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Politics Stops at Nature's Edge: The Need for Bipartisanship in Environmental Policymaking

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Politics Stops at Nature's Edge: The Need for Bipartisanship in Environmental Policymaking

By

Allison Kustic

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Requirements for the Degree of

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Abstract

Climate change is an existential threat to humans and everyday life, yet in recent years Congress has been unable to pass comprehensive environmental policy that addresses climate change. Collaboration between both parties in Congress is often necessary for passing legislation. There was a time when bipartisanship was common, and Congress passed significant environmental legislation. In particular, this happened during the 1970s with the Clean Water Act in 1972, the Endangered Species Act in 1973, the Safe Drinking Water Act in 1974, and the Toxic Substances Control Act and Resource Conservation and Recovery Act in 1976. However, since 1994, increased polarization and a lack of bipartisan cooperation in Congress has prevented the passage of comprehensive climate change/environmental policy legislation. To the point that collaborative legislation is needed to address some of the most pressing issues in our country and world, the absence of bipartisan cooperation is dangerous. What factors contribute to bipartisan support for environmental policy in Congress? Using case study method, I examine environmental legislation from 1970, 1990, 2009, and 2016 to explore the factors that are important for passing comprehensive environmental legislation. I hypothesize that single party control of Congress, adherence to regular order, residency of members in Washington, D.C., primaries that nominate centrist candidates, a strong national economy, and wide acknowledgement of climate change as an issue are important for bipartisan cooperation. Understanding the factors that contribute to bipartisan support in Congress for environmental policy will help to explain how members might be able to overcome these obstacles and ultimately pass legislation that addresses this important policy area.

Table of Contents

<i>Acknowledgements</i>	ix
I. Introduction	1
II. Literature Review	4
A. Polarization	
B. Congressional Shifts	
C. Bipartisanship	
D. Environmental Policy and Polarization/Bipartisanship	
E. Environmental Policy and States	
F. Comparable Literature in a Different Policy Area	
G. Conclusion	
III. Theoretical Framework	13
IV. Methodology and Data Collection	15
V. Findings and Analysis	17
A. Clean Air Act of 1970	
B. Clean Air Act Amendments of 1990	
C. American Clean Energy and Security Act of 2009	
D. Frank R. Lautenberg Chemical Safety for the 21st Century Act of 2016	
Table 1: Indicators of Bipartisan Support for Environmental Policy in Congress	
Table 2: Factors that Contribute to Bipartisan Support for Environmental Policy in Congress	
E. Additional Variables	
F. Conclusion	
VI. Conclusion	33
<i>Bibliography</i>	38

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I. Introduction

At one point in our nation's history environmental policy was something on which most members of Congress could agree. Since 1970, environmentalism is fundamentally more regulatory in nature than the environmentalism of the late nineteenth and early twentieth centuries, which focused on preservation for aesthetics and recreation.¹ Environmentalism in America today attempts to regulate industry to reduce, or prevent, harmful pollution. The environmental movement started in the 1960s with Rachel Carson's publication of *Silent Spring*, in which she highlighted the harmful effects of pesticides on animal populations as well as humans.² In 1970 the United States passed the Clean Air Act and created the Environmental Protection Agency, which, in 1972, banned the use of DDT because of the concerns raised by Carson.³

1970 also marked the first Earth Day. Celebrated annually on April 22nd, Earth Day was initiated by Democratic Senator Gaylord Nelson and Republican Congressman Pete McCloskey.⁴ At its creation, Earth Day had bipartisan support and is still widely celebrated, but environmental issues have become increasingly divisive and polarization in Congress makes it nearly impossible to pass environmental policy today.

Several landmark pieces of environmental legislation were passed throughout the 1970s and through the early 1990s. The National Environmental Policy Act (NEPA) was passed in

¹ Cori Brosnahan, "When Did the Environment Become a Partisan Issue?" *Public Broadcasting Service*, January 26, 2017, accessed October 13, 2020, <https://medium.com/americanexperiencepbs/when-did-the-environment-become-a-partisan-issue-f914f0ce489e>.

² Eliza Griswold, "How 'Silent Spring' Ignited the Environmental Movement," *The New York Times*, September 21, 2012, accessed October 13, 2020, <https://www.nytimes.com/2012/09/23/magazine/how-silent-spring-ignited-the-environmental-movement.html>.

³ "DDT - A Brief History and Status," *The United States Environmental Protection Agency*, accessed October 12, 2020, <https://www.epa.gov/ingredients-used-pesticide-products/ddt-brief-history-and-status#:~:text=In%201972%2C%20EPA%20issued%20a,based%20on%20studies%20in%20animals>.

⁴ "The History of Earth Day," *earthday.org*, accessed October 13, 2020, https://www.earthday.org/history/?gclid=Cj0KCQjwoJX8BRCZARIsAEWBFMKGvJhwLqYzzdXOI82RdRhGAVcFnF6ElmLwdhCSYknDdEZpNMVA1D4aAuy6EALw_wcB.

1969, followed by the Occupational Safety and Health Act in 1970; the Clean Water Act in 1972; the Endangered Species Act in 1973; the Safe Drinking Water Act in 1974; the Toxic Substances Control Act; and Resource Conservation and Recovery Act in 1976; the Surface Mining Control and Reclamation Act in 1980; the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) in 1982; the Nuclear Waste Policy Act in 1983; the Emergency Planning and Community Right-to-Know Act in 1986; the Clean Air Act Amendments and the Oil Pollution Act in 1990; the Energy Policy Act in 1992; the Food Security Act in 1994; and the Food Quality Protection Act in 1996.⁵

All of these bills were passed with significant bipartisan support in Congress. Democrats controlled both houses of Congress for the majority of this time period, save from 1979 through 1987 when Republicans controlled the Senate. Yet even when Democrats held the majority in the Senate, they rarely had enough members for cloture.⁶ Given this, I look at party majorities in Congress as a potential factor that contributes to bipartisan cooperation. When one party holds a strong majority, the minority party often has no choice but to cooperate with the majority to achieve any of their policy objectives.

The momentum for passing environmental legislation was lost in 1994 when Republicans gained control of both the House and Senate after several decades of a strong Democratic majority in the House of Representatives. Additionally, after 1994, the behavior of individual members began to change and so did the dynamics of Congress itself. Bills focused on the environment have been introduced, but few make it out of committee to floor votes and those that do are usually small amendments to previous acts rather than new regulations. Momentum

⁵ “Environmental Laws and Policies,” *Preceden*, accessed October 13, 2020, <https://www.preceden.com/timelines/275417-environmental-laws-and-policies>.

⁶ “Party Division,” *The United States Senate*, accessed October 13, 2020, <https://www.senate.gov/history/partydiv.htm>.

for passing environmental legislation slowed even more in 2008 with the rise of Tea Party Republicans, increased partisan polarization, and a failure of many to recognize climate change as a pressing issue. In recent decades, very little environmental legislation has been passed by Congress, despite an increasing urgency to address climate change, which poses an existential threat to our country and our world.

Given the dire need for environmental policy, specifically pollution policy that addresses carbon in our air and seas, I explore factors that contribute to bipartisan support for environmental policy in Congress. Bipartisanship is important in crafting successful legislation as the institutional framework of Congress makes legislation difficult to pass without support from both sides of the aisle, as well as presidential support. While this thesis does not examine the president's role in passing environmental legislation, it is important to acknowledge that, in our system, presidential support is also important for passing legislation. The bicameral structure of Congress, along with fixed and staggered elections, the different constituencies represented by members of Congress, and different term lengths make getting overwhelming single-party majorities in Congress that can enact sweeping change difficult.

This thesis explores the factors that contribute to bipartisan support for environmental policy in Congress. Using case studies from 1970, 1990, 2006, and 2009, I explore the factors that are important for passing comprehensive environmental legislation. I hypothesize that single party control of Congress, adherence to regular order, residency of members in Washington, D.C., less polarized primaries, a strong national economy, and wide acknowledgement of climate change as an issue are important for bipartisan cooperation.

II. Literature Review

In the American political system, lawmaking often requires compromise, negotiation, and bipartisan cooperation. However, it has been easier for leaders to achieve compromise in some areas whereas other policy areas have become increasingly contentious. This literature review examines scholarship from the areas of polarization, shifts in congressional behavior, bipartisanship in the legislative process, and environmental policy.

A. Polarization

Historically, David Mayhew's *Divided We Govern* has been the seminal piece of literature with regard to lawmaking in times of divided government. Mayhew found that even in times of divided government, when control of Congress was held by a party other than the president's party, our government passed a similar amount of legislation as when our country had unified government.⁷

Mayhew originally published his findings in 1991, before intense partisan polarization increased in Congress. Mayhew updated his work in 2005 and although he provides a strong foundation of work, his findings are less relevant in 2020 than they were more than a decade ago. Several other scholars have subsequently studied the issue and found that increasing elite polarization has resulted in legislative gridlock.

Laurel Harbridge and Neil Malhotra build on Mayhew's 1974 work that establishes members of Congress as single-minded reelection seekers and studied electoral incentives for bipartisanship while in office.⁸ They find that members of Congress who hail from more centrist districts are more likely to co-sponsor bills with significant support from the other party.

⁷ David Mayhew, *Divided We Govern* (United States of America: Yale University Press, 2005).

⁸ Laurel Harbridge and Neil Malhotra, "Electoral Incentives and Partisan Conflict in Congress: Evidence from Survey Experiments," *American Journal of Political Science* 55, no. 3 (2011): 494-510, <http://www.jstor.org/stable/23024933>.

Districts are defined as centrist based on their average presidential vote percentages. For example, a district where 80 percent of people voted for a presidential candidate is more partisan than a district in which 52 percent of votes went to one candidate. They find that a 10 percent increase in partisanship in presidential elections resulted in a 2 percent decline in members co-sponsoring bipartisan legislation.

This finding becomes all the more concerning for a bipartisan future when combined with Morris Fiorina's finding that although the American public is no more partisan than it was in the mid-twentieth century, the country is experiencing *partisan* polarization.⁹ The Democratic and Republican parties are each becoming increasingly homogeneous. This is largely a result of citizens self-sorting themselves by geographic area (e.g. liberals in urban areas), which creates little electoral incentive for regional representatives to cater to diverse interests. This also means interests fall along party lines as people in different geographic areas have different interests.

Noam Lupu looks at the nature of partnerships (co-sponsorships) in both the House and Senate from 1973 to 2016 and observes that any polarization is problematic as it impedes cooperation on national issues. Most positive relationships tend to be intra-party while most negative relationships tend to be inter-party, but the overall increase in polarization is not associated with either party having a majority. Therefore, it appears that the only significant form of bipartisanship in Congress is the "push towards greater polarization," as both parties are actively working against each other.¹⁰

⁹ Morris P. Fiorina. *Unstable Majorities: Polarization, Party Sorting, and Political Stalemate* (Hoover Institution Press Publication: Stanford, CA, 2017).

¹⁰ Noam Lupu, "Party Polarization and Mass Partisanship: A Comparative Perspective," *Political Behavior* 37, no. 2 (2015): 331–56, <https://doi.org/10.1007/s11109-014-9279-z>, 111.

B. Congressional Shifts

The years 1994 and 2008 are landmarks for shifts in Congressional behavior. In 1994 Republicans gained control of Congress after a decades-long majority held by Democrats. The year 2008 saw the rise of the Tea Party, a movement of fiscal conservatives. William F. Connelly Jr., John J. Pitney Jr., and Gary J. Schmitt note that the increasing power of the Speaker lessens the autonomy of committees and oftentimes results in a circumvention of the involvement of area experts on policy.¹¹ Along with changes to the speakership in 1994 came a change in the behavior of individual members. White and Kerbel observe that newly elected members spent more time in their districts than in Washington, D.C. and, in some cases, never established a residency in D.C. beyond sleeping on their office couch.¹² While there are positives to frequently being present in one's district, it also decreases the amount of time members socialize among themselves, especially across party lines, in Washington.

The Tea Party is focused on reigning in the government and reducing federal spending and the overall size of the federal government.¹³ It is notable that members of the Tea Party caucus have shown reluctance to cooperate in a bipartisan manner and the regulatory nature of pollution policy likely further incentivize them.¹⁴

In the House of Representatives, the Rules Committee controls whether or not a bill makes it to the floor for a full House vote and the Speaker of the House has substantial influence over the committee. As the role of the Speaker strengthened in the past two decades, the Speaker

¹¹ William F. Connelly Jr., John J. Pitney Jr., and Gary J. Schmitt, *Is Congress Broken? The Virtues and Defects of Partisanship and Gridlock* (Washington, D.C.: Brookings Institution Press, 2017).

¹² John Kenneth White and Matthew R. Kerbel, *Party On! Political Parties from Hamilton and Jefferson to Trump* (New York and London: Routledge, 2018), 169.

¹³ White and Kerbel, *Party On!*, 169.

¹⁴ Laurel Harbridge, *Is Bipartisanship Dead? Policy Agreement and Agenda Setting in the House of Representatives* (New York: Cambridge University Press, 2015).

has increasingly used the Rules Committee to bypass debate.¹⁵ This has resulted in a demise of regular order, the intended process by which a bill weaves its way through subcommittees and committees with hearings and markups to floor debates, before a House vote.¹⁶

Thomas Mann and Norman Ornstein note that the House and Senate, by the intentional design of the framers, are fundamentally different. The Senate Committee on Rules and Administration does not have nearly the power of the House Rules Committee. The defining characteristics of the Senate is the filibuster. The individualistic nature of the Senate and its slow, deliberate policy making process gives power to the minority party to challenge the policy goals of the majority party in the way the House does not.¹⁷ This is one reason why policy making slowed after 1994: Speaker Newt Gingrich enacted sweeping changes in the House, whereas Republicans in the Senate did not, creating bicameral gridlock.¹⁸

Likewise, Barbara Sinclair finds that the more processes and procedures a bill goes through, the more likely it is to pass. Her research reveals that “...of measures subject to two or more special procedures and practices in both chambers, 80 percent were successful; at the other extreme, if subject to none in either chamber, only 61 percent were successful.”¹⁹ She notes that “legislation can be referred to committees in both chambers, but it is much easier to bypass that process in the House.”²⁰ Bypassing the procedures and practices of each chamber results in fewer pieces of legislation being passed, which explains why changes in House rules, in particular, has created an impasse for legislation.

¹⁵ Thomas Mann and Norman Ornstein, *The Broken Branch: How Congress is Failing America and How to get it Back on Track* (New York: Oxford University Press, 2006), 171.

¹⁶ Mann and Ornstein, *The Broken Branch*, 171.

¹⁷ Mann and Ornstein, *The Broken Branch*, 107.

¹⁸ Mann and Ornstein, *The Broken Branch*, 107.

¹⁹ Barbara Sinclair, *Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress* (Washington, D.C.: Congressional Quarterly Press, 2000), 223.

²⁰ Sinclair, *Unorthodox Lawmaking*, 219.

C. Bipartisanship

Peter Trubowitz and Nicole Mellow examine the conditions under which members of Congress are likely to engage in bipartisan cooperation rather than pursuing highly partisan agendas.²¹ Their study of roll call votes and political environments reveals that candidates are more likely to ‘run to the center’ and cater to moderate and swing voters when the economy is strong and, therefore, the public generally views them more favorably, reducing the pressure they face to use policy as a wedge issue to polarize voters.

Francis Lee looks at the effect of unified versus divided government on the passage of legislation and gridlock in Congress.²² In particular, she focuses on majority control of Congress. When one party has a strong and solid majority in both houses, the other party is more likely to engage in bipartisan corporations to pass their legislative agenda. However, when majorities are insecure, the minority party is constantly vying for power and has an incentive to oppose the majority party. This is a strategic play for power, not an evaluation of the merits of the policy proposals of the majority party. Democrats held a strong majority (although often not enough for cloture in the Senate) in Congress for much of the 1960s and 1970s, despite divided governments between the president and Congress. Lee’s findings are consistent with those of Fiorina: the institutional structure of the United States government makes passing legislation without bipartisan support, or overwhelming majorities, nearly impossible.

James Curry and Frances Lee also examine whether majority parties are successful in enacting their legislative agendas.²³ They find that despite increasing partisan polarization, the

²¹ Peter Trubowitz and Nicole Mellow, “‘Going Bipartisan’: Politics by Other Means,” *Political Science Quarterly Perspectives on Psychological Science* 120, no. 3 (2005): 433-453, <https://www.jstor.org/stable/20202559>.

²² Frances E. Lee, *Insecure Majorities: Congress and the Perpetual Campaign* (Chicago and London: The University of Chicago Press, 2016).

²³ James M. Curry and Frances E. Lee “Non-Party Government: Bipartisan Lawmaking and Party Power in Congress.” *American Political Science Association* 17, no. 1 (March 2019): 47-62. doi:10.1017/S1537592718002128.

institutional structures in place in Congress make it difficult for majority parties to pass legislation without more than 50 percent support from the minority party. This results in them rarely achieving more than half of their policy objectives. Although Congress may act in a bipartisan manner and pass some legislation, Curry and Lee do not look at the total amount of legislation passed or the trends of certain types of legislation. Therefore, although Congress still operates in a bipartisan manner to pass some legislation, they are passing less legislation, especially environmental legislation, as a consequence of polarization.²⁴

D. Environmental Policy and Polarization/Bipartisanship

Valentina Dotto and Anne Richardson Oakes find that identity politics combined with hyper-polarization leads to gridlock in Congress with two parties whose top priorities look vastly different from each other.²⁵ Climate change is one of the top priorities for the Democratic party and while most Republicans believe in climate change, environmental policy is not one of their top areas of interest.²⁶ Additionally, the regulatory nature of most environmental policies further divides the two parties. Republicans strongly oppose government regulation and are therefore less likely to vote for environmental legislation given its regulatory nature.

Craig Volden and Alan E. Wiseman find that between 1973 and 2002, the success rate of environmental laws passed (from those introduced) was just 3.74 percent.²⁷ While not all of the environmental bills passed may have focused on pollution, it is important to note that public

²⁴ Alan S. Gerber and Eric Schickler, *Governing in a Polarized Age: Elections, Parties, and Political Representation in America* (New York: Cambridge University Press, 2017), 252.

²⁵ Dotto, Valentina and Richardson Oakes, Anne. "The Environment, A Bipartisan Issue?: Partisanship Polarization and Climate Change Policies in the United States." *British Journal of American Legal Studies* 8 (Special Issue 2019), DOI: 10.2478/bjals-2019-0017.

²⁶ Dotto and Richardson Oakes. "The Environment, A Bipartisan Issue?"

²⁷ Craig Volden and Alan E. Wiseman, "Entrepreneurial Politics, Policy Gridlock, and Legislative Effectiveness," in *Congress and Policy Making in the 21st Century*, ed. Jeffery A Jenkins and Eric M, Patashink. (New York, Cambridge University Press, 2016), 33.

lands legislation is listed as a different policy area. Public lands policy is significantly more successful with a 10.41percent success rate.²⁸

Although most Republicans believe in the science of climate change as individuals, there is little impetus from the party to acknowledge it as a major issue.²⁹ Furthermore, Leaf Van Boven, Phillip J. Ehret, and David K. Sherman found that there are psychological barriers to bipartisan public support for climate policy.³⁰ More than 50 percent of Republicans, Democrats and Independents believe in climate change, yet the issue remains polarized because Republican support for climate policies is seen as an endorsement of Democratic ideals and a betrayal of the Republican party.

Additionally, a significant portion of Democrats hold the perception that Republicans do not believe in climate change, yet most of them do. Through polling, they found that the polarization between Democrats and Republicans is caused not by differences in policy positions, but by party loyalty. Just like ordinary people, Congressional leaders are subject to partisan pulls and misconceptions about what members of the other party believe.

Brian Helmuth, Tarik C. Gouhier, Steven Scyphers, and Jennifer Mocarski look at whether science, and climate change in particular, has become a wedge issue.³¹ They find that there is little overlap in the Twitter accounts Republicans and Democrats follow, suggesting that members of the two parties receive two different sets of information, including information about climate change and science. In particular, they determined that Democrats are more likely to

²⁸ Volden and Wiseman, “Entrepreneurial Politics, Policy Gridlock, and Legislative Effectiveness,” in *Congress and Policy Making in the 21st Century*, 33.

²⁹ Dotto and Richardson Oakes. “The Environment, A Bipartisan Issue?”

³⁰ Leaf Van Boven, Phillip J. Ehret, and David K. Sherman, “Psychological Barriers to Bipartisan Public Support for Climate Policy,” *Perspectives on Psychological Science* 13, no. (2018): 492–507, <https://doi.org/10.1177/1745691617748966>.

³¹ Brian Helmuth, Tarik C. Gouhier, Steven Scyphers, and Jennifer Mocarski, “Trust, tribalism and tweets: has political polarization made science a wedge issue?,” *Climate Change Responses* 3: no. 3 (2016), doi: 10.1186/s40665-016-0018-z.

follow accounts related to science than Republicans, which had facilitated science becoming a wedge issue in politics.

E. Environmental Policy and States

Despite polarization in Congress that has created gridlock, severely inhibiting the passage of environmental policy, several state legislatures have taken up the task of passing environmental legislation. Climate change is an incredibly salient issue in our country and that has spurred state legislatures to fill the gaps in federal environmental policy, yet this has not been enough motivation for Congress to act. Given the plethora of state laws on carbon pollution, Vivian E. Thomson, and Vicki Arroyo hypothesize that Congress will build upon state policies to craft federal legislation, rather than craft legislation that will create new requirements for most states.³²

Although the federal government has failed in recent years to pass comprehensive environmental legislation, Thomas L. Brunell and Brett Cease studied the impact of state environmental policies on the federal government.³³ They found that members of Congress who hail from states that already have policies similar to a federal bill are more likely to vote in favor of that bill.

David Epstein observed that when a bill reaches the floor, members are more likely to support and pass legislation that has bipartisan support from committees because it is seen as more trustworthy.³⁴ Therefore, bipartisanship within committees becomes valuable when the

³² Vivian E. Thomson and Vicki Arroyo, "Upside-Down Cooperative Federalism: Climate Change Policymaking and the States," *Virginia Environmental Law Journal* 29, no. 1 (2011): 1. <https://search-ebscohost-com.dominican.idm.oclc.org/login.aspx?direct=true&db=edsjs&AN=edsjsr.24789324&site=eds-live>.

³³ Thomas L. Brunell and Brett Cease, "How Do State-Level Environmental Policies Impact the Voting Behavior of National Legislators?," *Social Science Quarterly* (Wiley-Blackwell) 100, no. 1 (2019): 289–306, <https://doi.org/10.1111/ssqu.12559>.

³⁴ David Epstein, "Legislating from Both Sides of the Aisle: Information and the Value of Bipartisan Consensus," *Public Choice* 101, no. 1/2 (1999): 1-22, <http://www.jstor.org/stable/30026107>.

majority party fears an uncertain outcome from the floor vote. Although committees have an incentive to engage in bipartisan cooperation, changes to congressional processes, such as the centralization of power in the House, means that bills do not always go to committees.³⁵

Mann and Ornstein observe that significant changes in House leadership has resulted in the decline of committees. Committees once spent days having hearings on bills and making significant markups. Now, bills are often pushed through subcommittees and committees with minimal debate, put together by a small group of leadership and committee staff, industry representatives, and a few majority party members.³⁶

F. Comparable Literature in a Different Policy Area

The famous saying ‘politics stops at the water’s edge’ describes the unifying effect of foreign policy on lawmakers who might disagree on every other domestic issue. There is an incentive for American leaders to present a strong, united front to the world, causing Congress to work through political differences to craft policy, something that is often difficult in other areas. However, in the seventy-three years since Senator Arthur Vandenberg made the statement,³⁷ partisan polarization in foreign policy has intensified.³⁸

Kay King recognizes this dangerous polarization that makes it nearly impossible for Congress to pass legislation and suggests filibuster reform in the Senate by limiting debate and calls for a return to regular order in the House.³⁹ Scholars have studied the factors that contribute to partisan polarization, resulting in a decrease in bipartisan cooperation in the area of foreign policy. However, there exists a gap in the literature for this type of analysis on environmental policy.

³⁵ White and Kerbel, *Party On!*.

³⁶ Mann and Ornstein, *The Broken Branch*, 170.

³⁷ “Arthur H. Vandenberg,” *United States Senate*, accessed October 29, 2020, https://www.senate.gov/artandhistory/art/artifact/Painting_32_00042.htm.

³⁸ Kay King, *Congress and National Security* (New York: Council on Foreign Relations, 2010), 9.

³⁹ King, *Congress and National Security*, 33.

G. Conclusion

There has been significant research in the realm of bipartisan lawmaking, the shifts in Congressional behavior of individual members and their effects on the performance of the institution, partisan polarization, and congressional gridlock. Additionally, scholars have looked at the evolution of environmental policy and the partisan tensions that surround climate change as it increasingly becomes a wedge issue in politics. However, there lacks a synthesis of these two realms: a study of what factors contribute to bipartisan support to environmental policy in Congress, despite increasing polarization.

III. Theoretical Framework

Science has become a wedge issue in American politics, which makes environmental issues such as climate change a contentious topic. Republicans and Democrats disagree on if and how the problem should be addressed and members of Congress are primarily focused on being reelected, making compromise on the subject difficult. Supporting environmental policies through co-sponsorships and votes is something that Democratic voters are likely to reward members for, but Republican voters are not. David Mayhew finds that members of Congress engage in actions that will assist them in being reelected. He contends that members engage in three key types of activities that support their reelection campaigns: advertising, credit claiming, and position taking.⁴⁰ In my research, I find the actions of members of Congress on environmental policy to be consistent with this theory.

Members of Congress today, and in recent decades, have had a difficult time passing environmental legislation and it is largely due to science becoming a wedge issue. Public

⁴⁰ David Mayhew, *Congress: The Electoral Connection* (New Haven and London: Yale University Press, 2004), 73.

concern for environmental issues has changed relatively little between 1970 and 2016 (48-58 percent), yet partisan polarization, Congressional shifts, and cultural changes in Washington have made compromise on environmental issues difficult. The growing partisan disagreement on environmental policy is most noticeable in Mayhew's reelection action of position-taking.

Increasingly, Democratic members of Congress vote in favor of environmental protections and regulations while Republican members of Congress vote against such policies.⁴¹ This trend is due to the fact that environmental issues have largely become an issue "owned" by the Democratic party in recent decades.⁴² Therefore, if a member's goal is to be reelected, it is in their best interest to vote for, or against, environmental policies based on their party affiliation. By taking a supporting, or opposing, position on things such as climate change, members are able to appeal to their bases and increase their chances of reelection.

Additionally, by voting for or against environmental policies, members are able to credit claim in their next election. For Democrats, the claim would look like voting for environmental policies and for Republicans, the claim would be voting against environmental policies. Because voters tend to prefer individual members that vote in a highly partisan way, individual members have an incentive to vote along party lines.⁴³

I argue that bipartisan support is important for the passage of environmental legislation. However, because members of Congress are focused on being reelected, compromise and bipartisanship, when it comes to environmental policy, is difficult to achieve. Strong Congressional majorities, wide acceptance of science, adherence to regular order, and a strong

⁴¹ Riley E. Dunlap, Aaron M. McCright, and Jerrod H. Yarosh, "The Political Divide on Climate Change: Partisan Polarization Widens in the U.S.," *Environment: Science and Policy for Sustainable Development* 58: 5 (2016), 7, DOI: 10.1080/00139157.2016.1208995.

⁴² Helmuth, et al., "Trust, tribalism and tweets: has political polarization made science a wedge issue?"

⁴³ Harbridge, *Is Bipartisanship Dead? Policy Agreement and Agenda Setting in the House of Representatives*.

national economy are factors that contribute to bipartisan support for environmental policy in Congress.

IV. Data Collection and Methodology

My research question focuses on the behavior of members of Congress as it relates to bipartisan cooperation on environmental policy, which is fitting for case study research. Using the case study method, I conduct qualitative research on the factors that contribute to bipartisan support for pollution policy among members of Congress. Qualitative elements of research look at more than just human actions; they make inferences about the motivation behind actions by considering the settings within which they operate. This type of research is valuable because “How people behave, feel, think, can only be understood if you get to know their world and what they are trying to do in it.”⁴⁴

This thesis uses case study as the method of research. Bill Gillham poses that “the naturalistic style of case study research makes it particularly appropriate to study human phenomena, and what it means to be human in the real world ‘as it happens.’”⁴⁵ For this thesis, it is essential to look at the environment in which members of Congress serve to determine what factors influence their actions and what motivations are behind their votes and co-sponsorships of bills. I engage in qualitative analysis of four case studies: the Clean Air Act of 1970, the Clean Air Act Amendments of 1990, the American Clean Energy and Security Act of 2009, and the Frank R. Lautenberg Chemical Safety for the 21st Century Act. All four of these acts address pollution, although different types of pollution. In analyzing the votes and co-sponsorships of these pieces of legislation, as well as the make-up of Congress at the time of

⁴⁴ Bill Gillham, *Case Study Research Methods* (London: Continuum, 2000), 11-12.

⁴⁵ Bill Gillham, *Case Study Research Methods*, 2.

their introduction and floor votes, I draw conclusions about what factors contribute to bipartisan support for environmental policy.

For each case, this thesis examines co-sponsorships and roll call votes to determine whether the bills had bipartisan support. This data is collected from the Congressional Record. Additionally, I look at several factors that may contribute to bipartisan support from members of Congress for each bill. For example, looking at Senate and House archives from their respective websites, I examine the political makeup of Congress, focusing on which party held the majority in each chamber when the bill was introduced and for the final vote on the floor of each chamber.

Data on the strength of the national economy is based on unemployment levels from the Center for American Progress and the United States Bureau of Labor Statistics. This is used to determine whether low levels of unemployment correlate with bipartisan support for environmental policy. I look at unemployment as a factor because I hypothesize that lawmakers are more willing to put regulations on businesses when the economy is strong, and few Americans are without jobs. A small federal deficit is also an indicator of a strong national economy. Therefore, I gather data on the deficit from the United States Treasury (total deficit in USD) and the Economic Research Center at the St. Louis Federal Reserve Bank (percentage of the gross domestic product [GDP]).

I again use the Congressional Record to analyze how each bill moved through Congress (committee hearings and votes, and floor votes). Using data from The Gallup Organization⁴⁶ and The League of Conservation Voters, synthesized in the journal *Environment: Science and Policy*

⁴⁶ Gallup's data is divided to show the percentage of Democrats and the percentage of Republicans who believe climate change is having an effect on the world. To get a single percentage for the American public, I added the two percentages and divided by two.

for Sustainable Development, I look at the partisan breakdown of belief in climate change and how it has changed over time, between 1970 and 2016.

Finally, I look at the residency of members of Congress in Washington, D.C. and the level of polarization in primary elections as factors contributing to bipartisan cooperation. Change in House leadership in 1994, after Republicans won control, brought changes to the way members conduct themselves. Since 1994, more members focus on their districts than the work they do in Washington, D.C. and would prefer to sleep in their offices three nights a week than move their families to D.C.⁴⁷ This means that fewer members have a relationship with one another outside of work, which could decrease the amount of bipartisan lawmaking in Congress.

Voters in primary elections tend to be more politically active as well as ideologically extreme than general election voters.⁴⁸ Increasingly so, these voters nominate extreme candidates to general elections, ensuring that a politically extreme candidate will go to Congress, no matter their party affiliation. This, in turn, creates the partisan polarization in Congress and makes compromise and cooperation more difficult.

V. Findings and Analysis

A. Clean Air Act of 1970

The Clean Air Act of 1970 is actually a set of Amendments to the original Clean Air Act of 1963, and marks the most significant legislative effort to regulate air pollution thus far. It passed with nearly unanimous support in Congress and is a prime example of the type of bipartisan cooperation that is possible among members of Congress on environmental policy. Passed just four weeks after President Nixon created the Environmental Protection Agency

⁴⁷ White and Kerbel, *Party On!*, 159.

⁴⁸ Amy Guttmann and Dennis Thompson, *The Spirit of Compromise: Why Governing Demands It and Campaigning Undermines It* (Princeton: Princeton University Press, 2012), 169.

(EPA), the Clean Air Act of 1970 gave the EPA “a central role in the regulation of air pollution.”⁴⁹ The 1970 Act marked a transition period for states and air quality regulations. States were no longer the first and primary regulators of air quality as this role moved to the federal government and EPA became the primary regulator of air quality. The establishment of this federal agency also allowed for the establishment of a harmful pollutants list and set standards of regulation.⁵⁰

The 1970 bill passed Congress with nearly bipartisan support. In the Senate, forty-three Democrats and thirty Republicans voted for the bill in the Senate.⁵¹ In the House, 210 Democrats and 165 Republicans voted for the bill, with only one Republican nay vote.⁵² Twenty-nine Republicans and four Democrats co-sponsored the bill in the Senate, but only one Republican sponsored the bill in the House.⁵³ The bipartisan co-sponsorships and votes in both the House and the Senate show that the Clean Air Act had significant bipartisan support among members of Congress (See Table 1).

Of the factors I predict contribute to bipartisan support for environmental policy, the Act had two, as well as the lowest unemployment rate and federal deficit at the time of passage. Democrats controlled both houses of Congress in 1970, with fifty-seven seats in the Senate⁵⁴ and 243 seats in the House.⁵⁵ Although they had a majority, Democrats were notably three votes

⁴⁹ Christopher Ahler, “Origins of the Clean Air Act: A New Interpretation,” *Environmental Law* 45, no. 1 (Winter 2015): 118, <https://law.lclark.edu/live/files/19115-45-1ahlers>.

⁵⁰ Ahler, “Origins of the Clean Air Act: A New Interpretation,” 118.

⁵¹ United States Senate, “TO PASS H.R. 17255,” *Govtrack*, June 10, 1970, accessed November 14, 2020, <https://www.govtrack.us/congress/votes/91-1970/s543>.

⁵² United States House of Representatives, “TO PASS H.R. 17255,” *Govtrack*, June 10, 1970, accessed November 13, 2020, <https://www.govtrack.us/congress/votes/91-1970/h268#details>.

⁵³ Brigham Daniels, Andrew P. Follett, and Joshua Davis, “The Making of the Clean Air Act,” *Hastings Law Journal* 71, no. 4 (2020), https://repository.uchastings.edu/cgi/viewcontent.cgi?article=3895&context=hastings_law_journal, 914.

⁵⁴ “Party Division,” *United States Senate*, accessed November 15, 2020, <https://www.senate.gov/history/partydiv.htm>.

⁵⁵ “Party Divisions of the House of Representatives, 1789 to Present,” *United States House of Representatives*, accessed November 15, 2020, <https://history.house.gov/Institution/Party-Divisions/Party-Divisions/>.

short of cloture in the Senate. The bill followed regular order in its journey through Congress, being assigned to committees and subcommittees that held hearings and votes before passing the bill to the chamber floors (See Table 2).

Although the Clean Air Act of 1970 was successful in becoming law, there was not widespread concern for environmental issues among the public. Less than half of the American public, 48 percent, was concerned about the environment. Public opinion polls did not ask about environmental issues until a few years after 1970, when the issue became more salient as the Environmental Protection Agency implemented more programs.⁵⁶ However, Agnone was able to create “an index of environmental attitudes combining the GSS [general social survey] and Roper data with eighteen environmental questions relating to pollution and federal spending identified prior to 1970.”⁵⁷ His data reveals that public support for environmental issues, between 1960 and 1998, was at its lowest point in the 1970s (See Table 2).

Many of the factors the Clean Air Act had are things previous scholars also noted are important for bipartisan cooperation, but they had never before been applied to environmental policy. Democrats held a strong majority in both houses of Congress for several years, from the late 1950s through the 1970s. As Lee explains, a stable majority by one party forces the minority party to cooperate with the majority party to achieve any of their policy agendas. She states, “members and leaders have little reason to invest in partisan enterprises when they perceive no change for majority control to shift.”⁵⁸

In the 1970s, there were simply too few Republican voters in the county to give Republicans a hope of winning a majority in both houses of Congress. Therefore, there was no

⁵⁶ Jon Agnone, "Amplifying Public Opinion: The Policy Impact of the U.S. Environmental Movement." *Social Forces* 85, no. 4 (2007): 1600, <http://www.jstor.org/stable/4495000>.

⁵⁷ Agnone, "Amplifying Public Opinion: The Policy Impact of the U.S. Environmental Movement," 1600.

⁵⁸ Lee, *Insecure Majorities*, 4.

incentive for Republicans to work against Democrats in an effort to appeal to their base and win a majority in the next election. Given this, between the choices of letting the opposing party take total control of legislation and negotiating and working cooperatively, bipartisan cooperation is much more appealing to a minority party. The strong Democratic majority in 1970 likely facilitated bipartisan cooperation on the Clean Air Act.

The Clean Air Act moved through Congress following regular order, which allowed members to provide their thoughts on the bill and amend it to improve upon its original form. Additionally, both Democrats and Republicans can move to amend bills in committees, but this opportunity for bipartisan negotiation is missed when Congressional leadership pushes bills straight to floor votes.⁵⁹ Sinclair argues that this process is critically important for bills to garner bipartisan support on the floor. The more scrutinization and improvements a bill undergoes, the more likely members are to pass it.⁶⁰

Less than half of the American public was concerned about environmental issues in 1970, yet the Clean Air Act received widespread support from lawmakers. Still, at 48 percent, a significant portion of the population that is concerned about the environment and as Helmuth, Gouhier, Scyphers, and Mocarski note, science was not as much of a wedge issue in the 1990s as it is now.⁶¹ Because neither party ‘owned’ environmental policy, members’ support for environmental policy did not betray their party. Van Boven, et al. find that this perception of betrayal is often the case, now, when Republicans support environmental policies.⁶²

Although environmental issues may not have been hugely salient, the low unemployment rate and relatively small deficit likely made lawmakers more confident in imposing new

⁵⁹ Mann and Ornstein, *The Broken Branch*, 171.

⁶⁰ Sinclair, *Unorthodox Lawmaking*, 219

⁶¹ Helmuth, et al., “Trust, tribalism and tweets: has political polarization made science a wedge issue?”

⁶² Van Boven, et al., “Psychological Barriers to Bipartisan Public Support for Climate Policy.”

regulations. The year the Clean Air Act was passed, there was an unemployment rate of just 4.9 percent⁶³ and the federal deficit was only -0.3 percent of GDP (See Table 2).⁶⁴ A low unemployment rate and small deficit are indicators that businesses were thriving and therefore asking them to make adjustments to operations in order to promote clean air was not overly cumbersome.

B. 1990 Clean Air Act Amendments

Twenty years later, the Clean Air Act Amendments of 1990 expanded the scope of the Act, and also passed with bipartisan support. The 1990 Amendments to the Clean Air Act sought to reduce acid rain, urban air pollution, ozone-depleting chemicals, and toxic air emissions.⁶⁵ The Amendments also increased research and development, established a national permits program, and improved enforcement of the Act.⁶⁶ Like the 1970 Amendments, the 1990 Amendments had co-sponsors from both parties (fifteen Democrats and seven Republicans in the Senate⁶⁷ and 102 Democrats and 64 Republicans in the House).⁶⁸ Fifty Democrats and thirty-nine Republicans supported it in the Senate and 248 Democrats and 153 Republicans supported the bill in the House⁶⁹ (See Table 1).

⁶³ Daniel J. Weiss, “Anatomy of a Senate Climate Bill Death,” October 12, 2010, *Center for American Progress*, <https://www.americanprogress.org/issues/green/news/2010/10/12/8569/anatomy-of-a-senate-climate-bill-death/>.

⁶⁴ Federal Reserve Bank of St. Louis, “Federal Surplus or Deficit [-] as Percent of Gross Domestic Product,” *Economic Research*, October 16, 2020, accessed December 8, 2020, <https://fred.stlouisfed.org/series/FYFSGDA188S>.

⁶⁵ “1990 Clean Air Act Amendment Summary,” *The Environmental Protection Agency*, accessed November 15, 2020, <https://www.epa.gov/clean-air-act-overview/1990-clean-air-act-amendment-summary>.

⁶⁶ “1990 Clean Air Act Amendment Summary,” accessed November 15, 2020.

⁶⁷ “S.1630 - Clean Air Act Amendments of 1990,” *Congress.gov*, accessed November 15, 2020, [https://www.congress.gov/bill/101st-congress/senate-bill/1630/cosponsors?q={%22search%22:\[%22clean+air+act+amendments%22\]}&r=3&s=3&searchResultViewType=expanded](https://www.congress.gov/bill/101st-congress/senate-bill/1630/cosponsors?q={%22search%22:[%22clean+air+act+amendments%22]}&r=3&s=3&searchResultViewType=expanded).

⁶⁸ “H.R.3030 - Clean Air Act Amendments of 1990,” *Congress.gov*, accessed November 15, 2020, [https://www.congress.gov/bill/101st-congress/house-bill/3030/cosponsors?q={%22search%22:\[%22H.R.+3030%22\]}&r=1&s=9&searchResultViewType=expanded](https://www.congress.gov/bill/101st-congress/house-bill/3030/cosponsors?q={%22search%22:[%22H.R.+3030%22]}&r=1&s=9&searchResultViewType=expanded).

⁶⁹ “S. 1630 (101st): Clean Air Act Amendments of 1990,” *Govtrack*, November 15, 1990, accessed November 15, 2020, <https://www.govtrack.us/congress/bills/101/s1630>.

The 1990 Amendments to the Clean Air Act had three of three factors that are important for bipartisanship present at the time of their passage. Democrats controlled both houses of Congress with fifty-five Senators⁷⁰ and 260 Representatives⁷¹ and legislators adhered to regular order in considering the bills. The national unemployment rate was slightly higher than it was twenty years prior: 5.3 percent,⁷² as was the federal deficit: \$3.2 trillion,⁷³ which was -4.4 percent of the GDP.⁷⁴ However, a significant shift in public opinion concerning environmental issues took place in those twenty years. Public concern for environmental issues increased by 10 percent from 1970 to 1990; the proportion of people expressing support for protecting the environment was 58 percent the year the Clean Air Act Amendments were passed in 1990 (See Table 2).

In 1990, more than fifty percent percent of the American public was concerned about environmental issues and both parties were willing to address the issues (See Table 2). The Clean Air Act Amendments of 1990 were the mechanism by which the country adopted the provisions of the Montreal Protocol, signed by President Reagan in 1987.⁷⁵ This stands in stark contrast to today's politics. Today, 65 percent of Americans would like to see the federal government take more action to address climate change.⁷⁶ Yet, Republican lawmakers have less often supported environmental policies while Democratic lawmakers have increasingly

⁷⁰ "Party Division," *United States Senate*.

⁷¹ "Party Divisions of the House of Representatives, 1789 to Present," *United States House of Representatives*.

⁷² Weiss, "Anatomy of a Senate Climate Bill Death."

⁷³ U.S. Treasury, "Historical Debt Outstanding," *Fiscal Data*, accessed November 26, 2020, <https://fiscaldata.treasury.gov/datasets/historical-debt-outstanding/historical-debt-outstanding>.

⁷⁴ Federal Reserve Bank of St. Louis, "Federal Surplus or Deficit [-] as Percent of Gross Domestic Product."

⁷⁵ "1990 Clean Air Act Amendment Summary," *The Environmental Protection Agency*.

⁷⁶ Alec Tyson and Brian Kennedy, "Two-Thirds of Americans Think Government Should Do More on Climate," *Pew Research Center*, June 23, 2020, accessed October 29, 2020, https://www.pewresearch.org/science/2020/06/23/two-thirds-of-americans-think-government-should-do-more-on-climate/?campaign_id=9&emc=edit_nn_20201013&instance_id=23083&nl=the-morning®i_id=84985409§ion_index=1§ion_name=big_story&segment_id=40788&te=1&user_id=122cef1a1c78a2d6041d79d0cc2180a8.

supported environmental policies in the past four decades.⁷⁷ As was the case with the Clean Air Act of 1970, this is consistent with the findings of Helmuth et al. that science is becoming a wedge issue between the two parties in American politics.⁷⁸

Other similarities to the Clean Air Act are the adherence to regular order by the 101st Congress when passing the 1990 Amendments, the relatively low unemployment rate at the time of passage, relatively small federal deficit, and single-party control of Congress by Democrats. As the Amendments passed with bipartisan support, this case likewise supports Mann and Ornstein's arguments that regular order is important for the success of legislation,⁷⁹ Sinclair's findings that bills are more likely to pass the more amendments they undergo,⁸⁰ and Lee's argument that single-party Congressional majorities facilitate bipartisan lawmaking.⁸¹

C. American Clean Energy and Security Act of 2009

The American Clean Energy and Security Act (2009), also known as the Waxman-Markey Bill, was a comprehensive piece of environmental legislation concerning pollution. Representative Henry Waxman served in the House for forty years, representing a Southern California district.⁸² He was a ranking member and Chair of House Committee on Energy and Commerce and supported several environmental laws throughout his time on office, including the 1980, 1986, and 1996 Amendments to the Safe Drinking Water Act, the 1988 Lead Contamination Control Act, the 1990 Clean Air Act Amendments, and the 2007 Energy

⁷⁷ Dunlap, McCright, and Yarosh, "The Political Divide on Climate Change: Partisan Polarization Widens in the U.S.," 7.

⁷⁸ Helmuth et al., "Trust, tribalism and tweets: has political polarization made science a wedge issue?"

⁷⁹ Mann and Ornstein, *The Broken Branch*, 171.

⁸⁰ Sinclair, *Unorthodox Lawmaking*, 219.

⁸¹ Lee, *Insecure Majorities*, 4.

⁸² "Representative Henry A. Waxman," *Congress.gov*, accessed November 25, 2020, <https://www.congress.gov/member/henry-waxman/W000215?q={%22congress%22:101}&searchResultViewType=expanded>.

Independence and Security Act.⁸³ He has long been an advocate of environmental policy and crafted the 2009 American Clean Energy and Security Act based on environmental policies in place in his home state of California.

This piece of legislation sought to create a national cap and trade program for greenhouse gas emissions, a combined energy efficiency and renewable electricity standard for retail electricity suppliers, and a plan for improving overall U.S. energy productivity.⁸⁴ Brunell and Cease found that members of Congress whose home states have similar environmental policies in place to what is being presented on a federal level are more likely to support the legislation, no matter their party.⁸⁵ While the bill passed the House of Representatives, it was never introduced in the Senate. The bill was co-sponsored by two Democrats and received just eight votes from Republicans⁸⁶ (See Table 1).

Unlike the two previous pieces of legislation, the American Clean Energy and Security Act did not become law and had only one of five factors for bipartisanship present. Democrats once again held a majority in both chambers with fifty-seven seats in the Senate⁸⁷ and 257 seats in the House.⁸⁸ However, the House did not follow regular order in passing the bill, there was not widespread belief in climate change, and the unemployment rate was extremely high (See Table 2).

In considering the American Clean Energy and Security Act, eight committees to which the bill was assigned failed to hold hearings or make-up sessions; only one committee, the House

⁸³ “Waxing Environmental on Rep. Henry Waxman,” *Scientific American*, February 6, 2014, accessed November 25, 2020, <https://www.scientificamerican.com/article/waxing-environmental-on-rep-henry-waxman/>.

⁸⁴ “H.R.2454 - American Clean Energy and Security Act of 2009,” *Congress.gov*, November 15, 2009, accessed November 15, 2020, <https://www.congress.gov/bill/111th-congress/house-bill/2454>.

⁸⁵ Brunell and Cease, “How Do State-Level Environmental Policies Impact the Voting Behavior of National Legislators?”

⁸⁶ “H.R. 2454 (111th): American Clean Energy and Security Act of 2009,” *Govtrack*, June 26, 2009, accessed November 15, 2020, <https://www.govtrack.us/congress/votes/111-2009/h477>.

⁸⁷ “Party Division,” *United States Senate*.

⁸⁸ “Party Divisions of the House of Representatives, 1789 to Present,” *United States House of Representatives*.

Committee on Energy and Commerce, gave a report on the bill.⁸⁹ Only half of Americans believed that climate change was having an effect on the world⁹⁰ and the national economy was struggling with an unemployment rate of 9.5 percent⁹¹ and a federal deficit of \$11.9 trillion.⁹² As a percentage of the GDP, the deficit skyrocketed to 9.8 percent.⁹³ A weak national economy and a lack of sufficient concern for environmental issues resulted in little impetus for stringent regulation of greenhouse gas emissions. Additionally, failure to follow regular order resulted in fewer hearings and votes on the bill, which meant there were fewer opportunities for members to offer their amendments before it reached the floor (See Table 2).

Polling on environmental issues in 1970 and 1990 did not ask about climate change, as it was not yet a widely understood concept nor used phrase. However, polling in 2009 revealed that just less than half of the American public believed climate change was having an effect on the planet (See Table 2). This is an important distinction as Craig Volden and Alan Wiseman found that environmental policy regarding public lands often garners more support than policy addressing climate change.⁹⁴ With concern for climate change in America being less than 50 percent, a bill calling for sweeping regulations of emissions and an overhaul of America's energy sector, the American Clean Energy and Security Act was simply too comprehensive (if effective in addressing carbon pollution) to be popular enough to pass.

A low unemployment rate and large federal deficit are indicators of a struggling national economy. With many Americans without jobs and gross overspending by the government, a bill that asked the government to spend additional money in regulations and could potentially cut

⁸⁹ "H.R.2454 - American Clean Energy and Security Act of 2009," *Congress.gov*.

⁹⁰ Dunlap, McCright, and Yarosh, "The Political Divide on Climate Change: Partisan Polarization Widens in the U.S.," 8.

⁹¹ "Civilian unemployment rate," *U.S. Bureau of Labor Statistics*, accessed November 15, 2020, <https://www.bls.gov/charts/employment-situation/civilian-unemployment-rate.htm>.

⁹² U.S. Treasury, "Historical Debt Outstanding."

⁹³ Federal Reserve Bank of St. Louis, "Federal Surplus or Deficit [-] as Percent of Gross Domestic Product."

⁹⁴ Volden and Wiseman, "Entrepreneurial Politics, Policy Gridlock, and Legislative Effectiveness," 33.

jobs was likely not in the best immediate interests of many lawmakers or their constituents. Even if the bill decreased greenhouse gases in the long-term, the short-term implications could cost members their reelection. This concept is consistent with Mayhew's theory that members of Congress engage in actions that are most likely to ensure their reelection.⁹⁵

Finally, House leadership attempted to quickly pass the bill, pushing it through committees without giving them ample time and opportunity to hold hearings and issue reports. Most committees, to which the bill was assigned, were discharged just a month after its introduction did not become law. This supports Mann and Ornstein's argument that Congress has experienced a demise in regular order since 1994, which is dangerous for democracy and King's argument that the House must return to regular order to become more bipartisan. Epstein found that when a bipartisan coalition of members from a committee support a bill, then the floor is more likely to pass the bill with bipartisan support, but the American Clean Energy and Security Act was never given this opportunity, which is reflected in its nearly party-line vote.⁹⁶

D. Frank R. Lautenberg Chemical Safety for the 21st Century Act

The Frank R. Lautenberg Chemical Safety for the 21st Century Act bears the name of its original author, Senator Lautenberg. After Senator Lautenberg's death in 2013, Senator Udall introduced the legislation again in 2015. The Chemical Safety for the 21st Century Act (2016) amends the Toxic Substances Control Act of 1976 to include risk based chemical assessments, new deadlines for EPA evaluations of chemicals, and increased public transparency.⁹⁷ This act had bipartisan support in both houses of Congress and although it addresses pollution, this act does not focus on air pollution like the three previous acts. Despite increasing belief in climate

⁹⁵ Mayhew, *The Electoral Connection*, 73.

⁹⁶ Epstein, "Legislating from Both Sides of the Aisle: Information and the Value of Bipartisan Consensus."

⁹⁷ "H.R.2576 - Frank R. Lautenberg Chemical Safety for the 21st Century Act," *Congress.gov*, accessed November 15, 2020, <https://www.congress.gov/bill/114th-congress/house-bill/2576>.

change, Congress has been unable to pass legislation to address the atmospheric carbon pollution that causes climate change.

Chemical pollution is still concerning, so it is significant that Congress worked in a bipartisan manner to pass the Frank R. Lautenberg Chemical Safety for the 21st Century Act. Thirty-two Republicans and twenty-five Democrats co-sponsored the bill in the Senate⁹⁸ and eight Democrats and Republicans, each, co-sponsored the bill in the House.⁹⁹ The Senate passed the bill with a voice vote, so it is impossible to know exactly who voted in favor of the bill, but given the broad co-sponsorship of the bill in the Senate, it can be assumed that the voice vote was also bipartisan. In the House, 232 Republicans and 171 Democrats voted for the Act¹⁰⁰ (See Table 1).

Of the three factors I consider for bipartisanship, this act had one, similar to the American Clean Energy and Security Act. However, unlike the previous bill, this bill became law. In 2016, Republicans controlled the House¹⁰¹ while Democrats controlled the Senate,¹⁰² meaning there was not a single-party majority in Congress. The bill was assigned to the Senate Committee on Environment and Public Works¹⁰³ and the House Committee on Energy and Commerce,¹⁰⁴ but the House passed the bill on a motion to suspend the rules, so regular order was not followed¹⁰⁵ (See Table 2).

⁹⁸ “S.697 - Frank R. Lautenberg Chemical Safety for the 21st Century Act,” *Congress.gov*, accessed November 15, 2020, <https://www.congress.gov/bill/114th-congress/senate-bill/697?q=%7B%22search%22%3A%5B%22Frank+R.+Lautenberg+Chemical+Safety+for+the+21st+Century+Act%22%5D%7D&r=1&s=3>.

⁹⁹ “H.R.2576,” *Congress.gov*.

¹⁰⁰ “H.R. 2576: Frank R. Lautenberg Chemical Safety for the 21st Century Act,” *Govtrack*, May 24, 2016, accessed November 15, 2020, <https://www.govtrack.us/congress/votes/114-2016/h238>.

¹⁰¹ “Party Divisions of the House of Representatives, 1789 to Present,” *United States House of Representatives*.

¹⁰² “Party Division,” *United States Senate*.

¹⁰³ “S.697,” *Congress.gov*.

¹⁰⁴ “H.R.2576,” *Congress.gov*.

¹⁰⁵ “H.R.2576,” *Congress.gov*.

By 2016, public belief in climate change was well above half the population at 58 percent, yet this might not have been a driving factor in passing this bill as it does not address climate change.¹⁰⁶ As in 1970, the unemployment rate was 4.9 percent when the Chemical Safety for the 21st Century Act was passed, which likely made regulation more appealing to legislators than seven years prior, with the American Clean Energy Act.¹⁰⁷ However, the federal deficit in 2016 was \$19.5 trillion.¹⁰⁸ Although this is much larger than the deficit at the time the previous three bills were passed, as a percentage of the GDP, it is roughly comparable (though slightly lower) to the 1990 Clean Air Act Amendments at 3.1 percent (See Table 2).¹⁰⁹

In comparison to the other three bills, the Chemical Safety for the 21st Century Act is an outlier. The bill passed, despite split party control of Congress and bypassing regular order (although there were a few committee hearings without reports). However, there was widespread concern for environmental issues, a strong economy, and this bill, unlike the previous act, imposed fewer changes. The Chemical Safety for the 21st Century Act merely proposed amendments to the existing Toxic Substances Control Act and implemented a few minor changes, rather than introducing new federal programs or sweeping overhauls.

¹⁰⁶ Dunlap, McCright, and Yarosh, “The Political Divide on Climate Change: Partisan Polarization Widens in the U.S.,” 8.

¹⁰⁷ “Civilian unemployment rate,” *U.S. Bureau of Labor Statistics*.

¹⁰⁸ U.S. Treasury, “Historical Debt Outstanding,” *Fiscal Data*.

¹⁰⁹ Federal Reserve Bank of St. Louis, “Federal Surplus or Deficit [-] as Percent of Gross Domestic Product.”

Table 1: Indicators of Bipartisan Support for Environmental Policy in Congress

Bill	Bipartisan Vote in Senate	Bipartisan Vote in House	Bipartisan Co-sponsorship in Senate	Bipartisan Co-sponsorship in House
Clean Air Act of 1970	X	X	X	
Clean Air Act Amendments of 1990	X	X	X	X
American Clean Energy and Security Act of 2009		X		
Frank R. Lautenberg Chemical Safety for the 21st Century Act (2016)	Voice Vote	X	X	X

Table 2: Factors that Contribute to Bipartisan Support for Environmental Policy in Congress

Bill	One Party Control of Congress	Adherence to Regular Order	Concern for Environmental Issues >50%	Unemployment Rate	Federal Deficit (percent of GDP)
Clean Air Act of 1970	X	X		4.9%	\$370.9 billion (-0.3%)
Clean Air Act Amendments of 1990	X	X	X	5.3%	\$3.2 trillion (-4.4%)
American Clean Energy and Security Act of 2009	X			9.5%	\$11.9 trillion (-9.8%)
Frank R. Lautenberg Chemical Safety for the 21st Century Act (2016)			X	4.9%	\$19.5 trillion (-3.1%)

G. Additional Variables

In addition to one party control of Congress, adherence to regular order, public concern for environmental issues, and the unemployment rate, I hypothesize that residency of members in Washington, D.C. and primary elections that nominate increasingly extreme candidates are variables that affect bipartisan cooperation in Congress. Currently, far fewer members of Congress establish primaries residencies in Washington, D.C. than in the late twentieth century. Some members even resort to living in their offices to save money.

The year 1994 ushered in a change in the way many members, especially those in the House, saw and carried out their roles. After many years of a Democratic majority in both houses, Republicans won the House in 1994 and Newt Gingrich became the Speaker of the House.¹¹⁰ He pushed Republicans to pursue an ambitious legislative agenda and changed the culture of Washington in the process. The freshmen members saw themselves as “citizen politicians,” members whose primary focus was their district and therefore aimed to spend as little time in Washington as possible.¹¹¹

In an effort to minimize their time in Washington, several members, including previous House Speaker Paul Ryan, lived in their Congressional offices during the week.¹¹² They showered in the House gym, cooked dinners in microwaves, and slept on couches or in Murphy beds. Members used to establish residencies in Washington, buying or renting houses in the area and moving whole families to the Capitol, but Gingrich wanted members to spend more time campaigning in their districts.¹¹³ Amy Gutmann and Dennis Thompson describe the effects of this transition well in their book *The Spirit of Compromise*: “Elected legislators associate with

¹¹⁰ John Kenneth White and Matthew R. Kerbel, *Party On!* (New York and London: Routledge, 2018), 159.

¹¹¹ White and Kerbel, *Party On!*, 168.

¹¹² White and Kerbel, *Party On!*, 169.

¹¹³ Guttmann and Thompson, *The Spirit of Compromise*, 169.

like-minded members during their fleeting time in Washington and with like-minded constituents when they return to their districts. Congressional life has come to mirror the partitioned conditions that social scientists find lead to polarized and often extreme views.”¹¹⁴

When members spend less time in Washington, D.C., they spend less time getting to know each other outside of a work setting. Fewer members have children that go to the same schools, attend the same churches, are friends with each other's spouses, and spend time with each other on the weekends. Representative Jim Cooper explains this shift well: “Soon everyone belonged to the Tuesday–Thursday Club. Members became strangers, the easier for them to fight.”¹¹⁵ The change in culture in Congress makes bipartisan cooperation more difficult because members are less likely to be friendly with one another. Therefore, a decrease in residency in D.C. among members of Congress is a factor that decreases bipartisan cooperation on environmental policy.

Primary elections that elect increasingly extreme candidates is another factor that decreases bipartisan cooperation in Congress. Morris Fiorina found in his research that the two major political parties are becoming increasingly homogeneous as citizens increasingly live near like-minded individuals.¹¹⁶ Additionally, fewer people tend to vote in primary elections and the people who do vote prefer more extreme candidates: more conservative for Republicans and more liberal for Democrats.¹¹⁷ This has the result of two extreme candidates arriving at general elections, meaning no matter which party wins, the member will be less willing to work across the aisle in governing.

¹¹⁴ Guttman and Thompson, *The Spirit of Compromise*, 169.

¹¹⁵ Guttman and Thompson, *The Spirit of Compromise*, 169.

¹¹⁶ Fiorina, *Unstable Majorities*, 74.

¹¹⁷ David W. Brady, Hahrie C. Han, and Jeremy C. Pope, “Primary Elections and Candidate Ideology: Out of Step with the Primary Electorate?” *Conference Papers -- Midwestern Political Science Association*, April 2004, 14.

Partisan polarization became all the more relevant in 2009 with the rise of Tea Party Republicans. Members of the Tea Party are extremely conservative Republicans who believe strongly in the tenets of limited government and fiscal conservatism.¹¹⁸ These beliefs are typically in diametric opposition to regulatory environmental policies. The rise of the Tea Party movement likely contributed to the failure of the American Clean Energy and Security Act in 2009 as the bill proposed large-scale government regulation of American energy providers as well as greenhouse gas emissions, through a national cap and trade system.

H. Conclusion

Bipartisan cooperation can be difficult, especially as the environment and climate change become increasingly contentious issues, yet the American political system demands negotiation and compromise. Adherence to regular order and single-party control of Congress facilitated bipartisan cooperation on the Clean Air Act of 1970 and the Clean Air Act Amendments of 1990, yet neither factor was present at the time the Frank R. Lautenberg Chemical Safety for the 21st Century Act was passed with bipartisan support in 2016. However, like the Clean Air Act and its 1990 Amendments, the unemployment rate at the time of passage was low.

The unemployment rate was much higher in 2009 when the American Clean Energy and Security Act passed, which supports my hypothesis that a low unemployment rate as part of a strong national economy is important for bipartisan collaboration on environmental policy. A small federal deficit seems to be less important for facilitating bipartisan cooperation as the Chemical Safety Act passed in a year of a large federal deficit while the American Clean Energy and Security Act failed in a year with a smaller deficit.

Public concern for environmental issues seems to play a small role in bipartisan cooperation, yet partisan polarization appears to have a greater influence. Environmental issues,

¹¹⁸ White and Kerbel, *Party On!*, 169.

and climate change in particular, were not ‘owned’ by either party prior to 1994, and members of Congress were less concerned about crossing party lines and passing legislation than not working with the opposition in the hopes that it would help with regaining majority control in Congress in the next election. Additionally, there was more of a sense of community among members before 1994 when more members lived in Washington with their families.

It is difficult to compare the Chemical Safety for the 21st Century Act to the other three acts because it addresses chemical pollution while the other three address air pollution. The slightly different policy area may have the greatest effect on bipartisan support for environmental policy post-1994. In the realm of air pollution policy, my findings suggest that rather than any one factor being most influential in encouraging bipartisan collaboration, a mix of at least four of the five factors I explore is beneficial.

VI. Conclusion

As the lawmaking body of our government, Congress is responsible for passing legislation that addresses the issues we face as a nation and provides a good quality of life for all Americans. Care for the environment is essential for the survival of humans and Congress was successful in passing several comprehensive pieces of environmental legislation in the 1970s, including the Clean Water Act, Endangered Species Act, Safe Drinking Water Act, Toxic Substances Control Act, and Resource Conservation and Recovery Act. Despite increasing environmental concerns, such as climate change, and an American public who believes Congress must do more to address the issue, Congress has not passed a comprehensive piece of environmental legislation since the 1990 Clean Air Act Amendments.

Science has become a wedge issue in American politics, to the detriment of environmental legislation. Changes in Congressional behaviors both inside and outside of the chambers has made it difficult for members to cooperate on environmental policy, leaving the country without the laws necessary to address some of the most pressing environmental concerns. When Congress fails to act, the President can step in and take action, but executive actions are not as long-lasting as those from Congress.

President Obama took a fairly aggressive approach to addressing climate change, entering into the Paris Climate Accords, implementing the national Clean Power plan, and setting federal vehicle emission standards.¹¹⁹ However, many of the environmental protections and regulations that President Obama implemented, President Trump removed. In his four years in office, President Trump rolled back eighty-four environmental regulations, proving that executive action on the environment is far from permanent.¹²⁰

The Supreme Court ruled in 2007 that the Environmental Protection Agency must regulate greenhouse gases under the Clean Air Act, as they pose a threat to human health.¹²¹ However, their decision did not go as far as to stipulate how the EPA must regulate the gases. In 2019, the Trump Administration lowered the standards by which the EPA must regulate greenhouse gas emissions. President Trump's Affordable Clean Energy Program reduces energy sector emissions by 1.5 percent by 2030, while President Obama's Clean Power Plan cut emissions by 32 percent.¹²²

¹¹⁹ Marianne Lavell, "2016: Obama's Climate Legacy Marked by Triumphs and Lost Opportunities," *Inside Climate News*, December 26, 2016, accessed November 29, 2020, <https://insideclimatenews.org/news/23122016/obama-climate-change-legacy-trump-policies>.

¹²⁰ Nadja Popovich, Livia Albeck-Ripka, and Kendra Pierre-Louis, "The Trump Administration Is Reversing More Than 100 Environmental Rules. Here's the Full List," *The New York Times*, November 10, 2020, accessed November 29, 2020, <https://www.nytimes.com/interactive/2020/climate/trump-environment-rollbacks-list.html>.

¹²¹ *Massachusetts v. Environmental Protection Agency*, 549 US 497 (2007).

¹²² Umair Irfan, "Trump's EPA just replaced Obama's signature climate policy with a much weaker rule," *Vox*, June 19, 2019, accessed November 22, 2020, <https://www.vox.com/2019/6/19/18684054/climate-change-clean-power-plan-repeal-affordable-emissions>.

Unsatisfied with the work President Trump and Congress have done on environmental issues, President-elect Joe Biden is making plans for more stringent environmental policies. He has already named a climate czar as part of his administration and is considering creating a new council or White House office dedicated to the issue.¹²³ However, the EPA will still be the primary environmental regulator at his disposal. While these intentions are admirable and will hopefully steer the country back towards care for the environment, like the actions of presidents in the past, they are impermanent.

Although Executive action is not as lasting as laws passed by Congress, Presidential leadership is still significant in legislative agenda-setting. Therefore, a potential area of future research that this thesis does not explore is the influence of the president on bipartisan support for environmental policy in Congress.

Partisan polarization and a decrease in Washington, D.C. residency among members of Congress make bipartisan cooperation on climate change challenging, yet regular order, public concern for environmental issues, a strong national economy, and single-party congressional majorities facilitate bipartisan collaboration. The Problem Solvers Caucus is a bipartisan caucus in the House that offers hope for a more bipartisan future of lawmaking. Comprising an even number of Democrats and Republicans, the caucus is “a group united in the idea that there are commonsense solutions to many of the country's toughest challenges.”¹²⁴ Already, the group has passed rule reform in the House that breaks gridlock by giving preferential treatment to popular bipartisan amendments and ensuring bills with widespread bipartisan support reach the floor for a vote.¹²⁵

¹²³ Coral Davenport and Lisa Friedman, “Biden Plans to Move Fast With a ‘Climate Administration.’ Here’s How,” *The New York Times*, November 17, 2020, accessed November 29, 2020, <https://www.nytimes.com/2020/11/17/climate/biden-climate-change.html>.

¹²⁴ “About the Caucus,” *Problem Solvers Caucus*, accessed November 29, 2020, <https://problemsolverscaucus-gottheimer.house.gov/about>.

¹²⁵ “About the Caucus,” *Problem Solvers Caucus*.

Additionally, both the House of Representatives and the Senate have a bipartisan Climate Solutions Caucus that specifically focus on finding creative solutions to addressing climate challenges that appease both Democrats and Republicans.¹²⁶ Introduced in February 2019, the Utilizing Significant Emissions with Innovative Technologies (USE IT) Act has broad bipartisan support and has already passed the Senate.¹²⁷ In the Senate, the bill is cosponsored by ten Democrats and eight Republicans,¹²⁸ and in the House, forty-seven Democrats and twenty-three Republicans have shown their support.¹²⁹

Generally, the bill proposes federal research on direct air carbon capture research as well as support for “federal, state, and non-governmental collaboration in the construction and development of carbon capture, utilization, and sequestration (CCUS) facilities and carbon dioxide pipelines.”¹³⁰ The core focus of this Act is to remove carbon dioxide from the atmosphere and recycle it. Not only would this remove a pollutant from our air, but it also makes use of it, converting it to things such as fuels and chemicals.

The significant lack of environmental legislation passed in recent decades is disheartening, especially as climate change continues to increasingly threaten the lives of Americans. Shifts in Congress as well as in the American public since the Clean Water Act of 1970 make bipartisan negotiations and collaborations on environmental policies difficult. However, there is a push among some members of Congress to work in a more bipartisan

¹²⁶ “Climate Solutions Caucus,” *Citizens’ Climate Lobby*, accessed November 29, 2020, <https://citizensclimatelobby.org/climate-solutions-caucus/>.

¹²⁷ “Barrasso Carbon Capture Bill Passes Senate,” *U.S. Senate Committee on Environment and Public Works*, June 27, 2019, accessed November 29, 2020, www.epw.senate.gov/public/index.cfm/2019/6/barrasso-carbon-capture-bill-passes-senate.

¹²⁸ “S.383 - USE IT Act,” *Congress.gov*, accessed November 29, 2020, <https://www.congress.gov/bills/116/congress/senate-bill/383?r=1&q=%7B%22search%22%3A%5B%22USE%20IT%22%5D%7D>.

¹²⁹ “H.R.1166 - USE IT Act,” *Congress.gov*, accessed November 29, 2020, <https://www.congress.gov/bills/116/congress/house-bill/1166/text>.

¹³⁰ “Barrasso Carbon Capture Bill Passes Senate,” *U.S. Senate Committee on Environment and Public Works*.

manner. The USE IT Act is an example of that effort and offers hope for American's legislative future on environmental issues.

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