

Presidents on the Fast Track: Fighting Floor Amendments with Restrictive Rules

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Abstract

Among presidents' lesser known legislative powers is urgency authority. Seven Latin American presidents wield it: the constitutional power to impose on lawmakers a short deadline to discuss and vote selected bills. The paper equates urgency with the fast-track authority that Congress grants periodically to the U.S. president. With this insight, we claim that the key consequence of urgency authority, tacit in all constitutions, is procedural: urgency prevents amendments during floor consideration. Presidents thereby earn the ability to protect bills and committee agreements, turning the executive into a single-member Rules Committee with ability to impose closed rules on the floor. A formal model generates hypotheses that we test with original data from Chile between 1998 and 2014. Results confirm that preference overlap between the president and committee chairs drives reliance on urgency authority systematically. Patterns in Chile are reminiscent of restrictive rule usage in the U.S.

It is well established that presidents enjoy a variety of legislative powers to achieve their goals. Most common and best known is the veto, a final say on all new legislation. Yet many other procedures enable presidents to be part of the lawmaking process alongside Congress. One of them is executive decree powers, a centerpiece in many Latin American constitutions. Characterized upon first glance as usurpation of the legislature's decision rights, we know now that constitutions vary in the extent to which they involve assemblies in the approval of decrees. Less well known is urgency authority, giving presidents power to set the legislative agenda by imposing a requirement to hold a vote on a bill within a short period of time. Similar in essence to fast-track authority in the United States, presidents with urgency authority earn the ability to interfere with congress' voting schedule and floor control.

Urgency authority seems to contradict classic notions of separation of powers. The Framers of the United States Constitution warn against expediting lawmaking and arresting deliberation. "In the legislature promptitude of decision is oftener an evil than a benefit" (Hamilton 1961), defending the ability to put a final negative as sufficient a presidential check on legislation. Despite warnings and concerns, eight presidential systems of the Americas give their executives fast-track authority: Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Uruguay, and (in statutes) the United States (García Montero 2009, Morgenstern and Nacif 2002).

We examine presidential urgency authority across the Americas. The paper claims that it significantly increases executive influence in lawmaking through the ability to impose restrictive procedures in lawmaking—and not, as intuition might suggest, by speeding up the consideration of bills. The point follows from equating Latin American urgency authority and the fast-track authority granted periodically to the U.S. president. In our appraisal of the region's constitutions, it strikes that some urgency powers are not binding. That is, no formal consequences fall upon legislators' non-compliance with deadlines. Such is the case in Chile (and others), where failure to act speedily neither stops the whole legislative process nor automatically turns the bill into law, as elsewhere. A paradox arises. In Chile, the sole case that has received more or less systematic attention on the particular, urgency authority is used routinely. Three of every five bills that

Chilean presidents proposed since 1990, and often more, qualified as urgent one or more stages of the legislative process.

Our equivalence resolves the paradox of presidents relying frequently on an apparently toothless prerogative. It is accepted that the key feature making the American fast-track authority relevant is the *closed rule*, not its acceleration properties. Closed rules are one form of restrictive procedure (Oleszek 2001): when a bill reaches the floor with such a rule, legislators cannot offer any amendments. They simply vote the bill up or down.

Every Latin American constitution granting urgency authority remains silent about the closed rule, explaining why comparative politics has overlooked the key feature of this institution. But, in the Chilean case at least, inspection of the chamber's standing orders reveals that presidential urgency qualifications entail precisely such a restrictive procedure in the floor consideration of a bill. Our argument here joins a growing literature on restrictive rules in legislatures worldwide.¹ Closed rules in general, and urgency authority of the fast-track type in particular, protect the agreements reached in committee as they cannot be undone later in the plenary session. What makes the urgency authority special, and worth investigating, is that the president joins legislative leaders in deciding whether a bill proceeds to the floor with a closed rule or is open for floor amendments. We find that the closer the preferences between the president and the reporting committee chair, the higher the probability that the president uses fast-track authority to shield a bill from amendments.

The paper proceeds as follows. Section 1 describes the differences in urgency authority in Latin American constitutions while engaging with the literature. In section 2 we delve into fast-track authority in the United States. Despite important differences, we posit that it is essentially urgency authority confined to international trade policy. We also highlight reliance on the closed rule, emphasizing how fast-track can be used not only to speed up the process, but also to protect bills from the floor amendment process. We schematize the sequence of committee reports and floor readings inspired by the Chilean Congress' standing orders to show that it is much harder to

¹See Amorim Neto, Cox and McCubbins (2003), Calvo (2014), Cox and McCubbins (1997), Den Hartog (2004), Dion and Huber (1996), Döring (2003), Heller (2001), Huber (1996), Krehbiel (1997), Schickler and Rich (1997), Sin (2014), Weingast (1992), among others.

introduce plenary amendments to urgent than non-urgent bills. Section 3 extends a simple model of restrictive rules from the U.S. House of Representatives to fast-track authority. The spatial model highlights the logic behind the procedural choice: when the executive anticipates that a committee report of her liking is vulnerable to floor amendments, she declares it urgent imposing a take-it-or-leave-it vote on the floor. We derive testable hypotheses. Section 4 offers a test with data from Chile. Examination of all bills in the 1998–2014 period through multivariate analysis reveals that, other features constant, bills reported by committees chaired by the president’s party/coalition qualify as urgent with higher probability. Section 5 elaborates implications of our model and findings for the study of separation of powers and concludes.

1 Constitutional urgency authority

Urgency authority gives substantial agenda power to the president. This takes place on two fronts. On one hand, the ability to bring bills to the top slots for assembly consideration lets the executive re-prioritize legislative business. When a bill is denoted urgent, it becomes next in line, and all pending matters get pushed back. On the other, by setting a deadline, presidents can force legislators to decide on thorny issues that many would have otherwise preferred to keep dormant. Not that threats to hijack plenary time might suffice to earn presidents concessions in bargaining, although we do not take this line of argument here. Instead, we focus on the procedural advantages of urgency authority.

The study of urgency authority is scant and mostly descriptive. The pioneer monograph of Latin American legislatures mentions urgency authority’s relevance without further examination (Morgenstern and Nacif 2002). García Montero (2009) takes the agenda one step further by intersecting this authority with other institutional features in a typology of Latin American presidents. She argues that Arguing that the greater presidential power to impel debate and vote proposals, the greater the presidential influence in the legislative process, and pinpoints seven constitutions including urgency prerogatives in the region. Alemán and Tsebelis’ (2016) edited volume on law-

making in Latin America lists urgency authority among the president's agenda setting tools. Their analysis is valuable by situating this power in contrast with other tools. In the concluding chapter, the editors explain that presidents "use urgency motions to prioritize bills in the congressional calendar" (229).

Urgency authority varies across constitutions. We distinguish three types, depending on the consequences of legislative inaction on an urgent bill: plenary arrest, automatic adoption, and indeterminacy. Brazil has the first type: the president may qualify any executive-initiated bill urgent at any point in the legislative process, and each chamber of Congress has forty-five days to consider and vote it. If it fails to do so, congressional activity comes to a halt until it approves or rejects the urgent bill. While Hiroi and Rennó (2016) find that urgent bills have better odds of passing, Figueiredo and Limongi (2000:164) mention that the prerogative "is not extensively used since the provisional decree [*medida provisória*] is a much more efficient way of speeding up and approving legislation".

The constitutions of Ecuador, Paraguay, and Uruguay have the automatic adoption variant. If Congress fails to act within a pre-specified, short period on bills qualified as urgent, they become law. Fast-track authority of this type, akin to France's *vote bloqué* (Huber 1996), increases the legislative influence of the president significantly. And by allowing presidents to change the status quo with a law without any congressional action, it seems quite similar to decree power (Carey and Shugart 1998). All three constitutions, however, also set limits on the presidential prerogative. The Uruguayan, giving Congress one-hundred days to consider urgent legislation, is the most restrictive. A single bill can be qualified as urgent at any time, and budgets as well as bills requiring super-majorities for passage are excluded. More significantly, either chamber can override the urgency by a vote of three-fifths of the membership. Chasquetti (2016) reports that since 1967, when it was adopted, only fourteen bills have received urgent qualification, of which eight became law. He also acknowledges that the main motivation for using fast-track authority was to force standing committees to discharge bills that they were holding up. The 1998 and 2008 Ecuadorean constitutions, giving the assembly thirty days to modify, approve or reject urgent bills,

also constrain the president in that she can only qualify one bill at a time as urgent, and only bills on economic issues (Morgenstern, Polga-Hecimovich and Shair-Rosenfeld 2013). Finally, the Paraguayan constitution, granting Congress thirty days to consider and vote urgent legislation, is the most permissive. The president has latitude to declare bills of any type urgent, at any point during the legislative process.

The case of Chile, Colombia, and Mexico are indeterminate. While all mandate a thirty-day period for each chamber to consider and vote bills that presidents qualify as urgent, and none place restrictions to the type of legislation eligible (although the Mexican limits it to two bills every semester), neither sets a reversionary outcome—i.e., plenary arrest or automatic adoption—if the legislature does not act by the deadline (Carroll and Pachón 2016, Magar 2014, Nolte 2003).

We are unaware of studies of urgent bills in Colombia and Mexico. But Chile's urgency authority has been examined rigorously, uncovering an apparent paradox. Few acceleration effects are discernible. Siavelis' (2002) study of Chile's first post-transition administration shows a mild difference in the pace of executive-initiated bills declared urgent, which take about 19 weeks until they reach the floor, and the rest, which take almost 23 weeks. Meanwhile, the effect on success is nil. The success rate of executive bills was 64 percent when urgent, 63 when not. The set of bills receiving urgent status is not random and that is an obstacle to measure effects properly. On top of this, Nolte (2003:51) argues that urgent bills still need congressional support to become law, so the size and discipline of the president's congressional majority is the determinant factor, not urgency authority.

Given that urgency authority does not seem to expedite legislation nor make passage likelier, logic suggests that presidents should rarely use it, if at all. But this is just not the case: about 60 percent of executive proposals are declared urgent at some point in the legislative process.

To confront this paradox, others note that, despite the lack of teeth, Chilean urgency authority may operate as a signalling device (Aninat 2006, Berríos and Gamboa 2006). Alemán and Navia (2009) argue that bills that qualify as urgent encompass the president's legislative priorities. Distinguishing degrees of urgency (more on this below), they find that "bills that receive [the

top two degrees of] urgency motions appear significantly more likely to pass” (p. 404) than the rest. Although this finding shows that the president’s priorities do become law, it is unclear what mechanism is behind the urgent qualification.

2 Fast-track authority and the closed rule

The case of the United States offers another clue. The U.S. is different from Latin America in three respects. It grants presidents fast-track authority on a single issue, international trade. It does so through statutes with a sunset clause, not the constitution. And, most importantly for our argument, it explicitly mandates a restrictive procedure towards floor consideration of bills on the fast-track. We elaborate each in turn.

The first difference resonates with cases such as Ecuador or Uruguay, but further restricting the scope of urgency authority. Trade Promotion Authority, as urgency is formally called in the U.S., is applicable to international trade agreements only. NAFTA is perhaps the most notable achievement, but agreements with a dozen other partners have gone into effect through fast-track in Congress, in addition to the Uruguay Round of the GATT and its later transformation into the World Trade Organization (Fergusson 2015).

The second difference is more significant. In the U.S. fast-track authority is a delegation from Congress to the president, with an expiration date attached. Fast-track authority was first adopted in 1974. It was set to expire in 1980 but was extended for eight more years, and five more in 1988. It was again adopted for a five year period in 2002 after a short interim. This puts Congress in control, deliberately activating fast-track authority when the taste for trade overlaps sufficiently with the administration. Congress could conceivably rescind it prematurely.

But it is the procedural difference that is most interesting. Under fast-track authority, trade agreements are considered under “expedited legislative procedures”. In this way, the chambers suspend their ordinary legislative procedures and, once trade agreements reach the floor, they cannot be amended, they must be debated, and a take-it-or-leave-it vote must be held within a short

period of time. The rationale, in classic distributive politics fashion, is that members of Congress cannot commit credibly to not peel off bits and pieces of the agreement that constituents or interest groups loathe (McCubbins, Noll and Weingast 1987). When too many members do this, the agreement unravels. So they tie their hands—they can always reject the whole thing if general benefits of the agreement do not offset costs (Destler 1991; 1992, Goldstein 1988, Haggard 1988, Lohmann and O’Halloran 1994, Margolis 1986).

All discussion of the fast-track authority in American politics gravitates around this procedural consequence of the rule that comparative politics has totally overlooked: when urgent bills come to the floor, *they cannot be modified*. Latin American constitutions remain silent about this. But in Chile, the case we analyze below, the standing rules of Congress actually mandate a closed rule for floor consideration of bills qualified as urgent, just as fast-track does in the U.S. (Soto Velasco 2015).²

3 One example

Every agreement made between legislators, usually in committee, is vulnerable unless there is some way to shield it from being undone in plenary consideration. Closed rules, which play a key role in congressional politics, are one such shield, preventing amendments during the bill’s discussion in the floor. In the U.S. House, the allowable number of amendments is set in advance by the Rules Committee (Cox and McCubbins 1997, Dion and Huber 1996, Krehbiel 1997). An interesting implication of urgency-as-fast-track authority is that another branch gets the power to protect deals in this fashion. By deciding which bills proceed to the floor with a closed rule, the president has the ability to defend her legislative proposals. That ability extends to other proposals: the president can also broker deals to defend proposals that legislators make, another vantage point in executive-legislative relations.

To illustrate how fast-track authority, when combined with restrictive rules for passage, achieves

²See the Cámara’s standing rules (*Reglamento*), especially arts. 118–189.

Table 1: One proposal and two amendments

	original version	amendment
Art 1.	appropriate \$200	\$300
Art 2.	split in two equal parts ($\frac{1}{2}, \frac{1}{2}$)	($\frac{1}{4}, \frac{3}{4}$) split
Art 3.	one for students, one for teachers	—

the goal of ensuring the president outcomes of her liking, we develop a hypothetical bill and two amendments. The proposal aims to offer student grants while also paying for teacher compensations. Three articles, summarized in Table 1, make the bill up. The first funds the program, appropriating \$200. The second splits the funds into equal parts. And the third allocates the parts. So, if approved, students and teachers would receive \$100 each.

The example assumes a forward agenda, such as is used in Chile and Mexico. The essential feature of a forward agenda is the absence of a final vote against the status quo, as in backward agendas (Heller and Weldon 2003, Schwartz 2008). More precisely, the first vote (the bill’s general reading) pits the proposal against the status quo. If the proposal wins, subsequent votes (the bill’s particular reading) pit amendments, if any exist, against the project article-by-article, and the status quo changes with every subsequent vote. Our example also works with a backward agenda because fast-track authority prevents the introduction of floor amendments (particular votes are not held).

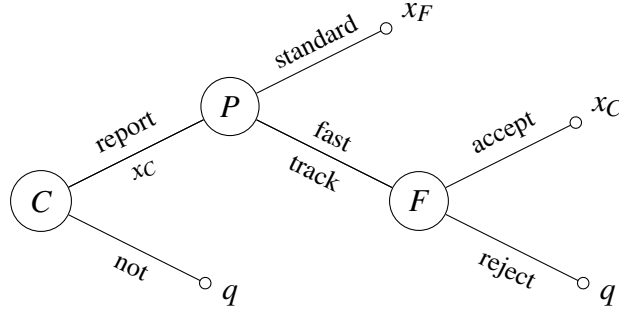
Back to the example, add tension by assuming a prior commitment of \$150 for teachers. To honor it, a committee member offers an amendment to article 1 (against the committee majority). If approved, this would beef up funds to \$300. Committee chairs, or a majority of committee members, or other powerful cameral officers (e.g. the Appropriations committee in the U.S. House or the government in France and Greece) may or may not be able to derail undesired amendments in committee—by declaring them inadmissible, outside time constraints, adopting special rules, and so forth. (This would be a form of *ex-ante* veto: if unwilling to appropriate extra money, the committee may prevent the amendment from reaching the floor.) In such case, the distributive route remains practicable: less for students, more for teachers. An amendment to article 2, such that teachers get three-fourths of the \$200 fund, would honor the commitment—at the students’ expense. If offered later in the process, when the bill enters the floor stages (as our example

assumes), it should also make it harder for the chair and other veto gates to act against the second amendment.

We use the example to stylize the evolution of legislative proposals from introduction to passage, in order to illustrate how the fast-track affects bills procedurally. Some notation helps. The three-article project is p , and q is the status quo (where students and teachers get \$0 from this particular subsidy). Sub-indexes distinguish versions of p with articles amended: p_1 has article 1 amended, p_2 has article 2 amended, and p_{12} has both articles amended. Negotiation proceeds in four steps, schematized in Figure 1 as per Schwartz (2008).

1. The question of amendment p_1 's admissibility into the **first report** starts it all. If no such amendment were presented, or if ways to prevent it from reaching the floor were available, then the course of play would become substantially less complicated down the tree.
2. The bill's **general reading** follows. The question here is whether the full proposal should be admitted for plenary consideration or not. If not, the legislative process ends and the status quo prevails: p v. q . If admitted, a vote on any amendments that have been proposed follows. Project p_1 (amendment admitted) or p (not) is immediately referred back to committee for a second report.
3. If the committee concurs, then the **second report** is the outcome of the general reading. But this is an opportunity for committee members or even by legislators external to the committee (in Chile, with one-third floor backing) to offer new amendments. Veto gates may or may not be able to derail these amendments too. For the sake of simplicity, the choice here concerns only article 2, although an array of possibilities exist—more re-definitions, more articles, or fewer, among others. When amended, the second report is p_2 or p_{12} , depending respectively on whether the outcome of the general reading was p or p_1 .
4. The bill's **particular reading** proceeds one article at a time. Importantly, this excludes the subset of articles that were not amended/added/removed in previous steps. This subset (which may include every article if none was amended) is considered adopted with no floor

Figure 2: The president rules game



vote. Rejecting article 1's amendment makes the project lose sub-index 1; likewise with article 2. So when the second report is p_{12} , the floor can accept one amendment, the other, both, or neither—as in the bottom row of Figure 1.

We underline how the process shortens and becomes simpler when a proposal is fast-tracked. This is a key insight from Soto Velasco (2015) in the case of Chile: when the executive qualifies a bill as urgent, *the bill takes a procedural shortcut*. That is, fast-tracked bills receive no second committee report, and the general and particular readings take place at once.

Structured thus, fast-track authority equips the executive with the ability to apply a restrictive rule on floor consideration. The restriction consists of precluding the second round of amendments. Figure 1 portrays this as a break mid-way in the consideration process. When in the fast-track, if p_1 were admitted the floor's choice set would include q , p , and p_1 only. At its most restrictive—when p_1 is removed from the menu—the floor is presented with a take-it-or-leave-it urgent proposal p .

This paper claims that fast-track authority gives presidents the ability to protect bills and agreements from undesirable amendments, transforming the president into the sole member of a Rules Committee of sorts, with the unique ability to impose closed rules on the floor. This guarantees a faster approval process but also protects presidential preferences. The next section analyzes the conditions under which presidents constrain the amendment process on the floor.

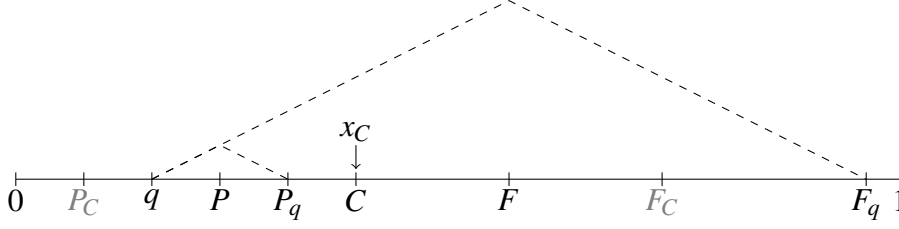
4 A Model of Fast-track Authority

We stylize fast-track authority as a game of restrictive procedures inspired by Dion and Huber (1996), with the president in the role of the Rules Committee. Figure 2 portrays the game's extended form. We use the case of Chile to illustrate the sequential steps, but the model is general.

The main features of this game are as follows. Unless there is unanimous support to suspend the chamber's rules, every proposal requires a committee report prior to floor consideration (Chilean Congress' Organic Law, art. 21). The committee C with jurisdiction over a given proposal starts the game, choosing whether or not to report the bill x_C to the floor. No explicit discharge procedure exists in Chile. Furthermore, committee chairs have agenda setting powers comparable to those in the U.S., their prerogatives include complete control of committee procedures, agenda, decision to hold secret sessions and the rejection of bill amendments (Alemán and Navia 2009, Danesi 2010). This confers committees gate-keeping power over policy in their jurisdiction: when the committee withholds a report, the game ends with policy at the status quo q . Chilean committees are no different in this respect from those in the U.S. Congress. When producing a report, the committee can approve the proposal in whole or in part, amend it, make additions, or reject it (*Cámara* standing rule 287.8). We interpret this as (positive) agenda power to locate the proposal in policy space: $x_C \in [0, 1]$.

The president moves next. During the legislative process, the president's choice set has two alternatives: let the bill proceed under standard floor consideration, or qualify it as urgent. Standard consideration ends the game with policy at x_F . By navigating the plenary session with an open rule, legislators' amendments reshape the bill to the floor median's liking. As in Shepsle (1979), we take x_F to be the floor median's ideal point, corresponding to a game of full floor influence. But, if the president qualifies the bill as urgent, this invokes the fast-track's restrictive consideration rule and presents the floor with a take-it-or-leave-it offer. Unable to amend the proposal, the floor, which moves after fast-tracking the bill, must choose between the reported bill x_C or the status quo, as in (Romer and Rosenthal 1978).

Figure 3: Illustration of an equilibrium proposal



The game has a unique, sub-game perfect equilibrium that we do not derive formally here.³ We elaborate the bargaining logic with the example in Figure 3. The notation P , C , and F on the line represents the ideal policy of the president, the committee, and the floor median, respectively, while q is the status quo. We assume Euclidean single-peaked and symmetric preferences, so F_q is the symmetric reflection of q on the unidimensional line with axis F , i.e, it is the floor median's indifference point given the location of the status quo. Other relevant reflections are noted likewise; some appear in gray and will be relevant later. Given the model's assumptions, preferred sets are easily gauged: the floor median finds policy under the larger dashed pyramid ($x_C \in [q, F_q]$) preferable to the status quo; likewise, the president prefers policy under the smaller pyramid ($x_C \in [q, P_q]$) to the status quo.

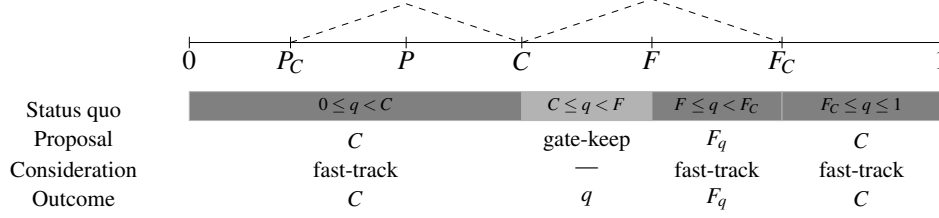
Deriving optimal proposals and consideration regimes is trivial. Proceeding backwards in the game tree, the floor will accept proposals under the larger pyramid, reject the rest. So everyone anticipates that urgent consideration of proposal $x_C \in [q, F_q]$ beats the status quo. Also, because in the example F is outside the smaller pyramid, all anticipate that the president discards standard consideration ($x_F = F$ would be the outcome). Therefore, in the example the committee can afford to send $x_C = C$. The president declares the bill urgent because she prefers the committee version of the bill to the floor's version.

We now derive empirical implications from our theoretical model by generalizing the bargaining logic across preference profiles in Figure 4 and do comparative statics analysis. A preference profile is an ordering of players' ideal points in space. Only three of six mutually-exclusive and

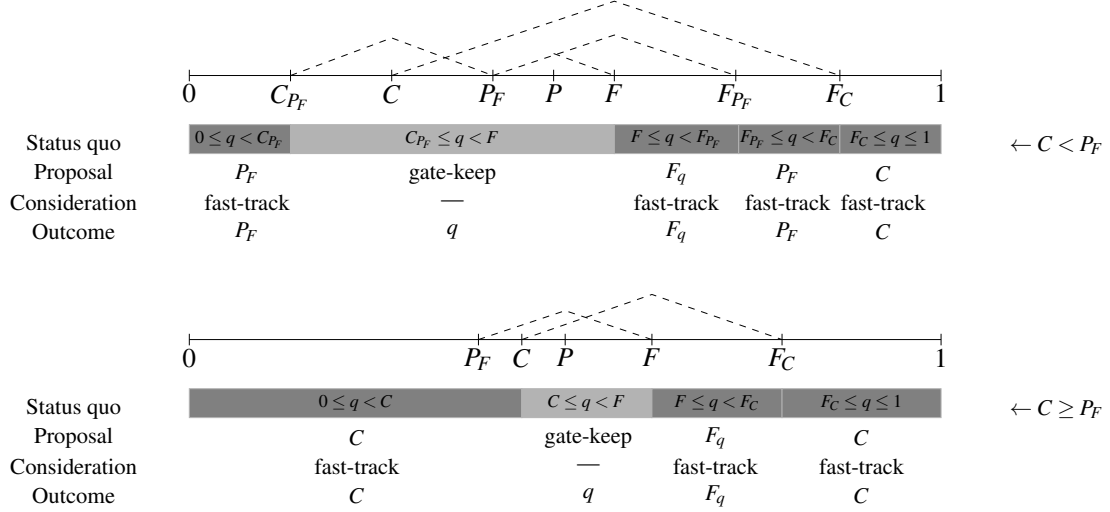
³Model analysis is analogous to Dion and Huber (1996), the equilibrium akin to Cox and McCubbins (2005), Gerber (1996), Romer and Rosenthal (1978). Unlike Dion and Huber's, our game excludes the procedural stage: a rule denial, which ends their game at the status quo, is not available to the Chilean president.

Figure 4: Comparative statics with variable status quo

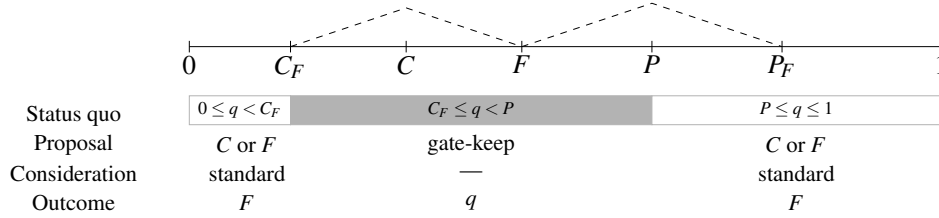
Profile I: $P < C < F$



Profile II: $C \leq P \leq F$



Profile III: $C < F < P$



exhaustive profiles are portrayed: $P < C < F$, $C \leq P \leq F$, and $C < F < P$ (the other three are mirror-images). In each, the status quo is treated as a continuous variable $q \in [0, 1]$. We aim to trace how changes in q affect equilibrium elements—the proposal, the consideration regime, and the outcome—in each profile.

The example discussed falls under profile I (the status belongs in $P_C \leq q < P$). The equilibrium proposal and consideration regime discussed above, and the equilibrium outcome are listed accordingly. The discrete zones into which the policy space subdivides (the dark-gray, light-gray, and white rectangles) isolate status quos with unchanging equilibrium elements. One or more equilibrium elements mutate for status quos falling in the adjacent zone(s).

Our main question is under what conditions will a bill be fast-tracked? In other words, when will the president decide to qualify a bill urgent? We pay attention to consideration regimes: in equilibrium, status quos in dark-gray zones trigger the fast-track, and those in white zones trigger standard consideration. Status quos in light-gray zones lack a consideration regime because they push the committee to defend the status quo by withholding the bill (gate-keeping). Aided by auxiliary assumptions, empirical implications follow from comparative statics. We discuss three.

Note that dark-gray zones predominate in Figure 4 over the light-gray and white. Fast-track corresponds to dark-gray, and the first theoretical prediction follows.⁴

Hypothesis 1 Other things constant, fast-track bill consideration is more likely than standard bill consideration.

Also plain in the Figure is that white areas, corresponding to standard bill consideration, occur under profile III only. The president's and the committee's ideal points lie on either side of the floor median in profile III, but on the same side in I and II. If these conditions are readily visible in theory, preference unobservability is an obstacle towards a test. Two auxiliary assumptions therefore need discussion before putting forth a hypothesis: chairs are dictators in their committee's jurisdiction; and party determines ideal points. The first sets procedure in such a way that the committee can be

⁴The supporting auxiliary assumptions are two: (1) a stochastic status quo with uniform probability density in $[0, 1]$, and (2) preference profiles I, II, and III in the Figure are equiprobable. Auxiliary assumptions can be relaxed, within limits, without invalidating this prediction.

construed as a unitary actor. The other associates player preferences to something observable. Both assumptions correspond to what happens in Chile: committee chairs are strong (discussed above) and political parties are disciplined (Alemán and Saiegh 2007, Carey 2002). The next prediction follows.

Hypothesis 2.a Other things constant, standard bill consideration does not occur when the chair of the reporting committee belongs to the president’s party.

Since presidential coalition discipline is also well-documented in Chile, we replace ‘party’ by ‘coalition’ as alternative measure of preferences.

Hypothesis 2.b Other things constant, standard bill consideration does not occur when the chair of the reporting committee belongs to the president’s coalition.

5 Data and Analysis

We use the Chilean case to test our hypotheses of fast-track authority as a mechanism to constrain floor amendments. We collected original data for Chile between 1998 and 2014.⁵ We compiled information on every bill that the executive introduced in Congress between 11 March 1998 and 10 March 2014: when it was introduced, in which chamber of the bicameral Congress, the issue it deals with, the status at the time of consultation, and so forth. We also gathered information on the chronological detail of the bill’s legislative process in the House: committee referrals and reports, floor discussion and voting, navette to the Senate, and more. Of direct relevance, we coded all bills marked urgent received by the *Cámara de Diputados*. Earlier years antedate Internet publication and were dropped, as data completeness in the primary source remains to be verified. The period selected fully covers two Senates, four *Cámaras*, and three presidencies (plus the last two years of an earlier presidency).

⁵We scraped the *Cámara de Diputados*’ web page (www.camara.cl) in November 2014 to retrieve the record (*boletín*) of every proposal made between 11 March 1998 and 10 March 2014. A commented version of the script and the data-set will be posted online upon publication. We conducted data analysis with a multiplicity of R’s libraries.

Table 2: Proposals, legislation, and fast-track authority 1998–2014

Part A. Executive bills		
	Bills	frequency
I	introduced	1,467
II	passed	1,059
	as % of introduced	72
III	fast-tracked	540
	as % of introduced	37
IV	fast-tracked & passed	415
	as % of fast-tracked	77
Part B. Urgency type breakdown		
	Bills declared urgent	frequency
V	Immediate discussion (once at least)	255
	as % of introduced	17
VI	Supreme urgency (once at least)	540
	as % of introduced	37
VII	Simple urgency (once at least)	424
	as % of introduced	29
VIII	Any urgency (once at least) [†]	835
	as % of declared urgent	57

[†] Categories V, VI, and VII not mutually-exclusive (see footnote 7).

Table 2 offers a general summary of bill introduction, passage, and fast-track incidence. The executive sent 1,467 bills to Congress between 1998 and 2014, ninety-one yearly on average. (Members of Congress proposed 79 percent of all bills, not analyzed.) More than one thousand proposals became law during the period, putting the executive's success rate at 72 percent—high by Latin American standards (Morgenstern and Nacif 2002). And 540 bills were on the fast-track during lower chamber consideration, 37 percent of all.

A feature of importance for our argument is the distinction among *types of urgency by degree*. Congress has distinguished urgency types through its internal rules. The congressional organic law gives the president the choice to qualify bills with 'simple urgency', which provide Congress with one month's time for consideration (*urgencia simple*, setting a 30 day deadline, as constitutionally-defined), 'supreme urgency' (*urgencia suma*, which provides 15 days), or 'immediate discussion' (*discusión inmediata*, which provides 6 days).⁶ The distinction is necessary because the lower chamber's standing rules (*Reglamento de la Cámara de Diputados*) in the period mandated that supreme urgency qualification triggered restrictive floor consideration rules, whereas the highest and lowest urgency degrees did not. (In 2014 an amendment to the Rules expanded closed rules to two types of urgencies, but this falls outside the time span of our analysis.) For this reason, and unless otherwise noted, by urgency in Chile we mean 'supreme urgency' qualifications only.

Part B in Table 2 reports urgency frequencies by type. Bills in the fast-track (panel VI) were more frequent than bills qualified at least once for either immediate discussion (17 percent) or simple urgency (29 percent).⁷ Analysis ignores all 'immediate discussion' and 'simple urgency' qualifications (i.e., only panel VI is fast-track qualification).

⁶The organic law was amended in July 2010 substantially relaxing the deadlines for the 'immediate discussion' and 'supreme urgency' types, originally set at 10 and 3 days, to 15 and 6 days respectively. Analysis controls for this change. See the appendix for details.

⁷We say once at least because bills can be qualified urgent more than once. This does not refer to the possibility that a bill is qualified urgent during lower chamber consideration, then again during Senate consideration (analysis, in fact, ignores all Upper Chamber urgency qualifications); but to the fact that, during *Cámara* consideration, one same bill often received many urgency designations—e.g., an initial simple urgency deadline is reset before its expiration, or replaced by supreme urgency. The modal urgent bill in the period received several such qualifications, sometimes renewing an urgency that was previously withdrawn. Other times the deadline for consideration was reset before the original expired, often more than once. Less common were cases changing one deadline by a shorter one. We plan to investigate the puzzling patterns of urgency chains in a separate project. Urgency chains imply that the absolute frequencies by types do not add up to the total in panel VIII.

5.1 Fast-track predictors

Systematic analysis of data in Table 2 is revealing. The units of analysis are individual executive proposals: the dependent variable *Fast-track Bill* equals 1 for proposals marked with ‘supreme urgency’ while in the *Cámara*, 0 otherwise. Multivariate analysis controls for preference coincidence between the president and the reporting committee, for bill features, for timing, and for the strategic environment. Formal variable definitions and descriptive statistics appear in the appendix.

Within the group of variables accounting for preferences, we include *Co-partisan Chair* and *Coalition Chair*, which seek to identify committee chairs’ preference location vis-à-vis the president, and *Multiple Referrals*, which identifies bills referred to multiple committees. *Co-partisan Chair* equals 1 if the bill was referred to a standing committee presided by a member of the president’s party, and equals 0 otherwise; *Coalition Chair* equals 1 for bills referred to committees chaired by members of any party in the presidential coalition, 0 otherwise. These two variables are different ways in which we measure our key explanatory variable, i.e., spatial proximity between the chief executive and the reporting committee. They test hypotheses 2.a and 2.b, respectively: other things constant, we expect each to associate positively with the dependent variable. Part A of Table 3 shows that standing committee chairs from the president’s party varied in the period, from a high of 53 percent in the 1998–2002 legislature to a low of 17 percent in 2006–10. And the opposition chaired no standing committee in 2006–10 only, but up to 24 and 27 percent in 2002–06 and 2010–14, respectively.⁸

We also include a control for multiple referrals. Nearly one quarter (24 percent) of bills in the period were referred to more than one standing committee. The ‘other committee’ count excludes the Finance Committee, with jurisdiction over any form of new spending (and discussed next; multiple referrals rise to 32 percent when the Finance Committee is considered). Also excluded are

⁸*Largesse* towards opposition parties was probably aimed at beefing up the president’s legislative support. The Table’s parts B and C report variance in the size and status of the president’s coalition in Congress. Given electoral list voting unity since the return to democracy (Alemán and Saiegh 2007, Carey 2002), the seats they control are a good indicator of the executive’s legislative support. The coalition remained in control of the *Cámara* throughout the period, but controlled Senate majorities between 2006 and 2010 only (with defectors even vanishing the small margin during part of the period). By requiring 67, 60, and 57 percent votes of each chamber, respectively, constitutional reform, constitution-interpreting legislation, and organic laws therefore always required support across the aisle.

Table 3: The president's status in Congress and its committees. Percent chairs/seats by party. The president's coalition in 1998–2010 was Concertación; it was Alianza afterwards. Regional includes major-party splinters (from Christian Democrats and UDI). President's status in the Senate slightly and briefly oscillated above and below majority due to vacant seats. Source: prepared with information from www.camara.cl.

	1998–2002	2002–06	2006–10	2010–14
Part A. Committee chairs, Cámara				
President's party	53	35	17	23
Other coalition party	41	41	83	50
Opposition	6	24		27
Total	100	100	100	100
N standing committees	17	17	18	22
Part B. Seats, Cámara				
President's coalition	58	53	51	50
Opposition	42	48	47	48
Regional			3	2
Total	100	100	100	100
Part C. Seats, Senate				
President's coalition	50	50	55	45
Opposition	50	50	45	55
Total	100 [†]	100	100	100

[†]vacant seats dropped

special and bicameral committees. A single co-partisan or coalition chair among multiple referees suffices for the indicator previously discussed to equal 1. Inclusion of the indicator *Multiple Referrals* should capture any effect of agenda control sharing among several committee chairs during the proposal's negotiation.

The variable intended to capture bill-specific features is *Hacienda Referral*, which equals 1 for bills referred to the powerful Finance Committee, 0 otherwise. Because the *Hacienda* committee has special status in the Chilean Congress, it deserves to be a separate control. Unlike other standing committees, *Hacienda* has jurisdiction over *every* bill authorizing spending in any domain. Moreover, the unanimous exception rule discussed earlier is inapplicable to *Hacienda* bills, which must be reported prior to floor consideration.⁹ *Hacienda* committee members, working in tandem with Finance Ministry staff, may or may not appropriate funds from the budget in their report to the floor (Alemán and Navia 2009). Not unlike the Appropriations and Rules committees in the U.S. House, *Hacienda* has the status of a control committee, a key asset for agenda power (Kiewiet and McCubbins 1991). *Hacienda* referral therefore controls for a subset of generally important proposals, and we expect it to associate positively with urgency authority.

We include three controls among variables accounting for the strategic environment. *Presidential Approval* is the net general population presidential approval rate at bill initiation (i.e., the percentage of respondents who approve of the president's job minus the percentage who disapprove).¹⁰ To the extent that presidents with better public opinion standing are more successful in the legislative arena (Alemán and Navia 2009, Bond and Fleisher 1990), we expect them also to need restrictive rules less often, and reliance on the fast-track might therefore drop. *Introduced in Senate* equals 1 for bills initiated in the Upper Chamber, 0 otherwise. By virtue of being smaller, enjoying longer terms, and not being firmly under the president's coalition control during most of the period, bills sent or initiated in the Senate might present systematic differences in fast-track usage. And *Senate Majority* equals 1 if the president's coalition controlled half or more of Upper

⁹Standing rules (*Ley Orgánica del Congreso*) arts. 17 and 21.

¹⁰Data are from the *Centro de Estudios Públicos* bi-yearly face-to-face opinion polls, available at www.cepchile.cl.

Chamber seats when the bill was initiated, 0 otherwise.¹¹ Other things equal, presidents with sufficient partisan legislative resources in both chambers will find it easier to push proposals through Congress, and might be less inclined to use the fast-track prerogative to successfully navigate log-rolls through the plenary session.

The group of variables accounting for time-related effects control for different aspects of the congressional cycle. *Year Remaining* (and its squared value to capture non-linearity, if any) measures the percentage of the legislative year remaining at bill initiation. Chilean legislative years begin after the (meridional) Summer break. So the variable adopts value 100 for proposals introduced on March 1 (the first day of the legislative year), and value 0 for proposals introduced the last day of February. It should control for stationarity in the data. And *Relax Deadlines* equals 1 for bills initiated in July 2010 or later, 0 otherwise. Any systematic shift in urgency usage attributable to the reform extending urgency deadlines (see footnote 6) five months into the 2010–14 legislature should reflect in this coefficient.

5.2 Model Specification and Results

Given that observations from four elected legislatures, with important differences in the types and the volume of proposals considered (Alemán and Navia 2009) are pooled, heterogeneity might interfere. We fit two additional model specifications for robustness verification. One includes fixed legislature effects—i.e., three dummies for bills initiated in the 2002–06, 2006–10, and 2010–14 periods, respectively; the excluded 1998–2002 dummy is the baseline. Another adds further flexibility by also estimating separate errors for bills initiated in each legislature (a so-called mixed effects model, Gelman and Hill 2007:262,302). We estimate a generalized linear model for the mixed effects fit, and logit for the rest. We normalized continuous variables *Pres. Approval* and *Year Remaining* to speed the GLM’s convergence.¹² Normalized measures were used throughout

¹¹Parties in the presidential and opposition coalitions were tied throughout most of the 1998–2006 Senate (majority briefly oscillating back and forth in the first years due to member indictments, impeachments, and deaths in both coalitions). Ties are coded as *Senate Majority* = 1.

¹²As suggested in <http://stackoverflow.com/questions/23478792/warning-messages-when-trying-to-run-glmer-in-r> and <https://rstudio-pubs-static.s3.amazonaws.com/>

for model comparability.

Table 4 reports results.¹³ We find support for our main hypotheses. In line with our expectations, coefficient estimates confirm that both variables measuring the proximity of committee chairs with the president increase the probability that the president will use fast-track authority for floor consideration. *Co-partisan Chair* has a positive coefficient in model 1, as expected, and the effect achieves conventional statistical significance (parentheses in the table report p-values). The evidence is much stronger for the variable's other specification: the coefficient for *Coalition Chair* in models 2–4 is also positive, triples its size, and achieves p-values at .005 or below. In other words, if a bill is sent to a committee where the president finds support (either because the Chair belongs to her party or to her coalition), such a bill is more likely to be fast-tracked. This matches what scholars have documented, i.e., that the coalition is as good a predictor of presidential support in Congress—or better, in our case—as the party. The finding is robust across model specifications. In general, all model coefficients remain pretty much unchanged in size and significance when fixed and mixed effects are included on the right side (we are forced to drop variables *Senate Majority* and *Relax Deadlines* due to co-linearity with legislature dummies).

Figure 5 reports changes in the average predicted probability that a bill is fast-tracked associated with unit changes in model 3's explanatory variables (all other regressors at their mean value). This is a convenient way to gauge logit regression coefficients, by translating them into interpretable quantities. A report from a committee with a coalition chair experiences a 0.17 hike (0.06 standard error) in the likelihood of getting a closed rule compared to a report by an opposition-chaired committee. The effect is as big as the average marginal effects of *Hacienda Referral* (0.18), which we expect to be correlated with mostly high-significance bills that involve spending, and that of *Multiple Referrals* (0.16), which we view as an indicator of bill complexity. We therefore find no statistical evidence to reject our Hypothesis 2.

33653_57fc7b8e5d484c909b615d8633c01d51.html. Normalization re-scales and centers the measures in order to improve parameter identification.

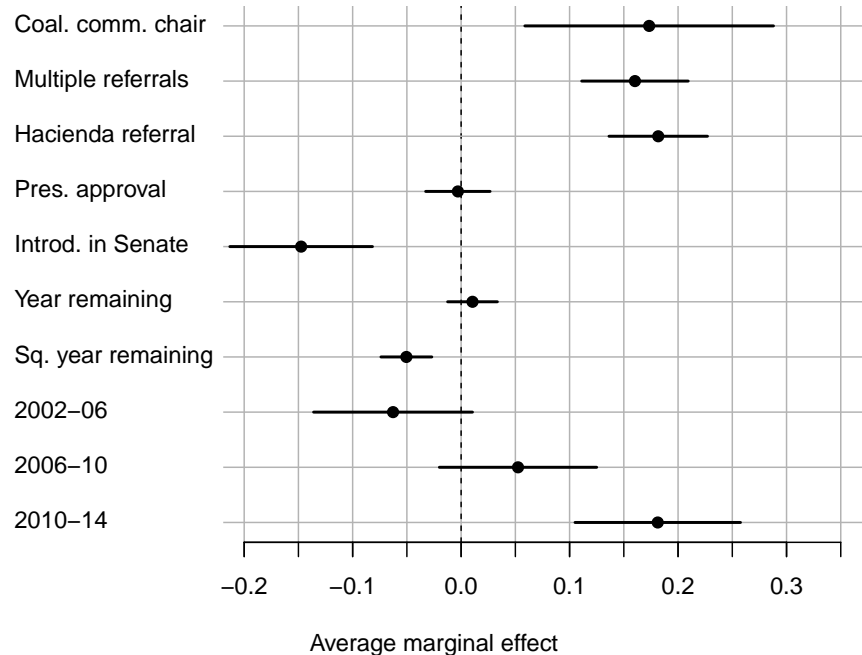
¹³The regression model performs satisfactorily. A likelihood-ratio test of overall fit rejects the hypothesis, at below the .001 level, that an intercept-only fit is as good as our models. Predictors across model specifications correctly classify 67–68 percent of the observations.

Table 4: Executive bill fast-track predictors. Model 3 includes fixed Legislatura effects (not reported). Model 4 estimates separate error terms by Legislatura. Method of estimation: model 4 with generalized linear model, others with logit (fitted with R base's `glm` and library `lme4`, Bates et al. 2015).

	DV: Bill on fast-track (1) or not (0)			
	(1)	(2)	(3)	(4)
<i>Co-partisan Chair</i>	.289** (.024)			
<i>Coalition Chair</i>		.825*** (.005)	.874*** ($<.001$)	.847*** ($<.001$)
<i>Multiple Referrals</i>	.772*** ($<.001$)	.795*** ($<.001$)	.808*** ($<.001$)	.809*** (.004)
<i>Hacienda Referral</i>	1.002*** ($<.001$)	.940*** ($<.001$)	.917*** ($<.001$)	.923*** ($<.001$)
<i>Pres. Approval</i>	-.078 (.286)	-.096 (.187)	.029 (.710)	-.044 (.567)
<i>Introduced in Senate</i>	-.716*** ($<.001$)	-.698*** ($<.001$)	-.744*** ($<.001$)	-.730*** ($<.001$)
<i>Senate Majority</i>	-.251 (.214)	-.319 (.110)		
<i>Year Remaining</i>	.072 (.223)	.065 (.268)	.053 (.370)	.053 (.368)
<i>(Year Remaining)²</i>	-.224*** ($<.001$)	-.238*** ($<.001$)	-.255*** ($<.001$)	-.251*** ($<.001$)
<i>Relax Deadlines</i>	.479* (.057)	.394 (.104)		
Intercept	-1.046*** ($<.001$)	-1.589*** ($<.001$)	-1.933*** ($<.001$)	-1.719*** ($<.001$)
Effects	none	none	fixed	mixed
Observations	1,467	1,467	1,467	1,467
LogL	-864	-862	-852	-859
% correct	67	68	68	68

*p<.1; **p<.05; ***p<.01 (p-values in parentheses)

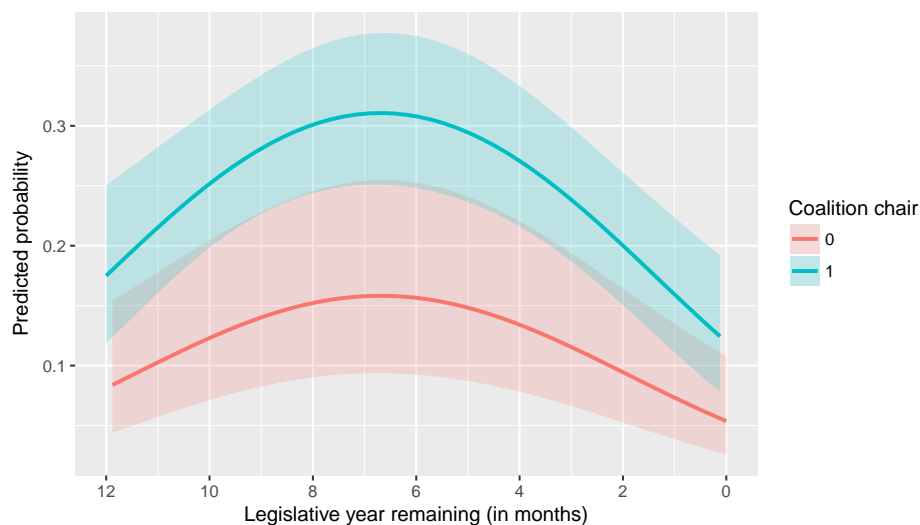
Figure 5: Average marginal effects from model 3. Dots report how the probability of an urgent bill changes in response to a unit change in each independent variable, all else at mean values; bars are 95-percent confidence intervals.



The large effects of *Hacienda Referral* and *Multiple Referrals* deserve comment. They suggest, first, that when spending gets in the way, restrictive rules are the norm in Chile. Recall that *Multiple Referrals* exclude the Finance Committee, so there is an independent effect of bills with jurisdictional overlaps worth investigating further, and which must be associated, in part at least, to the higher complexity of bills referred to multiple committees. Furthermore, note that the Finance Committee was always chaired by a coalition member but, with the exception of the 1998 to 2000 period, never by a co-partisan of the president. This may explain the milder effect of the partisan specification of our key variable in model 1.

Another effect worth highlighting is *Introd. in Senate*. Bills successfully passing the Upper Chamber first, where the opposition was systematically larger and at times in control, were much less likely to get urgent status (the average marginal effect is -0.15 and significant). This suggests that agreements and compromises reached in the Senate ignited less, not more, protection from floor amendments in the *Cámara's* plenary, most likely as a consequence of the greater prefer-

Figure 6: Probability of fast-track bill consideration. Predictions are from from model 3 letting *Year Remaining* vary in full range, with 95-percent confidence bands. Other variables set at the following values: *Multiple Referrals* = 0, *Hacienda Referral* = 0, *Introd. in Senate* = 0, *2006-10* = 1, and *Pres. Approval* = .33 (Bachelet's mean).



ence divergence between the President and the opposition-led Senate. Analysis of inter-chamber negotiation and the reliance on urgency in the Upper Chamber are interesting venues for future research.

Finally, there are time trends in fast-track authority usage that simulations reveal neatly. Figure 6 portrays the predicted probability that a bill enters the fast-track throughout the legislative year. Regressors in model 3 are held constant to simulate a bill sent to the *Cámara* in the 2006–10 Legislature that was referred to a single committee, excluding *Hacienda*. *Presidential Approval* (insignificant across models) is set to the mean for President Bachelet's first term, coinciding in full with the 2006–10 Legislature. The inverted-U shape shows how fast-track probability, predicted at 0.17 for coalition-chaired committees at the start, and 0.08 for the rest, becomes much likelier in the first half of the legislative year. By the second quarter (June–August), the probability is at its maximum, about 0.32 percent and 0.17, respectively. It then experiences a sharp drop, ending the austral Summer break at 0.13 for coalition-chaired committees, and 0.05 for others. And while 95-percent confidence bands overlap, they barely do so at the middle of the legislative year, lending confidence that we are picking up a signal and not just random noise.

6 Discussion

This paper has argued that the effects of urgency authority are procedural. We have portrayed Latin American constitutional urgency authority as equivalent to the fast-track authority that United States presidents enjoy periodically. That is, proposals that presidents qualify as urgent are considered under restrictive rules by the chamber's plenary, they must be voted up-or-down, without amendments. While all constitutions remain silent about procedural implications of urgencies, and we have verified that our characterization matches Chilean sub-constitutional institutions only, it is plausible and likely that others do too. After all, the rationale of the urgency authority is expediting the legislative process, and restrictive rules are a natural choice to speed urgent bills' consideration before an explicit deadline expires.

The formal model we present of fast-track authority shows that preference overlap between the president and the reporting committee is the mechanism driving the choice to put bills on the fast-track. A systematic analysis of proposals in the Chilean lower chamber in recent years finds evidence that, other things constant, bills reported by committees chaired by members of the president's coalition/party are about twice as likely to be fast-tracked than the rest. To the extent that parties and coalitions indicate preference overlap (as is accepted in Chile), the evidence supports our main theoretical results.

Our results and findings are of natural interest to students of comparative political institutions, especially those interested in unorthodox legislative procedure and separation of powers. They also shed light in the field of American Politics. In a provocative book, Howell and Moe (2016) make an argument in favor of giving U.S. presidents permanent fast-track authority not limited to trade agreements. In order to have a coherent and effective government, they argue in favor of constitutional reform to put the president at the center of the legislative process: "presidents should be granted enhanced agenda-setting powers to propose bills to Congress, which Congress should then be required to vote on without amendment, on a strictly majoritarian basis, within a fixed period of time" (145). Failure to vote in due time would turn those bills into law. Equating urgency and fast-track authorities shows this to be what we called the automatic adoption variant.

Reform would make presidents similar to those in Ecuador, Paraguay, and Uruguay.

It was also established that, while giving the executive power to make policy unilaterally, fast-track authority is not dictatorial. Congress retains authority to reject urgent proposals, and cannot therefore be made worse-off than the status quo. But, our model shows, the associated closed rule buys presidents substantial influence in lawmaking through selection (or, perhaps, even direct negotiation with committee chairs) of reports strategically allocating the bulk of gains in her favor.

Last, our investigation contributes to the literature on restrictive plenary procedures. One difference sets fast-track mechanisms apart from standard closed rules. The unique role and function to determine whether or not a major bill will be considered, and which amendments and motions will be allowed, is firmly in control of the legislative leadership, acting as sole gatekeepers to the plenary (Cox 2006). As with France's *vote bloqué*, with fast-track authority the executive branch gets to pull some of the gatekeeping levers, earning a priceless legislative prerogative worthy of further research.

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