

15 Things to Know about Taking It to the Floor

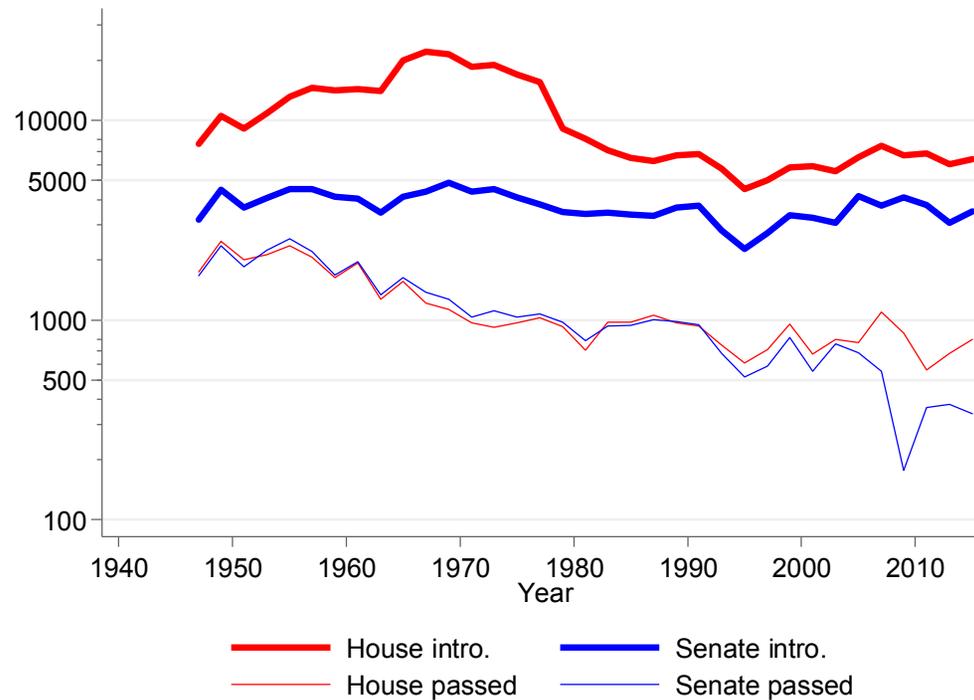
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Fall 2016

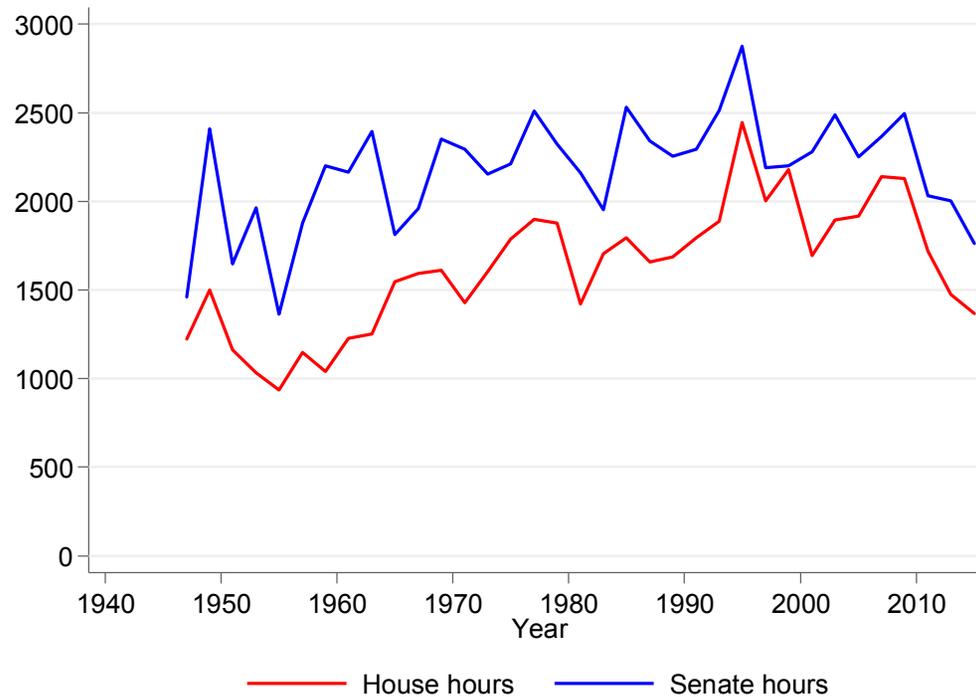
0. [Congress.gov](https://www.congress.gov) is a good place to get legislative histories

- [Home page](#)
- [Affordable Care Act Legislative History](#)

1. The overall workload has generally declined this past half century.



1.1 Hours have plummeted in recent years (may not next year)



2. Getting a bill passed is hard work

Major hurdle

<i>Minor hurdle</i>	<i>House detail</i>	<i>Senate detail</i>
Introduction	House originates tax bills	Senate exclusively considers executive matters
Reference to committee	Done by Speaker, no right of appeal	Done by presiding officer, w/right of appeal
Committee consideration (subcommittee nested)		
Hearing, Mark-up, Report		
Scheduling	Combo of Rules & leadership	Leadership-centered negotiations
Getting on the calendar	Multitude of calendars (union, House, correction, private, DC, discharge)	Two calendars (general orders, executive)
Getting off the calendar	Simple: suspension; Complex: rules	Simple: suspension; Complex: unan. consent
Setting the parameters of consideration	Rules Committee	Unanimous consent under threat of filibuster
Floor consideration	Committee of the Whole	
Debate	Constrained	Cloture
Amendment	Germaneness rules strong	Germaneness weak
Reconciling differences		

3. The most important thing about bill referral is that it usually determines who the bill's murderer is.

As a rule, a bill committed is a bill doomed. When it goes from the Clerk's desk to a committee-room it crosses a parliamentary bridge of sighs to dim dungeons of silence when it will never return. The means and time of its death are unknown but its friends never see it again.

--Woodrow Wilson, *Congressional Government*

4. Committee reports are important--- and controversial

Committee reports, floor speeches, and even colloquies between Congressmen ... are frail substitutes for bicameral vote upon the text of a law and its presentment to the President. *Thompson v. Thompson*, 484 U.S. 174, 191-192 (1988)(Scalia, J., concurring).

“In my view a law means what its text most appropriately conveys, whatever the Congress that enacted it might have ‘intended.’ **The law is what the law says**, and we should content ourselves with reading it rather than psychoanalyzing those who enacted it.” *Bank One of Chicago v. Midwest Bank and Trust Co.*, 516 U.S.264,279 (1996).

5. Getting bills to the House floor is a two-track process

- Formally, bills move from the committees to calendars, from which they are called up in order
- Non-controversial bills are in practice considered under “suspension of the rules”
- Controversial bills are in practice considered under a “rule.”

6. There are four major types of rules, in theory and practice

- Open
- Closed
- Modified open
- Structured

The screenshot displays the website for the House of Representatives Committee on Rules, chaired by Pete Sessions. The navigation bar includes links for About, Legislation, Amendments, News, Resources, Contact, and a Minority Page. The main content area is divided into two columns. The left column, titled 'OTHER LEGISLATION LINKS', features a link to 'Committee Hearing Video Archives' and a 'FILTER LEGISLATION' section. This section includes a 'Search by Term' input field and a 'Rule Type' dropdown menu with options: All, Open, Closed, Modified Open, Structured, and General Debate. The right column displays two legislative items. The first is H.R. 1735, 'National Defense Authorization Act for Fiscal Year 2016', with buttons for 'Read More', 'View Copy of Bill', 'Hearing' (not scheduled), 'Amendment Process' (deadline on May 7, 2015 at 12:00 pm), and 'Status' (Amendment Process Announced). The second item is S. Con. Res. 11, 'Concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2016 and setting forth the appropriate budgetary levels for fiscal years 2017 through 2025', with buttons for 'Read More', 'View Copy of Bill', 'Hearing' (Apr 20, 2015 3:00pm), 'Managers' (McGovern, MA/Woodall, GA), and 'Status' (Rule Reported).

Courtesy of the U.S. House of Representatives. This image is in the public domain.

Closed Rule

H.Res 863, 114th Cong.

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 5351) to prohibit the transfer of any individual detained at United States Naval Station, Guantanamo Bay, Cuba. All points of order against consideration of the bill are waived. The amendment printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Armed Services; and (2) one motion to recommit with or without instructions.

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An appropriation may not be reported in a general appropriation bill, and may not be in order as an amendment thereto, for an expenditure not previously authorized by law...

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Structured Rule: H.Res. 591,*

114th Congress

1. Provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary.
2. Waives all points of order against consideration of the bill.
3. Provides that the bill shall be considered as read.
4. Waives all points of order against provisions in the bill.
5. **Makes in order only the amendments printed in part B of the Rules Committee report. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.**
6. Waives all points of order against the amendments printed in part B of the report.
7. Provides one motion to recommit with or without instructions.

*Pertains to H.R. 5982, pertaining to “midnight rules.”

7. Floor business in the House is scheduled for everyone's convenience

- Weekly floor schedule
- Daily floor schedule

8. The substantive consideration of bills in the House is in Committee of the Whole

- Advantages
 - Smaller quorum
 - Debate easier (under the 5-minute rule)
- Formally not the House
 - Presided over by a rank-and-file member
 - All amendments that pass must be approved again by the House

9. The Senate differs from the House in being looser

- Getting to the floor is easier and more varied
- Majority leader is the gatekeeper
- Debate need not be germane
- Amendments need not be germane
- Filibuster the 800 pound gorilla

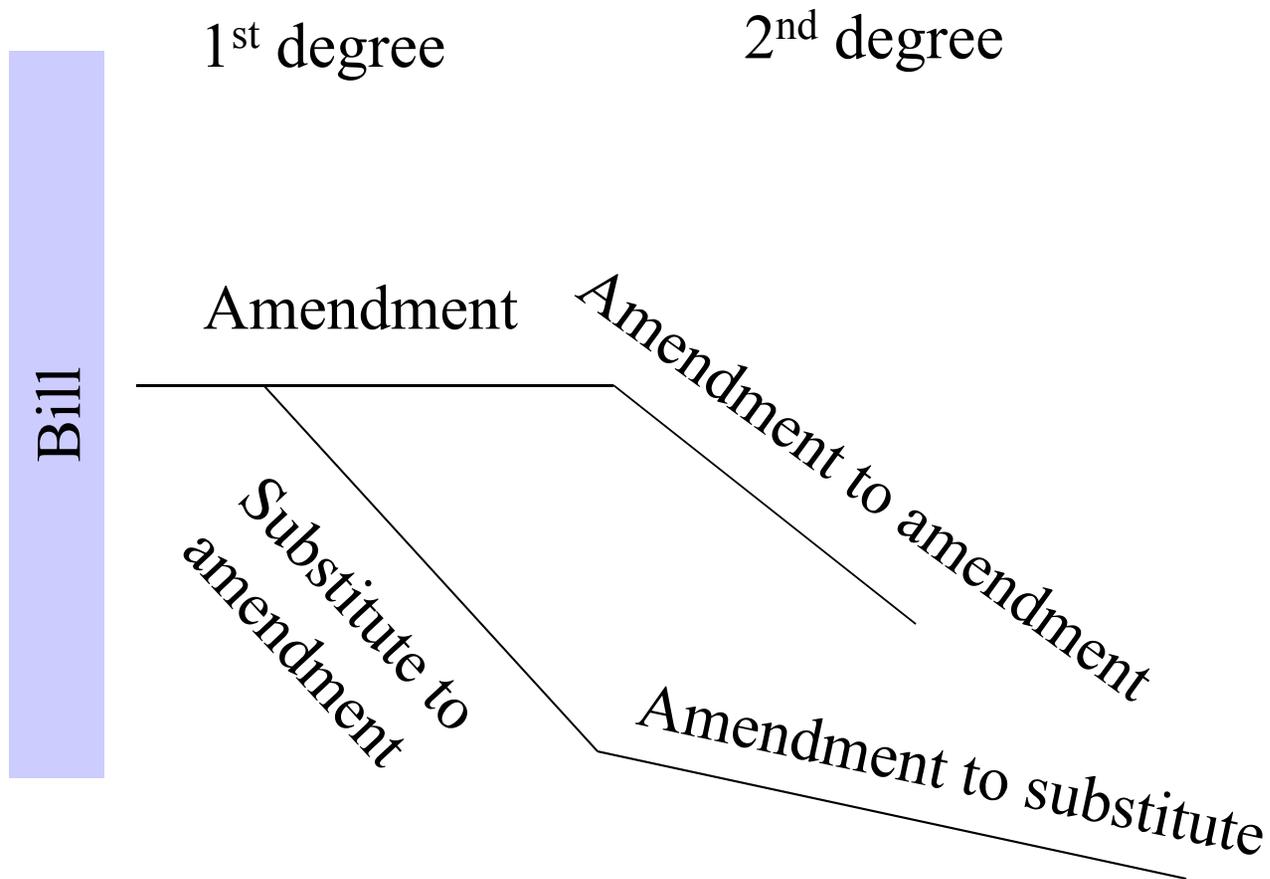
10. Scheduling in the Senate by Complex Unanimous Consent Agreements

- UNANIMOUS CONSENT AGREEMENT--H.R. 1191

- Mr. *McCONNELL*. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, with the concurrence of the Democratic leader, the Senate proceed to vote on the motion to proceed to calendar No. 30, H.R. 1191, and that if the motion to proceed is agreed to, Senator *Corker* or his designee be recognized to offer a substitute amendment, which is the text of S. 615 as reported by the Foreign Relations Committee.
- The PRESIDING OFFICER. Is there objection?
- The minority leader.
- Mr. REID. Mr. President, I reserve my right to object, ... [says nice things about Democrats involved in negotiating the bill.] But we are not there yet. Remember, we had a problem with this initially because of the language in the bill. So every word is going to have to be read with this new language that is drawn up, and then we will see if we can make it to the finish line. I think we can, but we are certainly not there yet. But progress has been made.
- [More kind words for Senators Cardin and Corker]
- But I note that the majority leader is once again choosing not to move to the nomination of Loretta Lynch as Attorney General. It has been more than 5 months--it will be 6 months in a week or 10 days--since President Obama nominated her. Her nomination has been on the Senate calendar for 49 days, longer than the last 7 Attorney General nominations combined.
- [Asks that the Lynch nomination be added to the UA]
- The PRESIDING OFFICER. Does the majority leader so modify his request?
- Mr. *McCONNELL*. Mr. President, as I have indicated, gosh, at least for 6 weeks now, we are going to deal with the Lynch nomination right after we finish trafficking. [Say more things about getting the trafficking bill passed.]
- Therefore, I object to the modification.
- The PRESIDING OFFICER. Objection to the modification is heard.
- Mr. REID. Mr. President, continuing my reservation, [capitulates].
- The PRESIDING OFFICER. Without objection, it is so ordered.

HR 1191 was Iran Nuclear Agreement Review Act of 2015

11. Offering Complex Amendments More a Strategy in the Senate than the House



Example of filling the tree

Legislative Business (Thursday, December 1)

H.R. 34 (Rep. Bonamici): To authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes.

- Message on House action received in Senate and at desk: House amendment to Senate amendment.
- Measure laid before Senate by unanimous consent.
- Motion by Senator McConnell to concur in the House amendment to the Senate amendment to H.R. 34 made in Senate.
- Cloture motion on the motion to concur in the House amendment to the Senate amendment to H.R. 34 presented in Senate.
- Motion by Senator McConnell to concur in the House amendment to the Senate amendment to H.R. 34 with an amendment (SA 5117) made in Senate.
- Motion by Senator McConnell to refer to Senate Committee on Health, Education, Labor, and Pensions the House message to accompany H.R. 34 with instructions to report back forthwith with the following amendment (SA 5119) made in Senate.

S.Amdt. 5117 (Sen. McConnell): To change the enactment date.

- Amendment SA 5117 proposed by Senator McConnell.

S.Amdt. 5118 (Sen. McConnell): To change the enactment date.

- Amendment SA 5118 proposed by Senator McConnell to Amendment SA 5117.

S.Amdt. 5119 (Sen. McConnell): To change the enactment date.

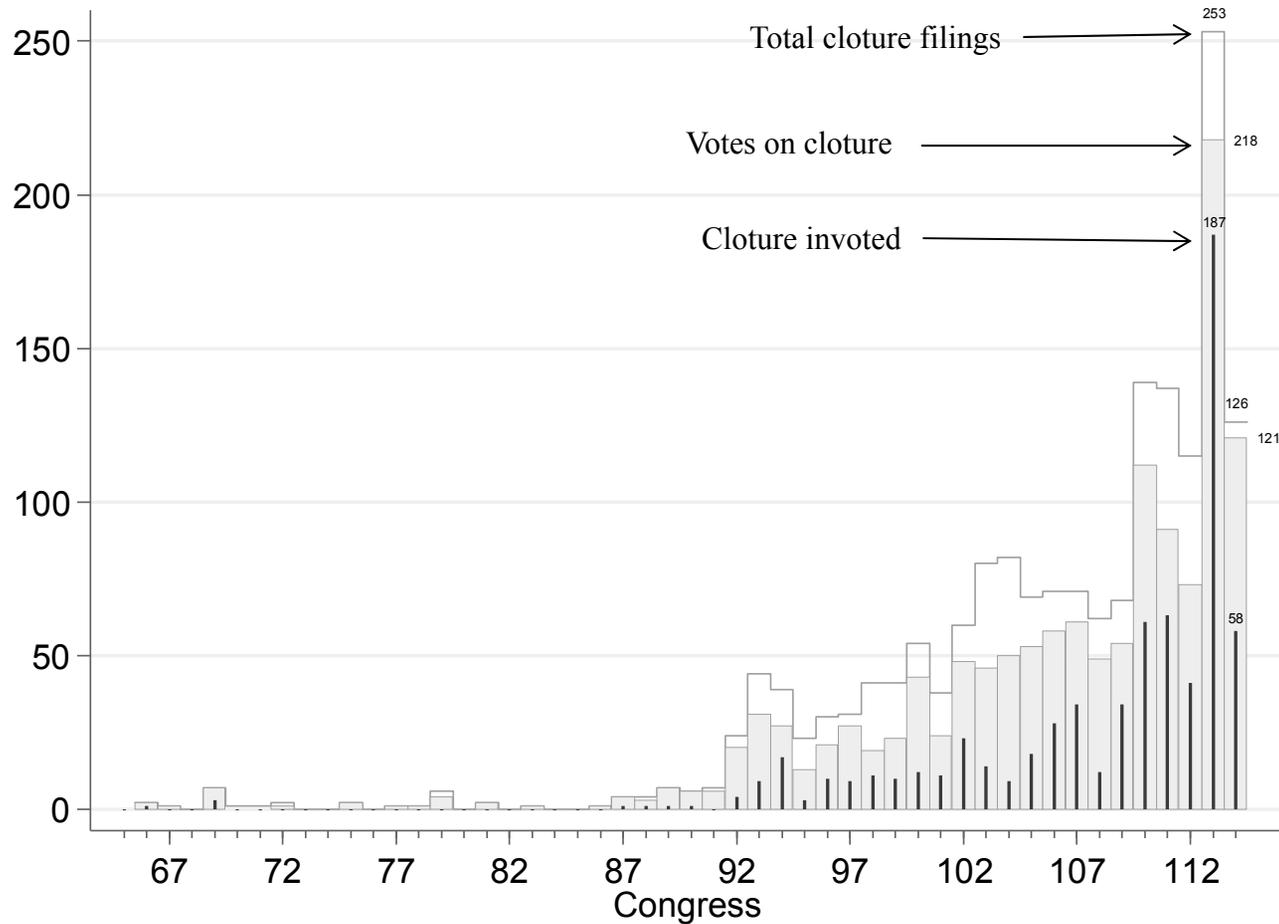
- Amendment SA 5119 proposed by Senator McConnell.

S.Amdt. 5120 (Sen. McConnell): To change the enactment date.

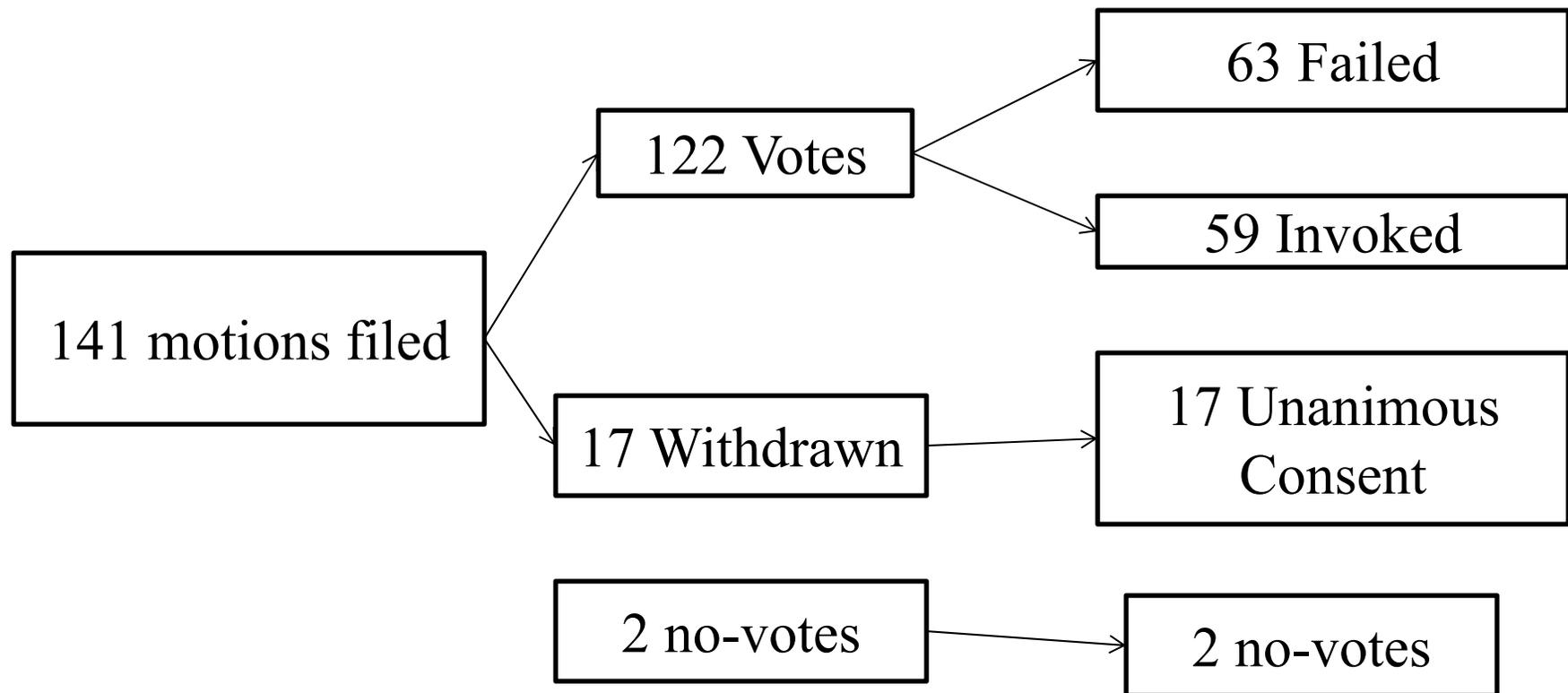
- Amendment SA 5120 proposed by Senator McConnell to Amendment SA 5119 (the instructions of the motion to refer).

Courtesy of the U.S. Congress. This image is in the public domain.

12. Filibusters probably most powerful as the dog that didn't bark



Filibusters in the 114th Congress



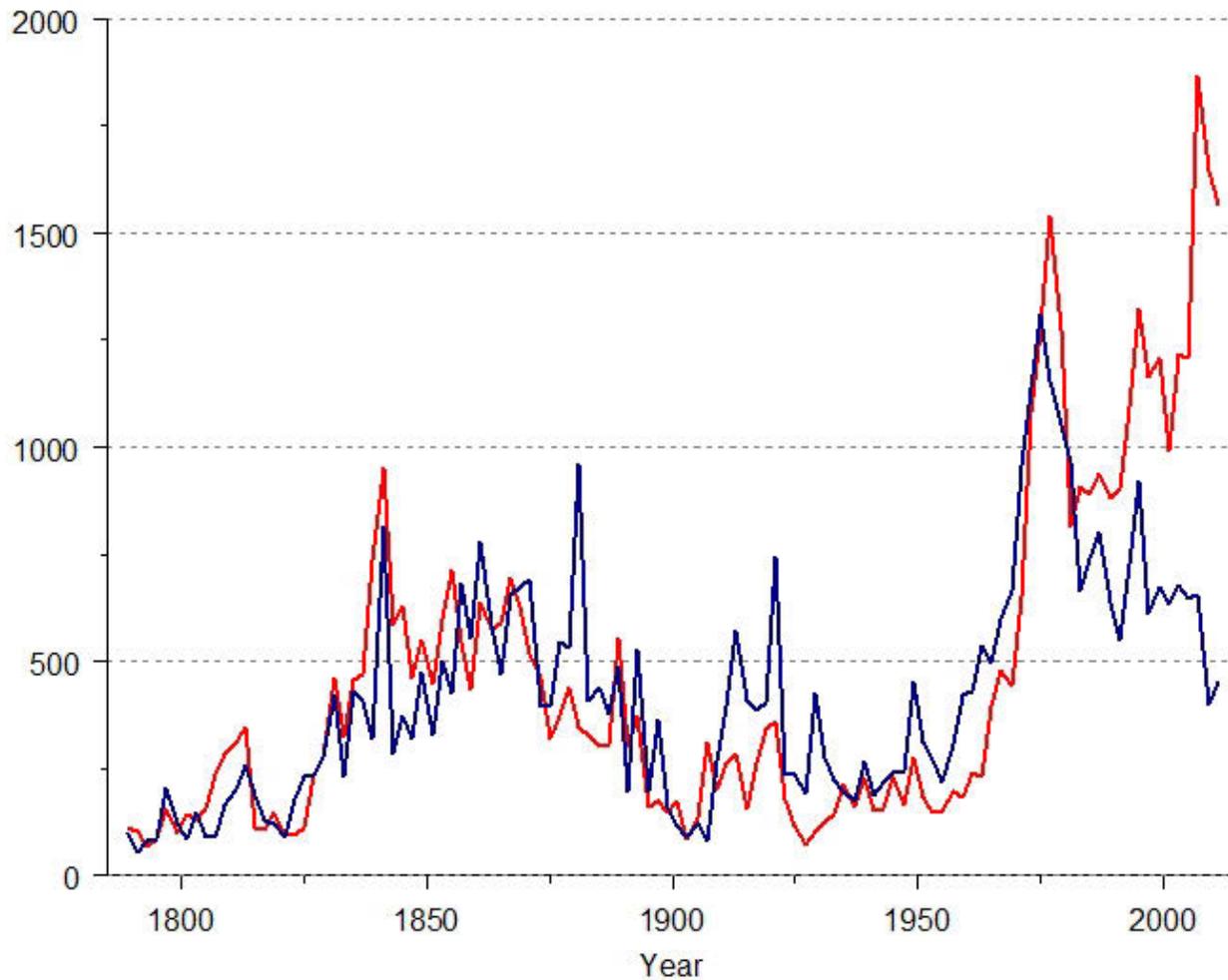
Most complicated: Transportation, HUD, and Related Agencies Appropriations Act

Motion to proceed	4/27/2016	UC	W
S. Amdt. 3898	5/17/2016	50 - 47 No. 73	F
S. Amdt 3899	5/17/2016	52 - 45 No. 74	F
S. Amdt 3900	5/17/2016	68 - 29 No. 75	I
S. Amdt 3896	5/19/2016	88 - 10 No. 78	I
Bill	5/19/2016	UC	W
Compound motion to go to conference	6/8/2016	93 - 2 No. 92	I
Conference report & vote to reconsider	28-Jun	58-48	F
	14-Jul	52-44	F
Compound motion to go to conference	9/6/2016	52 - 46 No. 135	F
Motion to proceed	11/17/2016	UC	W
S. Amdt. 2812	11/19/2016	UC	W
	11/19/2016	UC	W

Filibusters in the 112th Congress

- 111 cloture motions filed
- 63 votes
 - 27 failed
 - 36 invoked
 - 3 no action
 - 8 vitiated
 - 34 withdrawn
- 4 votes on S1813 (Federal-aid highway and highway safety construction programs reauthorization)

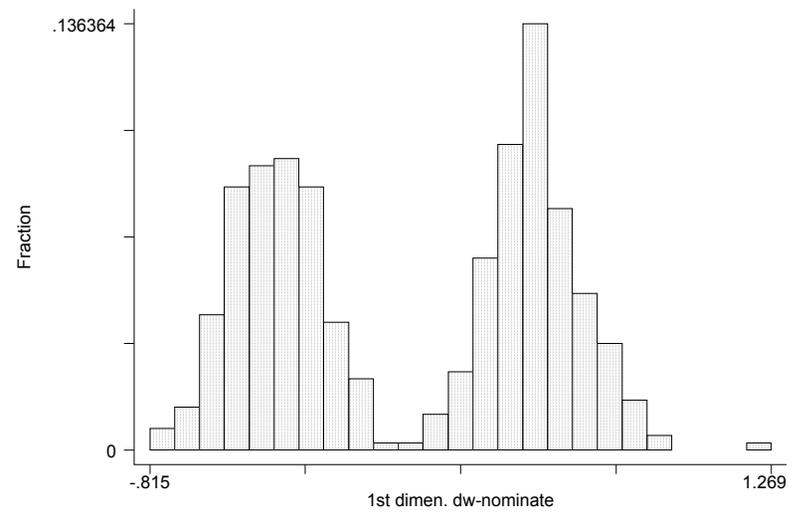
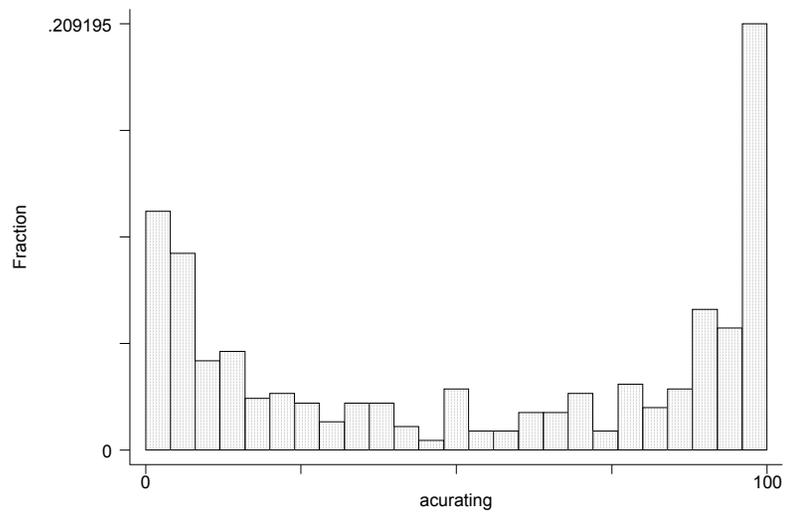
13. Roll call votes, in the aggregate, reveal behavior



14. Interest group ratings the most visible practical application of the unidimensional spatial model

- Because groups pick divisive roll call votes, the interest group ratings tend to be more bimodal than reality.
- Ratings like Poole-Rosenthal and Heckman-Snyder are better, because they are based on (almost) all roll calls

ACU vs. P-R Ratings



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Fall 2016

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