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# The Effectiveness of Minority Party Legislative Strategies in Congress

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THE EFFECTIVENESS OF MINORITY PARTY LEGISLATIVE  
STRATEGIES IN CONGRESS

A Capstone Project Presented in Partial Fulfillment  
of the Requirements for the Degree Bachelor of Art's  
with Honors College Graduate Distinction at  
Western Kentucky University

By

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\*\*\*\*\*

Western Kentucky University

2018

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I dedicate this to my parents, Corden and Stacey Porter, who have continued to support me throughout my educational journey. Also I dedicate this to Congressman John Yarmuth and his staff who helped me obtain many opportunities to observe the legislative process first hand.

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Lastly, I would like to thank Craig Volden and Alan Wiseman for developing the Legislative Effectiveness Project. The project provides a key comprehensive analysis of and strong foundation for studies focused on understanding the effectiveness of legislators in Congress. It was important in allowing me to conduct the quantitative analysis in my paper.

## ABSTRACT

This paper expands upon previous research that analyzed the tactics minority party members of Congress use to get their policies considered or oppose the majority party agenda. The paper evaluates various minority party strategies and their effectiveness. Effectiveness of a strategy is defined by the success of the minority party in achieving its legislative goals after implementing a tactic (i.e. a majority party sponsored bill not receiving enough votes to pass the chamber).

I analyze persuasion, compromise, and obstruction as three strategies minority party members use. Minority party members employ obstruction when they take steps to block the movement of majority party bills through the legislative process. In contrast, minority party members compromise when they work with members of the majority party to develop legislation using various mechanisms such as cosponsorship. Lastly, minority party members persuade when they convince legislators in the majority to do something they would have not originally considered. I also analyze the impacts of various factors from seniority to ideology on a legislator's ability to employ these strategies successfully.

This paper takes into account modern political polarization that has created new conditions for the minority party to navigate and fewer opportunities for compromise on substantial issues. The data analysis provides insight into the characteristics that are associated with more effective legislators and attempts to explain those results. This paper offers a new perspective on the way minority party members as a unit can represent the interests of their constituents and the most effective ways to ensure their concerns are addressed as legislation moves throughout the chamber.

Keywords: legislative process, Congress, minority party, strategy, majority party, policy

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## INTRODUCTION

On February 7, 2018, House Minority Leader Nancy Pelosi gave an eight-hour speech on the chamber floor. The speech was the longest delivered on the House floor since 1909 and some have cited that it was the longest ever delivered in the chamber (Detrow 2018). Her speech was in protest of the stalling negotiations regarding the Deferred Action for Childhood Arrivals (DACA) program, which is set to expire on March 5, 2018 (O’Keefe et al. 2018). President Obama signed an executive order that created the DACA program in 2012, but in September of 2017 President Trump said he would rescind the policy while allowing Congress to take up the issue (Lillis et al. 2017). Leader Pelosi’s speech reflected the frustrations of many House Democrats who want to help DREAMERs (Detrow 2018). However, they also lost significant leverage on the debate after agreeing to vote for a budget deal in January 2018 that did not address the issue (Detrow 2018). The Democrats voted for the budget to end a government shutdown (Detrow 2018). Unlike the Senate, the House of Representatives does not have a filibuster procedure that allows the minority party or any member to obstruct the business of the chamber. In giving her speech, Leader Pelosi took advantage of a unique rule that allows party leaders in the House to speak as long as they want (O’Keefe et al 2018). Her decision is reflective of a changing climate in Congress in which the minority party has to come up with unique strategies that allow them to engage in the legislative process when normal bipartisanship no longer works.

The circumstances surrounding Leader Pelosi's speech represent a growing partisan polarization in Congress that results in members of both parties being unwilling to work together to legislate. In this case, the minority party wanted the guarantee that the DACA issue would be considered in the chamber—a promise Senate Majority Leader Mitch McConnell had given to Senate Democrats earlier in the year (Detrow 2018). House Speaker Paul Ryan said he intended to allow debate on the immigration bill proposed by President Trump. However, he did not specify a date nor time (O'Keefe et al. 2018). Without debate on the bill, the minority party (Democrats) would not have the chance to offer amendments or express their opinions about what should be included in a revised immigration bill in the formal legislative process, leaving few other avenues to share their thoughts.

Scholars have studied how the minority party has used various procedural powers such as plenary time, the filibuster, and voting to stop or support legislation (Jenkins, Monroe, and Provins 2014; Straus 2016; Green 2010). The results of these studies demonstrate the effectiveness of those individual strategies while also considering how broader features of the congressional environment impact policymaking. These studies provide an in-depth analysis of the various mechanisms members of the minority use to impact legislation and create opportunities for future research on the overall effectiveness of these various powers or tools.

This study evaluates minority party legislative strategies and their effectiveness. The broad research question focuses on the way members of the minority party can overcome the limitations on their powers in the legislative process. The majority party is guaranteed many procedural and informal powers, but there are still strategies the minority party can

employ to influence the bills on the legislative agenda. A strategy is defined as effective here if it helps the minority party achieve its intended goals: to prevent a specific bill from becoming law, to get a bill party members proposed considered on the chamber agenda, or get minority party ideas included in majority party sponsored legislation. However, there are situations in which some strategies may work better than others. The purpose of this study is to compare the results of different strategies House and Senate minority party members employ and identify which are more effective.

I expect to find that the success of a strategy depends on the situation in which it is used and who employs it. For example, a minority party member who has served in Congress longer may be more effective at employing persuasion due to their knowledge of the chamber procedures. In contrast, a more ideologically extreme legislator may be less effective because they struggle to work across the aisle to develop compromises.

The thesis is organized as follows. I start by discussing previous research about the sources of power available to the minority party and the results of using these various powers to influence the legislative process. In this section, I also define the three strategies considered here and identify the situations in which they are most commonly employed. Then I discuss the quantitative analysis including the hypotheses, data description, and results from the regression models testing the effectiveness of House members. The hypotheses examine the impact of various characteristics of House legislators such as seniority or committee membership on their ability to effectively employ persuasion. I test them by examining changes in the overall effectiveness of legislators based on those different factors. In the next section, I introduce and discuss the qualitative analysis I conducted to analyze the strategies minority party Senators employ

to help them engage in the legislative process. I selected two case studies that represent situations in which Senators employed two key strategies and analyze the many factors surrounding those situations that may have contributed to the observed results. Lastly, I include a final discussion of the strategies analyzed throughout the study and propose areas of future research on this topic.

## CHAPTER 1

### LITERATURE REVIEW

Effectiveness of parties and legislators is an important subject in political science research. Many studies have been conducted about the sources of power available to the minority party specifically and advantages its members have in the legislative process. The minority party is of particular interest because its members have few guaranteed procedural powers to engage in policymaking. Clark (2015) argues that in discussions of constitutional designs a critical question is often “how to achieve a system that empowers the majority to carry out the public will while maintaining the rights of the minority”. Therefore, studying the minority party in Congress allows scholars to better understand the role and powers of the party’s members in a legislative system where it is more difficult to pursue policymaking from the minority.

Scholars have studied plenary time as a resource for the minority party to get their own legislation passed while Congress is in session (Jenkins et al. 2014, 7). Plenary time is the time Congress has to process legislation. It is limited in both chambers, but it is also a key resource for the majority in controlling the legislative agenda. Jenkins et al. (2014) shows that it may be better for the minority party to pursue amendments with their time rather than trying to get a whole bill through the process because it does not take as long to consider an amendment (15). However, many of the amendments the minority proposed with their plenary time did not get passed and there was often a party line vote

(Jenkins et al. 2014, 16). Therefore, use of plenary time may not be an effective strategy for the minority party to pursue in an effort to achieve its legislative goals.

Jones (1970) studied minority party activities that facilitate or impede majority building in Congress as part of the policymaking process. This scholarship recognizes that minority party behavior varies over time depending on multiple political conditions including "...constitutional arrangements, political circumstances inside and outside of Congress, and the nature of specific issues" (Jones 1970, 4). However, the study focused only on domestic policy and since the focus was on Congresses in the 20th century the Republican Party was the minority for most of the time (Jones 1970, 5). Therefore, the study does not examine in detail the way the Democratic Party used various strategies when its members were in the minority. More importantly, there is increased political polarization in the modern day Congresses creating new political conditions not considered in the previous scholarship. A Pew Research poll found from 1973 to 1974 there was substantial overlap between Republican and Democrat votes on a liberal to conservative ideological scale. There were 240 House members and 29 Senators whose votes signaled a more moderate ideology whereas from 2011 to 2012 there were none, which is representative of the expanding polarization in Congress (Desilver 2014).

In a study of the legislative effectiveness of individual lawmakers, scholars have focused on the factors that impact the success of legislators in getting their policies moved through the legislative process. Volden and Wiseman (2009) developed an effectiveness score for legislators based on their ability to move significant bills through committees and the House. The study suggests that there are three components a legislator needs to become effective in the House including "innate ability, the



acquisition and cultivation of a critical skill set, and the sophisticated utilization of key legislative institutions” (Volden and Wiseman 2009, 6). This research provides insight into how to measure effectiveness of legislators in Congress that can be translated to understand the most effective strategies the minority party members as a whole can use to achieve their goals.

Three broad strategies available to the minority party emerge from previous research and specific powers guaranteed by the lawmaking process. These strategies are obstruction, compromise, and persuasion. There are various mechanisms to employ each of these strategies that have been used throughout congressional history with varying degrees of success.

The current political conditions in which there are fewer moderates in either congressional chamber and the parties are moving farther apart ideologically provides a new set of circumstances to evaluate these commonly used strategies. Is compromise an option when it seems there are few issues for which both parties agree on the solution? Does obstruction contribute to labels such as the “do nothing Congress” that have become more common during the last few sessions (Blake 2016)? Previous research has attempted to address these questions and discussed the mechanisms used to employ the strategies identified in this study.

The minority party obstructs when they refuse to work with the majority party on legislation and take steps to prevent the majority from moving items they support through the legislative process. In 2010, just a few days before the midterm elections former-Speaker John Boehner said he and his Republican colleagues would do everything they could to “kill it, stop it, slow it down...” referring to President Obama and the

Democrats' agenda (Barr 2010). This comment illustrates the modern use of obstruction, which has been employed by political parties since Congress was formed. There are various ways in which the minority can actively oppose the efforts of the majority to pass legislation. The most basic mechanism to employ obstruction is to vote against a certain bill or procedural motion. However, in many cases the minority does not have enough members to make a significant difference through voting, especially when the majority is united. Therefore, they may instead not show up to the chamber when it is in session denying the quorum needed, hold a protest or filibuster in the chamber, offer amendments, etc. to keep a bill from moving forward.

Obstruction can be effective if the minority takes well-planned action and uses the strategy in specific situations. Straus (2016) presents a new perspective on the effectiveness of obstruction with regard to efforts by Republicans in 2010 to drag out several Democratic initiatives. "The Republicans' obstruction was even more effective against legislation that was not worth the opportunity cost of overcoming a filibuster" (Straus 2016, 224). Therefore, the importance of an issue or bill to the majority can impact the minority party's success in attempting to obstruct the legislative process. Strand et al. (2013) also acknowledge that in many cases the only resource the minority has to defend the interests of its constituents is to obstruct: "If a minority has no ability to participate in the legislative process, its only power is to obstruct the minority through dilatory, sometimes uncivil tactics. A minority has no choice but to be negative" (Strand et al. 2013, 262).

Wawro (2005) argues that there is a difference between simply voting against a bill and actual obstruction. Although the study focuses on the antebellum period of the

Senate, the basic ideas are in many ways applicable today. Wawro (2005) discusses the pros/cons of obstruction in reference to the “other activities the legislator must forgo while obstructing and missed opportunities to pass other legislation” (166). Therefore, by obstructing the work of the majority the minority is also taking up time that could possibly be used to consider legislation that it prefers or in response the majority could ram through its agenda because there is less time in the congressional session. Green (2010) also found that obstruction is one of the most risky strategies because it can make “...the minority look excessively obstructionist, by leading the majority to retaliate by further limiting the minority’s rights, and so on...” (24).

Although obstruction is a strategy available to the minority, there are drawbacks to employing this tactic especially in the eyes of the public. A common theme in studies about the goals of the minority party in Congress is that its main goal is to get back in the majority (Jenkins, Monroe, and Provins 2014; Jones 1970). The party in the majority of each chamber does not switch every election cycle, but in a political climate where legislators are participating in the never-ending campaign they must consider public perceptions when they employ various strategies (House of Representatives and Senate Archives). Jones (2014) examined whether the minority is held accountable for what happens in Congress and if there are any incentives for them to behave more responsibly in their response to majority party actions. The results showed “that perceptions of an overly partisan Congress negatively affect public evaluations of both congressional parties” (Jones 2014, 480). Therefore, in regard to the partisan environment of Congress, constituents do put some of the responsibility for the gridlock on the minority party as

well. This suggests that it is important for the minority to carefully consider how the public views their actions and whether the strategy they use has external support.

One example of a situation in which the minority party used obstruction was during the July 2017 Affordable Care Act (ACA) debate in the Senate. The Democrats voted as a bloc against Republican efforts to repeal and replace the ACA. Although the Republicans only needed 51 votes to send the bill to Conference, the few Republican no votes and the Democratic voting bloc ensured the bill would not move forward at that time. A Congressional Budget Office report showed that millions of people would lose their insurance coverage under the Republican repeal proposals (Pear and Kaplan 2017). Some Americans protested the Republican bill and were concerned about its possible affects on their lives (Elperin, Sullivan and O'Keefe 2017). In this example, the Democratic opposition was somewhat successful due to some public support and lack of unity among the majority party as three Republican Senators voted against the motion to proceed on “the skinny repeal” (Parlapiano et al. 2017). According to a compilation of polls tracking opinions on healthcare by PollingReport, “on average 55 percent of Americans opposed the GOP proposals to replace Obamacare while 22 percent supported them” (Guskin and Clement 2017). However, this is not always the case and the minority party can pay for being too obstructionist, especially on substantive issues that the public believes need to be addressed. In this case repealing and replacing the ACA has been an important issue for Republicans and the Senate majority proposed a new bill later in 2017 for which Democratic obstruction may or may not work.

Obstruction can be a good strategy for the minority to prevent the majority party from successfully moving its bills through the chamber process. It may be better in cases when

the minority and majority party strongly disagree on a specific policy, but in other situations the minority may choose to compromise. Minority party members may cosponsor legislation with the majority or offer to work with them to develop comprehensive legislation that will benefit constituents of both parties.

Compromise is a strategy that represents bipartisanship. Recent scholarship has discussed the various ways in which the minority party can work with the majority and develop effective compromises, specifically in the House. The minority party can impact the content of legislation if the majority does not have enough members to pass legislation on its own (Green 2010, 28). Jones (1968) extended this point in a reference to the role of House Republicans in the 63rd Congress: “Only if the Democrats were seriously split on some issue could the Republicans expect to play a significant role” (486). There are some conditions in which the majority party is not unified or has a slim majority that provide the minority party with additional sources of power to play an active role in the legislative process. However, as Jones (1970) mentions the issue being considered also influences the impact of the minority party. Therefore, even if the majority is experiencing intraparty divisions that does not mean they will automatically turn to the minority to accomplish their party goals, especially when it comes to more partisan bills.

There are some conditions that influence how successful the minority will be and when they will use compromise as a strategy. Generally, the minority compromises as a way to get their ideas included and concerns addressed in legislation that the majority party proposes. Straus (2016) finds that the minority is more likely to pursue compromise with the majority when it would be harmful to the minority party members’ reputation to

obstruct or the consequences of not addressing the issue would be detrimental to the country (225).

However, compromise as a strategy for both the minority and majority has been used less often in more recent Congresses. One factor that has inhibited the use of compromise on more substantial issues that divide members across party lines is the decreasing amount of moderates in Congress (Desilver 2014). Binder (1999) finds that the amount of moderate legislators serving in Congress is key because they can move compromises forward and are more likely to get bills passed into law (521). The study by Binder (1999) also finds that policy change happens less often as the political parties grow farther apart ideologically and there are less moderate legislators (527). Moderate members are often more willing to cross party lines to find solutions and develop policies that will get support from both parties.

As the parties spread farther apart on the ideological spectrum they sacrifice more by coming together, especially on major partisan issues. This has been a common issue for Republican legislators following the Tea Party wave during the midterm elections in 2010. The Tea Party movement brought more extreme members into the Republican Party who “made a special point of targeting Republicans who compromised with Democrats or even with Republican leaders” (Rauch 2016). As a result, many moderate Republicans lost their reelection bid because of their more extreme primary opponent who appealed to voters. In an op-ed piece, Congressman John Yarmuth discussed the drawbacks for a politician who tries to work across the aisle, “Pity the politician, liberal or conservative, who suggests a compromise, because compromise is tantamount to treason” (Yarmuth 2017).

In spite of the fact that there are fewer moderates in Congress, scholars who studied individual legislators have pointed to one factor that can help further minority party efforts to compromise or introduce legislation. A key result from the study was that seniority plays a major role in the effectiveness of a legislator; a senior member of the minority party can be as effective as the average majority party representative who has less experience in the chamber (Volden and Wiseman 2009, 27). As Jones (1970) mentioned regarding the climate of the Senate, the prestige of a member can increase their ability to participate in the development of legislation even if they are in the minority party. This research shows that individual members in the minority may be able to further the interests of the party simply because of their seniority or expertise in the chamber procedures. However, Volden and Wiseman (2009) do not consider how the placement of a legislator on the ideological spectrum impacts the effectiveness of a member even if they have seniority (i.e. will someone who is more extreme be as effective?).

Although partisan polarization has lessened opportunities and agents available for compromise, there are general situations in which compromise may not be an option in any political environment. On hotly contested or controversial topics, it may be less effective for the minority party to try to compromise since it is less likely the majority will actually want to work with them. Therefore, compromise is a strategy the minority party will most likely use on issues of importance that Congress must address quickly or in cases where the majority may be more welcoming of their involvement.

The last strategy analyzed in this study that is available to the minority party is persuasion. In some ways persuasion is similar to compromise because both parties are

working together in an effort to pursue their policy goals. However, the difference is that when the minority party persuades, they are not simply trying to convince the majority party to accept ideas they have proposed in majority legislation or to cosponsor bills. Instead, persuasion is a strategy in which an exchange is made between the parties or in general the minority convinces the majority to do something they would have not originally considered. For example, minority party members may offer to not obstruct a majority party bill in exchange for getting a bill they have proposed on the legislative agenda with a vote held. Persuasion is the strategy used in this case because the minority party is not signaling support for the majority party bill—an element of bipartisanship—but rather the minority is simply deciding not to oppose it and in exchange the party's own bills will be guaranteed a position on the legislative agenda. Also the majority party may still choose not to support the minority party bill. Therefore, this is not an example of compromise because members of both parties will not ultimately work together to pass one piece of legislation, but they will pursue their individual party goals through separate bills.

Obstruction itself may be a mechanism to employ persuasion and get the majority to accept bills proposed by the minority. For example, some House Democrats staged a sit-in on the chamber floor in 2016 and refused to move until the Republican majority agreed to hold a vote on the “no fly, no buy bill” (Bade et al. 2016). The bill was a gun control measure that would prevent terror suspects whose names appeared on the “no –fly” list from purchasing guns (Bade et al. 2016). In this case, the Democrats hoped that by keeping the chamber from continuing its daily business through the use of a sit-in they could convince the Republicans to hold a vote on the bill. The protest ended



unsuccessfully 25 hours after it began as the Republicans refused to allow a vote and eventually adjourned the chamber for the Fourth of July recess (Demirjian et al. 2016). This example shows how minority party members may use obstruction to pressure or persuade the majority to accept their bills.

Another way to employ persuasion is to simply propose amendments that members of the majority may accept. This mechanism may be most successful when the amendment is written in a way that provides a solution members of the majority have previously supported. For example, Representative Barbara Lee offered an amendment that would limit unrequested Overseas Contingency Operation (OCO) funding during the House markup of the Republican budget in 2017 (Amendment XVI). Many conservative Republicans have been critical of OCO spending for years (Bennett 2015). Two members of the majority voted in favor of the amendment putting it three votes away from being included in the final budget bill that would have been voted out of committee. Although the strategy did not work here as the amendment was ultimately rejected, this example provides another illustration of situations in which persuasion can be employed.

In general, persuasion may also be used when the bill being considered is important to the majority providing the minority party with leverage. As mentioned earlier, obstruction by the minority may work when the bill is not a priority for the majority and they do not want to spend time overcoming minority opposition. On the other hand, when the majority is committed to getting a certain policy signed into law they may be willing to consider minority party bills. Persuasion may also be an effective strategy when bills or amendments that the minority party opposes are also opposed by members of the majority.

Obstruction, compromise, and persuasion are all strategies that the minority party can employ using various mechanisms to achieve their legislative goals. Scholars have looked specifically at factors that may dictate when the minority party is more likely to employ one strategy over another. Egar (2015) argues that “a minority party [that is] optimistic about the likely results of the next election should be more likely to choose conflict, while a minority party that expects the status quo (or worse) should choose compromise” (77). The study’s results showed that while compromising could provide legislative victories for the minority party, it could also increase positive views of the majority party who may reap the benefits of legislative progress (Egar 2015). “Opposing the other party provides a more credible basis for campaigning against them in the next election” (Egar 2015, 79). Although Egar (2015) provides a strong argument for pursuing more obstructionist tactics against the majority because constituents do hold the minority party somewhat responsible for political gridlock, employing obstruction can create problems for them in the next election. The study does not take into account what the minority should do when the president is of the same party, which is an external factor that can influence the legislative process. It also focuses on the House of Representatives, not considering the best strategy for the minority in the Senate.

Overall many scholars have studied the unique disadvantages the minority party in Congress faces and the strategies members of the minority can use to ensure their policies are considered or policies they disagree with are not passed into law. However, there are opportunities to further examine the sources of power available to the minority that are effective in helping the party achieve its goals.

## CHAPTER 2

### QUANTITATIVE SECTION

#### **Hypotheses**

This section analyzes the effectiveness of persuasion as a strategy employed by House minority party members. In order to measure the use of persuasion, I consider six hypotheses to identify the impact of various factors on the ability of a House legislator to move their bills through the chamber. These hypotheses test characteristics of legislators including their seniority and ideological position in the chamber that may effect their ability to successfully employ persuasion and get their individual bills accepted by a majority of the chamber (including by majority party members). The hypotheses are as follows:

1. *A minority party representative who is either on the appropriations, ways and means, rules or budget committee will be more effective than their party colleagues who are not on any of these committees.* The members on those committees have significant influence over the money the government spends, where the money goes, and the rules for considering legislation. Committee members also are able to pursue their own policy interests through special instructions in the bills often referred to as policy riders and by using the process to propose amendments they support. Membership on these committees gives lawmakers influence over the legislative process in ways unavailable to their colleagues not on the committees. As a result of these circumstances, I expect that

minority party representatives on these committees will be more effective at moving their bills through the House than other members of the party.

2. *A minority party representative who has previous experience serving in a state legislature will be more effective than party representatives who have not served in a state legislature.* Volden and Wiseman (2009) found that “legislators come to the chamber with a certain set of skills” and those who are able to apply these skills early on continue to be effective during their tenure in the chamber. In some cases, this set of skills that allows members to navigate the legislative process and politics of government can begin to be developed through experience in a state legislature. Therefore, I expect to see that minority party members with previous experience in a state legislature will be more effective because they would have had the opportunity to cultivate key policymaking skills.

3. *Minority party members who are identified as Southern Democrats will be more effective than other members.* The Southern Democrats were socially conservative, but liberal in their economic policy preferences. In this case, Southern Democrats are defined as Democratic representatives from the 11 states of the Confederacy along with Oklahoma and Kentucky. They did not fit ideologically within either the Democratic or Republican parties at the time, which allowed them to form coalitions with each party based on the policy being considered. Conley (2001) found that President Truman had difficulty pursuing his policy goals and vetoing bills he did not support because of the union of Republicans and Southern Democrats. This is just one example in which the Southern Democrats used their unique position to their advantage. They were also possibly able to convince the Democrats or Republicans to include some of their

proposals in exchange for votes on that party's legislation. The ability to form coalitions with both parties put the Southern Democrats in a position to employ persuasion and I expect it made those members more effective in moving their bills through the legislative process.

4. *Minority party members in House leadership positions (minority leader, whip, etc.) will be more effective than members not in leadership positions.* Party leaders have a unique role that allows them to influence the party platform and encourage members of the party to support certain initiatives. They also have the ability to negotiate on behalf of the party with the majority leadership about the chamber legislative agenda. I expect that minority party leadership members will be more effective because of their special position that allows them to influence their colleagues and navigate the chamber.

5. *Minority party representatives with seniority will be more effective at employing persuasion than legislators who have served less time in the chamber.* Senior House lawmakers often have learned the institutional procedures of the chamber in their years of service. They also may have developed skills over time that allow them to navigate the multiple obstacles in the legislative process, which their more junior peers may not have at their disposal. I expect that senior minority party members will be more effective at employing persuasion than their counterparts because they have experience and knowledge of the chamber that puts them at an advantage to achieve their policy goals.

6. *Minority party members who are closer to the median of the chamber will be more effective than members who are farther on the ideological extremes of the chamber.*

Previous studies have shown that there are increasingly fewer moderate legislators serving the House and that policy change is less common when this occurs (Desilver

2014; Binder 1999). These findings suggest that moderate legislators may be more likely to work across the aisle and get a majority of legislators to support certain policies. I expect that moderate members of the minority party will more be effective because they have a less polarizing ideological position and may be able to convince legislators in the majority party to accept their policy proposals.

### **Description of Data**

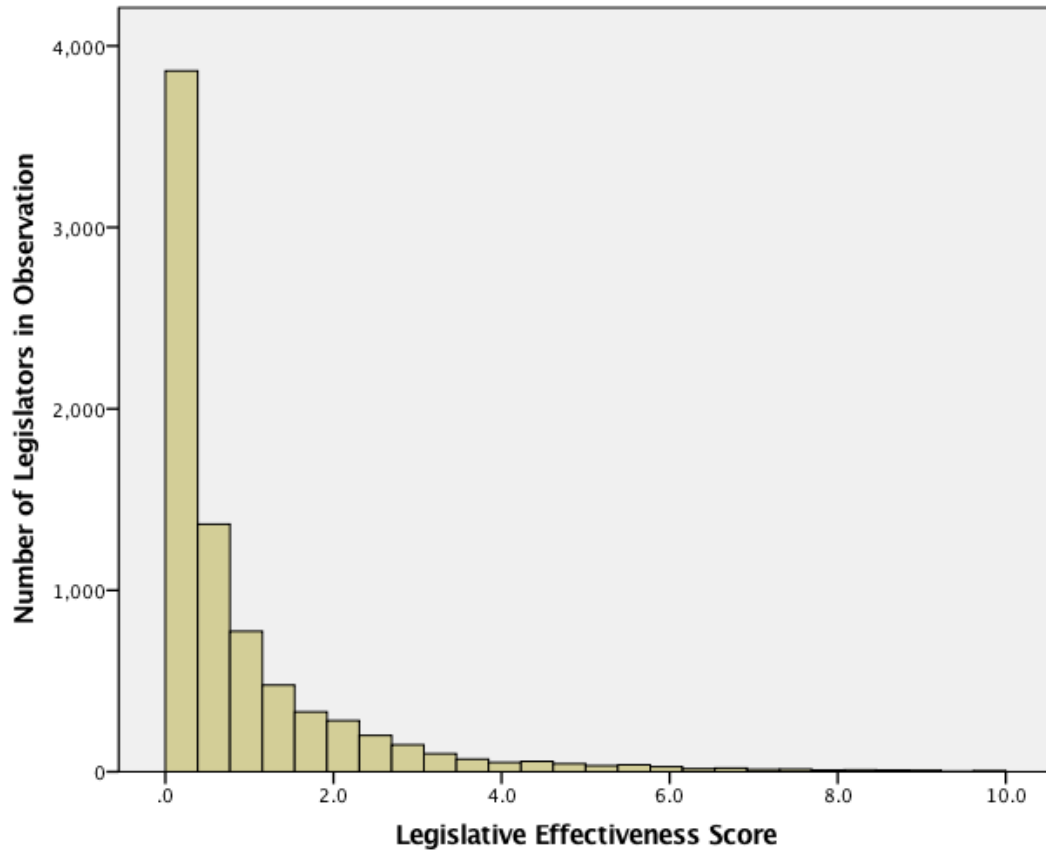
This study will use the Legislative Effectiveness Project data set (Volden and Wiseman 2009; Volden and Wiseman 2014). The data provides legislative effectiveness scores for all members in the House of Representatives from the 93<sup>rd</sup> to the 110<sup>th</sup> Congresses. These effectiveness scores are based on the ability of legislators to move bills they sponsor through each stage of the legislative process (action in committee, action beyond committee, passed the House, and passed into law).

The bills are put into categories based on their impact on policy: commemorative, substantive, and substantively significant bills. Volden and Wiseman (2009) define commemorative bills as those that provide “for a renaming, commemoration, private relief of an individual, and the like” (9). These bills are often specific to the district of a representative, while substantive and substantively significant bills attempt to change policy for the whole country so they are more difficult to move through the process. In developing the effectiveness scores, this dataset provides different weight to bills that a member gets moved through the stages of policymaking with substantively significant bills contributing the most to the score. The researchers also give more weight to legislators whose bills make it further through the chamber such as bills that pass the

House or even become law because of the increased difficulty in achieving those results. The dependent variable for every hypothesis in this section will be *LES*.

I supplemented the data set by adding the DW-NOMINATE scores for every member as a measure of their ideology (Poole and Rosenthal 2011). The DW-NOMINATE scale provides a score for members of Congress based on their roll call votes aligning them based on the two dimensions of the ideological spectrum (liberal/conservative and issue based). This data will be used to test the hypothesis regarding the possible impact of a member's ideological position in the chamber on their ability to effectively employ persuasion.

**Figure 1: Legislative Effectiveness Variable Frequencies**



**Table 1: Descriptive Statistics for Independent Variables**

<b>Variable</b>	<b>Description</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>	<b>Standard Deviation</b>
Power	Member of Appropriation, Rules, or Ways and Means	0	1	.25	.434
Budget	Member of Budget	0	1	.08	.275
State Legislator	Served in a state legislature	0	1	.49	.500
Southern Democrat	Southern Democrat (11 Southern States along with Oklahoma and Kentucky)	0	1	.17	.375
Minority Leadership	Minority party leadership	0	1	.02	.131
Seniority	Number of terms served counting current	1	27	5.21	3.964
Median Legislator	Absolute distance from floor median	.000	1.68	.353	.223

In order to test changes in effectiveness of minority party members based on their membership on the more powerful chamber committees, this study will use the variables *Power* (membership on the appropriations, rules, and ways and means committee) and *Budget* (membership on the budget committee). The variable *State legislator* identifies whether or not a representative previously served in a state legislature. This variable will be used to test a possible change in effectiveness for members who had previous legislative experience on the state level. The variable *Southern Democrat* takes a value of one representing someone who can be identified as a Southern Democrat and zero for representatives who were not Southern Democrats. In order to test the hypothesis that being in leadership positions makes members more effective, the variable *Minority leadership* will be used which identifies members of the minority party who hold leadership positions in the House including the minority leader, whip, etc. The variable



*Seniority* identifies the number of terms a legislator has served in the House. Lastly, *Median Legislator* is a score for the absolute distance of a House member from the floor median. This variable will be used to test how changes in a legislator's ideological position in the chamber will impact their ability to effectively employ persuasion.

## **Results**

The hypotheses focus on changes in the legislative effectiveness of minority party members as a result of different factors. I conducted a linear regression to test possible shifts in legislative effectiveness for minority party legislators only. For some of the independent variables, the direction of change they cause in a representative's legislative effectiveness is different than predicted. Many of the independent variables are statistically significant and have a statistically meaningful relationship with the dependent variable. In this study, the magnitude for each relationship is described in terms of the change in the typical legislator's effectiveness score percentile based on the specific independent variable being tested.<sup>1</sup> The analysis below first focuses on the relationships that are statistically significant and then those that are statistically insignificant.

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<sup>1</sup> The typical legislator for the regression analysis that only includes data for minority party members is not on the budget or power committees, is in the 54<sup>th</sup> percentile for the chamber median, is not a Southern Democrat or in the minority party leadership, has served in a state legislature and served in the House for about five terms.

**Table 2: The Legislative Effectiveness of Minority Party Representatives, 93<sup>rd</sup> to 110<sup>th</sup> Congress**

<i>Dependent Variable</i>	<i>Legislative Effectiveness Score</i>
Constant	.347** (.023)
Power	-.090** (.019)
Budget	.049 (.028)
State Legislator	-.016 (.015)
Southern Democrat	-.113** (.025)
Minority Leadership	-0.71 (.038)
Seniority	.025** (.002)
Median Legislator	-.093** (.037)

Note: Statistical Significance:  $p < 0.05^*$ ,  $p < 0.01^{**}$

Based on the model, the variables power, median legislator, Southern Democrat, and seniority are all statistically significant. For minority party members on power committees, there is a negative impact on their legislative effectiveness overall. The typical legislator who is not on any of these committees has a legislative effectiveness score in about the 51<sup>st</sup> percentile. Legislators who serve on those committees land in about the 45<sup>th</sup> legislative effectiveness percentile. Therefore, service on any of these committees is associated with a five-percentile point decrease in effectiveness.

The median legislator variable identifies a member of the House's ideological position within the whole chamber and their absolute distance from the chamber median. This model shows that as a legislator moves farther away ideologically from the median of the chamber there is a decrease in their overall legislative effectiveness. The average legislator is about .353 points away from the most moderate member of the House or at

the 54<sup>th</sup> percentile for ideological scores (Table 1). I calculated the percentile change in legislative effectiveness based on the average legislator position compared to other legislators that were at the 35<sup>th</sup> ideological percentile with a score of .221. The results showed that being about 20 percentile points closer to the chamber median improves the legislative effectiveness percentile of a member by 15 points.

According to the model, there is a negative relationship between the Southern Democrat variable and legislative effectiveness (Table 2). This means that a legislator who is a Southern Democrat will actually have a lower effectiveness score than someone who does not fit in that category based on the district they represent or party affiliation. The typical legislator who is not a Southern Democrat has an effectiveness score in about the 51<sup>st</sup> percentile. However, the typical legislator who is a Southern Democrat has a score in about the 44<sup>th</sup> percentile. These results show that there is a seven-point percentile decrease in effectiveness for legislators who are Southern Democrats.

The last statistically significant variable is seniority, which refers to the number of terms a legislator has served in the House chamber. There is a positive relationship between seniority and legislative effectiveness, which means in general a legislator's effectiveness score goes up the longer he/or she serves in the chamber. According to the dataset, the average number of terms House members have served is 5.21 or a little over 10 years. I calculated two different comparisons for this relationship in order to show the more pronounced changes in legislative effectiveness the longer a person has served in the chamber. The first comparison measures the difference in legislative effectiveness for a typical legislator who has served two terms compared to someone who has served six terms. A legislator who has served for two terms has an average effectiveness score in the

46<sup>th</sup> percentile whereas someone who has served for six terms has an average score in the 51<sup>st</sup> percentile, which is a five-percentage point increase. This improvement in the typical legislator's effectiveness score is greater when comparing a person who has served for two terms compared to 10 terms. There is a 10-point increase in the legislators' effectiveness score percentile that was associated with their additional eight terms of service.

The variables minority leadership, budget, and state legislator have a statistically insignificant relationship with the dependent variable legislative effectiveness. In this model, the variables budget and minority leadership do have p-values that are close to .05, but it can still be assumed that there is not a statistically meaningful relationship present (Table 2). The statistical insignificance of these relationships does not support the hypotheses related to those variables.

The results from the model support some of the hypotheses presented while countering others. Although I expected that membership on power committees would improve representatives' effectiveness, the model shows that it leads to a decrease in their ability to persuade their colleagues to accept the bills they sponsor. There are various explanations for this result. One possible explanation is the rules created by the Democratic Caucus and Republican Conference about the committees that members can serve on consecutively. For example, Democrats who serve on "exclusive committees"—Appropriations, Rules, Ways and Means, Energy and Commerce, or Financial Services—cannot serve on any other committee except for Budget or House Administration (Schneider 2014,1). Although the Republican Conference does not have this rule, Republicans in the House who want to serve on the Rules Committee must take a "leave

with seniority” from one of the other standing committees on which they serve (Schneider 2014,1). Therefore, the representatives serving on the powerful committees identified in this study are not able to directly engage with the policymaking of other issue areas such as agriculture or education at the committee level. Instead, they must rely on their colleagues who serve on those committees to consider their bills and move them through the process exercising influence from afar.

As predicted in the hypotheses, there is an increase in legislative effectiveness for lawmakers who have previously served in state legislatures. Previous research has shown that there are certain skills lawmakers bring with them to the Congress that can allow them to be more effective at achieving their policy goals (Volden and Wiseman 2009). This provides one explanation for the result that lawmakers who served in the state legislature have learned how to navigate a legislative process and bring those skills to the House. Jones (1970) finds that a Senator’s prestige or expertise with institutional procedures is something that may allow him/or her to play a more active role in and influence the legislative process. Although those findings referenced the Senate specifically, it is possible that this same logic could be applied to the House and provides another explanation for the increased effectiveness of representatives who previously served in their state legislature. They have institutional experience at some level, which their colleagues who have never served in a legislature do not have and it may give them an advantage.

Contrary to expectations, members who were identified as Southern Democrats were less effective compared to their colleagues. The results in the model suggest that being able to form coalitions with Republicans and Democrats on various issues did not

necessarily improve the ability of Southern Democrats to move their own bills through the chamber. Volden and Wiseman (2014) mention there were possible limits to the coalition building of the Southern Democrats because by supporting Republican initiatives they could have been considered as disloyal to the broader Democratic Party, “resulting in their proposals being dismissed along with those of minority party Republicans” (9). This idea could explain as the majority party is less likely to consider the bills of the minority party and if the Southern Democrats were grouped with the Republicans then it could hurt their legislative effectiveness overall. Another possible explanation for the results is the idea that there may be consequences for minority party members or any other legislator that obstructs the majority legislative agenda. Wawro (2005) mentions that Senators have to consider the fact that they may lose opportunities to pass legislation they support by obstructing the majority. By forming coalitions with the Republicans in the minority to possibly block Democratic sponsored legislation the Southern Democrats were taking up time to pursue their own bills along with hurting their relationship with the Democratic Party as a whole. In addition, there have been fewer members of Congress who can be identified as Southern Democrats—socially conservative and economically liberal—over the years. Today there are no Democratic members of Congress who represent that ideology from the South, but rather most of the Democrats represent majority-minority districts and are more socially liberal, as well as, economically liberal (Cohn 2014). These factors combined could also explain the decrease in legislative effectiveness for House lawmakers who fit into the category of Southern Democrats based on their district and party.

The model provides support for the hypothesis that members who are closer to the median of the chamber will be more effective than those farther away ideologically from the most moderate member. As a member moves away from the chamber median ideologically, their legislative effectiveness score decreases. Binder (1999) found that there is less policy change in the chamber as a whole when there are fewer moderate members because they help facilitate compromise across party lines (527). The results from the model show that this idea may also apply on the individual level. In general, moderate legislators are more successful at employing various strategies to get support for the bills they sponsor and moving those bills through the legislative process with them possibly becoming law. However, it is difficult to show that moderate ideology alone contributes to the legislative effectiveness of lawmakers.

Lastly, the model demonstrates senior legislators will be more effective at moving their bills through the chamber process than other legislators who have served in the House for a shorter amount of time. Volden and Wiseman (2009) found that seniority plays a major role in a legislator's effectiveness and a senior member of the minority party can be as effective as the average representative of the majority party with less experience in the chamber (27). The results from this model reinforce the findings from that study and also show that the minority party members who have served in the chamber for a longer amount of time are more effective.

In order to compare these findings about the effectiveness of minority party members when employing persuasion to the majority, a similar multiple regression model was used to examine how the same factors impact majority party members' effectiveness.

**Table 3: The Legislative Effectiveness of Majority Party Representatives, 93<sup>rd</sup> to 110<sup>th</sup> Congress**

<i>Dependent Variable</i>	<i>Legislative Effectiveness Score</i>
Constant	.389** (.066)
Power	-.712** (.057)
Budget	-.227** (.089)
State Legislator	.094 (.050)
Southern Democrat	-.498** (.063)
Seniority	.257** (.006)
Median Legislator	-.080 (.171)

Note: Statistical Significance:  $p < 0.05^*$ ,  $p < 0.01^{**}$

The model shows that there is a different impact of the independent variables on legislative effectiveness for majority party members. This regression model includes all of the same variables from the minority party model except for minority party leadership, as it does not apply to majority party members.<sup>2</sup> According to the model, there was a statistically significant relationship between the independent variables power, budget, Southern Democrat, seniority and legislative effectiveness. The relationships between median legislator, state legislator, and legislative effectiveness were not statistically significant.

According to the model, there is a negative relationship between the variable power and legislative effectiveness. The typical legislator who does not serve on that category of

<sup>2</sup> The typical legislator used in this model was not a member of the budget or power committees, had a median ideological score of .353, was not a Southern Democrat, had served in a state legislature and served in the House for about five terms.



committees has an effectiveness score in about the 84<sup>th</sup> percentile. However, the effectiveness score for the legislators who do serve on those committees is in about the 73<sup>rd</sup> percentile. Therefore, membership on power committees actually decreases a legislator's effectiveness by about 10 percentile points.

Also the variable budget has a negative relationship with legislative effectiveness, but it is weaker than the impact of being on a power committee. There is only about a two-percentile point decrease in effectiveness for a legislator who is on the House Budget Committee compared to someone who is not. House Budget Committee members who are in the majority party have an effectiveness score in the about 81<sup>st</sup> percentile. In contrast, legislators who are not on the committee have an effectiveness score in about the 83<sup>rd</sup> percentile. This suggests that membership on the budget committee does not have a strong impact on a legislator's overall effectiveness and only makes them a little less successful in achieving their legislative goals.

Based on the model, there is also a negative relationship between representatives who are identified as Southern Democrats and legislative effectiveness. The typical House members who were Southern Democrats had an effectiveness score in the 77<sup>th</sup> percentile whereas those who did not fit into this category had a score in about the 83<sup>rd</sup> percentile. This shows that being a Southern Democrat decreases a legislator's effectiveness by about six percentile points.

Lastly, there is a positive relationship between longer service in the chamber and legislative effectiveness. I again calculated two different comparisons to illustrate the changes in effectiveness based on an increase in seniority. First, the typical legislator who has served for two terms is less effective than their counterpart who has been in the

chamber for six terms. The legislator who served two terms had an effectiveness score in about the 70<sup>th</sup> percentile compared to the 85<sup>th</sup> percentile for the six-term representative—a 15-point percentile increase. This positive relationship is more pronounced when comparing the effectiveness of the typical legislator who served two terms compared to someone who served 10 terms. There is a 22-point percentile increase in effectiveness that coincides with an additional 8 terms or 16 years of service.

The variables state and median legislator were not statistically significant in this regression model. This suggests that there was not a statistically meaningful relationship between those variables and the legislative effectiveness of representatives.

In total, I conducted three regression models to analyze the relationship between the various independent variables and legislative effectiveness for minority party members only, majority party members only, and then all legislators in the dataset.

The third regression model included the variable majority that puts legislators into two categories: minority party member (0) or majority party (1), as well as, all the other variables in previous models. As a result, the typical legislator in is somewhat different and the model includes all of the cases in the data set.<sup>3</sup> This model offers a new perspective on the relationship between party membership and legislative effectiveness. The typical legislator for this model who was in the majority party had an effectiveness score in the 82nd percentile. In contrast, the typical minority party legislator's effectiveness score put them in about the 61st percentile. There was a more than 20 percentile point difference in effectiveness for members based on party, which is less

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<sup>3</sup> The typical legislator was a member of the majority party, not in minority party leadership, not on a power or the budget committee, not a Southern Democrat, had a median legislator score of .353, previously served in a state legislature, and served in the House chamber for an average of five years.

than the 33 percentile point contrast between the models separating the cases into majority party only and minority party only. By controlling for other variables such as seniority and ideology, the model shows the impact that party membership has on legislative effectiveness for all lawmakers may be lessened by other factors.

**Table 4: The Legislative Effectiveness of House Legislators, 93<sup>rd</sup> to 110<sup>th</sup> Congress**

<i>Dependent Variable</i>	<i>Legislative Effectiveness Score</i>
Constant	-.279** (.057)
Power	-.534** (.037)
Budget	-.076 (.056)
State Legislator	.060* (.031)
Southern Democrat	-.330** (.042)
Minority Leadership	-.323** (.120)
Seniority	.174** (.004)
Median Legislator	-.131 (.089)
Majority Party Legislator	1.041** (.040)

Note: Statistical Significance:  $p < 0.05^*$ ,  $p < 0.01^{**}$

Below is a comparative analysis of the models that identifies differences in results such as changes in legislative effectiveness scores by party.

One interesting contrast in the models is the legislative effectiveness percentile for the typical legislator. The typical member analyzed for each model was generally the same. In the case of the regression model for minority party members only, the typical legislator had an effectiveness score that was in the 51<sup>st</sup> percentile (Table 2). In contrast, the typical

legislator for the majority party only model had an effectiveness score in about the 84<sup>th</sup> percentile (Table 3). There is a 33-percentile difference for members of the majority compared to the minority party. This gap in the effectiveness percentile for the typical legislator is in many ways reflective of the difference in powers available to members of the majority party compared to the minority. The additional powers available to majority party members allow them to in general more easily move their bills through the chamber although there are some majority party legislators who are less effective.

Some of the relationships that were statistically significant for the minority party only regression model were statistically insignificant for the majority party model and vice versa. One example is the variable budget that is statistically significant in the majority party model and insignificant for the minority party model. This change in statistical significance suggests that there is a difference in the impact of each independent variable on effectiveness depending on the specific cases being tested.

Also in general for all of the relationships tested the starting effectiveness percentile was much lower for the model focused on minority party members only than the other two models. The typical legislator in the minority party only model who served on a power committee had an effectiveness score in the 45<sup>th</sup> percentile (Table 2). In comparison, the typical legislator who was on a power committee in the majority party model had an effectiveness score in the 73<sup>rd</sup> percentile (Table 3). Lastly, the typical legislators who served on the power committees in the third regression model were in the 74<sup>th</sup> percentile of effectiveness (Table 4).

## CHAPTER 3

### QUALITATIVE SECTION

#### **Hypotheses**

Previous research has provided a basis for predicting when the minority party will employ various tactics. However, in practice the minority party does not always pursue the expected strategies as a result of conditions surrounding a particular bill. For example, there are cases in which the minority could have effectively employed obstruction to block majority party legislation but the members instead chose to compromise. I will analyze two Senate case studies in this section to test the effectiveness of obstruction and compromise as strategies the minority party can employ. These case studies also provide a glimpse into the unique circumstances that lead the minority party to employ compromise over obstruction or vice versa. This analysis will illustrate the way the minority party uses each strategy and attempt to explain what factors contributed to the results after a tactic was employed.

The minority party employs obstruction when they refuse to work with the majority party on legislation and take steps to prevent the majority from moving items they support through the legislative process. If **obstruction** is an effective strategy to achieve the goals of the minority party, I expect that:

1. *The minority party will successfully use procedural powers (i.e. filibuster and votes) to stop majority party legislation from moving through the chamber.*

2. *The minority party will take steps to delay bills that are legislative priorities for the majority party.* Although this study does not assume the actions of the minority party are motivated only by electoral concerns, the possibility of regaining the majority does in some way influence the decisions of the minority. This hypothesis acknowledges the connection between the ability to move certain bills through the chamber and electoral gains. Especially during election years, it is important for the majority to show they have fulfilled their legislative promises (Weisberg and Patterson 1998, 125). Therefore, the minority party may use obstruction specifically on bills that are priorities for the majority party to prevent them from achieving a legislative victory that can lead to electoral benefits.

3. *The minority party will use procedural powers to stop majority party legislation when their own bills and amendments are not being considered in the chamber.* As previously mentioned, when the minority party's proposals are not being considered in the chamber they may have "no choice but to be negative" (Strand et al. 2013, 262).

Compromise is a strategy used when the minority party works with the majority to develop policies with bipartisan language. If **compromise** is an effective strategy to achieve the minority party goals, I expect that:

1. *The minority party members will cosponsor legislation with majority party members or offer amendments that are accepted into legislation.*

2. *Moderate senators in the minority party will be more likely to engage in compromise negotiations than senators on the ends of the ideological spectrum.*

3. *Senior senators will be more likely to engage in compromise negotiations than junior or freshman senators.*

4. *The minority party will work with majority party members on bills that address a widespread public issue.*

The two case studies that will be used to test these hypotheses are described below. There is a case study for a bill proposed with a Republican minority and another under a Republican majority.

### **Data Description**

#### Case Study 1: Senate Bill 1177- Every Student Succeeds Act

Republican Senator Lamar Alexander, who was chair of the Committee on Health, Education, Labor, and Pensions, proposed the Every Student Succeeds Act in July of 2015. The bill was intended to make changes to No Child Left Behind (NCLB)—a key initiative passed in 2002 during the Bush administration. NCLB “amplified Washington’s role in U.S. classrooms and launched a national system that judged schools based on math and reading test scores and required them to raise scores every year or face escalating penalties” (Layton 2015). Over time the accountability system based on testing in NCLB became unpopular and was seen by some as unrealistic (Layton 2015). President Obama signed the Every Student Succeeds Act into law in December of 2015 about five months after Senator Alexander introduced it. He praised the bill and called it a “Christmas miracle” because it was one of few key bipartisan pieces of legislation passed at the time (Layton 2015).

The Every Student Succeeds Act provides a unique case study to analyze persuasion and compromise as strategies the minority party can employ to influence legislation. One interesting point about this law is that the process of developing it in the Senate was led

mainly by Senator Alexander and Senator Murray who represented their parties as the chair and ranking member for the Committee on Health, Education, Labor, and Pensions. In every stage of the process they not only considered their personal policy goals, but also were the spokespeople for their respective parties (Layton 2015).

This bill illustrates the strategy of persuasion because Senator Alexander had not planned to write the bill with the interests of Democrats in mind and actually expected it to pass on a party line vote hopefully pulling a few Democratic votes to reach a majority (Layton 2015). However, Senator Murray convinced Alexander to allow her to work with him in writing the bill and to make it a true piece of bipartisan legislation. The Every Student Succeeds Act also provides an example of compromise because Senators Alexander and Murray had to consider the concerns of each other and members of the other party when writing the legislation. Senator Murray admitted that the bill was not something she or the Democrats would have written on their own and she assumed the same for the Republicans, but instead the bill was a combination of ideas from both parties (Wong 2015).

#### Case Study 2: Senate Bill 3364- Bring Jobs Home Act

Democrat Senator Debbie Stabenow sponsored the Bring Jobs Home Act in July of 2012 for the second time during the 112<sup>th</sup> Congress. Stabenow previously sponsored the bill in May of 2012, but it was referred to the Senate Finance Committee and never moved out of the committee. According to the Congressional Record, the Bring Jobs Home Act proposed to amend the Internal Revenue Code to create a new tax credit for businesses that relocated their production back to the United States. If passed, the bill



would also deny businesses the tax deduction for expenses incurred by outsourcing. The Bring Jobs Home Act was the top priority on President Obama's congressional to-do list before the election later in 2012 (Barrett 2012). There were 15 Democrat senators who cosponsored the Bring Jobs Home Act.

When Senator Stabenow introduced the Bring Jobs Home Act for the second time it was not referred to the committee, but instead the Senate Majority Leader Harry Reid put the bill on the legislative calendar. The bill failed after a cloture vote on the motion to proceed did not receive the 60 votes needed to move the bill forward. Only four Republicans voted for the cloture vote and the rest of them voted against it with only one Republican abstaining.

The Bring Jobs Home Act provides an interesting case study to analyze how the Republican Party, the minority in the Senate at the time, used obstruction to prevent this key Democratic Party priority from getting through the chamber. Egar (2015) argues that compromising with the majority and giving them key legislative victories does not necessarily benefit the minority electorally. He states, "Opposing the other party provides a more credible basis for campaigning against them in the next election" (Egar 2015, 79). In this case, comments from the Senate Minority Leader Mitch McConnell and other Republican senators suggest this idea played a role in their obstruction of the Bring Jobs Home Act. Republican Senator Orrin Hatch said, "On the surface this might sound reasonable ... but as far as tax policy goes this is a joke" (Cox 2012).

Overall, the Bring Jobs Home Act offers a key example of a case in which the minority party obstructed the actions and legislative priorities of the majority successfully. Many factors contributed to the ability of the Republicans to successfully

oppose and stop the Bring Jobs Home Act from becoming law. This case study also provides opportunities to analyze the reasons why the Republicans may have chosen obstruction over compromising in this situation.

## **Results**

### **Case Study 1: Every Student Succeeds Act**

Republican Senator Lamar Alexander introduced Senate Bill 1177 also known as the Every Student Succeeds Act in April of 2015. The goal of No Child Left Behind was to make all United States students proficient in reading and math by 2013, but schools that did not achieve the metrics or comply with the regulations laid out in the law were penalized financially (Tatter 2016). President Obama created a system where states that were struggling to meet the standards set in NCLB could get waivers from parts of the law. The Department of Education issued waivers to those failing states, but they were required in exchange to adopt standards that focused on career and college readiness (Tatter 2016). However, the waivers did not solve the problems created by NCLB (Severns 2015).

In an interview with Education Week, Senator Alexander said he introduced the Every Student Succeeds Act because by that point everyone wanted a change. “By the time we got to 2015, almost everybody except the U.S. Department of Education wanted it fixed. Governors, teachers' unions, chief state school officers ... it was a law that everybody wanted fixed” (Klein 2016). The Every Student Succeeds Act gives a lot of power back to states to regulate their education systems. This change was a response to the way the U.S. Department of Education handled waivers for states who could not meet the requirements of NCLB. Senator Alexander said, “the department was in effect acting as a

national school board for the 42 states with waivers —So it was important to get the balls back in the hands of the people who really should have it” (Tatter, 2016).

The Republican conference elected Senator Alexander to chair the Health, Education, Labor and Pensions (HELP) committee in January of 2015 during his second term. Senator Alexander had held previous roles as the governor of Tennessee, U.S. Education Secretary under President George W. Bush, and President of the University of Tennessee. He served in Senate Republican Leadership for five years, but then resigned because “he wanted to focus on bridging divides rather than scoring political points” (Layton 2015).

According to the HELP committee website, Senator Alexander’s top priority when he assumed the chairmanship was to fix NCLB. The Senator talked briefly with other Senators including Democrats about his draft of the Every Student Succeeds Act and details that should go in it (Klein 2016). However, the bill Senator Alexander planned to introduce was stacked with Republican priorities, which concerned Democrats (Severns 2015).

Democratic Senator Patty Murray, ranking member of the HELP committee, encouraged Senator Alexander to pursue a bipartisan process for writing the Every Student Succeeds Act (Klein 2016). Senator Murray was in her fourth term as a U.S. Senator at the time and had held various positions in the Democratic Party Senate Leadership. She was the first woman to chair the Senate Budget Committee. As Senate Budget Committee Chair, Senator Murray negotiated the Bipartisan Budget Act, a two-year budget deal, with Representative Paul Ryan (R-WI) and was becoming known as a key dealmaker (Layton 2015). Senator Murray also served in the Washington State

Senate, the Board of Directors for the Shoreline School District and was a preschool teacher.

Like Senator Alexander, Senator Murray was concerned about the problems that NCLB created and wanted to help reform the law. Senator Murray represents Washington state in the Senate, which was one of the first states to lose its waiver from NCLB. The specific situation in her state was not the only factor that motivated her to pursue a bipartisan process to fix NCLB (Klein 2016). She said “schools around the country, not just in Washington weren't benefiting under the ‘one size fits all mandates’ of NCLB. We were in a terrible quandary where everyone hated the law” (Klein 2016). Murray was also worried that if the law was not rewritten in 2015 it would be a while before there was significant momentum to fix it again (Klein 2016).

However, Senator Alexander’s idea of a bipartisan process meant he would propose his original bill and then within the HELP committee members of both parties would be able to offer amendments (Klein 2016). Senator Murray felt there was no way to successfully craft a bill to fix the problems in the U.S. education system that would get bipartisan support if the process started with the bill Senator Alexander originally proposed (Layton 2015). After both Senators met to discuss the appropriate way to approach reforming NCLB, they agreed to start from scratch. They decided to compromise and move past the partisanship that plagued Congress (Layton 2015). “The only way to slice through that dysfunction, she [Murray] said, is to start with a ‘document at the outset that both of us said we could support and live with and work from’” (Layton 2015).

Former Republican Senator Trent Lott (R-MS) commented on the role of Senators Murray and Alexander within their parties and generally as legislators. He said “‘Lamar is probably one of the best Republicans that I know, he knows how to make things work in the Senate,’ and ‘...for the Democrats, I conclude that Patty Murray is probably their best legislator’” (Layton 2015). These comments illustrate unique characteristics of Senators Alexander and Murray that may have played a role in their ability to work together and negotiate the Every Student Succeeds Act.

Many of the debates over how to reform NCLB between Republican and Democrat lawmakers focused on the role of the federal government along with providing a system of accountability to ensure students received a quality education (Layton 2015). The Republicans called for more autonomy to be given to states and school districts, whereas the Democrats wanted to ensure there would not be disparities in access to good education across state or district lines (Huetteman 2015). Senator Alexander considered limiting the federal government’s role in state education and the education secretary’s power along with possibly giving “states block granted federal funds that could be converted into school vouchers” when he wrote his original bill (Severns 2015).

Both senators had to consider the concerns of each other and members of their respective parties when writing the legislation. Senator Murray also was a voice for the Obama Administration in the process. According to a discussion Senator Alexander recalled having with President Obama, the president requested that there be “annual testing, an early-childhood education program, and a focus on turning around the lowest 5 percent of schools” in the Every Student Succeeds Act (Klein 2016).

Both Senators worked together to negotiate between all of those interests and find a balance that a majority of the chamber would accept if the bill made it to the floor. One area where Senator Alexander and Murray struggled to find an agreement was on creating a program that provided preschool for low-income children. The issue was very important to Senator Murray and was also a priority for the Obama Administration (Layton 2015). However, many Republicans opposed creating the program because they did not want to expand the federal government's role in education (Layton 2015). In order to prevent this issue from derailing the whole piece of legislation, Senator Alexander recommended that Senator Murray negotiate the program with Senator Johnny Isakson (R-GA) who was also on the HELP committee and if Isakson agreed then Alexander said he could also accept it (Layton 2015). Senators Murray and Isakson were able to write an amendment that created competitive grants for states that would help them coordinate early childhood programs at multiple levels (Layton 2015). They proposed the amendment when the Every Student Succeeds Act was brought to HELP committee for consideration.

Senators Alexander and Murray brought the bill before the full HELP committee in April of 2015. They persuaded other members on the committee to save their more controversial amendments for the debate in the full Senate chamber (Layton 2015). The purpose was to make sure the bill could at least make it out of the committee (Layton 2015). This approach led to the bill being reported out of committee with unanimous consent (Congressional Record). After a series of debates on the Senate floor and discussion of various proposed amendments, the Every Student Succeeds Act passed the chamber on an 81 to 17 vote with bipartisan support. There were 39 Republicans and 40

Democrats who voted for the bill along with two Independent senators. However, there were 14 Republicans and three Democrats who voted against the bill with two other Senators abstaining.

The piece of legislation that was signed into law with ideas from the House as well included a combination of Republican and Democrat priorities. States were still held accountable for the success of their schools, but they were allowed to develop their own methods for judging the quality of the schools (Layton 2015). Also the states were still required to test students annually in math and reading, but they could decide how to deal with the schools whose test scores were in the lowest five percent (Layton 2015). As proposed in Senator Alexander's draft of the bill, under the Every Student Succeeds Act the education secretary will have less legal authority and is prohibited from influencing the decisions states make about their own academic benchmarks (Layton 2015).

### **Analysis**

In this case study, the minority party used a combination of compromise and persuasion as strategies to achieve its legislative goals. Senator Patty Murray's ability to successfully persuade Senator Alexander to pursue a true bipartisan process and rewrite the Every Student Succeeds Act was essential for the minority party to also employ compromise. This example shows that it may be necessary to combine various tactics in order for the minority party to obtain optimal results in the legislative process. By convincing Senator Alexander to work with her, Senator Murray was able to ensure the resulting piece of legislation included specific Democratic proposals instead of hoping that amendments Democratic Senators proposed would be agreed to.

Following the initial use of persuasion, Senator Murray and the other Democratic Senators effectively compromised with their Republican colleagues to pass a bipartisan bill that included many of their proposals. In this example, the Democrats did not follow the traditional process of cosponsoring legislation, as it is normally understood. There were no cosponsors for the Every Student Succeeds Act that Senator Alexander proposed. When a Senator cosponsors a bill it is formal way to show they support a piece of legislation but that does not necessarily mean they contributed to the specific language of the bill. Therefore, the absence of cosponsors for the Every Student Succeeds Act does not mean compromise was not effectively employed. Senators Alexander and Murray worked together with their staff members to write the bill, which is also a way to compromise without formally cosponsoring legislation.

Democrats also compromised in this case by offering amendments. They offered 115 amendments when the Every Student Succeeds Act came to the Senate floor for further debate (Congressional Record). Out of the 115 amendments offered, 38 were actually accepted into the first bill that passed the Senate (Congressional Record). Democratic Senators on all positions of the political spectrum sponsored some of the bills that the chamber accepted. For example, Senator Elizabeth Warren was the second most liberal Democrat in the chamber during the 113<sup>th</sup> Congress according to her DW-NOMINATE score on the first dimension of -0.709 (Poole and Rosenthal 2011). Senator Warren proposed an amendment that required states to provide assurance regarding the cross-tabulation of student data and it was agreed to by a voice vote (Congressional Record).

Both Senators Alexander and Murray are ideologically near the center of their party in the sense that they are not the most moderate, but also not on the ends of the spectrum.



Senator Murray has a DW-NOMINATE first dimension score of -0.369 in the 113<sup>th</sup> Congress while Senator Alexander has a score of 0.357 (Poole and Rosenthal 2011). This is in comparison to Senator Susan Collins (R-ME) who is a reliably moderate Republican and has a DW-NOMINATE first dimension score of 0.106 or Senator Cory Booker (D-NJ) who is more strongly liberal with a first dimension ideological score of -0.498 (Poole and Rosenthal 2011). Senators Alexander and Murray are also about the same distance ideologically from the most moderate member of the chamber. This result provides evidence for the hypothesis that generally more moderate senators will be likely to engage in compromises and that political ideology can influence the effectiveness of the minority party in employing this strategy. However, the success of Senator Warren's amendment proves that there is a limit to the impact of political ideology on compromise and being more liberal/conservative does not prevent a senator from effectively compromising.

Also considering the role of seniority on the minority party's effort to compromise, there are mixed results present in this case study. Senator Patty Murray was in her fourth term as Senator representing Washington State when she negotiated the Every Student Succeeds Act with Senator Alexander who was in his second term. This evidence supports the hypothesis that senior senators are more likely to lead or engage in compromise negotiations in Senator Murray's case, but Senator Alexander was more of a junior Senator and still was able to foster a compromise. In Senator Murray's case, her previous experience negotiating with Republican members of both chambers gave her a reputation in Congress as someone who could foster compromise and work across the aisle (Layton 2015). Therefore, it was not Senator Murray's seniority alone that allowed

her to effectively compromise but also the skills she had developed while in the chamber and how others in the chamber perceived her that may have contributed. There were some freshman senators who effectively used compromise by offering amendments that were accepted into the Every Student Succeeds Act. Of the 38 Democratic sponsored amendments accepted in the bill, freshman senators sponsored nine of them. This shows that freshman minority party senators can also use tools available to engage in compromise. However, the ability of freshman senators to successfully sponsor amendments effectively just tests one tool that can be used to foster compromise providing an opportunity to further study their ability to work with the majority party using other sources of power.

In this case study, the minority party members used compromise and persuasion as strategies to help them achieve their legislative goals. However, they could have instead employed obstruction to prevent the majority party from passing any sort of reform to NCLB. Previous research suggested that the minority party would obstruct when they wanted to prevent the majority from getting a legislative victory or when their own ideas were not being considered in the chamber (Strand et al. 2013). Senator Alexander did not intend to have a significant amount of Democratic support when he first sponsored the bill (Layton 2015). However, he still planned to give all Senators the opportunity to offer their own amendments even if the majority party used their voting numbers to block those proposals. Therefore, the fact that Democrats could offer amendments and in a way participate in the legislative process may have contributed to their decision not to obstruct the Every Student Succeeds Act. As Senator Alexander mentioned in his talk about why he wanted to reform NCLB, everyone who had anything to do with the United States

education system or governance disliked the law and wanted a change (Klein 2016). In this case, allowing the Republicans to pass their own reform bill would have provided a legislative victory because they could show that they changed a law many hated. Despite this fact, the Democrats still chose to work with the Republicans.

There are many reasons why the Democrats may have chosen to work with the majority rather than block their efforts to reform NCLB. Senator Murray is from Washington, which was struggling under the requirements of the law. Washington State was actually the first to lose the waiver it received from the Education Department because as Education Secretary Duncan said “the state had failed to implement promised changes to how it evaluates teachers and principals” (Chokshi 2014). The negative effects of NCLB were felt all across the country including in other Democratic Senators’ states. A study about conditions that lead the minority party members to compromise found that they will work across the aisle when it would negatively effect their reputation to obstruct or the issue would further hurt the country if not addressed (Straus et al. 2016, 225). In this case, blocking the Every Student Succeeds Act would not have necessarily benefited Democrats electorally or generally in the eyes of their constituents because some of their constituents wanted the law reformed too.

### **Case Study 2: Bring Jobs Home Act**

Democratic Senator Debbie Stabenow introduced Senate Bill 3364, also known as the Bring Jobs Home Act, in July of 2012. This was the second time Senator Stabenow introduced the Bring Jobs Home Act, but the first time it was sent to the Senate Finance Committee and was never reported out of the committee for further consideration. According to the Congressional Record, the Bring Jobs Home Act would create a new tax

credit for businesses that relocated their production back to the United States by amending the Internal Revenue Code. The bill would also deny businesses the tax deduction they previously received for expenses incurred by outsourcing.

Senator Stabenow's Bring Jobs Home Act was a key legislative priority for the Democratic Party and Obama administration leading up to the 2012 presidential and congressional elections (Barrett 2012). The Democratic Platform report for the 2012 election focused on insourcing jobs "so that America can out-build the rest of the world again" (Democrat Platform site). There were 15 Democrats in the Senate who cosponsored the legislation Senator Stabenow introduced.

The Bring Jobs Home Act was filled with proposals from Democrats in the Senate who were facing reelection (O'Keefe 2012). Those senators supported the bill to show that they were taking steps to address the struggling manufacturing sector in the United States (O'Keefe 2012). Senator Stabenow was one of the Democratic senators up for reelection and represents Michigan—a state known for its manufacturing industry. Members of the Democratic Party argued that 2.4 million jobs had been lost to outsourcing over the past ten years because global firms were sending positions to markets that were cheaper (O'Keefe 2012). Democrats believed the Bring Jobs Act would lessen the incentives for outsourcing and help put Americans back to work (Cox 2012).

Senate Republicans argued that the Democrats only proposed the bill to score political points in the current election. Republican Senator Orrin Hatch, ranking member for the Senate Finance Committee, said the Bring Jobs Home Act was a joke since it was "devoid of serious content because it is product of political rather than economic

priorities” (Cox 2012). The Republicans considered supporting the Bring Jobs Home Act, but decided against it after Senator Reid refused to include any of the Republican amendments offered in the final bill (Cox 2012).

A report for the Joint Committee on Taxation showed that the tax credit included in the Bring Jobs Home Act would cost the country almost 360 million dollars over 10 years. The report also estimated that ending the deduction for outsourcing expenses corporations incurred would only add 143 million dollars in revenue over 10 years. Overall according to the report, the Bring Jobs Home Act would actually reduce government revenue by 214 million dollars, further adding to the country’s deficit.

Democratic Senate Majority Leader Harry Reid put the Bring Jobs Home Act on the legislative calendar for the chamber after Senator Stabenow introduced. Therefore, the bill was never considered in the committee process before coming to the Senate floor for debate and a vote. When the Bring Jobs Home Act was brought to the floor, Republicans proposed amendments the Democrats were unlikely to accept. During a discussion about voting on another motion to proceed for the Bring Jobs Home Act, Senator McConnell asked Senator Reid if the bill would be open to amendments before the chamber held the vote on the motion. Senator Reid responded that the amendments he had seen so far by Republicans “have [had] absolutely nothing to do with outsourcing. So unless the Republicans get serious about legislating on the legislation we have, the answer would be: Very doubtful” (Congressional Record). The three amendments Republican Senators had introduced would repeal the Affordable Care Act; reestablish the tax cuts President George W. Bush passed, and a tax proposal by Senator Hatch (Congressional Record). Senator Reid argued that Senator Hatch’s amendment would remove every provision in

the Bring Jobs Home Act that was intended to promote job creation for American workers (Congressional Record). The Affordable Care Act was a signature piece of legislation for Democrats and the Obama administration (Zorn 2017). Senator Reid said he would not allow votes on the three amendments Republican Senators had proposed because they were not germane (Barrett 2012).

On July 19<sup>th</sup>, 10 days after Senator Stabenow first introduced the Bring Jobs Home Act the Senate held a cloture vote on the motion to proceed debate on the bill. The Democrats needed 60 votes to move the Bring Jobs Home Act to the next stage in the legislative process, but the final vote was 56 to 42. There were only four Republicans who voted for the bill with the rest voting against preventing the Democrats from successfully passing a priority bill on their legislative agenda.

### **Analysis**

A majority of the Republicans effectively employed obstruction to prevent the Democrats from passing the Bring Jobs Home Act for the second time during the 112<sup>th</sup> Congress. The Republican senators used multiple procedural powers to keep the bill from moving through the legislative process and to pursue their own legislative goals. In this case, most of the Republican senators voted against the motion to proceed on the bill and the final cloture vote to end debate. There were only four Republican Senators who voted in support of the cloture on the final motion to proceed that failed temporarily ending Democrat efforts to pass the bill.

Another tool the Republicans used to oppose the Bring Jobs Home Act was sponsoring amendments. There were a total of 12 amendments offered during debate

about the bill and Republican senators sponsored nine of the amendments. None of the amendments were actually voted on or agreed to by the chamber because the content of some of the Republican amendments resulted in Senator Reid preventing votes on them. Some Republican senators' decisions to oppose the Bring Jobs Home Act after their amendments were blocked provides evidence to support the hypothesis that the minority party will obstruct when their proposals are not considered.

The Republicans were also able to effectively employ obstruction to achieve their party goals in the Senate by stopping a bill that was a legislative priority for the Democrats. Senator Stabenow proposed the Bring Jobs Home Act just four months before the presidential and other congressional elections. Passing the bill could have benefited the Democrats electorally, especially the Senators because Democrats still controlled the Senate while the party lost its majority in the House in the 2010 midterm elections, and shown that the Democrats were able to pass a bill through the chamber that they argued would create more jobs for Americans. As mentioned in previous research, one reason for the minority party not to compromise is that working across the aisle can create positive views of the majority party among the electorate, which can make it hard to convince people to vote against majority party legislators in the next election (Egar 2015). Senator Hatch's comments that the bill lacked detail and was just a political trick show that this factor influenced Republicans' obstruction of the Bring Jobs Home Act (Cox 2012). This idea provides evidence for the hypothesis that the minority party is likely to pursue obstruction as a strategy specifically on bills that are legislative priorities for the majority party.

Republican senators could have compromised with the Democrats to amend and pass the Bring Jobs Home Act. Unemployment is an issue that affects people across state lines and has impacted constituents in Republican states as well. However, in this case there were many factors that influenced the minority party members' decision to obstruct. One factor that may have led the Republicans in this case to obstruct was the Joint Committee on Taxation report that showed the bill would negatively impact the United States economy by cutting revenues. Also the details of the bill and how it would lead to the creation of more jobs was not clear. The Democrats proposed the same Bring Jobs Home Act again in 2014 and Howard Gleckman, editor and senior fellow for the nonpartisan Urban-Brookings Tax Policy Center, provided insight on problems he saw with the bill. He argued that in some ways the Bring Jobs Home Act rewarded businesses for moving back to the United States without providing subsidies or other mechanisms to ensure more jobs were actually created for Americans (Gleckman 2014). Although the Bring Jobs Home Act may have benefited the country, the lack of detail in the bill as Senator Hatch also mentioned and the political motivations for it influenced some Republican senators' decision to obstruct rather than compromise with the Democrats.



## CONCLUSION

The results of this study show the impact of multiple factors on the ability of minority party lawmakers to successfully move the bills they sponsor through the various stages of the legislative process. In the House, despite expectations, only longer service in the chamber and a more moderate political ideology correlates with increases in the effectiveness of minority party legislators. In contrast, membership on power committees (Appropriations, Rules, and Ways and Means) and classification as a Southern Democrat are associated with decreases in a legislator's overall effectiveness. The decrease in effectiveness for legislators with these characteristics may be a result of committee service rules and questions of loyalty that often faced Southern Democrats who were not consistent in voting for Democratic initiatives (Schneider 2014; Volden and Wiseman 2009).

The results of the qualitative analysis in the Senate suggest that minority party strategies are not implemented in isolation, the minority party does not always employ the expected tactic in every situation, and the factors I expected to surround the successful use of various strategies were not always present. For example, Senator Patty Murray employed persuasion in an effort to convince Senator Alexander to work with her on the Every Student Succeeds Act before she compromised. Additionally, the hypotheses predicted that moderate Senators will be more effective at employing compromise and yet Senator Elizabeth Warren, who is more ideologically extreme, still

sponsored an amendment that was accepted in the final bill. In the first case study previous research would suggest that the minority party not compromise with the majority because they do not want to give them a legislative victory (Weisberg and Patterson 1998, 125). Yet, the Democrats decided to work with the Republican majority on the bill in part because it would have fixed a growing problem with education in the country. In contrast, the Republican minority would have been expected to work with the Democrats on the Bring Jobs Home Act because unemployment was a serious problem. However, they chose to block the bill—a decision influenced by the political environment at the time and Senator Reid’s refusal to consider Republican sponsored amendments.

Overall, this study expands upon previous research that has often analyzed specific powers or strategies the minority party uses to engage in the legislative process. In a more partisan political climate, it is important to identify the most effective strategies minority party members can employ as it is often difficult to work with the majority to get their bills considered in the chamber. The results offer insight into the minority party legislators who may be more successful in helping the party achieve its legislative goals because who employs a strategy can influence its overall effectiveness.

Although this current research provides new information about the minority party House lawmakers who tend to be more successful at employing persuasion as a strategy, future research should also look at the impact of these factors on Senate minority party members. Previous research has found that the policymaking environment in the Senate is unique and minority party Senators have more of a voice in the development of legislation (Jones 1970). However, Jones (1970) conducted the study at a different time

politically where there was less partisan polarization and gridlock than is visible in the more recent Congresses. Therefore, analyzing the impact of factors such as seniority and committee membership on the legislative effectiveness of Senators provides an opportunity to see if the results are different because of the unique Senate climate. In addition, the qualitative analysis of the Senate minority party can be expanded to the House where the filibuster, a key strategy used by the Senate minority to obstruct, is not a procedural power.

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