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ARTICLE

UNDERSTANDING CONGRESSIONAL REFORM: LESSONS FROM THE SEVENTIES

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The effects of the procedural reforms that the House of Representatives enacted in the early 1970s might lend insight into the possible effects of the procedural changes enacted by the Republican Congress in 1995. While the reforms of the 1970s and 1995 are not similar in detail, both sets of changes increased the power of the majority leadership over its members. Professors Gely and Zardkoochi offer a model that considers the effects of 1970s institutional changes on the voting behavior of individual members of Congress. The authors argue that their model provides a useful framework with which to assess the possible implications of the 1995 reforms.

Over the last four decades, the House of Representatives has twice substantially changed its rules and procedures. The first round of changes occurred in the early 1970s.¹ They focused on diminishing the role of seniority in hierarchical promotions in the House, strengthening the role of party leadership in such promotions, and reducing the powers of committee chairs while at the same time increasing the powers of subcommittee chairs. The second round of changes happened immediately after the Republicans gained control of the House in January 1995.² The reforms of 1995 were similar to those of the early 1970s in spirit, although different in detail.³ Among the several rules in-

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¹ See *infra* notes 16–61 and accompanying text.

² In 1994, after 40 years as the minority party, the Republican Party, under the leadership of Rep. Newt Gingrich (R-Ga.), took control of the House. See Jon Healey, *Jubilant GOP Strives to Keep Legislative Feet on Ground*, 52 CONG. Q. WKLY. REP. 3210, 3210 (Nov. 12, 1994). Republicans had called for changes in the way the House in general, and the committee system in particular, operated for many years before taking over the House in November 1994. Once elected, but before taking office in January 1995, the Republican leaders gathered support for changing major aspects of House procedural rules. See Janet Hook, *New Congress Poised to Turn Tradition on Its Head*, 52 CONG. Q. WKLY. REP. 3591, 3592 (Dec. 31, 1994).

³ In addition to the policy changes that Republicans had promised to introduce if they held the majority, they also promised to incorporate a number of significant changes in the rules that control the inner workings of the House. See Healey, *supra* note 2, at 3211. The proposed rules changes would affect the committee system, term limits, floor procedures, and various other administrative functions of the House. See *Rules Changes Open the Process . . . But Strengthen the Reins of Power*, 53 CONG. Q. WKLY.

troduced were a reduction in the number of committees and subcommittees and the imposition of term limits for committee and subcommittee chairs and the Speaker.⁴

An important similarity between the two sets of reforms is the increase in the power of majority party leadership over its members. The reforms of the early 1970s reduced the role of seniority in promotional decisions and increased the role of party leadership.⁵ They also substantially increased the number of subcommittees and eliminated multiple chairmanship of subcommittees so that there could be a greater number of junior representatives eligible for chairmanship than ever before.⁶ Similarly, the 1995

REP. 13, 14–15 (Jan. 7, 1995) [hereinafter *Reins of Power*]. With respect to floor procedures, the new rules establish a requirement for a three-fifths majority of voting members to pass any bill, amendment, or conference report containing an increase in income tax rates, prevent the enactment of retroactive tax increases and the consideration of commemorative legislation, and require roll call votes for certain appropriations bills. *See id.* at 15. In terms of administrative House functions, the rules eliminate the Office of the Doorkeeper and create the new position of Chief Administrative Officer. *See id.* The Republicans introduced some major initiatives with respect to the workings of the committee system. Various committees were abolished and their jurisdictions divided among remaining committees. Three committees suffered this fate: District of Columbia, Merchant, Marine and Fisheries, and Post Office and Civil Service. *See id.* at 14. The new rules limit the number of staff that both committees and subcommittees can hire, and centralize the hiring of staff in the hands of the committee chairs. *See id.* The rules impose various procedural limitations, such as prohibiting proxy voting—the practice of allowing a committee chair or other designee to cast an absent member's vote in committee. *See id.* The rules also prohibit the practice of rolling quorums, by which committee chairs were able to hold open a vote in committee indefinitely, allowing members to show up at their convenience to vote. *See id.* Finally, the rules require committee and subcommittee meetings to be open to the public, except when an open meeting would endanger national security, compromise sensitive information, or possibly degrade, defame, or incriminate any person. *See id.*

⁴ Under the new rules, with three exceptions, no committee is allowed more than five subcommittees. The three exceptions are: Appropriations, which is allowed 13 subcommittees, Government Reform and Oversight, with seven subcommittees, and Transportation and Infrastructure, with six subcommittees. *See Reins of Power, supra* note 3. This rule is interesting for two reasons. First, this recent change allegedly aims to decentralize and streamline the committee structure, which Republican leaders argued had become bloated over the past two decades. Paradoxically, the problem to which Republicans responded originated with the rules changes of the early 1970s, enacted under pressure from freshman Democrats seeking to decentralize committee power. In 1974, the House adopted a rule requiring that any committee with more than 20 members have at least 4 subcommittees. Second, the rules enacted and supported by the new class of freshman Republicans appear to undermine the self-interest of these junior members, as well as the interests of the Republican leaders. By limiting the number of subcommittees, the rule limits the number of chair positions available for distribution among committee members. The allocation of committee and subcommittee chairs has been used since the 1970s as a control and reward mechanism by party leaders in the House. To the extent that fewer of these positions are available, the leaders lose some leverage over the individual representatives, while the junior representatives face reduced opportunities to become chairs.

⁵ *See infra* notes 31–61 and accompanying text.

⁶ *See id.*

reforms were clearly designed to centralize power in the Speaker to implement the Republican's Contract With America agenda.⁷ Although the numbers of subcommittees and committees were reduced, the introduction of term limits (a three-term maximum) for the chairs is expected to increase the opportunity for junior members to become chairs sooner and more frequently.⁸

For the purposes of this Article, an important implication of the two sets of reforms is that party leadership has become a more binding constraint on a representative's promotional ambitions.⁹

⁷ The new rules were part of a larger plan crafted by Speaker Gingrich to centralize power in the Republican leadership of the House. See David S. Cloud, *Shakeup Time*, 53 CONG. Q. WKLY. REP. 9, 9-10 (Supp. Mar. 25, 1995) [hereinafter *Shakeup*]. The purpose of the plan was to facilitate enactment of the Republicans' legislative agenda, described as their "Contract With America." The Contract With America included 10 major policy items which the Republicans promised to bring for a vote during the first 100 days of the 104th Congress. See *Republicans' Initial Promise: 100-Day Debate on 'Contract'*, 52 CONG. Q. WKLY. REP. 3216, 3216 (Nov. 12, 1994).

⁸ On the one hand, these rules, in conjunction with the term limits rule, should accelerate the rate at which chairs turn over, creating more opportunities for junior members to ascend to power sooner in their careers. On the other hand, limiting the number of subcommittees and limiting congressional staff should create an immediate incentive problem, as it makes it more difficult to place junior representatives in positions of power immediately or to reward them with more resources. Which of these effects will dominate is clearly an open question.

⁹ These developments beg the question of what substitute form of control the Republican leadership uses to maintain party unity. The answer seems to be threefold: the imposition of term limits for committee and subcommittee chairs, the Contract With America, and Speaker Gingrich himself.

A major component of the rule changes was the imposition of term limits for committee and subcommittee chairs. Under the new rules, committee and subcommittee chairs may hold their positions for no more than three consecutive terms. See *Reins of Power*, *supra* note 3, at 15. Such term limits could potentially balance the rule limiting the number of subcommittees. Although the leadership will not have as many subcommittees to distribute among loyal followers, those positions that exist will be up for allocation more frequently. See David S. Cloud, *GOP, to Its Own Delight, Enacts House Rules Changes*, 53 CONG. Q. WKLY. REP. 13, 13 (Jan. 7, 1995).

A second lever of control used by Republican leaders has been the Contract With America. As one observer has commented:

During the first 100 days, a preprinted program could tell you not only who the players were in Congress, but what they were doing. All you had to do was follow the House Republicans' campaign manifesto known as the "Contract With America." It accurately scripted the House agenda and likely outcome.

Jeffrey L. Katz, *GOP Faces Unknown Terrain Without 'Contract' Map*, 53 CONG. Q. WKLY. REP. 979, 979 (Apr. 8, 1995) [hereinafter *Unknown Terrain*]. By committing Republican candidates to a simple "contract," the Republican leadership in Congress was able to control not only the agenda of the first 100 days, but also the behavior of party members. See Carrol J. Doherty, *Time and Tax Cuts Will Test GOP Freshman Solidarity*, 53 CONG. Q. WKLY. REP. 915, 916 (Apr. 1, 1995).

Finally, the figure of the Speaker and the party leadership became mechanisms of control. Committee chairs were put on notice that, at least during the first 100 days, the leadership would exercise complete control and demand complete loyalty. See *Shakeup*, *supra* note 7, at 9. Speaker Gingrich himself made it clear that he intended

The purpose of this Article is to examine voting behavior of representatives when faced with dual constraints (constituents back home and the leadership) as compared to one constraint (constituents back home).¹⁰ An ambitious goal of the study would have been to examine the effects of both sets of reforms. However, there are two reasons for not using the 1995 reforms in our empirical examinations. First, not enough time has passed to fully observe the effect of term limits on voting behavior.¹¹ Second, and more importantly, the leadership, whose power it was to impose a constraint on a representative's promotional opportunities, lost power (due to ethical issues surrounding the Speaker) soon after implementing the reforms.¹²

to keep tight control over the work of the committees by hand-picking the chairs of three major subcommittees, disregarding seniority, and using his conservative ideology as the criterion of selection. *See id.* at 10. The three committees were Appropriations, Energy and Commerce, and the Judiciary. *See* Karen Foerstel, *Gingrich Flexes His Powers in Picking Panel Chiefs*, 52 CONG. Q. WKLY. REP. 3326, 3326 (Nov. 19, 1994). In making appointments to coveted committees, the Speaker and the party leadership sought to reward freshmen members, especially those they believed electorally vulnerable in the next round of elections. Several seats on the Appropriations Committee were given to freshmen from traditionally Democratic districts who were expected to face tough races. For example, George Nethercutt (R-Wash.), who had beaten former House Speaker Thomas Foley, was appointed to the Appropriations Committee. *See* Jonathan D. Salant, *New Chairmen Swing to Right; Freshmen Get Choice Posts*, 52 CONG. Q. WKLY. REP. 3493, 3494 (Dec. 10, 1994). The message clearly resonated with Rep. Roger Wicker (R-Miss.), who won a congressional seat that had been occupied by a Democrat for over fifty years and who was appointed to the coveted Appropriations Committee: "My selection to the Appropriations Committee makes a statement to other Southern districts where Democrats are in office that we need not fear losing all our influence by voting for a conservative Republican." *Id.*

¹⁰ *See infra* notes 16–30 and accompanying text.

¹¹ There is no clear consensus about the implications of the recent changes. While the impact of some of the new rules was immediately felt (e.g., the rule preventing voting by proxy in committees), the effects of other rules have yet to be felt (e.g., the imposition of term limits on committee and subcommittee chairs). Even though three years have passed since the enactment of these rules, it is still too early to conduct an empirical evaluation of their ramifications. Because the changes mirror those of the 1970s to an astonishing extent, we can survey that earlier period to help gauge the likely effects of the more recent revolution. This Article attempts this by developing and empirically testing a framework for congressional voting behavior that focuses on the context of the individual representative's congressional career.

¹² By most accounts, the efforts of the Speaker, at least initially, were highly successful. *See* Janet Hook, *Republicans Vote in Lock Step, But Unity May Not Last Long*, 53 CONG. Q. WKLY. REP. 495, 495 (Feb. 18, 1995). The Republican majority kept very close ranks during the first 100 days of the 104th Congress. *See Unknown Terrain*, *supra* note 9, at 979. The Speaker was able to control voting behavior of party members, as well as the agenda of committee chairs. The House leadership was also able to elicit specific outcomes from the committees, despite initial opposition by some committee chairs. Shortly after becoming House Speaker, however, Rep. Gingrich faced disciplinary hearings over ethical violations that have rendered him highly ineffective. *See* Jennifer Babson, *Ethics Reviews GOPAC*, 52 CONG. Q. WKLY. REP. 3323, 3323 (Nov. 19, 1994) (describing the investigation by the House Ethics Committee into the activities of the political action group headed by the Speaker).

Part I presents a theoretical framework that identifies voting behavior in the form of investment. The role of tenure and the changes in the rules of the House during the early 1970s are explained and specific investment hypotheses derived. Part II presents the empirical test of our theoretical framework. Part III discusses the implications of our findings with respect to the recent rules changes.

I. THEORETICAL FRAMEWORK

While the two major reforms of the House rules were separated by over two decades, they both raise a very similar analytical issue: the effect on the representative's voting behavior of the constraints imposed simultaneously by the constituents back home and party leaders in Congress.¹³ Political scientists

¹³ Of course, numerous other aspects of congressional voting have been identified in the political science literature on congressional voting behavior. For example, it is well established that the length of service in Congress is an important determinant of voting behavior. See generally RICHARD F. FENNO, JR., *HOME STYLE: HOUSE MEMBERS IN THEIR DISTRICTS* (1978) (arguing that seniority in Congress influences the various "home styles" of members). It has also been argued that newly elected representatives have different concerns and priorities than their more senior colleagues. The differences are reflected in their use of resources, their home styles, and their voting behavior. See Jon R. Bond, *Dimensions of District Attention Over Time*, 29 AM. J. POL. SCI. 330, 334 (1985) (arguing that senior members of Congress pay less attention to their districts than junior members); Albert D. Cover, *Contacting Congressional Constituents: Some Patterns of Perquisite Use*, 24 AM. J. POL. SCI. 125, 129-30 (1980) (finding that senior members of Congress are less likely than junior members to send mass mailings to their constituencies). An intriguing dimension of the years-of-service literature is the so-called "last period" problem. See generally David N. Figlio, *The Effect of Retirement on Political Shirking: Evidence from Congressional Voting*, 23 PUB. FIN. Q. 226 (1995); James R. VanBeek, *Does the Decision to Retire Increase the Amount of Political Shirking?*, 19 PUB. FIN. Q. 444 (1991) (arguing that removing threat of re-election does not affect how congressmen vote whenever they do vote); Mark A. Zupan, *The Last Period Problem in Politics: Do Congressional Representatives Not Subject to a Reelection Constraint Alter Their Voting Behavior?*, 65 PUB. CHOICE 167 (1990) (arguing that retiring House members shirk their constituents' interests more after deciding to retire, but their amount of shirking does not vary widely from the amount of shirking undertaken by the average nonretirer). Do members of Congress who have no intention to run for re-election change their voting behavior in their last term because they are no longer subject to a re-election constraint? The last period problem indicates that an important dimension of the representative's voting behavior is his or her congressional career. If voting behavior changes in the representative's last period in Congress, might similar changes occur at other points in the representative's career? If so, what factors trigger those changes?

Another issue analyzed in the literature on congressional voting patterns is the effect of safety margins on voting behavior. Safety margins are a measure of how secure the incumbent is against an election challenge. See Gary C. Jacobson, *Deficit-Cutting Politics and Congressional Elections*, 108 POL. SCI. Q. 375, 382, 399 (1993) (explaining congressional votes on deficit reduction bills on the basis of safety margins) [hereinafter *Deficit Politics*]; see also Gary C. Jacobson, *Running Scared: Elections*

have noted that there exists a potential conflict between constituency and party.¹⁴ In particular, it has been argued that members of Congress sometimes face conflicts when forced to decide issues in which the preferences of their constituents and their leaders differ.¹⁵ A relatively unexplored aspect of the multiple constraints problem is the effect that different constraints have at different periods in a legislator's career. Prior research has assumed that the constraints placed on the legislator have similar effects throughout.¹⁶ In this Article, we argue that the effect that constituents and party leaders play in the legislator's voting calculus varies over time.

In this Section, we develop a theory of congressional voting behavior through a model of investment that characterizes voting behavior longitudinally. The expected return on the legislator's investment accrues in the form of advancement within the congressional hierarchy. A higher position is expected to result in benefits for the legislator and her constituency. We treat tenure as a non-linear factor disjointed at two important points of time in a representative's career. We examine the effects of safety margins and multiple constraints on voting behavior during the three distinct periods in a representative's career.

and Congressional Politics in the 1980s, in CONGRESS: STRUCTURE AND POLICY 39, 55 (Mathew D. McCubbins & Terry Sullivan eds., 1987) (explaining that campaign spending is influenced by subjective electoral safety margins) [hereinafter Jacobson, *Running Scared*]; THOMAS E. MANN, UNSAFE AT ANY MARGIN: INTERPRETING CONGRESSIONAL ELECTIONS 102-03 (1978) (arguing that worst-case scenarios give incumbents insecure sense that their seats are unsafe at any electoral margin). While there is dispute as to whether there is safety at any margin, a relationship seems to exist between voting behavior and the constituency's interests. An aspect of the question of safety margins that remains mostly unexplored is the interaction between safety margins and years of service. While there has been some attention to the effect of increased tenure on safety margins, see generally John R. Alford & John R. Hibbing, *Increased Incumbency Advantage in the House*, 43 J. POL. 1042 (1981) (arguing that the relatively uniform increase in incumbency advantage across tenure levels, as well as the sudden mid-1960s shift in advantage, is inexplicable), little or no attention has been given to the effect of safety margins at different periods in the representative's career.

¹⁴ See JOHN W. KINGDON, CONGRESSMEN'S VOTING DECISIONS 117 (2d ed. 1981).

¹⁵ See *id.* at 116-18. Kingdon shows that different groups of legislators handle this conflict in different ways. He concludes that Northern Democrats, for instance, tend to vote overwhelmingly with their constituencies and against the party leadership, while Southern Democrats split quite evenly between voting with their constituencies and with their committee chairman. See *id.* at 118.

¹⁶ See, e.g., *id.*

A. *The Players*

In a recent article on the politics of deficit-cutting, Professor Gary Jacobson characterizes the legislator's decision as influenced by both the voters' ratings of the legislator's performance and the preferences of her party leaders.¹⁷ Following Professor Jacobson's basic proposal, we model the behavior of a legislator as influenced by two distinct constraints, one external to Congress and one internal. The external constraint is the legislator's constituency back home. Research has traditionally established that legislators are expected to maximize the probability of re-election through their voting behavior by considering the wishes of their constituents.¹⁸

The legislator's internal constraint is her party leadership in Congress. The reason we model leaders as a constraint derives from the hierarchical structure of Congress. Party leaders are in a position of power in at least two respects. First, the support of party leaders is likely needed for the passage of legislation.¹⁹ Second, party leaders can sanction dissident members, by influencing the committee assignment process.²⁰ To the extent that committee assignments and legislation have value to an individual legislator, the positions party leaders take on various bills impose a constraint on the voting behavior of the legislator.

It is this trichotomy of interests, those of the leaders, the constituency, and the legislator, that motivates the investment framework. We define an "investment vote" as one which the legislator casts in favor of the party leadership position on an issue when it is against the immediate interest (but not necessarily the long-run interest) of the constituency. We define a "reverse investment vote" as one which the legislator casts in favor of the constituency when it is against the position of the leadership. When the interests of the leaders and the constituency are in tandem, the legislator is expected to vote in favor of those interests and no investment or reverse investment occurs.

¹⁷ See *Deficit Politics*, *supra* note 13, at 377.

¹⁸ See generally JAMES M. BUCHANAN & GORDON TULLOCK, *THE CALCULUS OF CONSENT* (1962) (arguing that in an economic theory of constitutions, any single individual might be able to adopt rules for collective decision-making that would satisfy his own interest).

¹⁹ See David C. Coker & Mark W. Crain, *Legislative Committees as Loyalty-Generating Institutions*, 81 *PUB. CHOICE* 195, 199 (1994).

²⁰ See KINGDON, *supra* note 14.

What motivates an investment vote? If a legislator votes with the leadership, that legislator gains the support of the leaders, and thus enhances certain aspects of her political career. On the other hand such behavior might risk alienating the legislator's constituency, whose support is necessary for re-election.

Traditionally, situations characterized by these conflicts of interest have been explained using the concept of shirking, or consumption, on the part of the legislator.²¹ That is, the legislator is seen as deviating from the constituency's interests and voting instead to satisfy his or her own ideology.²² The concept of investment, however, implies that when the interests of leaders and constituents are in conflict, there is an optimal strategy that the legislator can follow to maximize total support from both groups.

This optimal strategy depends foremost on the constituents' electoral considerations.²³ Professor Jacobson identifies five decision rules that voters use in deciding which candidate to support in congressional elections.²⁴ According to Professor Jacobson, voters may decide on the basis of the political parties' positions on policy issues; the candidates' positions on policy issues; the president's party's performance in office; the incumbent's performance in office; and Congress's performance.²⁵ The incumbent's performance criterion is based on the idea that voters choose between candidates by deciding whether the incumbent must be rewarded or punished for his or her contribution to outcomes.²⁶ Aware of this criterion, legislators normally try to communicate to their constituents both their position or seniority within the congressional hierarchy and the resulting benefits that constituents derive from their member's status in Congress.²⁷ A portion of a speech by a senior representative participating in Professor Fenno's home style study is illustrative: "I have represented this district for the last twenty years. And I come to

²¹ See Joseph P. Kalt & Mark A. Zupan, *The Apparent Ideological Behavior of Legislators: Testing for Principal Agent Slack in Political Institutions*, 33 J.L. & ECON. 103, 105 (1990); Joseph P. Kalt & Mark A. Zupan, *Capture and Ideology in the Economic Theory of Politics*, 74 AM. ECON. REV. 279, 282-84 (1984) [hereinafter Kalt & Zupan, *Capture and Ideology*].

²² See Kalt & Zupan, *Capture and Ideology*, *supra* note 21, at 282.

²³ See *Deficit Politics*, *supra* note 13, at 376.

²⁴ See *id.* at 376-77.

²⁵ See *id.* See also R. DOUGLAS ARNOLD, *THE LOGIC OF CONGRESSIONAL ACTION* 44 (1990).

²⁶ See ARNOLD, *supra* note 25, at 44.

²⁷ See FENNO *supra* note 13, at 137-38.

you to ask for a two-year renewal of my contract. I'm running because *I have a twenty-year investment* in my job and because *I think you, as my constituents, have an investment in my seniority.*"²⁸

The assertion that voters evaluate an incumbent's performance in part by considering his or her congressional status,²⁹ suggests that voters are willing to trade off an investment vote cast by their representative for an expected marginal gain associated with the representative's power in Congress. A rational constituent (with a relatively low discount rate) would understand that if the representative voted against the constituent's immediate interests, the legislator might be making an investment with the party leadership. The investment is expected to accrue otherwise unavailable benefits in the future. In other words, the constituent might like the legislator to cast investment votes for a period of time if that facilitates promotion to a committee important to the constituent's interests.³⁰ Whether an investment vote is cast, however, depends on the factors affecting the market (demand and supply) for such a vote.

B. *The Market for Investment Votes*

In this section we discuss factors that affect the supply of and the demand for investment voting, in other words, the investment voting market. We describe the development of that market, and identify the three factors we expect to affect the supply of and demand for investment votes: tenure, safety margins, and the representative's political ideology relative to the party leadership. We show that major reforms in Congress between the late 1960s and the early 1970s created a supply of and a demand for investment votes. Below we discuss these reforms and then examine their effect on investment voting behavior.

1. The 1970s Reforms

As a group the reforms were intended to: (1) diminish the role of seniority in obtaining promotions; (2) strengthen the role of

²⁸ *Id.* at 138 (emphasis added).

²⁹ See ARNOLD, *supra* note 25, at 45–46.

³⁰ As discussed immediately below, tenure in Congress affects the extent and the timing of a legislator's investment. See *infra* notes 31–61 and accompanying text.

the party leadership; and (3) reduce the powers of committee chairmen and increase the power of subcommittee chairmen.³¹

a. *The changing role of seniority* In 1970, the Democratic Caucus Committee on Organization, Study and Review (the Hansen committee) substantially changed the rules concerning the seniority system.³² It was established that upon demand from ten members the Caucus had to vote on the appointment of any committee chairman.³³ This rule allowed the members of the Democratic party, for the first time, to circumvent the seniority system in the appointment of chairs to the standing committees.³⁴

b. *The changing role of party leadership.* Party leadership was strengthened through changes in control over policy matters. For example, in 1973, the House Democratic Steering and Policy Committee was created to serve as “a leadership forum for considering and pushing party policy positions” and made recommendations regarding legislative priorities and scheduling of matters for House or Caucus action.³⁵ The composition of the twenty-four member Steering Committee included twelve members elected by all Democratic representatives; the other twelve members included the three elected party leaders (Speaker, majority leader, and Caucus chair), the majority whip, four deputy whips, and four others appointed by the Speaker.³⁶ Thus, half of the votes in the powerful Steering Committee were controlled by the Speaker and his appointees.

A second important reform concerning the party leadership relates to the authority of the Rules Committee. The reforms concerning the Rules Committee were twofold.³⁷ First, the reforms allowed the Speaker to bypass the Rules Committee, if the Committee refused to grant a rule within twenty-one days from the date the bill was favorably reported out of the originating

³¹ See David W. Rohde, *Committee Reform in the House of Representatives and the Subcommittee Bill of Rights*, 411 ANNALS AM. ACAD. POL. & SOC. SCI. 39, 42, 47 (1974).

³² See *id.* at 42.

³³ See *id.*

³⁴ In 1973, reformers proposed the requirement of an automatic vote for each committee chair. This proposal was rejected, and in its place a 20% rule was adopted, under which a secret ballot vote was required if 20% of the Caucus members demanded it. See *id.* at 43.

³⁵ See STEVEN S. SMITH & CHRISTOPHER J. DEERING, *COMMITTEES IN CONGRESS* 45-47 (1984).

³⁶ See LEROY N. RIESELBACH, *CONGRESSIONAL REFORM IN THE SEVENTIES* 56 (1977).

³⁷ See Rohde, *supra* note 31, at 40.

committee.³⁸ Second, the membership of the Rules Committee was enlarged from twelve to fifteen members in order to obtain a reform-favoring majority.³⁹ Also, the Speaker was given the right, with the approval of the Caucus, to appoint the Chairman and the members (from his own party) of the Rules Committee.⁴⁰

Although the question of the effectiveness of these reforms has been the subject of considerable debate,⁴¹ it is clear that the reforms influenced several determinants of the legislators' voting behavior.⁴² The reforms then broke the monopoly power that the committee chairs had over policy matters and distributed this power among party leadership and subcommittee chairs, who were generally more junior members of Congress.⁴³

c. The changing role of subcommittee chairs. As part of the Hansen committee report, reforms also increased the power of subcommittee chairs. First, the report recommended that the number of subcommittee chairs a member could hold be limited to one.⁴⁴ The immediate effect of this rule was to hand subcommittee chair positions to relatively junior representatives who otherwise would have had to wait several years before acquiring such positions.⁴⁵

In 1973, the Democratic Caucus approved the Subcommittee Bill of Rights.⁴⁶ The Bill of Rights introduced several major changes. First, the limits of subcommittee jurisdiction were identified and fixed, and legislation was required to be referred to

³⁸ See *id.*

³⁹ See *id.*

⁴⁰ See SMITH & DEERING, *supra* note 35, at 47, 92.

⁴¹ See generally RIESELBACH, *supra* note 36 (arguing that the reforms advanced neither a useful mix of a responsible and responsive Congress nor a balance between the needs for deliberation and decisiveness).

⁴² For example, Professor Rohde argues:

Clearly, by making committee chairmen dependent for their position on the acquiescence of the Caucus and by affording protections in Caucus and committee rules for subcommittee chairmen and committee members, the powers of the committee chairmen have been reduced. Again, the potential for stronger influence by the Democratic leadership appears to have been created. If the leadership desires a particular outcome, the committee chairmen are less capable of blocking it, and the newly strengthened subcommittee chairmen would seem less likely to resist.

Rohde, *supra* note 31, at 47.

⁴³ The powers of the committee chairmen had already been modified in the Legislative Reorganization Act of 1970. The Act made committee affairs more open to the public by allowing, among other things, public broadcasts of committee hearings and by requiring that roll calls in committee be made public. See Rohde, *supra* note 31, at 41.

⁴⁴ See *id.* at 42.

⁴⁵ See *id.*

⁴⁶ See *id.* at 44.

the appropriate subcommittee within two weeks from the date the legislation was referred to the committee.⁴⁷ This rule sought to prevent the chair from unilaterally deciding which subcommittee would work on a given bill. Second, the Bill of Rights authorized subcommittees to hold hearings, receive evidence, and have an adequate budget and staff.⁴⁸ Finally, the bill reformed the bidding process for subcommittee chairs, making it more responsive to the committee caucuses.⁴⁹

These reforms effectively created a market for the exchange of political power. By diminishing the pervasiveness of the seniority system, and thus making committee and subcommittee chairs open to electoral challenge, and by giving the leadership appointment and agenda powers, the reforms motivated members who wished to obtain benefits through the leadership to endow party leaders in Congress with a supply of investment votes. The reforms also created a demand for investment votes on the part of the leadership. Given that power was distributed to a relatively large number of less senior members, successful policy changes could require the support of these junior members. Below we demonstrate how the reforms created a supply of and a demand for investment votes.

2. Supply Factors

The change in the seniority system induced by the reforms was an important aspect of the supply effect. Although representatives still had to appeal to their constituents to get re-elected, they could no longer rely solely on seniority as a consideration for promotion to higher positions in Congress. Instead, legislators had to appeal to a new constraint, the congressional leadership. We assert that the evolution of leadership as an important constraint created a trade-off for some representatives. Representatives whose constituents had views different from those of the leadership had to trade one set of benefits—those anticipated to be obtained from the leadership—for another set of benefits—those anticipated to be obtained from the constituents. Thus, after the reforms of the late 1960s and early 1970s, repre-

⁴⁷ *See id.* An exception to the two-week rule occurred when a majority of Democratic members of the committee voted to consider a measure in the full committee.

⁴⁸ *See id.*

⁴⁹ *See id.*

representatives who faced constituents with different preferences than those of the party were in a position to participate in the market for investment votes. The political preferences of the constituents relative to the party leaders became a factor to which representatives had to pay attention when casting their votes.

In addition to the importance that constituent preferences relative to those of the leadership obtained in the post-reform period, we assert that a major intervening determinant of the occurrence of investment and reverse investment is the representative's tenure. Tenure, we argue, affects the legislator's voting behavior by affecting the cost of, or the risk associated with, casting an investment vote, i.e., disagreeing with the constituency. This may imply that tenure influences the timing of investment behavior.

A newly elected representative might be at a higher risk of losing her re-election than a representative who has been in Congress for several years. This derives from two related factors. First, the legislator's ability to obtain electoral resources increases with more tenure. Second, establishing credibility takes time. We expect that when a newly elected representative votes against her constituency, her constituents might not perceive such a vote as an investment. Moreover, newly elected representatives are not in an immediate position to be promoted to an important committee, even if they vote in favor of leadership and against the interest of their constituents. Once these junior legislators establish credibility with their constituency, however, a vote against the immediate interest of the constituency is more likely to be perceived as an investment vote. This analysis suggests that the supply of investment votes is not expected from "junior" representatives.

At the other end of the tenure line are legislators who have served in Congress for a relatively long period of time. Unlike their more junior counterparts, we should expect that senior members are somewhat more secure in their chances for re-election.⁵⁰ There might be several reasons for this. First, most senior legislators have already achieved positions of power.⁵¹ To the

⁵⁰ For example, research shows that for the period 1948–1978, the average proportion of the votes cast in favor of non-Southern House incumbents increased with tenure, although at a diminishing rate. See Alford & Hibbing, *supra* note 13, at 1046–47.

⁵¹ For example, in 1974, about 86% of the Democrats in the House with at least 18 years of experience (56 in total) had achieved positions of chairman. Of these, 33% chaired committees and 53% chaired subcommittees. These figures were calculated

extent that voters value this trait, they will be more likely to support the candidate. Second, senior members in positions of power enjoy the full advantages of incumbency: ability to raise money, access to the media, and use of congressional resources.⁵² The advantages of incumbency can scare off strong challengers, further reassuring the likelihood of winning for the senior incumbent.⁵³

While senior members are, on average, less likely than junior legislators to be defeated in their quest for re-election, there is little incentive for them to supply investment votes. These senior members are likely to be either leaders themselves, or hold positions in the congressional hierarchy important to their constituents.⁵⁴ This implies that the leadership constraint is no longer binding; the only constraint facing the senior members is their constituency.

There are the representatives, however, who are neither junior nor senior. It is this group of legislators that has the strongest incentive to supply investment votes. These legislators have enough tenure to have established a credible reputation with their constituents and therefore are not at as great a risk of losing a re-election campaign as a result of casting an investment vote as their junior counterparts. This group of representatives is most likely to benefit from investment votes, as they are on the margin of being chosen by the present leadership to chair subcommittee positions. They simply have the most to gain from investment behavior.

Viewed from the leadership position, our theory seems to suggest that these members have vacillating loyalties. In other words, it might appear that party leaders are being "fooled" by members who vote with the leadership only when it is time for promotion. Ideally, party leaders would prefer total loyalty from party members.⁵⁵ A legislator who decides to vote against the party leaders' preferences might risk political alienation.⁵⁶

using data from CONGRESSIONAL QUARTERLY INC., MEMBERS OF CONGRESS SINCE 1789 (2d ed. 1981) [hereinafter MEMBERS].

⁵² See generally Jacobson, *Running Scared*, *supra* note 13, at 54–55 (explaining how incumbents utilize their office to conduct a perpetual campaign).

⁵³ See *id.* at 55.

⁵⁴ See, e.g., SMITH & DEERING, *supra* note 35, at 172 (stating that seniority is still the primary determinant of accession to a committee or subcommittee leadership position).

⁵⁵ See Jacobson, *Running Scared*, *supra* note 13, at 73–76.

⁵⁶ See *id.*

Party leaders, however, also operate in a constrained environment.⁵⁷ For example, liberal party leaders who demand complete loyalty from legislators who represent more conservative districts might risk losing the district to the opposing party.⁵⁸ Party leaders' demand for loyalty from party members is constrained by the political preferences of the members' constituents. Our theory suggests that party leaders recognize that it is only during the middle years of legislative careers that they might be able to command the loyalty of these members.

A moderating factor that affects the supply of investment votes is the legislator's margin of re-election safety.⁵⁹ A legislator's willingness to cast an investment vote is constrained by his or her chances of re-election. Since an investment vote represents a vote against the immediate interest of the constituents, a legislator with a narrow margin of safety might be less likely to cast such a vote.⁶⁰

While the safety margin has been incorporated in prior research on congressional voting, little attention has been paid to the interaction of safety and tenure. We believe that while safety margins matter, they matter most within the context of the congressional career. A junior legislator with a high safety margin will be unlikely to cast an investment vote until she has developed a reputation with her constituents that allow her to do so. The more trust the legislator is able to instill in her constituency, the more leeway she will have to diverge from the desires of her district when voting in Washington.⁶¹ This, we argue, is likely to occur at some later point in the representative's career. At this later point, the representative is better positioned to exchange investment votes for a promotion to a desired subcommittee chair.

In sum, our model predicts that (i) "very junior" and "very senior" representatives on average will be less likely to supply investment votes, (ii) representatives in the middle of their careers will be more likely to supply investment votes, and (iii) a moderating factor for an investment vote is the reelection safety margin.

⁵⁷ See *id.*

⁵⁸ See *id.*

⁵⁹ See *id.* at 40-44.

⁶⁰ See *id.*

⁶¹ See FENNO, *supra* note 13, at 151-52.

3. Demand Factors

The reforms had a major effect on creating the demand (i.e., the willingness and ability to pay) for investment votes. Before the reforms, the party leadership had few resources with which to pay for an investment vote. Promotions were generally based on seniority. The near inability of party leaders to pay for an investment vote implied no demand for such votes.⁶² Likewise, as investment votes are inherently costly, since they are by definition votes against the immediate interest of the constituents, a zero price would not have motivated their supply.

The breakdown of the near monopoly power of the committee chairs and the consolidation and vesting of such power in the leadership brought about the opportunity for investment-type behavior. Party leadership had the resources to pay for investment votes. Payments could be made in terms of helping the investor obtain the chairmanship of a subcommittee. The substitution of party leadership as a vehicle in effecting or granting promotion for seniority created a demand for investment votes.

It is important to note that party leaders may not demand investment votes from every party member at every possible opportunity. We assert that the demand for investment votes depends on the two factors we have identified as critical in the development of the investment market: the representative's seniority and the representative's probability of re-election. Consistent with our discussion of supply factors, we suggest that the demand for investment votes will tend to be stronger during the middle years of the congressional career. It is during this period that legislators establish a reputation that allows them to deviate from the immediate interest of their constituents. Leaders will be cognizant that demanding an investment vote from a representative either "too early" in the representative's congressional career, or when the representative faces a tough challenger, will be too costly for the leadership, since they risk losing control of the House if too many incumbents are defeated. This implies that the demand for investment votes from junior representatives and from those representatives who expect tough challenges at the

⁶² Of course, logrolling could have occurred. For a general discussion of logrolling, see generally Bruce Bender & John R. Lott, *Legislator Voting and Shirking: A Critical Review of the Literature*, 87 PUB. CHOICE 67 (1996) (reviewing the literature on congressional voting behavior).

polls is lower than the corresponding demand from senior representatives or from those representatives who enjoy a high probability of re-election.

4. Summary

Our model predicts that reverse-investment (i.e., voting with the constituency) occurs predominantly at the early stages of a representative's career. This is true both before and after the reforms of the 1970s. Second, pre-reform investment in favor of the leadership is not expected to have been prevalent since seniority was the vehicle by which a representative moved up the congressional hierarchy. Following the reforms, however, we should observe investment behavior in favor of the leadership. In particular, investment is more likely to occur in the middle stages of a representative's tenure, while reverse-investment is expected to occur at the earlier and later stages.

II. EMPIRICAL TEST

A. *Sample and Data*

To test the investment model we need to identify situations in which the representative's two constraints (i.e., the constituents back home and the party leadership in Congress) take markedly distinguishable positions (i.e., liberal versus conservative) on policy issues. Based on the model, no investment occurs when the policy views of the constituency are in line with those of the party leadership. During the period under study, the Democratic Party was in control of the House. We thus focused on Democratic representatives.

Given our model, investment behavior is expected in situations in which Democratic representatives from relatively conservative districts face a relatively liberal party leadership. In such cases investment behavior could be empirically identified, since the party leaders are likely to take political positions that are opposite to the positions taken by the representative's respective constituencies on a variety of policy issues. As suggested by our model, investment votes will only be observed in the post-reform period, and only during the middle years of the representative's career. Thus, in order to test the model, we limit

our sample to those Democratic representatives who are relatively conservative; that is, we include in the sample only those Democrats whose districts voted for the Republican candidate for president and whose Americans for Democratic Action (“ADA”) scores are less than those of their party’s congressional leaders.⁶³

We use the ADA ratings to create our dependent variable.⁶⁴ Our interest is to develop a measure that allows us to capture the relationship between a legislator’s voting behavior and the preferences of that legislator’s two principals: the party leadership and the constituents back home. For this purpose, we employ the variable ADAD, defined as, $ADAD = ADA_{\text{leader}} - ADA_i$, where ADA_{leader} is the ADA score of the majority leader for a given year,⁶⁵ and ADA_i is the representative’s ADA score for the same year.

Given our sample (i.e., Democratic representatives facing somewhat conservative constituents) ADAD has the following interpretation. The larger the ADAD (i.e., the larger the difference between a representative’s ADA and that of the leader), the more conservative the representative. A smaller ADAD means that the representative is voting more in line with the party leadership, thus taking more liberal positions.

We measure tenure as the number of years the representative has been in Congress. To capture the marginal effect of time, we create three variables based on the representative’s tenure. We refer to these as TENURE1, TENURE2, and TENURE3, and they are defined as follows:⁶⁶

⁶³The ADA is commonly used in studies of congressional behavior. See, e.g., Barry R. Weingast & Mark J. Moran, *Bureaucratic Discretion or Congressional Control?: Regulatory Policy-Making by the Federal Trade Commission*, 91 J. POL. ECON. 765, 783–96 (1983). The ADA rating is an index calculated for each representative by the Americans for Democratic Action, a liberal interest group. The rating shows the percentage of the legislator’s votes in a selected sample that are considered liberal as defined by the Americans for Democratic Action.

⁶⁴The dependent (or exogenous) variable represents the event or events that are explained by the model. See ERIC A. HANUSHEK & JOHN E. JACKSON, *STATISTICAL METHODS FOR SOCIAL SCIENTISTS* 3 (1977).

⁶⁵For the periods under analysis, the House majority leaders were John W. McCormack (1961), Carl Albert (1962–71), Hale Boggs (1971–73), Thomas P. O’Neill, Jr. (1973–77), and Jim Wright (1978–80). See MEMBERS, *supra* note 51, at 179.

⁶⁶For a similar treatment, see Randall Morck, et al., *Management Ownership and Market Valuation*, 20 J. FIN. ECON. 293, 298 (1988). The authors analyzed the effect of equity ownership by management of private firms on firm performance. Ownership concentration was divided into three classes: companies in which management owned up to 5%, between 5% and 25%, and above 25%.

For the 1960s:

- TENURE1 = tenure if tenure < 9.45 years,
 = 9.45 if tenure \geq 9.45 years;
 TENURE2 = 0 if tenure < 9.45 years,
 = tenure minus 9.45 if $9.45 \leq$ tenure < 21 years,
 = 11.55 if tenure \geq 21 years;
 TENURE3 = 0 if tenure < 21 years,
 = tenure minus 21 if tenure \geq 21 years;

For the 1970s:

- TENURE1 = tenure if tenure < 6.09 years,
 = 6.09 if tenure \geq 6.09 years;
 TENURE2 = 0 if tenure < 6.09 years,
 = tenure minus 6.09 if $6.09 \leq$ tenure < 20.5 years,
 = 14.41 if tenure \geq 20.5 years;
 TENURE3 = 0 if tenure < 20.5 years,
 = tenure minus 20.5 if tenure \geq 20.5 years;

For example, a representative whose tenure was 23 years in 1974, TENURE1 = 6.09; TENURE2 = 14.41; and TENURE3 = 2.5.

The rationale for using these specific thresholds (i.e., 9.45 and 21 for the 1960s; 6.09 and 20.5 for the 1970s) is to capture the different “turning points” in a representative’s career. An indicator of this career path is the transition from being a junior member of a subcommittee to becoming a chair of a subcommittee and then moving into chairing a committee. Such a progression, we argue, indicates a change in the status of the representative in terms of her power in influencing policy outcomes.⁶⁷ The thresholds are calculated as the average number of years of service prior to obtaining a subcommittee chair for those individuals obtaining a subcommittee chair for the first time (e.g., 9.45 years in the 1960s, 6.09 years in the 1970s) or a committee chair (e.g., 21 years in the 1960s, 20.5 years in the 1970s).⁶⁸

To capture the safety margin factor, we include the variable SAFETY. SAFETY is measured as the margin of victory the incumbent experienced on the prior congressional election. The

⁶⁷ See, e.g., KEITH KREHBIEL, *INFORMATION AND LEGISLATIVE ORGANIZATION* 171 (1991) (stating that there is strong empirical support for the relationship between committee service and policy expertise).

⁶⁸ See SMITH & DEERING, *supra* note 35, at 191–92.

variable SAFETY is interacted with the three variables representing years of service (TENURE1, TENURE2 and TENURE3) to measure the total effect of years of service and safety margins on the investment variable.

We also examine the effect on voting behavior of the “prestige” of the committee on which the representative served over the periods being analyzed. It is conventionally accepted that there are differences in committee attractiveness.⁶⁹ For example, some committees are in an ideal position to shape important policy issues, are subject to a large degree of exposure, or place the chair in a strategic position vis-à-vis other members of Congress.⁷⁰ We expect that the more important the committee on which the representative wishes to serve, the greater the representative’s propensity to invest, all else constant. Representatives who have already obtained a position on their “ideal” committee are expected to make less investment than those who wish to transfer to a more important committee. We focus on voluntary committee transfers (i.e., a departure from one committee to accept a seat on another committee) as a way to proxy the “value” or desirability of a given committee assignment to a given group of representatives.⁷¹ Transfers are used as a measure of committee prestige.⁷²

Finally, we include in the model a set of other variables normally used in congressional voting research to control for both the economic and ideological preferences of the constituents.⁷³ These variables are intended to empirically capture the effect of other

⁶⁹ See *id.* at 89 (stating that Appropriations, Rules, and Ways and Means are among the elite committees in the House).

⁷⁰ See Charles S. Bullock III, *Committee Transfers in the United States House of Representatives*, 35 J. POLITICS 85, 92 (1973).

⁷¹ See generally *id.* (studying the relationship between reassignment and tenure, prestige, seniority, electoral security, and constituency).

⁷² Prestige is calculated as:

$$\text{PREST} = \frac{\text{Number of transfers to Committee X}}{\text{Number of transfers to Committee X} + \text{Number of transfers from Committee X}}$$

Suppose we are interested in computing the prestige of Committee X from the perspective of Southern Democrats in a given Congress. Holding the size of the committee constant, prestige is computed by the ratio of the number of Southern Democrats who transferred to the committee to the sum of the number of Southern Democrats who transferred to the committee and the number of Southern Democrats who left the committee. If, for example, two southern Democrats transferred to the committee during a given Congress but only one southern Democrat left the committee, the prestige of the committee to southern Democrats would be .67.

⁷³ See Sam Peltzman, *Constituent Interest and Congressional Voting*, 27 J. LAW & ECON. 181, 189 (1984) (listing variables of median family income, median education,

characteristics of the representative's constituency. These characteristics are likely to affect the policy preferences of the constituency, and thus, the voting behavior of the individual legislator.⁷⁴

B. *Empirical Model and Results*

Our theory suggests that following the institutional reforms of the early 1970s, a market for investment votes was created. This implies that investment type behavior should be observed thereafter, but not before. Having constituents as their only constraint, representatives during this period will "vote their district" systematically regardless of their seniority.

With the reforms, however, we should begin to observe behavior consistent with investment type voting. Reverse-investment should occur during the TENURE1 period, as newly elected legislators tend to vote with their constituents to maximize their chance of re-election. The marked contrast between the 1960s and the 1970s can be observed when examining the total effect of tenure, safety, and prestige on the dependent variable, ADAD.⁷⁵ Our model predicts that early on, and taking the margin of safety into consideration, representatives should be more likely to vote with their constituents. Representatives in their midterm, on the other hand, will be likely to invest by siding with the leaders. Once the legislators' tenure increases up to the later stages of his or her congressional career (empirically captured in our model as the TENURE3 period), we should expect a revival of voting behavior toward constituents. The effect of tenure on voting behavior should also be affected by the probability of re-election.

To test this model we used a conventional linear regression methodology.⁷⁶ The results are reported in the Appendix. In gen-

percentage of population over 65, percentage of black residents, percentage of those residing in urban areas, and the share of the labor force employed in manufacturing).

⁷⁴ Our analysis includes the following variables: INCOME (median family income); PERCC (percentage of the district's population living in urban areas); PERUN (percentage of the state's labor force that is unionized); PERBLACK (percentage of the district's population that is black); YEDU (median years of education of the district's population); FARM (percentage of the district's population involved in farming); OIL (state's per capita revenue in the oil industry); DOD (Department of Defense federal monetary outlays by state); and COAL (state's per capita revenue in the coal industry).

⁷⁵ In terms of our empirical model, $TENURE_i + TENURE_i * SAFETY + TENURE_i * PREST$, where $i = 1, 2, \text{ or } 3$.

⁷⁶ The regression is of the form, $ADAD_i = c + dX_i + \mu_i$, where, $ADAD_i$ is the difference between the leader's ADA score and the representative's ADA score; X is a vector of independent variables; and, μ_i is the error term.

eral, the results are quite supportive of the theory. In the 1960s there is no evidence of investment behavior. The total effects of the years of service and safety variables are all insignificant.⁷⁷ These results indicate that investment behavior did not occur during the 1960s.

The results for the 1970s (column 2) are much different than those for the pre-reform period. As expected, the total effect of years of service and safety early in the representative's career is positive and highly significant.⁷⁸ The overall effect during the middle years of congressional service is negative and significant.⁷⁹ Compared to the results for the 1960s, the effect of the committee reforms of the early 1970s is apparent. The negative and significant effect during the mid-career years is consistent with the prediction of our investment model. Legislators at the second stage of their careers are in a position to be selected by the leadership for promotion to higher positions, such as chairing a subcommittee. In the post-reforms era, competition among legislators in mid-career is expected to have been intense. Whether those legislators invested, and whether the leaders demanded, such votes probably depended on the effect that the investment votes had on the chances of re-election.

The effect of tenure and safety on legislators late in their careers is less certain.⁸⁰ However, compared to the voting behavior during the second stage, representatives in the last stage of their careers do not necessarily side with party leaders.

A major proposition of our theory is that while safety margins matter, as has been evidenced in prior research,⁸¹ they matter in a particular way. For example, they matter in the context of the

⁷⁷To determine the effect of tenure and safety in voting behavior we calculated the following equations:

$$B^* = b_{TENUREi} + (b_{TENUREi \cdot SAFETY}) (X_{SAFETY}) + b_{TENUREi \cdot PREST} (X_{PREST})$$

and,

$$SB^* = [\text{Var}(b_{TENUREi}) + X^2 * \text{Var}(b_{TENUREi \cdot SAFETY}) + X^2 * \text{Var}(b_{TENUREi \cdot PREST}) + 2 \text{Cov}(b_{TENUREi}, b_{TENUREi \cdot SAFETY}) + 2 \text{Cov}(b_{TENUREi}, b_{TENUREi \cdot PREST})]^{1/2}$$

The coefficient for the total effect during the first period of the representative's career is -.38, with a standard error of 1.23. The coefficient for total effect during the middle years is .8, with a standard error of .92. The coefficient of the total effect during the last period is -1.1, with a standard error of 1.3.

⁷⁸Using the formula described in *supra* note 76, the coefficient equals 2.76, and the standard error equals .68.

⁷⁹Using the formula described in *supra* note 76, the coefficient equals -.65, and the standard error equals .24.

⁸⁰Using the formula described in *supra* note 76, the coefficient equals .91, and the standard error equals .52.

⁸¹See generally Alford & Hibbing, *supra* note 13, *passim*.

congressional career. Once we account for the interaction effect of tenure and safety margins, the effect of SAFETY is insignificant in both specifications.

The variable PREST, which measures the “importance” or “prestige” of the committee on which a representative serves, appears to have had no effect on the voting behavior of representatives during either the 1960s or the 1970s. The interaction between PREST and TENURE is significant during the post-reform period, but insignificant in the 1960s. During the 1970s, the interaction term PREST*TENURE is negative and significant earlier in the representative’s career but positive and significant during the mid-years of the individual congressional career. In other words, early on in the representative’s career, the higher the importance of the committee upon which he or she serves, the closer the representative’s voting behavior is to the leader’s voting behavior, all else being constant. In the middle period, however, the higher the prestige of the committee on which the representative serves, the more likely the representative is to vote with his or her constituents and against the leadership.

We conducted further analysis to determine whether the results support the proposition that different voting patterns were developing during the different periods. That is, not only did we ask whether the voting behavior varied among representatives within the two time periods, but whether it also varied from one time period to the next. This question amounts to testing whether the reforms had any significant effect.⁸²

⁸² We test whether the coefficients of the tenure variables are also statistically different from each other. T-tests of the difference between the tenure coefficients were conducted. Notice that the standard errors are in parentheses.

	1961–68	1973–78
TENURE1	-.05	2.63**
-TENURE2	(2.36)	(1.37)
TENURE1	1.45	2.98***
-TENURE3	(2.87)	(1.10)
TENURE2	1.5	.35
-TENURE3	(3.57)	(1.08)

The test statistic is calculated as β^*/s_{β^*} , where, $\beta^* = \text{TENURE1} - \text{TENURE2}$, and $S_{\beta^*} = [\text{Var}(\text{TENURE1}) + \text{Var}(\text{TENURE2}) - 2 \text{Cov}(\text{TENURE1}, \text{TENURE2})]^{1/2}$. All tests are two-tail. *, **, *** Significant at the .10 level (.05, .01).

The results of these further tests show that, for the 1960s, none of the differences between the coefficients of the various tenure variables is statistically significant. These statistics illustrate that, as expected, throughout the 1960s leadership was not a constraint during the middle years of the representative's career. Consistent with our investment model, the results depict that, unlike the 1960s, leadership was a constraint in the 1970s. This constraint became binding during the middle years of the representative's career.⁸³

III. EVALUATING THE 1995 RULES CHANGES: A HISTORY LESSON

Our analysis leads us to two major conclusions. First, the rules changes matter. The movement away from a system based on seniority created an opportunity for an investment market to develop. By moving away from a seniority-based system, new mechanisms had to be created to maintain party unity. The distribution of important committee seats and committee chairs became one such mechanism. This, in turn, led to the creation of a market for "trading" these political favors. Second, the effects of the rules changes are filtered in the context of the congressional career. Not all representatives responded equally to the changes being introduced, neither were they in positions to provide the same degree of support for the leadership. While representatives in the middle point of their careers were in a position to engage in investment behavior, junior representatives were not.

How do these two results relate to the more recent changes enacted by the Republican majority in the House? We argue that

⁸³ Finally, using the results of Table 1, we also test whether the tenure variables' coefficients for the 1960s (pre-reform) are significantly different from the coefficients of the 1970s (post-reforms). F-tests were conducted comparing similar models across the two periods. The resulting F-statistics for all the models are statistically significant at the .01 level. These results indicate that it is incorrect to assume that the coefficients across specifications are equal, i.e., two different regressions must be estimated. The test is of the form:

$$F_{kN+M-2k} = \frac{(ESS_R - ESS_{UR})/k}{ESS_{UR}/(N + M - 2k)}$$

where k = number of restrictions; $N + M$ = number of observations; ESS_R = Restricted residual sum of squares; and ESS_{UR} = Unrestricted residual sum of squares. See ROBERT S. PINDYCK & DANIEL L. RUBINFELD, *ECONOMETRIC MODELS AND ECONOMIC FORECASTS* 116 (3d ed. 1991). The F-statistic is 2.42.

there are at least two points of comparison. First, it seems that Speaker Gingrich was paying attention to the rule changes of the 1970s when implementing his recent reforms. For instance, the Speaker appears to have realized that party loyalty and unity were not free goods, but benefits for which party leaders must pay. The allegiance of party members comes at a price. That price is measured in terms of the allocation of resources over which the leadership has control. This explains, we argue, why the reform limiting the number of subcommittees was accompanied by the rule change that imposed term limits on committee and subcommittee chairs. Something has to be offered to party members for their loyalty. Thus, while reducing the number of subcommittees and accordingly decreasing the numbers of immediate positions of leadership available, the term limits created future opportunities for more members to have a chance at becoming chairmen.

While this tradeoff of numbers of subcommittees and term limits provided the structure for maintaining some leadership control, it was certainly not enough. To provide the leadership with more leverage, leaders took a more active approach in the distribution of resources. The Speaker put himself on the line by becoming actively involved in the distribution of chair positions and the allocation of committee seats. In this process, the Republican leadership appears to have been cognizant of the relevance of the congressional career effect and the electoral safety factors affecting a representative's ability to support party leadership. As described earlier, the party leadership was sensitive to the idiosyncrasies of particular members' constituencies when allocating committee seats and making chair appointments.

A final question raised by our analysis relates to the effect of missing pieces. Unlike 1970s amendments, which created a system of incentives independent of any one individual, the 1995 changes are highly dependent on the Speaker himself. Without Speaker Gingrich's intrusion into the allocation of the leadership resources, and past the initial 100 days' agenda, it is not clear that there are enough incentives to keep members in line with the party's position. Indeed, congressional observers have already pointed out that there has been a reversion to the pre-1995 reforms in Congress, at least with respect to the redistribution of power to committee chairs.⁸⁴ Our analysis suggests that the

⁸⁴ See Jackie Koszczuk, *A Full Circle*, 55 CONG. Q. WKLY. REP. 9, 9 (Supp. Mar. 22, 1997).

institutional factors that affect congressional voting behavior are nontrivial and likely to survive the personalities of particular individuals, even that of Speaker Gingrich.

CONCLUSION

This Article contributes to the literature on congressional voting behavior by developing a model of voting behavior which includes investment as a nontrivial component. By comparing the costs and benefits of a given course of action, and incorporating the effect of investment in the assessment of these costs, the model predicts specific and nontrivial changes in voting behavior corresponding to changes in tenure. Further, the model considers the effects on voting behavior of institutional changes in Congress that occurred during the 1970s, and analyzes the effects of the changes on the voting behavior of individual representatives.

The results presented in this Article are not only of historical interest, but also, we argue, provide a context against which we can evaluate the implications of the recent changes enacted by the Republican Congress in 1995.

APPENDIX

LINEAR REGRESSION—DEPENDENT VARIABLE: ADAD
(S.E. in Parentheses)

	1961-68	1973-80
INTERCEPT	96.54*** (20.84)	76.36*** (14.31)
TENURE1	-.91 (1.31)	2.59*** (.95)
TENURE2	-.86 (1.41)	-.04 (.50)
TENURE3	-2.36 (2.66)	1.39 (.73)
TENURE1*SAFETY	-2.57 (2.49)	4.99*** (2.13)
TENURE2*SAFETY	4.20* (2.27)	-3.17*** (1.04)
TENURE3*SAFETY	-1.90 (3.20)	3.10*** (1.19)
SAFETY	23.33 (15.29)	-2.16 (8.92)
PREST	-13.91 (11.90)	8.65 (5.99)
PREST*TENURE1	2.83 (2.00)	-3.82*** (1.37)
PREST*TENURE2	-.70 (1.73)	1.47*** (.56)
PREST*TENURE3	3.46 (2.78)	-.41*** (.64)
INCOME	.002 (.002)	-.003*** (.0006)
PERCC	-.02 (.12)	-.05* (.03)
PERUN	-1.14*** (.17)	-.47*** (.09)
PERBLACK	.09 (.10)	.19*** (.07)
YEDU	-5.75*** (1.92)	.26 (.89)
FARM	-.0001** (.00005)	-.12 (.07)
AGE	.83 (.53)	-.56** (.22)
OIL	-.002 (.002)	.004*** (.0009)
DOD	.0007 (.0004)	-.00004 (.002)
COAL	-.05** (.03)	-.01 (.01)
R ²	.35	.44
N	304	612

All tests are two-tail. *, (**, ***) Significant at the .10 (.05, .01) level.

