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## The Effect of Party Polarization on Bipartisan Cosponsorship in the United States Senate

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The Effect of Party Polarization on Bipartisan Cosponsorship in the United States

Senate

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Department of Political Science

A Thesis Submitted to Fulfill the Requirements of the  
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## Introduction

*We were raised as a partisan nation. The only bipartisanship you ever see is when they finally sign a bill and everybody says 'Gee, isn't that wonderful.'*

*-Colin Powell*

The divisiveness of the current political climate is well known. We have seen the growing divide between Republicans and Democrats play out in our government, on social media, and even in our own homes. Controversial issues seem to be dividing both average Americans and our elected officials, and we see political conflict, accusations, and a lack of civil discourse take place on a daily basis. Following the election of President Donald Trump in 2016, this conflict has only intensified, culminating in a very partisan impeachment earlier this year. This state of partisan warfare, which our representatives have both inherited and contributed to, might lead one to proclaim that bipartisanship is dead. A look at roll call voting data would reinforce that conclusion and show a clear ideological divide. A study of the ideological positions of voting senators in the last few decades would show a growth in the distance between the two parties (Lewis et al, 2018). After the disappearance of conservative Democrats and liberal Republicans, the gap between the two parties has only continued to grow. Today, compromise seems more unlikely than ever.

The popular narrative of the slow death of bipartisanship does not, however, tell the whole story. While senators may remain ideologically divided on controversial topics that dominate headlines and capture the attention of the nation, there is significant cooperation going on behind the scenes. Even as roll-call voting has become more partisan, bipartisanship still exists, just not in a way that we pay attention to. Behind the scenes, legislators are building and maintaining bipartisan relationships with their colleagues through bill cosponsorship. This

activity can range from a rather insignificant bill naming a building to major welfare reform. Cosponsorship is widely ignored by interest groups, the media, and the public. Because of this, legislators often use bill cosponsorship as a mechanism of position taking aimed at their colleagues rather than external audiences (Kessler & Krehbiel, 1996, p. 563). As Rippere (2016) notes, because the majority of the literature that shows that the two parties are becoming more polarized over time has been limited to the study of members' voting behavior, it is important to look at bipartisanship in relation to bill cosponsorship (p. 243). Simply looking at the "yeas" and "nays" of a bill does not give the full picture of the state of bipartisanship in the chamber. The statistics of roll-call voting may show what looks like a partisan or bipartisan vote, but it does not show the senators who collaborated and cosponsored to make that vote happen. It is of particular importance to observe cosponsorship in the Senate. Despite the increase in polarization, senators have built cosponsorship networks with almost an equal number of their same-party and opposite-party colleagues, while members of the House of Representatives have associated increasingly with their fellow partisans (Rippere, 2016, p. 252). The Senate is nowhere near free from partisan conflict, but senators have maintained a significant number of bipartisan relationships through the act of bill cosponsorship. Has an increase in polarization had any effect on the frequency of this legislative activity? Can the good will of major bipartisan accomplishments in one session of Congress carry over to the next and encourage more cooperation, or could it just be mere opportunism?

The literature on political polarization and bipartisanship is plentiful, but very few have specifically studied how bipartisan cosponsorship has changed in light of the growing partisan divide, or why that particular legislative activity is even important to begin with. Using Senate cosponsorship data from the 93<sup>rd</sup> to the 115<sup>th</sup> session of Congress, this paper argues that

cosponsorship patterns show an increase in hidden bipartisanship despite an increase in the polarization of roll-call votes. First, I will detail the evolution of party polarization. Having presented that background, I will then provide a brief history of bipartisanship, its advantages, and the obstacles that it has faced and continues to face in the context of the current divisive political climate.

### **Evolution of Party Polarization**

The polarization that we see today is not exactly a complete departure from the history of partisan politics since the Federalist period. Some amount of partisan conflict has plagued our government at almost every moment. We can at least be grateful that we do not have to deal with the routine electoral violence experienced in Antebellum America, in which politics was a kind of war and, indeed, led to war (Freeman, 2018). Today, the political arena involves more of an ideological battle than a physical one, but how did we get here?

During the 1950s and early 60s, there was an unwritten rule of ideological moderation in the Senate (Moore & Thomas, 1991, p. 963). Not adhering to that standard would reduce a senator's chance of passing their agenda because the legislation of a senator who is more willing to compromise would be better received than that of an extremist. More than half of the members of the U.S. Congress at that time were moderate in their voting records, and many were willing to negotiate their ideological differences in order to pass legislation (West, Sorens, Burrus & Kabaservice, 2019). Following the standard of moderation, the first changes in party polarization can be seen around the time of the 1965 Voting Rights Act. After President Lyndon B. Johnson sent a voting rights bill to Congress, a bipartisan committee added amendments to strengthen the bill ("The Senate Passes the Voting Rights Act", 2019). The bill received crucial Republican

support, and would have likely failed otherwise due to opposition from a number of Democrats in the Senate. As the legal barriers that prevented African Americans from voting were removed, the demographic changes in the South forced Democratic Senators to liberalize at times as they became more dependent on African American voters (Fleisher, 1993, p. 328). At the same time, the Republican Party was becoming more competitive in the South and began to make more appeals to white conservatives. While the southern realignment was driven in part by race, Trende (2010) notes that by the 1965 Voting Rights Act, the South was already aligned with the Republican Party on a number of issues, such as taxes, abortion, school prayer, and Vietnam. Regardless of its cause, the southern realignment was the first significant change in the political landscape to have an effect on political polarization.

As Bonica (2014) notes, party polarization in Congress can take place through member replacement, in which incoming legislators that are more ideologically extreme replace more moderate legislators, or through ideological migration, in which sitting legislators drift away from the ideological center as their careers progress (p. 6). Overall, member replacement accounts for 55% and migration accounts for 45% of the total increase in polarization since the 92<sup>nd</sup> Congress (Bonica, 2014, p. 12). Member replacement can typically be attributed to changes in a senator's constituency or growing demands of party loyalty from leadership (Fleisher & Bond, 2004, p. 430), and it was the main driver of polarization from the early 1970s through the mid 1990s, beginning with the southern realignment (Bonica, 2014, p. 12). Southern districts that traditionally elected conservative Democrats began electing moderate or conservative Republicans, causing the beginning of the disappearance of the political center. Similarly, Fleisher and Bond (2004) contend that parties polarized due to a shrinking number of partisan nonconformists, or moderate members who have policy preferences that are different from the

ideological mainstream (p. 430). As these nonconformists were replaced, the divide between the two parties grew.

While member replacement was the main cause of party polarization until the mid-1990s, ideological migration began to occur around the 105<sup>th</sup> Congress. Polarization by means of ideological migration can occur either as a smooth, well behaved trend in which senators gradually change their policy positions, or as migration shocks, in which periods of accelerated polarization interrupt an otherwise smooth polarization trend (Bonica, 2014, p. 15). Events such as the budget crisis of 1995, the Clinton impeachment trial, the run up to the Iraq War, and the Affordable Care Act have caused such shocks to the trend, which then becomes the new normal. Certain legislative battles or periods of heightened partisan tension can have lasting effects on Congressional polarization.

Accompanying the increase of polarization is the decrease in major legislative accomplishments, especially during the last two decades. The Affordable Care Act (ACA), the Dodd-Frank Financial Reform Act, and the stimulus package all managed to pass during the Obama administration, but did so with staunch Republican opposition, and they remain the subjects of harsh criticism to this day (Gordon & Landa, 2017, p. 1436). Even when a major bipartisan bill is passed, there is a tendency for both parties to try to claim it as their own victory. Polarization can certainly be an obstacle to creating major legislation with bipartisan support. Jones (2001) found that higher party polarization in a chamber can increase system-wide gridlock (p. 133). Depending on the size of the majority, unified government can be just as prone to gridlock as divided government if party polarization is high. If the majority party does not have enough seats to thwart filibusters or vetoes, then clashes with the minority party will inevitably be a significant obstacle to producing legislation, and that may be worsened by high

polarization. As long as polarization continues to increase, gridlock and a lack of productivity will continue to plague the legislative process.

Polarization has not affected both parties equally. As Ezra Klein (2020) notes, Democrats have to appeal to a very diverse constituency whereas Republicans are overwhelmingly dependent on white voters. The need for Democrats to appeal to nearly every demographic under the sun is a very powerful limit on how far left their ideology can move. They have to speak to everyone from the far left to the center-right in order to hold power while the Republican Party can aim their campaigns well to the right of the median American. A Pew Research Center report found that Republicans and Republican-leaning independents viewed many heavily relied on sources across a range of platforms as untrustworthy, while Democrats and Democrat-leaning independents viewed them as credible and relied on them to a greater degree (Jurkowitz, Mitchell, Shearer & Walker, 2020). Democrats' levels of trust and distrust in media sources have changed considerably less than Republicans' over time, which may have something to do with the ability of the Republican Party to move farther right. The difference in polarization could mean that Democrats have more of an incentive to pursue bipartisanship because of their need to appeal to the center-right in order to capture votes.

### **Bipartisanship in Action**

Roll call voting tells one story of bipartisanship, but the actions of senators themselves tells another. Bipartisanship can be seen in unexpected ways that counter the narrative that Republicans and Democrats cannot get along. Senators form bipartisan relationships outside of the chamber that may encourage them to work together on the Senate floor. The Senate Dining Room, which used to be a liberating space to share thoughts and ideas with Senate colleagues,



remains vacant more often than not, but lawmakers manage to cultivate bipartisan relationships through other means (Parker, 2014). New bipartisan traditions have replaced the old with the occurrence of a weekly bipartisan prayer breakfast, informal bipartisan dinners, and even interactions at the Senate gym. Mark Warner (D-VA) has organized many meetings, retreats, and dinners at various places throughout Washington D.C. to bring together Democrats and Republicans (Baker, 2015, p. 23). He has been a member of several bipartisan “gangs” as well: of Five (deficit), of Six (revenues and entitlements), and of Eight (immigration reform). Through these informal associations, bipartisan groups of senators work together to try to circumvent the gridlock produced by polarization. While bipartisan friendship might not bring Republicans and Democrats together on abortion, immigration reform, or gun control, it can create pathways for future collaboration on other important pieces of legislation. The relationship between partisan opponents is not nearly as bleak as it is portrayed in the media, which is a hopeful sign for the future of cooperation.

### **Advantages of Bipartisanship**

In Federalist 10, James Madison defined a faction as a number of citizens, majority or minority, who are united and actuated by a common passion or interest, adverse to the rights of other citizens or the interests of the community as a whole (Madison, 2001). All people are born with different abilities, and when the government protects these unequal abilities, it results in “different and unequal faculties of acquiring property.” (Madison, 2001). This creates a diversity of interests and opinions amongst men, and society is divided according to these interests. Because the causes of faction are sewn into the nature of man, the best way to solve the problem of faction is to multiply them. There is such a diversity of interests that factions will need to join

together and form coalitions in order to form a majority, and these majorities will always be changing because new factions will form as new issues arise. Bipartisanship was not an issue at the time that Madison wrote because a two-party system had not yet developed. Nevertheless, he could see the need for factions with different interests to join together and cooperate on different issues, as Republicans and Democrats have to do today. While the divide between Republicans and Democrats is clear, there are still ideological differences within each party and room for common ground. Major, long-lasting legislative innovations will need bipartisan support if they are to survive the possible swing of the ideological pendulum in the next election, and this requires that both parties work together to form a majority coalition. Ideally, the majority party will refrain from certain actions against the minority party, as they will eventually lose that majority. There also is an incentive to work with the minority party and prevent gridlock when the majority is less than the two-thirds necessary to end a filibuster. From the time of the *Federalist Papers* through today, forming a majority coalition that can unite both sides of an issue has serious advantages.

The roots of compromise and cooperation extend all the way back to the Great Compromise. As the issue of congressional representation was dividing the Constitutional Convention in 1787, Roger Sherman proposed a compromise: proportional representation in the House of Representatives and equal representation in the Senate. Without this agreement, who knows what would have become of our republic? Our history has involved a lot of compromise and collaboration, from Abraham Lincoln appointing his Republican rivals to his cabinet in 1860 to Congress establishing the National Aeronautics and Space Administration (NASA), which would put a man on the moon over a century later in 1969. Some of our best ideas and greatest

achievements have been the result of putting our partisan differences to the side to pursue a higher goal. Moreover, bipartisan efforts often have the ability to stand the test of time.

When it comes to major legislative innovations, it can be difficult for both parties to come to a consensus, but a bipartisan effort will likely create a bill with more staying power. In 1964, the Senate passed the Civil Rights Act 73-27, with 27 Republican votes (Purdum, 2018). Republican Senate Minority Leader Everett Dirksen aided the passage of the bill after he was reassured by the Democrats that they would not weaponize the bill during the presidential election later that year. Bipartisan cooperation is what made long-lasting progress possible. Having the minority party on board increases the chances that it will stick around. Baker (2015) notes that forcing legislation on a slim minority produces unsatisfying results. Every Republican in the Senate voted against the Affordable Care Act. The bill has since been challenged several times in federal courts and there have been numerous attempts to repeal it. Because of the partisan nature of the vote, the topic of health care reform continues to dominate public debate and divide politicians. If the policy preferences of some progressive senators like Bernie Sanders (I-VT), who advocates for “Medicare for All”, are ever realized, that too would be unlikely to garner bipartisan support. Parties exist for a reason, but pushing major legislation on a unified minority will have consequences when that minority gains control or the coalition that formed the temporary majority fails to hold.

Bipartisanship is not always possible, but it is important to find the areas of compromise and agreement where they exist. Vanden Heuvel (2014) claims that legislators do not need to sacrifice their beliefs at the “altar of bipartisanship” in order to pass legislation that has a wide appeal. Despite their ideological differences, Senators David Vitter (R-LA) and Sherrod Brown (D-OH) both opposed government bailouts for banks, and they took advantage of this common

interest to persuade the government to study whether big banks were receiving more favorable debt pricing. There are still areas of overlap to be found between the two parties, which creates an opportunity for bipartisan cooperation. Real bipartisanship is not a shift towards centrism, but it aligns more closely with what Vanden Heuvel calls “transpartisanship”: it encourages solutions that align with many viewpoints rather than taking two existing viewpoints and splitting the difference.

Just like partisanship, bipartisanship is a useful political tool. It is an efficient electoral strategy that politicians can use to broaden their appeal to voters outside their party. According to Trubowitz and Mellow (2005), bipartisanship is most likely to occur when the national economy is growing, the political parties are competitive nationally, and control of the federal government is divided (p.437-438). Although nationalizing politics can also push partisanship, it can give the parties an incentive to cooperate. When parties are regionally polarized, legislators have more of an incentive to tailor their policy stances and voting records to their partisan bases, and there is less of an incentive to work with the other side. During divided government, it may be more difficult for political leaders to produce the policies they want, so they have to remain reliant on cooperation from moderates from the opposing party. Even when political polarization is high and government is divided, bipartisanship can be a method to overcome that and produce moderate, yet important, legislation.

While it may be a useful tool, there is a proper way to employ it, and it should not be pursued for its own sake. Bipartisanship can provide long-lasting solutions to complex political problems, but its value should not be overstated. When it is pursued for its own sake rather than for the sake of good ideas, the result is usually a poorly conceived or underdeveloped bill. Baker (2015) points to the STOCK Act and JOBS Act as perfect examples of merely cosmetic

bipartisanship (p. 77). Their narrowness and lack of ideological burden made the bills seem appealing to a gridlocked Senate, but in reality, they were of dubious quality and contained internal contradictions which arose from the desire for bipartisanship itself. Congress may want to pass something that would show the public that they can cooperate and create meaningful legislation, but substance should always be more important than the appearance of bipartisanship.

### **Obstacles to Bipartisanship**

Our government was made to be antagonistic from the beginning with the introduction of checks and balances. As James Madison wrote in Federalist 51, “Ambition must be made to counteract ambition.” (Madison, 2001). Each branch of government has its own will in order to remain separate from the others, allowing the branches to check the others in the hopes of enhancing their own the power. This natural competition is a good thing, but it is not always going to be friendly to cooperation and bipartisanship. The existence of political parties themselves heightens this level of competition and creates further division. By definition, political parties are necessary in order to have bipartisanship, yet their existence also seems to be the biggest obstacle to cooperation. George Washington warned of this in his Farewell Address, where he expressed his fear that the “spirit of revenge” would cause political parties to govern for the sake of their power and not for the sake of the people (Washington, 1813). This “spirit of revenge” can create an environment that is even more hostile to cooperation, as the parties have their own ambition and agendas to pursue while the executive and the legislative branch also compete for power. These natural obstacles are a good thing, as a slower, more deliberative

government will filter out all the bad ideas and possibly abusive agendas, but in light of increased polarization, it is also the first of many roadblocks that bipartisanship has to overcome.

Party leaders are one of the most significant modern obstacles to bipartisanship. They are not always encouraging of bipartisanship, as they have to minimize divisions within the ranks of their party. They have the responsibility of trying to maintain or increase their number of seats while safeguarding party principles, so bipartisan proposals can present a challenge to them (Baker, 2015, p. 51). Because of that responsibility, they would not support a bipartisan proposal that strays too far from the fundamental party doctrine. A certain amount of party loyalty is required of legislators, and members will often go along with leadership even if they differ on the policy (Lee, 2009, p. 39). The party has campaign funds and resources that legislators do not have, and reelection can rest on support from the party and the endorsement of prominent members. Breaking with the party may be too big of a risk to take. If a legislator is facing a challenge in the next election by a member of their own party, then the support of the party leader could make a significant difference, and it would benefit them to conform to the party platform. To a certain extent, being a party leader also involves doing what you can to make the other party look bad. Baker (2015) argues that party leaders cannot engage in bipartisanship if it involves giving political cover to an opposition senator who is up for reelection (p. 48). Their role at times requires that they secure the success of the party at the expense of bipartisanship. In 2012, Senate majority leader Harry Reid opposed many bipartisan initiatives in an effort to preserve the Democratic majority. That may seem counterproductive, and it may even turn away undecided or centrist voters, but the competitive nature of partisan politics often demands partisanship and party loyalty if senators wish to retain their seat.

As Poole and Rosenthal (1984) suggest, polarizing interest groups also have a significant influence, and this can present another challenge to cooperation (p. 1075). Interest groups will often “score” certain votes in order to assess whether or not a member’s voting record is consistent with their own principles or legislative agendas. It is a way to signal to voters and other members of the party that a legislator is defecting from the party’s preferred position. Baker (2015) notes that during the 113<sup>th</sup> Congress, Senators Joe Manchin (D-WV) and Pat Toomey (R-PA) proposed an amendment on expanded background checks for firearms purchases in the aftermath of the Sandy Hook shooting (p. 44). The vote was scored by the National Rifle Association (NRA) and was defeated in the Senate 54-46. The vote scoring by such a prominent gun rights advocacy group may have exerted pressure on Republican senators to stay in line with the party’s position on gun control. Manchin believed that if the vote had not been scored, it would have passed, as it was a bipartisan amendment. Vote scoring can reach beyond pieces of legislation. Baker (2015) also points to the confirmation of Justice Sonia Sotomayor (p. 43). The NRA scored that vote as well to encourage senators to vote against the nomination, and it worked, because only 7 Republicans voted in favor. Interest groups exert a certain amount of pressure on legislators that may discourage them from breaking with the party or supporting more moderate legislation. The support of these groups is contingent on consistent support for the policies that they are in favor of, and neglecting to do so could have consequences for the legislator’s next election. In a way, the interest groups prevent senators from forming their own factions. This seems contrary to the Madisonian solution of a multiplication of factions. It could be more beneficial to political polarization to allow different factions and groups to form within or between parties.

The atmosphere of the Senate floor itself can be another obstacle. Bipartisan legislation may seem promising while it's still in a committee, as a committee's size and more intimate and familiar nature can make them a safe place for bipartisanship, but the Senate floor is a much more partisan environment. A senator might offer an amendment to a bill that has more to do with delivering a message to the other party than it does with improving the bill, and "messaging" bills are occasionally introduced to promote the political goals of one party while demeaning the other (Baker, 2015, p. 69). The amendment process can kill meaningful bipartisan legislation if senators have their own agenda to pursue. In March of 2020, Senators Lisa Murkowski (R-AK) and Joe Manchin (D-WV) introduced the American Energy Innovation Act, a bipartisan energy package (Hulac, 2020). Shortly after being introduced, more than 150 amendments were introduced, and any hope for its quick passage was dimmed as the bill became dragged in multiple different directions. Senator John Kennedy (R-LA) threatened to object to every amendment unless the Senate voted on his bipartisan measure first. Clashing interests and contradicting amendments can kill the most bipartisan of bills.

The American electorate also presents an obstacle of its own to bipartisanship. Constituents have their own preferences that they expect their elected representatives to remain true to. Baker (2015) argues that legislators cannot simply defy public opinion to work together, or else they will be replaced by someone who will fight the partisan battle (p. 104). The public even prefers partisanship at times. Harbridge and Harrison (2014) found that bipartisan legislation is not preferred over partisan wins. When partisans understand the extent of the compromise made in the policy process, they see the bipartisan legislation as a loss for their party (Harbridge & Harrison, p. 339). As party polarization increases in Congress and in the public, voters are having an increasingly negative view of the opposing party (Abramowitz &



Webster, 2018, p. 132), and they may demand more partisanship of their representatives. As this trend continues, it becomes more and more unlikely that we see major legislation passed with bipartisan support.

The modern political party also includes more than just constituents. Legislators have to appeal to interest groups, consultants, 527s, which are tax exempt groups to raise money for political activities, and even the partisan media (Koger, 2010). Senators today do not always have the ability to cooperate. The choice of whether or not to break with the rest of their party may be out of their hands if they wish to be re-elected. The obstacles to passing bipartisan legislation are even greater in light of political polarization, and this could have a negative effect on bipartisan cosponsorship.

### **Bipartisan Events of Interest**

In my study of bipartisan cosponsorship, I have selected five bipartisan events to focus on, each roughly a decade apart: The Endangered Species Act (1973), Social Security Reform (1983), Welfare Reform (1996), Gang of 14 (2005), and the 21<sup>st</sup> Century Cures Act (2016). These “events” are considered to be bipartisan because they represent the passage of important legislation with bipartisan cosponsorship, legislation that resulted from negotiation between the divided executive and Congress, or measures taken by senators of opposing parties to overcome partisan conflict. Each is a significant display of bipartisan cooperation during periods of either divided government or high partisan conflict that has had a lasting effect on the political landscape.

*Endangered Species Act (1973): 93<sup>rd</sup>-94<sup>th</sup> session*

The Endangered Species Act (ESA) was enacted in 1973 in the 93<sup>rd</sup> session of Congress during a period of divided government. President Richard Nixon wanted to make changes to U.S. environmental policy, so Representative John Dingell (D-MI) and Senator Harrison Williams (D-NJ) led the effort. The original proposal in the House had 15 Democratic cosponsors, 8 Republicans, and 1 independent. The Senate bill that replaced it and eventually passed had 5 Democratic and 3 Republican cosponsors (“Library of Congress”, n.d.). It was unanimously approved in the Senate and passed 390-12 in the House of Representatives (“History of Bipartisanship”, n.d.). In recent years, Republicans have tried to narrow the scope of the law, pointing to the burden that it places on landowners and its hindrance on economic growth (Friedman, 2019). This led to the “modernization” of the act in 2019 by the Trump Administration, which changed the way the act is applied in an attempt to soften that burden and allow for a more clear and consistent implementation of the law. Representative Rob Bishop (R-UT) claimed that under the Obama administration, the act had been used as a “political weapon instead of a tool to protect wildlife” (Friedman, 2019). Bipartisan support for the ESA has remained strong since 1973, but Republicans and Democrats have tweaked it over several administrations in order to better serve their policy goals. While Republicans see it as being overly restrictive to business, Democrats want to increase protections to address the threat of climate change. The act may face further alteration in future administrations, but its strong roots in bipartisanship is what keeps it intact.

#### *Social Security Reform (1983): 97<sup>th</sup>-99<sup>th</sup> sessions*

Social Security was a difficult and highly partisan issue to confront. During the Reagan presidency, the Social Security Trust Fund was likely to begin running a deficit, and there was a crisis that needed to be addressed (“History of Bipartisanship”, n.d.). President Reagan had to

work with a large Democratic majority in the House of Representatives in order to solve the problem. The initial White House plan was strongly rejected 96-0 in the Senate and had a majority of bipartisan opposition in the House (Dallek, 2009). Following that failure, a bipartisan commission was created to make recommendations, with members appointed by Reagan and House Speaker Tip O’Neill (D-MA). After the commission made their recommendations, Senators Daniel Patrick Moynihan (D-NY) and Bob Dole (R-KS) led a bipartisan group of legislators to create the necessary amendments (History of Bipartisanship, n.d.). The final version was introduced by Representative Dan Rostenkowski (D-IL) and received one Democratic and one Republican cosponsor (“Library of Congress”, n.d.). Dallek (2009) notes that the compromise strengthened the position of Social Security’s defenders. Ironically, Reagan, who had once argued that Social Security should be a voluntary program, was now established as its defender. This bipartisan effort has had a lasting effect on the way lawmakers approach Social Security reform. Very few elected officials openly endorse plans to privatize Social Security or make it voluntary, positions that Reagan himself had previously supported.

As impressive as the 1983 reform was, Smith (2014) argues that in reality, it was a “bipartisan effort to kick-the-can.” The majority of the tax increases and the benefit cuts targeted future generations. The baby boomers entered the workforce and created a surplus, but now some argue that the Social Security problem is again approaching a crisis. As political polarization has significantly increased since 1983, another bipartisan solution to the Social Security problem may be easier said than done.

#### *Welfare Reform (1996): 103<sup>rd</sup>-105<sup>th</sup> sessions*

The Personal Responsibility and Work Opportunity Reconciliation Act, a sweeping change to the country’s welfare system, was enacted during the 104<sup>th</sup> session of Congress.

During a session that was marked by divided government and two government shutdowns, Congress worked with the White House to strengthen work requirements and child support enforcement while increasing spending on education and childcare (“History of Bipartisanship”, n.d.). Having vetoed two earlier versions, President Bill Clinton worked with a Republican Congress to secure the passage of the legislation. While it did not receive any cosponsors, it was made possible by a bipartisan negotiation between President Clinton and Representative Newt Gingrich (R-GA), whose support was necessary in order to get the conservative votes it needed to pass. The House voted 328-101 to pass the bill, with 98 Democrats joining 230 Republicans. In the Senate, the bill passed 74-24, with 23 Democrats joining 51 Republicans to vote in favor. All but 3 of the bill’s opponents were Democrats, but the amount of bipartisan support was significant. Clinton (2006) remarked that “I was widely criticized by liberals who thought the work requirements too harsh and conservatives who thought the work incentives too generous.” Three members of his administration eventually resigned in protest. Clinton recognized that neither side got what they hoped for, but claimed that neither side betrayed their principles in coming to the compromise. Had he not made the concessions that liberals were so critical of, the act would have likely failed to get the Republican support it needed to pass. Cooperative government is “a measure of strength, deeply rooted in our Constitution and history, and essential to the better future that all Americans deserve, Republicans and Democrats alike.” (Clinton, 2006).

*Gang of 14 (2005): 108<sup>th</sup>-110<sup>th</sup> sessions*

The compromise of the “Gang of 14” came during the 109<sup>th</sup> session of Congress. Democrats killed President George W. Bush’s nominations of conservative appellate court judges by filibustering 10 of his nominees during the 108<sup>th</sup> session and threatening to filibuster

more (“‘Gang of 14’ Averts Judicial Shutdown”, 2006). Republicans had a 55-vote majority, and Senate Majority Leader Bill Frist (R-TN) threatened to use the “nuclear option,” or change the rules of the Senate to allow a simple majority to end debate on judicial nominations. Democrats in return threatened to shut down the Senate. As a solution to this partisan standoff, 14 Senators, seven Democrats and seven Republicans, created a truce by forming the “Gang of 14.” In this compromise, the Democrats agreed that they would not filibuster judicial nominations, except in the case of “extraordinary circumstances,” and Republicans would not take up the “nuclear option.” This was an important attempt by a bipartisan group to combine forces and avoid the gridlock produced by partisan conflict (Baker, 2015, p. 46). Had a similar gang been formed in 2013, Senate Majority Leader Harry Reid might not have abolished the filibuster, which created a precedent that Mitch McConnell would expand in 2017. The failure to compromise and refer to past examples of bipartisanship can have lasting consequences and contribute to further divide.

*21<sup>st</sup> Century Cures Act (2016): 113<sup>th</sup>-115<sup>th</sup> sessions*

The 21<sup>st</sup> Century Cures Act was signed into law by President Obama on December 13, 2016. It provided the National Institutes of Health with the resources to expand biomedical research, created more collaboration among government and private sector researchers, and allowed for faster drug approval (“History of Bipartisanship”, n.d.). It received 4 Democratic and 3 Republican cosponsors. Similar Senate bills were introduced with bipartisan cosponsors, and those bills were eventually replaced by the House bill (“Library of Congress”, n.d.). While health care legislation can be a very combative and partisan issue, the bill easily passed both chambers: 94-5 in the Senate and 392-26 in the House. Despite some progressive critics, among them being Bernie Sanders (I-VT) and Elizabeth Warren (D-MA), claiming that the bill gave too many concessions to pharmaceutical companies, President Obama praised the bill, stating that, “The

bipartisan passage of the 21<sup>st</sup> Century Cures Act is an example of the progress we can make when people from both parties work together to improve the health of our families, friends, and neighbors” (DeBonis, 2016). The changes made by the Cures Act have had real results as well. The Food and Drug Administration approved about a third more new drugs since 2017 than it did in the last two years of the Obama administration (Chamberlain, 2020). While the more partisan Affordable Care Act has faced many challenges since its passage, health care legislation can be lasting and effective, so long as it is the result of compromise and receives bipartisan support. Despite polarization being at an all-time high, important pieces of legislation and acts of bipartisanship can still find a way.

## **Methodology**

In order to assess how bipartisan cosponsorship in the Senate has changed within the context of increased party polarization in roll-call voting, I used legislation data from the GovTrack database. The database has complete information for all bills and resolutions that have been introduced from the 93<sup>rd</sup> session of Congress through the current session. I focused only on bills with one sponsor or cosponsor from each party that originated in the Senate and were signed into law. I also chose to concentrate on specific sessions of Congress in which important bipartisan achievements were made. As stated above, those bipartisan moments are as follows: The Endangered Species Act (1973), Social Security Reform (1983), Welfare Reform (1996), Gang of 14 (2005), and the 21<sup>st</sup> Century Cures Act (2016). In addition to isolating the sessions of Congress that contained the bipartisan achievements, I examined the session prior to and the

session immediately following each event.<sup>1</sup> This would indicate whether an important bipartisan event in a certain session would encourage senators to reach across the aisle and if it would have an effect on future cosponsorship.

Using the GovTrack database, I obtained data for the following sessions: 93-94 (Endangered Species Act), 97-99 (Social Security Reform), 103-105 (Welfare Reform), 108-110 (Gang of 14), 113-115 (21<sup>st</sup> Century Cures Act). For each of those sessions, I compiled a list of the enacted Senate bills that had at least a sponsor and cosponsor from each party and compared that to the total number of Senate bills that were enacted in that session. From this I was able to determine the percentage of enacted Senate bills that had bipartisan cosponsors.

In compiling and analyzing the data, I also found it useful to consider the party of the President in office, as well as the majority party in the House of Representatives and the Senate during that session. This information is helpful when considering the context in which a change in bipartisan cosponsorship is occurring, and could indicate whether or not divided or unified government has an effect.

## **Results**

Table 1 and Graph 1 present the percentage of enacted Senate bills that received bipartisan cosponsors for the sessions before, during, and after each bipartisan event. Graph 2 isolates the total number of enacted Senate bills during each session.

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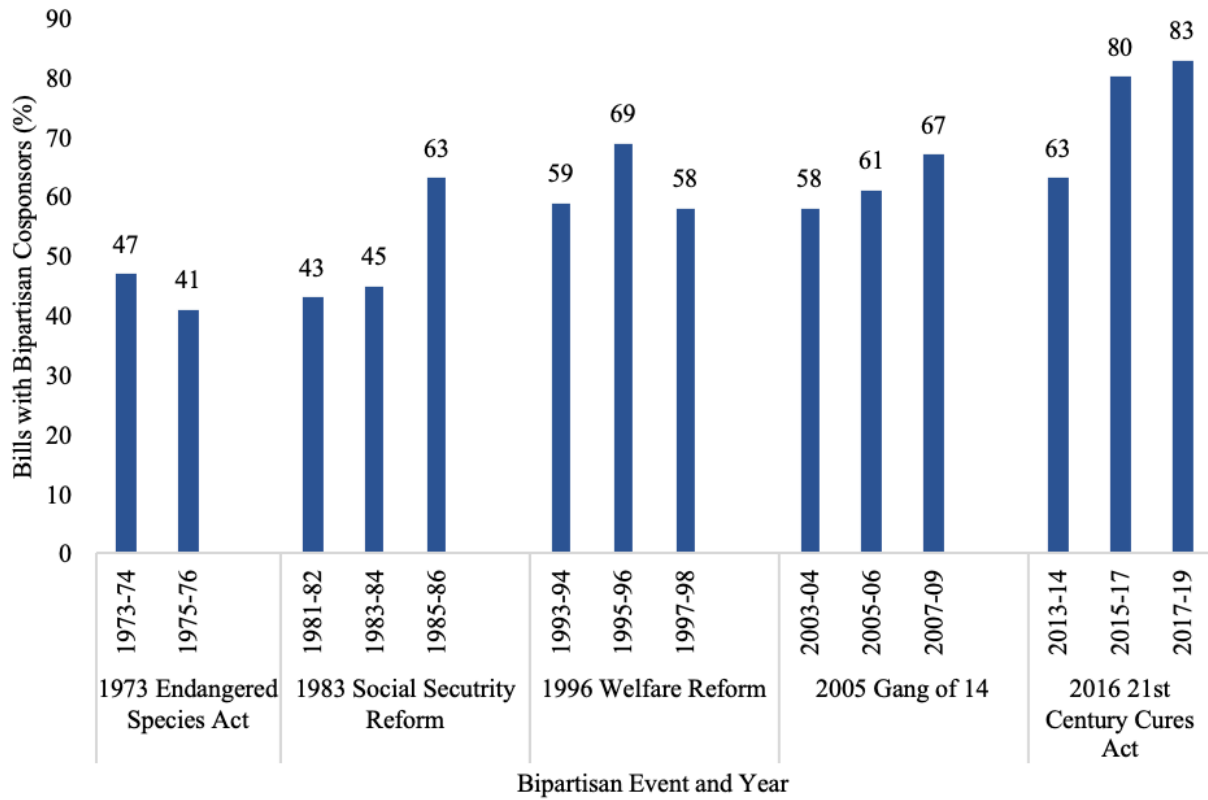
<sup>1</sup> The exception being the 92<sup>nd</sup> session, the session prior to the 1973 Endangered Species Act in the 93<sup>rd</sup> Congress, as GovTrack only provides complete cosponsorship information for bills back to 1973.

Table 1: Bipartisan Cosponsorship of Senate Bills

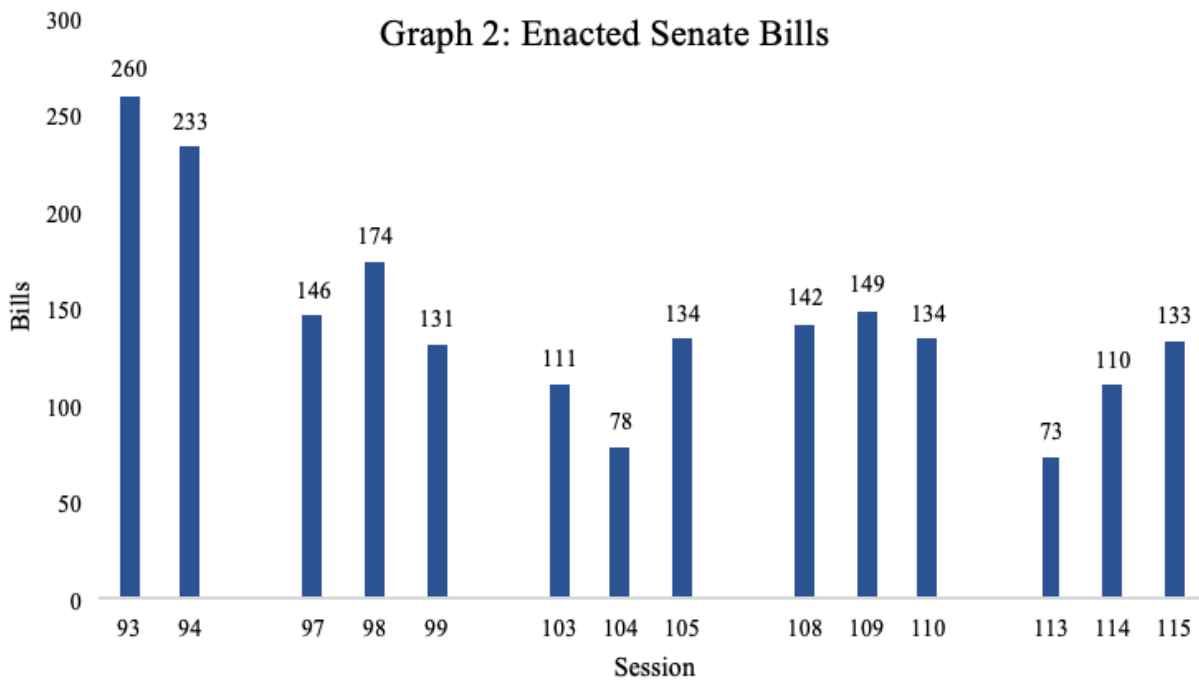
Event	Year	President	Congress	Enacted Senate Bills with Bipartisan Cosponsors	Total Bills Enacted	% of Bills with Bipartisan Cosponsors
1973 Endangered Species Act	1973-74	Nixon (R) Ford (R)	93rd (D)	122	260	47%
	1975-76	Ford (R)	94th (D)	92	223	41%
	1981-82	Reagan (R)	97th, House (D) Senate (R)	63	146	43%
1983 Social Security Reform	1983-84	Reagan (R)	98th, House (D) Senate (R)	78	174	45%
	1985-86	Reagan (R)	99th, House (D) Senate (R)	82	131	63%
	1993-94	Clinton (D)	103rd (D)	65	111	59%
1996 Welfare Reform	1995-96	Clinton (D)	104th (R)	54	78	69%
	1997-98	Clinton (D)	105th (R)	78	134	58%
2005 Gang of 14	2003-04	Bush (R)	108th (R)	83	142	58%
	2005-06	Bush (R)	109th (R)	91	149	61%
	2007-09	Bush (R)	110th (D)	90	134	67%
2016 21st Century Cures Act	2013-14	Obama (D)	113th, House (R) Senate (D)	46	73	63%
	2015-17	Obama (D)	114th (R)	88	110	80%
	2017-19	Trump (R)	115th (R)	111	133	83%



Graph 1: Bipartisan Cosponsorship of Senate Bills



Graph 2: Enacted Senate Bills



The bipartisan events that preceded an increase in the percent of bipartisan cosponsorship are the 1983 Social Security Reform in the 98<sup>th</sup> session, the 2005 Gang of 14 in the 109<sup>th</sup> session, and the 2016 21<sup>st</sup> Century Cures Act during the 114<sup>th</sup> session. From the 98<sup>th</sup> to the 99<sup>th</sup> session, there was a significant increase from 45% to 63%. Following the 109<sup>th</sup> and 115<sup>th</sup> sessions, there were smaller increases of 6% and 3%, respectively. The other two bipartisan events, the 1973 Endangered Species Act and 1996 Welfare Reform, were followed by decreases in bipartisan cosponsorship in the sessions following. There was a 6% decrease following the 93<sup>rd</sup> session and a 11% decrease following the 104<sup>th</sup>. The existence of a bipartisan event, like a major bill with bipartisan cosponsors or the formation of a bipartisan “gang”, does not always result in an increase in cosponsorship in the following sessions.

The selected sessions in which the bipartisan events occurred always had at least a slightly higher rate of bipartisan cosponsorship than the session before.<sup>2</sup> This could indicate that that session was slightly less partisan than the one before and resulted in more bipartisanship, or it could be following a trend of increased cosponsorship over time. A major bipartisan achievement during a session may foster more collaboration between partisan opponents during that session.

The presence of divided or unified government does not seem to have much of an effect on cosponsorship. While bipartisanship is thought to be more present in divided government (Trubowitz & Mellow, 2005, p. 445), the 115<sup>th</sup> session, during which there was unified government, saw the highest rate of bipartisan cosponsorship out of all sessions studied. There was an increase in bipartisan cosponsorship after the 103<sup>rd</sup> session, which marked the transition

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<sup>2</sup> With the exception of the 92<sup>nd</sup> session, for which there is incomplete data.

from unified to divided government during the Clinton presidency, but that was followed by a decrease in the 105<sup>th</sup> session as Republicans maintained control of Congress.

As the number of enacted bills with bipartisan cosponsorship has increased, the total number of bills passed has decreased. As seen in Graph 2, the decrease is not consistent and some sessions are not accounted for, but the selected sessions suggest a slight decrease over time. There were 260 Senate bills enacted in the 93<sup>rd</sup> session and 133 bills enacted in the 115<sup>th</sup> session. As the number of bills enacted has decreased, more of them are receiving bipartisan cosponsors. The study of bipartisan cosponsorship in the sessions before, during, and after the five bipartisan events suggests an overall increase the number of bills that receive bipartisan cosponsorship relative to the total number of bills passed.

## **Discussion**

Despite the apparent increase in political polarization, the number of enacted Senate bills with bipartisan cosponsors relative to the number of total Senate bills passed has increased, and may continue to do so. This upward trend in bipartisanship seems to be contrary to the narrative of political polarization. If the gap between the parties is increasing, why is it that 83% of Senate bills passed during the last session were bipartisan? How do we account for an increase in this act of hidden bipartisanship within the narrative of an increase in polarization?

It should be noted that the use of the word “bipartisan” does not always have to imply support of the majority of the two parties. It can be difficult to determine how exactly to gauge bipartisan support. It could mean a bill with one cosponsor from each party like the Maritime SAFE Act, or it could mean the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act with 84 cosponsors (Tauberer, 2018). One of a bill’s bipartisan

cosponsors may be one of only few members of that party to actually support it, although that would be contrary to what Baker (2015) suggests about a legislator's loyalty to their party and the party leader. Based on what Kessler and Krehbiel (1996) say about cosponsorship as mechanism of position-taking, even a bill with only one sponsor from each party sends a message to other legislators that their colleague believes this bill to be of bipartisan support. While the existence of only one cosponsor from each party does not imply overwhelming bipartisan support, it can still be an example of a bipartisan effort. Establishing a threshold of how many cosponsors is needed for a piece of legislation to be bipartisan would be purely arbitrary, so here, it signifies bills that have at least one sponsor or cosponsor from each party.

It is worthwhile to consider how this increase in the percentage of cosponsored bills fits in to the overall history of cosponsorship in Congress. Cosponsorship was first permitted in the Senate in the 1930s, but was not allowed in the House until 1967, when a resolution was introduced to allow 10 cosponsors per measure, a limit which was later expanded to 25 and removed entirely in 1978 (Campbell, 1982, p. 415; Wilson & Young, 1997, p. 26). It could be that as former House representatives were elected to the Senate, there were new cosponsorship norms to which they needed to become accustomed. This could explain the lower percentage of cosponsored bills in the 93<sup>rd</sup> session compared to the 115<sup>th</sup>. Once the limits on cosponsors were removed, it may have taken time for legislators to embrace it as a useful political tool.

Different levels of polarization in the Senate chamber may affect the number of bills that the Senate is able to pass. As the two parties have moved farther apart ideologically, legislators may have made a move to work together on modest, bipartisan legislation in the absence of more major, ideologically divisive bills. It could represent the Senate's effort to deliver some kind of legislation to the American people, no matter how moderate it may be. It may indicate that the

more partisan bills are not getting through, and if they are, they are likely not originating in the Senate. The increase seen may not be due to a compromise on key issues, but it could be a representation of how senators have been able to find minor or more moderate issues to address. A number of the bills may not even be moderate legislation, as nearly one-third of the laws passed by the 115<sup>th</sup> Congress were ceremonial in nature, meaning they awarded medals, designated special days, authorized commemorative coins, or memorialized a historic event (Desilver, 2019). The 115<sup>th</sup> session was the third Congress in a row in which the ceremonial share increased. While the increase in bipartisan cosponsorship may represent the Senate's achievement of moderate bipartisan legislation, the increasingly ceremonial nature of the bills passed must also be considered.

## **Conclusion**

While there has been a decrease in bipartisanship in roll call voting in the last few decades, the opposite is true of cosponsorship. Senators are still finding common ground and collaborating on important legislation to address the needs of the American people, but they are just doing it in a way that receives less attention. As polarization increases, cooperation still manages to find a way to exist in the form of bipartisan cosponsorship. Looking at politics through a lens of cosponsorship gives us a different picture of what is going on than what we see through the lens of partisan conflict.

As Richard Brookhiser (2009) argues, “parties exist for reasons—they express clashing ideas and interests in society”. Bipartisanship is important and necessary, but only if it is in the pursuit of the best ideas. A record of being moderate and cooperating with your partisan opponents may look good to voters on paper, but the substance of the bills behind that record

matters. Not everything can, or should, be bipartisan, but legislators still manage to find common areas of interest in order to address pressing issues.

Trubowitz and Mellow (2005) claim that bipartisanship may be abnormal, but it does occur (p. 435). I would argue that it is only abnormal when it pertains to major legislation or roll call voting. Bipartisan agreement on abortion, health-care reform, and gun control would certainly be abnormal, but senators build and maintain strong relationships with their partisan opponents that often leads to collaboration and cosponsorship. The perceived ideological divide is more significant in some areas than in others. Foreign policy is thought to generate more bipartisanship because of the number of ideological and interest conflicts that plague domestic policy (Trubowitz & Mellow, 2005, p. 447). Despite the conflicts that exist in domestic policy, there are still overlapping interests and policy goals that senators take advantage of. Every year, the National Taxpayers Union publishes a list of “No Brainers”, or legislation that has received bipartisan support and provides a solution to a real problem, not just naming a building or creating a commemorative coin. Things like the Financing Our Energy Future Act, which would allow renewable energy projects to have the same tax treatment as non-renewable energy projects, or the Taxpayers Right-To-Know Act, which would increase transparency in government by requiring federal agencies to disclose information about the cost and performance of the programs they administer (Aiello, 2019). So far, both of those proposals have bipartisan cosponsors yet neither have passed. None of the “no brainers” of the 116<sup>th</sup> session have passed yet, and only one was passed during the 115<sup>th</sup> session. Important bills that receive bipartisan cosponsors that should be easy to pass often times die in committee or are set aside to pursue a more partisan agenda. The percent of bipartisan cosponsored bills has increased, but more meaningful acts of cosponsorship are often lost in the sea of party polarization.

The findings of this research support the conclusion of Rippere's (2016) study of why bipartisan pairs of legislators collaborate through cosponsorship despite heightened polarization. The level of polarization varies depending on the type of legislative activity. The study of roll-call voting alone is not sufficient to gain an understanding of the level of bipartisanship today. A study of cosponsorship shows how a more hidden act of bipartisanship has managed to survive despite the apparent partisan warfare, and it provides more context to counter the narrative that bipartisanship is dead. It is an important aspect of bipartisanship to consider when assessing how polarized the two parties are.

It is important to note the limitations of this study of bipartisan cosponsorship. By focusing on a select number of sessions between the 93<sup>rd</sup> and 115<sup>th</sup> sessions of Congress, the rate of bipartisan cosponsorship in between the sessions of interest are not accounted for. There may be considerable increases or decreases in the rate of bipartisan cosponsorship during those periods that may shine a different light on bipartisanship and how it has changed over time. The study is also limited in that it focuses on enacted Senate bills rather than all bills introduced in the Senate. A narrow scope was helpful, as a majority of bills proposed in the Senate die before they reach the Senate floor (Wilson & Young, 1997, p. 31). Senators can choose to cosponsor a bill at any point during the bill's life cycle. Therefore, a focus on cosponsorship of only the bills that survive each stage may not paint the whole picture of bipartisan cooperation. However, it also may be that the rate of bipartisan cosponsorship would be lower in a study of total Senate bills introduced, as many bills die before ever receiving a cosponsor. Nevertheless, it is fair to conclude that an increase from 47% in the 93<sup>rd</sup> session to 83% in the 115<sup>th</sup> session represents a promising change in a certain kind of display of bipartisanship. A percentage increase of that magnitude cannot be dismissed easily.

This research is an attempt to expand the lens with which we use to examine party polarization and the state of bipartisanship. Bipartisanship varies depending on the kind of legislative activity, and this should be taken into account when considering the divide between the two parties. These findings suggest that bipartisanship is still very much alive in the form of cosponsorship, and it is a useful tool for legislators to overcome party polarization. Further study of bipartisan cosponsorship could expand the findings of this research by studying cosponsorship during each session beyond the focus of certain bipartisan events. This would allow us to understand the greater trend of bipartisan cosponsorship and how it has changed alongside party polarization.



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