

Spring 2009

Special Orders

**Barack Obama and the 111th Congress:
Politics as Usual?**

Barbara Sinclair
University of California, Los Angeles

What's ahead for the Obama administration and the 111th Congress? How much cooperation between the branches can we expect? How legislatively productive is the 111th likely to be?

We know quite a bit about the determinants of cooperation and a fair amount about those of legislative productivity. The single most important determinant of whether the relationship between the congressional majority and the president is primarily cooperative or conflicted is whether they are partisan colleagues or not.¹ There is less agreement about the impact of unified versus divided control on legislative productivity still the big bursts of productivity – the New Deal, the Great Society – have come in periods of unified control.² Beyond unified versus divided control, there is a host of political variables that also make a difference. How big are the majorities? To what extent do the president and the members of his party in Congress share policy preferences? Do they read the election as having carried a clear message, a mandate? How do the members of the minority read the political environment, and what strategies does that lead them to pursue? In particular, does the Senate minority see its interests furthered by leaning more towards cooperative negotiation or towards confrontation and obstructionism and, if the latter, can the party leadership hold enough of its members to make the strategy effective?

On November 4, 2008, Barack Obama was elected president with 52.9 percent of the popular vote, carrying 28 states. After a gain of 30 seats in the 2006 elections (and 3 subsequently in special elections), House Democrats added a net of 21, giving them a 257 to 178 margin in the 111th Congress. Senate Democrats picked up at least 7 and probably eventually 8 seats to increase their majority to 58 or 59. Thus, the elections determined that the branches would be controlled by co-partisans and that the majorities in both chambers would be large by recent standards.

Furthermore, the Democratic membership is ideologically homogeneous by American standards, certainly considerably more homogeneous than the Democratic congressional majorities that President Jimmy Carter or even President Bill Clinton faced. In the 110th Congress (2007-08), the mean party unity score of House Democrats was 92 percent; that of Senate Democrats was 87 percent.³ Only six House Democrats and

four Senate Democrats had party unity scores below 80 percent. These figures do not, of course, include the freshmen members elected in 2008, but they do include the 2006 freshmen, many of whom are from “red” states and districts, and as such were expected to be less inclined to support party positions. (None of the four senators below 80 percent were 2006 freshmen.)

Obama and congressional Democrats ran on quite similar issues as one would expect when the political parties are relatively ideologically homogeneous; thus they began with considerable agreement on a policy agenda. The economic crisis fueled a sense of urgency in the public and among policy makers alike, further focusing the attention of the new president and his congressional partisans on the same agenda.

Obama was the first non-incumbent president elected with a majority of the popular vote since 1988. His team’s adept handling of the transition further increased his public support, and he began his presidency with great expectations and a lot of good will. With the economy souring even more in late 2008 and early 2009, there was broad public support for the sort of swift and decisive action that Obama and many Democratic candidates had proposed during the campaign.

In sum, for Democrats the stars are better aligned for a cooperative relationship and legislative success than at any time since 1965. At the same time, they face a sobering set of policy challenges. Can they take advantage of the opportunity? What are the factors that suggest that they can and what are the possible stumbling blocks? How have they done so far? And what does that portend for the future?

Even a homogeneous congressional majority inclined to agree with the president in broad terms needs adept internal leadership to produce. After all, any majority is sizeable and made up of elected members with their own interests and priorities, representing diverse constituencies. Occupying the top congressional leadership positions in the 111th Congress are experienced, savvy politicians eager to work with the new president. Speaker of the House Nancy Pelosi and Senate Majority Leader Harry Reid had often found their attempts to legislate in the 110th Congress frustrated by a president who profoundly disagreed with them and their membership on most major policy disputes. Now they have a president with whom they and their members mostly agree and, perhaps even more important, they see Obama's success as essential to their own success – to satisfying their members’ policy and electoral goals and to maintaining their majorities. Most of the senior Democratic leaders, committee as well as party, served in Congress during the early Clinton presidency and are determined to avoid the mistakes made then. They know that they must deliver policy change and that will require discipline. They also expect to be partners, not underlings, in the formidable enterprise. They expect to be consulted and to be informed; as Pelosi indicated, she expects “no surprises, and no backdoor efforts to go around her and other Democratic leaders by cutting deals with moderate New Democrats or conservative Blue Dogs.”⁴

In his relations with Congress, Obama, a legislator himself, began well. He and his team started consulting with the Democratic congressional leadership even before the elections and continued throughout the transition period. He chose for important jobs in the new administration people with extensive congressional “know-how” and high respect on the Hill – Rahm Emanuel, a House member who had served as chair of the Democratic Congressional Campaign Committee and chair of the Democratic Caucus, as his chief of staff; Peter Orszag, director of the Congressional Budget Office, as head of the Office of Management and Budget; and, as his head of congressional liaison, Phil Schiliro, formerly chief of staff for senior House Democrat Henry Waxman, incoming chair of the Energy and Commerce Committee.

Obama reached out to Republicans as well as fellow Democrats in Congress, attempting to deliver on his promise of tamping down the partisan hostility in Washington. He sent Emanuel to meet with the Republican leadership soon after the election; he himself called a number of the Republican ranking committee members; Vice President-elect Joe Biden talked to some of his former Senate colleagues; Obama personally consulted Olympia Snowe, a key Senate moderate, on the stimulus package; and on January 5, two days after the new Congress convened, Obama met first with Pelosi and Reid, and then with Republican and

Democratic leadership teams. And he has continued his outreach, even going to the Hill after he became president to meet with Republicans on the stimulus package.

To give President Obama popular legislation to sign soon after his swearing in, the House Democratic leadership engineered quick passage of the children's health insurance program (SCHIP) reauthorization and the Lilly Ledbetter Fair Pay Act and the Senate followed – though a bit more slowly as is its wont. After skillful lobbying by Obama and his economic team, Senate Democrats with a little help from across the aisle voted to allow the incoming administration to use the remaining half of the \$700 billion approved in fall in the Troubled Assets Relief Program (TARP). Despite the unpopularity of the program, all but one of the Democratic freshmen senators supported Obama's position.

Passing the stimulus plan was the most crucial early test of the relationship between the new administration and Congress. The process demonstrated willingness on the part of the Obama team to listen to members of Congress and to adjust their proposals in response; for example, when Democrats argued that the \$3,000 employee hiring tax credit would be impossible to administer as intended, Obama gave it up even though it had been a campaign promise. In fact, Obama left much of the detail of crafting the package to Congress. Speaker Pelosi designated David Obey, chair of the Appropriations Committee, as the lead House Democrat to work with the Obama team in a collaboration that began not long after the elections and continued until enactment. The process further showed the extent of agenda agreement and the extent to which Democrats and their leaders see their fates as intertwined with Obama's. Thus the House committees marked up the stimulus bill during the first week of the Obama presidency and the House passed it in the second. Pelosi was intimately engaged throughout the process and made clear she would use the tools at her command to enact the bill; she vowed there would be no mid-February Presidents' Day recess until the bill was finished. Obama demonstrated his desire for a bipartisan bill by proposing a large tax-cut component; and the House Democratic leadership, in response to Obama's desire for comity and Republican demands, agreed to hold hearings and mark-up the bill in committee rather than bring the bill directly to the floor.

Action on the stimulus bill also showed the difficulty of making major policy change through a truly bipartisan process. Although encouraged by Obama's initial proposal to dedicate 40 percent of the stimulus package to tax cuts, congressional Republicans did not signal support for the package but demanded still more tax cuts and less spending. House Democrats, unconvinced that business tax cuts would stimulate the economy as much as spending, decreased the proportion of tax cuts. Republicans complained they were not given enough input and attempted to portray the Democratic leaders as dictatorial and out of step with Obama. When the Republican leaders met with Obama, they argued against a core element of his tax proposals (Obama pointed out he had won the election!). In an era of high partisan polarization, genuine and severe policy disagreement impedes bipartisanship. Furthermore, when the minority party faces unified government as the Republicans do now, they may perceive bipartisanship to conflict with their electoral interests. Their likely rationale: Obama and the congressional Democrats will get credit for any successes but, if they support the bills, Republicans will share the blame for any failures.

House Republicans' vote against the stimulus bill on initial passage and against the compromise conference report shows the extent to which Republican membership, as it has shrunk, has moved further and further right.⁵ There are very few moderate Republicans remaining in the House. That both votes were unanimous indicates the leadership decided the party's electoral interest lay in unequivocally and vigorously opposing Obama and the congressional Democrats' policy agenda. The Republican whip system was aggressively employed to keep any Republican members from straying; even Joseph Cao, newly elected from a poor, majority-black district, was pressured into opposing the stimulus bill.⁶

Because a simple majority can prevail in the House, even unanimous Republican opposition is irrelevant to passage. In the Senate, a minority of 41 or more can block passage if it uses its prerogative of extended debate. When Obama and congressional Democrats were unwilling to make fundamental changes to

the program, the Senate Republican leadership decided that its interests lay in opposition as well. Three moderate Senate Republicans were willing to deal; intense negotiations yielded agreements first on a Senate bill and then on the conference report. The three – Susan Collins and Olympia Snowe, both of Maine, and Arlen Specter of Pennsylvania – extracted a considerable price for their votes; but, in the end, the enactment of the stimulus plan in a form much like Obama's request and Democrats' earlier drafts was a major victory for the young administration and its congressional allies.

What lessons did the stimulus battle teach and what does it portend for the future? First and most widely agreed upon, Obama needs to use his bully pulpit aggressively. From his radio and web addresses begun not long after the election, his decision to maintain at ready the huge e-mail list of supporters amassed during the campaign, his inaugural address, and his deploying of senior advisors and officials on the Sunday talk shows, Obama seemed ready to do so. Yet at one point in the stimulus battle, opponents seized the initiative in defining the bill, claiming it was not a stimulus at all but just a lot of useless and expensive pork – and a failure as it did not garner large Republican support. Urged on by the Democratic congressional leadership, Obama personally took over the job of selling the stimulus bill and did so aggressively and successfully.

Whether the stimulus bill was even in danger of losing significant public support is unclear; but Obama's efforts meant he got the credit when the bill passed to strong public acclaim. A February 10 Gallup poll found that 59 percent of the public favored the stimulus bill while 33 percent opposed it; furthermore, support had increased after Obama went on the road to sell the program. Obama himself maintained his high approval ratings with the American people and the proportion approving of Congress increased significantly.⁷ Voters approved of the job congressional Democrats are doing by 46 percent to 45 percent and disapproved of the GOP's performance by 56 percent to 34 percent, according to a February 17-18 poll conducted by Fox News/Opinion Dynamics.⁸

By using the bully pulpit effectively, Obama makes it easier for congressional Democrats to support his initiatives and for the congressional leaders to deliver for him legislatively.⁹ When the president attempts to build public support for his agenda by “going to the people,” it is sometimes interpreted as “going over the heads” of members of Congress to pressure them via their constituents and is thought to breed resentment. However, when the president's efforts allow members to do what they would like to do anyway, their response is likely to be quite different. And if a few Republicans do, in fact, feel constituency pressure, any resentment is likely to be considered a reasonable price to pay for their occasional votes.

A second lesson concerns the limits of bipartisanship. Obama and moderates in the Democratic party have learned that the relationship between Obama and the Republicans (both the leadership and the bulk of the membership) is likely to be rocky throughout his presidency. By communicating with them regularly, Obama can perhaps prevent the relationship from descending into bitter distrust. Opportunities for genuine cooperation will arise occasionally. Obama and the Democratic congressional leadership can foster some bipartisanship at the committee level by using regular order as much as possible.¹⁰ But the Republican leaders' job is furthering their members' policy and electoral goals; a majority of those members will not see supporting Obama as furthering either of those goals. Mostly Obama and the Democratic leadership will have to be satisfied with picking off a few Republicans in the Senate. Certainly Obama has learned not to make getting a large number of Republican votes a test of his success. Still, Obama's attempts to reach out have yielded considerable dividends in terms of public opinion. He has gotten credit for a sincere attempt to change the harsh partisan tone in Washington.

A third lesson, one that Obama already knew and that contributed greatly to success on the stimulus, is the necessity of working closely with the Democratic leadership in the House and Senate and taking account of their needs and the needs of their membership. Pelosi was and can continue to be Obama's most valuable congressional ally; she is a strong Speaker in a strong speakership with a strong team – not just her party

leadership team but also Energy and Commerce Chair Henry Waxman, Appropriations Chair David Obey and Financial Services Chair Barney Frank.¹¹ Relying on congressional Democrats to do much of the stimulus drafting, decried by some pundits as a mistake, was, in fact, a wise move; it assured member input and consequently gave members a stake in its success. Pelosi, like any legislative leader, has to be responsive to the various factions in the party – from the Blue Dogs to the Progressive Caucus; and their demands will include policy input and not always compatible policy results. To be successful, Obama needs to be sensitive to the range of member political needs and policy views. Still, in addition to the very substantial institutional tools of the contemporary speakership, Pelosi also has the luxury of a majority large enough that “red” district members need not be pressured to take electorally perilous votes on a regular basis; such members can be given a bye so long as they do not all do it at once.

Senate Majority Leader Reid showed himself to be a steadfast and effective ally in the stimulus battle. He was deeply involved in working out the compromises necessary to get a bill through the Senate. Reid, however, is cursed with the need to get 60 votes without having 60 Democratic members.¹² In the 110th Congress, on the 58 cloture votes that fell along party lines, an average of 2.5 Democrats and 7.7 Republicans defected from their party's position. Pressure on Democrats to stick with the party on such votes will be greater in the current Congress; on the stimulus cloture vote, Democrats were unanimous. However, several of the Republicans who most frequently crossed party lines are not members of the 111th Congress and pressure on the remaining moderate Republicans may become much greater. The three moderates who voted with the Democrats to cut off debate on the stimulus bill actually solved a problem for the Republican Senate leadership; if Republicans had successfully blocked the bill, they would then “own” the bad economy. That may not be the case on similar future votes and then the moderates may find themselves under much more intense pressure, including threats of primary opposition.

From the perspective of Obama, and perhaps even more from that of the great majority of congressional Democrats, the policy price they must pay to pick up the Republican votes necessary to get to 60 in the Senate is likely to become an irritant. Many Democrats, especially House members, were livid about the concessions needed to get the votes of three Republicans on the stimulus bill. At some point, they may well decide to use the budget process, in which reconciliation bills are protected from filibusters, to enact some of their highest priorities. Doing so would certainly ramp up the partisan warfare, but if Republican obstructionism becomes severe enough, that may be seen as a price worth paying. For Obama and the congressional leadership, the task is finding the fine line between being politically realistic and not letting the perfect be the enemy of the good, on the one hand, and, on the other, giving away the store and severely disappointing the bulk of their supporters in Congress and the country.

So what are the prospects? Obama and Democrats have a huge opportunity, one that does not arise often in our system. They have done well so far. To be sure, there have been stumbles. From a policy perspective, losing Daschle may be the greatest. Former Senate Democratic Leader Tom Daschle's nomination as secretary of Health and Human Services and health care policy “czar” ran aground when Daschle's tax problems came to light. The Senate almost certainly would have nevertheless confirmed Daschle, but he and the Obama administration decided that the cost in public perception was too high. The cost of losing Daschle and his unique set of skills is yet to be seen in the course of attempting to enact health care reform.

Still, Obama entered his second month as president with a major legislative accomplishment, high public approval, and a congressional party eager to work with him. Delivering on the rest of the ambitious legislative agenda is certainly not going to be easy. The ultimate verdict on both Obama and the Congress depends largely on whether the economy recovers. Yet, to the extent that skill and strategic savvy can make a difference, the outlook is favorable.

Notes

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Barbara Sinclair is Professor Emerita of Political Science at UCLA. She specializes in American politics and does research primarily on the U.S. Congress. Her most recent books are *Unorthodox Lawmaking: New Legislative Processes in the U. S. Congress*, 3rd ed. (CQ Press, 2007) and *Party Wars: Polarization and the Politics of National Policy Making* (University of Oklahoma Press, 2006). Professor Sinclair's e-mail address is sinclair@polisci.ucla.edu

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