

Creative Rules for Multiple Measures: Coalition Building and Message Management through the House Rules Committee *

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Abstract

The House Rules Committee has developed a set of “creative” rules that allow it to simultaneously pursue efficient management, balance competing member demands, and engage in agenda control for the majority’s benefit. Some of the most creative of these rules are those that address multiple proposals within a single special rule, including the king/queen-of-the-hill rule, the bifurcated rule, and the multiple-measures rule. To explain why and when these rules are used, this paper examines the majority’s use of these rules and the voting patterns in the underlying measures. The majority employed the (now-rare) *king-of-the-hill* rule to consider internally divisive majority alternatives as well as minority alternatives that unified the majority. The *bifurcated rule*, occasionally used since the 104th Congress, is sometimes used to overcome party coalition difficulties in order to move must-pass legislation out of the House; however, this mechanism frequently serves more pedestrian purposes of majority messaging or efficiently packaging legislation for the Senate. Finally, the *multiple-measures rule*, which Republican majorities have used very frequently since 2010, is used for legislation with particularly high levels of party conflict as well as for measures considered late in a congressional session. Overall, the evidence suggests that the majority does use these creative rules to advance party messaging and policy goals but also to efficiently run the legislative process and limit uncertainty on the floor.

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1 Introduction

The modern House Rules Committee is an essential tool of the majority party’s control in the House. Through special rules, the majority exerts control over the legislative agenda (Cox and McCubbins 2002, 2005) and limits uncertainty in a partisan and electorally competitive climate (Bach and Smith 1988; Sinclair 2012). Since the reform period of the 1970s, House leaders have used increasingly restrictive and complex rules to choreograph floor procedures on important measures. One dimension of this crucial change is the rise of “creative” rules that manipulate the floor process to structure or limit the floor process and members’ choices (Oleszek 2014, 173-180). Creative rules can serve a range of goals for the majority, ranging from partisan agenda control to effective and efficient management of the legislative process, and the set of creative mechanisms has expanded greatly between the 1980s and the present (Oleszek 2014; Sinclair 2012).

Research on creative rules is varied in its level of empirical detail. Core questions about agenda control through amendment restrictions have received considerable attention over several decades. And, for a few specific types of creative rule structures, we know a great deal—in particular, the self-executing rule has been carefully documented and analyzed (Curry 2015). That work shows how the majority party increasingly uses the self-executing procedure to *conceal* both members’ positions and the content of legislation. Other types of creative rules, by contrast, seem to have the opposite purpose; they deliberately *highlight* members’ positions on multiple bills or alternatives, sometimes packaging those measures in complex ways. For these types of creative rules, the existing literature provides limited descriptive examples but has not provided systematic analysis of the rules’ use.

This paper presents evidence from data on three such types of creative rules. The first, king- or queen-of-the-hill rules, involves a structured set of major amendments (often amendments in the nature of a substitute). Members vote on the alternatives serially, and either the last amendment passed is adopted (king of the hill) or the winning

amendment receiving the most votes is adopted (queen of the hill). The second type, the bifurcated rule,¹ involves two discrete measures that are considered independently under separate terms but then, if passed, engrossed under the special rule as one measure to be sent to the Senate. A third type, the multiple-measures rule, governs the consideration of more than one piece of legislation within the same special rule.² Using data on the votes governed by these types of rules since the 1980s, I explore how the leadership has pursued multiple goals with these mechanisms. I find that although majority power is and has been a driving force behind these rules, the story is more complex than that. Bifurcated rules have been used in ways that reflect the majority’s coalition building or electoral/messaging objectives, but they also frequently serve uncontroversial housekeeping purposes. Multiple-measures rules, which have become very common since 2010, are often used for advancing major legislation that unifies the majority party, but the leadership also appears to use them more for efficient work as the end of the congressional session approaches. And king/queen-of-the-hill rules—a now-rare device that was fairly common before the 104th Congress—structured and limited amendment consideration to the majority’s advantage, but they also provided opportunities for majority and minority members to take useful positions on alternatives that lacked broad appeal. In short, the majority party has used creative rules not only to conceal positions but also to make strategic decisions about which positions to reveal (Harbridge 2015), decisions that reflect a number of different motivations.

Where these tools have previously been understood only anecdotally, I attempt to provide a more complete explanation in this paper, using a wide range of descriptive data on the rules and voting patterns as well as multivariate analysis of the votes governed by the rules. I begin with a brief review of restrictive and creative rules in the House. I then discuss king/queen-of-the-hill rules, focusing empirically on the 1985-1994 period

¹The term is from Oleszek (2014), although the Rules Committee in its official publications refers to these rules as “Engrossment of Multiple Measures Rules” (U.S. Congress 2009).

²Most bifurcated rules technically are also multiple-measures rules, but I treat them as distinct types for the data analysis in this paper.

when they were used relatively frequently. Then, I examine the more recent bifurcated rule procedure, delineating the coalition-building and housekeeping strategies that it has served since it was first used in 1995. Finally, I turn to the multiple-measures rule, considering the majority's partisan and management uses of this suddenly common creative rule.

2 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 to 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,³ 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 favor. 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 scope 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 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.

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

³Positive 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).

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.⁴ Sinclair refers to these types of rules as “new parliamentary devices”; they include self-executing rules that deem a substantive provision to be approved automatically with the passage of the special rule (Sinclair 2012, 35-38). The self-executing rule is the “creative” rule that has gotten the most attention, particularly as it has 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 under both Democratic and GOP majorities (Sinclair 2012, 35) . In the 106th, 109th, and 110th Congresses, more than a third of all rules contained a self-executing component (Binder 2010). Curry’s analysis of rules in the 106th-111th 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 is associated with increased party polarization when it is used (2015, 122-138).

Other creative rule processes have remained more obscure. King- and queen-of-the-hill procedures are best known from Sinclair’s brief treatment of “new parliamentary devices,” and Saturno (2012) has considered their demise since the 1990s. Sinclair notes that the king/queen-of-the-hill rules afforded the leadership some control but “made it possible for members to vote for more than one version” of a measure, which could be “politically advantageous” (Sinclair 2012). Saturno tracks the increasing opposition of the Republican minority to the king-of-the-hill procedure as the GOP saw the rule as an element of the

⁴On the importance of intersecting collective party and individual goals, see Smith (2007).

broader trend toward majority restrictiveness in floor processes (Saturno 2012, 54).

Even less has been written on bifurcated and multiple-measures rules, perhaps because they are more recent—and in the case of bifurcated rules, more rare—creative rule structures. Walter Oleszek has covered the bifurcated rule briefly in recent editions of his 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 party by joining the work product of different, and sometimes competing, committees into one legislative measure” (Oleszek 2007).⁵ Beyond these brief assessments, though, we know little about how these creative procedures have been used and what they might be able to add to the existing picture of agenda control, coalition management, and general housekeeping by the House majority. In particular, empirical evidence is needed to understand what measures and alternatives are subject to creative rules that do *not* conceal positions, and how members behave on these bills.

3 King and Queen of the Hill Rules

In March 2015, House Republican leaders were searching for a way out of serious intraparty conflict over the annual budget resolution.⁶ After the chaotic first months of the 114th Congress, Republicans wanted to move forward a budget resolution that limited domestic spending and set up a reconciliation procedure for repealing the Affordable Care Act. The conference was divided, however, over defense spending: budget hawks wanted to limit defense increases and offset some of them with spending cuts, as the Budget Committee originally proposed, while defense hawks on Armed Services sought

⁵Mark Oleszek (2017) considers a related procedural innovation, the use of Rules Committee prints to make changes to reported bills and/or to combine multiple bills for floor consideration. The rise of this procedure, which first appears in the late 1990s and becomes common after 2010, closely parallels the increase in multiple-measures rules I document below.

⁶The discussion of the 2015 episode is based on Sullivan (2015), Sherman, Bresnahan and Kim (2015), and Fuller (2015).

a somewhat larger defense budget without offsets. The Rules Committee considered self-executing the latter provisions, but the restive far-right wing of the conference was opposed. In order to satisfy the competing GOP camps, Republican leaders returned to the queen of the hill procedure, a creative rule that had not been used for more than a decade. Members would vote on both of these Republican budget proposals, along with an even more austere Republican Study Committee alternative and three Democratic alternatives (from the Progressive Caucus, the Congressional Black Caucus, and the Democratic leadership). Under the rule, if more than one alternative passed, only the one receiving the most votes would be finally adopted by the House.

The opportunity for position taking apparently placated the budget hawks—Freedom Caucus members “wanted to be able to vote on multiple budgets,” according to caucus chair Jim Jordan (R-OH) (Fuller 2015). Only one alternative, the leadership budget with the non-offset defense increases, was passed (219-208), and neither of the two main GOP alternatives received a single Democratic vote. Ninety Republicans voted for *both* versions of the GOP budget; only 15 supported the offset version and opposed the defense-hawk alternative that was adopted.

As a modern use of a procedure that has fallen out of favor with the leadership since the 1990s (Saturno 2012), this queen-of-the-hill example is unusual, but it is a solid illustration of how the creative rule has been used, particularly by the Democratic majorities of the late 1980s and early 1990s in the king-of-the-hill format.⁷ And it points to key questions about this procedure. What types of alternatives were offered? Did minority members get to include a share of the alternatives, particularly those that might appeal to the floor median, or does the evidence suggest tight majority agenda control? To what extent did members switch their votes among alternatives in these rules; did members frequently support more than one alternative, suggesting a position-taking or messaging function?

⁷The two procedures differ in that the “king” rules used through 1994 specify that the last winning alternative is adopted, where the “queen” rules after 1994 adopt whichever alternative wins with the most votes. Both procedures make it in order to, in effect, re-amend text that has already been amended (Lynch 2008).

And how did party voting patterns on “of the hill” amendments compare with other recorded amendment votes in the same time period?

3.1 Descriptive Findings

To explore these questions, I have assembled data on king/queen-of-the-hill procedures and the alternatives they structured from the 99th Congress (1985-87) to the present. This data includes all such procedures that could be identified through searches of rule text in congress.gov or the online *Congressional Record*, excluding several that were included in rules but never implemented since only one alternative was offered on the floor.⁸ (See the Appendix for more details on data collection.) These searches yielded a total of 67 king/queen-of-the-hill rules structuring floor consideration of 191 alternatives. Figure 1 shows the frequency of these structures and included alternatives over time. The Democratic king-of-the-hill procedure, in which the final winning alternative was adopted, was relatively common between 1985 and 1994. The Republican queen-of-the hill replacement, allowing the most popular winning alternative to be adopted, was used much more infrequently starting in the 104th Congress. As a result, most of the data analysis below focuses only on the 1985-1994 period.

Since prior discussions of king- and queen-of-the-hill rules have centered on cases and examples (Bach and Smith 1988; Saturno 2012; Sinclair 2012), it is useful to begin with some broad descriptive data on the alternatives made in order by the procedure. Figure 2 displays the number of minority party alternatives included, conditional on the total number of alternatives.⁹ Although the king-of-the-hill procedure emerged in the intensifying partisanship and central majority control of the 1980s, these rules nearly always included minority alternatives. Structures governing more than two alternatives included at least one minority alternative in every case, and most three- and four-alternative structures

⁸As both Saturno (2012) and Lynch (2008) document, king-of-the-hill rules first appeared in the early 1980s, but only five were used prior to the 99th Congress. Because of the rarity of the procedure before 1985, and because rules texts are not readily searchable prior to that time, the data analyzed here does not include the earliest procedures.

⁹This data, and the data displayed in Figure 3, include only king-of-the-hill alternatives in structures from 1985-1994.

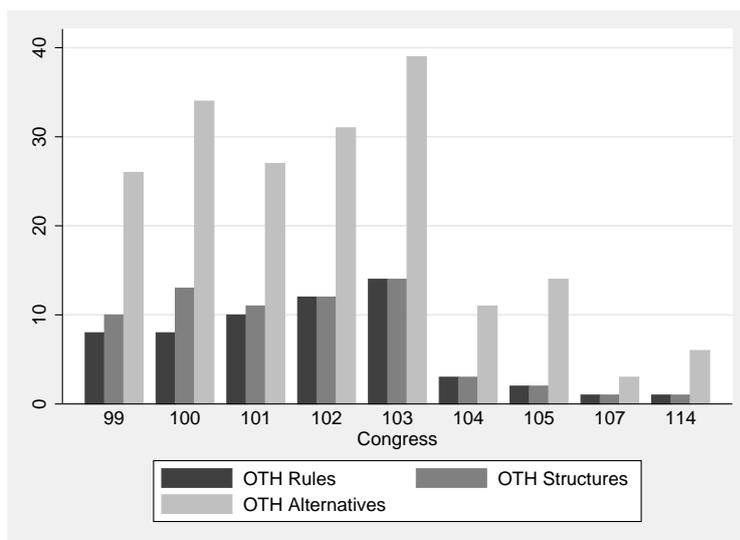


Figure 1: King- and Queen-of-the-Hill Rules, 1985-2015

allowed for more than one Republican alternative. The evidence here is consistent with the majority using king-of-the-hill structures to script the floor amending process but not to deny the GOP minority votes on its substitutes.

Still, at first glance, the king-of-the-hill procedure seems heavy handed—the majority can give the minority its votes and assure that only the leadership’s preferred alternative is finally adopted by placing that alternative in the final “king” position. Figure 3 presents data on alternatives in king-of-the-hill structures that were adopted (i.e., received a majority of votes) on the floor. One clear finding is that passage of multiple alternatives in the structure was quite unusual; in all but a few cases, the alternative finally adopted by the House was the only alternative that received a majority of votes. In addition, a number of structures involved *no* alternatives being adopted. It is also noteworthy that only six of the king-of-the-hill procedures led to the final adoption of a “king” alternative over an earlier-adopted amendment, and it is perhaps surprising that one of these procedures was among several that led to the final adoption of a *minority-party* sponsored alternative.¹⁰

In their early analysis of king-of-the-hill rules, Bach and Smith (1988, 74-78) noted

¹⁰There were six minority-winning king/queen-of-the-hill structures, all in the 99th-102nd Congresses.

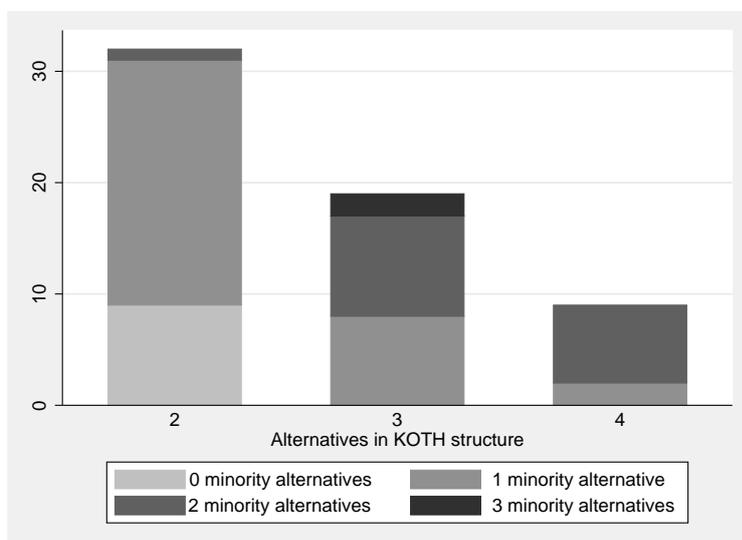


Figure 2: Minority Alternatives in King-of-the-Hill Rules

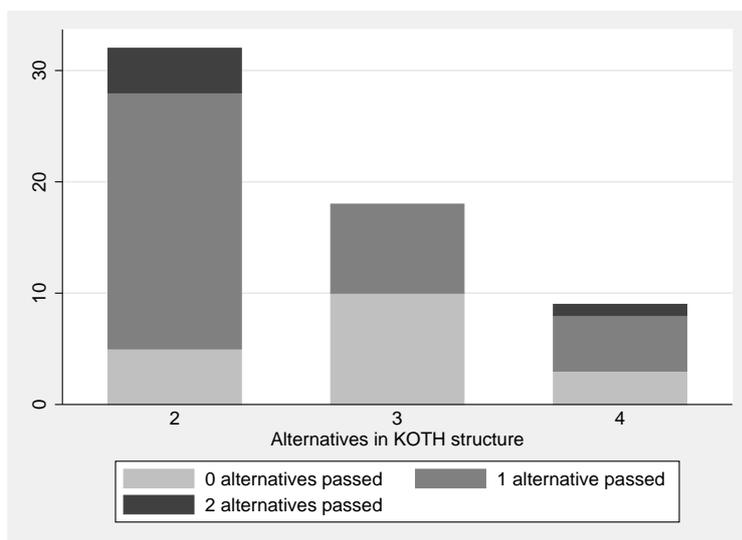


Figure 3: Adopted Alternatives from King-of-the-Hill Rules

that some structures seemed to be designed for members to support more than one alternative for position-taking purposes, a pattern Sinclair also observes (2012, 38). Saturno (2012, 56), however, speculates that “the level of support for alternatives does not make it seem likely that members voted more frequently for multiple alternatives . . . than they would have under some other form of restrictive rule.” That specific comparison is a very complex one to validate, but it is straightforward to examine individual members’ voting consistency across king-of-the-hill alternatives. Based on individual roll-call data on the 1985-1994 king-of-the-hill alternatives, Figure 4 shows the level of voting consistency (i.e., the percent voting yes-yes or no-no) on all pairs of amendments in a structure. If these rules were typically used only to pair ideologically opposed alternatives or very similar alternatives, we would expect to see the pairs clustered at the extremes of the histogram. And many pairs fit this pattern, with the largest clusters at each end. However, many bill pairs involved a mixed response, with only 30, 40, or 70% of House members switching. Figure 5 presents some additional evidence, focusing only on vote pairs involving at least one alternative that passed. Here, I ask what percentage of members voted yes on *both* votes. Most such pairs involve very little cross-vote support, but it is notable that some structures did join bills on which a third or more of the members voted for an adopted alternative as well as another alternative in the structure. Overall, the descriptive picture suggests that the king-of-the-hill process tended to join alternatives that had either very similar or sharply opposed coalitions, but it also reveals a number of measures that had cross-cutting coalitions. This evidence is consistent with the view that the Rules Committee sometimes used these rules to allow convenient position-taking as a route to building a coalition for a leadership-favored alternative, as in the 2015 budget example.¹¹

¹¹The position-taking often involved positions without broad support. As a group, king-of-the-hill alternatives between 1985 and 1994 received significantly less support than other amendments with roll-call votes, even when indicators for budget legislation and party-unity votes are included as controls.

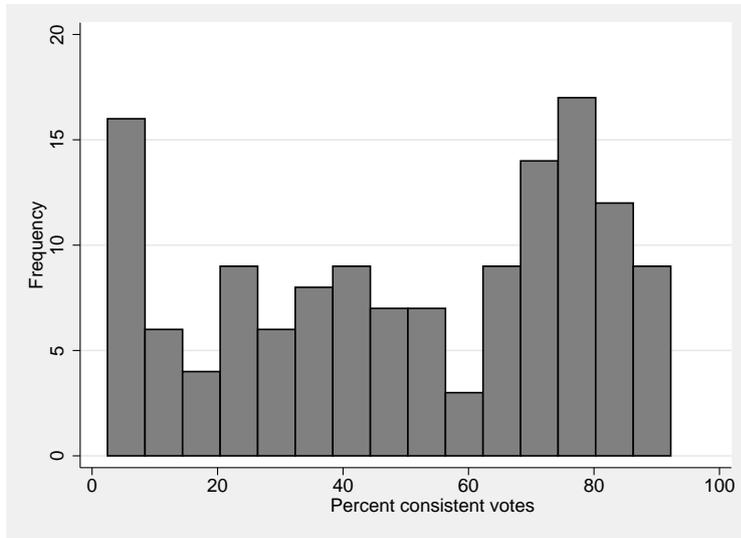


Figure 4: Cross-voting Coalitions on King-of-the-Hill Alternatives

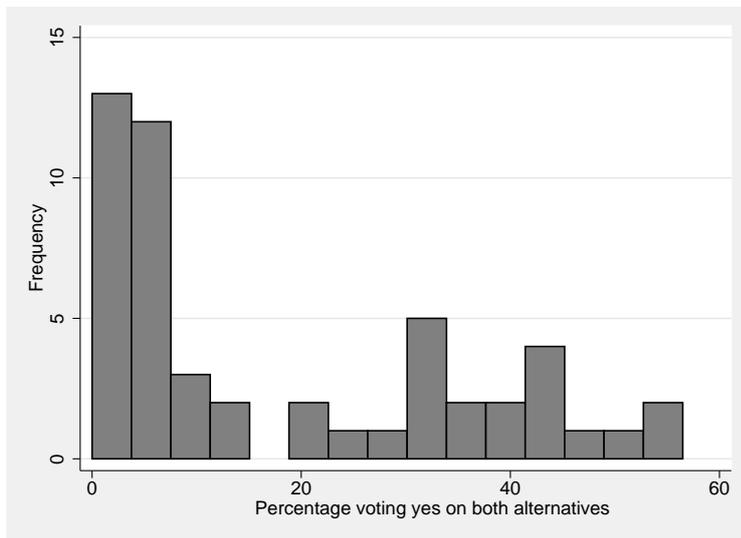


Figure 5: Cross-measure Support for Alternatives in King-of-the-Hill Rules *Note:* Includes only vote pairs containing at least one measure with majority support.

3.2 Empirical Tests

King-of-the-hill rules emerged at a time of rising polarization and strengthening majority leadership; these devices may have been used not only to manage the majority coalition and uncertain floor politics but also to highlight partisan divisions on major issues. If the procedure was regularly used to structure votes that involved unusually strong party voting patterns, then we may conclude that king-of-the-hill rules served the party's interest in structuring a partisan roll-call agenda. Specifically, I expect that amendment votes in king-of-the-hill procedures will have higher levels of party disagreement and higher levels of Democratic and Republican party cohesion when compared with other amendments that received roll-call votes in the same time period.

I test these expectations using data from the PIPC roll-call database (Crespin and Rohde 2016). The PIPC data on voting divisions allows easy calculation of Rice party disagreement and party cohesion scores for each vote (Rice 1925; Clausen 1967), and I have added to the dataset indicators for all roll-call votes that were included in a king-of-the-hill structure. Based on this data, Table 1 displays OLS models of disagreement, Democratic cohesion, and Republican cohesion based on the universe of straight-amendment and substitute amendment votes in the 99th-103rd Congresses. Each model includes indicators for king-of-the-hill alternatives, with separate indicators for minority-sponsored and majority-sponsored alternatives (comparing all other amendments as the baseline category). The models include controls for 50% vs. 50% party-unity votes and for budget-related votes.¹²

The first model in Table 1 takes the party disagreement score as the dependent variable, and it shows that minority-sponsored alternatives were significantly more party-divisive compared with other amendments. By contrast, there is not evidence that Democratic alternatives in king-of-the-hill structures were more divisive. Not surprisingly, both the party-unity and budget vote control variables are positive and significant in this model. The second and third models examine the cohesiveness of each party as the dependent

¹²As with the 2015 example, earlier king-of-the-hill procedures were often used to structure votes on budget alternatives.

variable. The models reveal interesting patterns that are only partly consistent with the general expectation that king-of-the-hill alternatives would be subject to greater cohesion. Democratic cohesion (model 2) was substantially higher on minority alternatives, but it was much *lower* on average for majority Democratic alternatives. The opposite pattern appears for Republican cohesion (model 3). On Democratic king-of-the-hill alternatives, minority cohesion was much higher compared with other amendments, but the GOP's cohesion was not higher for its own amendments; there is even weak evidence that it was lower ($p < .10$, two-tailed).

Table 1: Party Voting on King-of-the-Hill Alternatives, 1985–1994

	(1) Rice disagreement	(2) Majority cohesion	(3) Minority cohesion
Majority alt.	1.790 (1.986)	-13.881*** (4.138)	18.000*** (3.515)
Minority alt.	7.136*** (2.170)	12.738*** (4.498)	-6.903* (3.839)
Party Unity Vote	43.808*** (0.834)	-2.628 (1.799)	-7.026*** (1.476)
Budget Vote	7.492*** (2.356)	8.221 (5.230)	3.897 (4.169)
Constant	17.962*** (0.668)	64.049*** (1.455)	68.746*** (1.183)
N	1,628	1,178	1,628
R-squared	0.633	0.026	0.035

Standard errors in parentheses
*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

Taken together, these results shed light on the partisan role of king-of-the-hill procedures. In general, the majority party scheduled minority alternatives under these rules that heightened interparty conflict and tended to unify the majority in comparison to typical amendment votes. At the same time, Democratic leaders put forward majority alternatives that, on average, tended to be more divisive for the Democratic caucus, but Republicans responded to these with greater cohesion. We know from the descriptive data

that Democrats regularly allowed many minority amendments, but these patterns suggest that the permitted GOP alternatives tended to be ones that drew out party divisions. The Democrats' own alternatives were more likely to capture divisions within the caucus, likely because the votes allowed for position taking by different Democratic factions.

4 Bifurcated Rules

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 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.¹³

The combination of the bifurcated rule and the closed floor process generated considerable controversy. Explaining the rule on the House floor,¹⁴ Pete Sessions (R-TX) offered

¹³House Republicans were taking a page from their own recent history in using bifurcation on the minimum wage—a bifurcated rule also joined a tax package and a wage increase in 1996.

¹⁴Quotations are from the *Congressional Record*, 9 March 2000.

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.

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 joined the bills deliberately 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 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 distinct 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.

The minimum-wage case is a dramatic example in which the House leadership used

bifurcation to reconcile competing demands of member position-taking and party messaging; the majority’s partisan objectives are clear here. However, in other cases, the procedure is used in situations that are less complex, less partisan, or both. For instance, in early 2013 the Rules Committee designated a bifurcated procedure to join an overdue Hurricane Sandy emergency spending bill with an uncontroversial bill on the administration of disaster assistance, moving the package off to the Senate for quick action. In the lead-up to the 2004 election, Republicans used the procedure to combine three mostly party-line health care bills into a single GOP health care package, passing it along to the Senate, which had failed to act earlier in the Congress on the individual elements of the package.¹⁵

This relatively little-known procedure raises a number of questions. Is the rule regularly used for the combination of negative and positive agenda control seen in the minimum wage example—the kind of majority manipulation that led Minority Leader Bob Michel (R-IL) to call such a rule a “two-headed malodorous swamp animal” when the Democrats first tried to use it in 1989?¹⁶ How often does the majority use bifurcation to solve problems in building coalitions, and how often does it use the procedure to advance party-dividing bills? How often do the rules instead address basic bicameral housekeeping needs, allowing the Rules Committee to efficiently move legislation to the other chamber? As with the king- and queen-of-the-hill rules, we do not yet know whether the anecdotal examples in which the majority seeks to “skew the procedural playing field” (Oleszek 2014, 179) are *typical* uses of the bifurcated rule.

4.1 Descriptive Findings

To examine the Rules Committee’s use of bifurcation, I have collected data on all bifurcated rules that were adopted on the House floor from the 104th Congress (1995-1997), when Republicans first successfully used the procedure, and the 114th Congress

¹⁵For details on these and other examples of the bifurcated rule, as well as information on all bifurcated rules since 1995, see Meinke (2016).

¹⁶The quotation is from the *Congressional Record*, 24 May 1989.

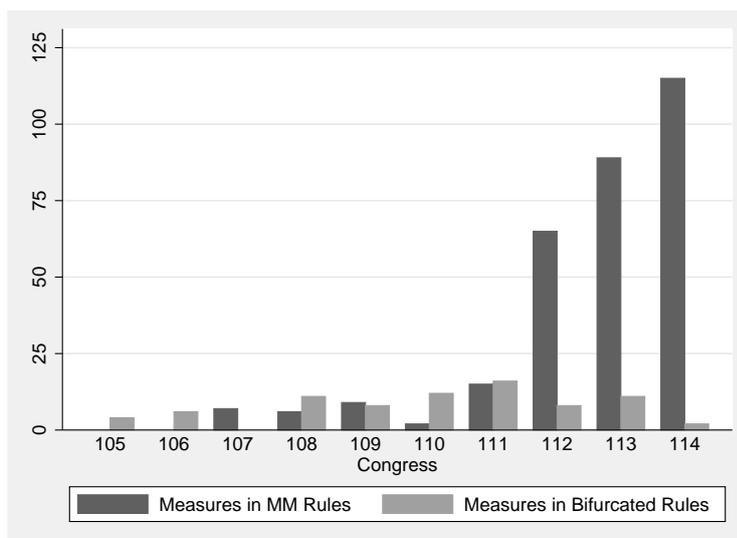


Figure 6: Measures in Bifurcated and Multiple-Measures Rules, 1997-2016

(2015-2017). This data collection, conducted through searches of rule text (see Appendix for details), yielded a total of 40 special rules containing bifurcated procedures, with 85 total measures clearing the House under these terms. Figure 6 shows the distribution of bifurcated-rule bills from 1995 to 2017. The procedure is used relatively infrequently, with as many as 9 bifurcated rules controlling 17 measures in the 111th Congress but no bifurcated rules issued at all in the 107th Congress.¹⁷ Examining the content of the rules themselves, we learn that floor consideration of bifurcated-rule measures was significantly more restrictive compared with other bills considered under special rules in the same Congresses.¹⁸ Table 2 shows that bifurcated-rule measures were much more likely to be considered under closed rules and much less likely to be subject to open or modified open rules.

Because bifurcated rules are showcasing roll-calls on multiple measures that will become one bill—rather than concealing them through self-execution—it is important to consider voting patterns across bifurcated measures to determine how conflicted the coali-

¹⁷Figure 6 includes only measures that received roll-call votes. A few additional measures passed the House on voice vote and were joined with other bills under bifurcated rules.

¹⁸This analysis is based on restrictiveness data provided by Harbridge (2015) and Wolfensberger (2016) incorporated into the PIPC dataset.

Table 2: Restrictiveness of Bifurcated Rules, 1995–2016

Type of Special Rule	Other Measures	Bifurcated-Rule Measure	Total
Open	309	4	313
	25.94%	5.48%	24.76%
Structured	540	31	571
	45.34	42.47	45.17
Closed	342	38	380
	28.72	52.05	30.06
Total	1191	73	1264
	100.00	100.00	100.00

Note: $\chi^2 = 24.22$, $p < .001$

tions across the measures are. The histogram in Figure 7 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 third 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% joint support—this finding reveals that the leadership is sometimes using bifurcated rules for purposes other than managing difficult coalitions.

To the extent that the majority uses bifurcated rules for partisan agenda control when coalition-building is a challenge, we should expect to see some other distinguishing features. Compared with other measures considered under special rules, bills under bifurcated rules should be more likely to be majority rolls, and they should be more likely to be bills for which minority members provide votes necessary to the winning coalition (minority-margin bills). On a more basic level, if the procedure is used for majority party purposes, we should expect bifurcated-rule bills to include more party unity votes than other special-rules bills. Data on voting patterns suggests some support for these ex-

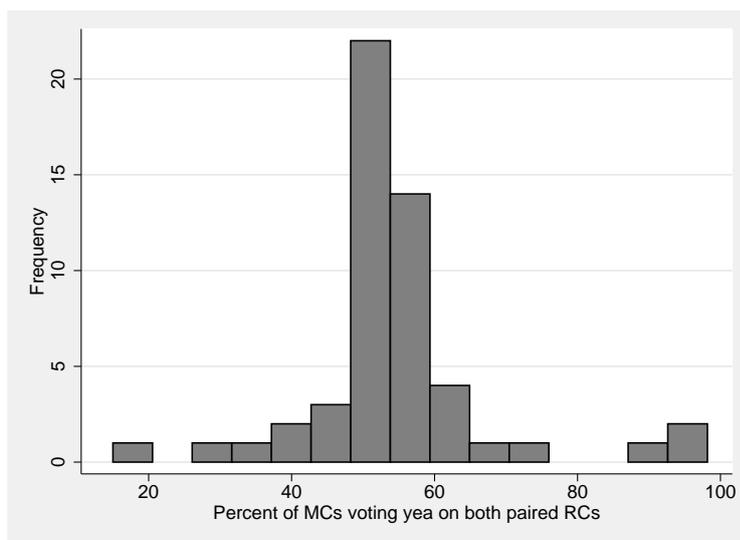


Figure 7: Cross-voting Coalitions in Bifurcated Rules *Note:* Includes observations on each bill pair covered in a bifurcated rule, including those rules that joined more than two measures

expectations. Although majority rolls are quite rare in this time period on bills considered under special rules, four of the bifurcated-rules measures (5.7%) were rolls, compared with ten (0.87%) of the other (winning) special-rules measures in these Congresses. Minority-margin bills comprised eight more (11.4%) of the bifurcated rules bills, making them less common than they were among all winning special-rules measures (22.1%). Still, note that about a quarter of the bifurcated rule bills had these coalition complications. Finally, most bifurcated rules bills were party unity votes (60, or 82.2%), significantly more than among other special-rules bills (63.7%).

These features of the individual measures can tell us something about the nature of the combinations the leadership creates with bifurcated rules. In Table 3, I have classified each measure into three categories based on their support coalition and then examined how the types of measures are matched in bifurcated rules. The categories include *coalition-problem votes* (majority rolls, minority-party margin bills, and a few failed measures), *party unity votes*, and *consensus votes* (voice votes or roll-calls with a majority greater than 2/3).¹⁹ Most bifurcated rules either joined two party-unity bills or combined a

¹⁹Consensus votes are coded only if they are not party unity votes or coalition-problem votes. The

partisan bill with a consensus vote.²⁰ The leadership uses bifurcated rules less often with coalition-problem votes, but these do make up a third of the total, 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.

Table 3: Bill Combinations in Bifurcated Rules

Combination	Number of Rules
Party unity + party unity	13
Party unity + consensus	10
Coalition problem + consensus	5
Coalition problem + party unity	5
Consensus + consensus	4
Coalition problem + coalition problem	3

Notes: Party unity votes are roll-calls on which more than 50% of one party opposes more than 50% of the other party. Coalition problem votes include majority rolls, failed bills, and roll-calls that pass only with minority-party votes. Consensus votes receive more than 66% yea votes.

Floor debate on bifurcated rules provides one final source for descriptive information about how the majority uses the procedure. The minority party, of course, regularly uses floor debate on adoption of special rules to air grievances about the majority’s procedural manipulations; we should expect to see minority members addressing bifurcation wherever its use is advantaging the majority at the expense of the minority. I reviewed floor debate on the 40 bifurcated rules, noting minority complaints about the purpose or effect of bifurcation. Twelve (30%) of the rules debates involved specific minority criticism of the bifurcated aspect of the rule. I also noted rules debates that included discussion of issues related to standing-committee consideration of the measures. In several cases, minority members complained about the use of the bifurcated procedure to quickly advance a Rules Committee print (Oleszek 2017) or other measures without the usual consideration

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.

²⁰Oleszek (2014, 179) discusses an example that illustrates this type of use nicely. H. Res. 448 in the 112th 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).

by the relevant standing committee. These committee-related issues appeared in eight (20%) of the bifurcated-rule floor debates. The floor debate findings are consistent with the descriptive results on types of bills paired: the majority sometimes use bifurcated rules controversially to quickly advance party priorities or avoid coalition problems on must-pass bills, but it also uses the process in less controversial ways to package regular legislation with related items.²¹

4.2 Multivariate Tests

These basic findings suggest some general expectations for an analysis of which measures are subject to bifurcated rules. Using the PIPC data, I have constructed rare-events logit models predicting bifurcated-rules measures from 1995 through 2016.²² I expect that measures that involved more partisanship, as indicated by majority cohesion, party unity votes, and Rice disagreement scores, will be more likely to be bifurcated. I also include indicators for majority-roll votes and minority-margin votes. Finally, I test the expectation that the majority may favor the bifurcated-rule procedure to expedite measures for Senate consideration as the end of a session or Congress nears. The models include a variable for the position of the roll-call in each session's series of votes and an indicator for the second session of the Congress.

Table 4 presents two models of bifurcated-rule bills. The first includes the Rice disagreement score as an indicator of party conflict, and the second uses a dummy variable for party unity votes.²³ The two models tell a similar story. Party conflict, as measured either by the presence of a party unity vote or by higher Rice disagreement scores, predicts inclusion in a bifurcated rule, as does the presence of a majority roll. Majority cohesion levels and minority-margin votes are not related to the likelihood of a bill being included in a bifurcated rule. Finally, the expectations about the pressures of the congressional

²¹It bears mentioning that most of the very controversial uses of the procedure occurred under the narrow GOP majorities between 1995 and 2004.

²²The 107th Congress (2001–2003) had no bifurcated rules, and bills from this Congress are excluded from the models.

²³The two variables are highly correlated with each other.

Table 4: Measures in Bifurcated Rules, 1995–2016

	(1)	(2)
Vote number	0.00004 (0.0005)	0.00003 (0.0005)
Second session	0.117 (0.268)	0.122 (0.267)
Majority cohesion	-0.005 (0.010)	-0.003 (0.010)
Rice disagreement	0.012*** (0.005)	
Party unity vote		0.746** (0.315)
Roll vote	2.155*** (0.755)	2.169*** (0.759)
Minority-margin vote	-0.548 (0.446)	-0.652 (0.436)
Constant	-3.193*** (1.046)	-3.177*** (1.045)
N	1,232	1,232

Rare-events logit models; Robust standard errors in parentheses

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

calendar are not supported, as neither time in session nor the indicator for the second session predict inclusion in a bifurcated rule.

5 Multiple-Measures Rules: The “Grab Bag”

The most recent of these rules innovations is now the most common—the rule for multiple measures, or the “grab bag rule.” Under this creative rule, the Rules Committee simply writes the terms for considering more than one measure into a single special rule. The terms may differ for the several rules under consideration and, unlike the bifurcated rule, the bills are not joined together at the end of the process. Rules has used the multiple-measures device typically for two bills at a time, although rules governing three

or more bills are not uncommon.²⁴ Multiple-measures rules sometimes group related bills for consideration, as when Republicans in the 114th Congress linked the Sunshine for Regulatory Decrees and Settlements Act and the Searching for and Cutting Regulations that are Unnecessarily Burdensome (SCRUB) Act under H. Res. 580. In other cases, very different bills are thrown together in the “grab bag” procedure.²⁵

The multiple-measures rule was first noted in the Rules Committee’s Survey of Activities as a distinct Rules Committee device in the 107th Congress, but it remained quite rare until the Republicans regained control of the House in the 112th Congress; its use then skyrocketed. Figure 6 above shows that many House bills went into a “grab bag” in the 112th-114th Congresses, and the majority of measures considered under special rules were in multiple-measures rules in the 113th and 114th Congresses. During the last three Congresses, the bills included in multiple-measures rules received similar treatment on the floor compared with other bills governed by discrete special rules: “Grab bag” bills were only slightly more likely to be given closed rules (45% versus 40% of other bills).

Although the multiple-measures rule has quickly become commonplace as a tool for the majority leadership, it still provokes opposition from the minority. For example, the leadership brought two unrelated bills to the floor together in June 2015 under H. Res. 303. The first bill, the Defense appropriations bill, received a modified open rule and passed the House 278-149 with only a small amount of Democratic support. The second bill, which revised country-of-origin requirements in the Agricultural Marketing Act of 1946 (H.R. 2393), passed 300-131 under a closed rule. In the debate over H. Res. 303, Jim McGovern (D-MA) criticized the procedure at length:

I rise in opposition to this grab bag rule and both underlying pieces of legislation. Mr. Speaker, today marks the 18th time in this Congress that House

²⁴The record apparently goes to H. Res. 371 in the 113th Congress, which set out a GOP plan for a partial end to the 2013 government shutdown. It provided rules for a total of 11 separate measures. In floor debate (4 Oct 1993), an incredulous Jim McGovern (D-MA) observed: “I’ve been on and around the Rules Committee for quite a few years . . . but I have never seen a rule like this.”

²⁵Most multiple-measures bills are House measures under original consideration, although the procedure has been used to deal with Senate amendments or conference reports.

Republicans have brought to the floor a grab bag rule, a single rule that governs floor debate for two or more unrelated pieces of legislation. Since the Republicans took control of the House in 2011, the use of grab bag rules has dramatically increased by over 400 percent. Using one rule to govern multiple, oftentimes unrelated bills stifles debate, which I guess is the point of them merging all these bills under one rule on the House floor, and leads to disjointed and confusing discussion between two sides. Ranking Member Slaughter and my Democratic colleagues on the House Rules Committee have raised these concerns with Chairman Sessions, but unfortunately, we are back on the floor today to consider one rule for two completely unrelated measures.

A month earlier, when the House was considering another multiple-measures rule (H. Res. 255), Louise Slaughter (D-NY) made a similar case, calling the process “legislative malpractice” and noting that “arguments for and against multiple measures are interspersed” under these rules, leading to “disjointed, fragmented, and confusing debates.”²⁶

5.1 Analysis

The minority’s criticisms of the “grab bag rule” suggest that the Rules Committee is using these procedures to push through majority party priorities quickly, short-circuiting some opposition opportunities. If this is correct, we should see higher levels of party disagreement and conflict (Rice disagreement scores and party unity votes) and higher majority cohesion on measures in multiple-measures rules compared with other votes governed by special rules. It is also possible that the leadership uses the rule to expedite legislation as floor time becomes more scarce. If this expectation is true, special-rules bills should be more likely to appear in multiple-measures rules as the end of a session draws closer and in the second session of a Congress.

Table 5 presents two models predicting whether special-rules bills are included in multiple-measures rules. This analysis is again based on rules data incorporated into

²⁶McGovern quotation is from *Congressional Record*, 10 June 2015. Slaughter quotation is from *Congressional Record*, 12 May 2015.

Table 5: Bills in Multiple-Measures Rules, 2011-2017

	(1)	(2)
Vote number	0.001** (0.0005)	0.001** (0.0005)
Second session	-0.005 (0.210)	-0.006 (0.210)
Majority cohesion	0.017** (0.008)	0.016** (0.008)
Rice disagreement	-0.003 (0.004)	
Party unity vote		-0.197 (0.301)
113th Congress	0.690*** (0.257)	0.688*** (0.257)
114th Congress	1.193*** (0.259)	1.180*** (0.259)
Constant	-1.929** (0.791)	-1.915** (0.792)
N	429	429

Standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

the PIPC roll-call data set, and as with the bifurcated rule analysis, two models are presented—one incorporating the Rice index of party disagreement and another using an indicator for party unity votes. Both models offer evidence that the majority uses the “grab bag” for majority-unifying votes, with higher majority cohesion predicting multiple-measures bills, and for bills considered later in each congressional session’s vote series. Although the majority cohesion predicts multiple-measures bills, neither measure of party conflict shows differences between the standalone and multiple-measure rules bills.

6 Discussion

The House Rules Committee has developed a set of tools that allow it to simultaneously pursue efficient management, balance competing member demands, and engage in positive and negative agenda control for the majority’s benefit. “Creative” rules are a crucial part

of this effort, and some of the most creative are those that address multiple proposals in the context of one rule. The evidence in this paper points toward several patterns in the leadership's use of these rules.

King-of-the-hill rules (and their queen-of-the-hill relatives) appeared to be a tool for majority strong-arm tactics on the floor, but evidence on the measures in the king-of-the-hill rules shows that they were used regularly to consider minority alternatives as well as internally controversial majority alternatives in an organized fashion. In some cases, numerous members voted for multiple alternatives, and the leadership chose to schedule majority alternatives that saw weaker majority cohesion on average compared with other amendment votes. The Rules Committee also used king-of-the-hill rules to structure consideration of minority amendments that drove high levels of party conflict and majority cohesion. In short, majority Democrats allowed votes on many Democratic and Republican alternatives under the procedure, thereby carefully managing demands for floor votes; in doing so, they provided position taking alternatives on divisive majority measures and they drew bright lines of interparty conflict with minority alternatives.

The bifurcated rule has served split purposes for the majority party. In some instances, the minority is justified in viewing this creature as a “two-headed malodorous swamp animal,” in Bob Michel's words. The majority party, particularly before 2007, did use the bifurcated rule to join bills facing majority coalition problems with other measures in an effort to move legislation out of the House that the majority leadership saw as necessary. These efforts, combining positive and negative agenda control, attracted strong opposition from the minority. However, this creative rule also allows the majority to efficiently package legislation for shipment to the Senate—either as a set of regular party votes with consensus measures, or as set of majority priorities. These uses have been less controversial on the House floor and suggest a combination of good housekeeping, majority messaging, or both.

Multiple-measures rules are perhaps less “unorthodox” than the bifurcated rule, but they have provoked pointed opposition from the minority, and like the other types, they

seem to serve several purposes. Republicans tended to use these “grab bag” rules for measures with greater majority cohesion, but these bills were also more likely to be scheduled later in a congressional session when compared with bills in stand-alone rules. Conclusions about the multiple-measures rules, it is important to note, are necessarily limited at this point—the rule was very rare before 2011, and it remains to be seen whether the majority will continue to use it as frequently and in the same ways that Republicans have in the last three Congresses.

These creative rules for multiple measures or alternatives continue a story that Bach and Smith first saw emerging in the 1980s. Floor politics in the House became more uncertain, and “the range of possible policy outcomes increased while the ability of participants to anticipate outcomes decreased.” In turn, the majority, through the Rules Committee “responded by devising innovative ways to assert its own authority while serving the interests of the majority party and the needs of the House” (Bach and Smith 1988, 13). Importantly, these innovations are not solely an effort to centralize majority control (Bach and Smith 1988, 112). They *have* served majority purposes by structuring and limiting alternatives and influencing what policies emerge from the House, and the incentives for the majority leadership to do so have grown. Still, a good deal of what the majority does through Rules is an effort to manage the House’s workload, with more indirect consequences for the majority’s policy and electoral efforts.²⁷ As Olsezek notes in his recent discussion of post-committee adjustments in the Rules committee, “the constant press of time, especially floor time, in today’s Congress fosters creativity in how the House processes its workload” (Oleszek 2017, 123). As a result, the majority party continues to push the boundaries of rules creativity, particularly in the treatment of multiple alternatives and measures, in order to direct House workflow *and* advance party and individual goals in an uncertain context.

²⁷Partisanship in the modern House is obviously strong, as is the partisan role of the Speaker and the Rules Committee’s distortion of the agenda for majority purposes (Harbridge 2015). But the Speaker regularly considers nonpartisan factors in making agenda decisions (Hasecke 2002), and the mixed purpose of these rules from a strongly partisan era is a good illustration of this fact.

A Appendix: Data Collection

A.1 King and Queen of the Hill Rules

For the analysis of king- and queen-of-the-hill rules, I assembled a database of rules containing these structures (and their associated alternatives) from the 98th Congress through the present. To identify these rules, I relied on text searches of special rules engrossed in the House (101st-103rd Congresses) and of rules appearing in the *Congressional Record* (99th-100th Congresses).²⁸

These rules take a form that identifies the amendments to be considered in some way, specifying the order of consideration, and then indicating which alternative is to be adopted if there is more than one receiving a majority vote. For instance, in the rule (H. Res. 401) on a crime bill in the 103rd Congress (H.R. 4092), the text specifies:

If more than one of the following amendments printed in part 1 of the report relating to habeas corpus is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House: by Representative Hyde of Illinois; and by Representative Derrick of South Carolina.

Wording on these structures varied somewhat over time, so I conducted multiple searches of rules in each Congress using different phrases that sometimes appeared in these rules. These phrases included: “shall be considered as finally adopted,” “if more than one amendment is adopted,” “only the latter amendment,” “shall be considered to have been,” and “shall be considered as having been finally adopted.”

With rules identified, I used the rule text, the Rules Committee report, and floor debate in the *Congressional Record* to identify the alternatives in each structure to associate them with roll-call votes. In some cases, the rule text itself makes clear which amendment votes are covered by the structure, as in the crime bill example above. In many instances, the rule text refers to numbered amendments in the report. I consulted the report to

²⁸A small number of these rules appeared in the 97th and 98th Congresses, when text is not searchable (Lynch 2008).

identify these roll-calls or, when the report was not readily available, the comments of floor managers for the rule.

For the analysis in this paper, I have excluded a number of king-of-the-hill rules which were passed on the House floor but that were not carried out. In several cases, the House allowed for alternatives to be considered that were never offered on the floor. If only one alternative (or no alternative) received floor consideration, then I have excluded the rule from the data sets.

My data collection matches the list in Saturno (2012) with a few exceptions. First, Saturno’s list is missing two rules that I identified (H. Res. 331 in the 103rd Congress and H. Res. 163 in the 114th—the latter occurred after Saturno’s work was published). Second, Saturno’s list includes a number of king-of-the-hill structures that I exclude because they structured the consideration of fewer than two alternatives when they were actually used on the floor.

A.2 Bifurcated Rules

To conduct some preliminary data analysis on bifurcated rules, I have collected data on all bifurcated rules passed by the House from the 104th through 114th Congresses. 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 in the text:

Sec. 3. (a) In the engrossment of H.R. 3081, the Clerk shall—(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.²⁹

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.³⁰ 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. 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 simple multiple-measures rules. The review of the Survey of Activities reports did reveal one additional bifurcated rule missed by the text searches.³¹

The bifurcated rules data excludes 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.

A.3 Multiple-Measures Rules

Identifying multiple-measures rules and their associated bills was a more straightforward task. I relied on lists of multiple-measures rules that appear in the Rules Committee Survey of Activities for each Congress. I adjusted these lists to account for bifurcated rules that were miscategorized as multiple-measures rules (and vice versa) in some Congresses.

²⁹H. Res. 434, 106th Congress.

³⁰Searches prior to the 104th Congress yielded no bifurcated rules successfully used prior to that Congress. See Meinke (2016) for discussion of a few unsuccessful examples in the 1980s.

³¹The additional rule, H.Res. 387 in the 110th 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.”

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