

# The Politics of Obstruction: Holds in the U.S. Senate

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## **Abstract**

A defining feature of the modern U.S. Senate is obstruction. Almost all pieces of legislation considered in the Senate are affected either directly or indirectly by obstruction. Obstruction takes many forms in the modern Senate, but one of the most prevalent, yet least studied is the hold. Using a newly created dataset on Republican Senate holds from the 99th through 104th Congresses we cast light on hold practices in this era for the first time. We use these data to develop and test expectations regarding who places holds and the success of holds in defeating legislation. Our results suggest that a variety of factors including timing, party status, and a senator's voting record affect both the prevalence of holds and their success in blocking legislation in the Senate.

# 1 Introduction

A defining feature of the modern U.S. Senate is obstruction. The Senate's rules make it virtually impossible to begin consideration of a measure or end debate on one via simple majority rule (Binder and Smith 1997). The inability of the Senate to set its order of business through majority rule creates opportunities for individual senators or small groups of senators to obstruct the Senate's business through extended debate or filibuster. As a result, filibusters have been a feature of the Senate for more than a century. Senate majorities have been thwarted on salient issues such as civil rights, voting rights, and military interventions by determined Senate minorities. Senators have showed less restraint in turning to obstructive tactics in recent years, as all indices of Senate obstruction show a sharp uptick over the past 30 years (Koger 2010). This has resulted in a legislative climate where all pieces of major legislation are affected—either directly or indirectly—by obstructive tactics.

The threat of obstruction has created a legislative environment whereby Senate party leaders are forced to develop strategies that will avert the use of obstructive tactics. The predominant method employed is to ask for unanimous consent. In fact, even in today's polarized political environment, much of the business that takes place in the Senate does so with the unanimous consent of all senators (Oleszek 2011a). Most requests for unanimous consent are simple, non-controversial requests by a senator to waive the reading of an amendment, have a staff member on the floor, or insert material into the *Congressional Record* (Oleszek 2011a). In addition to these simple requests, the

Senate also employs complex unanimous consent agreements (UCAs) that can govern all aspects of consideration for a bill including the time allowed for debate, the number and identity of amendments allowed, the number of votes required to adopt an amendment, and a specific time to hold a vote (Smith and Flathman 1989; Roberts and Smith 2007).

The near constant need for unanimous consent has given rise to the obstructive tactic known as the “hold.” Party leaders inform senators of bills and nominations that may be subject to a UCA via a circulated calendar or through a hotline request. Senators signal their intent to object to a UCA—in essence a threat to filibuster—by sending a letter to their party leader indicating that he or she will or may object to a unanimous consent request on a particular measure. These threatened objections are referred to in Senate parlance as holds. The letters containing holds are considered private communication between a senator and his/her leader so they are kept anonymous unless a senator chooses to make his/her hold public.<sup>1</sup> Despite their lack of public visibility, holds have been the target of a number of reform proposals, loud complaints by senators, and intense media scrutiny in the past few years (Evans and Lipinski 2005).

Despite the attention given to holds, scholars have a very limited systematic understanding of the effect of holds on the legislative process. This is almost entirely due to the secrecy of the process. Evans and Lipinski (2005) provide the only empirical treatment of Senate holds to date, which was based on correspondence and marked calendars found in the personal papers of former Senate Republican Leader Howard Baker

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

(TN) for the 95th (1977-78) and 97th Congresses (1981-1982). They find that holds significantly decrease the probability of a bill passing the chamber, especially when it is placed by a member of the majority party. In this paper, we build on the work of Evans and Lipinski (2005) and analyze the effects of the hold on the legislative process with a unique dataset drawn from the archives of former Republican Leader Bob Dole (KS) to analyze Republican hold practices for the 99th (1985-1986) through 104th (1995-1996) Congresses.

This new dataset provides the most comprehensive portrait of Senate hold behavior to date. Our six congresses of data give us a window into variations in hold practices for Republicans under a variety of institutional circumstances. We have four congresses in which the Republicans were the minority party in the Senate and two in which they were in the majority. Of the four congresses with the GOP in the minority, three occur with Republican presidents and a Democratic House, and one occurs during President Bill Clinton's first term. The 99th Congress featured a Republican president and Senate with a Democratic House. In addition, we also have partial data on the 104th Congress, which was the first instance of unified Republican control of Congress in 40 years.<sup>2</sup> This variation in the control of the basic lawmaking institutions allows us to document differences in obstructive behavior as the relative institutional strength of the Republican party changes. In what follows we use these data to pursue two goals: (1) to identify

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<sup>2</sup>Senator Dole resigned from the Senate to focus on his presidential run against President Bill Clinton on June 11, 1996. As a result we do not have information on holds that were placed in the final few months of the 104th Congress.

the characteristics of senators who place holds, and (2) provide a systematic analysis of the effect of holds on the passage of legislation in the Senate.

## 2 Obstruction in the Senate

The Senate filibuster has been romanticized in the press and popular cultural more than any other parliamentary tool. Many seem to envision a Senate regularly subjected to impassioned speeches like the one given by Jimmy Stewart in *Mr. Smith Goes to Washington*, but the truth is far more complicated and much less dramatic. For much of Senate history, filibusters were not routinely employed and had a limited impact on the productivity of the Senate.<sup>3</sup> Yet a number of notable bills were adversely affected by the filibuster. For example, the force bill, which would have imposed federal controls on elections in the South, was defeated by obstruction in 1891. In 1917 “a little group of willful men” as President Wilson labeled them defeated a bill that would have armed merchant ships by running out the clock on the 64th Congress. However, as Oppenheimer (1985) notes, with a surplus of floor time available, a Senate majority could often afford to simply wait out verbose opponents. This calculus gradually changed as the size of the Senate agenda grew over time. With an expanded legislative agenda, Senate majorities found that waiting out a filibuster could produce substantial collateral damage to other, often unrelated, pieces of legislation.

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<sup>3</sup>Binder and Smith (1997) note that fewer than a dozen bills or measures were defeated as a direct result of the filibuster prior to the adoption of Rule 22 in 1917, but they also point out that end of session filibusters were often used to great effect.

As the filibuster increased in lethality so did the willingness of senators to employ it as a legislative strategy (Sinclair 1989). The past few decades have seen a sharp increase in obstructive behavior no matter how measured—measures killed, cloture votes, etc. (Koger 2010). As Sinclair (1989) notes, this time period also coincides with a breakdown in Senate norms of deference and specialization and an increased willingness of individual senators to take full advantage of Senate rules to gain influence. The growth of obstruction and individualistic behavior forced Senate party leaders to develop strategies and institutions to help combat obstruction — with the UCA being the most common. Major legislation was and still is often governed by multiple UCAs in an effort to add predictability to the legislative process and certainty to the legislative calendar. The increased use of UCAs did not decrease obstruction, but they did help Senate leaders manage the floor in a more efficient manner (Ainsworth and Flathman 1995).

## **2.1 Development of Holds**

According to Oleszek (2011b, 2) the precise origin of the hold, “has been lost in the mists of history.” However, we do have some information on the history and development of the hold. Former Senate Secretary Walter Stewart traces the origins of the “secret hold” to Lyndon Johnson’s (D-TX) time as Senate Majority Leader. Steve Smith, in his testimony before the Senate Rules and Administration Committee in June 2003, notes that the usage of holds increased in the 1960s and 1970s under the leadership of Mike Mansfield (D-MT) and Robert Byrd (D-WV) due to those leaders relying increasingly on complex UCAs to manage the Senate (Smith and Flathman 1989; Smith 1989; Roberts

and Smith 2007). As the Senate came to rely more on UCAs, leaders found it useful to anticipate and perhaps respond to pending objections on the floor.

With the increased usage of the hold came a change in its role in the legislative process. The hold evolved from a routine notification device that allowed senators to alert leaders to a potential objection to a bill or nominee into something that senators view as akin to a procedural right. Senators have increasingly used the threat of objection to block or delay bills, object to votes on nominees, and bargain with leaders or other senators about other items. As a Senate staffer explained to Sinclair (1989, 130),

It used to mean that putting a hold on something meant simply that you would be given twenty-four hours notice that this thing would come up, so you could prepare for that. And, of course, when you put a hold on something, it put the people, the sponsors, on notice that you have some problems and it would be in their interest to come and negotiate with you. But four or five or six years ago it started to mean that if you put a hold on something, it would never come up. It became, in fact, a veto.

Senate party leaders have been consistently frustrated with this evolution of holds. As Schiller (2012) notes, former Republican Leader Howard Baker (TN) forced members of his caucus to make their objections on the floor at times, but Baker and subsequent leaders have found that they lack the formal tools necessary to fully mitigate the effects of holds.<sup>4</sup> Insisting that senators go to the floor to raise their objections does increase

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<sup>4</sup>Of course, a leader could just ignore a hold, but as we argue below this tactic could prove more



the costs of obstruction for individual senators, but unanticipated objections seriously compromise the ability of the party leadership to manage the Senate floor schedule. Ironically, a tool designed to increase legislative efficiency has contributed to an increase in obstructive behavior.<sup>5</sup> As a result, party leaders have increasingly acceded to hold requests without requiring an in person objection.

The increased usage of holds has drawn scrutiny from senators and Senate observers alike. Newspaper editorials seem particularly upset that holds are “secret” and wish to have them brought out into the open.<sup>6</sup> Senators themselves have often complained about hold practices. Former Democratic Leader Tom Daschle (SD) once remarked in apparent frustration, “There are holds on holds on holds. There are so many holds it looks like a mud wrestling match” (Oleszek 2011b, 2). Senators have been seeking to reform the practice of holds for at least three decades according to Oleszek (2011b). Reform proposals have included time limits on all holds, specific time limits for nominations, a uniform procedure for holds, and the outright abolition of holds. Senators Charles Grassley (R-IA) and Ron Wyden (D-OR) have taken the lead in an ongoing effort to make holds publicly known. In 2003 they co-sponsored a resolution that would

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costly for the leader than for the obstructing senator.

<sup>5</sup>The various hold tactics have even acquired informal names. Senators wishing to extract concessions on a unrelated items are said to have a “hostage” hold against a bill or nominee. A group of senators opposed to a particular measure have been known to place “rolling” holds whereby a new hold is placed following the withdrawal of a previous hold. Perhaps most cleverly, senators refer to a “Mae West” hold in which the holding senator wants the bill’s sponsor to “come up and see me sometime” to allow for bargaining over provisions of the bill in question.

<sup>6</sup>See Carl Hulse, “Senate May End an Era of Cloakroom Anonymity,” *New York Times*, August 2, 2007.

have formally institutionalized the hold and required senators to note their holds in the *Congressional Record*. The Senate Rules and Administration committee held a hearing on the proposal in which a number of prominent political scientists pointed out the difficulties of enforcing such a rule.<sup>7</sup>

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

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<sup>7</sup>A new hold policy was adopted as part of the Honest Leadership and Open Government Act of 2007. Among other things this policy required a senator to place a notice of his/her hold in the *Congressional Record* within six days of placing the hold. See Oleszek (2011b) for full details. However, this reform has not had the desired effect of eliminating secret holds. The six day limit allows a senator or group of senators to easily circumvent the rule by using a “rolling” hold, whereby a hold is retracted and then replaced by another before the six day window expires.

for Senate majorities, they do give us a window into seeing how much obstruction there is short of relying on counting cloture votes or observing in person filibusters.

### **3 Expectations**

The practice of placing holds has numerous strategic elements. Senators must weigh the policy gains that can be attained through obstruction against against the potential for reputation costs, retaliation, and the physical costs of objecting to and filibustering a bill. Similarly, party leaders must gauge the seriousness of each senators threat and consider that having an unanticipated objection on the floor could imperil other items on the Senate agenda. The strategic interactions between obstructing senators, party leaders, and bill sponsors is the essence of modern Senate politics. Though our new dataset provides us a window on these interactions, many aspects of these interactions are either unobservable or impossible to accurately measure.

We do think that the existing literature on Senate obstruction provides us with sufficient theoretical ammunition to derive empirical expectations about the usage and effectiveness of holds. We begin by considering the costs and benefits of placing a hold from the perspective of an individual senator. The potential costs involved in placing a hold are myriad and likely vary based on one's position in the chamber, party control of the chamber, and the external political environment. First, the senator has to be aware that there are no institutional barriers that prevent a party leader from calling the holding senator's bluff on a particular measure. If the leader chooses to ask for

unanimous consent and a senator objects, the objecting senator has to be prepared to hold the floor and filibuster the motion to proceed. This would likely interrupt the senator's daily schedule. Second, having one's bluff successfully called has reputation effects. Gaining a reputation as being "weak" when pushed on a hold will likely reduce the effectiveness of future holds. In some ways this process resembles a repeated game of chicken between a senator and the party leader. Developing a reputation as one who does not follow through on threats is likely not in a senator's long term interests.

In addition to reputation costs with the party leader, routinely placing holds may alter a senator's reputation among and effectiveness with his/her party colleagues. As a Senate staffer explained to Sinclair (1989, 96-97), "There are three types of senators around here: the show horses, the work horses, and the horses' asses. On any given day, a senator will fit into one of these categories, and you've got to ask yourself how will you be perceived." Bills or nominations that are sufficiently controversial to warrant a hold being placed are likely to be important to another senator's legislative agenda. A senator known for routinely obstructing bills sponsored by others may soon find that his/her own bills the target of obstructive behavior.<sup>8</sup>

Obstructive behavior can have tangible policy benefits for a senator. Threats to obstruct are generally taken seriously by party leaders and bill sponsors. As a result there are benefits to be gained through obstruction. Most individual bills or nominations are simply not important enough to the majority party leadership to warrant going through

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<sup>8</sup>This assumes that the holder has allowed his or her identify to be made known.

the procedures necessary to break a filibuster. As a result, most holds are honored and senators repeatedly observe the effectiveness of holds. This gives senators who are willing to pay the potential costs of obstruction the opportunity to block legislation, delay consideration of a measure, or use obstructive tactics to gain leverage on other unrelated measures<sup>9</sup>.

In terms of predicting obstructive behavior, we expect senators to employ obstructive tactics more frequently when the relative costs are low and the relative benefits are high (Koger 2010). The question then is what factors affect the the relative costs and benefits of obstruction for senators?

One is surely the political environment. If one's goal is to block legislation, then majority status in the chamber is likely to be an important factor. We expect that senators in the majority party would be less likely to rely on obstruction to block measures for at least three reasons. First, we assume that on average, senators find legislation produced by members of their own party more palatable than measures proposed by the opposing party. Second, senators in the majority party may find that they can obtain concessions through the normal legislative process without turning to obstruction. Finally, the opportunity costs of obstruction are potentially higher for senators in the majority party. Majority party senators are more likely to be granted access to the floor for their bills and are more likely to produce bills that have a reasonable chance of Senate passage, as a result, retaliatory acts would be more costly to their legislative agenda. On

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<sup>9</sup>We assume that senators placing holds are motivated by policy goals. Given the secretive nature of holds they are not well-suited for position-taking behavior.

the flip side, senators in the minority are faced with legislation that probably runs afoul of their ideological and partisan preferences and are unlikely to play an active role in constructing legislation that ultimately passes the chamber. Obstructing, and thereby maintaining the *status quo* policy may be their best legislative strategy.

We also think the timing of obstruction affects the cost/benefit calculation for senators. In fact, one could argue that timing is the key to effective obstruction (Oppenheimer 1985). If one obstructs early in a Congress, there is often ample time to overcome the obstructive tactics either through compromise or the cloture process, but as Oppenheimer (1985, 395) notes, “Late in a Congress, choices are limited because time is not available. Moreover, those presenting the obstacle know their advantage and can extract a higher price for its removal.” At the end of a Congress, the leadership is often trying to fit numerous “must pass” pieces of legislation into a tight legislative window. For other bills, they either move quickly or they are unlikely to move at all. All actors understand that the cost of not giving in to an obstructing senator is higher than at any point on the legislative calendar. Thus we expect holds placed late in a Congress to be more successful than those placed at the beginning of Congress.

A senator’s general policy preferences also may affect the calculus of obstruction. For a senator who sits near the ideological center of the Senate, obstructive tactics may not have to be employed in order to gain influence over the legislative process. Moderates are likely to find few bills that can successfully navigate the Senate without their support and hence may find that their Senate colleagues are quite accommodating to

their legislative requests. Conversely, partisan extremists may find that obstruction is one of the few ways to be influential in the Senate. By definition, ideological extremists are unlikely to find many pieces of legislation that can both pass the Senate and are located near their ideal point, therefore they will likely derive less policy utility from seeing legislation passed. One implication of this is that they are less likely to fear legislative retaliation if they regularly employ obstructive tactics. A second implication is that if a senator understands that legislation they personally support or sponsor is unlikely to pass, they may derive greater utility from preserving existing *status quo* policies through the use of obstruction. As a result, we contend that ideological extremists have both the most to gain and least to lose through the use of obstructive tactics.

We also think it is likely that a senator's institutional power may affect his or her propensity to use obstructive tactics. Senators in the party leadership or who lead powerful committees may find that they do not have to resort to obstructive tactics in order to block measures that they find objectionable. However, if senators in leadership positions do resort to obstruction they can expect to pay a lower "price" for obstruction than would be true of more junior or less influential senators. Senators in key committee or leadership positions have the power to influence other matters, so non-obstructing senators are less likely to attempt to retaliate against an obstructive senator with institutional power. Sinclair (1989, 97) quotes an aid to a senator pointing out, "You have to work with these people again next week and they need you as much as you need them." Thus senators in positions of institutional power may find themselves in the enviable

position of rarely needing to resort to obstructive tactics, but paying a lower costs for obstructive behavior when they do so.

In sum, we expect that a variety of contextual and individual factors affect a senator’s propensity to obstruct legislation via the hold. In the next section we outline the data we employ and present some summary statistics on obstructive behavior.

## 4 Data

Our data for this project are based on correspondence between Republican senators and former Republican Leader Bob Dole (KS) for the 99th (1985–86) through the 104th (1995–1996) Congresses.<sup>10</sup> These data were drawn from the personal papers of Senator Dole which are housed at the Robert J. Dole Institute of Politics at the University of Kansas. We found 1750 unique letters between Senator Dole and other senators relating to the consideration of legislation, 153 of these were clearly not “holds” so they were excluded from our analysis leaving us with 1597 unique hold letters containing 2655 holds.<sup>11</sup> See Figure 1 for an example of the letter format.

### 4.1 Hold Types

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

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<sup>10</sup>We only have partial data for the 104th Congress due to Dole’s resignation in June 1996.

<sup>11</sup>Some bills had more than one hold placed against it, while other letters placed holds on more than one piece of legislation.



Figure 1: Sample Hold Letter

JESSE HELMS  
NORTH CAROLINA

United States Senate  
WASHINGTON, DC 20510-3301

December 18, 1995

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

Dear Bob:

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

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

Sincerely,



JESSE HELMS:ga

cc: Elizabeth B. Greene

Dole-1

categories. For examples of each please see the Appendix.

**Outright Hold** Letters that threaten to object to a unanimous consent request without providing any statement about what could be done to appease the senator.

**Specific Amendment Request** Letters that threaten to object to a unanimous consent request unless a particular amendment is allowed to be offered to the bill.

**General Amendment Request** Letters that threaten to object to a unanimous consent request unless an unspecified amendment is allowed to be offered to the bill.

**Specific Demands** Letters that threaten to object to a unanimous consent request unless a particular provision of the bill is removed.

**Requests for Notification** Letters that ask to be notified prior to a UCA being entered into without making any requests or demands.

**Requests for Delay** Letters that ask that consideration of a bill be delayed in order to gather more information or hold a committee hearing.

In Table 1 we report the frequency distribution of the various hold types by Congress. Several important patterns emerge from these data. First, the 99th Congress (1985 – 1986) represents the low point of outright holds by Senate Republicans and the high point in requests for notification. Given the partisan alignment of the major law-making institutions this is in keeping with our expectations as Republican senators were unlikely to be threatened by a hostile legislative agenda in the 99th Congress. President

Reagan was coming off of his 49 state landslide victory over Walter Mondale and the Senate Republicans had gained a majority of seats in the chamber with their successes in the 1984 elections. The Republicans under new Majority Leader Dole controlled the key agenda setting institutions in the Senate and had a popular president of the same party flush with political capital after his reelection. As a result, the Republican party was in a relatively strong position to push its legislative agenda at the outset of the 99th Congress and found itself less in need of obstructive tactics. To be sure, some members still used holds as an obstructive tactic, but derailing legislation was not the primary intent. For example, during debate on raising the debt ceiling, Senator Alfonse D'Amato (R-NY) wrote Dole saying in part,

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

D'Amato was not interested in preventing passage of the bill, but was attempting to use the need for a UCA as leverage to gain votes on issues that were important to him.

The 100th Congress (1987 – 1988), by contrast, represented a vastly different political environment for Senate Republicans. The 1986 midterm elections did not go well for the Republican Party. In the Senate, they lost a net of eight seats and majority

Table 1: Hold Type by Congress

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

Column percentages in parentheses.

control of the chamber. On the House side there was no majority to lose, but Democrats picked up five seats as GOP candidates found themselves saddled with an unpopular president and the typical midterm decline in turnout for the president's party. Without control over any of the key agenda posts in the Senate, Republicans increasingly turned to obstructive tactics to forestall unwanted legislation or amendments. For example, Senator Bob Packwood (R-OR) wrote to Dole in part saying,

I request that a hold be put on S. Res. 288, a resolution to permit amendments to the bill implementing the agreement under section 151(d) of the Trade Act of 1974 if such amendments related to the domestic or foreign waterborne commerce of the United States.

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

The 103rd Congress (1993 –1994) was the highpoint for outright holds in our data, which is exactly what we would expect given the grave political situation Republicans found themselves in. With the election of Democratic President Bill Clinton in 1992, the Republican party found itself facing unified Democratic government for the first time since the Carter administration (1977 – 1980). Instead of being able to count on a Republican president to veto unwanted legislation, Republicans faced an out-party president with an ambitious legislative agenda. They responded with a flurry of holds and other obstructive tactics that constantly frustrated the Clinton administration and Democrats in both chambers of Congress. Targets of holds included the supplemental appropriations bill (i.e. Clinton’s stimulus package), the motor voter law, and bills to reform hard rock mining, water safety, and the Superfund among many others. Senator Dole himself even got into the act sending a letter to his own office asking that his hold against the amendments to the Communications Act of 1934 be noted on the marked calendar. The sustained Republican efforts were quite successful. Only 23% of bills targeted by outright holds in the 103rd Congress passed the chamber, which was the

lowest percentage passed of any congress in which the Republicans were in the minority.

After the 1994 midterm elections, Republicans found themselves as the majority party in both chambers of Congress for the first time in four decades and facing a Democratic president who was weakened by alleged ethical violations, policy failures, and the loss of congressional majorities for his party. In keeping with our expectations, we see Republican hold activity fall in this Congress.<sup>12</sup> We do see the highest level of holds that have specific demands in them as Republican party senators begin to use the hold as a vehicle of policy change rather than as an obstructive tactic.

In all, we think the patterns of hold types fit with what most observers would expect with regard to party control of the institutions of government. Republicans used the outride hold tactic more frequently, when they were most threatened (103rd Congress), and relied on it the least when they were in the majority (99th and 104th Congresses). In contrast, they used the hold to attempt to secure policy gains most often when the party was in the best position to realize legislative goals. In the next section we focus on the identity of the senators who placed holds.

## 4.2 Who Places Holds?

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

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<sup>12</sup>Note we only have partial data for the 104th Congress due to Dole's resignation in June of 1996.

during the 99th Congress leaving Andrews as the only senator to serve an entire congress and not place a hold.

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

Helms, of course, was not alone in frequently placing holds. The appendix contains figures demonstrating the distribution of holds by senators in each of the six congresses in our dataset. The results confirm our expectations that those senators who have the most conservative voting patterns as measured by DW-NOMINATE were the most active

users of the hold. This pattern is quite similar to the one found by Evans and Lipinski (2005) in their earlier work on holds. We explore these and other potential patterns in the next section.

## 5 Analysis

As we noted above, almost all Republican senators placed holds on legislation at some point during Dole's term as party leader. However, there is considerable variance in the number of holds that senators place. In this section we identify factors that are associated with increases in hold behavior for individual senators. The dependent variable in the models that follow is the number of holds placed per senator in a given Congress.

Based on the figures presented in the appendix, there is some indication that our expectations with regard to ideological extremity and hold behavior are supported by the data. Republican senators with more conservative voting records are more likely to employ holds more frequently. In some ways this is logical as senators near the extreme of a party that is typically in the minority may often find that proposed legislation is distant enough from their ideal point to risk having to pay the costs of obstruction. To measure this we include a member's first dimension DW-NOMINATE coordinate as a measure of ideological conservatism in our multivariate model. We expect larger DW-NOMINATE coordinates to be associated with an increase in obstructive behavior.

In addition to overall voting patterns, we know that a key faction of Republican senators known as the Senate Steering Committee formed in the mid-1970s in an effort



to combat what the members of the committee saw as an overly liberal floor agenda in the Senate. According to Evans and Lipinski (2005) the committee was modeled on the House Republican Study Committee and met regularly to plan strategy for promoting conservative initiatives and for impeding the progress of liberal initiatives on the Senate floor. One strategy that the group came to rely on regularly was the hold. Evans and Lipinski (2005) report that during the 95th Congress, Steering Committee chair James McClure (ID) placed unrestricted holds on scores of legislation on behalf of himself and fellow members of the committee. In our data, we observe a number of hold letters that are either signed by a large group of members known to be on the Steering Committee or printed on Senate Steering Committee letterhead. We elected to code someone as being a member if they ever signed onto a letter on Steering Committee letterhead in a particular congress. We expect membership in this group to have a positive effect on hold behavior and we include an indicator variable for membership in the committee in the models that follow.

In addition, based on our expectations regarding the differential costs associated with obstruction we include indicator variables for whether a senator was a chair or ranking member of a committee, the number of bills the senator sponsored in the current Congress, and whether or not the senator was “in cycle” electorally. To test the effect of the political environment we also include indicator variables for whether or not the Republican party was in the Senate majority and the party identification of the president. We then estimate negative binomial regression models of the number of holds

by a senator as a function of these factors. In Table 2 below we present two models of hold behavior, one that covers all categories of holds and one that excludes requests for notification and delay given that it is possible that requests for notification are not, in fact, meant to be obstructive in nature.<sup>13</sup>

The results presented in Table 2 provide considerable support for our expectations. Focusing first on all holds, Steering Committee membership has the expected positive effect on hold count. Holding all else equal, a steering committee member requested twice as many holds (10.7) as did non steering members (5.3). A senator's voting behavior, as measured by DW-NOMINATE, is also strongly associated with hold behavior. A senator near the median of the Republican party had a predicted hold count of 6.4, whereas the model predicts that a moderate senator in the 10th percentile of the Republican party's expected count was 4.5 holds per congress. In contrast, a conservative senator at the 90th percentile has an expected hold count of 9.2. Thus we find a strong relationship between conservative voting record and obstructive behavior. We also find that the strong relationship between the political environment and hold behavior found in the aggregate in Table 1 carries over to our individual models. Holding all else equal, a Republican senator places an average of 7 holds when in the minority compared to 5.8 when there is a Republican majority in the chamber.

We also see similar results if we restrict our attention to "demand holds" only (excluding notifications and requests for delay). Steering Committee membership and

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<sup>13</sup>Note that we also fit each model with Senator Helms omitted given how frequently he appears in the data. Including him does not alter our substantive results.

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

<b>Variable</b>	<b>All Holds</b>	<b>Demand Holds Only</b>
DW-NOMINATE	1.230* (0.517)	1.960* (0.679)
Steering Committee	0.691* (0.223)	0.521* (0.258)
Committee Leader	0.395* (0.189)	0.424 (0.232)
Up For Election	-0.177 (0.093)	-0.208 (0.121)
Bills Sponsored	0.008* (0.004)	0.008* (0.004)
Republican Majority	-0.200 (0.125)	-0.347* (0.118)
Republican President	0.358* (0.147)	0.180 (0.183)
Constant	0.795* (0.291)	0.200 (0.395)
<i>N</i>	292	292
alpha	0.777*	0.842*

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

voting behavior are still associated with obstructive behavior. For example, holding all else equal, Steering Committee membership increases the expected hold count from 3.2 to 5.3 on average. Turning to the relationship between a conservative voting record and obstruction, we see that all else equal the median Republican senator has a predicted hold count of 3.6. However, our data predict an expected hold count of 2.03 for a moderate Republican at the 10th percentile of the party compared with 6.41 for a conservative located at the 90th percentile.

We also continue to find a strong relationship between party control of governing institutions and demand hold behavior. Holding all else equal, the predicted hold count for a Republican senator serving in the majority party was 2.9 compared to 4.2 when Republicans were in the minority. This confirms our expectation that senators choose to rely on obstructive tactics less frequently when they are in the majority party. In both models our control variables add little in terms of substantive explanation of obstructive behavior.

Taken as a whole, these results present clear patterns of obstructive behavior by individual senators. We find that senators rely on obstruction more when they are in the minority party. We also see that members who are near the ideological pole of their party are more likely to employ obstruction as a legislative strategy. Both of these findings are consistent with our expectations. In the next section we turn to the related question of how holds ultimately affect the passage of held legislation in the Senate.

## 5.1 Hold Success

We now move from a focus on the factors that contribute to a senator’s decision to obstruct to focus on the success of legislation that has been obstructed.<sup>14</sup> Our question here is whether a piece of legislation that was targeted by a hold passed the Senate or not. As such, we restrict our analysis to outright holds (see Table 1).<sup>15</sup> Our results suggest a strong relationship between holds, majority status, and bill passage. Table 3 demonstrates that in all six of our congresses, bills receiving outright holds passed at a lower rate than did reported bills that were not subject to holds. Table 3 also reveals considerable variation across the six congresses in our data. The Republican party held a majority of Senate seats in both the 99th and 104th Congresses, which corresponds with very low hold totals and two of three three lowest passage rates for legislation subject to a hold. These two results suggest that obstruction is less frequent for members of the majority party, but when it occurs, obstruction can be lethal for a bill’s passage. For the four congresses of Democratic control of the Senate we see far more holds (mean = 86), but with a relatively high rate of success — approximately 35%. The 103rd Congress once again stands out. Republicans were quite successful in obstructing legislation during this Congress despite unified Democratic government. Whether this

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<sup>14</sup>We also explored the factors that predict which bills will be subject to a hold. We found that bills sponsored by majority party members are more likely to have holds placed on them. In addition, bills that were multiply referred, had large numbers of co-sponsors, and were sponsored by those with moderate DW-NOMINATE scores were more likely to be subject to holds.

<sup>15</sup>We are also interested in bill outcomes for holds that ask for specific amendments or concessions, but such an analysis is beyond the scope of this manuscript.

Table 3: Senate Passage of Outright Held Legislation

Congress	Passage Rate	Number of Bills
99th	18%	28
100th	38%	105
101st	40%	78
102nd	37%	76
103rd	24%	85
104th	35%	20
Non-held bills	45%	3045

result is a reflection of poor legislative strategy by Democrats or particularly effective obstruction by Republicans cannot be discerned from these data, but they do point to the difficulties inherent in governing a chamber that lacks a standing majority rule mechanism for ending debate.

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

or members of the Senate Steering Committee. As Evans and Lipinski (2005) note, Steering Committee members often worked as a group, so we think this is a proxy for more widespread objection within the Republican caucus.<sup>16</sup>

Timing is also a factor that has been demonstrated to be associated with the success of obstructive tactics. Koger (2010) and Oppenheimer (1985) demonstrate that filibusters occurring later in a Congress are much more likely to be successful due to the shortened time horizon, while Evans and Lipinski (2005) report a similar finding for Republican holds under the leadership of Senator Baker. We expect to find a similar result for the holds in our dataset. We operationalize this by measuring the number of months remaining in a Congress at the time a hold letter is received in Senator Dole's office. We also include indicator variables for the two congresses with a GOP majority.

Table 4 presents the results of a logit model of bill passage as a function of the factors discussed above. The results of this model are quite predictive with regard to the factors that affect success of holds in preventing bill passage. The holder's DW-NOMINATE is in the expected direction and statistically significant. As Figure 2 demonstrates, holds by moderate Republicans have a much greater likelihood of derailing legislation in the Senate than do those of more extreme members. The timing of holds is also strongly associated with hold success. As the time remaining in a Congress decreases the probability of an outright hold successfully blocking legislation increases.

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<sup>16</sup>We considered controlling for bills that received multiple holds much like Evans and Lipinski (2005), but given that in the overwhelming majority of cases multiple holds on a piece of legislation are a product of holds from the Steering Committee we elected to use the more parsimonious measure.

Table 4: Holds and Bill Passage, 99th-104th Congresses

Variable	Coefficient (Std. Err.)
Holder DW-NOMINATE	2.459* (0.687)
Months Remaining in Congress	0.058* (0.018)
Steering Committee Holds	-0.860* (0.342)
Committee Leader Hold	-0.102 (0.257)
Sponsor DW-NOMINATE	0.452 (0.416)
Cosponsors	-0.002 (0.003)
Republican Majority	-0.702 (0.439)
Republican President	0.842* (0.288)
Constant	-2.526* (0.517)
N	385
Log-likelihood	-230.927
$\chi^2_{(7)}$	27.80

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



Figure 2: Holder DW-NOMINATE and Bill Passage

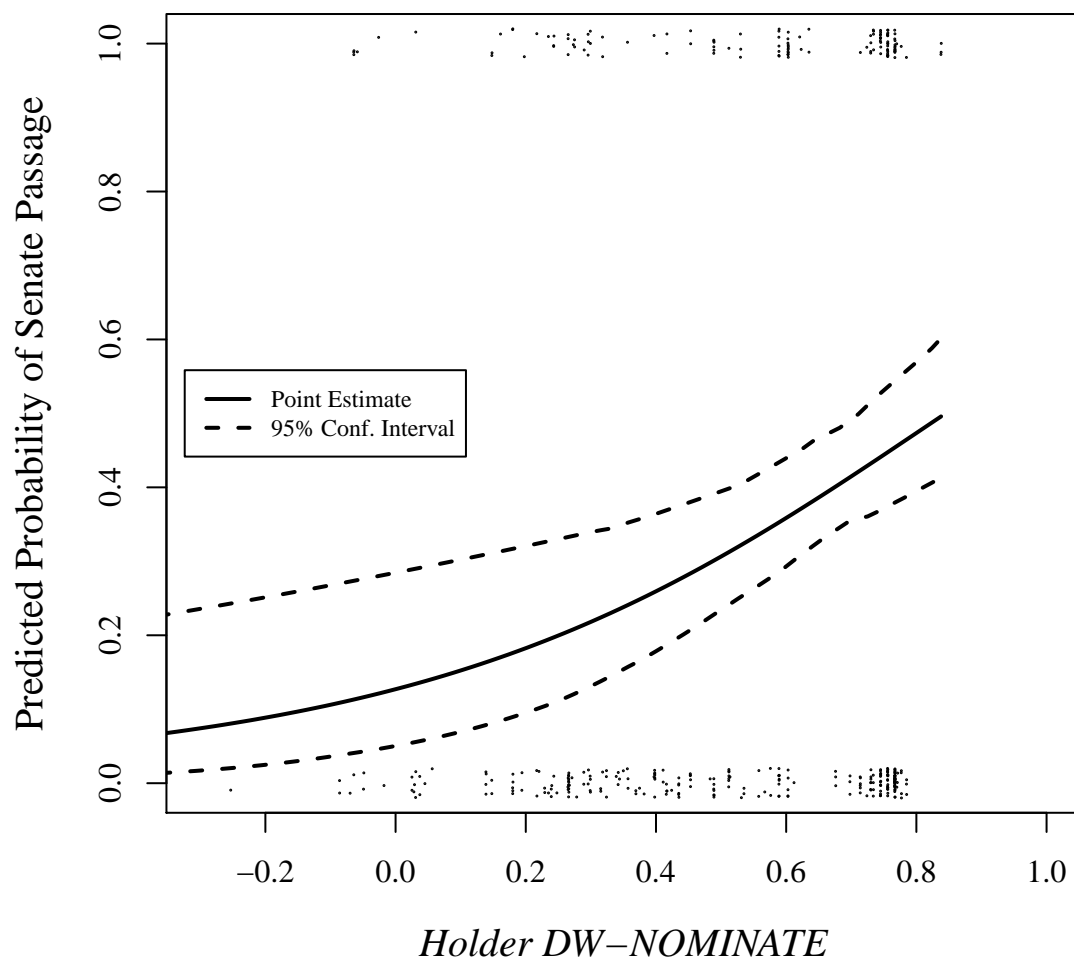
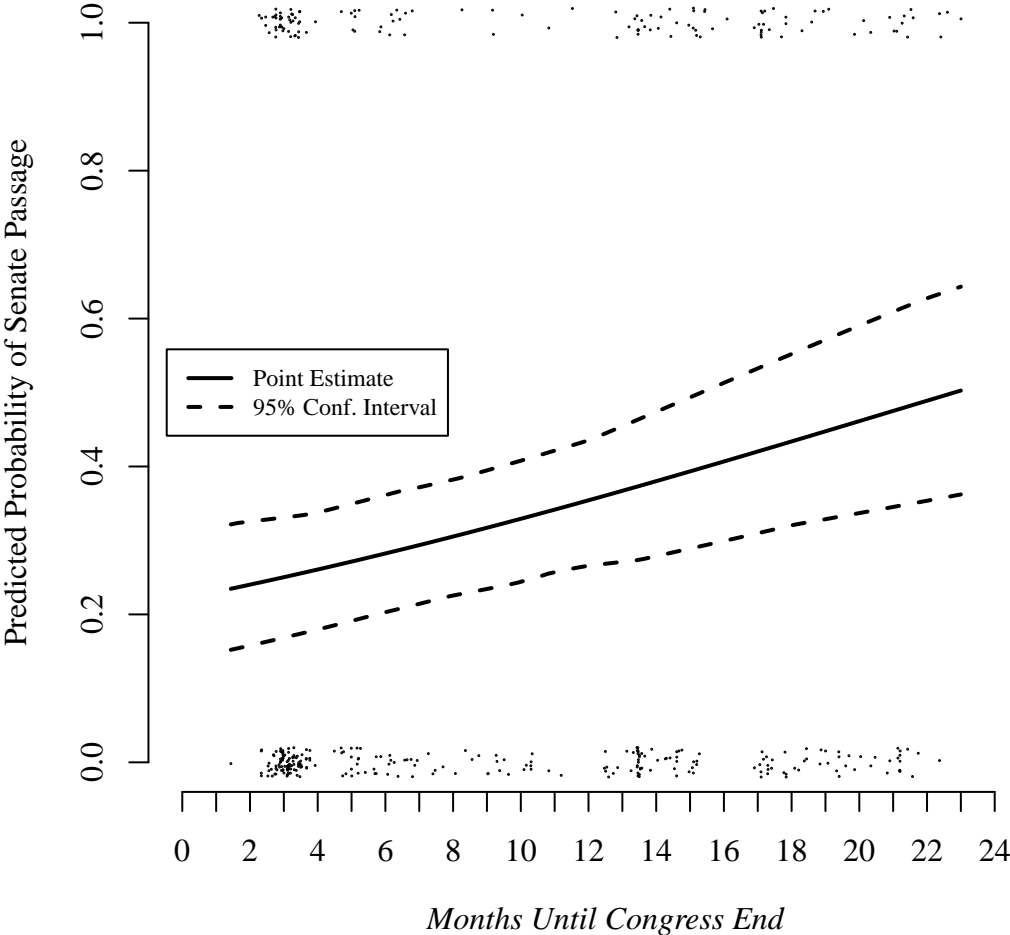


Figure 3: Hold Timing and Bill Passage



This relationship can be seen visually in Figure 3.

We also find the expected relationship between Steering Committee holds and bill passage. All else equal, a bill that was targeted by members of the Steering Committee had a 0.26 probability of passage, compared to 0.45 for holds that came from other parts

of the Republican Party. This demonstrates that the power of this group over legislative outcomes was quite significant, perhaps due to the fact that the group coordinated legislative strategies to block targeted bills. The relationship between a Republican president and hold success is also statistically and substantively significant. Republican senators have less to fear legislatively if they think there is a good chance that a same party president will veto undesired legislation. As noted above, the observed success of holds during that time period could be the result of poor legislative performance by the majority party Democrats in the 103rd Congress, desperation by out-of-power Republicans, or simply the increasing effectiveness of obstructive techniques over time.

## 6 Discussion

This paper provides the most comprehensive treatment of hold behavior in the Senate to date. Our data allow us to document the patterns of obstructive behavior that emerged during the leadership of Senator Bob Dole. We see a portrait of a Senate that is constantly dealing with the consequences of rules that encourage obstructive behavior. Reformers and Senate observers routinely speak of the hold as a cause of many of the problems in the modern Senate—we disagree. In our view the hold is nothing more than a symptom of a set of rules that empowers individual senators at the expense of legislative majorities.

Our analysis reveals that holds are more frequently employed by more extreme members of the Republican party and we would expect to see a similar pattern on the

Democratic side. Moderate senators have decreased in number in recent congresses, so it is likely the case that even more behind the scenes obstruction occurs in today's polarized Senate. We do, however, hesitate to conclude that the hold is only employed by members on the partisan extremes. Our data suggest that almost all senators make use of the hold from time-to-time for a variety of purposes, some that are, no doubt, ideological in nature, but many are likely more personal or partisan in nature.

Our findings also speak to the interaction between majority status and obstruction in the Senate. Senate Republicans employed outright holds less often when they were in the majority, but more often used hold types that could result in changes to the current bill or some other legislative goal. However, when they found themselves in the minority they were unrelenting in their efforts to block legislation. In most cases, these efforts were successful. The majority of legislation that was subject to an outright hold failed to pass the Senate. These results demonstrate the immense power that the Senate rules grant individual senators if they choose to try to obstruct legislative majorities. We observe that senators are often able to sink legislation simply by sending a letter to the party leader. However, our analysis of the effects of holds on legislative outcomes is the most blunt measure imaginable—pass/fail. We also know, but do not yet have the data to document, that obstructive behavior affects legislation in less direct ways through amendments, log-rolling, and delay. Our results further illustrate the difficulty that the combination of political polarization and individualistic rules causes for Senate majorities. With narrow majorities, little-to-no partisan overlap in the chamber, and an

increasing willingness of senators to employ obstructive tactics it is not surprising to see the Senate struggle to move legislation that is favored by popular majorities.

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## 7 Appendix

Figures 4, 5, 6, 7, 8, and 9 provide frequency distributions of the number of holds by senators in each Congress. We have organized these figures in descending order of their DW-NOMINATE scores so those with the most conservative voting records are at the top of each figure, while the most moderate Republicans are near the origin. Figures 7-12 provide examples of each of the six hold types identified in Section 3 of the paper.



Figure 4: Holds by Republican Senators, 99th Congress

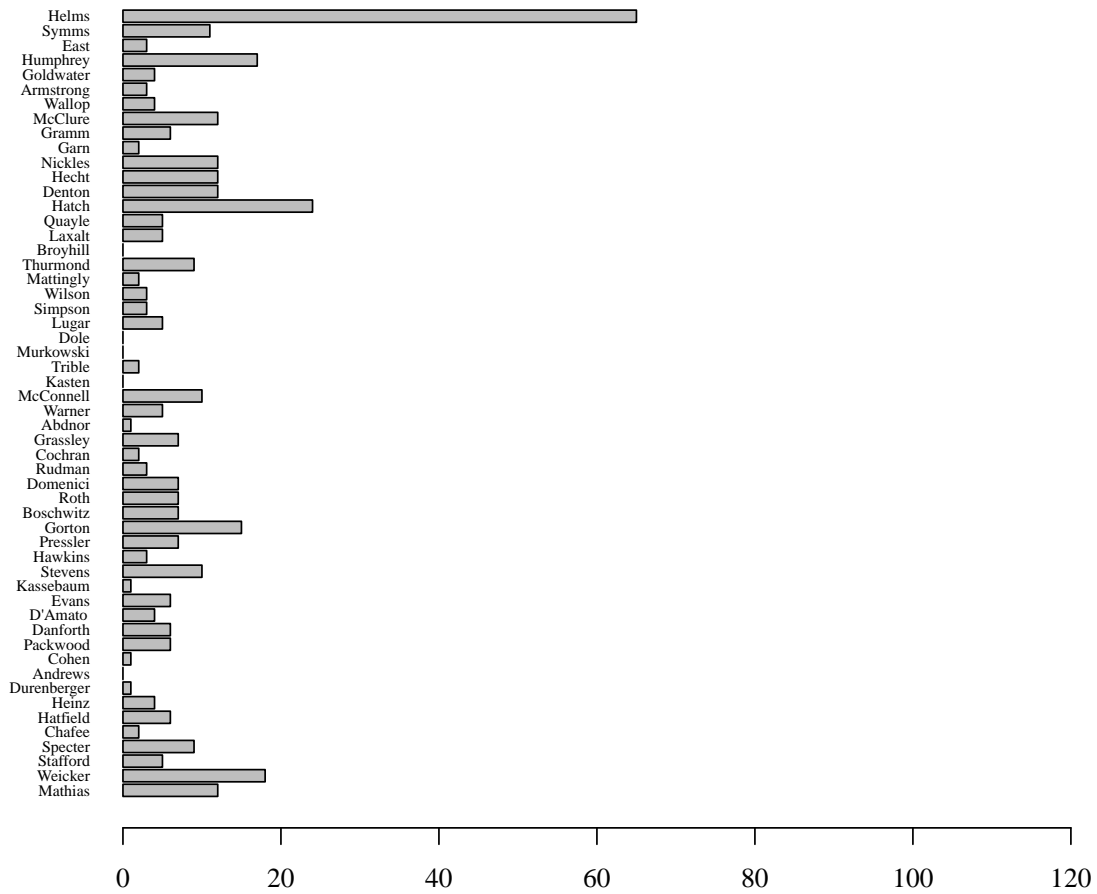


Figure 5: Holds by Republican Senators, 100th Congress

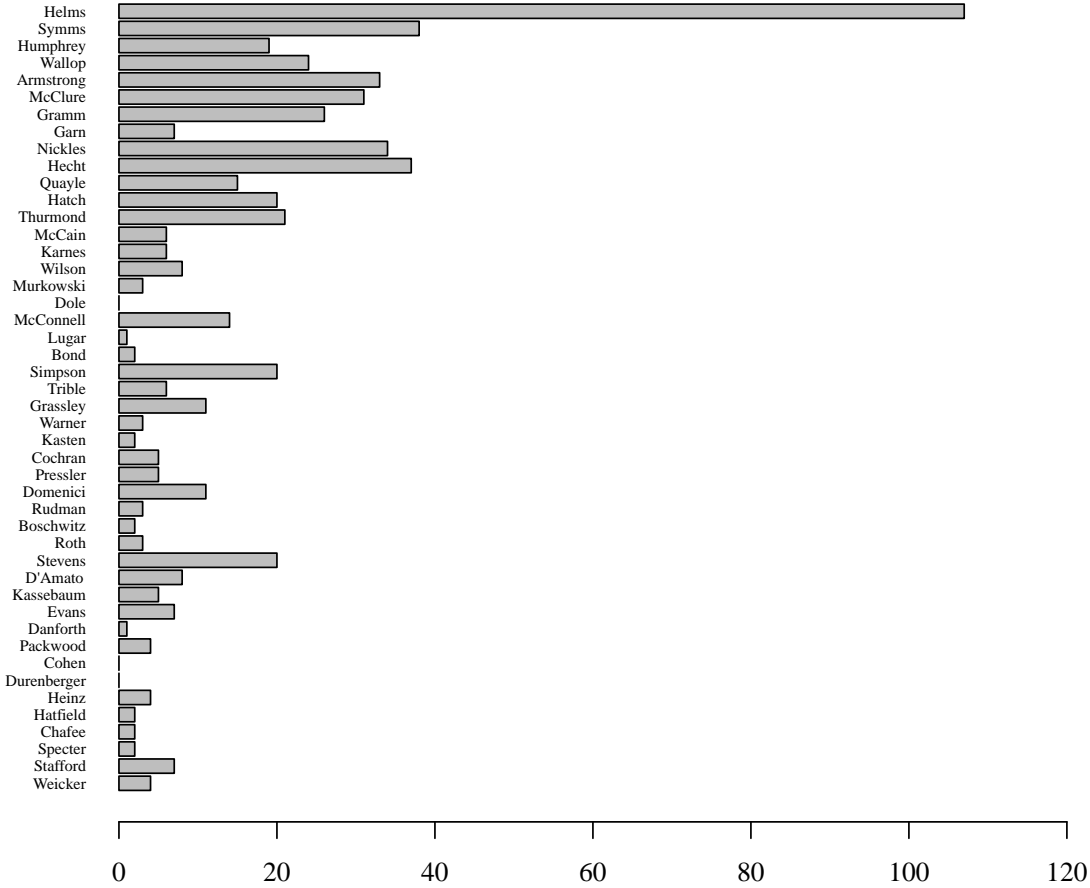


Figure 6: Holds by Republican Senators, 101st Congress

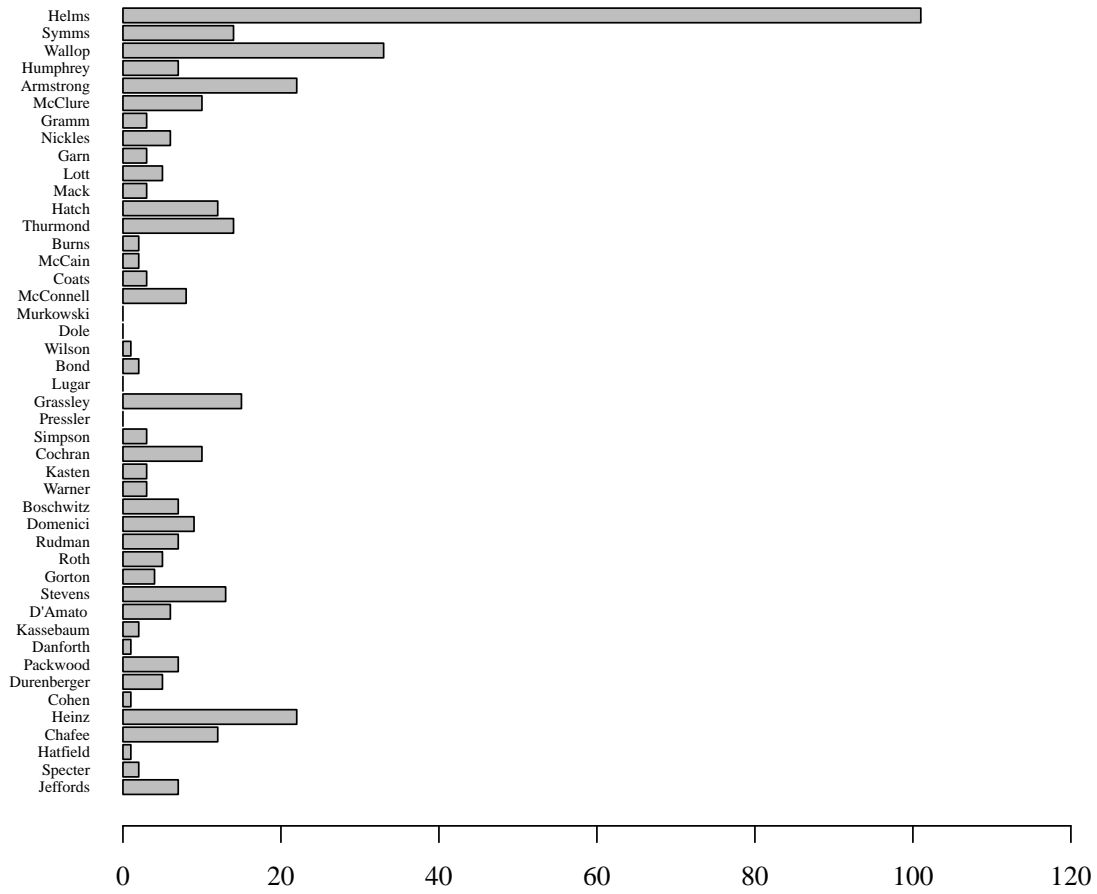


Figure 7: Holds by Republican Senators, 102nd Congress

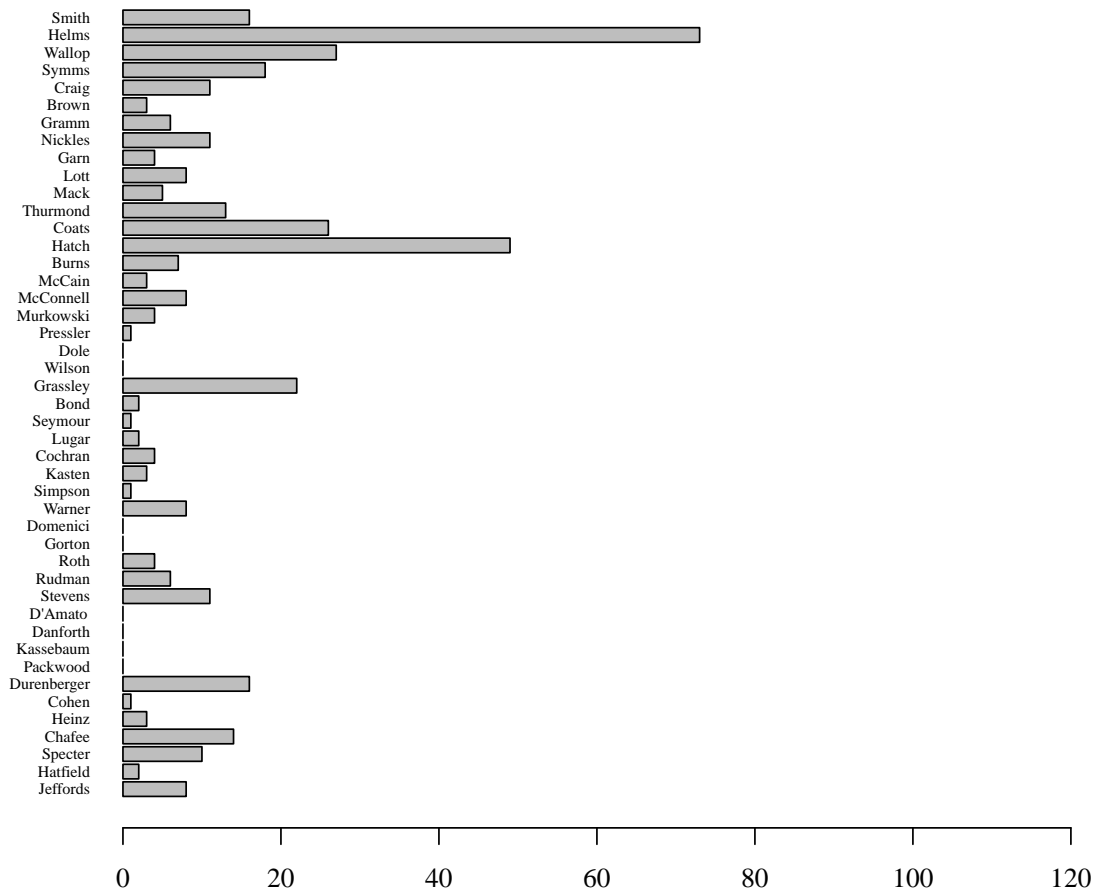


Figure 8: Holds by Republican Senators, 103rd Congress

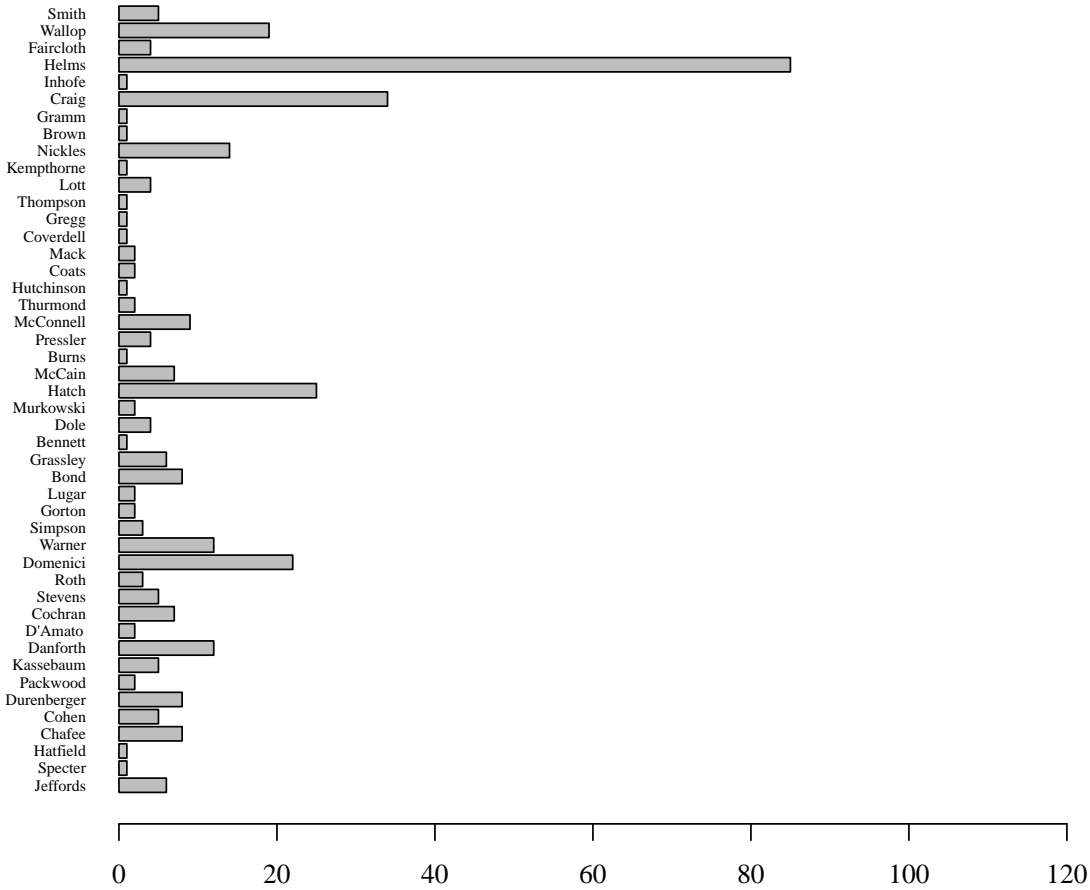


Figure 9: Holds by Republican Senators, 104th Congress

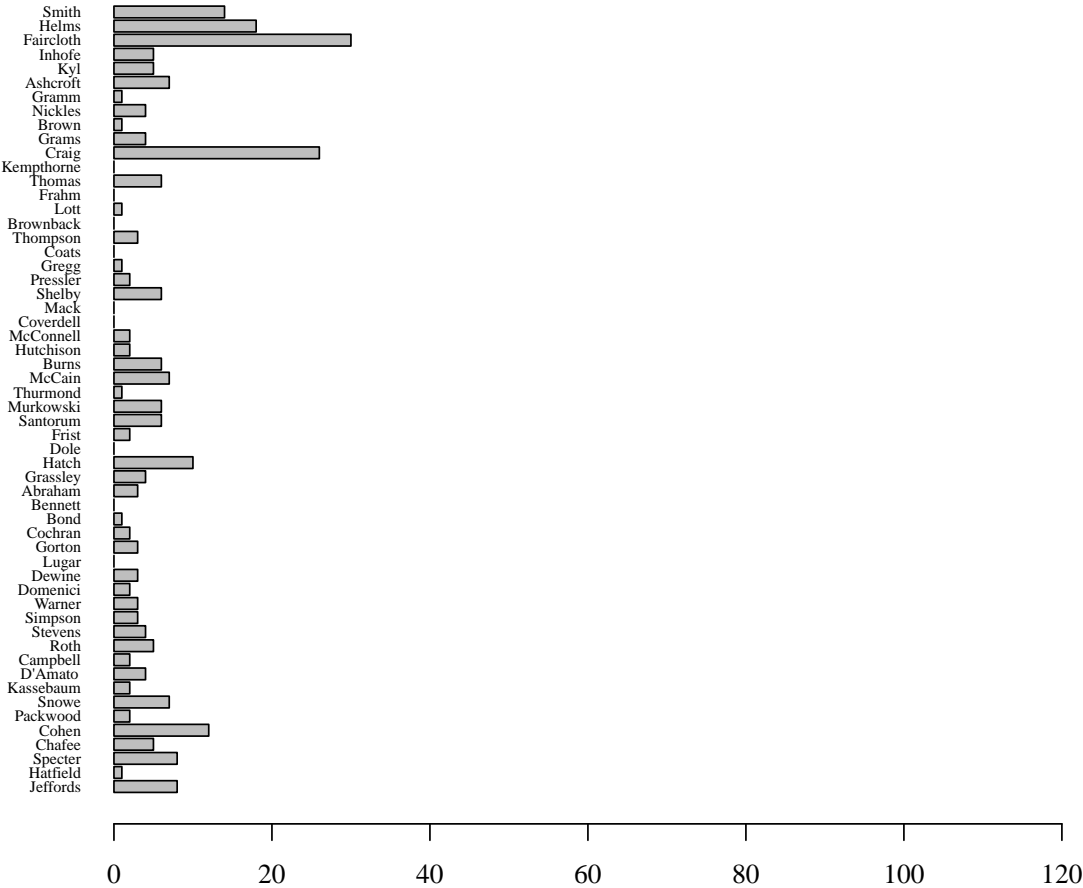


Figure 10: Outright Hold

JOHN ASHCROFT  
MISSOURI

United States Senate  
WASHINGTON, DC 20510-2504

September 27, 1995

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

Dear Bob:

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

Many thanks and kindest personal regards.

Sincerely,



JOHN ASHCROFT:jkm

cc: Elizabeth B.Greene

Dole - 32

Figure 11: Specific Amendment Request

JOHN ASHCROFT  
MISSOURI

e-mail: john\_ashcroft@ashcroft.senate.gov

United States Senate  
WASHINGTON, DC 20510-2504

cc: Sheila /  
Elizabeth

March 13, 1996

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

Dear Majority Leader Dole:

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

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

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

Many thanks and kindest personal regards.

Sincerely,



John Ashcroft

JDA/aeb

cc: Elizabeth B. Greene

Dole - 59



Figure 12: General Amendment Request

JAMES A. McCLURE  
IDAHO

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**United States Senate**  
WASHINGTON, DC 20510

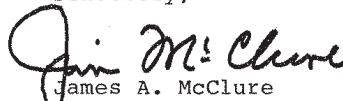
July 6, 1988

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

Dear Bob:

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

Sincerely,

  
James A. McClure  
United States Senator

McC:jgk

HR. 4840

cc: SS, JW, BMD,  
H. GREENE,  
E. GREENE

REL'D 7/7; 10:15A

Dole-786  
47

Figure 13: Specific Demand Example

TED STEVENS, ALASKA, CHAIRMAN

WILLIAM V. ROTH, JR., DELAWARE	JOHN GLENN, OHIO
WILLIAM S. COHEN, MAINE	SAM NUNN, GEORGIA
FRED THOMPSON, TENNESSEE	CARL LEVIN, MICHIGAN
THAD COCHRAN, MISSISSIPPI	DAVID PRYOR, ARKANSAS
JOHN MCCAIN, ARIZONA	JOSEPH I. LIEBERMAN, CONNECTICUT
BOB SMITH, NEW HAMPSHIRE	DANIEL K. AKAKA, HAWAII
HANK BROWN, COLORADO	BYRON L. DORGAN, NORTH DAKOTA

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

United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

January 24, 1996

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

Dear Bob:

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

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

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

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

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

With warm personal regards, I am

Sincerely,



William S. Cohen  
United States Senator

WSC:pmc

Dole - 74

Figure 14: Notification example

FRANK H. MURKOWSKI  
ALASKA

ORDER #978

ANCHORAGE  
U.S. FEDERAL BUILDING  
701 C STREET, BOX 1, 99513  
(907) 271-3785

FAIRBANKS  
U.S. FEDERAL BUILDING  
101 12TH AVENUE, BOX 7-99701  
(907) 456-0233

JUNEAU  
U.S. FEDERAL BUILDING  
BOX 1647, 99802  
(907) 586-7400

---

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

United States Senate

WASHINGTON, DC 20510  
(202) 224-6665

September 26, 1988

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

cc: SB, JW, BOYD,  
H. GREENE,  
E. GREENE  
REC'D 9/26; 4:30P

Attention: Mr. Howard Greene

Dear Bob:

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

Thank you for your consideration of this request.

Sincerely,



Frank H. Murkowski  
United States Senator

Dole-750

Figure 15: Delay Example

ORDER #355

ARLEN SPECTER  
PENNSYLVANIA

COMMITTEES:  
JUDICIARY  
APPROPRIATIONS  
VETERANS' AFFAIRS  
INTELLIGENCE

United States Senate  
WASHINGTON, DC 20510

November 5, 1985

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

order #355

Dear Bob:

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

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

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

Thank you for your consideration in this matter.

My best.

Sincerely,



Arlen Specter

AS/jdb

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

Dole - 127