

14 Things to Know about Taking It to the Floor

17.251/252

Spring 2015

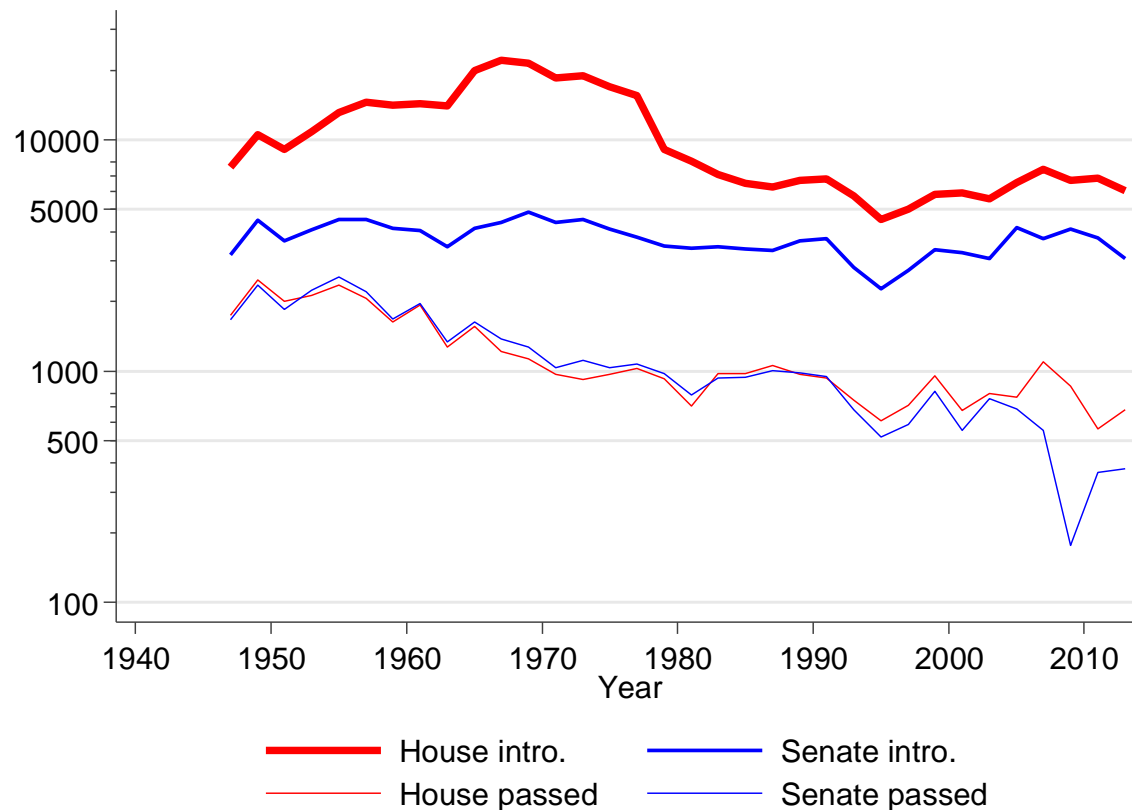
1. [Congress.gov](http://congress.gov) is a good place to get legislative histories*

- [Home page](#)
- [Affordable Care Act Legislative History](#) in THOMAS site
- [Affordable Care Act Legislative History](#) in congress.gov

*But the THOMAS site is simpler:

<http://thomas.loc.gov/home/thomas.php>

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



3. Getting a bill passed is hard work

Major hurdle

Minor hurdle

House detail

Senate detail

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

4. 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*

5. 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).

6. 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.”

7. 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 features 'OTHER LEGISLATION LINKS' with a link to 'Committee Hearing Video Archives', and a 'FILTER LEGISLATION' section. The filter section includes a 'Search by Term' input field and a 'Rule Type' dropdown menu. The dropdown menu is open, showing 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', and 'Hearing' (not scheduled), and a 'Status' indicator for 'Amendment Process Announced'. The second 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', and 'View Rule', and a 'Status' indicator for 'Rule Reported'. Both items show a creation date of April 30, 2015, and April 20, 2015, respectively.

An Open Rule: H.Res. 54 in 112th Cong.*

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 359) to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided among and controlled by the chair and ranking minority member of the Committee on Ways and Means and the chair and ranking minority member of the Committee on House Administration. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed five hours. The bill shall be considered as read. All points of order against provisions in the bill are waived. No amendment to the bill shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or a designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

*As far as I can tell, no open rules have been reported in 113th Cong.

A Closed Rule: H.Res. 200

H. Res. 200

In the House of Representatives, U. S.,

April 14, 2015.

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 622) to amend the Internal Revenue Code of 1986 to make permanent the deduction of State and local general sales taxes. All points of order against consideration of the bill are waived. The amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, modified by 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 Ways and Means; and (2) one motion to recommit with or without instructions.

[Note: Sections 2 and 3 deal with H.R. 1105 and H.R. 1195 similarly]

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Structured Rule: H.Res. 212

IN THE HOUSE OF REPRESENTATIVES

April 21, 2015

Resolved, That at any time after adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1560) to improve cybersecurity in the United States through enhanced sharing of information about cybersecurity threats, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Permanent Select Committee on Intelligence. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in part A of the report of the Committee on Rules accompanying this resolution. 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 in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

[Note: Section 2 deals with H.R. 1731 similarly.]

SEC. 3. (a) In the engrossment of H.R. 1560 the Clerk shall—

- (1) add the text of H.R. 1731, as passed by the House, as new matter at the end of H.R. 1560;
 - (2) conform the title of H.R. 1560 to reflect the addition of H.R. 1731, as passed by the House, to the engrossment;
 - (3) assign appropriate designations to provisions within the engrossment; and
 - (4) conform cross-references and provisions for short titles within the engrossment.
- (b) Upon the addition of the text of H.R. 1731, as passed by the House, to the engrossment of H.R. 1560, H.R. 1731 shall be laid on the table.

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

- Weekly floor schedule
- Daily floor schedule

9. 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

10. The Senate differs from the House in being looser

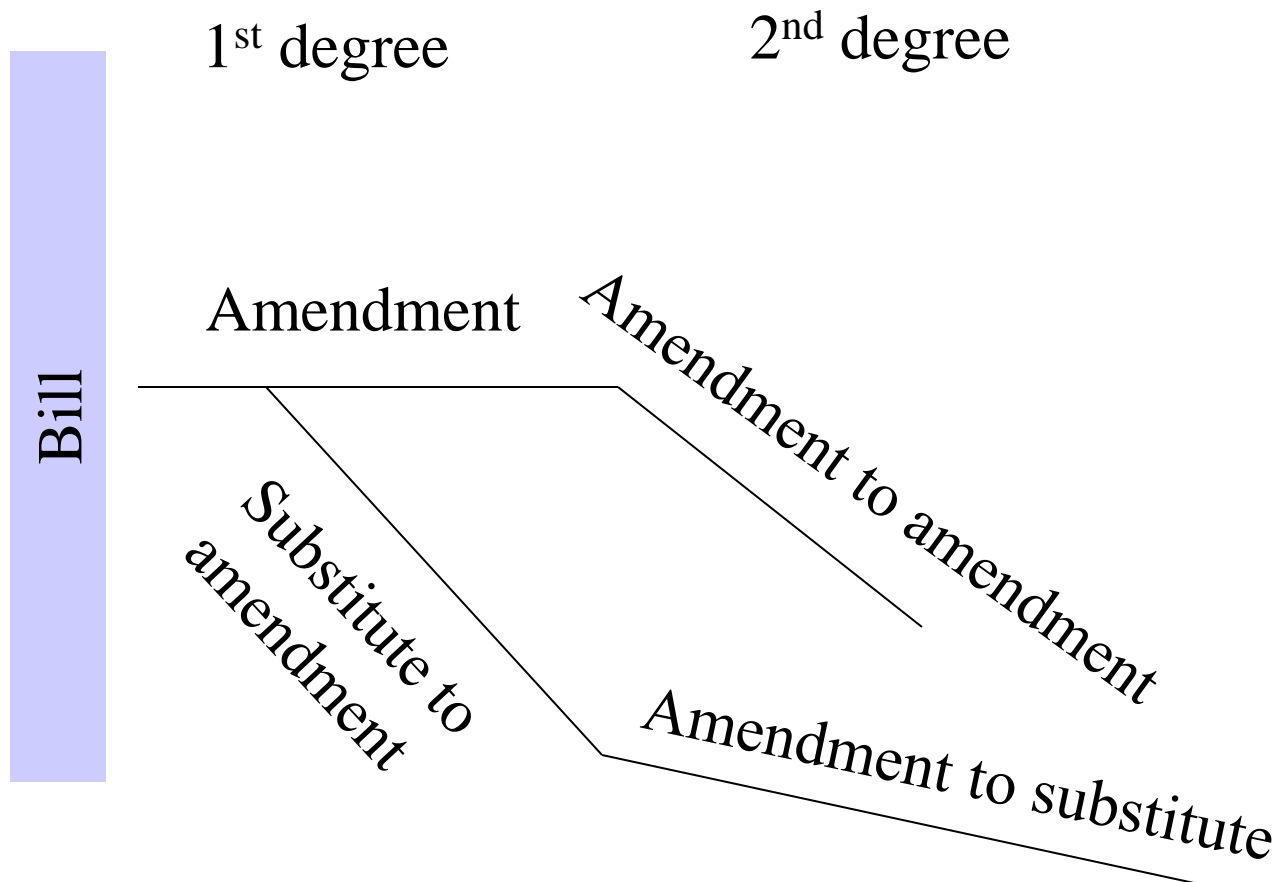
- Getting to the floor is easier and more varied
- Debate need not be germane
- Amendments need not be germane
- Filibuster the 800 pound gorilla

11. Scheduling in the Senate by Complex Unanimous Consent Agreements

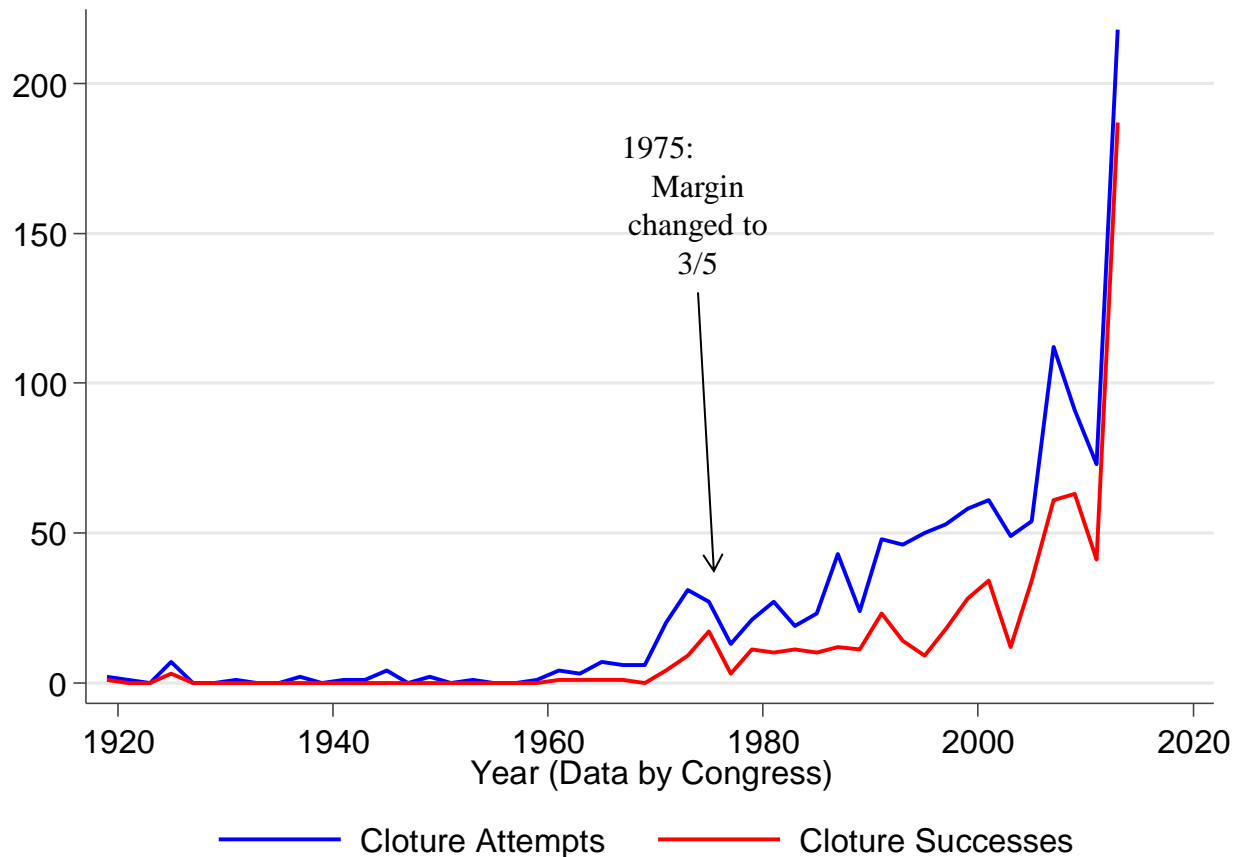
•UNANIMOUS CONSENT AGREEMENT--H.R. 1191

- 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.

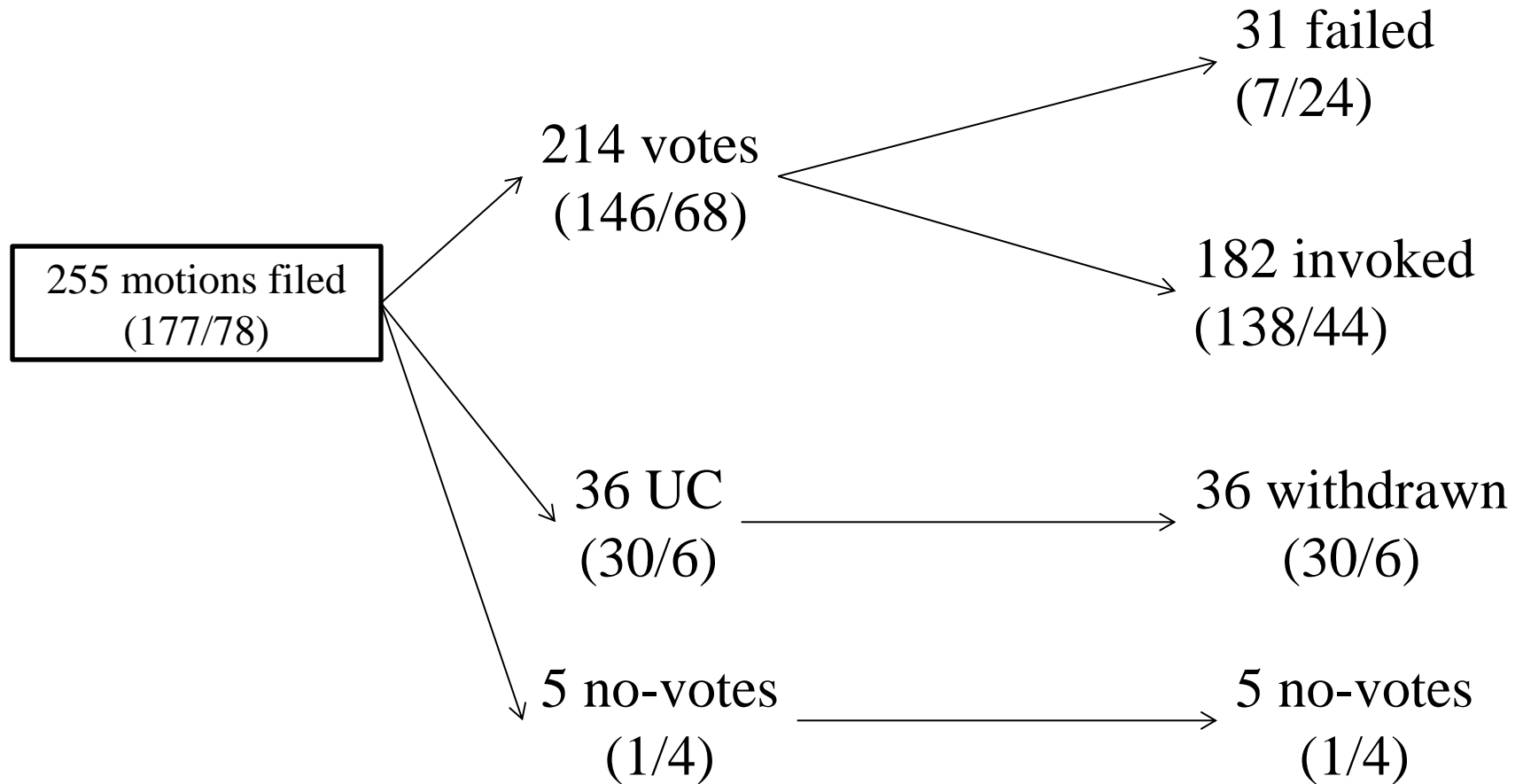
12. Offering Complex Amendments More a Strategy in the Senate than the House



13. Filibusters probably most powerful as the dog that didn't bark (until really recently)



Filibusters in the 113th Congress



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

