, 2002, 1-3 – 1-11).

Ultimately, only one additional spending bill was debated on the Senate floor prior to the midterm elections, and it created an intractable conflict (*CQ Almanac*, 2002, 2-21 – 2-23). The bill was the FY03 Department of Interior Appropriations bill and the cause of the delay was a dispute over forest fire prevention efforts. Over the course of the 1990s, increasingly severe wildfires in the West led to calls for more intensive forest management practices to reduce the risk of fire, including increased logging subject to less stringent environmental reviews. Conservative western senators such as Larry Craig (R-ID) and Conrad Burns (R-MT) championed this strategy in Congress, and proposed an amendment to the Interior bill to give the Forest Service broad new authority to log forests in the name of fire prevention.²⁶ This amendment was strongly opposed by environmental interests, and an embarrassment to Majority Leader Daschle, whose past efforts to reduce forest fire risks in his home state of South Dakota were being regularly cited by Republicans as an inspiration for their amendment.²⁷ Realizing that the amendment might pass if it came to a vote, Democratic leaders instead filed cloture on an underlying amendment providing additional funding for fighting forest fires. For parliamentary reasons, cloture would cause the Craig amendment to fall without a vote.

The result of the conflict was a stalemate that ended any chance of passing the Interior bill on an individual basis (*CQ Weekly Online*, September 28, 2002, 2526). Between September 10, when Senator Craig proposed his amendment, and September 25,

²⁶ See Senate Amendment 4518, 107th Congress, 2nd Session.

²⁷ See Senator Pete Domenici (R-NM) on the introduction of the Craig amendment: “[W]e noticed that the distinguished majority leader had put in language exempting fuels reduction projects on the Black Hills National Forest from NEPA appeals and litigation. So from a distance, we said, thank you, Mr. Majority leader, you really did for us what ought to be done—except that you only did it for your State. No criticism. That is fine. We say if it is good enough for the majority leader in his State, then it ought to be good enough for us” (*Congressional Record*, September 10, 2002, S8410).

when the bill was pulled from the floor, the Senate held three separate cloture votes in an effort to bring debate to the bill to a close. All of them failed to secure the necessary 60 votes to end debate, although in each case Daschle's position narrowly won the support of a majority of those voting.²⁸ Instead, the two parties traded accusations over which party was responsible for delaying the Interior bill. Republicans framed their position as defending the traditional right to open debate in the Senate. Senator Don Nickles (R-OK) took the floor to chastise the Democrats: "For whatever reason, some people are afraid to vote on the Craig amendment.... We are entitled to a vote. You can file cloture all you want, but we are going to have a vote.... We are not going to finish this bill until we get a vote" (*Congressional Record*, September 25, 2002, S9185). For their part, Democrats accused Republicans of filibustering the Interior bill and delaying needed aid. "They can say all they want that they are not filibustering this bill," said Senator Harry Reid (D-NV). "This is the fourth week we are on the bill. If they want to get disaster aid to the farmers, they should allow us to go forward on this legislation.... Those people are waiting for relief as we speak. They should go ahead and allow us to pass the bill. In the meantime, the farmers get nothing" (S9185). When the third cloture vote failed on September 25, Majority Leader Daschle pulled the bill from the floor with the stalemate unresolved. The next day, Congress adopted the first of a series of continuing resolutions extending funding for the government.²⁹ Weeks later, Congress recessed for the mid-term elections in an atmosphere of heated debate about the proposed invasion of Iraq.³⁰

When the election day results were tallied, the Democrats were dealt a devastating blow: they had lost the Senate once again. Demoralized Democrats reconvened the Senate for a lame duck session after the elections and found the Republicans emboldened and President Bush even less willing to compromise than he had been before. In an unprecedented move, Congress simply gave up on passing the spending bills and deferred them until the next Congress. The House and Senate passed a continuing resolution to extend funding for government agencies through January in order to wait to finish the bills until a Republican majority was in place.

When the new 108th Congress was seated, completing the unfinished work of the 107th Congress was its first order of business. Republican leaders announced they would package the 11 remaining bills together for quick passage. Senator Ted Stevens (R-AK), the new chairman of the Appropriations Committee, noted that he would have preferred to deal with each of the bills individually, but that the need to wrap up last year's business to make way for the upcoming year was too pressing to go any route but that of

²⁸ See Roll Call Vote 217, September 17, 2002; Roll Call Vote 221, September 23, 2002; Roll Call Vote 224, September 25, 2002. All votes from the U.S. Senate, 107th Congress, 2nd Session. It is noteworthy that in this series of three votes, the most support Senator Craig received was 49 votes in Roll Call 217. This suggests that the Senate floor median opposed the Craig amendment.

²⁹ See H.J. Res. 111.

³⁰ Indeed, moments after losing the cloture vote, Majority Leader Daschle took to the floor to criticize President Bush for a quote in that morning's newspaper in which he stated Democrats were "not interested in the security of the American people." Debate over the war dominated the remainder of the session (*Congressional Record*, September 25, 2002, S9187).

an omnibus package. “We cannot get there if we pass these bills separately,” he noted. “As I said before, we will face the prospect of disagreement with the House and endless conferences on 11 bills, and possibilities of vetoes and motions to override, and all the time it will take” (*Congressional Record*, January 15, 2003, S349). The bill was brought to the floor by the Republican leadership in January of 2003 without a chance for the Democrats, now in the minority, to see a copy of it in advance (*Congressional Record*, January 15, 2003, S340). The omnibus was open to amendment in accordance with the standing rules of the Senate, but the time available to debate the massive bill was brief. After spending four weeks debating the \$19 billion Interior bill, the Senate spent a total of six days debating the 1,052-page, \$385 billion omnibus spending bill (*CQ Almanac*, 2003, 2-5). The Senate voted on over 100 amendments before approving the bill 69-29, with all opposition coming from Democrats.³¹

With Republicans now in firm control of both chambers, their next step was to take advantage of the strict rules favoring the majority in conference to push policy toward their party’s preferred position. The final conference report they returned to the House and Senate that February was not amendable under the rules of the chambers, and it was roundly condemned by Democrats. Senator Robert Byrd (D-WV), now the ranking minority member of the Appropriations Committee, complained that the process for writing the bills had been bipartisan until it reached conference, but at that point Republicans had pushed the bill in a more conservative direction:

Today’s headline in The Washington Post reads, “GOP Wraps Up Spending Package.” There is some truth to that statement. Behind closed doors, the Senate Majority Leader, the Speaker of the House of Representatives, and the Chairmen of the House and Senate Appropriations Committees met and settled on a number of the big issues. Vice President Cheney provided the administration’s views. At these partisan meetings, decisions were made on such issues as the overall top line total of the omnibus appropriations legislation, the size of the across-the-board cut, the matter of environmental riders and the substance of the \$3.1 billion drought package, along with the offsets from the previously enacted farm bill that were included at the insistence of the White House. These farm bill offsets because necessary when the White House refused to raise the top line by \$3.1 billion to accommodate the mandatory spending in the drought package (*Congressional Record*, February 13, 2003, S2431).

A major sore spot for Democrats was Senator Craig’s controversial amendment on forest fires. The omnibus bill considered on the Senate floor had lacked the provision, and it had never been raised as part of the floor debate. Instead, the Interior portion of the omnibus was modified in conference to meet Craig’s goals by substantially expanding logging through an existing Forest Service program.³²

When debate on the final version of the bill opened on February 13, the amendment’s opponents could do little but vent their frustration. Taking to the floor, Senator Barbara Boxer (D-CA) began by apologizing for the crudeness of the charts she had brought with her, noting that she had only had a few hours notice about the

³¹ Roll Call Vote 28, U.S. Senate, 108th Congress, 1st Session, January 23, 2003.

³² See “Making Further Continuing Appropriations For The Fiscal Year 2003, And For Other Purposes.” House Report 108-10. 108th Congress, 1st Session. February 13, 2003, page 1031.

provision's existence before the conference report was due to be debated. After describing her views on the environmental deficiencies of the legislation, Senator Boxer explained that she was powerless to do anything about it. "There is nothing I can do here except take a few minutes to call this to the attention of my colleagues and the American people because...we cannot amend this report. It is up or down. That is what makes it so egregious to me" (*Congressional Record*, February 13, 2003, S2427). Despite these reservations, the Senate approved the package on a vote of 76 to 20 – more support than the initial package had received when it passed the Senate in January.³³ In the wake of a midterm defeat and with the only option for stopping the bill a filibuster that risked delaying government funding, Democrats gave up the fight and voted to approve the bill.

The 2002 appropriations process is instructive in a variety of ways. First, it shows how far Congress had traveled from the placid appropriations era of Richard Fenno. The process broke down completely in 2002, initially when members were unable to agree on a budget and second when the 107th Congress simply gave up on passing the spending bills. Of the 11 bills the 108th Congress packaged together, only the Department of Interior bill was debated on the Senate floor individually and with an opportunity for amendments. That debate snarled the Senate in a four-week controversy, and led to the bill being pulled from the floor without a vote. The remaining 10 bills were only brought to the Senate floor in the form of an omnibus package, the final version of which was not amendable and which had been pushed in a more conservative direction than likely could have been achieved had amendments been allowed. In this case, the evidence on the Craig forestry amendment suggests that policy moved from the preference of the Senate's median voter toward the median Republican position. In the series of cloture votes on the Craig amendment, his position never won the support of a majority of the Senate.

³³ Roll Call Vote 34, U.S. Senate, 108th Congress, 1st Session, February 13, 2003.

108th Congress (2003 – 2004)
2003

**Table 4.4. Legislative History of Appropriations Bills, 2003
 1st Session, 108th Congress**

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus
Agriculture			X
Commerce, Justice and State		X	X
District of Columbia			X
Defense			
Energy and Water			
Foreign Operations			X
Interior			
Labor Health and Human Services			X
Legislative Branch			
Military Construction			
Veterans Administration - HUD			X
Homeland Security			
Transportation-Treasury			X
Total	0	1	7

Once it had disposed of the remaining business of the 107th Congress, the new Republican majority of the 108th Congress had the opportunity to write a new budget start-to-finish under unified Republican control of government for the first time since President George W. Bush took office. It also had its first opportunity to reorganize the Appropriations subcommittee structure in response to the attacks of September 11 and the establishment of a new Department of Homeland Security. In the first step of what would prove in coming years to be a substantial shift in its organization, the Appropriations Committee combined the Transportation and Treasury-Postal subcommittees into the Transportation – Treasury subcommittee and created a new subcommittee on Homeland Security (*CQ Weekly Online*, February 1, 2003, 236-237).

The 108th Congress also marked the debut of some of the most draconian – and effective – tactics used to date in appropriations by a majority party. Faced with a Democratic minority that was scoring policy victories on the floor by proposing amendments designed to unify Democrats and pick off liberal Republicans, Republican leaders began to skip floor debate on individual spending bills in favor of writing omnibus packages in conference. Their strategy was designed to suppress amending and move policy toward their party’s median position. Democratic attempts to oppose these packages with the filibuster ultimately failed because members were unwilling to be blamed for disruptions in funding for the government.

As in 2002, President Bush proposed a budget that Appropriations Committee members of both parties in the House and Senate viewed as too tight to provide enough funding for the appropriations bills to pass on the floor. Over the course of the summer

of 2003, the creative use of supplemental spending bills relieved some of this pressure, and by September, the House of Representatives had passed all of its spending bills in regular order. In the Senate, by contrast, Majority Leader Bill Frist opted to skip floor time for the bills in the summer months, historically a key time for debate, in favor of bringing them to the floor in the fall (*CQ Almanac*, 2003, 2-3).

One focus of debate centered on the Labor, Health and Human Services bill and a proposal from the Bush administration to limit overtime pay compensation for workers (*CQ Almanac*, 2003, 2-64). In the House, debate on the bill was sharply partisan. When the bill was brought to the floor on July 10, Representative David Obey (D-WI), the ranking member of the Appropriations Committee, offered an amendment to block the rule from taking effect. It failed narrowly, 210-213 with almost all Democrats and 14 Republicans voting in favor.³⁴ The full Labor-HHS bill itself squeaked through the House 215-208, with Democrats in unanimous opposition.³⁵

In the Senate, Democrats had the backing of Senator Arlen Specter (R-PA), the chairman of the subcommittee on Labor-Health and Human Services, and were more successful (*CQ Weekly Online*, September 13, 2003, 2217-2219). The ban on implementing the administration's overtime rules was offered as an amendment by Senator Tom Harkin (D-IA), the ranking member of the Labor-HHS subcommittee on September 5 (*Congressional Record*, September 5, 2003, S11136). The first step of Democrats was to use procedural maneuvers to force the Republican leadership to allow a vote on the amendment. Senator Harry Reid (D-NV) opened the debate by daring the Republican leadership to pull the Labor-HHS bill from the floor: "They may want to pull this bill and say we are not going to allow the Congress of the United States to have a vote on this. If they do that, we know that there are other appropriations bills and other issues that come up that maybe this amendment will not be in order, maybe it will not be germane, but we are going to offer it anyway. We are going to continue with this as an issue" (S11137-8). Faced with Democratic threats to delay other important matters, Majority Leader Frist agreed to allow the vote, and on September 10, the Democratic minority scored a rare victory when the Senate approved the Harkin amendment 54 to 45. Six Republicans joined all but one Democrat to support it.³⁶

It was not the only Democratic victory of the season. On the Transportation-Treasury bill, the Bush Administration and Republican congressional leadership were rebuffed on policies governing travel to Cuba (*CQ Weekly Online*, October 25, 2003, 2642-2643). Responding to pressure for new trading markets, both the House and Senate approved amendments opposed by most Republicans to lift the ban on travel to Cuba. In the House, 53 Republicans joined most Democrats to pass the amendment 227-188, while in the Senate 19 Republicans joined with most Democrats to kill a tabling motion on a

³⁴ Roll Call Vote 351, U.S. House of Representatives, 108th Congress, 1st Session, July 10, 2003.

³⁵ Roll Call Vote 353, U.S. House of Representatives, 108th Congress, 1st Session, July 10, 2003.

³⁶ Roll Call Vote 334, U.S. Senate, 108th Congress, 1st Session, September 10, 2003.

similar amendment 36-59.³⁷ The Senate amendment was then adopted by voice vote. Similarly, Bush administration proposals to privatize portions of the federal workforce were challenged. The House adopted an amendment to block the privatization proposal 220 to 198, when 26 Republicans joined a virtually united Democratic caucus to pass the amendment.³⁸ A similar amendment in the Senate failed by one vote on near party lines, but a weaker version challenging some aspects of the administration policy passed 95 to 1.³⁹

Senate Democrats also scored a victory on the District of Columbia Appropriations bill (*CQ Weekly Online*, October 4, 2003, 2433). Republican leaders, acting with the support of the Mayor of Washington, D.C., included a provision in the bill permitting the District to implement a school vouchers program. The provision narrowly survived in the House of Representatives, where it was opposed by the District's representative Eleanor Holmes Norton. But, it became ensnared when the bill was called up in early September on the Senate floor, where voucher opponents had sufficient votes to prevent cloture from being invoked on the bill. After the bill had languished for five days with little action, Republicans asked unanimous consent to bring debate to a close and vote on the bill. Democrats objected. Senator Reid explained the Democratic position: "I think if we would take the contentious issue dealing with vouchers from this bill...this bill would pass in a matter of not hours but minutes" (*Congressional Record*, September 30, 2003, S12173-4). Rather than force the issue with a cloture vote, the Republican leadership pulled the bill from the floor. They brought it back seven weeks later, when it was passed quickly after the bill's managers stripped away the provision on vouchers.

Meanwhile, the Commerce, Justice and State bill became snarled on a telecommunications issue (*CQ Weekly Online*, September 6, 2003, 2153; *CQ Weekly Online*, July 26, 2003, 1906-1907). The obvious point of controversy in the bill was over the adoption of a Democratic amendment in the House Appropriations Committee overturning a decision by the Federal Communications Commission to permit large media companies to expand their respective shares of the U.S. market. The Bush administration strongly supported the FCC's decision, and indicated it would veto the bill if the provision stood. However, House Republican leaders lacked the votes to strip away the amendment on the floor, and it remained in the bill when it passed the House on July 23. Meanwhile, the Senate Appropriations Committee added identical language to its version of the bill. Senator Ted Stevens (R-AK), the chairman of the committee, opposed the FCC's decision and noted that the committee's agreement with the House meant the issue would not need to be reconsidered in conference.

Ultimately, what sidelined the bill in the Senate was an entirely separate issue – Republican judicial nominees. The bill was brought to the Senate floor for debate on

³⁷ Roll Call Vote 483, U.S. House of Representatives, 108th Congress, 1st Session, September 9, 2003. Roll Call Vote 405, U.S. Senate, 108th Congress, 1st Session, October 23, 2003.

³⁸ Roll Call Vote 487, U.S. House of Representatives, 108th Congress, 1st Session, September 9, 2003.

³⁹ Roll Call Votes 407 and 408, U.S. Senate, 108th Congress, 1st Session, October 23, 2003.

November 10. There, it ran afoul of Democrats, who were angry with Republican tactics over the nomination of five controversial judicial nominees. Rather than debate the Commerce, Justice and State bill, Democrats staged a nine-hour filibuster over the judicial nominations. After noting he would talk for the next four to five hours, Senator Harry Reid (D-NV) explained the Democratic rationale: “In the House of Representatives, the majority party can run right over the minority party, but in the Senate it cannot be done....This is a one-man show to indicate that the Senate cannot necessarily be run unless we work together” (*Congressional Record*, November 10, 2003, S14288). For the rest of the afternoon, the Democrats continued their talk-a-thon. When they finished, Majority Leader Frist pulled the bill from the floor and it was not considered on an individual basis again.

By Thanksgiving of 2003, all of the spending bills but Commerce, Justice and State had passed both the House and the Senate, but Republicans had suffered a series of embarrassing policy defeats. Rather than attempt to hold a conference on each bill and pass them on an individual basis, Republican leaders took the unorthodox approach of creating an omnibus package in conference: they added six spending bills to the Agriculture Appropriations bill, which was already in conference. The consequence of this strategy was the final omnibus package would be brought to the floor as a conference report, and would not be open to amendment in either chamber. Members would only have the opportunity to vote yes or no.

According to the *CQ Almanac*, negotiators for the House and Senate initially reached a bipartisan agreement on the omnibus package (2003, 2-33). Then over the weekend of November 22-23, House Republican leaders backed by President Bush stepped in and overturned compromises that had been reached by Democratic and Republican members of the Appropriations Committee in favor of the President’s position. On the Labor-HHS bill, the ban on the administration’s overtime pay rules was dropped. On the CJS bill, the ban on media concentration was weakened in the administration’s favor. On the Treasury-Transportation bill, the restrictions on enforcing the travel ban to Cuba and privatizing federal workers were removed and weakened respectively. On the District of Columbia bill, funding for private school vouchers was restored in the bill. Every hard fought victory Democrats had secured was reversed.

Democrats in both chambers geared up to oppose the final package. In the House, the Democratic opposition predictably went nowhere. Under the firm rules of House debate, the conference report was passed in short order on December 8, 2003, on a mostly party line vote of 242-176.⁴⁰ In the Senate, where Democrats had the option of filibustering the omnibus package, it ran into a firestorm opposition that blocked its initial passage (*CQ Weekly Online*, December 13, 2003, 3080-3081).

Majority Leader Bill Frist first tried to call up the conference report for debate on December 9, but Democratic Leader Tom Daschle objected to the unanimous consent request and blocked the Senate from moving to the bill. Citing provisions in the omnibus ranging from overtime pay to media concentration, Daschle outlined the objections of the Democrats:

⁴⁰ Roll Call Vote 676, U.S. House of Representatives, 108th Congress, 1st Session, December 8, 2003.

What makes this omnibus unique is its utter disregard for the expressed will of each House of Congress. The process was an abomination, closed largely to Democrats, hidden from the light of day, written to satisfy nothing more than special interest wish lists. It didn't have to be this way. The Senate passed 12 of the 13 appropriations bills by wide bipartisan margins. The House passed 13 appropriations bills with wide margins. None of the bills posed difficulties. The only reason the process was handled this way was to ram through divisive provisions and pork spending that could never win the support of the Congress on their own (*Congressional Record*, December 9, 2003, S16084).

Daschle's comments that day also provide insight into the decision-making process behind the contents of the package, including the use of non-controversial bills as "sweeteners" to attract votes. The Foreign Operations bill contained a popular provision supported by President Bush providing \$800 million for AIDS funding in Africa. He noted that the bill had been unanimously supported by the Democratic and Republican conferees on the bill and could have been adopted by the Senate on an individual basis without delay. Why was the bill included in the omnibus? According to Daschle, "[Republicans] wanted increased leverage on the omnibus and the controversial policy provisions, provisions that go against the will of bipartisan majorities in both Houses of Congress....The reason they insisted on this was to hold increased AIDS funding hostage to these special interest giveaways" (*Congressional Record*, December 9, 2003, S16085).

Daschle's strategy was to delay the omnibus long enough to draw public attention to provisions in the bill that Democrats felt would be unpopular with the public and abandoned by the Republicans if enough pressure was applied. It was a dangerous game, since disruptions in government services that could result from the failure to pass the bill would be politically damaging to whichever party received the blame. Still, the strategy initially went as planned. The effect of Daschle's objection was to force Frist to file a cloture motion, and under the rules of the Senate a vote on it could not take place until January 20, 2004.

When January 20 arrived, Daschle rallied his party to take to the Senate floor in opposition to the omnibus package. In speech after speech, Democrats decried how the omnibus process had been used to insert controversial policy riders into the bill. In response, Majority Leader Frist warned that a failure to adopt the omnibus would lead to a year-long continuing resolution that would set funding at the level of previous years and lose all the work that had been completed on the bills in 2003 (*Congressional Record*, January 20, 2004, S20). The result was a clear victory for the Democrats. The Republican majority needed 60 votes for cloture, and Majority Leader Bill Frist secured only 48 votes in favor of ending debate.⁴¹

The victory was short-lived. Over the next several days, a blame game played out on the floor of the United States Senate. Republicans that warned of all the new funding that would be lost if Congress was forced to adopted a continuing resolution that extended the previous year's funding levels. Majority Leader Frist claimed that any shortfalls in funding would be the responsibility of the Democrats:

If we fail to enact this legislation, we will do very clear things. We will curtail our efforts in the fight against terrorism; it won't be as effective. We will weaken funding for our

⁴¹ Roll Call Vote 1, U.S. Senate, 108th Congress, 2nd Session, January 20, 2004.

food security system if we don't pass this legislation. We will not have as secure and as strong a system inspecting our food. We will create hardships for millions of veterans, which is unnecessary. That is what this vote, in part, is about. We would put at risk millions of lives of people who suffer from AIDS and the global effort to fight one of the most moral humanitarian and public health challenges of our time. We would be shortchanging the needs of our schools, our communities, our States, and needy and disadvantaged Americans (*Congressional Record*, January 22, 2004, S155).

Democrats continued their demand that Republicans remove the riders that had been added to the bill, but behind the scenes, support for Daschle's strategy was crumbling. As the Senate approached a second cloture vote on the bill, Senator Daschle realized he no longer had the votes to sustain a filibuster against the bill. As the second cloture vote approached, he took the floor in frustration:

I worry about this precedent from the point of view of the institution. What does it mean in a democracy when 100 Senators vote, take a position, and when 435 Members of the House vote and take a position, and a cabal in the dark of night with no roll call vote can overrule that position willy-nilly, with absolutely no record, with no fingerprints, and nullify the actions taken by the bodies themselves? But I know why we will probably get cloture today. Nobody here wants to be accused of shutting the Government down. Everybody understands the commitment that this legislation reflects in its support for veterans and for so many other things that we care deeply about. Senators are put in a very difficult position. I understand that. Do you support veterans or do you support an effort to deal with mad cow? Do you support highways and transportation or do you support an effort to confront this onerous provision eliminating overtime? Do you support housing or do you support an effort to retain the Senate position with regard to media concentration? That is a tough position for anybody to be in, especially people in politics. So we may lose this cloture vote today. I suspect we will. And I understand why (*Congressional Record*, January 22, 2004, S128).

Daschle's vote counting was correct. When the second cloture vote was called, 11 Democrats who had voted to sustain Daschle's initial filibuster against the omnibus bill broke ranks and voted with the Republicans to end debate. Frist won the vote 61-32.⁴² With the filibuster cut off, the omnibus bill was adopted by the Senate that same day and sent to President Bush for his signature.

The defeat of the Democrats on these issues is particularly noteworthy because in virtually every case, their position had the support of the floor median in either the House or the Senate. The overtime pay amendment won the support of the full Senate, and was only narrowly defeated in the House. Both the House and the Senate adopted amendments lifting the travel ban on Cuba, restrictions on privatizing the federal workforce, and blocking the Bush administration's new rules on media ownership. Only on the District of Columbia bill, where Democrats used the threat of a filibuster to block the school vouchers proposal, was the position of the filibuster pivot overturned in the omnibus bill. In every other case, policy moved from a position favored by the floor median toward one favored by the Republican median.

⁴² Roll Call Vote 2, U.S. Senate, 108th Congress, 2nd Session, January 22, 2004.

**Table 4.5. Legislative History of Appropriations Bills, 2004
2nd Session, 108th Congress**

Bill	House Skipped Vote	Senate Skipped Vote	Bill in Omnibus
Agriculture		X	X
Commerce, Justice and State		X	X
District of Columbia			
Defense			
Energy and Water		X	X
Foreign Operations			X
Interior		X	X
Labor Health and Human Services		X	X
Legislative Branch			X
Military Construction			
Veterans Administration - HUD	X	X	X
Homeland Security			
Transportation-Treasury		X	X
Total	1	7	9

With the fiscal year 2004 spending bills at last complete, Congress could turn its attention to the upcoming budget year. The environment was challenging. While Republicans held unified control over government, it was a presidential election year and a growing insurgency in Iraq along with continued weakness in the economy made President George W. Bush appear vulnerable. In the meantime, the tight limits President Bush demanded on domestic spending were thought to be unrealistic in Congress, even among Republicans. The refusal of moderate Republicans in the Senate to support the budget left it without sufficient votes to pass the chamber, and as a consequence Congress failed to adopt a budget resolution (*CQ Almanac*, 2004, 1-3 – 1-10).

Republican leaders nonetheless tried to follow Bush's limits in the allocation of funding they provided to the Appropriations Committee. In the House of Representatives, this strategy proved to be successful, and the chamber adopted all but one of the bills individually. In the Senate, matters were more challenging. Rather than face difficult fights over spending and policy before the election, Majority Leader Bill Frist took the extraordinary step of not bringing seven of the bills to the floor for debate at all. Instead, Frist waited until a lame duck session after the presidential election had been safely won by President Bush and Republicans had expanded their congressional majority (in part by defeating Senate Democratic Leader Tom Daschle in a fiercely competitive race). Then, Frist skipped floor debate and votes on the remaining seven bills and instead wrapped them directly into the conference report of the Foreign Operations bill, which had passed both chambers. Since these bills had never been debated on the Senate floor to begin with, wrapping them into a non-amendable conference report ensured that there would be no opportunity to amend them and instead

required the Senate to take a single up or down vote on the resulting omnibus. This strategy allowed Republicans to abide by the president's strict spending limits, and avoid policy fights on issues like trade with Cuba and overtime pay that threatened to spill over from the previous year (*CQ Almanac*, 2004, 2-3).

As in 2003, the most notable characteristic about the nature of the major policy disputes was that they pitted Democratic-leaning coalitions in both chambers against the party leadership of Congress and the Bush administration. On the Agriculture bill, the House Appropriations Committee adopted a Democratic amendment permitting the re-importation of prescription drugs from Canada, while the Senate Appropriations Committee again adopted Democratic language promoting trade with Cuba (*CQ Weekly Online*, July 17, 2004, 1741; *CQ Weekly Online*, September 11, 2004, 2112). On the Labor, Health and Human Services bill, a Democratic amendment blocking the Bush administration's overtime pay regulations was adopted on the House floor, while in the Senate a similar amendment was adopted by the Appropriations Committee (*CQ Weekly Online*, September 18, 2004, 2168-2169). On the Treasury-Transportation bill, the House adopted a Democratic amendment prohibiting the outsourcing of federal jobs at the subcommittee level, while amendments weakening the trade ban with Cuba were adopted on the floor. On the Senate side, amendments limiting outsourcing and weakening the Cuba trade ban were adopted at the committee level (*CQ Weekly Online*, September 11, 2004, 2113). All of these provisions were altered or dropped once the bill reached conference, and the final, non-amendable conference report was sent back to each chamber for an up-or-down vote on November 20 (*CQ Almanac*, 2004, 2-3).

Demoralized Democrats failed to put up much of a fight against the omnibus despite their policy losses. In the House, the bill was adopted by a vote of 344-51.⁴³ In the Senate, there was more resistance from Democrats. The Democrats' ranking member on the Appropriations Committee, Senator Robert Byrd (D-WV) took the lead in opposing the omnibus package. Calling the 3,000 page, \$388 billion bill a "monstrosity" filled with controversial and undebated policies, Byrd explained why he would vote against it:

Of the nine appropriations bills in the bill, only two were ever debated in the Senate. The conference report includes a miscellaneous division that contains 32 unrelated provisions, most of which have never been considered by the Senate. There is not a single Member in this body who can say that he or she has read this bill. It contains complex and controversial matters Yet here we are on a Saturday, 51 days into the fiscal year, forced to vote on this monstrosity in the form of a \$388 billion unamendable, unread conference report. The bill is entitled "Consolidated Appropriations Act, 2005." It should be entitled "Lame Appropriations Act, 2005." Sadly, it has become almost an annual ritual that we shackle ourselves with these omnibus monstrosities. It is not good—not good for the Senate, not good for the American people, not good for your political system. We did in 1996, 1997, 1999, 2000, 2001, 2003, and 2004. When I was chairman from 1989 to 1994 and again in 2001, we produced 13 individual bills annually. That is the way to protect Congress's power of the purse. That is the way to protect the American people. That is the way to respect Members' rights to debate important legislation. We should not go down this road again next year. The woolly mammoth became extinct ages ago. I hope one day that the same will be said for such mammoth appropriations bills (*Congressional Record*, November 20, 2004, S11741).

⁴³ Roll Call Vote 542, U.S. House of Representatives, 108th Congress, 2nd Session, November 20, 2004.

As in 2003, a long line of Democratic senators came to the floor of the chamber to decry the abandonment of provisions such as the ban on the Bush administration's overtime pay rule in the conference report. But, Democrats did not attempt to block the omnibus bill from coming to a vote. It passed later that day by a vote of 65-30.⁴⁴

Conclusion

The story of the appropriations process in the 107th and 108th Congress is of the complete breakdown of the bipartisan world that Richard Fenno described in the 1960s. Congress routinely was unable to set overall spending levels for itself by passing a budget resolution. Individual spending bills frequently were not brought to the floor, and when they were, they sparked intense debates over policy that led to filibusters and embarrassing defeats for the majority. In response, the Republican majority of this era harnessed omnibus spending bills to push spending bills through the House and Senate. They used the rules of conference to create bills that favored the majority party and could not be amended, and correctly gambled that Senate Democrats would not sustain a filibuster and risk being blamed for disrupting government funding.

Table 4.6 summarizes the effect of the omnibus strategy on policy outcomes in fiscal years 2004 and 2005. In virtually all the cases under study, policies supported by most Democrats and a handful of Republicans that were adopted either in committee or on the floor of the House or Senate were subsequently reversed by Republican leadership in conference in favor of the majority's median position. It is notable that the leadership did not just roll members of the minority, but important members of the majority caucus like Senator Ted Steves (R-AK), the chairman of the Appropriations Committee on issues like media ownership.

⁴⁴ Roll Call Vote 215, U.S. Senate, 108th Congress, 2nd Session, November 20, 2004.

**Table 4.6 Policy Consequences of Omnibus Strategy
Fiscal Years 2004 and 2005**

Policy Area	House Position	Senate Position	Omnibus Position	Direction of Movement
FY2004				
Overtime Pay	Uphold Bush policy*	Overturn Bush policy	Uphold Bush policy	Majority Median / House Median
Travel to Cuba	Open Travel to Cuba	Open Travel to Cuba	Close Travel to Cuba	Majority Median
Privatize Federal Workforce	Overturn Bush policy	Limit Bush policy	Uphold Bush policy	Majority Median
School Vouchers	Permit school vouchers	Prohibit school vouchers**	Permit school vouchers	Floor Median
Media Ownership	Overturn Bush policy***	Overturn Bush Policy***	Uphold Bush policy	Majority Median
FY2005				
Prescription Drug Imports	Permit reimportation***	No provision	No provision	Majority Median****
Open Trade with Cuba (Agriculture)	No provision	Open trade***	No provision	Majority Median****
Relations with Cuba (Treasury-Transportation)	Weaken sanctions	Open travel***	Provisions removed	Majority Median
Overtime Pay	Overturn Bush policy	Overturn Bush policy***	Uphold Bush policy	Majority Median
Privatize Federal Workforce	Overturn Bush policy	Overturn Bush policy***	Uphold Bush policy	Majority Median

* House later adopted non-binding language supporting the Senate position.

** Voucher provision adopted in committee but blocked on Senate floor by threatened filibuster.

*** Indicates a provision that was adopted in committee with no subsequent floor vote.

**** I label these outcomes as “Majority Median” due to the opposition of House Republican leadership to the provisions.

This account provides strong support for my hypotheses. The intense opposition of the Republican majority to policies supported both by the Democratic filibuster pivot and median member of the chamber (Republican outliers) suggest that increased distances from the majority median to pivotal voters correspond with heightened

controversy on the floor. Majority party leaders responded to this controversy by using omnibus bills to control the agenda. Consistent with their relatively high degree of ideological unity, they used that control to push policy in the direction away from pivotal voters in the chamber and toward the majority median.

Chapter 5

Conclusion

Two important arenas for making policy in Congress are the floors of the House and Senate. There, members can reshape the decisions made by committees with amendments and cast their votes to decide whether to approve legislation. For a party leader faced with the all-important task of passing the annual spending bills, the floor can be an uncertain and dangerous place. In some years, spending bills might pass with little notice after a few hours debate. In others, they might spark controversy so intense that members deadlock for weeks or months before government funding is secured.

Why does the floor appear to be fraught with peril in some eras and quiet in others? The central argument of this dissertation is that the degree to which the floor is a challenging arena for the majority party in each Congress depends upon the unique configuration of pivotal voters on the ideological spectrum. Every two years, American voters send a new Congress to Washington different from its predecessor. Old veterans are defeated or retire, and new members with new preferences are elected. In some years, a new majority is elected in a landslide with a wide margin of control. In others, a party might hang onto control of a chamber by the narrowest of margins. In the last three decades, these factors have led to wide variation in the relative ideological position of pivotal voters in the U.S. Senate, where the need to win the support of the 60th voter places a particularly steep hurdle before the majority party. In the late 1970s, the Democratic majority in the Senate benefited from the fact that the crucial 60th vote needed to overcome a filibuster could come from a relatively liberal senator like Senator Lowell Weicker (R-CT). Thirty years later, a more conservative Republican majority in the Senate had to reach a much farther ideological distance to win a moderate Democrat like Senator Evan Bayh (D-IN) to overcome a filibuster.

These facts help to illustrate why the floor of the Senate has become a much more difficult place to do business in recent years. It is not because the policies under consideration are more difficult than in the past. No policy is inherently controversial. Instead, policies are controversial to the extent that members have different preferences toward them, drawn from sources such as their personal views or their constituency interests. The widening ideological gulf between the majority party's median voter and pivotal voters in the Senate suggests that the typical member of the majority must make more significant policy compromises relative to those needed in the past to win the support of pivotal voters.

In this dissertation, I use the annual process of passing federal spending bills as a window to examine how Congress has responded to variation in the distance from the typical majority voter to other pivotal voters over time. Unlike other types of legislation, spending bills must be passed every year or the government will shut down. Congress can either meet this need by passing the 13 (now fewer) spending bills separately, or by bundling a group of them together to pass them as an omnibus appropriations bill. I argue that bundling the bills together is a form of agenda control that party leaders use to limit amendments and overcome filibusters that occur when the spending bills are debated individually. Creating an omnibus package adds new dimensions to a bill that aid passage, deters filibusters by raising the cost of a potential shutdown and creates the opportunity for a unified majority party to pursue policy goals if it chooses to do so.

I examine three hypotheses on the decision of party leaders to go the omnibus route during the annual appropriations process, and I will discuss the evidence presented in this dissertation for each, in turn.

Hypothesis A. *The ability of party leaders to control the agenda with omnibus bills is independent of party homogeneity.*

In the last 30 years, majority parties used their power to create omnibus spending bills to control the agenda in Congress both when they were ideologically diverse and ideologically unified. Omnibus spending bills were used in two separate waves. The first began in the late 1970s and ended in the late 1980s. This period overlaps with control of the U.S. Senate by an ideologically diverse Republican majority, including odd bedfellows like liberal Senator Lowell Weicker (R-CT) and conservative firebrand Jesse Helms (R-NC). The second began in 1995 and continues today. The Senate was controlled for most of the second period by a relatively unified and conservative Republican majority, along with a few moderate outliers like Senator Olympia Snowe (R-ME).

Quantitative results presented in Chapter 1 show that measures of the majority party's ideological diversity do not provide a persuasive or statistically significant explanation for the use of omnibus spending bills. In addition, evidence from case studies of the 1980s and 2000s presented in Chapters 2 and 3 similarly show that the decision by party leaders to use omnibus bills appears to be independent of the degree of ideological unity within their party. This finding has troubling implications for one of the major theories of party power, that of Conditional Party Government (CPG), which states that the use of party power is conditional upon the degree of unity within the majority party. The evidence presented here shows that party power in the form of omnibus bills has been used within the last 30 years regardless of the degree of majority party unity. By contrast, the patterns in the use of omnibus bills are more consistent with the cartel theory, which contends that parties have the ability to use some form of agenda control all of the time. Given the limits on my time frame and my focus on spending bills, I do not make a claim as broad as proponents of the cartel theory. However, the evidence I present does suggest that in the last 30 years, the majority party's ideological unity was not a constraint upon the ability of party leaders to create an omnibus bill.

Hypothesis B. *The incentive of party leaders to exercise power depends upon the distance of the majority party's median voter to other pivotal voters in the chamber.*

I argue that the incentive of the majority party to control the agenda with omnibus spending bills is greater when its median voter is distant from other pivotal voters. As this distance increases, so does the likelihood of conflict on the floor and the possibility that the policies constrained by the preferences of pivotal voters will be undesirable to the typical member of the majority party. In Chapter 2, I test this hypothesis for Congress as a whole using variables measuring the distance from the majority median to the floor median in the House and Senate, and to the House floor median and the filibuster pivot in the Senate. These tests suggest that in the last 30 years, variation in the distance to pivotal voters in the Senate does a better job explaining when bills are included in

omnibus packages than other explanations that have been put forward, including delays in the passage of the federal budget and divided government. Going from the minimum to maximum distance in the majority-to-median distance in the Senate raises the likelihood of a bill being included in an omnibus package by 75 percent, while the corresponding estimate for the majority-to-filibuster distance is 46 percent. I also test the effect of the distance to pivotal voters for the House and Senate separately, using skipped votes on individual spending bills as my dependent variable. I estimate that moving from the minimum to maximum majority-to-median distance in the House and Senate raises the likelihood of a vote being skipped on an individual spending bill by 15 and 60 percent respectively. In addition, moving from the minimum to maximum majority-to-filibuster distance in the Senate raises the likelihood of a skipped vote by 14 percent.

The evidence I present in my case studies is consistent with my argument as well. In the 1980s, the combination of a small margin of control and an ideologically diverse Republican majority led to large distances between pivotal voters. Intense debates among Republicans over issues such as school prayer and abortion led to deadlocks on the Senate floor over individual spending bills that were resolved when leaders opted to include those bills in omnibus packages. In the 2000s, large distances between pivotal voters in the Senate were driven by small margins of control and high levels of partisan polarization. In this case, large distances to pivotal voters appear to be associated with policy outcomes on the floor that were less desirable to the typical majority voter than those that could be achieved through omnibus spending bills. In both cases, the decision to use omnibus bills succeeded in quelling dissension on the floor and deterring potential filibusters that threatened to derail funding for the government.

One interesting question is why a single measure – distance to pivotal voters – predicts the use of omnibus bills despite the very different dynamics of the two eras. The Republican majority of the 1980s was diverse and characterized by infighting over social issues. The Republican majority of the 2000s was comparatively unified, and was locked in heated partisan disputes with the Democratic minority. The answer appears to be that high distances to pivotal voters reflect in a general sense an increased likelihood of conflict over policy. No matter which member's preferences are constraining the policy – the majority's median voter, the floor's median voter or the filibuster pivot – that policy is more likely to be viewed as undesirable by other pivotal voters when the ideological distances between them are greater rather than smaller. In some eras, such as the 1980s, that may spark majority party infighting that creates a necessity to turn toward an omnibus package simply to pass the budget. In others, such as the 2000s, it may create an incentive for the majority to use an omnibus to win policy battles that it was unable to win on the floor.

Hypothesis C. *Heterogeneous majority parties are likely to use power to aid reelection, while homogeneous majorities are more likely to pursue policy goals.*

The major advantage of omnibus spending bills is that they are an effective way of ensuring that the funding needed to keep the government in operation passes Congress. This is because they are multi-dimensional bills that are likely to attract member support and because the consequences of blocking them and risking a government shutdown are so extreme that their opponents are unwilling to filibuster them in the Senate. I argue that

while the incentive to use omnibus bills varies with the majority's distance to pivotal voters, the purpose for which omnibus bills are used varies with the majority party's ideological diversity. Ideologically diverse majorities use omnibus bills to "keep the trains" running by passing the budget, while ideologically unified majorities use them to secure policies closer to their median voter than could be won on the floor.

The evidence I present in the case studies is consistent with this argument. In the 1980s, policy disputes over abortion, school prayer and busing led to reoccurring deadlocks on individual spending bills. Those spending bills were routinely added to omnibus packages as a means of resolving those deadlocks, but there is no particular direction to the resolution of the disputes. At times, the final policy in the omnibus package favors the filibuster pivot and at other times it favors the floor median. This kind of variation suggests that the majority party's goal was to protect its overall reputation for good governance by ensuring that the budget was passed rather than by adopting particular policies.

In the 2000s, by contrast, the majority party was relatively unified. When the Democratic minority scored a series of policy wins for itself by offering amendments that unified its members while winning over a few liberal Republicans, the Republican majority used omnibus bills to overturn those gains and move policy away from the floor median toward the median Republican position. While I do not examine evidence from public opinion in this dissertation, it is reasonable to assume that policies preferred by the floor median in the Senate are more likely to be closer to the median voter in the electorate rather than policies preferred by the median of the majority party. Indeed, Democrats pursued amendments on overtime pay, media concentration and other issues precisely because they viewed their position as being popular with the public. This suggests that the Republican majority of this time was willing to take some degree of electoral risk in order to adopt policies that it preferred.

Theoretical Implications

Three major theoretical frameworks provide ways of thinking about the nature of party power in the U.S. Congress. Keith Krehbiel's theory of pivotal politics states that policy is constrained by the preferences of pivotal voters in each chamber, and that parties have little authority to generate policy outcomes that differ significantly from those preferences. Conditional Party Government, as argued by John Aldrich and David Rohde, states that a political party's power in Congress varies with its degree of ideological unity. Members of heterogeneous parties disagree with each other over policy goals and therefore do not empower their leadership to take action to pursue policy. By contrast, members of ideologically uniform parties who agree upon policies empower their leaders to discipline errant members and take other steps with the goal of adopting policies that reflect the majority's preference, or at a minimum, preventing changes to the status quo the majority opposes. Finally, Gary Cox and Mathew McCubbins argue in their cartel theory of party power that parties have the ability to use negative agenda control all of the time to block disfavored policies from being adopted, and the power of positive agenda control to adopt favored policies when they are unified.

The evidence presented in this dissertation is consistent with the idea that the influence wielded by congressional majority parties is real and can have a substantial impact on policy outcomes. Pivotal voters constrain policy outcomes on the floor, but

majority party leaders can use their power to shape the agenda in a way that dramatically affects the choices of pivotal voters and their incentives to vote for a bill. Omnibus bills reshape the legislative landscape by packaging potentially controversial policies in a new, multidimensional setting and by creating a heavy penalty in the form of a potential government shutdown for those considering a “no” vote or delaying tactics.

Consistent with Cox and McCubbins, I show that the power of majority parties to control the agenda with omnibus bills in the last 30 years is independent of the party’s ideological unity. Senate majorities have used omnibus bills when they are ideologically diverse and ideologically unified. Moreover, omnibus bills are a clear form of agenda control because they allow party leaders to shift from the traditional method of passing bills individually to passing them as part of a multidimensional package, and in some cases, to restrict the right of members to amend the package. The omnibus strategy gives party leaders significant influence over the extent to which members have the ability or incentive to press for policy alternatives on the floor. In contrast, the evidence I present supports Rohde and Aldrich’s account of the behavior of ideologically unified parties. The ideologically unified majority parties of the 2000s used omnibus bills to overrule policies adopted on the floor that they did not prefer, despite the likelihood that those policies were favored by voters. This suggests that majority parties, at least when unified, are interested in pursuing policy goals in addition to reelection even if those interests may conflict.

One benefit of examining the use of omnibus spending bills is that it sheds light on the benefits that heterogeneous parties receive from their use of agenda control. Cox and McCubbins suggest that parties control the agenda in order to improve their reputation and aid reelection, but this idea needs further development. The case study of the use of omnibus bills in the 1980s, when the Senate was controlled by an ideologically diverse group of Republicans, provides some insight into this issue. At that time, Republicans had not controlled the Senate since the 1950s and needed to prove that they could govern. The failure of the new Republican Senate to pass federal funding bills could have been a severe blow to the party’s reputation and voters’ perceptions of its competence. Omnibus spending bills allowed the Republican leadership to defuse disputes among its own members and pass the federal budget. While the party did not necessarily improve its reputation with this strategy, it headed off what could have been significant damage to itself.

Implications for Congress

A decade ago when I worked in the Senate, it was a common refrain among Democratic staff (in the minority at the time) that Republicans were, “Trying to turn this place into the House of Representatives.” By that, Democrats were giving voice to their concern that the majority was seeking to impose stricter discipline on the Senate floor. Typically, staff were complaining about tactics aimed at restricting opportunities to offer amendments, but conflict over federal judicial nominations also led to more serious worries over proposal known as the “nuclear option” to restrict the use of the filibuster.

Perhaps no debate over the Senate generates as much heat as whether or not to abandon, or at least weaken, the right to filibuster. The shift toward omnibus spending bills and the fact that they have emerged at least in part to neutralize the threat of a Senate filibuster adds new urgency to that discussion. The allure of the bills is obvious. They

are effective. The American political system, by design, is biased against change. The separately elected members of the House and Senate must agree upon a bill before it is presented to the president, who must agree to sign it before it becomes law. When the requirement to win 60 votes in the Senate is added onto these substantial constitutional requirements, passing legislation can be extraordinarily difficult. The resulting delay is often a source of frustration for those seeking policy changes, but it can be catastrophic for the federal budget since funding bills must be passed every year to keep the government in operation. Again and again, omnibus bills have proven to be an effective tool for leaders to overcome obstacles on the floors of the House and Senate and win passage of the budget.

The convenience of omnibus bills comes at a heavy cost. To understand why, consider two alternative ways of producing policy. In a parliamentary system, policy-making is centralized in a way that combines expertise with efficiency. For example, in the United Kingdom, bills are drafted by experts within the British government and brought to the floor where they are adopted by disciplined members of the majority party. There is minimal opportunity for minority involvement, but the nature of the process allows the majority party to produce coherently designed policies through a deliberative internal process. By contrast, the American system of separated powers is more decentralized, and trades off efficiency for broader deliberation. Legislation is written by expert committees and brought to the floors of the House and Senate where it is subject to additional debate and refinement, frequently including amendments from members of both parties. The difficulty arises in the fact that the relatively loose rules of the Senate can produce gridlock and make it impossible to pass legislation.

The troubling reality of omnibus bills is that they provide a gain in efficiency in the American system by running roughshod over the normal paths for policy development and deliberation. By all accounts, the practice of writing omnibus bills is much more centralized than the regular order. Party leaders become involved in decisions about which bills will be included in the package, and about the fate of the hundreds of legislative riders that are attached to it. New provisions that may not have been scrutinized by committees are hastily added to the bills in conference. The final package, which might total into the thousands of pages, is then brought back to the floor of the House and Senate. Members often have little time to read the package, and in recent years, often have lacked an opportunity for amendment. Unlike the British system, which combines centralization with well-developed policy-making machinery, the omnibus lawmaking combines centralization with a chaotic system for producing policy that lacks transparency or accountability even for members of the majority party. Indeed, in 2004, an embarrassed Republican majority was forced to repeal a provision unilaterally added to the FY2005 omnibus bill by a House staff member without the knowledge of elected members. The provision removed criminal penalties for congressional staff members on committees with jurisdiction over tax issues who improperly disclosed information from individual tax returns that existing law allowed them to examine. The incident led future Republican presidential candidate Senator John McCain (R-AZ) to grumble that the appropriations process was “broken” (*Washington Post*, December 3, 2004, A01).

The decision to create omnibus bills appears to be largely a response to the challenge of passing legislation in the Senate, where the threat of a filibuster is always

present. This suggests that a serious discussion is warranted about whether Senate rules should be altered to permit spending bills to pass with a majority of votes in a similar manner to budget reconciliation bills. The dilemma facing majority party leaders is real. Passing federal spending bills is non-negotiable, and it must be done every year. Stymied by the need to round up 60 votes on each of the regular spending bills, party leaders have turned to omnibus bills because they believe the bills cannot be filibustered. The problem is that the omnibus process combines the worst elements of two words: chaotic policy-making with minimal deliberation. An omnibus bill is like a tsunami sweeping over Congress: enormous, impossible to resist, with unidentifiable flotsam swirling in its waters.

If the Senate is becoming a de facto majority-rule chamber by using omnibus bills, then it may be worth acknowledging this fact with a change to Senate rules so that it can be a more effective majority-rule chamber. Rather than hastily assembling omnibus bills behind closed doors, committees could write and pass their bills through the regular order and they could be brought to the floor for amendments and a final vote. The majority would get its way more often, but it would be utilizing the tools of policy-making in Congress rather than bypassing them. Additionally, fewer omnibus bills would also limit the practice of using the gigantic bills as a vehicle for unrelated items. It is a common practice for all kinds of legislation to be added to omnibus bills at the end of the year because members believe it is the last train leaving the station. More of these bills would go through the regular process as well, with more opportunity for scrutiny and deliberation.

Conclusion

In the last 30 years, Congress has undergone an enormous change in the way that it adopts legislation to provide funding for the federal government. The appropriations world described by Richard Fenno, which was calm, orderly and disciplined in its approach to spending, has ended. It has been replaced by an ad hoc system of writing omnibus bills that members say they despise but that has become entrenched because it is effective. This has not been a change for the better. Omnibus bills have evolved from a tool used simply to pass the budget to one that has been adapted to overturn decisions made on the floor in favor of the majority party. The chaotic way in which they are written inhibits effective lawmaking and scrutiny, even by members of the majority party. Along the way, the budget process Congress created for itself with the Budget Control and Impoundment Act has broken down.

The move toward omnibus bills appears to be in part a consequence of the variation in the distances to pivotal voters in the U.S. Senate. When there are significant ideological gulfs between these voters, conflict on the Senate floor appears to be more likely and omnibus bills become a useful tool for party leaders to meet their legislative goals. These facts suggest that a continued focus on the U.S. Senate and the way it has responded to changes in the distribution of pivotal voters over the years could yield additional insights about the nature of party power in Congress and about the Senate itself. Despite its label as the “greatest deliberative body in the world” (a title it may need to abandon if current trends continue), the Senate is relatively understudied compared to the House. As this dissertation shows, there is a great deal to learn about Congress by a continued focus on the Senate.

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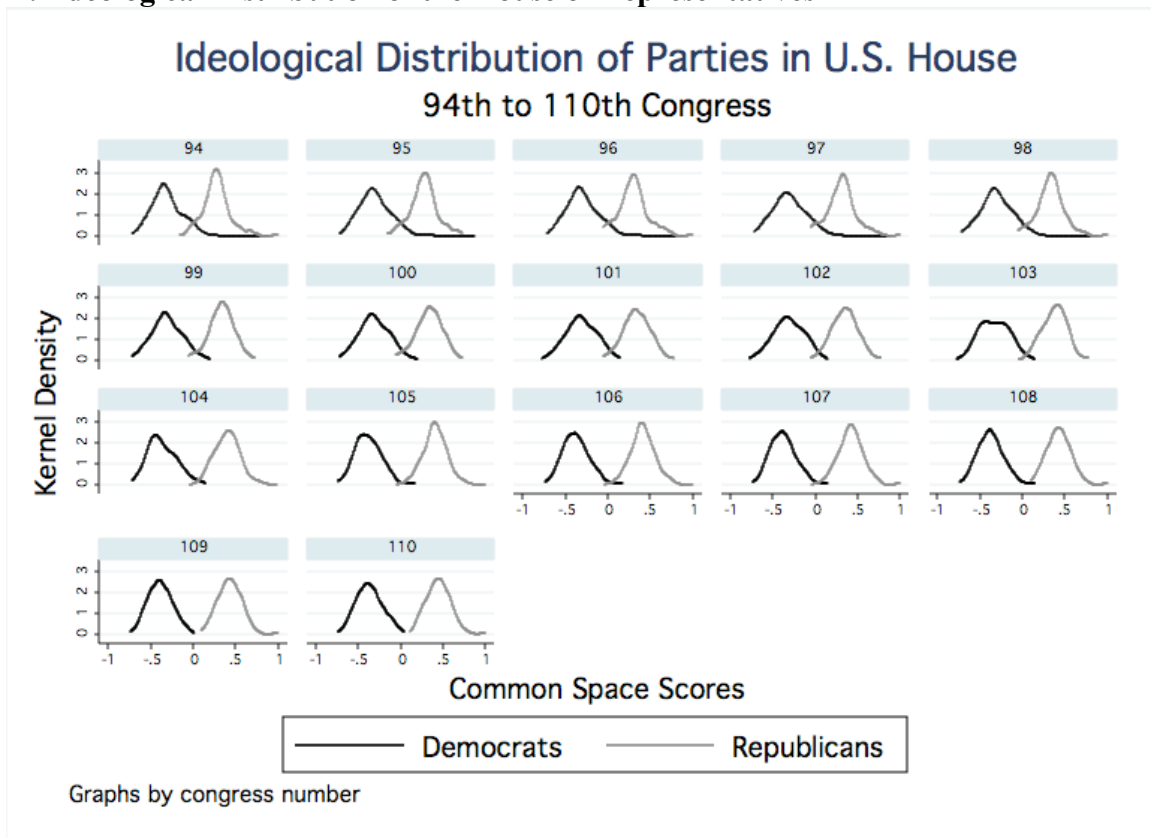
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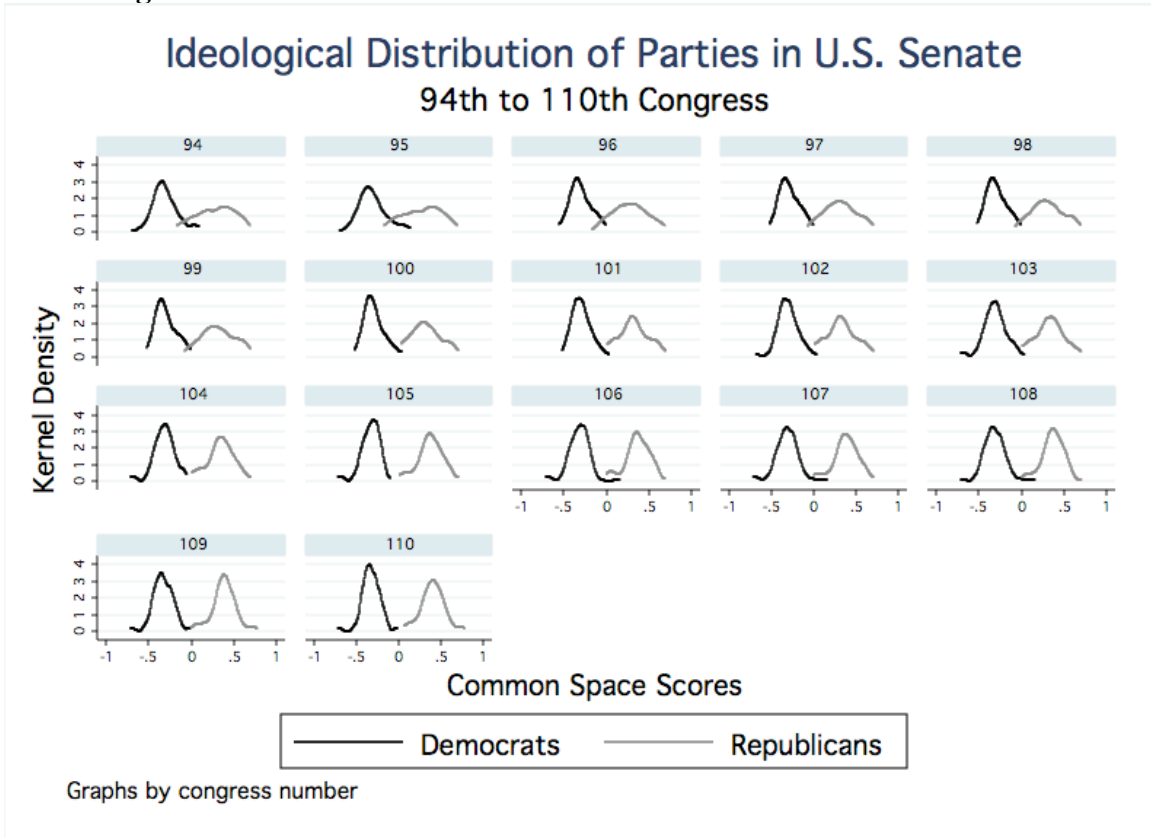
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Appendix

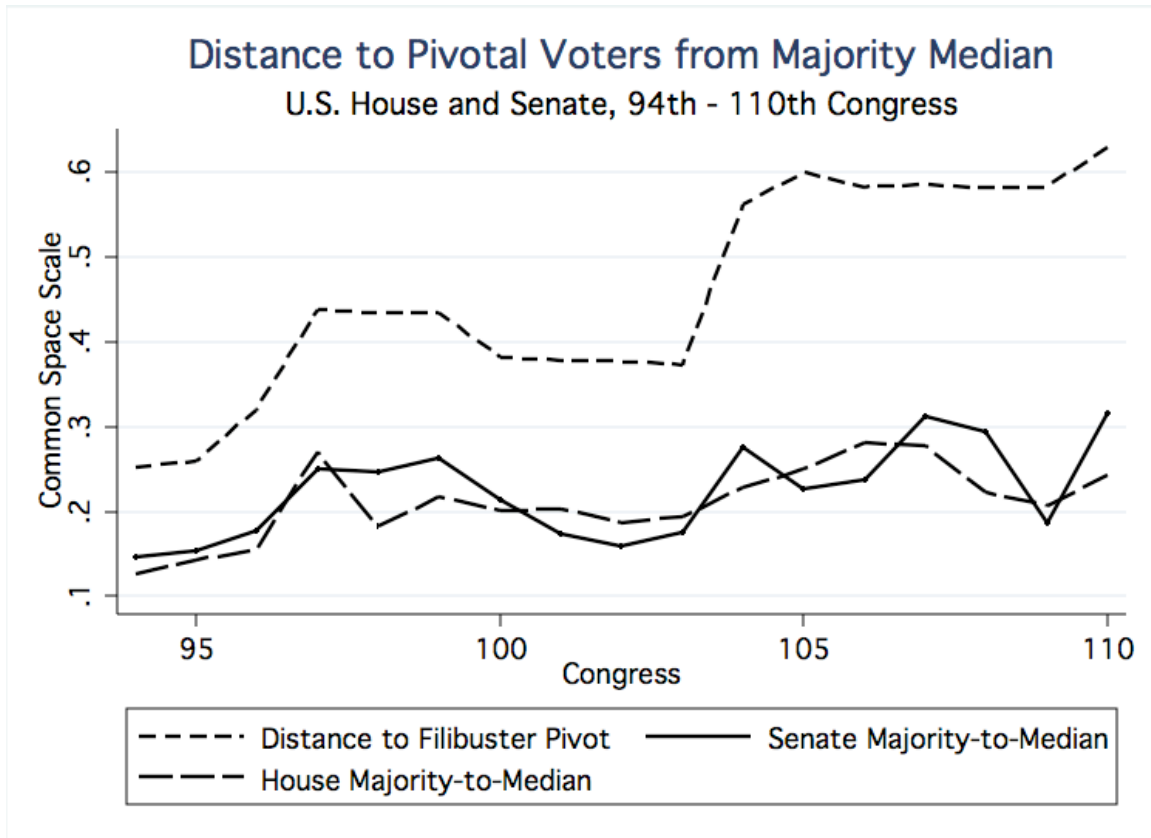
A. Ideological Distribution of the House of Representatives



B. Ideological Distribution of U.S. Senate



C. Distances to Pivotal Voters in House and Senate



D. Vote Skipping and Inclusion in Omnibus Bills in House and Senate

**Skipped Votes and Inclusion in Omnibus Bill
FY1976-2009**

Fiscal Year	Skipped Votes in House (N and %)	Skipped Votes in Senate (N and %)	Bills in Omnibus (N and %)	Total Bills (Excluding Omni)
1976	0	0	0	14
1977	0	0	0	13
1978	0	0	0	13
1979	0	0	0	13
1980	1 (7.69)	1 (7.69)	2 (15.38)	13
1981	1 (7.69)	4 (30.77)	5 (38.46)	13
1982	1 (7.69)	4 (30.77)	3 (23.08)	13
1983	3 (23.08)	7 (53.85)	6 (46.15)	13
1984	1 (7.69)	2 (15.38)	3 (23.08)	13
1985	3 (23.08)	5 (38.46)	9 (69.23)	13
1986	1 (7.69)	3 (23.08)	7 (53.85)	13
1987	2 (15.38)	6 (46.15)	13 (100)	13
1988	3 (23.08)	3 (23.08)	13 (100)	13
1989	0	0	0	13
1990	0	0	0	13
1991	0	0	0	13
1992	0	1 (7.69)	0	13
1993	0	0	0	13

**Skipped Votes and Inclusion in Omnibus Bill
FY1976-2009**

Fiscal Year	Skipped Votes in House (N and %)	Skipped Votes in Senate (N and %)	Bills in Omnibus (N and %)	Total Bills (Excluding Omni)
1994	0	0	0	13
1995	0	0	0	13
1996	0	1 (7.69)	5 (38.46)	13
1997	0	4 (30.77)	6 (46.15)	13
1998	0	0	0	13
1999	1 (7.69)	3 (23.08)	8 (61.54)	13
2000	1 (7.69)	0	4 (30.77)	13
2001	0	1 (7.69)	5 (38.46)	13
2002	0	0	0	13
2003	8 (61.54)	10 (76.92)	11 (84.62)	13
2004	0	1 (7.69)	7 (53.85)	13
2005	1 (7.59)	7 (53.85)	9 (69.23)	13
2006	0	0	0	11
2007	1 (9.09)	8 (72.73)	9 (81.82)	11
2008	0	5 (41.67)	11 (91.67)	12
2009	11 (91.67)	12 (100)	12 (100)	12
Total	39 (8.92)	88 (20.14)	148 (33.87)	437

E. Second Dimension “Party Splitting” Votes in the U.S. Senate

Senate Republican Opposition to Social Riders 1981-1984 (97th & 98th Congress)

	Dem Yes (DW-Nom)	Dem No (DW-Nom)	Rep Yes (DW-Nom)	Rep No (DW-Nom)
Court Ordered Busing Cloture on Helms Amendment to DOJ Authorization (Senate Roll Call 257, 09/16/81) <i>A ‘no’ vote sustains a filibuster against the conservative position. Passes 61-36.</i>	25 (-.17)	20 (-.40)	36 (.38)	16 (.04)
School Prayer Cloture on Helms Amendment to CJS (Senate Roll Call 483, 12/11/81) <i>A ‘no’ vote sustains a filibuster against the conservative position. Fails 60-35.</i>	23 (-.16)	20 (-.40)	37 (.36)	15 (.07)
Abortion Ban Cloture on Helms Amendment to Debt Bill (Senate Roll Call 343, 09/15/82) <i>A ‘no’ vote sustains a filibuster against the conservative position. Fails 50-44.</i>	16 (-.19)	25 (-.36)	34 (.33)	19 (.17)
School Prayer Cloture on Helms Amendment to Debt Bill (Senate Roll Call 349, 09/23/82) <i>A ‘no’ vote sustains a filibuster against the conservative position. Fails 53-45.</i>	17 (-.17)	26 (-.37)	35 (.36)	19 (.09)
Federal Employee Abortion Coverage Strike House Language from CR (Senate Roll Call 349, 11/10/83) <i>A ‘yes’ vote removes a conservative provision from the bill. Fails 43-44.</i>	24 (-.36)	16 (-.20)	19 (.10)	28 (.37)
Medicaid Funding of Abortions Table Weicker Amendment to CR (Senate Roll Call 274, 10/3/84) <i>A ‘yes’ vote sustains the conservative position of the bill. Passes 55-44.</i>	15 (-.20)	30 (-.35)	40 (.34)	14 (.09)