Holding Up the Senate: Bob Dole and the Politics of Holds in the U.S. Senate

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Abstract

The defining feature of the modern U.S. Senate is obstruction. One of the most prevalent, but least studied, obstruction tactics in the Senate is the hold. Using a newly created dataset on Republican Senate holds from the 99th through 104th Congresses we cast light on hold practices in this era for the first time. We pursue three related goals with these data: (1) to develop a more comprehensive understanding of the nature of Senate holds (2) to develop a more comprehensive understanding of characteristics of senators who place holds, and (3) provide a systematic analysis of the effect of holds on legislative outcomes. Our results suggest that a variety of factors including timing, party status, and holder ideology affect both the prevalence of holds and their success in blocking legislation in the Senate.

1 Introduction

The defining feature of the modern U.S. Senate is obstruction. The chamber has lacked a motion on the previous question since 1806, which in most cases makes it impossible to begin consideration of a measure or end debate on a bill or nomination by majority rule (Binder and Smith 1997). The inability of the Senate to set its order of business through majority rule creates opportunities for individual senators or small groups of senators to obstruct the Senate's business through extended debate or filibuster. Filibusters have been a feature of the Senate for more than a century, but it has only been in recent decades that senators have largely abandoned restraint in their use of obstructive tactics. Indeed, most indices of Senate obstruction show a sharp uptick over the past 30 years (Koger 2010). This has a resulted in a legislative climate where almost all pieces of major legislation are affected—either directly or indirectly—by obstructive tactics or the threat of obstruction.

The threat of obstruction combined with the unwieldy procedures necessary to invoke cloture have created an environment whereby Senate leaders seek to develop strategies that will avert the use of obstructive tactics. The predominant method employed is to ask for unanimous consent. In fact, much of the business that takes place in the Senate does so with the unanimous consent of all senators. Most requests for unanimous consent are simple, non-controversial requests by a senator to waive the reading of an amendment, have a staff member on the floor, or insert material into the *Congressional Record* (Oleszek 2011a). In addition to simple requests, the Senate also employs complex unanimous consent agreements (UCAs) that can govern all aspects of consideration for a bill including the time allowed for debate, the number and identity of amendments allowed, the number of votes required to adopt an amendment, and a specific time to hold a vote (Smith and Flathman 1989; Roberts and Smith 2007).

The constant need for unanimous consent has given rise to the obstructive tactic known as the hold. In order to avoid objections to unanimous consent requests on the floor, party leaders inform senators of bills and nominations that may be subject to a UCA via a circulated calendar or through a hotline request. Senators signal their intent to object to a UCA—in essence a threat to filibuster—by sending a letter to their party leader indicating that he or she will or may object to a unanimous consent request. These threatened objections are referred to as holds. The letters containing holds are considered private communication between a senator and his/her leader so they are kept anonymous unless a senator chooses to make his/her hold public.¹ Despite their anonymity, holds have received considerable attention and a heap of scorn in recent congresses. There have been a number of reform proposals, lots of complaining about the process by senators, and intense media scrutiny on the practice (Evans and Lipinksi 2005).

Despite the attention given to the practice of holds, we have a very limited systematic understanding of the effect of holds on the legislative process. This is entirely due to the secrecy of the process. Not only are holds not routinely made public, the records

¹Party leaders—with the permission of the holder senators—occasionally share the identity of holders with bill sponsors (Smith 1989).

of them are typically locked away in the offices of party leaders. Evans and Lipinksi (2005) provide the only systematic treatment of Senate holds to date, which was based on correspondence and marked calendars found in the personal papers or former Senate Republican Leader Howard Baker (TN) for the 95th (1977-78) and 97th Congresses (1981-1982). In this paper, we build upon the work of Evans and Lipinski and provide a preliminary investigation of Republican hold practices for the 99th (1985-1986) through 104th (1995-1996) Congresses. Our analyses are based on archival data found in the personal papers of former Republican Leader Bob Dole (KS).

This new dataset provides us the most comprehensive portrait of Senate hold behavior to date. Our six congresses of data give us a window into variations in hold practices for Republicans under a variety of institutional circumstances. We have four congress in which the Republicans were the minority party in the Senate and two in which they were in the majority. Of the four congresses with the GOP in the minority, three occur with Republican presidents and a Democratic House, and one occurs during President Bill Clinton's first term. The 99th Congress featured a Republican president and Senate with a Democratic House. In addition, we also have partial data on the 104th Congress, which was the first instance of unified Republican control of Congress in 40 years. This variation allows us to document differences in obstructive behavior as the relative institutional strength of the Republican party changes over time. We have three related goals in the project: (1) to develop a more comprehensive understanding of the nature of Senate holds (2) to develop a more comprehensive understanding of characteristics of senators who place holds, and (3) provide a systematic analysis of the effect of holds on legislative outcomes.

Our paper proceeds as follows, in Section 2 we briefly discuss the history of Senate holds and attempts to reform the process, in Section 3 we describe our data, provide details on coding holds, and present some summary statistics on hold patterns. Section 4 presents some preliminary multivariate models of patterns of hold usage and the success of holds at blocking the enactment of legislation. In Section 5 we offer tentative conclusions and discuss our future research plans.

2 History of Holds

According to Oleszek (2011b, 2) the precise origins of the hold, "has been lost in the mists of history." However, we have some information on the history and development of the hold. Former Senate Secretary Walter Stewart traces the origins of the "secret hold" to Lyndon Johnson's (D-TX) time as Senate Majority Leader. Steve Smith, in his testimony before the Senate Rules and Administration Committee in June 2003, notes that the usage of holds increased in the 1960s and 1970s under the leadership of Mike Mansfeld (D-MT) and Robert Byrd (D-WV) due to those leaders relying increasingly on complex UCAs to manage the Senate (Smith and Flathman 1989; ?). As the Senate came to rely more on UCAs, leaders found it useful to anticipate and perhaps respond to pending objections on the floor.

With the increased usage of the hold, came a change in its role in the legislative

process. The hold has evolved from a routine notification device to something akin to a procedural right, as senators have increasingly used the threat of objection to block or delay bills, object to votes on nominees, and bargain with leaders or other senators about other items. Senate party leaders have been consistently frustrated with this evolution of holds from a notification device to a *de facto* procedural right, but lack formal tools to combat the process (Schiller 2012). The various hold tactics have even acquired informal names. Senators wishing to extract concessions on a unrelated items are said to have a "hostage" hold against a bill or nominee. A group of senators opposed to a particular measure have been known to place "rolling" holds whereby a new hold is placed following the withdrawal of a previous hold. Perhaps most cleverly, senators refer to a "Mae West" hold in which the holding senator wants the bill's sponsor to "come up and see me sometime" to allow for bargaining over provisions of the bill in question.²

Holds have extended to matters beyond the Senate as well. Charles Grassley (R-IA) placed a hold on a number of ambassador nominations in an attempt to force the Clinton administration to submit his preferred nominee for the Board of the Farm Credit Administration. Similarly, Paul Wellstone (D-MN) once placed a series of holds in order to place pressure on the administration and FEMA to declare part of Minnesota a federal disaster area after storm damage. Larry Craig (R-ID) put a hold on 850 Air Force promotions in an attempt to secure more planes for the Idaho Air National Guard.

The increased usage of holds has drawn scrutiny from senators and Senate ob-

²See Carl Hulse, "Senate May End an Era of Cloakroom Anonymity," *New York Times*, August 2, 2007.

servers alike. Newspaper editorials seem particularly upset that holds are "secret" and wish to have them brought out into the open. Senators themselves have often complained about hold practices. Former Democratic Leader Tom Daschle (SD) once remarked in apparently frustration, "There are holds on holds on holds. There are so many holds it looks like a mud wrestling match" (Oleszek 2011b, 2). Senators have been seeking to reform the practice of holds for at least three decades according to Oleszek (2011b). Reform proposals have included time limits on all holds, specific time limits for nominations, a uniform procedure for holds, and the outright abolition of holds. Senators Charles Grassley (R-IA) and Ron Wyden (D-OR) have taken the lead of an effort to make holds publicly known. In 2003 they co-sponsored a resolution that would have formally institutionalized the hold and required senators to note their holds in the *Congressional Record*. The Senate Rules and Administration committee held a hearing on the proposal in which a number of prominent political scientists pointed out the difficulties of enforcing such a rule.

A new hold policy was actually adopted as part of the Honest Leadership and Open Government Act of 2007. Among other things this policy required a senator to place a notice of his/her hold in the *Congressional Record* within six days of placing the hold.³ However, this reform has not had the desired effect of eliminating secret holds. The six day limit allows a senator or group of senators to easily circumvent the rule by using the rolling hold strategy discussed above.

 $^{^{3}}$ See Oleszek (2011b) for full details.

Efforts to reform holds continue, but are unlikely to be successful as stand alone measures. In fact, reading the list of proposed reforms to the hold process is almost comical. The problem, from our point of view, is that would be reformers treat the hold as if it is a formal institution that needs either to be brought out into the sunshine or abolished altogether. The view of reformers seems to be that having non-anonymous holds or removing the ability to request a hold would suppress obstruction and presumably increase the legislative productivity of the Senate. Yet this view in many ways misses the point. The root of the problem is not holds, *per se*, but rather a set of rules that does not allow majorities to start or end debate on a bill. As long as the Senate effectively requires unanimous consent to conduct business, senators will be able to obstruct the chamber's business by objecting to those requests. Holds, in and of themselves, are not the primary cause of obstruction in the Senate, it is the set of rules that allows a minority of senators to obstruct the Senate's business that give holds their power.

3 Data

Despite the increased use of and scrutiny of holds, we still have a limited systematic understanding of their usage. As we noted in the introduction, the primary reason for this is that they are typically kept anonymous. Senators place holds by sending a letter to their party leader. These letters are not routinely shared outside of Senate party leadership. In fact, if it is often the case that other senators are unaware of who has placed a hold on a particular piece of legislation. We hope to be able to provide some clarity about patterns and effects of holds with our newly created dataset.

Our data for this project are based on correspondence between Republican senators and former Republican Leader Bob Dole (KS) for the 99th (1985–86) through the 104th (1995–1996) Congresses.⁴ These data were drawn from the personal papers of Senator Dole which are housed at the Robert J. Dole Institute of Politics at the University of Kansas.⁵ We found 1750 unique letters between Senator Dole and other senators relating to consideration of legislation, 153 of these were clearly not "holds" so they were excluded from our analysis leaving us with 1597 unique hold letters containing 2655 holds.⁶ See Figure 1 for an example of the letter format.

3.1 Hold Types

Using these letters we coded the identity of the letter writer, the date the letter was written, the target of the hold (i.e. a bill, resolution, or nomination) and the type of hold being requested. We categorized each hold request into one of the following six categories, for examples of each please see the Appendix:

Outright Hold Letters that threaten to object to a unanimous consent request without

providing any statement about what could be done to appease the senator.

⁴Dole resigned from the Senate to focus on his presidential run against President Bill Clinton on June 11, 1996. As a result we do not have information on holds that were placed after Dole's resignation for the balance of the 104th Congress.

 $^{^5\}mathrm{We}$ thank Morgan Davis for assisting us in locating these materials and assisting us in reproducing them.

⁶Many bills had more than one hold placed against it, while some letters placed holds on more than one piece of legislation.

Figure 1: Sample Hold Letter

JESSE HELMS NORTH CAROLINA

United States Senate

WASHINGTON, DC 20510-3301

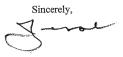
December 18, 1995

The Honorable Bob Dole Majority Leader United States Senate S-230 The Capitol Washington, D.C. 20510

Dear Bob:

I will object to any time agreement, unanimous consent request with respect to consideration of S. 426, a bill to authorize the establishment of a memorial to Martin Luther King Jr., in the District of Columbia.

I request that I be given as much notice as possible of any attempt to bring this matter up for consideration by the Senate.



JESSE HELMS:ga

cc: Elizabeth B. Greene

- **Specific Amendment Request** Letters that threaten to object to a unanimous consent request unless a particular amendment is allowed to be offered to the bill.
- **General Amendment Request** Letters that request the ability to offer an unspecified amendment to a bill.
- **Specific Demands** Letters that threaten to object to a unanimous consent request unless a particular provision of the bill is removed.
- **Requests for Notification** Letters that ask to be notified prior to a UCA being entered into without making any requests or demands.
- **Requests for Delay** Letters that ask that consideration of a bill be delayed in order to gather more information or hold a committee hearing.

In Table 1 we report the frequency distribution of the various hold types by Congress. Several patterns emerge from these data. First, the 99th Congress (1985– 1986) represents the low point of outright holds by Senate Republicans and the high point in requests for notification. Given the partisan alignment of the major lawmaking institutions this is not surprising as Senate Republicans were unlikely to be threatened by a hostile legislative agenda in the 99th Congress. President Reagan was coming off of his 49 state landslide victory over Walter Mondale and the Senate Republicans had gained a majority of seats in the chamber with their successes in the 1984 elections. The Republicans under new Majority Leader Dole controlled the key agenda setting institutions in the Senate and had a popular president of the same party flush with political capital after his reelection. As a result, the Republican party was in a relatively strong position to push its legislative agenda at the outset of the 99th Congress and found itself less in need of obstructive tactics. To be sure, some members still used holds as an obstruction tactic, but derailing legislation was not the primary intent. For example, during debate on raising the debt ceiling, Senator Alfonse D'Amato (R-NY) wrote Dole saying in part,

...I assume that at some time in the future a unanimous consent request to shut off amendments to the Debt Ceiling legislation will be circulated. I would like to let you know that I will oppose any unanimous consent agreement that does not allow me to raise at least 4 amendments: #2227, #2229, #2230 (all of which have been filed) and an unprinted amendment not now identifiable.

The 100th Congress (1987–1988) by contrast was a different political environment for Senate Republicans. The 1986 midterm elections did not go well for the party, as they lost a net of eight seats and the Senate Majority. President Reagan's popularity was in decline in part due to the Iran-Contra scandal and Republicans had lost seats in the House. Without control over any of the key agenda posts in the Senate, Republicans turned to obstructive tactics to forestall unwanted legislation or amendments. For example, Senator Bob Packwood (R-OR) wrote to Dole in part saying,

I request that a hold be put on S. Res. 288, a resolution to permit amendments to bill implementing the agreement under section 151(d) of the Trade

	99th	100th	101st	102nd	103rd	104th
Outright Hold	82	284	134	150	208	111
	(18.9)	(46.7)	(32.4)	(33.9)	(56.8)	(28.7)
Specific Amdt. Request	38	11	25	13	19	38
	(8.8)	(1.8)	(6.0)	(2.9)	(5.2)	(9.8)
General Amdt. Request	53	113	56	14	7	22
	(12.3)	(18.6)	(13.5)	(3.1)	(1.9)	(5.7)
Specific Demand	58	23	19	27	11	110
	(13.4)	(3.8)	(4.6)	(6.1)	(3.0)	(28.4)
Notification	175	155	161	227	112	84
	(40.5)	(25.5)	(38.9)	(51.2)	(30.6)	(21.7)
Request Delay	26	22	19	12	9	22
	(6.0)	(3.6)	(4.6)	(2.7)	(2.5)	(5.7)

Table 1: Hold Type by Congress

Column percentages in parentheses.

Act of 1974 if such amendments related to the domestic or foreign waterborne commerce of the United States.

Republican hold requests were down across the board in the 101st and 102nd Congresses (1989–1992) in comparison to the 100th Congress. Both of these congresses featured Republican President George H.W. Bush, and Democratic majorities in both chambers of Congress. Even though requests were down, approximately one-third were outright hold requests that sought to prevent consideration of a piece of legislation.

The 103rd Congress (1993–1994) was the highpoint for outright holds in our data, which is not a surprise given the situation Republicans found themselves in. With the election of Democratic President Bill Clinton in 1992, the Republican party found itself facing unified Democratic government for the first time since the Carter administration. Instead of being able to count on a Republican president to veto unwanted legislation, Republicans faced an out-party president with an ambitious legislative agenda. They responded with a flurry of holds and other obstructive tactics that constantly frustrated the Clinton administration and Democrats in both chambers of Congress. Targets of holds included the supplemental appropriations bill (i.e. Clinton's stimulus package), the motor voter law, and bills to reform hardrock mining, water safety, and the Superfund among many others. Senator Dole himself even got into the act sending a letter to his own office asking that his hold against the amendments to the Communications Act of 1934 be noted on the marked calendar. The sustained Republican efforts were quite successful. Only 23% of bills targeted by outright holds in the 103rd Congress passed the chamber, which was the lowest percentage passed of any congress in which the Republicans were in the minority.⁷

After the 1994 midterm elections, Republicans found themselves as the majority party in both chambers of Congress for the first time in four decades and facing a Democratic president weakened by scandal, policy failures, and the 1994 electoral disaster. Not surprisingly, we see Republican hold activity fall in this Congress.⁸ We do see the highest level of holds that have specific demands in them as Republican party senators begin to use the hold as a vehicle of policy change rather than as an obstructive tactic.

 $^{^{7}}$ Note that we have not examined success on nominees as of this writing, but we expect to see high levels of success on nominees.

⁸Note we only have partial data for the 104th Congress due to Dole's resignation in June of 1996.

In all, we think the patterns of hold types fit with what most observers would expect with regard to party control of the institutions of government. Republicans used the hold the most, when they were most threatened (103rd Congress) and relied on it the least when they were in the majority (99th and 104th Congresses). Now we move onto the identity of the senators who placed holds.

3.2 Who Places Holds?

Are there patterns of hold behavior by individual senators? In some ways the answer to this question is no, as holds were ubiquitous for these congresses. In the six congresses that we have data for only two Republicans served with Dole and did not place a hold: Mark Andrews (ND) and James Broyhill (NC). Broyhill only served for four months during the 99th Congress leaving Andrews as the only senator to serve an entire congress and not place a hold.

Though essentially all Republican senators placed holds during this era, there was a great deal of variation in the number of holds placed by each senator. By far, the Republican senator with the most holds during Dole's time as leader was Jesse Helms (NC). Out of the more than 2600 holds placed in this time period, 449 or 16.9% were placed by the cantankerous senator from North Carolina. Some of Helms' hold activity can be explained by his membership in the Senate Steering Committee (more on this below), but much of it seems to reflect his own personal prerogatives. Any piece of legislation dealing with Martin Luther King, Jr. from the proposed monument in D.C., to the federal holiday bearing King's name, to a proposed extension of the holiday commission drew his ire. He is also one of the few senators who would occasionally add personal notes to his typed hold requests. For example, in his request for notification of any UCA on an extension of the Martin Luther King, Jr. Federal Holiday Commission Extension Act, he hand wrote in a note saying, "I really need to be protected on this! Thanks, J.H." On another request he wrote in simply, "Bob–This is <u>terrible</u>!" with the word terrible underlined three times for effect.

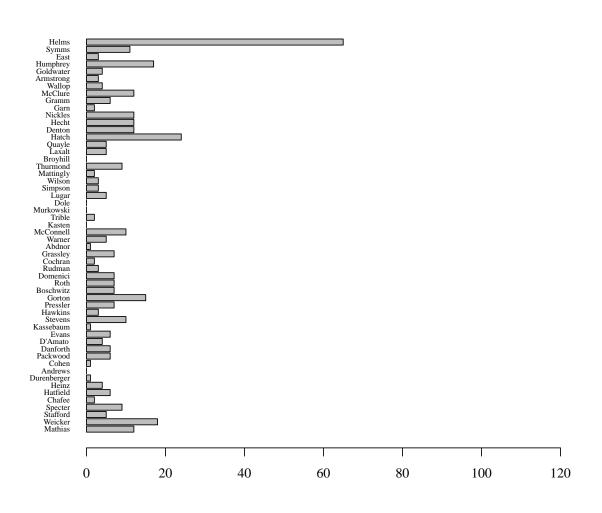
Helms, of course, was not alone in frequently placing holds. Figures 2, 3, 4, 5, 6, and 7 below show the distribution of holds by senator in each of the six congresses in our dataset. We have organized these figures in descending order of their DW-NOMINATE scores so those with the most conservative voting records are at the top of each figure, while the most moderate Republicans are near the origin.

Discerning patterns from visual data displays is not typically a fruitful exercise, but to the extent there is a pattern in these data it appears that senators at the ends of ideological distribution were the most active. This pattern is quite similar to the one found by Evans and Lipinksi (2005) in their earlier work on holds. We explore these and other potential patterns in the next section.

4 Analysis

Developing theoretical expectations for a behavior that likely combines elements of personal, partisan, and institutional preferences is inherently difficult. The practice of placing holds has numerous strategic elements including timing, reputation costs, retali-

Figure 2: Holds by Republican Senators, 99th Congress



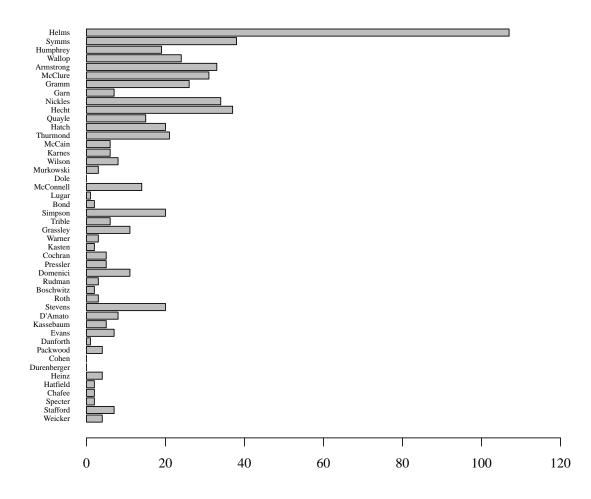
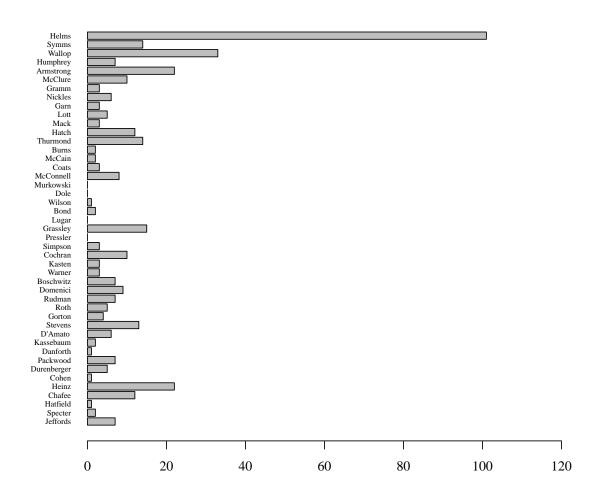


Figure 3: Holds by Republican Senators, 100th Congress

Figure 4: Holds by Republican Senators, 101st Congress



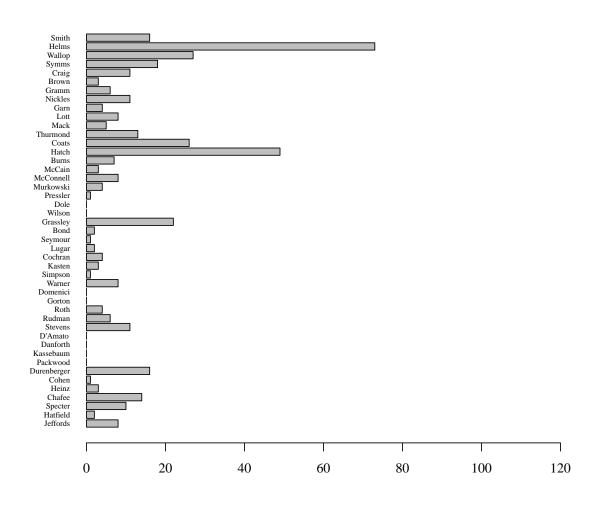


Figure 5: Holds by Republican Senators, 102nd Congress

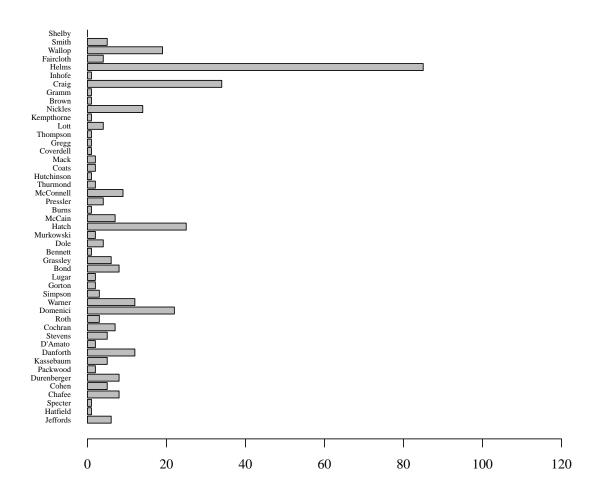
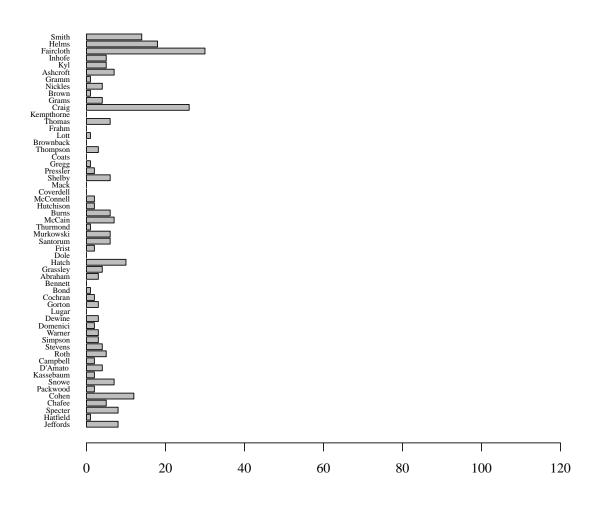


Figure 6: Holds by Republican Senators, 103rd Congress

Figure 7: Holds by Republican Senators, 104th Congress



ation, and the real possibility of paying the physical costs of objecting to and filibustering a bill. Some of the holds we observe are placed by senators primarily because they are opposed to the underlying piece of legislation or nominee. However, some holds are placed in an effort to seek influence or leverage on unrelated items. As we noted above, holds have been used to try to influence the behavior of actors outside the Senate as well as those inside the chamber. Thus we cannot always be sure if the bill being held is the actual target of the senator placing the hold or the held bill is simply collateral damage from another legislative battle. As a result, deriving precise spatial expectations about hold behavior would be difficult.

Hold behavior by one senator on a particular bill is also unlikely to be independent of action by others senators on other bills. While holds are easy to place, there are risks and costs involved for the holding senator. There are no institutional barriers that prevent a party leader from calling a holding senator's bluff on a particular measure. If the leader chooses to ask for unanimous consent and the senator objects, he/she has to be prepared to hold the floor and filibuster the motion to proceed. Having one's bluff successfully called likely has reputation effects as well. Gaining a reputation as being "weak" when pushed on a hold will likely reduce the effectiveness of future holds.

In addition to reputation costs with the party leader, holds may alter a senator's reputation among his/her party colleagues. A senator known for routinely obstructing bills sponsored by others may soon find that his/her own bills the target of obstructive behavior. While our new dataset gives us an unprecedented glimpse as this complex game of inter and intra-institutional bargaining over legislation, we do not have nearly enough information to make definitive, theoretically sound predictions about all aspects of hold behavior. We rely heavily on the previous work by Evans and Lipinksi (2005) as well as other literature on obstruction, but our expectations are still tentative in nature. As such all of the analysis that follows should be considered preliminary.

4.1 Who Holds?

As we noted above, almost all Republican senators placed holds on legislation at some point during Dole's term as party leader. However, there is considerable variance in the number of holds that senators place. In this section we seek to identify factors that are associated with increases in hold behavior.

Based on the figures presented above, there is some indication that Republican senators with more conservative voting records are more likely to use employ holds more frequently. In some ways this is logical as senators near the extreme of a party that is typically in the minority may often find that proposed legislation is distant enough from their ideal point to risk having to pay the costs of obstruction. However, given the 60-vote cloture threshold in the Senate it is minority party moderates who are more likely to have more institutional leverage with bill sponsors and party leaders. Given the lack of clear spatial expectations we include a member's first dimension DW-NOMINATE coordinate as a measure of ideological conservatism. In addition, based on the analysis by Evans and Lipinksi (2005) we also include a squared DW-NOMINATE coordinate to capture the possibility of a U-shaped relationship between ideology and hold behavior.

A key faction of Republican senators known as the Senate Steering Committee formed in the mid-1970s in an effort to combat what they members of the committee saw as an overly liberal floor agenda in the Senate. According to Evans and Lipinksi (2005) the committee was modeled on the House Republican Study Committee and met regularly to plan strategy for promoting conservative initiatives and for impeding the progress of liberal initiatives. One strategy that the group came to rely on was the hold. Evans and Lipinksi (2005) report that during the 95th Congress, Steering Committee chair James McClure (ID) placed unrestricted holds on scores of legislation on behalf of himself and fellow members of the committee. In our data, we observe a number of hold letters that are either signed by a large group of members known to be on the Steering Committee or printed on Senate Steering Committee letterhead. At this point we are still trying to formally identify all members of the committee during this era, but for now we have coded someone as being a member if they ever signed onto a letter on Steering Committee letterhead in a particular congress. We expect membership in this group to have a positive effect on hold behavior.

We also follow the lead of Evans and Lipinksi (2005) and include a number of control variables including a measure of a member's total seniority in the Senate in our models, with the expectation that more senior members would be more likely to avail themselves of their full procedural rights. We also control for a senator's state population in millions, and whether or not they won the last election with less than 55% of the vote. Given the unique party arrangements present in the 99th, 103rd, and 104th Congresses, we include a dummy variable for each of these three congresses in our model. We estimate a negative binomial regression model of the number of holds by a senator as a function of these factors. In Table 2 below we present four models. Two include all categories of holds, while two exclude requests for notification and delay—for each model type we fit one model with Senator Helms and one without him to assess the extent to which his behavior drives our results.

The results presented in Table 2 are promising. Focusing first on all holds and all senators, Steering Committee membership has the expected positive effect on hold count. Holding all else equal, a steering committee member requested twice as many holds (10.27) as did non steering members (5.10). A senator's voting behavior as measured by DW-NOMINATE is also associated with hold behavior. A senator near the median of the Republican party had a predicted hold count of 4.8, whereas the model predicts that a moderate senator in the 10th percentile of the Republican party's expected count was 5.9 holds per congress. In contrast, a conservative senator at the 90th percentile has an expected hold count of 23.2. Thus we find a slight U-shaped relationship between voting and hold behavior, but it is clear that most dramatic substantive relationship is found among conservative senators.

We also find that senators average fewer holds in the 104th Congress, but this is likely an artifact of the fact that we are missing several months of data due to Dole's resignation from the Senate. None of the other variables included in the all holds model reach conventional levels of statistical or substantive significance. Excluding Helms

Variable	All Holds		Demand Holds Only		
	Helms Included	Helms Excluded	Helms Included	Helms Excluded	
DW-Nominate	-2.45^{*}	-2.02^{*}	-2.05	-1.14	
	(0.66)	(0.57)	(1.12)	(0.92)	
DW-Nominate ²	5.30^{*}	4.04^{*}	5.48^{*}	3.33*	
	(1.10)	(0.90)	(1.61)	(1.19)	
Seniority	0.016	0.007	0.019	0.005	
	(0.012)	(0.01)	(0.013)	(0.01)	
Steering Committee	0.70^{*}	0.67^{*}	0.54^{*}	0.48^{*}	
-	(0.19)	(0.19)	(0.20)	(0.21)	
State Population	-0.026	-0.032^{*}	-0.016	-0.026	
	(0.014)	(0.012)	(0.016)	(0.014)	
Electorally Insecure	-0.014	-0.09	0.02	-0.10	
·	(0.14)	(0.13)	(0.16)	(0.15)	
99th Congress	-0.17	-0.18	-0.29^{*}	-0.31^{*}	
	(0.13)	(0.14)	(0.13)	(0.14)	
103rd Congress	-0.30	-0.29	-0.20	-0.23	
-	(0.17)	(0.18)	(0.22)	(0.24)	
104th Congress	-0.61^{*}	-0.54^{*}	-0.60^{*}	-0.54^{*}	
	(0.17)	(0.17)	(0.21)	(0.21)	
Constant	1.75^{*}	1.92*	1.01^{*}	1.24^{*}	
	(0.20)	(0.17)	(0.25)	(0.20)	
N	292	286	292	286	
alpha	0.68	0.65	0.78	0.72	

Table 2: Number of Holds Per Senator, 99th-104th Congresses

Note: Estimates are from an negative binomial regression model with the number of holds per senator, per congress as the dependent variable. Standard errors in parentheses clustered by senator. $* = p \le 0.05$.

from the all holds model does dampen the effects of the Steering Committee and DW-NOMINATE, but not so much as to alter our substantive conclusions.

We also see similar results if we include "demand holds" only. Steering Committee membership and voting behavior are still associated with hold behavior. For example, holding all else equal, Steering Committee membership increases the expected hold count from 3.06 to 5.22 on average. Turning to voting behavior, holding all else equal the median Republican senator has a predicted hold count of 2.7. Our data predict an expected hold count of 3.33 for a moderate Republican at the 10th percentile of the party compared with 6.65 for a conservative located at the 90th percentile.

We do find a relationship between party control of governing institutions and demand hold behavior. Holding all else equal, the predicted hold count for a Republican senator serving in the 99th Congress was 2.39, compared to 4.38 in other congresses in which the Republicans were in the minority. Much like the all holds data we see no discernible effects for our control variables and it is still the case the excluding Jesse Helms dampens the results slightly.

Taken a whole, these results are not particularly surprising, but they do indicate that hold behavior is not just random noise. Membership on the Steering Committee and being located on the party's poles with respect to voting behavior are both consistent predictors of hold behavior. In the next section we turn to the related questions of what kinds of legislation tend to be targeted by holds and how those holds ultimately affect the passage of held legislation in the Senate..

4.2 Predicting Holds

Hold behavior appears to be systematically related to a senator's voting behavior, membership on the Steering Committee, and the party control of the chamber. In this section we proceed to consider the characteristics that predict whether or not a piece of legislation will be subject to a hold. Our motivating question here is to understand the relationship between holds, holders, and legislative outcomes. As we discussed above, holding senators can have varied goals when placing a hold. Holding senators that request changes to a bill may do so in the hope that the bill will ultimately become law, on the other hand senators who request outright holds may do so in order to prevent passage of the underlying bill.

We start by examining the frequency with which Senate bills are targeted by holds. Table 3 presents data on the percentage of Senate bills reported by a Senate committee that are targeted by a Republican hold. We break the data down by Congress and by party of the bill sponsor. We see that bills sponsored by a member of the majority party are more likely to be subject to holds across all six congresses in our dataset. Except for a spike in holds on majority sponsored bills in the 100th Congress and a sharp decline in holds on minority sponsored bills for the 103rd and 104th Congresses our results are fairly consistent across congresses and across the various partisan alignments in our data.

Next we turn to an exploratory multivariate model of the factors that predict whether or not a Senate bill will be subject hold. We employ a number of independent variables that reflect characteristics of bill sponsors, the bill's committee of origin, and

	Majority Party Sponsor	Minority Party Sponsor
99th	36.2%	29.3%
	(398)	(82)
$100 \mathrm{th}$	50.5%	30.2%
	(503)	(96)
101 st	39.4%	24.5%
	(464)	(102)
102nd	36.6%	36.4%
	(418)	(110)
103rd	34.8%	13.9%
	(348)	(72)
104th	25.1%	14.3%
	(354)	(98)

Table 3: Held Bills By Congress

the partisan alignment of the Senate. The results are presented in Table 4. Bills that emerge from committees classified as Policy or Constituency by Deering and Smith (1997) are more likely to be targeted by holds that are bills from mixed or unrequested committees.⁹ The variables with the greatest predictive power for majority sponsored bills are the bill sponsor's DW-NOMINATE score, multiple referral of a bill, and the number of cosponsors.

Majority members with more moderate DW-NOMINATE scores are more likely to see bills that they sponsor subject to a hold than are more extreme members. This could be the result of members recognizing that more extreme bills are likely to fail due to the lack of majority support and thus obstruction is not needed. Similarly, bills that attract

⁹Committees are coded as follows based on Deering and Smith (1997). Policy committees are: Budget, Foreign Relations, Governmental Affairs, Judiciary, and Labor. Mixed policy and constituency committees are: Armed Services, Banking, Finance, and Small Business. Constituency committees are: Agriculture, Appropriations, Commerce, Energy, and Environment and Public Works. Unrequested committees are: Rules and Administration, Veterans' Affairs, and Intelligence.

	Majority Sponsored	Minority Sponsored
Variable	Coefficient	Coefficient
	(Std. Error)	(Std. Error)
Policy Committee	0.68^{*}	0.61
	(0.21)	(0.65)
Mixed Policy and Constituency Committee	0.03	-1.30
	(0.24)	(1.00)
Constituency Committee	0.44^{*}	-0.26
	(0.21)	(0.66)
Multiply Referred Bill	0.64^{*}	0.18
	(0.18)	(0.49)
Number of Cosponsors	0.03^{*}	0.04^{*}
-	(0.002)	(0.01)
Sponsor DW-Nominate	-0.96^{*}	-2.14^{*}
-	(0.27)	(0.74)
Sponsor DW-NOMINATE Squared	1.12^{*}	1.19^{*}
	(0.43)	(1.20)
Sponsor Seniority	-0.01	-0.09^{*}
	(0.01)	(0.04)
Sponsor is Committee Leader	0.45^{*}	0.56^{*}
	(0.13)	(0.29)
Republican Majority	0.19	-1.45^{*}
	(0.16)	(0.60)
103rd Congress	-0.15	-0.42
	(0.13)	(0.42)
Constant	-1.90^{*}	-0.88
	(0.25)	(0.73)
Number of Cases	2379	509
Log-likelihood	-1452.25	-233.63
$\chi^2_{(11)}$	278.47	127.63

Table 4:	Factors	Affecting	Placing	of Holds
10010 11	I GCCOID	1110001115	1 IGOING	or more

Note: Estimates are from an logistic regression model. The dependent variable is coded 1 if the S type bill was held and 0 if it was not. Standard errors in parentheses. $*=p\leq 0.05.$

more cosponsors are more likely to have holds placed against them. In some ways this is an odd finding as a large number of cosponsors can be taken as a signal that a bill has widespread support, but at the same time these could be bills that are more useful for senators seeking to gain leverage on items unrelated to the bill in question. Finally, the probability of a bill being subject to a hold more than triples from .06 to .21 if the bill is referred to more than one committee. The only substantive difference we find between majority and minority sponsored bills is that Republicans are less likely to place holds on bills sponsored by Democrats during times of a Republican majority in the Senate. This is not a surprising finding given the frequencies presented in Table 3. Overall we do not have a great deal of success in predicting which bills will be targeted by a hold. Our model correctly classifies approximately 70% of observations compared to a baseline rate of 64.4% of bills do not get held. In the next section we consider the legislative fate of held bills.

4.3 Hold Success

Despite the variety of motivations that may be at play on any given hold, we focus here only on whether or not a bill targeted by a hold ultimately passes the Senate. Given our focus on passage only, we restrict our analysis to outright holds for the analysis below. Is there a relationship between holds and the passage of legislation? Our results suggest that there is. Table 5 demonstrates that there is variation across the six congresses in our study. The lowest percentage of outright held legislation to pass the chamber occurred in the 99th Congress, with Republicans in control of both the Senate and Presidency. The

Congress	Passage Rate	Number of Bills
99th	18%	28
$100 \mathrm{th}$	38%	105
101 st	40%	78
102 nd	37%	76
103rd	24%	85
104th	35%	20

Table 5: Passage of Outright Held Legislation

104th Congress had the third lowest percentage of legislation passing the chamber, with Republicans in control of both chambers of Congress. These two results suggest that same party leadership can more effectively mitigate the effect of holds on bill outcomes. As we noted above, Republicans were quite successful in obstructing legislation during the 103rd Congress despite unified Democratic government. Whether this result is a reflection of poor legislative strategy by Democrats or particularly effective obstruction by Republicans cannot be discerned from these data, but they do point to the difficulties inherent in governing a chamber that lacks a standing majority rule mechanism for ending debate.

Moving onto a multivariate treatment of bill passage we focus on the relationship between holds and bill passage as reflected in bill characteristics, the timing of holds, and party control of the institutions of government. As we noted in the section on holder characteristics, moderate members may have more leverage when they place holds on legislation due to the fact that it is difficult to assemble a supermajority for passage without including moderate members of either party. We thus expect to see holds by moderate Republicans to be negatively associated with bill passage. In a similar vein, we include the DW-NOMINATE score of the bill sponsor with the expectation that bills with more conservative sponsors are less likely to be torpedoed by Republican obstruction.

Timing is also a factor that has been demonstrated to be associated with the success of obstructive tactics. Koger (2010) demonstrates that filibusters occurring later in a Congress are much more likely to be successfully due to the shortened time horizon. We expect to find a similar result for holds. We operationalize this by measuring the number of months remaining in a Congress at the time a hold letter is received in Senator Dole's office.

We also focus on two features of the Republican party that may influence hold success. First, we expect that given the institutional prerogatives that come with being the majority—committee chairs, right of first recognition, etc.—Republican holds should be more successful when occurring under Republican majorities. Similarly, given the prominence of the Steering Committee in the party throughout this time period, we expect holds from the committee to be more successful.¹⁰ Given the apparent success of Republicans during the 103rd Congress, we include a dummy variable for that Congress as well.

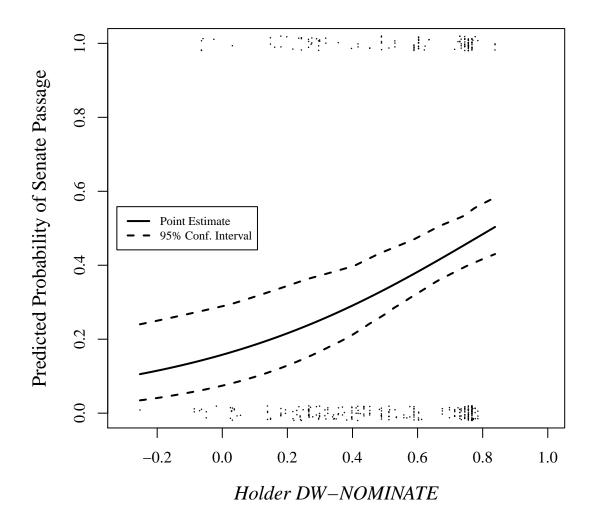
Table 6 presents the results of a logit model of bill passage as a function of the factors discussed above. The results of this model are quite predictive with regard to the factors that affect hold success. The holder's DW-NOMINATE is in the expected direction

¹⁰Note that almost all cases of multiple holds on a piece of legislation are a product of holds from the Steering Committee.

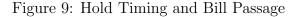
.	O a a C a b a b b b b b b b b b b
Variable	Coefficient
	(Std. Err.)
Holder DW-Nominate	-1.44
	(1.67)
Holder DW-Nominate ²	4.15^{*}
	(1.90)
Months Remaining in Congress	0.05^{*}
	(0.02)
Steering Committee Holds	-0.80*
-	(0.34)
Sponsor DW-Nominate	0.44
-	(0.41)
Republican Majority	-1.23*
	(0.46)
103rd Congress	-1.06*
	(0.31)
Constant	-0.93*
	(0.42)
N	386
Log-likelihood	-230.35
$\chi^{2}_{(7)}$	31.15

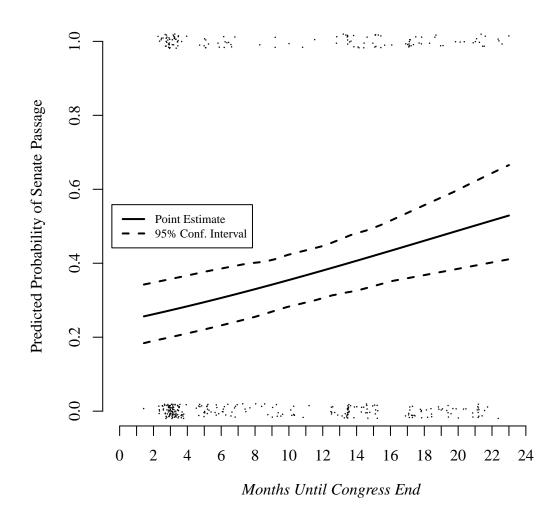
Table 6: Holds and Bill Passage, 99th-104th Congresses

Note: Estimates are from an logistic regression model. The dependent variable is coded 1 if the bill passed the Senate and 0 if it did not. Standard errors in parentheses. $* = p \le 0.05$.



and statistically significant. As Figure 8 demonstrates, holds by moderate Republicans have a greater likelihood of derailing legislation in the Senate. The timing of holds is also strongly associated with hold success. As time to the end of a Congress decreases the probability of an outright hold blocking legislation increases. This relationship can





be seen visually in Figure 9.

We also find the expected relationship between Steering Committee holds and bill passage. All else equal, a bill that was targeted by members of the Steering Committee had a 0.28 probability of passage, compared to 0.43 for holds that came from other parts of the Republican Party. The relationship between Republican majorities and hold success are also statistically and substantively significant. All else equal a held bill had a 0.20 probability of passage in Republican led Senate compared to 0.40 in a Democratically controlled Senate. The one exception to this relationship is the 103rd Congress in which the probability of held legislation passing is virtually identical to the result for Republican majorities. As noted above, this could be the result of poor legislative performance by the Democrats, desperation by out-of-power Republicans, or simply the increasing effectiveness of obstructive techniques.

5 Discussion

This paper provides the most comprehensive treatment of hold behavior in the Senate to date. Our data allow us to document the patterns of hold behavior that emerged during the leadership of Senator Bob Dole. We see a portrait of a Senate that is constantly dealing with the consequences of its majority hampering rules. Reformers and Senate observers routinely speak of the hold as a cause of many of the problems in the modern Senate—we disagree. In our view the hold is nothing more than a symptom of a set of rules that empowers individual senators at the expense of legislative majorities. Our data suggest that holds are more frequently employed by more conservative members of the Republican party, but we hesitate to conclude that the hold is a primarily a tool of members on the ideological extremes. Almost all senators make use of the hold from time-to-time for a variety of purposes, some that are, no doubt, ideological in nature, but many are likely more personal in nature. It is also the case that holds from more conservative senators are less effective than those from more moderate members.

Though we do not emphasize this in this draft of the paper, our findings speak to the effectiveness of Senate parties at managing obstruction in a challenging procedural environment. WIth the exception of the 103rd Congress, we observe significant differences in the effectiveness of holds based on the identity of the majority in the Senate. Senator Dole was much more effective at shepherding held bills to passage than were any of his Democratic counterparts. Of course, given that we only have hold data for one party it could be the case that Republicans simply found legislation percolating through the Senate to be less objectionable when they were in the majority. This is no doubt reflected in the decreased incidence of holds during periods of Republican majorities. However, party agreement explains the decrease in holds much more effectively than it does the decreased *success* of holds under Majority Leader Dole. It may be the case that Senate majority parties are more adept at using their limited procedural arsenal to shape Senate outcomes than is commonly believed (Monroe, Rohde, and Roberts 2008).

We are encouraged by the direction of our tentative findings, but realize that we have only begun to scratch the surface in fully understanding and explaining the effects of holds on the Senate. In the future we hope to present an analysis that is more institutionally and substantively rich. Our analysis of the effects of holds on legislative outcomes is the most blunt measure imaginable—pass/fail. We hope to develop a richer understanding of the effects of hold behavior on the content of legislation, not just its

ultimate success. We have also left unexplored many factors such as committee of origin for legislation, the relationship between committee membership and holds, bargaining between holders and leader, as well as the potential for coordinated hold strategies. In addition, we have yet to analyze the effect of holds on the fate of nominees in the Senate. Of course the biggest weakness of both our data and the data presented by Evans and Lipinksi (2005) is that we only have information on Republican holds. In the future we hope to mine the papers of Democratic leaders to present a more complete picture of hold behavior.

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Appendix

Below we provide examples of each of the six hold types identified in Section 3.

Figure 10: Outright Hold

JOHN ASHCROFT MISSOURI

United States Senate

WASHINGTON, DC 20510-2504

September 27,1995

The Honorable Bob Dole Majority Leader United States Senate S-230 The Capitol Washington, D.C. 20510

Dear Bob:

I will object to any time agreement or unanimous consent request with respect to consideration of H.R. 2127, Calendar Order Number 189, an act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

Many thanks and kindest personal regards.

Sincerely,

John anaropy

JOHN ASHCROFT:jkm

cc: Elizabeth B.Greene

Dole - 32

Figure 11: Specific Amendment Request

JOHN ASHCROFT MISSOURI



Shlila 1 Elijibeth

March 13, 1996

The Honorable Bob Dole Majority Leader United States Senate S-230 The Capitol Washington, D.C. 20510

Dear Majority Leader Dole:

When S. 1180, "The SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995," was considered in the Labor Committee's mark-up on October 12, 1995, Chairman Kassebaum's substitute amendment contained a provision (Section 312), included at my urging, which related to nondiscrimination and institutional safeguards for religious providers of services.

Senator Kennedy then offered an amendment to delete Section 312, but his amendment failed on an 8 to 8 vote. The Chairman's substitute then failed by a tie rollcall vote of 8 to 8. Not wanting the bill to fail in Committee, I asked that Section 312 be taken out, and stated my intention to propose that section as an amendment to S. 1180 on the floor. There being no objection to my request, Section 312 was removed from the Chairman's substitute, and the bill then passed out of Committee by a unanimous rollcall vote.

As I wish to pursue my intention to offer Section 312 as an amendment to the bill on the floor, I will object to any time agreement or unanimous consent request with respect to consideration of S. 1180, Calendar Order Number 292, an Act which amends title XIX of the Public Health Service Act to provide for health performance partnerships, and for other purposes.

Many thanks and kindest personal regards.

Sincerely,

John Ashcroft

JDA/aeb

cc: Elizabeth B. Greene

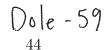


Figure 12: General Amendment Request

JAMES A. MCCLURE

United States Senate

WASHINGTON, DC 20510

HR. 4840

July 6, 1988

CC:SB,JW, BOYO, H.GZEENE, E.GZEENE

RELD 7 7; 10:15A

The Honorable Robert Dole Senate Republican Leader S-230 Washington, D.C.

Dear Bob:

I plan to offer at least one amendment to the trade bill when it is considered on the Senate floor. Therefore, I ask that you notify me before entering into any further agreements on the trade package.

Sincerely, M: Clure James A. McClure United States Senator

McC:jgk

Figure 13: Specific Demand Example

TED STEVENS, ALASKA, CHAIRMAN
WILLIAM V, ROTH, JR., DELAWARE JOHN GLENN, OHIO
WILLIAM S, CONEN, MAINE SAM NUNN, GEORGIA
THAD COCHRAN, MISSIBSIPI DAVID PHYOR, ARKANSAS
JOHM MCCAIR, ARACONA JOSETH I, LIBERMAN, CONNECTICUT
BOB SMITH, NEW HAMPSHIRE DANIEL K, AZASA, HAWAII
ANK BROWK, COLORADO B'HYON L DORGAN, NORTH LAKOTA

ALBERT L. McDERMOTT, STAFF DIRECTOR LEONARD WEISS, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON GOVERNMENTAL AFFAIRS WASHINGTON, DC 20510-6250

January 24, 1996

The Honorable Robert Dole Senate Majority Leader United States Senate Washington, D.C. 20510

Dear Bob:

I am writing to express my concerns about a proposal to require the United States Postal Service to prefund the federal government's share of postal retirees' health insurance. I understand the Administration raised this proposal as part of the overall budget discussions.

According to the Postal Service, prefunding would require the Postal Service to raise postal rates significantly in order to pay for it. I am concerned about the effects of such a proposal on third class mailers particularly in light of the rate increase that took effect last year.

In the short term, prefunding would require the Postal Service to shift more money into the Treasury. As the Congressional Budget Office has stated, however, prefunding would not change the long term cost to the government of health insurance for postal retirees. It would merely shift the timing of certain receipts and not reduce the deficit.

I hope that you will oppose any proposal to require the Postal Service to prefund the federal government's share of postal retirees' health insurance.

Thank you for your consideration in this matter. I look forward to hearing from you.

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With warm personal regards, I am

Sincerely,

William S. Cohen United States Senator

WSC:pmc

Figure 14: Notification example

FRANK H. MURKOWSKI ALASKA

COMMITTEES: VETERANS' AFFAIRS (RANKING MEMBER) ENERGY AND NATURAL RESOURCES FOREIGN RELATIONS INDIAN AFFAIRS INTELLIGENCE

GRDE2 #978 United States Senate

WASHINGTON, DC 20510 (202) 224-6665

September 26, 1988

Senator Robert J. Dole Republican Leader United States Senate Washington, D.C. 20510

CL: SB, JW, BOYD, H. BREENE, E. GREENE RELD 9/26; 4:30p

ANCHORAGE

U.S. FEDERAL BUILDING 701 C STREET, BOX 1, 99513 (907) 271-3735

FAIRBANKS

(907) 456-0233

JUNEAU

U.S. FEDERAL BUILDING BOX 1647, 99802

(907) 586-7400

U.S. FEDERAL BUILDING 12TH AVENUE, BOX 7, 9970

Attention: Mr. Howard Greene

Dear Bob:

I wish to be consulted prior to the Senate entering into any unanimous consent agreement, time agreement, or other arrangement on Calendar Order #978, S.Res.473, a resolution to provide additional funding for the Select Committee on Indian Affairs Special Committee on Investigations.

Thank you for your consideration of this request.

Sincerely,

Frank H. Murkowski United States Senator

Dole - 750

Figure 15: Delay Example

ORDER #355

ARLEN SPECTER

COMMITTEES: JUDICIARY APPROPRIATIONS VETERANS' AFFAIRS INTELLIGENCE

United States Senate WASHINGTON, DC 205 10

November 5, 1985

The Honorable Robert Dole Majority Leader United States Senate Washington, D.C. 20510

order #355

Dear Bob:

I am writing to request that consideration of S. 426, the Electric Consumer Protection Act, be delayed for further review in light of recent developments.

This legislation, which was reported by the Energy and Natural Resources Committee on October 22, would authorize private corporations to use rivers in perpetuity for the production of hydroelectric power. In light of this issue's history, including conflicting FERC decisions and a number of court decisions, one of which was rendered the same day S. 426 was reported, October 22, 1985, I think it wise to delay floor action and further review this legislation.

I believe that floor consideration of S. 426 before the Senate has an opportunity to review fully its potential effects and legislative alternatives would be hasty and ill-advised.

Thank you for your consideration in this matter.

My best.

Sincerely Arlen Specter

AS/jdb

cc: Jo-Anne Coe Howard Greene Elizabeth Baldwin Rod DeArment Sheila Burke

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