Congressional Power over Executive Branch Policy Making: Limitations on Bureaucratic Regulations, 1989-2009

JASON A. MACDONALD
West Virginia University

Research on American political institutions correctly emphasizes the ascendency of presidential power over the last century. Nevertheless, Congress possesses tools to influence how the executive branch shapes public policy. I examine how the use of limitation riders in appropriations laws allows Congress to affect the substance of bureaucratic decisions when Congress otherwise would not have much traction with the bureaucracy: under divided government. In examining the history of limitation riders that forbade the issuance of bureaucratic regulations from 1989 to 2009, I find support for this perspective. The findings suggest that, although Congress may be at a disadvantage in shaping law and policy relative to the president in many cases, its constitutionally protected spending authority continues to promote its ability to influence the executive branch.

The technical complexity of many problems facing government necessitates delegation of authority to the bureaucracy (Bawn 1995; Epstein and O'Halloran 1999; Huber and Shipan 2002). Delegation entails providing bureaucrats with legal authority to determine what actions the government will take to pursue goals embodied in laws. Because the president is charged by the Constitution under the take care clause to faithfully execute the laws, he is positioned to direct the activities of bureaucrats who make decisions about the shape of policy decisions. Therefore, in delegating vast amounts of authority to the executive branch, Congress has facilitated the growth of presidential power.

Presidents have taken advantage of this opportunity, "politicizing" agencies (Moe 1985) by placing political appointees within agencies with which the president experiences policy disagreement in order to direct these agencies to respond to presidential policy priorities (e.g., Lewis 2008; Wood and Waterman 1994). Presidents also issue "signing statements" when they sign into law bills enacted by Congress. Importantly, in issuing these statements, presidents try to affect how the bureaucracy implements laws,

Jason A. MacDonald is an associate professor of political science at West Virginia University. His extensive scholarly work has focused on congressional influence over bureaucratic policy making.

potentially moving policy outcomes closer to their priorities (Kelley and Marshall 2008; Whitford 2012). Perhaps most critically from the standpoint of influencing agencies, presidents act unilaterally to create new policies before Congress can influence bureaucratic decisions (Howell 2003) by issuing executive orders (Mayer 2001) and employing other policy-making tools.

Increasingly, however, scholars recognize that, in the face of an ambitious executive branch, Congress has conducted oversight aggressively (Aberbach 1990; McGrath forthcoming) and reformed its rules to counterbalance the president. Such reforms include centralizing authority for appropriations bills in House and Senate appropriations committees to match the power Congress delegated to the president in the Budget and Accounting Act of 1921 (Schickler 2001, 89-94; Stewart 1989, 204-5), the reorganization of the committee system to more closely mirror agency jurisdictions and the concomitant creation of a routinized rulemaking process under the Administrative Procedures Act in 1946 (Rosenbloom 2000), and the centralization of the budget process in House and Senate budget committees through enactment of the Budget and Accounting Act of 1974 (Schickler 2001, 195-200). Congress also employs tactics short of institutional change to combat presidential power. For example, congressional committees that observe the president issue a large volume of signing statements on policy matters within their jurisdictions increase the volume of bureaucratic oversight that they conduct (Ainsworth, Harward, and Moffitt 2012).

Similarly, witnessing President George W. Bush take advantage of Senate recesses by making recess appointments to senior administrative positions in the bureaucracy, Senate Democrats proceeded to remain in session to prevent the president from making appointments free of senatorial confirmation. This tactic limited the degree to which a number of independent agencies and regulatory commissions could make policy decisions favored by President Bush that strayed from the priorities of Senate Democrats (Black et al. 2011).

Likewise, research on the appropriations process has pinpointed a specific reason why the power of the purse (Fenno 1966) is a major component to congressional power over the executive branch. This power is through the use of a policy tool known as the limitation rider. Limitation riders are provisions in appropriations bills that forbid agencies from spending money to perform specific actions, allowing Congress to proscribe agencies from making policy decisions. As part of appropriations bills, limitation riders are "privileged" in that they do not need to overcome procedural hurdles to be considered for enactment into law by the full House and Senate. Likewise, the inclusion of such provisions in appropriations bills makes it harder for the president to veto them (MacDonald 2010). In this way, limitation riders are a unique—and especially effective—policy-making tool available to Congress. Unlike the mechanisms described above, by virtue of their inclusion in appropriation bills, limitation riders allow Congress to review agency decisions on an annual basis and halt specific agency actions, providing agencies with no leeway. In addition, and critically, because Congress's appropriations power is rooted in the Constitution, Congress's ability to use limitation riders to check the executive branch is unassailable even to the most ambitious president and recalcitrant agency.

Given the importance of this tool, it is essential for scholars of American political institutions to understand how limitation riders promote congressional power in the interbranch policy-making process. In this article, I examine the use of limitation riders to proscribe regulations, or "rulemakings," issued by bureaucratic agencies. The authority to issue regulations provides agencies with the ability to create law (Kerwin and Furlong 2011), providing agencies with significant policy-making authority. If it can be shown that Congress can halt agencies from issuing regulations when Congress disagrees with the substance of the policies embodied in the regulations, then such evidence will bring into sharp focus Congress's capacity to exert power over how the executive branch employs delegated authority. Below, I examine the history of individual limitation riders that forbid agencies from making policy decisions, finding that policy disagreement with the president plays an important role in leading Congress to circumscribe agency rulemakings. These findings suggest that Congress can use its power of the purse—and specifically its authority not to spend money—to battle a chief executive with whom it disagrees over what the shape of lawmaking decisions made by agencies should be. Importantly, these findings also suggest support for an argument that MacDonald (2010) makes about the threat of limitation riders being sufficient to alter bureaucratic policy decisions. Specifically, limitation riders do not need to be included in appropriations bills in order to affect bureaucratic decisions; rather, the mere threat of litigation can alter agencies' behavior. I also explore how this might occur in the regulatory process below.

Divided Government, Regulatory Policy Making, and Limitation Riders over Time

MacDonald (2010) examines the number of limitation riders forbidding regulations by agencies over a period of two decades from 1989 to 2009, showing that a higher volume of such riders pass under divided government. This finding suggests that limitation riders allow Congress to constrain how agencies shape regulations when there is substantial congressional–presidential policy disagreement. Nevertheless, this analysis does not account for one important feature of limitation riders and agency rulemaking. Importantly, limitation riders only apply to the fiscal year to which the appropriation bill applies.

Therefore, Congress can include a limitation rider in an appropriations bill that halts an agency from doing any work to develop a regulation or prevents a regulation that has been completed, or is nearly complete, from taking effect. Once included in the version of the bill enacted into law, that limitation rider will prevent the regulation from taking effect for the next year. However, unless Congress writes the same limitation rider—or a limitation rider with somewhat different language that also forbids the regulation—into the appropriations law funding the relevant agencies in the following year, the agency can proceed with issuing the regulation to which Congress objected.

One example of a limitation rider enacted year after year involved the issue of processing fees collected by the Environmental Protection Agency (EPA). Under the Food, Drug, and Cosmetics Act and the Food Quality Protection Act, the EPA is required to ensure the pesticide residues remaining on foods are at safe levels. As Copeland (2008) explains, the agency issued a proposed regulation in 1999, noting that the cost of processing pesticide tests had increased. The agency proposed to increase fees from pesticide manufactures to cover these costs so that industry, rather than taxpayers, would pay for them. In response, Congress included the following limitation rider in the fiscal year (FY) 2000 Veterans, Housing and Urban Development, and Independent Agencies appropriations law: "None of the funds appropriated or otherwise made available by this Act shall be used to promulgate a final regulation to implement changes in the payment of pesticide tolerance processing fees as proposed at 64 Fed. Reg. 31040, or any similar proposals." This limitation, the history of which is analyzed below along with 104 other distinct limitation riders banning agency rulemakings from proceeding or taking effect, guaranteed that the EPA would not be able to increase fees on industry, as it planned to do, in FY 2000. In addition, Congress included the limitation rider in subsequent appropriations laws through the year 2003 (FY 2004).

Why was the limitation not included in law enacted for FY 2005? As Copeland (2008) explains, in 2004 Congress enacted a law that required the EPA to adopt a fee schedule that Congress created.[1] This schedule was initially placed into the *Congressional Record* by Senator Thad Cochran, the Republican Chair of the Senate Agriculture, Nutrition, and Forestry Committee that possessed jurisdiction over pesticide issues in the Senate.[2] Having forced the recalcitrant agency to adopt Congress's position as a matter of law, Congress created a new policy that the agency could not change with its own regulation. Because there was no longer a need to ban the agency from proceeding with its regulation, Congress omitted the limitation rider that had banned it from subsequent appropriations laws.

This history suggests support for MacDonald's (2010) account of limitation riders as a policy tool that promotes congressional power over the executive branch. First, the limitation was initially placed on the EPA in 1999. At this time, the Republican Party enjoyed majority control of both the House and Senate. Since the Republican's victory in the 1994 congressional elections elevated that party to majority party status in both chambers, Republican majorities had sought to scale back the EPA's regulatory agenda using the appropriations process (Aldrich and Rohde 2000). In short, the Republicans had clear policy disagreements with the agency in addition to opposition to the processing fee schedule the agency was pursuing. In addition, the Republican House and Senate majorities experienced considerable disagreements with President Bill Clinton, the Democratic occupant of the White House, both on environmental policy and on matters of law and public policy generally. Because Republican congressional majorities recognized that they not convince the agency to alter its policy on processing fees, and because they could not appeal to President Clinton to bring the agency into line, they resorted to

1. In fact, the law was passed in an appropriations bill, the Consolidated Appropriations Act of 2004 (Copeland 2008). Of course, House and Senate rules forbid language in appropriations bills that change the law. Nevertheless, House and Senate majorities routinely ignore these rules. This incident highlights the importance of appropriations legislation for influencing the substance of law in general in addition to the importance of limitation riders as a policy-making tool.

2. See the *Congressional Record*, September 17, 2003, S11630-S11633.

a limitation rider that prevented the executive branch from taking an action to which they were opposed. In this way, the limitation rider allowed a congressional majority to influence the substance of an agency's policy in the face of agency opposition and, at the very least, presidential indifference.

Once President Clinton left office and was replaced by a Republican, George W. Bush, congressional Republicans were in a better position relative to the agency. Presumably, they had an ally in the White House on whom they could have prevailed to intervene with the agency. Nevertheless, rather than handling the matter informally, Congress continued to apply the limitation rider to the agency until it enacted, and President Bush signed, a new law resolving the matter in Congress's favor.

In summary, Congress won a policy victory on an environmental policy decision by relying on its constitutionally prescribed power of the purse, inserting limitation riders to prohibit spending on a regulation to which it objected, and waiting the agency out until it could change the law to reflect its priorities. What is more, Congress did so in the face of a president who disagreed with it on environmental issues. This case suggests that, under disagreement with the executive branch in general and the president specifically, Congress can and does employ limitation riders to further its policy priorities (MacDonald 2010).

Hypotheses

It is likely that this case does not reflect the universe of instances in which Congress employs limitation riders. Therefore, I assess whether the use of limitation riders over time is consistent with the logic of Congress pursuing its policy priorities when it experiences policy disagreement with the executive branch. To do so, I propose several hypotheses that emerge from the analysis above and test them on data on the duration of 105 distinct limitation riders employed by Congress to forbid agencies from issuing regulations from 1989 to 2009. These hypotheses make predictions about how likely it is that a limitation rider enacted in an appropriation law in one year will also be written into the same appropriation law enacted in the following year. To invoke language from the literature on event history analysis (e.g., Box-Steffensmeier and Jones 2004), the hypotheses are about whether the limitation riders "survive" from year to year.

The first hypothesis is that the probability that a limitation rider survives increases if it was created under a configuration of divided government in one year and that configuration continues to exist into the following year. For example, in the pesticides processing fee example described above, the limitation was created in 1999 under divided government with a Republican-controlled Congress and the presidency held by the Democrats. In the following year, this partisan control, established in the 1996 presidential and 1998 congressional elections, continued to hold. Therefore, it makes sense that Republicans would continue to apply the limitation rider to the EPA in 2000 (for FY 2001)—not only because they disagreed with the agency's position, but also because they could not rely on President Clinton to intervene with the agency on their behalf, as they could not rely on him to do so in 1999. In summary, this "divided to divided" hypothesis expects the probability that the limitation rider would continue from 1999 to 2000 to be high because the partisan disagreements that helped facilitate the limitation rider in the first place persisted.

The second hypothesis is an extension of the first: the probability that a limitation rider survives from one year to the next decreases if the limitation rider was created under divided government but that configuration of divided government has ended and, necessarily, a new configuration of unified government has begun. Again, referring to the example above, this switch in the partisan control of government occurred after George W. Bush was inaugurated in January 2001. Therefore, this "divided to unified" hypothesis expects that the need for the limitation rider was diminished, which should make it less likely that Congress would continue to include it in appropriations laws enacted subsequent to the switch to unified control.

Data and Methods

To identify limitation riders forbidding bureaucratic regulations, I examined all appropriations laws from 1989 to 2009.[3] Beginning in 1989, congressional legislation is available in electronic format, easing the identification of legislative provisions. I conducted electronic searches for the words, "no" and "none," since limitation riders invariably begin with these words and read to the effect that "none of the funds," or "no part of this appropriation" can be spent on a specific purpose. In each case in which "no" and "none" were located, I read the language of that portion of the appropriations bill to identify whether a regulation was forbidden by the language.

In this way, I identified 105 distinct limitation riders from this period that banned regulatory activities by agencies. The mean duration of the riders is 4.88 years—with a median of 2 years and a standard deviation of 6.56 years. To provide readers with a flavor for these provisions, Table 1 provides the text of several limitations that forbade regulations and notes the years during which they were included in appropriations laws.

The limitations impinged on substantive decisions that agencies were making within their lawful jurisdictions. For example, the rider related to the conservation reserve program guarantees that certain land already enrolled in the program will continue to be enrolled in it. It does so by forbidding any regulation from removing such land from the program by specifying that no funds can be spent on salaries and expenses to execute any rule to do so. In addition, in noting the section of the law under which the

3. These laws included the appropriations laws that are enacted on an annual basis, except the legislative branch appropriations bill, since this bill would not appropriate funds for agencies. Prior to the reorganization that occurred after the Department of Homeland Security (DHS) was created, these bills—corresponding to the jurisdictions of the appropriations subcommittees in the House and Senate—included Agriculture; Commerce, Justice, Science, and the Judiciary; District of Columbia; Defense; Energy and Water; Foreign Operations; Interior; Labor, Health and Human Services, and Education; Military Construction; Transportation and Related Agencies; Treasury and General Government; Veterans Affairs and Independent Agencies. After the creation of the DHS, bills were reorganized. However, I continued to examine all of the versions enacted into law that were initially reported by the subcommittees. In addition, in many years, many appropriations bills were combined into an omnibus measure that was enacted into law. In these cases, I examined the omnibus legislation.

TABLE 1
Text of Several Limitation Riders Forbidding Bureaucratic Regulations

Language	*Years*
"None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service."	1988-2009
"No part of any appropriation contained in this Act shall be obligated or expended to implement regulations or requirements that regulate the use of, or actions occurring on, non-federal lands as a result of the draft or final environmental impact statements or records of decision for the Interior Columbia Basin Ecosystem Management Project."	1995
"None of the funds appropriated under this Act shall be expended by the Secretary of Labor to implement or administer either the final or proposed regulations referred to in section 303 of Public Law 102-27."	1993-94
"None of the funds provided in this Act may be used for salaries and expenses to carry out any regulation or rule insofar as it would make ineligible for enrollment in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) land that is planted to hardwood trees as of the date of enactment of this Act and was enrolled in the conservation reserve program under a contract that expired prior to calendar year 2002."	2003-06

agency has authority, the limitation makes clear that the agency could have otherwise taken this action in the absence of the rider. It is also evident from the table that the persistence of the riders in appropriation laws varies. While some persist for decades, others last only a year.

To evaluate whether the hypotheses articulated above can explain this variance, I constructed a data set containing an observation for all years during which each limitation rider "existed" in law. For example the limitation rider discussed in the paragraph above was enacted in 2003 and was reenacted in subsequent years through 2006 and was not reenacted in 2007. Therefore, the limitation has five observations in the data, and is coded 0 from 2003 to 2006 and 1 in 2007 when its authority expired. For limitation riders that were in the 1989 bills, I read the text of previous appropriations laws using the *United States Statutes at Large* to ascertain whether the limitation rider was present in previous years—and, for each rider that existed in 1989—identified the first year that the rider was enacted into law, avoiding left censoring of the data. Limitation riders that were enacted, or reenacted from previous years in 2009, are right censored.

I model the duration of limitation riders recorded with this scheme using a Cox regression. I employ the Cox model, since it does not make assumptions about the rate at which limitation riders are eliminated from appropriations laws. Given that I lack a theoretical basis for expecting that the duration of limitation riders will take a specific form, this estimation strategy is appropriate (Box-Steffensmeier and Jones 2004, chap. 4). The Cox regression will model the "hazard rate" associated with limitation riders. Roughly speaking, this rate refers to the probability that limitation riders will be eliminated in a year, given that they have been reenacted since their creation. A higher rate is associated with a higher probability of a limitation rider being eliminated from the fiscal year's appropriations law. Because I am interested in the substantive question of whether limitation riders are included/excluded in appropriations laws, below I refer to the probability that limitation riders are eliminated, or are not reenacted, in appropriations laws rather than referring to the hazard rate.

To assess the first hypothesis that riders are less likely to be eliminated under the same configuration of divided government that they were originally enacted under, I create a dummy variable that attains the value of 1 when a limitation rider was created under divided government and that configuration of divided government continues into the current year; 0 otherwise. For example, the second limitation rider listed in Table 1 was created under divided government in 1995 and was not reenacted in 1996. For both years, this variable is coded 1, as divided government persisted through 1995 and into 1996. If the variable had been reenacted into President George W. Bush's administration, it would have switched to a value of 0 for that limitation rider. The hypothesis expects a negative and significant relationship between this variable and the probability that a limitation rider will be eliminated, as the policy disagreement that existed when the limitation rider was created continues to exist, and the need for the limitation rider continues when this variable is coded 1.

I create two dummy variables to assess the hypothesis that the probability that limitation riders will be eliminated increases if the riders were created under a configuration of divided government and that configuration has been replaced by unified government, the "divided to unified" hypothesis. First, I create a variable that attains the value of 1 when a limitation rider was created under divided government but that configuration of partisan control has been replaced by unified government. For example, for the first limitation rider listed in Table 1 that was created under divided government in 1988, the variable is coded 0 from 1988 to 1992. However, it switches to 1 in 1993 and 1994 when there was unified government under the Democrats. Then it switches to zero again after divided government returned in 1995—and remains 0 through the rest of the limitation rider's history.

Second, I create a variable that is identical to the one described above except that the variable is coded 1 only in the first year of unified government after the configuration of divided government in which the rider was created. For the limitation rider described above, then, the variable is coded 1 in 1993 but 0 in 1994. The divided to unified hypothesis expects a positive and significant relationship between both variables and the probability that limitation riders will be eliminated.

I create a number of other independent variables to control for other factors that may affect the life of limitation riders. One control variable records whether or not the limitation rider applies to an independent regulatory commission (1 if yes; 0 if not). Such commissions are less permeable to political influence by construction (e.g., Lewis 2003). A new president may be more sympathetic to Congress's position on the matter with which a limitation rider deals than his/her predecessor. However, the president may not have more luck than Congress in convincing the agency to alter its preferred course on the policy in question. Therefore, this variable should be negatively and significantly related to the probability that limitation riders are not reenacted.

In addition, I create a variable measuring whether or not the limitation rider forbids a regulation that is called for specifically by a law (1 if yes; 0 if not). Since such regulations are required under law, without a limitation rider, the agency must proceed in issuing it—unless it is forbidden to do so under a new law. Therefore, if Congress wants to ensure that the regulation stalls, the need for a limitation rider is especially pressing. In this way, this variable should be negatively and significantly related to the probability that limitations are eliminated. Finally, because the 105 limitation riders were contained in 10 different appropriations bills, I include nine dummy variables for the bills to control for fixed effects within the politics involved with passing each bill, although the estimates for these variables are not presented in the tables below.

Findings

Table 2 presents the findings from four Cox regressions of the duration of limitation riders from 1989 to 2009. Models 1 and 2 present findings using the dummy variable specification for switches from divided to unified government where all years in the change to unified government are coded as 1. Models 3 and 4 present findings using the alternative specification in which only the first year under the new configuration of unified government is coded 1. Models 1 and 3 present the estimates of the variables testing the hypotheses developed above only. Models 2 and 4 include the control variables. All of the models include nine dummy variables providing for fixed-effects of the appropriations laws in which the limitation riders are located, though these estimates are not presented.[4]

The statistically significant log-likelihood ratios for models 1-4 allow me to reject the null hypotheses that the variables jointly equal zero in all of the models. In addition, tests for nonproportionality in the effect that the variables have on the probability that limitation riders are eliminated over time do not reject the null hypothesis of the same effect over the 21-year period. Therefore, I do not interact any of the independent variables with time.

The models provide mixed support for the hypotheses that riders created under unified government are unlikely to be eliminated if divided government persists. In model 1, the null hypothesis cannot be rejected in favor of the hypothesis that, when a limitation rider is created under divided government, it is likely to continue to be enacted if divided government continues. However, once control variables are incorporated in model 2, I can reject the null hypothesis (albeit at the $p < .10$ level). Under this specification, the probability of a rider being eliminated is estimated to decrease 28% when a limitation rider is created under divided government and the partisan control of government remains unchanged. This pattern—the inability to reject the null without controlling for whether the limitation applied to an independent regulatory commission and whether the limitation forbids a regulation required under a law—holds when measuring changes from divided to unified control differently in models 3 and 4. One

4. Full results are available from the author upon request.

TABLE 2
Cox Regression of the Duration of Limitation Riders Forbidding Bureaucratic Regulations, 1989-2009

Variable	*(1)*	*Δ in Hazard*	*(2)*	*Δ in Hazard*	*(3)*	*Δ in Hazard*	*(4)*	*Δ in Hazard*
Divided to Divided	−.257		−.326†	−28%	−.230		−.306†	−26%
	(.222)		(.218)		(.225)		(.220)	
Divided to Unified	.426*	53%	.342*	40%				
(All Years)	(.195)		(.180)					
Divided to Unified					.540**	72%	.430**	54%
(First Year)					(.189)		(.183)	
Independent			−1.548*	−89%			−1.478*	−83%
Reg. Com.			(.883)				(.880)	
Forbidding Reg.			.216				.192	
Called for in Law			(.164)				(.164)	
N	105		105		105		105	
Time at Risk (Years)	512		512		512		512	
Log-Likelihood	−346.66**		−344.65**		−346.12		−344.33	
Nonproportionality Test (Chi-Squared Statistic)	1.50		3.72		1.57		3.56	

Notes: ** $p < .01$; * $p < .05$; † $p < .10$. Estimates are unstandardized coefficients (robust standard errors—clustered on the distinct limitation riders—are in parentheses); 9 dummy variables for bill-specific fixed effects are not presented but are available from the author upon request.

cannot reject the null hypothesis of no effect on the probability of elimination in model 3. Once the control variables are included, the negative and significant coefficient for the divided to divided variable in model 4 ($p < .10$) estimates that, for limitation riders created under a configuration of divided government, there is a 26% decrease in the probability of elimination if control of Congress and the White House under that configuration remains unchanged.

In summary, the analyses provide some support for the hypothesis that the continuation of divided government leads limitation riders to be reenacted, although the findings are mixed. Below, I discuss this finding, suggesting that when one considers that limitation riders put Congress in a position to negotiate with agencies, the findings reported in Table 1 are supportive of the divided to divided hypothesis. What is more, the findings and the discussion reinforce the view of limitation riders as a policy tool that promotes congressional leverage over executive branch policy decisions.

In contrast to the findings related to the continuation of divided government, models 1-4 provide unambiguous support for the hypothesis that a switch to unified government increases the likelihood that limitations are eliminated. In each of the models, there is a positive and significant relationship between a switch from divided to unified government and the probability that limitation riders are not reenacted. This finding holds regardless of whether the switch is coded 1 for all subsequent years of unified government (models 1 and 2) or only in the first year after the switch to unified government (models 3 and 4), although the substantive effect of the relationship is estimated to be larger in the latter models. In these models, in which the effect of transitioning to unified government is expected to occur only in the first year after divided government, the probability that limitation riders are eliminated is estimated to increase 54% (model 4) or 72% (model 3). In comparison, models 1 and 2 estimate this probability to increase 53% and 40%, respectively.

Regarding the control variables, the dummy variable for limitations involving regulations under independent regulatory commissions is negatively and significantly related to the probability limitation riders are eliminated, as expected. Models 2 and 4 estimate an 89% and 83% decline in the probability that riders are left out of the appropriation law, respectively. In contrast, prohibiting a regulation mandated by a law does not decrease the probability that a limitation rider is eliminated. On the contrary, as is clear from the coefficients and standard errors of this variable, it increases this probability. I discuss this finding in the conclusion, as it has implications for understanding how Congress uses limitation riders to undo the policies of past lawmaking coalitions.

Limitations on Agency Regulations under Divided Government

The mixed finding on whether the continuation of divided government reduces the probability that limitation riders are struck from appropriations laws may give some readers pause when it comes to viewing riders as tools that promote congressional influence over the executive branch. This position may be reasonable. However, limitation riders can do more than merely allow Congress to ban agencies from making decisions to which Congress objects. Rather, by being able to ban regulations, Congress also can place itself in a position to negotiate with the executive branch over the substance of the policy that is created. Therefore, some limitation riders created under divided government and applied to the authority of agencies in one year may not be necessary in the next year. In the interim, Congress and the agency may have agreed on a compromise, obviating the necessity of reenacting the limitation rider in the following year's appropriation law.

To see how such compromise may work, consider the case of Mexican trucks gaining access to U.S. roads under the North American Free Trade Agreement (NAFTA). After the Mexican government won an arbitration case in 2001 that it brought because the United States had not allowed entry of Mexican trucks after NAFTA's ratification, the Department of Transportation under President Bush announced that it would begin allowing Mexican companies to apply to transport goods within the United States (Kornis 2002). However, during consideration of the fiscal year 2002 Transportation and Related Agencies appropriations bill on the House floor, the House accepted an amendment sponsored by Representative Martin Sabo, a Democratic in the minority party, forbidding the Department of Transportation from spending any money to process applications from Mexican trucking companies to transport goods within the United States.[5] The Bush administration objected to the rider, threatening to veto the bill if it was contained in the version sent to the president's desk. The endgame involved a deal brokered during conference negotiations between the House-Senate over the bill. This agreement entailed providing $140 million for inspection stations with the understanding that the stations would be operational within six months to verify the safety of trucks from Mexico. In addition, the appropriations bill specified the conditions under which Mexican trucks could operate in the United States and inspection standards that the trucks needed to meet (Benton 2001a, 2001b, 2001c).

This policy, signed by President Bush as part of the FY 2002 appropriations bill for transportation, was considered a victory for the president at the time (Benton 2001c). However, it is clear that, in adopting the limitation rider that forced the compromise, the House had a significant effect on policy. Prior to the limitation rider, the president planned on allowing Mexican trucks to enter the United States without inspections. However, due to the limitation rider, Congress was able to negotiate with the Bush administration to ensure that safety concerns over Mexican trucks were addressed by a system of inspections that would enforce congressionally specified safety standards. In this way, Congress improved the policy outcome from its standpoint.

These events demonstrate that by inserting a limitation rider into a bill, Congress improves its negotiating position relative to the executive branch. Of course, not all of the details of the case are consistent with the hypotheses tested above. In particular, the case did not involve divided control of government, and the limitation rider in question was not enacted in the limitation law. Nevertheless, the lessons are clear. First, although

5. *Congressional Record*, June 26, 2001, H3593.

there was not divided government, there was a clear preference in Congress against allowing Mexican trucks to enter the country. This preference was in stark disagreement with President Bush's position. Second, although the limitation was not enacted in one year and allowed to expire in the next, it was placed in the version passed by the House—and was then not enacted in the final version passed into law. The rider's presence in the House-passed bill forced the White House to the negotiating table, allowing Congress to obtain a better outcome than it otherwise could have. Only then was the limitation rider removed.

Interestingly, the limitation rider resulted in a bigger policy victory for the House's position than its members could have initially envisioned. Rather than getting the inspection stations up and running, the Department of the Transportation dragged its heals for the duration of the Bush administration, failing to open the stations. By 2007, Mexican trucks still had not entered the United States in large numbers and were confined to an area within 100 miles of the U.S.–Mexico border. In that year, the department attempted to set up a pilot program to expand Mexican trucking operations in U.S. transportation markets. However, the Democratically controlled Congress enacted the transportation spending bill with a limitation rider blocking the program, which the president signed into law (Wolfe 2007).

In summary, although the limitation rider blocking the initial attempt to comply with the NAFTA arbitration ruling did not endure for a long period (it was only in the House-passed bill), it had a clear effect in promoting congressional priorities by facilitating compromise with the president and the executive bureaucracy. This case illustrates that, in some instances of congressional–presidential disagreement, limitation riders will have a short duration yet still affect policy. This is the case even if the general tendency is for riders created under divided government to be reenacted as is seen in the coefficients for the divided to divided variable in models 2 and 4 of Table 2.

Discussion

The findings presented above support the perspective that limitation riders enhance congressional leverage over the executive branch's policy decisions. One observes that, when Congress creates limitation riders under divided government, those riders are likely to disappear from subsequent appropriations laws under unified government. Congress no longer disagrees with the president, negating the need for the riders.

Similarly, limitation riders created under divided government are likely to continue if divided government regime persists because the policy disagreements sparking the riders remain. To be sure, there are some cases in which the limitation riders are no longer necessary because of compromise between Congress and either the president or the bureaucracy or both. Nevertheless, the general pattern is clear: limitation riders are used under divided government to prevent the bureaucracy from pursuing ends with which Congress disagrees. As such, they are a policy-making tool that Congress uses effectively; a tool that is unassailable because it is anchored to Congress's authority under the Constitution to control spending.

Also of interest, although not central to the analysis of this article, is that limitation riders that block regulations mandated under previous laws appear—contrary to my initial conjecture—to increase the probability that limitation riders are eliminated. This finding suggests that there are interesting dynamics at play when it comes to how past laws affect present efforts on the part of Congress to influence agencies. One explanation for this relationship is that Congress is merely using the limitation riders to prevent the agency from issuing a regulation over the short term so that Congress itself can change the policy with a new law. If this is the case, Congress could be blocking the executive branch from establishing a new status quo that would be difficult for Congress to overturn at a later date (Howell 2003; Krehbiel 1998). Doing so would allow Congress to establish a new status quo policy that it prefers relative to what the executive branch would create.

Establishing whether this is the case is outside the bounds of this research. Nevertheless, it suggests an interesting avenue for future research—one that is consistent with a recent emphasis among scholars that the passage of laws is merely the beginning of their influence on policy. Rather, laws lay the groundwork for subsequent efforts to influence policy (e.g., Jenkins and Patashnik 2012; Moe 1989; Shepsle 1992; Shipan 2004).

These efforts occur in an institutional setting that influences how participants pursue their policy and political goals. Limitation riders are a tool that promotes congressional majorities' goals relative to the president and the bureaucracy, and perhaps relative to past lawmaking coalitions as well.

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