

## **Bifurcated Rules in the House of Representatives**

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### **Abstract**

A bifurcated rule is a special rule issued by the House Rules Committee that allows two or more measures that were considered and passed separately to be joined in one engrossed bill without a separate vote. This paper considers the role of these creative rules in the House since their appearance more than 20 years ago. Evidence from voting patterns on the substantive measures joined in bifurcated rules, along with several detailed case discussions, are used to explore the ways the majority uses this procedure. The preliminary evidence suggests that the bifurcated rule allows the majority leadership to exert a form of positive agenda control that affects policy outcomes for the collective good of the party while allowing individual members to take advantageous positions. The rule is sometimes used for building difficult coalitions, including those that involve majority party rolls. At the same time, the majority has frequently used the bifurcated rule on more conventional party votes and even on consensus measures, and here the rule should be understood in light of the bicameral context. Bifurcated rules allow the leadership to assemble legislation that challenges the Senate to act on a specific package, serving the House majority's collective electoral interest, while separating the issues for individual House members to take positions.

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## Introduction

In early 1989, newly elected President George Bush and the Democratic Congress quickly found themselves locked in a battle over spending. Trying to avoid existing budget caps, Bush had requested a “dire emergency” supplemental spending bill to cover some critical appropriations through 1989.<sup>1</sup> Democrats in Congress pressed for additional spending on popular programs in the supplemental. One such area was anti-drug programs. House Democrats initially passed a \$3.73 billion supplemental that included nearly a billion dollars in anti-drug spending that the Bush Administration opposed. In approving this measure, many Democrats sought to expand anti-drug appropriations further, bringing the amount closer to the \$2.7 billion authorized earlier in 1989. To offset the additional spending, House liberals proposed a plan to draw money from missile defense (the Strategic Defense Initiative, or SDI) to provide additional anti-drug dollars.

The House Rules Committee devised a procedure that would allow consideration of the “Star Wars For Drug Wars Act” (H.R. 2442) and on the House’s supplemental appropriations package (H.R. 2072), each as stand-alone measures. Under the rule (H. Res 160), if both measures were passed, the clerk could “add the text of” the Star Wars For Drug Wars Act to the supplemental when the supplemental was engrossed, sending a single fused bill to the Senate. The process appears to have offered a way for Democrats at a minimum to stage a messaging vote and possibly to add a poison-pill provision without threatening the coalition necessary for moving the supplemental out of the House. Republicans were livid. Minority Leader Bob Michel (R-IL) called the rule a “procedural mutant” and linked it to procedural and ethics allegations against majority Democrats:

Mr. Speaker, the Congress is not looking very good these days. A case in point is this two-headed malodorous swamp animal which the Rules Committee deposited on the floor just yesterday. I am reminded of the chant of the carnival barker about the amazing attraction inside the tent: “Ladies and gentlemen, it walks, it talks, it chews knives and forks.” Somebody let this one out of the tent, and if we do not send it back, it is going to chew up whatever small shreds of reputation we have.

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<sup>1</sup> This discussion relies on Krehbiel (1991, 52-60), Rapp (1989), and Rasky (1989), and the *Congressional Record* from May 24, 1989. See Krehbiel for a detailed account of the supplemental process.

Although the controversial rule passed, the gambit to add the SDI-swap failed when the House narrowly defeated that measure (205-213) but passed the supplemental (227-197). But the “two-headed malodorous swamp animal” was out of the tent—it was the House’s first full attempt at a *bifurcated rule*.<sup>2</sup> As the 1989 case illustrates, a bifurcated rule is a special rule issued by the House Rules Committee that allows two or more measures that were passed separately to be joined in one engrossed bill without a separate vote.<sup>3</sup> In most cases, bifurcated rules have governed separate floor consideration of each measure to be joined, with the final section of the rule setting out instructions to the clerk for joining the bills in engrossment as a single bill.

[Table 1 here]

In the 104<sup>th</sup> Congress, the Republicans engineered the first successful use of a bifurcated rule (H. Res. 440), which joined a very popular tax cut bill with a minimum wage increase passed in a majority-party roll, sending a package to the Senate that President Clinton eventually signed into law. Since then, about 40 bifurcated rules have passed, and about 85 separate measures have cleared the House under bifurcated procedures. Over the last 20 years, the House majority has used the procedure as frequently as nine times in one Congress (111<sup>th</sup>), and in one Congress (107<sup>th</sup>), it did not use it at all (see Table 1). These figures show that the bifurcated rule is not especially common, but it is common enough—and unorthodox enough<sup>4</sup>—to raise important questions about the procedure and the objectives that it serves. When does the leadership use bifurcated rules? How does bifurcation serve the goals of the majority party and of individual members? What can we learn from the patterns in what kinds of bills are covered by bifurcated rules and from the kinds of floor procedures they receive?

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<sup>2</sup> One bifurcated rule had previously passed the House, a rule that would have joined limits on Contra funding to a supplemental in 1986. This attempt, which Michel recalled in his “swamp animal” floor speech in 1989, failed after Republican maneuvering led Democratic leaders to end the effort prematurely (Felton 1986). It should also be noted that the 1989 appropriations rule varied in one key way from subsequent bifurcated rules—the measures would be joined as a result of a motion made in order by the rule rather than automatically by instructions given to the clerk in the rule.

<sup>3</sup> I am borrowing the term “bifurcated rule” from Oleszek (2011, 160-161; 2007, 12). In its official publications, the Rules Committee refers to these rules as “Engrossment of Multiple Measures Rules” (US Congress 2009).

<sup>4</sup> Sinclair does not directly address bifurcated rules, but the process has similarities to other (more familiar) unorthodox rules she discusses, including self-executing rules (Sinclair 2012, 35-38).

This paper investigates the use of bifurcated rules from the 104<sup>th</sup> through the 114<sup>th</sup> Congresses. I argue that bifurcated rules could serve several different purposes for the majority party. On one hand, they may allow the majority to assemble a final piece of legislation that is built out of support from two competing coalitions. This type of bifurcated rule might involve a roll of the majority party, or it might combine two different coalitions based mostly on majority-party support. Alternatively, it may be that the majority uses bifurcated rules to join bills that enjoy support from similar groups in order to assemble a cohesive package to send to the Senate. Such bifurcated procedures might serve mostly the majority's internal need for efficiently managing legislation (especially bills that emerged from multiple committees), or they might be motivated by strategic thinking about bicameral politics. I examine these possibilities using new (but preliminary) data on bifurcated rules and the measures they governed, describing the coalitions that the rules aligned as well as the procedures that they specified. Along with several narrative examples, this initial data analysis points to a mixed story about bifurcated rules. In a minority of cases, the bifurcated rule has allowed complex coalition-building that balanced collective party interests with the individual goals of majority members. In many cases, however, the majority has used the bifurcated rule to quickly combine multiple components that have similar support, and it has also used the process to pass legislation that conveys the House majority's political message and challenges the Senate.

### **Restrictive and Creative Rules in the House**

House majorities use special rules to exert agenda control and achieve party goals--this much is very well established. As party polarization and cohesion have increased since the 1970s, the proportion of restrictive or closed rules has increased sharply (e.g., Marshall 2002, 2005; Sinclair 2012; Theriault 2008). These limitations on amendments have helped the majority to control the floor (Finocchiaro and Rohde 2008), along with other rules provisions such as floor waivers (Hixon and Marshall 2002). The majority also has devised creative rules elements that allow it to manipulate floor coalitions and either to set-up position-taking votes or avoid electorally difficult votes (Sinclair 2012).

On a basic level, special rules have allowed the majority party to assemble and maintain coalitions that advance the majority party's collective interest and thwart minority party efforts to use the process to its advantage. At a minimum, the majority uses rules as part of its broader effort at negative agenda control—keeping “issues off the floor agenda that would foreseeably displease significant portions of the party” (Cox and McCubbins 2002, 109). Cox and McCubbins (2002, 2005) establish that negative agenda control is consistent for the majority over time, with very low majority roll rates reflecting the party's success at this effort. Marshall shows the importance of rules in negative agenda control empirically, demonstrating that restrictive rules “are used to protect the party's policy position against moderating amendments that would tend to benefit the chamber median instead of the majority party” (2002, 74). Analyzing roll rates and votes on rules and previous question motions, Finocchiaro and Rohde (2008) demonstrate that special rules advance the majority's objectives through both negative and positive agenda control,<sup>5</sup> and that the majority's ability to exercise this control over floor coalitions is variable, consistent with conditional party government theory (Rohde 1991). And, in the first analysis to test directly the policy-outcome consequences of restrictive rules, Monroe and Robinson (2008) show that the final-passage cutpoints of bills passed under restrictive rules are biased away from the median in the majority party's direction. The authors argue that the result reflects a collective focus on party reputation, under which members are willing to defer to the majority to produce nonmedian policies that yield long-term electoral benefits (Monroe and Robinson 2008, 220).

We know, more specifically, that special rules with restrictive elements help the majority to negotiate challenging coalition-building terrain in the House. Majority party leaders can use the terms of restrictive rules to structure the dimensionality of a measure. Obviously rules are used to limit the dimensionality of conflict, typically in the interests of negative agenda control. But the content of rules may also add dimensions through amendments or other features in order to broaden the bill's support coalition and assure passage of a majority-favored measure (Hixon and Marshall 2007). Consistent with

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<sup>5</sup> Positive agenda control is the majority's ability to craft the content of legislation and ensure its passage in the House (Cox and McCubbins 2002; Finocchiaro and Rohde 2008; Lynch, Madonna, and Roberts 2012).

this idea, recent work shows that policy centrists were significantly more likely to have their amendments added to choreography of structured rules (Lynch, Madonna, and Roberts 2012). The familiar case of the Affordable Care Act illustrates this well—Bart Stupak (D-MI) secured a vote on his controversial pro-life amendment as the price for his support of the bill (Lynch, Madonna, and Roberts 2012, 15-17). For the majority party leadership, protecting and advancing the party’s core agenda may entail some policy sacrifice, imposed through positive agenda control. There is even some evidence that the majority party strategically allows minority party amendments to reach the floor and pass when those amendments are offered by centrists from the minority (Lynch, Madonna, and Roberts 2012, 24-29).

Although amendment decisions and waivers have received most of the scholarly attention, other aspects of rules also facilitate the majority’s efforts at positive and negative agenda control. Creatively structured special rules allow the majority to simultaneously restrict access to the agenda, positively control the content of the measure to build and sustain a coalition, and either facilitate position taking or conceal positions that might be electorally difficult. The majority can, therefore, pursue collective policy and/or electoral goals while protecting and advancing the electoral goals of individual members.<sup>6</sup> Sinclair refers to these types of rules as “new parliamentary devices”; they include so-called king-of-the-hill rules, which strategically structure votes on a range of proposals while prioritizing a preferred vehicle for amendment and passage, and self-executing rules that deem a substantive provision to be approved automatically with the passage of the special rule (Sinclair 2012, 35-38; also Oleszek 2011, 155-162).

The self-executing rule is the “creative” rule that has gotten the most attention publicly<sup>7</sup> and from congressional scholars. Self-executing provisions, while long a part of the Rules Committee’s tool kit, have become a bit more common in the last two decades. According to Sinclair, an average of 19 percent of special rules had self-executing elements in the 1989-1994 period, but the proportion rose thereafter

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<sup>6</sup> On the importance of intersecting collective party and individual goals, see Smith (2007).

<sup>7</sup> Self-executing rules became part of public debate surrounding the passage of the Affordable Care Act in 2010. The Rules Committee openly contemplated using a self-executing rule to pass the disfavored Senate bill before proceeding to pass the reconciliation measure that would modify it according to the House majority’s preferences. The House leadership ultimately set aside the option, but not before special rules briefly became part of the engaged public’s acrimonious debate over the ACA (Wolfensberger 2010).

under both Democratic and GOP majorities (Sinclair 2012, 35). In the 106<sup>th</sup>, 109<sup>th</sup>, and 110<sup>th</sup> Congresses, more than a third of all rules contained a self-executing component (Binder 2010). Curry (2015) has examined self-executing rules in detail as part of his examination of information control in the House majority. Curry's analysis of rules in the 106<sup>th</sup>-111<sup>th</sup> Congress shows that self-executing provisions are more likely when interest group involvement in legislation is more intense, and he observes that leaders use self-executing provisions in part to manage majority goals in the context of potential threat from outside pressures (2015, 112). More generally, Curry (2012) has also demonstrated that self-executing rules occur much more frequently on leadership-priority bills *and* on bills that emerge from committees with chairs who are ideologically distant from the party leadership. Given the importance of this procedure as a party tool, it is not surprising that Curry also finds self-execution increases party polarization on measures where it is used (2015, 122-138).

Although some creative rules are relatively well understood, little has been written about the bifurcated rule procedure, perhaps because it is more rare than some other creative rule structures. Oleszek has covered the process briefly in recent editions of his comprehensive congressional procedure text. In his assessment, "among the principal purposes of bifurcated rules are to provide political cover for majority party members when the minority party has the momentum on an issue and to mobilize winning coalitions on majority party priorities" (Oleszek 2011, 160). Oleszek has also noted elsewhere that bifurcation "can help to mobilize winning majorities for party priorities, in part by joining the work product of different, and sometimes competing, committees into one legislative measure" (Oleszek 2007). Beyond these brief assessments, though, we know little about how the procedure has been used and what it might be able to add to the existing picture of agenda control and coalition management by the House majority.

### **"Two-Headed Malodorous Swamp Animal" . . . or Good Housekeeping?: Explaining the Bifurcated Rule**

What explains the majority's decision to use bifurcated rules on some measures, particularly when the end result—combining provisions into a single vehicle—could be accomplished by other

means? In a sense, the bifurcated rule is the opposite of a self-executing rule: the House joins provisions automatically but only after going on record separately for each provision. Where the self-executing rule conceals, the bifurcated rule forces positions on the record.

I argue that bifurcated rules, at least in many cases, are designed to meet the challenge of balancing collective party goals and member goals in lawmaking. The bifurcated rule allows members, particularly in the majority, to take electorally convenient positions on components of a measure (and any floor amendments) while the leadership can count on moving a package out of the House that serves collective electoral or policy objectives. The bifurcated rule performs this balancing act through a particular mix of negative agenda control and positive agenda control. Majority party leaders can use restrictive amendment rules that are specific to each bill in the rule, and they can shape the content of what emerges from the House, adding dimensions that may either kill a single measure outright or require greater party effort (and conformity costs to members) to pass as a single measure.

The majority's use of bifurcation for collective policy and electoral goal management also must be understood in a bicameral context. Although the interchamber implications of House rules are often overlooked (see Sin 2015 for an important exception), it is clear that the bifurcated procedure is designed with the Senate in mind. The decision to combine measures at the very end of the House process sets the stage for Senate consideration and is an attempt to shape the negotiation with the other body. In some cases, the bifurcated rule should allow the House to try to move closer to the content of a Senate measure. In other instances, the House majority may use bifurcation to present the Senate with a particular package that advantages the House majority electorally.

#### *Types of Bifurcated Rule Uses*

Below, I delineate several different ideal types of bifurcated rules, emphasizing the different combinations of collective and individual goals that the majority may advance with such a rule. The first three are elaborations of Oleszek's general coalition-building claims about this tool. At least some of these uses involve strong partisan positive agenda control and are likely to spark vocal opposition. The



other types involve the bicameral focus of the rule, and they bring into focus the reasons why the majority might use bifurcation even when House coalitions are not a challenge.

Majority Party Roll. In this version of the rule, the Rules Committee packages a majority-favored measure with a controversial bill that can be passed only by rolling the majority party. Here, the majority leadership is advancing a collective party interest in moving a popular bill and keeping the minority party from owning the issue. Some subset of majority members may want to cast a vote for the measure that rolls the majority, but the leadership is otherwise content to let the minority carry the bill.<sup>8</sup> By joining the roll with a policy change favored by the majority, the leadership can craft a single final package to send to the Senate that otherwise could not receive a majority vote for House passage as a single bill.

Minority Party Margin. The Rules Committee may offer a bifurcated rule to pass at least one bill that could not pass without minority party support and join it with a majority-favored bill.<sup>9</sup> Although the procedure in this usage does not involve a majority roll, the majority party has decided to move a bill to serve its collective interests that cannot clear the chamber on a party-line vote. As a result, the majority may use bifurcation to set up one set of rules for passing the minority-supported bill (with minimal conformity costs to majority members) and another set of rules for passing a partisan majority-favored bill that improves the content of the package for the majority. Further, the bifurcation procedure allows for final passage even though two different coalitions support component, as in the majority roll case.

Majority Party Conflict. Here, a bifurcated rule engrosses multiple measures that passed with clear majority support and that did or could have passed without minority party support. However, the support coalitions in the majority differ, and it may be that one or more of the bills is at risk of failing. The bifurcated procedure allows the majority leadership to free some members from supporting a bill that may threaten their individual goals while also assuring passage of the legislative package. And, when one bill

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<sup>8</sup> This use of the bifurcated rule might also be thought of as a way for the majority to offset the individual roll of members by turning a bill that would otherwise roll individual majority members into a mixed outcome (on individual roll rates, see Carson, Monroe, and Robinson 2011).

<sup>9</sup> In another variation, the rule could join two minority-margin bills with somewhat different coalitions. One bifurcated rule case fits this pattern (H. Res. 783 in the 109<sup>th</sup> Congress).

is at risk of failure, the leadership can craft the rule to allow other components to pass the House unthreatened by problems with a controversial measure.

In all three of these types, the majority leadership exploits the features of the bifurcated rule—the promise of a record vote and separate rules for considering each measure and the ability to move a single measure with multiple supportive coalitions. When these types of bifurcated rules appear, we should see low percentages of agreement across the included bills (less than 50% in some cases). Since these are tactics that serve majority party interests, we should also observe high levels of party unity (on at least one of the bills in the bifurcation if not both), and we should expect to see structured or closed rules for consideration of the individual measures.

Bicameral and/or Interbranch Conflict. In this type, the House passes a package of measures that are targeted at a conflict with the Senate and/or the White House. Although the majority leadership may also pursue objectives outlined in the first three cases, bifurcated rules of this type do not necessarily join conflicting coalitions into a final measure. The House may combine a must-pass piece of legislation with a more controversial policy, ensuring that the public position-taking vote on the latter does not threaten the strong support for the former. If the two measures are passed and engrossed, the Senate will have to address the House majority's preferred policy, and the White House may face a blame-game veto. (The supplemental/drug-war funding case, discussed in the introduction, was an unsuccessful attempt at this type of bifurcated rule.) Even without a must-pass piece of legislation, the bifurcated rule allows the House majority to assemble legislative provisions that members would like to vote on and that House leaders hope to press the Senate to act on. Bifurcated rules for this purpose should appear most often when the House is controlled by a different party than the White House and/or Senate, although House party leaders may find it electorally useful to highlight inaction in a Senate controlled by the same party when the Senate minority is obstructing.

These uses of the bifurcated rule should be marked by high levels of party disagreement, at least on one bill in the package, and by restrictive or closed rules for considering included measures. They are

less likely to see passage by the Senate or to be enacted since the purpose of the rule here is primarily to serve the House majority's electoral messaging efforts.

Bicameral Housekeeping. In this application of the bifurcated rule, the House majority joins together provisions that are needed to better align a House bill with an engrossed or anticipated Senate bill.<sup>10</sup> The House may need to move several existing bills quickly on a pressing matter, using the bifurcated rule to streamline the process of agreement with the Senate. In these cases, the individual roll-calls may or may not be necessary for individual position-taking (or coalition building), but the House majority finds it useful to use bifurcated language to combine existing bills with an eye to the Senate. In these cases, Senate passage is more likely, and the votes may or may not be party-dividing. Bills under this usage of bifurcated rules could be suspension or voice-vote measures, and they may pass with large majorities supporting both measures.

These “types” of bifurcated rules are described here as abstractions to emphasize the range of situations in which the majority could find the procedure advantageous. I do not argue that these uses are discrete—we are likely to see elements of several of these types overlapping in practice. The cases discussed below illustrate this tendency.

### **Examples of Bifurcated Rules in Practice**

Four cases of bifurcated rules help to illustrate the differing circumstances under which the House majority uses bifurcation to achieve its goals. These include measures for a minimum-wage increase in 2000, for Hurricane Sandy relief in early 2013, for a package of Republican health-care reform proposals in 2004, and the passage of equal-pay legislation in 2009.

#### *Minimum Wage*

In the lead-up to the 2000 election, Republicans in Congress felt political pressure to respond to calls for an increase in the federal minimum wage. With President Clinton keeping the issue on the public agenda, congressional Democrats along with some Republicans pushed hard for legislation on the

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<sup>10</sup> I am leaving aside the use of bifurcated-rule language to carry out an amendments-between-the-chambers process by adding a House measure to an existing Senate bill. Bifurcation has been used in this way on at least a few occasions (H. Res. 1100 and H. Res. 976 in the 109<sup>th</sup>), but they are excluded from the analysis in this paper.

issue (Benton and Nitschke 2000). Republican leaders faced a dilemma: keep the minimum wage from the floor to protect the policy preferences of most GOP members, or allow a vote to avoid the collective electoral consequences of obstructing a popular measure (Oleszek 2011, 160). In February, Senate Republicans had moved a bill combining a modest wage increase with a package of tax cuts and a controversial bankruptcy reform provision. If House leaders chose to act, they faced the added complication of passing a bill that might be reconciled with the Senate's complex package.

In this context, the Rules committee crafted a creative solution. H. Res. 434 set out a bifurcated rule that governed consideration of H.R. 3846, a minimum wage increase bill, and H.R. 3081, a package of tax cuts targeted at small businesses. The rule specified a closed process for H.R. 3081 and a modified-closed process for H.R. 3846, with one amendment allowed that would speed up the phase-in of the wage increase (Benton and Nitschke 2000). And, the rule prescribed that the wage bill would be added to the tax bill to be engrossed if both bills were passed.<sup>11</sup>

The combination of the bifurcated rule and the closed floor process generated controversy. Explaining the rule on the House floor,<sup>12</sup> Pete Sessions (R-TX) offered policy reasons for joining the two bills:

Mr. Speaker, like many other conservative Members of this body, I question if raising the minimum wage might actually hurt those it is intended to help. I am afraid that employers may look at their rising payroll ledgers and decide to cut back on the number of employees that they hire to offset the added expense of the minimum wage hike. Having said that, it is apparent to me that a majority of Members feel now that it is the appropriate time to pass a minimum wage increase. I strongly support this rule because by allowing for an increase in the minimum wage, it ensures measures to offset the impact of doing so as part of a major deal that has been encouraged by my party.

Sessions also defended the bifurcated rule as a fair procedure:

We will have a separate vote that will be on the provisions for minimum wage from the vote for the tax package, which means if . . . any of my colleagues wish to vote yes or no on minimum wage, they will be allowed to do that. If they want to vote yes or no on the tax package, they will be allowed to do that. If we were being unfair, we would have put them together. Then we would have heard that would be a poison pill, and I think that that could be said and it would be true.

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<sup>11</sup> House Republicans were taking a page from their own history in using bifurcation on the minimum wage. As discussed above, a bifurcated rule joined a tax package and a wage increase in 1996 (Weisman 1996).

<sup>12</sup> Quotations are from the *Congressional Record*, 9 March 2000.

Deborah Pryce (R-OH) made a similar point:

I rise in support of this very fair rule which will allow the House to work its will on the question of raising the minimum wage and providing tax relief to the very businesses that will pay the cost of this new Federal mandate. Now, no matter what my colleagues' position may be on the minimum wage or on tax relief, they will have an opportunity to make their views very clear through the procedure by which we will consider these two bills. Now what could be fairer?

Democrats were unimpressed by the Republicans claims of fairness, and argued that the closed rules provided too little opportunity to improve the limited minimum wage bill. In addition, Democrats claimed, the bifurcation would join the bills into a package that the Republicans knew would never be acceptable to President Clinton. Mel Watt (D-NC) made this point in the debate over the rule:

I was sitting in my office not intending to participate in this debate and really got incensed. I sat there, and I wondered, what must the American people be thinking is going on here? What must my Republican colleagues be thinking? Do they think the American people are stupid? What are they doing? It is obvious that their leadership does not support the minimum wage increase, and they are trying to kill the minimum wage increase by loading it up with an irresponsible tax cut that benefits the richest people in America. Are we stupid? Do they think we are stupid? That is exactly what is going on here. The President has said, I will veto this bill. We cannot stand here on the floor and say, hey, we are being bipartisan. There is no bipartisanship here. All we are trying to do is get a wage increase for people in America who need it and want it. All they are trying to do is kill that minimum wage increase. They will try anything and everything to accomplish that objective. We should not sit here and pretend that we are doing something being bipartisan. There is nobody being bipartisan in this House. If they were being bipartisan, they would separate these two bills, let them be voted up or down, give us the opportunity to offer amendments on both bills, and let the House work its will.

The rule was successful in getting the package through the House, and voting on the two components highlighted the importance of bifurcation for the majority's objectives. The minimum wage bill was passed on a majority roll, with only 78 Republicans voting yea in the 282-143 vote on passage. On the tax bill, only 41 Democrats joined all but one Republican in support, for a final vote of 257-170. Only 27% of House members voted yea on both bills; the first-dimension Nominate score is a negative and significant predictor of support for the minimum wage bill and a positive and significant predictor of support for the tax bill. It is clear that the House Republican leadership used the bifurcation tactic in this case to clear a package with components built on two separate majority coalitions. And although the resulting legislation was never sent to the president's desk for the veto Democrats anticipated, the

Republican majority used the rule to create a package that plausibly could have led to negotiations with the Senate over its complex minimum wage bill.

### *Hurricane Sandy Relief*

After Hurricane Sandy devastated parts of the Northeast just before the 2012 elections, the lame-duck Senate acted to approve emergency spending, but the House failed to act. The fractious Republican conference faced potential divisions over whether and how to offset Sandy spending, and the leadership held the issue over for the new Congress. As *CQ Weekly* noted, “a loud, public and immediate uproar from Northeastern Republicans, particularly New York Rep. Peter T. King and New Jersey Gov. Chris Christie, led [Speaker Boehner] to retreat quickly” at the start of 2013 (Young 2013). The House considered emergency funding under a rule, H. Res. 23, adopted with strong bipartisan support (367-52). The measure put in place a structured rule for the funding bill (H.R. 152) under which Republicans attempted unsuccessfully to offset the bill’s cost with a broad spending-cut amendment (Holden 2013). H. Res. 23 was also a bifurcated rule—it added the text of H.R. 219 to the spending measure after the latter passed the House. H.R. 219, the Sandy Recovery Improvement Act of 2013, was an uncontroversial bill granting the executive branch some additional flexibility in administering disaster aid; it had cleared the House on a unanimous roll-call vote the day before the majority brought up the emergency spending package.

This procedure allowed the Democrats to carry the House to passage of the Sandy spending, rolling the majority, which provided only 49 yeas votes. However, the bifurcated rule was entirely uncontroversial. Under pressure to act quickly after the long delay, Republican leaders needed to transmit the remaining Sandy legislation to the Senate for rapid action. The bifurcated rule in this case served the purposes of bicameral housekeeping and managed a roll of the majority. The House set up passage of legislation that the leadership saw as necessary for its collective governing reputation, and it packaged it in a way that facilitated quick agreement with the other chamber. The Senate voted for cloture and passage on the combined House bill in a matter of days, and President Obama signed it into law.

### *Republican Health Care Proposals*

A third example involves the 2004 Republican majority's attempt to pass a package of small reforms to the health care system. House Republicans had sent several health care bills to the GOP-controlled Senate earlier in the 108<sup>th</sup> Congress, but the Senate had failed to act. In the middle of the 2004 election year, the House leadership assembled a set of three proposals, including two that had previously passed in a similar form, to send to the Senate as one health-care reform bill (Schuler 2004). The three proposals highlighted Republican market-focused solutions on the health care issue. One (H.R. 4279) expanded tax-favored health savings accounts, while another (H.R. 4281) removed small businesses from state limits on pooled health insurance plans. Finally, H.R. 4280 implemented caps on punitive damages in medical malpractice suits.

In order to allow separate votes while presenting the Senate with a single package, House leaders used a bifurcated rule to join the three bills. The rule itself (H. Res. 638) passed with a nearly party-line vote, and it imposed closed or modified-closed procedures on each of the three bills. On the floor,<sup>13</sup> Republicans defended the rule as a way to press for action on issues of urgent importance. Democrats accused the majority of political manipulation. Louise Slaughter (D-NY) argued:

. . . two wrongs do not make a right, and three wrongs do not make a right, and passing bad legislation a second and third time will not make it a good bill. And I do not believe the Senate is going to like it a bit better. As a matter of fact, if the problem is the United States Senate, the other body, it would seem to me that we could take the bill over to the other body and find out exactly what the problem is and not take the time of the House over and over passing a bill that will go nowhere. Last year, the House considered and passed the legislation that is identical to two of the bills considered under the rule, and I do not believe the people of this great Nation sent us here to change the number on a bill and pass it again during the same Congress. Instead of playing these legislative games, we should be working on the grave issues that face this country.

Similarly, Peter DeFazio (D-OR) asked:

So why are we here today? We are here today because they want to remind their political contributors they did this last year and they can do it again this year. The Senate is not going to do it. They do not want to really legislate. They do not want to come up with compromises that might pass.

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<sup>13</sup> Quotations are from the *Congressional Record*, 12 May 2004.

The bifurcated rule in this instance seems to have been, first, a useful tool of bicameral politics, serving the messaging tactics and electoral goals of the House majority. It may also have helped the majority with some uncertainty about majority support for the package's components. Two of the three bills passed easily, with support from all Republicans and a small cohort of Democrats. But the medical malpractice bill faced some uncertainty. It passed on a 229-197 vote with 10 Republicans voting no and 15 Democrats voting yea. With razor-thin majority party support, Republicans may have feared that the malpractice bill would threaten the rest of the package if these bills were combined through another mechanism.

### *Equal-Pay Legislation*

After the election of Barack Obama and the strong Democratic congressional majorities in 2008, equal pay was an important early priority for Democrats. In the 2008 campaign, Democratic candidates stressed the need to reverse a statutory Supreme Court decision that had limited plaintiffs' ability to bring wage discrimination suits. The plaintiff in that case, Lilly Ledbetter, became a focal point for Democrats who tried and failed to pass legislation on the issue in the 110<sup>th</sup> Congress (Demirjian 2009). House leaders wanted to move fast on the issue at the start of the 111<sup>th</sup>, and they placed the special rule for considering the bill (H.R. 11) in the resolution containing the standing rules changes for the new Congress (H. Res. 5). House Democrats pressed the issue a step further by incorporating a second equal-pay measure into this rules package. The Paycheck Fairness Act (H.R. 12) would have ended caps on damages in wage-discrimination suits and changed the burden of proof in such suits to ease the burden on plaintiffs (Demirjian 2009). To challenge the Senate—which had blocked both bills in the 110<sup>th</sup>—the Democratic leadership put forth a bifurcated rule that would join the two substantively related measures.

Acting early in January, House Democrats easily passed both H.R. 11 (247-171) and H.R. 12 (256-163) and shipped the combined legislation off to the Senate. The vote on the bills in the House was sharply partisan, with Democrats nearly unified in support and few Republicans voting in favor of either bill. About 58% of House members voted yea on both bills.



In response, though, the Senate passed its own version of the Lilly Ledbetter legislation without any additional provisions on wage discrimination like those in the Paycheck Fairness Act. The House quickly took up the Senate bill (S. 181), which became the first bill that President Obama signed into law (Stern 2010). Democrats in the House had the opportunity to take strong, distinct positions on both wage-discrimination bills, and the leadership was able to present a strong bill to the other body at the start of the process.

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These examples illustrate some of the range of tactics that the bifurcated rule facilitates for the majority. Attempting to balance collective concerns and individual goals in a bicameral context, the House leadership uses the bifurcated rule to build roll-call coalitions that otherwise would be impossible to sustain for final passage, as in the minimum wage example. Bifurcated rules also allow the House to push the Senate, either to achieve a set of policy and electoral goals as in the wage-discrimination case, or to set up a messaging (and blame-shifting) bill for electoral purposes, as in the health care example. While serving some of these other tactics, the leadership may also simply need to combine bills for bicameral housekeeping purposes, as in the Sandy relief legislation.

## **Data on Bifurcated Rules**

### *Data Collection*

To conduct some preliminary data analysis on bifurcated rules, I have collected data on all bifurcated rules passed by the House from the 104<sup>th</sup> through 114<sup>th</sup> Congresses.<sup>14</sup> The list of rules, with details on the bills they joined, appears in Appendix A. I identified bifurcated rules through several steps, starting with searches for key text in the congress.gov database. A typical bifurcated rule uses language like this example, from the rule governing the 2000 minimum wage example discussed above:

Sec. 3. (a) In the engrossment of H.R. 3081, the Clerk shall--

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<sup>14</sup> As noted elsewhere, the bifurcated rules analyzed here exclude a few cases in which the main bill to be engrossed failed final passage as well as cases using bifurcated rule language to add House provisions to Senate passed-legislation in the amendments-between-the-chambers process. Also excluded is a proposed discharge petition rule that used bifurcated language.

(1) await the disposition of H.R. 3846; (2) add the text of H.R. 3846, as passed by the House, as new matter at the end of H.R. 3081; (3) conform the title of H.R. 3081 to reflect the addition of the text of H.R. 3846 to the engrossment; (4) assign appropriate designations to provisions within the engrossment; and (5) conform provisions for short titles within the engrossment. (b) Upon the addition of the text of H.R. 3846 to the engrossment of H.R. 3081, H.R. 3846 shall be laid on the table.<sup>15</sup>

The initial search targeted House resolutions reported by the Rules Committee that included the language “add the text of,” an otherwise unusual phrase in a special rule. This approach identified most of the bifurcated rules in the final list.<sup>16</sup> A second search used the text “conform provisions for short titles within the engrossment” to pick up rules that might vary the “add the text of” language. This search yielded an additional five bifurcated rules. Finally, I checked the resulting list against the rules recorded as “providing for the engrossment of multiple measures” in the Rules Committee’s Survey of Activities documents (e.g., U.S. Congress 2009). These lists largely confirmed the data I assembled through the searches, although the Survey of Activities reports incorrectly classified a number of rules as bifurcated that actually were self-executing or merely provided for the consideration of multiple measures. The review of the Survey of Activities reports did reveal one additional bifurcated rule missed by the searches.<sup>17</sup>

With this list of bifurcated rules, I assembled data sets on the measures governed by the bifurcated rules, including a data set on the individual roll-call votes on each bill and a data set on the aggregate roll-call outcomes on the bills.<sup>18</sup> The former allows for comparisons of the coalitions supporting the measures in each bifurcated rule. The latter is a source of information on how voting aligns between and within the parties on bifurcated rule bills, and it facilitates comparison between these bills and other roll-calls in the same time period. Finally, I have collected information on the type of rule

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<sup>15</sup> H. Res. 434, 106<sup>th</sup> Congress.

<sup>16</sup> Searches prior to the 104<sup>th</sup> Congress yielded no bifurcated rules aside from the example in the 101<sup>st</sup> Congress discussed in the introduction.

<sup>17</sup> The additional rule, H.Res. 387 in the 110<sup>th</sup> Congress, combines three bills and uses the language “add the respective texts of” and “conform cross-references and provisions for short titles within the engrossment.” Additional searches using these phrases uncovered no additional bifurcated rules.

<sup>18</sup> The aggregate data set builds on Poole and Rosenthal’s party splits data, available at <http://voteview.com/partycount.htm>.

(closed, structured, or open) used for consideration of each bifurcated rule bill to begin to understand how these bills are similar or different from other bills considered under special rules.<sup>19</sup>

### *Descriptive Analysis*

How Much Coalition Conflict in Bifurcated Rules? In the discussion of bifurcated rule uses above, I argued that the leadership could use the rule to assemble coalitions involving conflicting majorities. One way to investigate the frequency of this use is by examining the overlap in support for each pair of bills. The histogram in Figure 1 summarizes the percentage of voting members who voted yea on *both* bills joined by a bifurcated rule. Notably, there are some bill pairs with under 50 percent of members supporting both measures, and even some pairs with fewer than a quarter of members voting yea twice. All of these cases appear to be instances of the leadership using bifurcation (as in the minimum wage example) to create a final bill out of two conflicting coalitions. But most pairs do not follow this pattern. Bill pairs with just over 50 percent joint support are the most frequently occurring type, suggesting that a bifurcated rule could be helpful to the leadership where there is some uncertainty about support for at least one included measure. And many of the vote pairs exceed 55 percent joint support—this finding reveals that the leadership is regularly using bifurcated rules for purposes other than managing difficult coalitions.

[Figure 1 about here]

Evidence of majority rolls and minority-majority votes also highlight the use of bifurcated rules (*some* of the time) for assembling coalitions with different voting support. Table 2 presents a comparison of aggregate voting patterns on bifurcated-rule bills with all other roll-calls during the 1996-2014 time period. First, majority rolls are unusual among bills structured by bifurcated rules, and they occur at about the same rate as in all votes: 5.3% of bifurcated-rule bills and 4.6% of *all* winning roll-calls. However, note that majority rolls are exceedingly rare on House final passage votes (Cox and McCubbins 2002) and somewhat more common on amendment roll-calls (Robinson and Monroe n.d.). If the 5.3%

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<sup>19</sup>Rules data through the 109<sup>th</sup> Congress were provided by Laurel Harbridge (see Harbridge 2015, ch. 4). Data for the 112<sup>th</sup>-114<sup>th</sup> is from Wolfensberger (2016). Data for the 110<sup>th</sup> and 111<sup>th</sup> Congresses were collected by the author from Rules Committee Survey of Activities documents.

roll-rate on bifurcated-rule bills were compared only with other final passage votes, we would expect the difference to be larger. Table 2 also highlights the presence of minority-party-margin votes. These are votes on which the measure would have been defeated without “yea” votes from the minority party.<sup>20</sup> Minority-party-margin votes occurred slightly less frequently (17.3%) on bifurcated-rule measures than on all winning roll-calls (20%), although again, this comparison is likely to be skewed by the greater frequency of minority-favored winning amendments relative to final passage votes.

[Table 2 about here]

A final metric for comparing coalitions in a bifurcated rule’s set of bills is the predictive power of DW-Nominate scores on individual votes. I created logit models of each roll-call under a bifurcated rule using first and second dimension DW-Nominate scores as predictors. I then compared the direction and significance of the first-dimension scores for each bill pair under a bifurcated procedure. Three pairs had opposite-signed and statistically significant coefficients for the Nominate score. One more pair had a significant coefficient for one vote and an insignificant result for the second vote. On all of the other vote pairs, the Nominate score was statistically significant ( $p < .10$ ) and signed the same for both votes. In short, these results parallel the roll-rate findings, showing that opposing coalitions are sometimes joined by the bifurcated rule, but this is not the most common use of the procedure.

How Much Partisanship in Bifurcated Rules? Unsurprisingly, voting on bifurcated rules themselves is divisive, in keeping with the pattern of voting on procedure in the modern House (e.g., Duff and Rohde 2012). Only two bifurcated rules have passed with more than 250 yea votes (see Appendix A); two more were adopted by voice vote. More importantly for my purposes, voting on the substantive measures in bifurcated rules is strongly partisan. Table 2 compares final-passage party voting on bifurcated-rules bills with party voting on all roll-calls. Most of the bifurcated-rules measures were party unity votes (79.5%), much more than in the full set of roll-calls (57.6%). Because the universe of roll-calls includes

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<sup>20</sup> Minority-party-margin votes exist when a measure passes and the sum of the yeas and nays from the minority party *and* the nays from the majority party is greater than the yeas from the majority party. Note also that three bills under bifurcated rules failed to pass the House (see Appendix A).

procedural votes, which we know generate much higher party voting rates (Theriault 2008), this comparison likely understates the relative partisanship of voting on measures joined in bifurcated rules.

What Gets Paired With What? The earlier discussion suggested that bill pairings in bifurcated rules would differ depending on the leadership's objectives. In Table 3, I break down the substantive bills into three categories and examine how these categories are matched in bifurcated rules. The categories include coalition-problem votes (majority rolls, minority-party margin bills, and failed bills), party unity votes, and consensus votes (voice votes or roll-calls with a majority greater than 2/3).<sup>21</sup> Partisanship clearly dominates the combinations, with most of the rules either combining a set of party bills or joining a consensus vote with a party unity vote.<sup>22</sup> The leadership deals less often with coalition-problem votes in bifurcated rules, but these do make up a third of the rules in the data set, combining the coalition-problem vote with party votes, consensus votes, or (less often) other coalition-problem votes. Bifurcated rules governing only consensus measures are rare. Altogether, this evidence helps to clarify the story from the voting patterns discussed above. The leadership is using the bifurcated rule largely to clear partisan legislation, unsurprisingly, but the party also uses the rule to deal with coalition-building challenges in the service of broad party leadership goals.

[Table 3 about here]

How Restrictive are Bifurcated Rules? The typical form of a bifurcated rule sets out the rules for floor consideration of each measure to be joined, with language in the final section instructing the clerk on how to join and engross the bills (see above).<sup>23</sup> The way in which these rules treat floor amendments on the underlying measures provides an additional indicator of partisanship and of the use of negative agenda control even as the bifurcated rule tries to shape the positive content of the final legislation. It is well

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<sup>21</sup> Consensus votes are coded only if they are not party unity votes or coalition-problem votes. The party unity votes, therefore, include a few consensus-level roll-calls. Coalition-problem votes include some votes that also meet party unity or consensus standards.

<sup>22</sup> Oleszek (2013, 179) discusses an example that illustrates of this type of use. H. Res. 448 in the 112<sup>th</sup> Congress joined a very popular measure that ended a tax-withholding rule for federal contractors (H.R. 674, passed 405-16) with a partisan vote changing Medicaid costs to pay for the first bill (H.R. 2576, passed 262-157).

<sup>23</sup> Less commonly, the rule may control floor proceedings on only one measure while specifying that a bill passed under suspension or under the terms of a separate rule will be joined when the pending measure passes.

known that House rules have rapidly become more restrictive, with open rules becoming rare and either structured or closed rules becoming the typical procedure over the last 20 years. The first panel of Figure 2 illustrates this trend from the 104<sup>th</sup> Congress to the present. The second panel shows the presence of open, structured, and closed rules among legislation in restrictive rules. Closed rules and structured rules dominate the bifurcated-rule measures, even before those processes became commonplace among all bills covered by special rules. The majority leadership has used the bifurcated rule since its innovation in the 1990s to join bills that are usually partisan and controversial and that it wants to protect from unpredictable changes on the floor.

[Figure 2 about here]

### **Conclusions and Future Work**

Bifurcated rules represent an under-explored form of creative rule that allows the majority party to manage and balance multiple objectives. The preliminary evidence explored here shows that the bifurcated rule allows the majority leadership to exert a form of positive agenda control that affects policy outcomes for the collective good of the party while allowing individual members to take advantageous positions. Where the rule is used for building difficult coalitions, even involving majority rolls, this balancing act is particularly clear. At the same time, the majority uses the bifurcated rule on conventional party votes and even on consensus measures, and here the rule should be understood in light of the bicameral context. Bifurcated rules allow the leadership to assemble legislation that challenges the Senate to act on a specific package while separating the issues for individual House members to take positions. In some cases, the rule is simply a tool for managing multiple measures to reach quick agreement with the Senate.

There is much still to learn about bifurcated rules. First, I have not addressed differences over time (or across parties) in how the procedure is used. In general, the coalition-building uses of the bifurcated rule occurred mostly early in its history (104<sup>th</sup>-106<sup>th</sup> Congresses) and very recently (2014-2015). In between, the rule most often coordinated packages of partisan legislation. This pattern may reflect the particular challenges of the 1990s GOP (very small majorities) and the late Boehner House

(fractured majorities), but further research on these patterns will be important. Second, a complete understanding of this procedure will need to account for management of legislation from multiple committees and the possibility that committee conflicts within the majority are a significant part of the story. Third, more refined data on vote types will allow for more precise comparisons of the voting patterns on measures in bifurcated rules with other final-passage votes governed by special rules in this time period. Fourth, further work can compare the use of bifurcated rules with self-executing rules, which are in some ways the inverse of bifurcated rules, structuring consideration of multiple provisions by concealing rather than highlighting them as bifurcation does. Finally, given the relatively small number of bifurcated rule cases over the last 20 years, further case studies like those presented in this paper will help to delineate the strategic uses of the rule and consider the justifications and arguments behind those uses.

**Appendix A. Bifurcated Rules in the House of Representatives, 1996-2015**

<b>Congress</b>	<b>Rule</b>	<b>Date Adopted</b>	<b>Rule Vote</b>	<b>Bills Joined</b>	<b>Senate passage</b>	<b>Became Law</b>
104	H Res 440	5/22/1996	219-211	HR 227 HR 3448	Y	Y
105	H Res 159	6/4/1997	221-200	HR 1758 HR 1757	Y	N
	H Res 288	10/31/1997	214-198	HR 2746* HR 2616	Y	Y
	H Res 552	9/25/1998	215-208	HR 4578 HR 4579	N	N
106	H Res 209	6/16/1999	240-189	HR 2122* HR 1501	Y	N
	H Res 323	10/6/1999	221-209	HR 2723 HR 2990	Y	N
	H Res 434	3/9/2000	214-211	HR 3846 HR 3081	N	N
108	H Res 299	6/26/2003	221-203	HR 2596 HR 1	Y	Y
	H Res 638	5/12/2004	224-203	HR 4280 HR 4281 HR 4279	N	N
	H Res 645	5/18/2004	219-195	HR 2729 HR 2730 HR 2731 HR 2432 HR 2728	N	N
	H Res 656	6/2/2004	220-196	HR 4409 HR 4411 HR 444	N	N
109	H Res 151	3/15/2005	vv	HR 418 HR 1268	Y	Y
	H Res 351	7/12/2005	224-189	HR 740 HR 741 HR 742	N	N



				HR 739		
	H Res 783	4/27/2006	216-207	HR 513 HR 4975	N	N
110	H Res 317	4/19/2007	219-196	HR 1906 HR 1905	N	N
	H Res 387	5/10/2007	219-199	HR 2207 HR 2237* HR 2206	Y	Y
	H Res 615	8/4/2007	215-191	HR 2776 HR 3221	Y	Y
	H Res 1014	3/5/2008	209-198	HR 493 HR 1424	Y	Y
	H Res 1126	4/23/2008	223-183	HR 2399 HR 2830	N	N
	H Res 1218	5/22/2008	223-197	HR 6048 HR 5658	N	N
111	H Res 5	1/6/2009	242-181	HR 12 HR 11	N	N
	H Res 307	4/1/2009	vv	HR 1804 HR 1256	Y	Y
	H Res 522	6/10/2009	238-183	HR 1886 HR 2410	N	N
	H Res 572	6/24/2009	222-202	HR 2990 HR 2647	Y	Y
	H Res 903	11/7/2009	242-192	HR 2920 HR 3961	Y	Y
	H Res 941	12/3/2009	223-192	HR 2920 HR 4154	N	N
	H Res 1404	5/27/2010	241-178	HR 5013 HR 5136	N	N
	H Res 1436	6/15/2010	228-186	HR 5486 HR 5297	Y	Y
	H Res 1574	7/30/2010	220-194	HR 5851 HR 3534	N	N
112	H Res 245	5/5/2011	245-167	HR 1230 HR 1229	N	N

	H Res 358	7/21/2011	238-177	HR 830 HR 1315	N	N
	H Res 448	10/26/2011	253-172	HR 2576 HR 674	Y	Y
	H Res 747	8/1/2012	240-184	HR 6169 HR 8	Y	Y
113	H Res 23	1/15/2013	367-52	HR 219 HR 152	Y	Y
	H Res 232	5/23/2013	224-193	HR 1949 HR 1911	Y	Y
	H Res 300	7/17/2013	232-183	HR 2667 HR 2668	N	N
	H Res 373	10/8/2013	227-186	HR 3273 HJ Res 89	N	N
	H Res 680	7/24/2014	226-189	HR 4935 HR 3393	N	N
	H Res 766	12/3/2014	231-192	HR 647 HR 5771	Y	Y
114	H Res 212	4/22/2015	238-182	HR 1731 HR 1560	N	N

Note: The number for the engrossed House bill for each bifurcated set is the last bill number listed. Bill numbers marked with a \* failed final passage in the House. This list excludes several rules that used bifurcated-rule language to carry out the process of resolving differences with the Senate by amendments as well as cases in which the bill to be engrossed failed passage in the House.

## Appendix B. Rule Types Governing Bills in Bifurcated Rules, 104<sup>th</sup>-114<sup>th</sup> Congresses

Congress	Open/Modified Open		Structured		Closed/Modified Closed		Total	
	Bifurcated	All	Bifurcated	All	Bifurcated	All	Bifurcated	All
<b>104</b>	0 (0%)	83 (58%)	0 (0%)	40 (28%)	2 (100%)	19 (14%)	2	142
<b>105</b>	2 (33)	74 (53)	0 (0)	42 (30)	4 (67)	24 (17)	6	140
<b>106</b>	0 (0)	91 (51)	3 (50)	49 (27)	3 (50)	39 (22)	6	179
<b>108</b>	0 (0)	34 (26)	1 (9)	62 (47)	10 (91)	37 (28)	11	133
<b>109</b>	1 (13)	24 (19)	2 (25)	61 (49)	5 (63)	40 (32)	8	125
<b>110</b>	0 (0)	23 (14)	4 (40)	81 (50)	6 (60)	59 (36)	10	163
<b>111</b>	0 (0)	0 (0)	10 (63)	73 (65)	6 (38)	38 (34)	16	111
<b>112</b>	1 (13)	25 (18)	3 (38)	65 (46)	4 (50)	50 (36)	8	140
<b>113</b>	0 (0)	12 (8)	2 (17)	65 (43)	10 (83)	72 (48)	12	149
<b>114 (1<sup>st</sup>)</b>	0 (0)	6 (7)	2 (100)	40 (45)	0 (0)	42 (48)	2	88
<b>Total</b>	4 (5)	372 (27)	27 (33)	578 (42)	50 (62)	420 (31)	81	1370

Notes: Data on rule types for all rules is from Don Wolfensberger, available at <http://bipartisanpolicy.org/library/113th-congress-house-rules-data/>. See text on other data sources. “Bifurcated” category includes the rules for original consideration of all bills covered by bifurcated procedures. These bill totals exclude those bills originally considered under suspension and later joined through bifurcated rules.

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**Table 1. Bifurcated Rules in the House, 1996-2015**

<b>Congress</b>	<b>Bifurcated Rules Passed</b>	<b>Bills Cleared Under Bifurcated Rules</b>
114 (1 <sup>st</sup> )	1	2
113	6	12
112	5	9
111	9	17*
110	6	12
109	3	8
108	4	13
107	0	0
106	3	5
105	3	5
104	1	2

\*Includes one bill joined with other legislation in two different bifurcated rules.

**Table 2. Party Voting Patterns on Bifurcated Bills and Other Roll-Calls, 1996-2014**

	<b>Bills under bifurcated rules</b>	<b>All other roll-calls</b>
<b>Majority roll</b>		
<i>Yes</i>	4 (5.33%)	390 (4.65%)
<i>No</i>	71 (94.67%)	8005 (95.35%)
<b>Party Unity</b>		
<i>Yes</i>	62 (79.49%)	7118 (57.58%)
<i>No</i>	16 (20.51%)	5244 (42.42%)
<b>Minority-party Margin</b>		
<i>Yes</i>	13 (17.33%)	1678 (19.99%)
<i>No</i>	62 (82.67%)	6717 (80.01%)

*Notes:* Party unity votes are roll-calls on which at least 50% of one party voted in opposition to at least 50% of the other party. Minority-party margin votes are winning roll-calls in which majority party support was insufficient to make a majority. Majority rolls are defined as roll-calls that pass with less than 50% of the majority party voting yea. Values calculated by the author from Poole and Rosenthal party-splits data, available at <http://voteview.com/partycount.htm>.

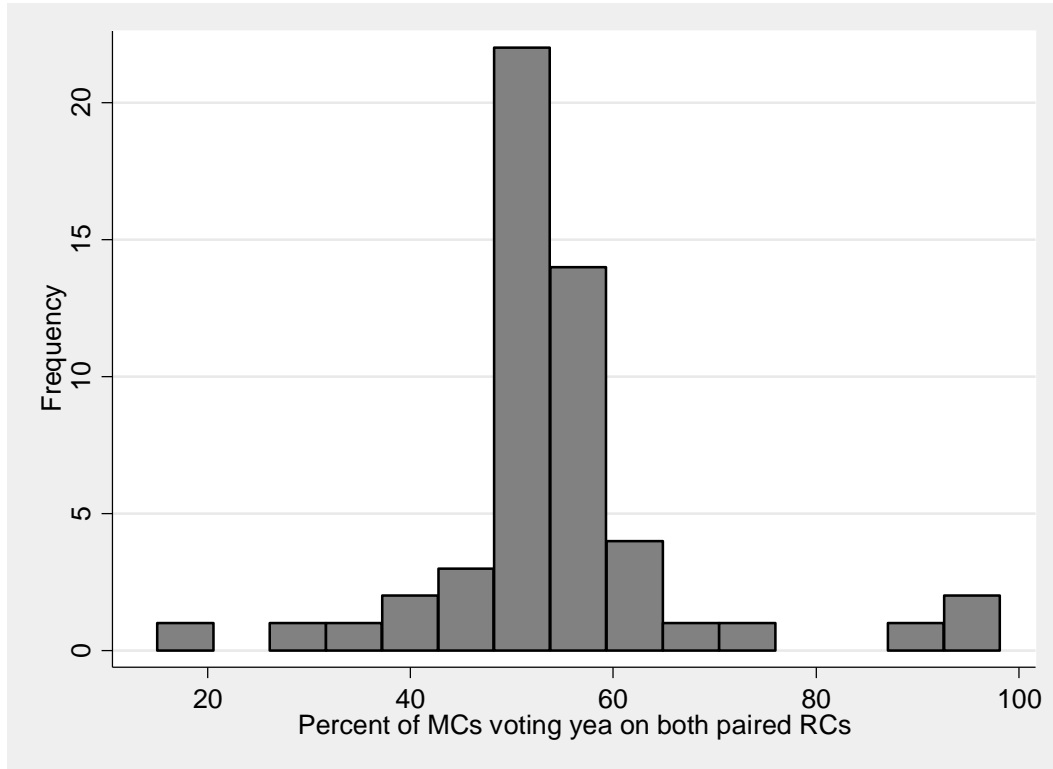


**Table 3. Bill Combinations in Bifurcated Rules**

<b>Combination</b>	<b>Number of Rules</b>
Party unity + party unity	13
Consensus + consensus	3
Party unity + consensus	10
Coalition problem + consensus	5
Coalition problem + party unity	5
Coalition problem + coalition problem	3

*Note:* See text for descriptions of bill types.

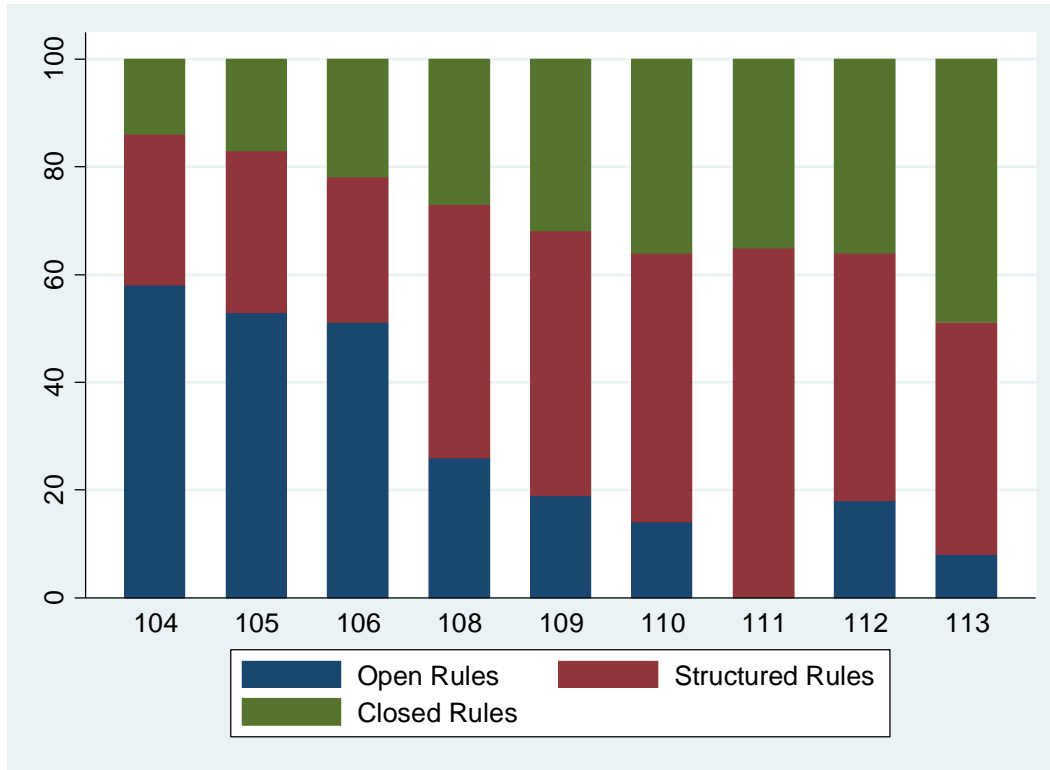
**Figure 1. Cross-voting Coalitions in Bifurcated Rules**



*Note:* Includes observations on each bill pair covered in a bifurcated rule, including those rules that joined more than two measures.

**Table 2. Rule Types for Bills in Bifurcated Rules and All Bills**

A. All Bills



B. Bills Under Bifurcated Rules

