

**Messaging and Policy:
Do Members Vote Differently When Policy is on the Line?**

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Many of the hundreds of recorded roll calls in Congress each year are votes on bills that have no chance of becoming law, or are purely symbolic, or are procedural without policy content. Yet models of voting and measurement models of member preferences make assumptions that vote choices are largely about utility derived from policies. We consider the possibility that votes plausibly connected to policy and those not plausibly connected to policy may have different data-generating processes and rely on different utility functions. Substantively, similarity across different contexts for policy change implies an importance of messaging over policy, in line with the suggestions of scholars such as David Mayhew and Frances Lee. Methodologically, similarity across these contexts is necessary to avoid biasing estimates of member preferences. We do find that members' voting patterns are highly stable across contexts in which policy change is credible and not credible. This indicates that existing measures of ideal points are likely not dramatically biased by the inclusion of policy-irrelevant votes.

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On March 21, 2010, members of the House of Representatives cast votes that shaped American politics for the rest of the decade.¹ The bill in question – the Patient Protection and Affordable Care Act – represented the most significant changes to American healthcare policy in decades. The March 21 vote was to be the *final* vote; the bill could not be modified further.² Pass and the bill would go to the president and become law; fail and “Obamacare” was likely dead as a policy. Facing pivotal choices on the path of American health insurance policy, a sufficient number of moderate Democrats voted to pass and the bill became law.

Less than a year later, on January 19, 2011, members of the now-Republican House again faced a roll call on the Affordable Care Act – this time on its wholesale repeal.³ However, there was something missing in the January 19 vote: any possibility for policy consequences. The Senate remained in Democratic control and President Obama held his veto pen ready. Obamacare was not going to be repealed. Nevertheless, the House voted to “repeal” the ACA – the first of more than 50 different times they would symbolically repeal it over the next six years. But the sum total of these votes had less policy significance than the single pivotal March 2010 vote.⁴

The sometimes comical, sometimes confounding story of the plethora of roll calls on Obamacare raises several interesting substantive and methodological questions about the study

¹ H.R. 3590, March 21, 2010, the 165th roll call of 2010, passed 219-212.

² This inability to modify was due to the unforeseen circumstances of Ted Kennedy’s death in 2009 followed by the victory of Republican Scott Brown in the special election in January 2010. This eliminated the Democrats’ filibuster-proof majority in the Senate. Thus, the House faced a final up-or-down vote on the exact text that had passed the Senate on the prior Christmas Eve.

³ H.R. 2, January 19, 2011, on the passage of the “Repealing the Job-Killing Health Care Law,” the 14th roll call of 2011, passed 245-189.

⁴ The story’s coda came in 2017, under unified Republicans government. With the possibility for policy consequences, the House was unwilling to enact the sweeping repeal they had symbolically passed as recently as 2016. Ultimately, the party settled for zeroing out the ACA’s taxes for not having health insurance as part of a more typical Republican tax-cut package.

of voting in Congress. The first is the difference between votes as messages and votes as policy. Mayhew (1974), among others, has argued that members take positions, they do not seek policy. The policy consequences of a vote are less important than the message of the vote.⁵ This implies that there should be little difference between votes that have policy implications (such as the March 2010 Obamacare vote) and those that do not (such as the many symbolic votes during divided government that followed). The method of voting is the same.

On a methodological level, the same dynamic has consequences. Our existing means of measuring member ideology rely on evaluating votes in aggregate. But the accumulation of all votes necessarily captures many votes with no policy consequences at all. The underlying formal logic of these measurement models is of a spatial policy vote-choice game, but many (even most) votes will not actually implicate policy at all. If the methods of vote choice are not constant across votes regardless of their policy implications, then the inclusion of these votes in measurement models may bias our estimates. This could lead, for example, to overestimating partisan ideological polarization by inflating measures with numerous “meaningless” votes – such as the many dozens of Obamacare-repeal votes, which for symbolic reasons tended to perfectly divide the parties.

In this paper, we evaluate this question by separating all roll calls during the four Obama Administration Congresses (the 111th – 114th) into two bins: those with the clear possibility of becoming law, and those without. We filter this second bin out and run ideal-point measurement models on the subset of votes with plausible consequences. We then compare these measures to those obtained by running the same preference models on all votes. What we find largely

⁵ As Lee (2011, 4) argues, what distinguishes “message” votes ... from regular votes ... is that they are not expected actually to shape or pass laws. The goal is communication, not lawmaking.”

confirms a Mayhewian perspective: members appear to approach both policy-consequential and -inconsequential votes with the same approach. We find essentially the same story when doing a similar procedure and analysis on all roll calls during the four Eisenhower Administration Congresses (the 83rd – 86th), a time when both parties were significantly more heterogeneous. As a result, we argue that including symbolic and inconsequential votes in existing measurement models likely introduces minimal bias. However, this does raise questions about the importance of “policy” in the way ideal points are typically described and framed. Rather than spatial policy preferences, they may better reflect preferences over available positions to take.

The Importance of Policy in Congressional Voting

Conventional models of voting in Congress assume that members have utility functions for votes on specific policy outcomes. Conventional voting games – such as Pivotal Politics (Krehbiel 1998) – rely on each member having a preference over policy outcomes that dictates their vote on any given roll call. A similar spatial-utility framework underlies most measurement models of legislature preferences – for example, in the IRT framework of Jackman (2001) and Clinton, Jackman, and Rivers (2004), or the NOMINATE system by Poole and Rosenthal (1997, 2007) and Poole (2005).

One aspect of the structure of Congressional voting is that at the end of the day everyone gets the same policy. And most times, that policy is just yesterday’s policy continued forward. The status quo dominates. Though they may take hundreds or more than a thousand roll calls in a year, members of Congress produce relatively little policy change, as evidenced by the relatively small number of significant enactments (Mayhew 2005; Stathis 2014). Many policies are simply impossible to pass given the arrangement of veto players (Krehbiel 1998; Gray and Jenkins 2019). This means that much of the time, members are casting votes on things that will

result in no or little policy change. When the “game” is over, each receives the same policy – the current policy.

This raises several interesting possibilities. One is that members might have two different voting approaches: one when policy may be credibly changed by a vote choice and one when it may not. This would imply two different data-generating processes and raise questions about measurement models that bunch all votes together. It is possible that true “policy preferences” are being obscured by thousands of symbolic and policy-meaningless votes that are driven by a different voting calculus. This could lead to biases, potentially over – or under – estimating concepts of interest such as partisan polarization.⁶

Alternatively, it is possible that policy was never that important to begin with. Perhaps the expressive act of voting is what members actually care about. In this conception, they vote similarly regardless of whether the vote credibly could change policy, because their primary concern is in being observed taking positions on things, regardless of whether they ever come to be. Mayhew (1974, 62) provides a possible basis for this type of outcome-agnostic voting: “The congressman as position taker is a speaker rather than a doer. The electoral requirement is not that he make pleasing things happen but that he make pleasing judgmental statements. The position itself is the political commodity.” More than forty years later, Frances Lee (2016, 12) echoed this argument: “Leaders and members regularly set up roll-call votes in full knowledge that these votes will have no effect on policy outcomes, but they nevertheless stage them for messaging purposes.”

⁶ Existing work by Theriault (2008) suggests that partisan polarization is overestimated by the inclusion of procedural votes, which lack policy content, and on which parties act cohesively.

Position taking is a well-known and -used concept in the study of American politics. Indeed, some votes are colloquially called “position-taking votes,” as it is accepted that their sole value is to take a position on a vote – or to force the opposition to take a position – with no actual policy consequences for anyone. For example, in the most recent Senate, the Republican Majority Leader Mitch McConnell brought up a vote on a resolution on the “Green New Deal” which he opposed because he knew that it would fail and sought to put Democrats on the spot – and require them to take a position on the unpopular proposal.

The question remains whether a member’s utility function for votes of this type is the same as the utility function for votes when the policy actually is up for change. If they are different, this would suggest necessary changes or qualifications on existing approaches to estimation of policy-preferences. If they are the same, it implies the validity of those measures, but also a substantively interesting confirmation of the importance of the audience of votes rather than the policy votes produce.

Empirics

We test whether there is evidence of two different approaches to voting depending on the credibility of policy change resulting from a vote. To do this, we separate out votes where there was a credible chance of a policy change resulting from that vote. We focus on the four Congresses of the Obama presidency and estimate ideal points on these votes, which we call the “credible set.” If the possibility of policy change induces a different voting calculus or relies on a different utility function, we should observe different results than in conventional models using all votes – what we call the “full set.” To provide such a comparison, we also estimate traditional single-dimensional ideal points on the full set. We find minimal differences in the House and modest differences in the Senate among Republicans. In total, our findings imply a

highly similar voting calculus for members regardless of the policy stakes in a vote. This gives empirical weight to Mayhew's assertions that the position itself is the political commodity, not the policy outcome.

Defining a "Credible" Vote

We separate all votes into two categories: credible and non-credible. This is an admitted dichotomous simplification over an unobserved continuous dimension of likelihood of becoming law. We accomplish this categorization by creating a set of coding rules based exclusively on before-the-vote information. For each arrangement of political power, we create a different set of coding rules. The Obama Administration provides an interesting period for testing because it contains all of the relevant divisions of power. In the first Congress (the 111th), Democrats enjoyed first filibuster-proof unified control followed then by normal filibuster-constrained unified control of government. In the two middle Congresses (the 112th and 113th), Democrats controlled the Presidency and the Senate, but not the House. Finally, in the 114th Congress, Republicans had unified control of Congress, but still lacked the presidency.

As an initial matter, we consider only "passage votes," which we define as votes on passage within a chamber, votes agreeing in full in amendments of another chamber, and conference committee report votes. This removes all procedural and amendment votes from consideration. Procedural votes do not have direct policy implications. One can vote for cloture but against a bill. Similarly, amendments themselves do not change policy. Many are attached to bills of little consequence and thus are themselves of little consequence. When they are consequential, they are included in the final passage roll call anyway.

Additionally, we exclude all bills with non-majority vote requirements. These bills present different calculations because of their higher threshold for passage. Thus, we do not

consider the (few) votes on veto overrides during the Obama Administration. We also do not consider passage votes taken under a “suspend the rules and agree” question. In total, this leaves us with 1737 majority passage votes combined for the two chambers across four Congresses.

Our classification approach is to rely on existing facts at the time of a vote to predict the likelihood that the vote is credible to pass. We assume as a starting matter that there is a set of bills that are credible to pass regardless of the political distribution: “must-pass” legislation. These bills include annual appropriations bills, continuing funding bills, debt ceiling increases, as well as emergency bills and disaster response bills. Though they may be subject to significant partisan fighting, these are bills that Congress must – and does – pass regardless of who is in control and thus when they are brought to the floor are credible to pass and become policy.

Unsurprisingly, we assume that votes advanced during periods of unified government are more likely to become law than those advanced during divided government. We also assume that some evidence of bipartisanship is required to predict success in the Senate. Once a bill has reached the conference committee stage or has gone back and forth between the chambers on more than two “passage” votes, we assume its passage is credible. We list the technical coding rules for each arrangement of political power in Table 1. Of the 1737 majority-rule passage votes, we retain 582 as credible: 426 in the House and 156 in the Senate.

Table 1. Roll-Call Classification Rules.

Partisan Alignment	First Passage Vote Occurred in the...	
	House	Senate
Unified Dem. Gov.	<ul style="list-style-type: none"> • All must-pass legislation (Appropriations, Debt Ceiling, “emergency” bills) • All reconciliation bills in the House 	<ul style="list-style-type: none"> • All must-pass legislation • All House passage votes after Senate passage.

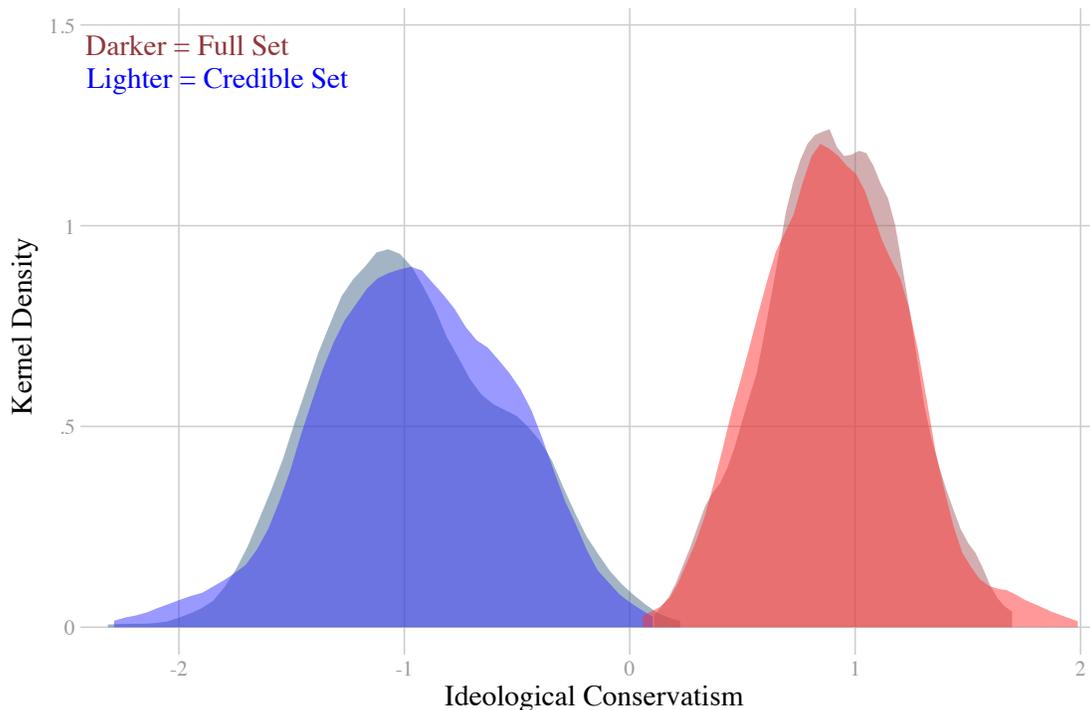
	<ul style="list-style-type: none"> • All HR1 passage votes in the House (when controlling filibuster pivot in Senate) • All Senate passage votes where House passed with >19 minority party votes • All conference committee report final passage votes 	<ul style="list-style-type: none"> • All conference committee report final passage votes
Rep. House, Dem. Senate, Dem Pres.	<ul style="list-style-type: none"> • All must-pass legislation • All Senate passage votes where House passed with >19 minority party votes • All conference committee report final passage votes 	<ul style="list-style-type: none"> • All must-pass legislation • All House passage votes after Senate passage with >9 minority votes. • All conference committee report final passage votes
Unified Rep. Cong, Dem. Pres.	<ul style="list-style-type: none"> • All must-pass legislation • All conference committee report final passage votes • All Senate passage votes on bills passed in the House with >289 votes 	<ul style="list-style-type: none"> • All must-pass legislation • All conference committee report final passage votes • All House passage votes on bills passed in the Senate with >66 votes

Because we analyze only four Congresses, with only a few members changing between chambers, and relatively few votes, we do not attempt to create “Common Space” scores. Instead, we estimate individual chamber-specific scores for the combined eight-year period. As is conventional, this relies on continuing membership across Congresses to “bridge.” Specifically, we estimate conventional single-dimension, two-parameter Item Response Theory (IRT) models in which each roll call is treated as an item or “question.” The model estimates a difficulty parameter and discrimination parameter for each roll call along with an ability level for each voter. In this case, ability levels are interpreted as “ideal points.

Results

We first explore the results in the House. In Figure 1, we present the distributions of Democrats⁷ and Republicans with both the full set of all roll calls as well as our narrowed set of credible roll calls. The distributions are remarkably similar. Both collectively and within party, they are not sufficiently different to reject the null that they emerge from the same distribution, based on K-S difference-of-distribution tests.

Figure 1. Comparison of Partisan Distributions in the House for the Credible (Lighter) and Full (Darker) Sets of Roll Calls, 111th to 114th Congresses



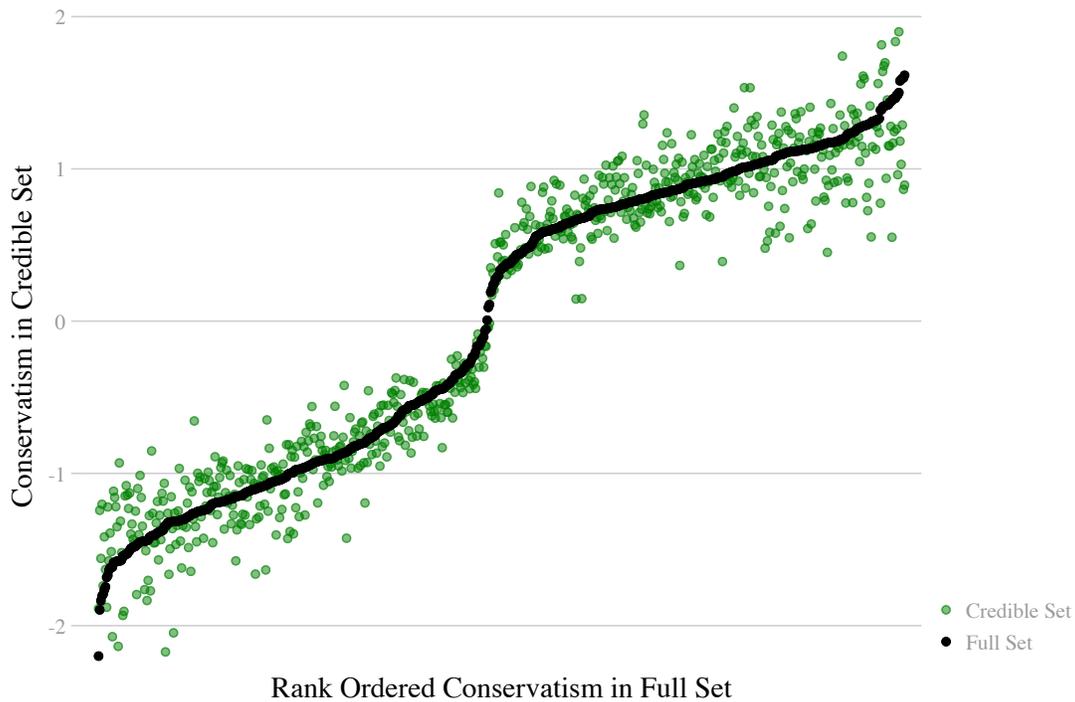
It is worth reconsidering the types of votes that make up the non-credible set: procedural votes, non-passage votes, non-majority-rule votes, and votes that are unlikely to become law due

⁷ We define Democrats as including independents, such as Bernie Sanders, who caucus with Democrats.

to veto players. Our results indicate that member voting in the House on these bills without significant policy consequences was indistinguishable from voting on bills with credible policy consequences. This strongly fits a Mayhewian argument of the primacy of messaging over policy. Regardless of whether there are policy consequences, members vote in largely consistent ways. This may be because they perceive relatively equal gains for voting for something that will never pass as for voting for the same thing when it will become law. These results imply that the disparities between Republican symbolic healthcare votes and credible healthcare votes were the exception, not the rule. In most cases, non-credible votes seem quite predictive of credible vote patterns. Additionally, from a methodological perspective, these results cast initial doubt on the idea that by including non-credible votes, our estimates of member ideology are meaningfully biased. To the contrary, we find that these votes have the same or an observationally equivalent data-generating process and thus do not substantially bias estimates.

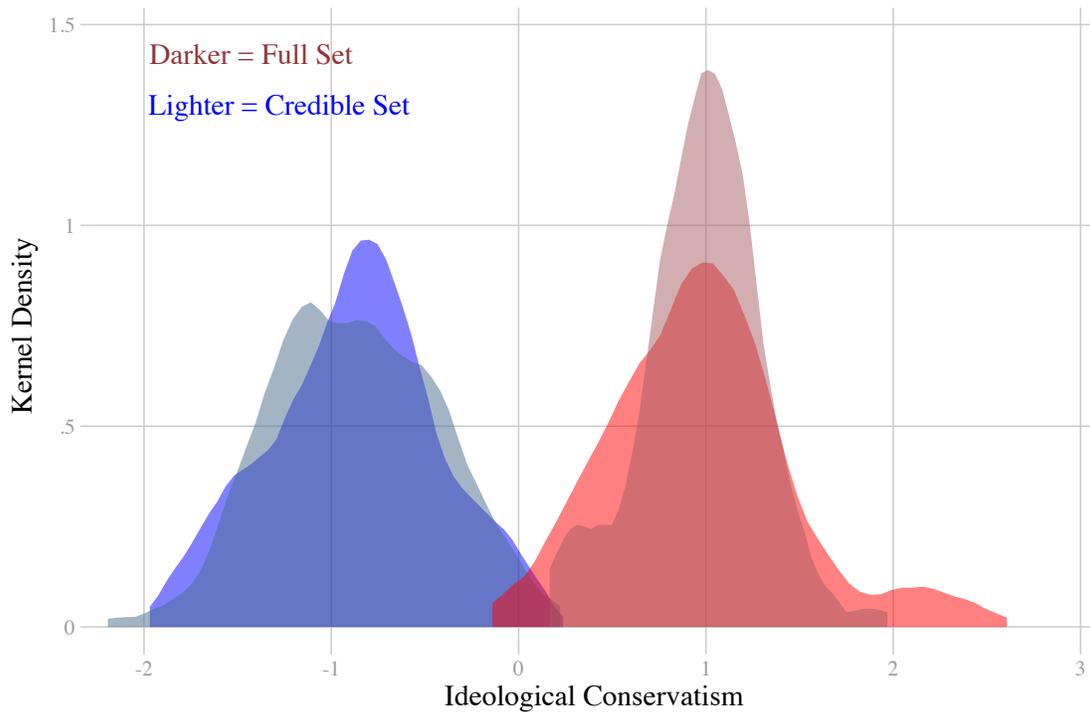
Moving away from the aggregate result in the House, we also analyze individual changes between the full and credible sets. In Figure 2, we plot each House member's score in the full set against their score in the credible set. This reveals that members' scores do vary, but by relatively small amounts. Members' scores in the House are only statistically distinguishable in 15.6% of cases. The typical difference is less than one-fifth of a standard deviation and no member moved by more than one standard deviation.

Figure 2. Individual Representative Scores in Credible Set (Green) Overlaid on Scores in Full Set (Black)



In the Senate, we find somewhat greater differences. We present these in Figure 3. While Democrats are again nearly identically distributed in both the full and credible sets, we do observe changes among Republicans. When analyzed in the full set, Republicans seem relatively homogenous, centered around a conservative position almost exactly one standard deviation to the right of the chamber mean. However, when only looking at credible policy votes, the Republican party appears much more varied in the Senate, with more moderate and more extreme members. In this telling, there is no apparent difference between a moderate Republican such as Susan Collins (ME) and a moderate Democrat such as Ben Nelson (NE). Meanwhile, there is now a much greater difference between a moderate like Collins and one of the party's most conservative members, such as Ben Sasse (NE).

Figure 3. Comparison of Partisan Distributions in the Senate for the Credible (Lighter) and Full (Darker) Sets of Roll Calls, 111th to 114th Congresses

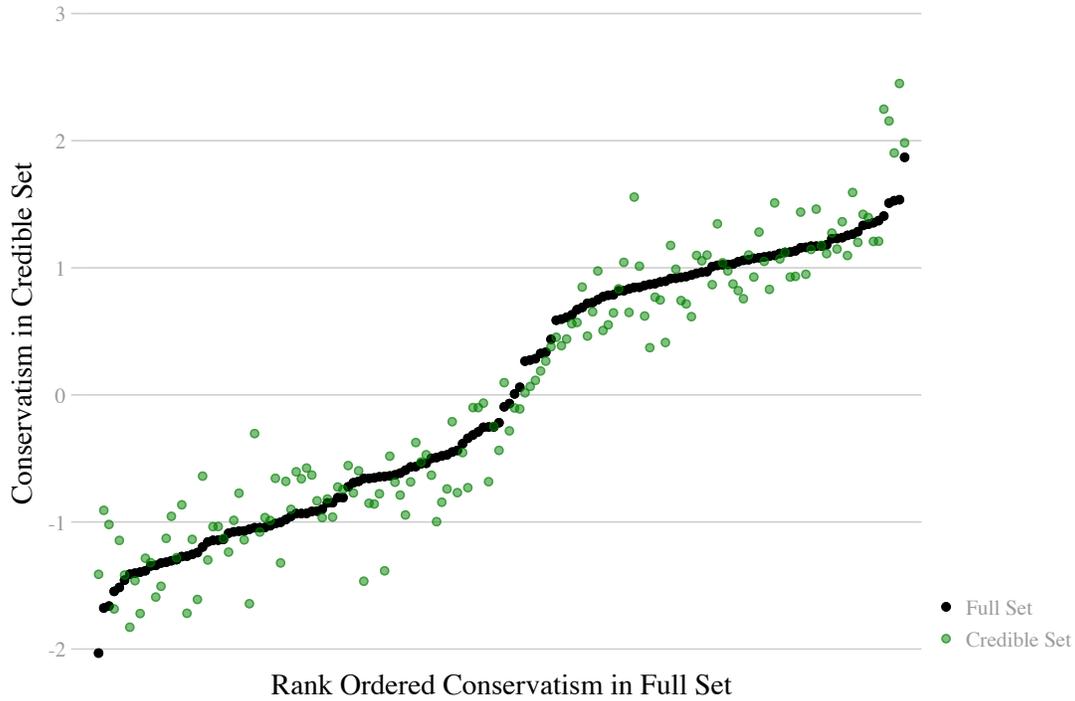


One possible explanation for Senate Republicans as the sole meaningful difference between the results of the full and credible set is the particular strategy adopted by Senate Majority Leader Mitch McConnell during the Obama Administration. Senator McConnell's publicly admitted strategy was constant obstruction. He marshalled his party on procedural votes to constantly obstruct policy, especially during the six years in the minority until 2015. On many of these votes, Senator McConnell was effective in holding partisan unity in a way that may yield the more homogenous results such as those in Figure 3. Ultimately, however, when policy was on the line in final-passage votes, his members showed their variation. More moderate members were more likely to participate in compromise legislation with the Administration, while his more extreme flank was less willing to do so. The difference in results between the full

and credible set may be evidence of McConnell's leadership success on procedural votes during the Obama Administration.

In Figure 4, we again present data on individual Senator scores in both the full and credible sets. Again, we fail to find dramatic changes. Only 11.5% of Senators are statistically distinguishable in the credible set from their score in the full set, with the typical change being less than a quarter of a standard deviation and, again, no senator changes by more than a standard deviation. There is no apparent pattern among these individual results other than the full-set model underestimating the extremity of the most right-wing members of the chamber, who perhaps look more typical on procedural and symbolic votes.

Figure 4. Individual Senator Scores in Credible Set (Green) Overlaid on Scores in Full Set (Black)



Partisan Polarization and Unity

One possible concern of including many extra policy-meaningless votes is that if parties are better able to work as a team on these more symbolic bills, they may give an impression of a more unified party and more polarization between parties. When policy-credible votes are taken, perhaps parties are more diverse and less different from each other. In Table 2, we present summary statistics on party unity, party overlap, and party polarization in the two chambers between the two measurement approaches. These values confirm the graphical results presented in Figures 1 and 3: the only meaningful difference is in the party homogeneity of Senate Republicans. In this, we observe a meaningful shift in moving to the credible set, with a much more dispersed party. In all other measurements of interest, we observe no material difference.

Table 2. Summary Statistics of Partisan Differences Between Credible- and Full-Set Models

Model	House Dem SD	House Rep SD	House Partisan Polarization	House Overlap Space	Senate Dem SD	Senate Rep SD	Senate Partisan Polarization	Senate Overlap Space
Credible	0.411	0.314	1.862	0.000	0.439	0.487	1.850	0.080
Full	0.407	0.293	1.869	0.000	0.432	0.311	1.853	0.000
Difference	0.004	0.021	-0.007	0.000	0.007	0.176	-0.003	0.080

Note: “Partisan Polarization” here is defined as the difference between the party means.

A Replication in the Eisenhower Administration

One limitation of our primary analysis is that it focuses on a narrow eight-year period in a partisan environment distinct from much of modern U.S. history. To address this, we replicate our approach on a very different partisan environment – the four Congresses of the Eisenhower Administration (the 83rd – 86th). During this period, the Democratic Party was intensely divided by region and both parties contained members of widely different ideological positions. Much like the Obama Administration, President Eisenhower enjoyed one Congress of unified government (the 83rd), followed by three of divided government. Thus, this period provides points of commonality with a significant deviation in levels of partisan cohesion.

We replicate our analysis as closely as possible to that outlined in the preceding section, however we modify it, as necessary, for the different context. For example, the filibuster was seldom used during the time period and thus we do not assume that any sizable minority would stop any bill in the Senate. Otherwise, we follow the rules we built for the Obama Administration years, following the appropriate division of power between the White House and the chambers of Congress. In this case, the last six Eisenhower years best match the last two years of the Obama Administration. First, in Figure 5, we present the distributions, by party, in the House. In light of the different context, we break Democrats into Southern and non-Southern

versions, with Southern Democrats labeled as green. Following that, in Figure 6, we present individual comparisons between the two models, as in the preceding section.

Figure 5. Comparison of Partisan Distributions in the House for the Credible (Lighter) and Full (Darker) Sets of Roll Calls, 83rd to 86th Congresses

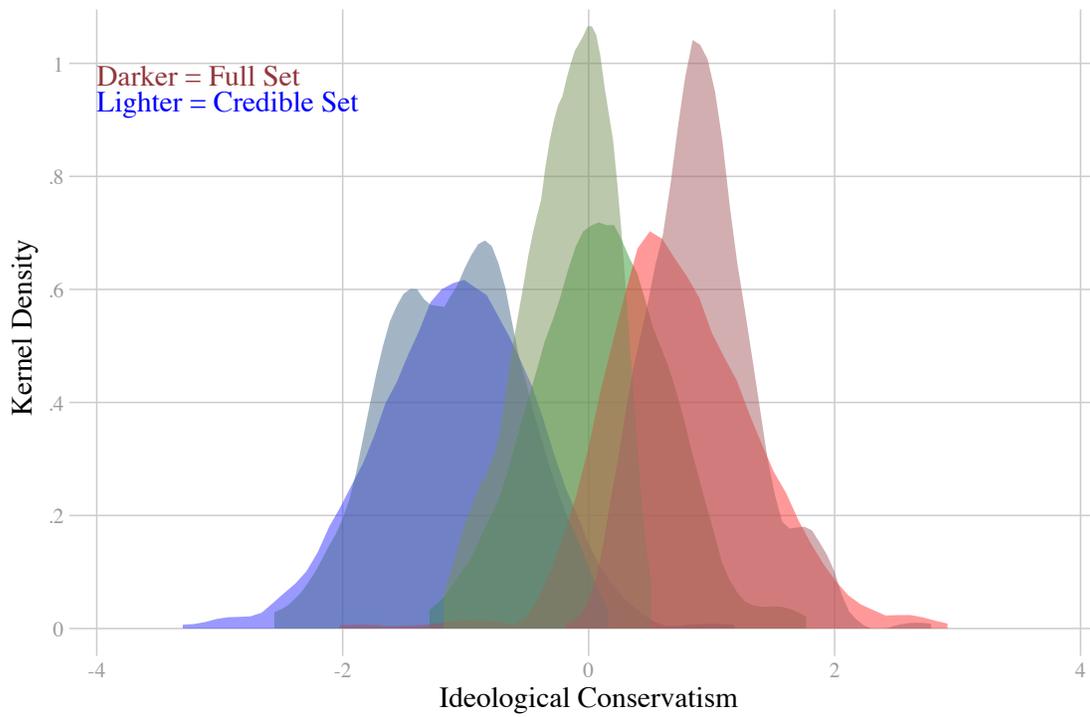
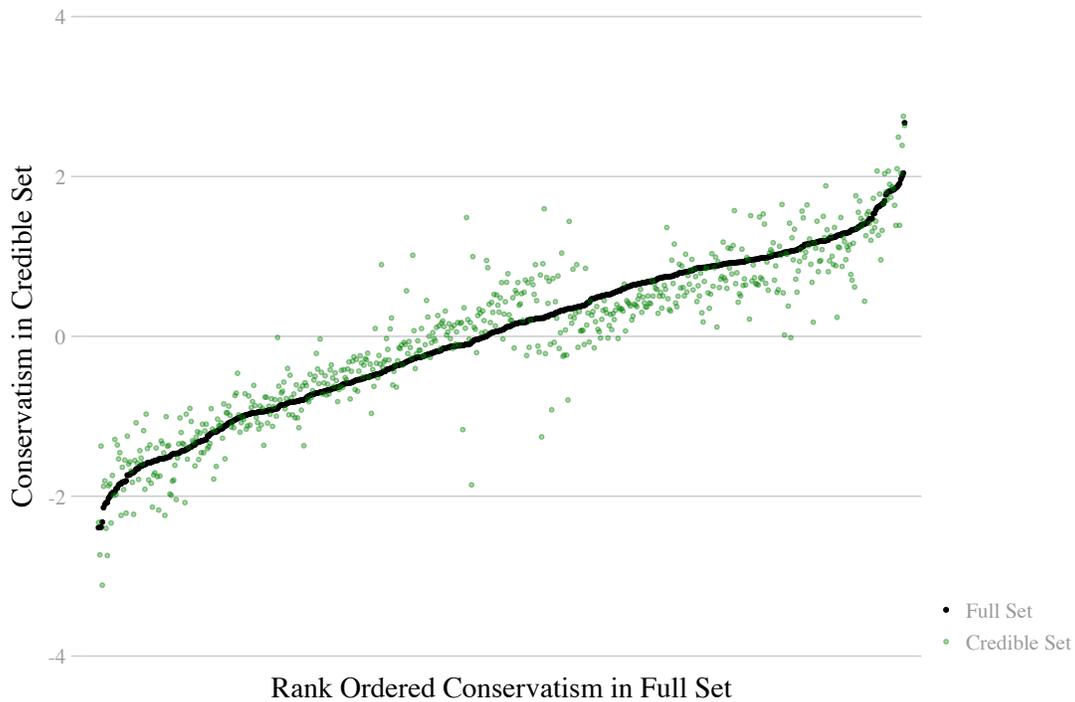


Figure 6. Individual Representative Scores in Credible Set (Green) Overlaid on Scores in Full Set (Black)



In the House, we find some differences between the distributions, but not dramatic ones. Primarily, the credible-set model implies that the Republicans and Southern Democrats voted more similarly on policy votes than we might expect from the full model. Despite this difference, neither party is significantly different from its full-set model results. This pattern is also evidence in Figure 6, presenting the individual differences. The empty spaces below (left) and above (right) of center show that moderate members were mis-estimated in a more extreme direction by the full model. Moderate liberals (in the full set) were more conservative on credible policy votes, while the opposite is true for moderate conservatives (in the full set). Extreme members based on all votes show no consistent pattern of deviation when moving to the credible set.

In Figures 7 and 8, we perform the same analyses on the Senate. Here we find evident similarity between the two different models. All three “parties” appear quite similar no matter whether measured in the full set of votes or the credible policy votes. And among individual senators, there are no clear patterns of divergence in one direction or another.

Figure 7. Comparison of Partisan Distributions in the Senate for the Credible (Lighter) and Full (Darker) Sets of Roll Calls, 83rd to 86th Congresses

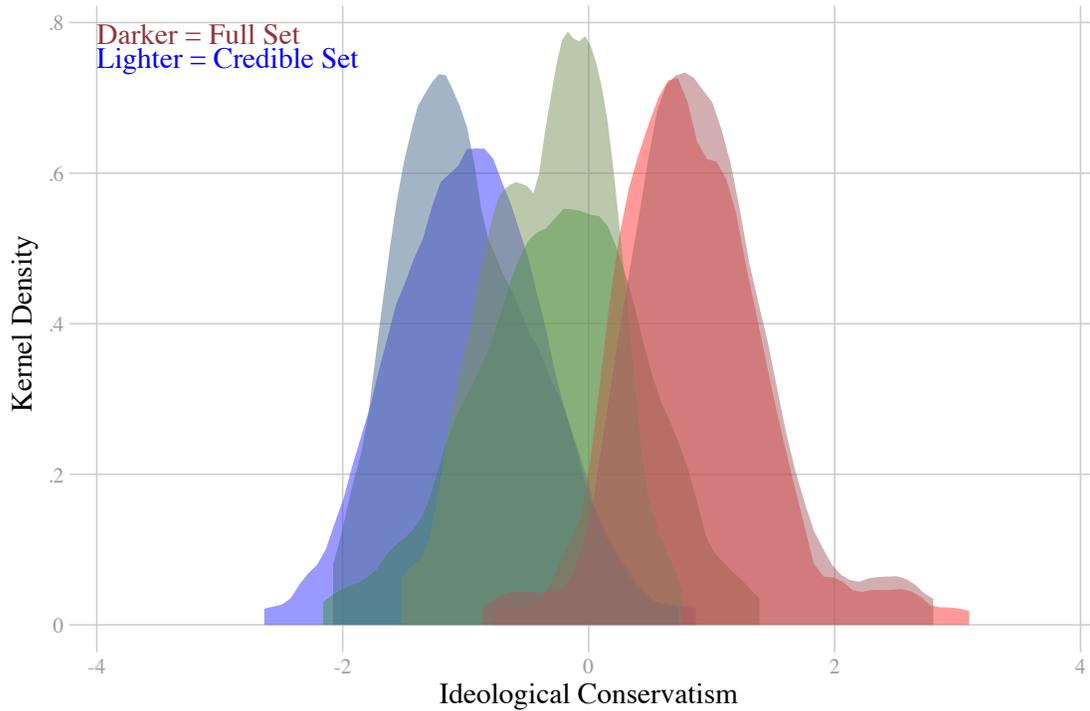
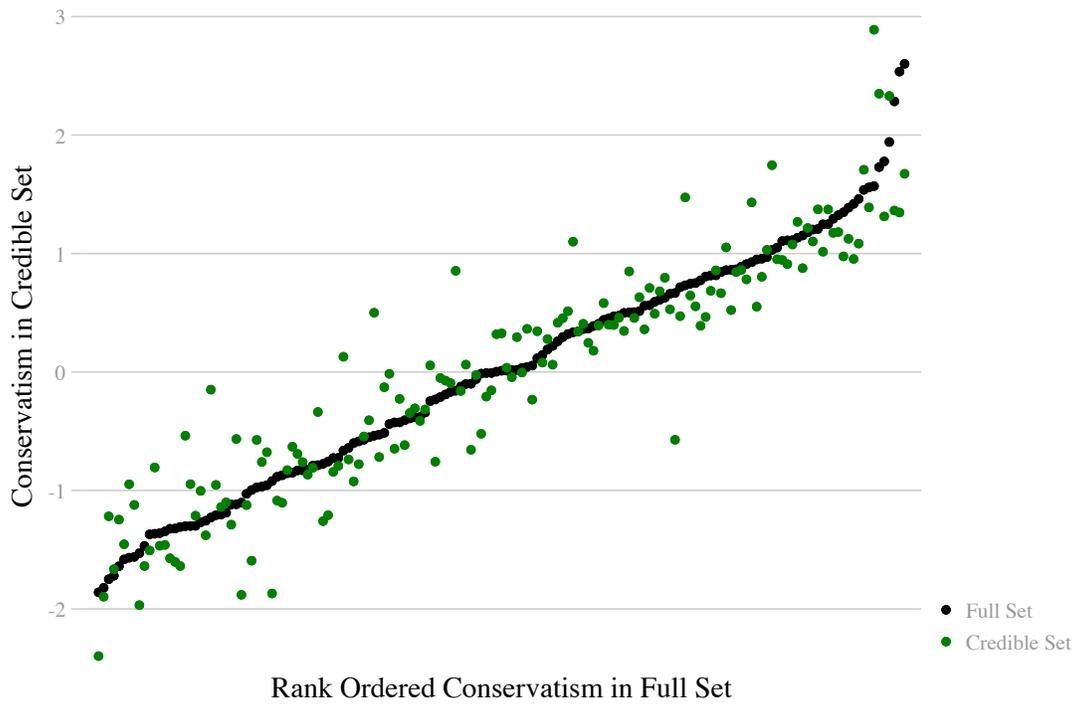


Figure 8. Individual Senator Scores in Credible Set (Green) Overlaid on Scores in Full Set (Black)



Finally, in Table 3, we present information analogous to Table 2, summarizing key distribution and difference data between the full- and credible-set models. Here we see larger differences than in the Obama years, especially in the House. Still, these differences are only sufficient to reject the null of no difference in a K-S test at the $p < 0.10$ level, and only in the House. Overall, we do not uncover material differences between the measures, but our results do indicate that some features of the ideological distribution may be inflated or deflated by the inclusion of non-credible votes.

Table 3. Summary Statistics of Partisan Differences Between Credible- and Full-Set Models

Model	House Dem SD	House Rep SD	House Partisan Polarization	House Overlap Space	Senate Dem SD	Senate Rep SD	Senate Partisan Polarization	Senate Overlap Space
Credible	0.826	0.613	1.579	3.454	0.710	0.581	1.518	1.672
Full	0.646	0.421	1.670	5.065	0.599	0.585	1.620	1.228
Difference	0.180	0.192	-0.091	-1.611	0.111	-0.004	-0.102	0.444

Note: “Partisan Polarization” here is defined as the difference between the party means.

Conclusions

Members of Congress cast numerous votes on things that will never become law. During divided government, large portions of each chamber’s time are spent on symbolic votes and things that have little chance of changing federal policy. These are often understood as “positioning votes” or “messaging votes.” Yet, if these votes represented a wholly different data-generating process, it would raise questions about their use to estimate legislators’ preferences. In this paper, we find that this concern is unfounded. While there are slight differences between models based on all votes and those based only on credible policy-changing votes, these differences prove to be immaterial. Members are consistent in their positions regardless of whether that position could actually become law. This also fits with arguments of those such as Poole (2007) that members are remarkably consistent in their approach regardless of changing contexts that we might think should alter their behavior.

This is an admittedly early answer to this question. There are several notable aspects which could use further refinement before reaching high certainty that there is minimal difference between the credible and non-credible votes. First, we analyze only sixteen years. It is possible that our results may be different if used on other periods. Secondly, our method of constructing the credible set is blunt. It is possible that we are overcounting in some ways and

undercounting in others. For example, information on bill sponsorship may be used to predict before an initial passage vote whether a bill is likely to have bipartisan success. Future iterations of this project may expand on these points to refine the measurements.

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