

The filibuster must go: Restore majority rule to save our democracy

CREW

CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

To save our democracy, we must restore majority rule in the Senate.

Our democracy was founded on the principle of majority rule. Under our Constitution, a bill that earns majority support in the House and Senate as well as the support of the President is supposed to become law.

The problem is that majority rule no longer exists in the United States Senate. Over decades, a procedure that was created to preserve majority rule has been manipulated and exploited to undermine it. Today, if 41 Senators agree to block a bill, they can—even if the other 59 Senators support it. The procedure that has upended majority rule in the Senate is called the filibuster, and there are five reasons why it must go.

1. **The filibuster undermines majority rule, the founding principle of our democracy.** Majority rule was embraced by our nation's founders, enshrined in the text of the Constitution, and reflected in Senate practice for decades. Giving a minority of Senators the power to block all legislation is an ahistorical, anti-originalist, and fundamentally undemocratic perversion of Senate rules. The Senate must reinstate the norm that after a Senate minority is given an opportunity to express its opposition to a bill, a Senate majority is entitled to pass it.
2. **The legislative gridlock created by the filibuster upsets the Constitution's balance of powers.** The filibuster has so undermined Congress's ability to legislate that it has disrupted the balance of powers in our Constitutional system. Legislative impasse has increased the relative importance of executive actions and associated policies that are more easily reversed from one administration to the next. For that reason, the supermajority requirement has proven to be a source of instability—not a cure for it. Legislative impasse has also inflated the impact of judicial decisions because Congress cannot repair statutes that have been invalidated by the courts.
3. **The filibuster was created by racists and continues to serve racist ends.** The filibuster was invented to serve the interests of white supremacists and has long empowered their interests at the expense of the rights of Black Americans. From the end of Reconstruction to 1964, white supremacists used the filibuster to prevent Congress from addressing state-sanctioned violence against Black Americans and the wholesale disenfranchisement of Black communities. Today, the filibuster continues to stand in the way of meaningful federal protections against the disenfranchisement of Black Americans and people of color.
4. **The filibuster prevents congressional majorities from enacting needed reforms.** Our democracy is in crisis. Last year, the sitting president of the United States falsely and repeatedly claimed to have won the 2020 election, attempted to get officials to overturn the election results in those states, and rallied his supporters to direct their anger at Congress as it certified the election results. Members of the president's party are now enacting sweeping restrictions on voting rights and are poised to aggressively gerrymander districts for their partisan benefit moving forward. Failure to eliminate the filibuster will allow these and other assaults on our democracy to go unchecked. Restoring majority rule in the Senate is the first step towards preserving and restoring accountable, inclusive, and ethical government.
5. **The filibuster incentivizes partisan obstructionism—not bipartisan compromise.** Our founders rejected the idea of empowering a Senate minority to block most legislation precisely because they knew from experience that it would lead to obstruction, dysfunction, and corruption—the precise ills that plague our politics today. Far from leading to substantive debate and serving to improve legislation by encouraging compromise, the filibuster has become a mechanism for partisans to halt progress of any kind.

The filibuster undermines majority rule, the founding principle of our democracy.

The foundation of our democracy is majority rule. It was written into our Constitution, revered by our founders, and reflected in Senate practice for decades before anything resembling a filibuster came into existence. Proponents of the filibuster like to portray it as a founding and inviolable principle of our democracy, but it is not. The exploitation of Senate rules that has resulted in a de-facto 60-vote threshold for passing legislation is a recent invention.

The Constitution establishes majority rule as the default threshold for legislating in both chambers of Congress. The circumstances in which the Constitution requires a supermajority requirement are extremely limited, and they reflect a desire to require overwhelming support in special circumstances where the consequences of Congress's actions are particularly grave. The original Constitution establishes a Senate supermajority requirement in only [five cases](#): (1) to [override](#) a presidential veto; (2) to [convict](#) a federal officer on articles of impeachment; (3) to [ratify a treaty](#); (4) to [expel](#) a member; and (5) to [propose](#) a constitutional Amendment. Two additional provisions have been added via amendment. The [14th Amendment](#) bars anyone from holding or retaining office who, having sworn an oath to defend the Constitution, engages in insurrection or rebellion—a disability that the House and Senate may remove by a two-thirds vote. The [25th Amendment](#) establishes a process for declaring the President unable to discharge the powers and duties of the Presidency that, when disputed, requires a two-thirds vote in both houses to prevent a President from resuming the powers and duties of the office.

The Framers' decision to require only a simple majority for legislation was no accident. One of the principal deficiencies in the Articles of Confederation that preceded the Constitution was the requirement that the support of 9 of the original 13 states was needed to enact any law. In [Federalist 22](#), Alexander Hamilton observed that a supermajority requirement gives us a false sense of security by insuring that “nothing improper will be likely to be done;” however, we tend to “forget how much good may be prevented, and how much ill may be produced, by the power of hindering the doing that which is necessary to do, and of keeping affairs in the same unfavorable posture in which they may happen to stand at particular periods.”

Hamilton explained that while a supermajority requirement was alluring in theory, in practice, the results were the opposite of what was desired:

The necessity of unanimity in public bodies, or of something approaching towards it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto, to the regular deliberations and decisions of a respectable majority. In those emergencies of a nation, in which the goodness or badness, the weakness or strength of its government, is of the greatest importance, there is commonly a necessity for action. The public business must, in some way or other, go forward.

Hamilton continued,

If a pertinacious minority can control the opinion of a majority, respecting the best mode of conducting it, the majority, in order that something may be done, must

conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater, and give a tone to the national proceedings. Hence, tedious delays; continual negotiation and intrigue; contemptible compromises of the public good. And yet, in such a system, it is even happy when such compromises can take place: for upon some occasions things will not admit of accommodation; and then the measures of government must be injuriously suspended, or fatally defeated. It is often, by the impracticability of obtaining the concurrence of the necessary number of votes, kept in a state of inaction. Its situation must always savor of weakness, sometimes border upon anarchy.

While the Framers acknowledged the threat of a tyrannical majority, they chose to restrain a majority's excesses through means other than a supermajority requirement. Bicameralism, the incorporation of a presidential veto, and the enumeration of federal powers all served to restrain Congress from overreach.

After the Senate came into existence, it operated consistent with the principle of majority rule. Senate rules encouraged thoughtful debate, but they also permitted a majority to stave off outright obstruction by a minority. In the book *Kill Switch*, Adam Jentleson notes that “[f]ive of the nineteen original rules the Senate adopted in 1789 placed limits on debate.” (Jentleson at 45). Strong norms against unnecessary obstructionism also prevailed: “Avoiding unnecessary delay and being respectful of each other’s time were points of senatorial pride.” In 1806, the original rule that permitted the Senate to end debate on a matter was eliminated because it was thought to be unnecessary.

The reverence for majority rule in the Senate eventually eroded to the point that the Senate reinstated rules for ending debate. In 1917, Senate Rule XXII was created. It stated that two-thirds of Senators present could invoke “cloture” and end debate on a matter (a threshold that was later lowered to three-fifths). The purpose of the rule was simple: its drafters intended it to “terminate successful filibustering.” (Jentleson at 66). Rule XXII was never meant to be a threshold that a majority needed to clear to reach a final vote on a piece of legislation; instead, it was meant to be a means of last resort for enforcing the long-standing principle of majority rule.

Today’s filibuster does not reflect any of this history. Rule XXII no longer protects majority rule as intended. It has been turned on its head and exploited by the Senate minorities to establish a supermajority threshold that can be used to stop most bills.

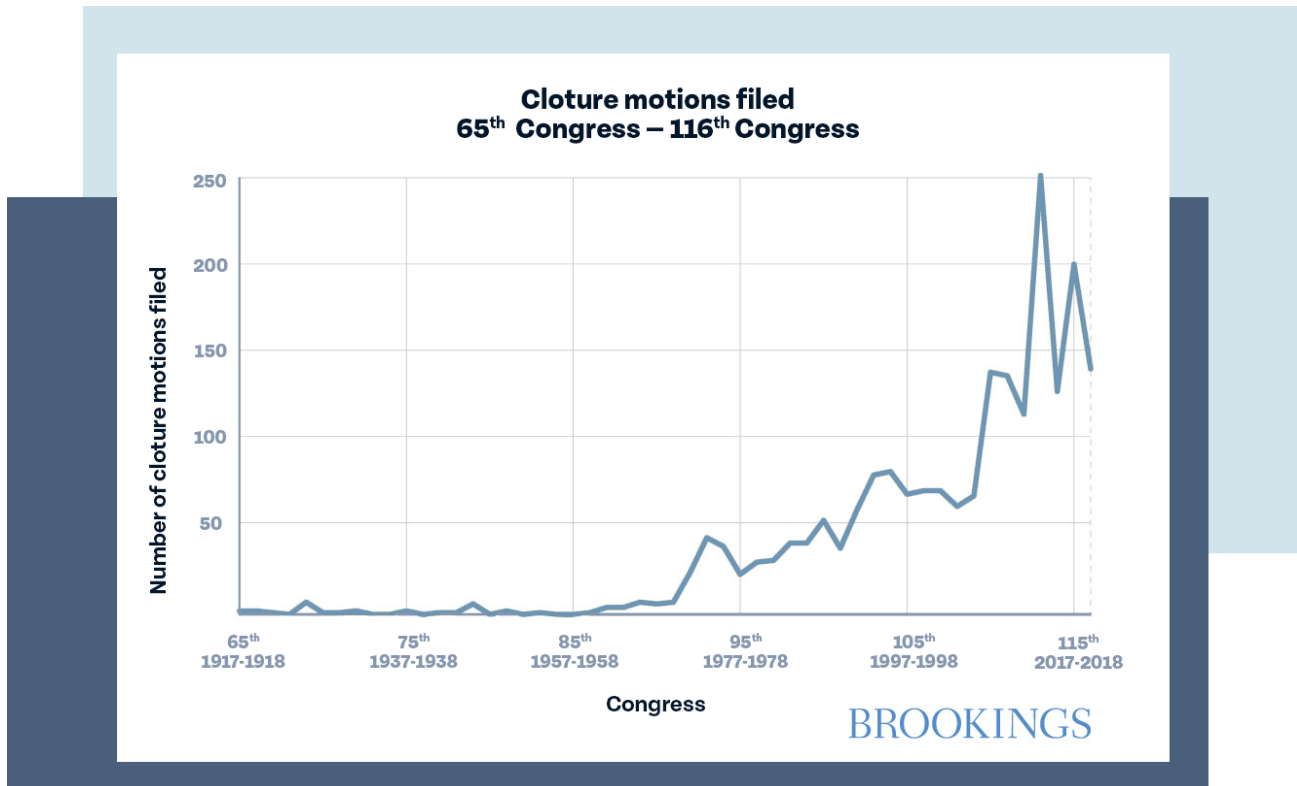
The legislative gridlock created by the filibuster upsets the constitutional balance of powers.

The filibuster today functions as a supermajority requirement for legislation. It has produced gridlock in the Senate and has upset the constitutional balance of powers by increasing the impact of executive and judicial action.

Cloture motions—the formal name for the procedure to end debate (including filibusters)—were rare for the first 50 years after Rule XXII was created. With some notable exceptions discussed in the next section, filibusters continued to be rare events, and it remained unusual

for the Senate to invoke cloture to proceed to a final vote on a bill.

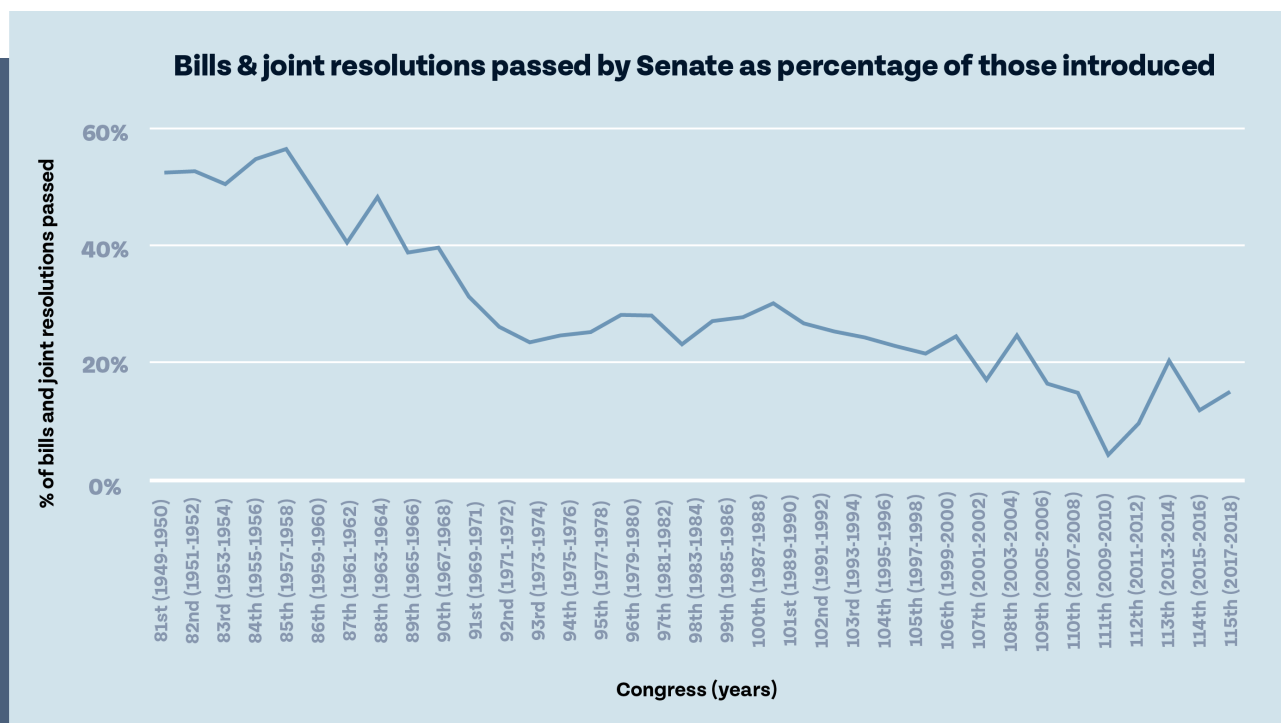
That began to change in the 1970s when filibusters became a routine event. Rule XXII started to operate in a manner that its drafters had not intended. Instead of serving as a way for a Senate majority to end filibusters in rare cases, Rule XXII became a hurdle that almost every significant piece of legislation had to overcome. (The only significant exception is the [budget reconciliation process](#), which permits the Senate to pass using a bare majority legislation that directly impacts federal spending or revenue). Cloture motions that were once rare became an almost routine component of Senate practice.



Source: [Brookings](#)

Focusing only on the number of cloture motions filed in a particular Congress likely serves to understate the impact of the filibuster. Because the [mere threat](#) of a filibuster is often sufficient to prevent a bill from being brought to the floor, Rule XXII now serves to prevent the Senate from even considering a large number of bills that would likely receive majority support.

The rise of the modern filibuster has coincided with a steep drop in the number of bills that pass the Senate. According to [Brookings](#), the Senate in the 84th Congress (1955-56) passed a total of 2,550 bills, which represented 56 percent of all bills and joint resolutions introduced. In the 115th Congress (2017-18), the Senate passed 583 bills, which represented a mere 15 percent of all bills and joint resolutions introduced.



Source: [Brookings](#)

The implications of this legislative gridlock are enormous. Congress's ability to address the pressing problems of the day are obviously undermined. Just as Hamilton [warned](#), the supermajority requirement has resulted in a "state of inaction" in which the legislature is mired in "tedious delays; continual negotiation and intrigue; [and] contemptible compromises of the public good." Existing laws that have grown unworkable or that are now disfavored by majorities may linger for decades after their flaws have become apparent. Gridlock discourages legislative experimentation because both parties know that any modifications that are enacted are unlikely to be revisited in short order. And the cycle of democratic accountability is frustrated because the American people see little progress on their priorities—even when one party controls the Senate, House, and Presidency.

But the consequences go far beyond Congress. In the absence of legislative solutions to pressing national issues, Presidents from both parties have [increasingly relied](#) on executive action to drive policy forward using existing statutory authority. The result of that dependence on executive action has been *more instability* in major policy arenas—not less. Because executive actions can be more easily reversed than legislation, some major regulatory initiatives have been [introduced](#) in one administration, [withdrawn](#) in the next, and are [poised to be](#) reintroduced in the third.

Legislative impasse also significantly increases the importance and longevity of judicial decisions—especially those that curtail statutory schemes. The Supreme Court's invalidation of the Voting Rights Act in [Shelby County v. Holder](#), 570 U.S. 529 (2013) is an illustrative example. The Court invalidated the statute's formula for identifying jurisdictions that faced enhanced preclearance requirements for changes to their election laws. The Court struck down that

provision on the grounds that Congress had failed to update the factual basis for those formulas in the forty years since the original Voting Rights Act was enacted. Without reform to Senate Rule XXII, new legislation that addresses the deficiencies articulated in the Court's decision will have to earn a filibuster-proof majority. And until that day arrives, jurisdictions that were subject to the preclearance requirements will find it easier to make discriminatory changes to their election laws.

The filibuster was created by racists and continues to serve racist ends.

The filibuster (and the underlying notion that a Senate minority has a right to delay or block legislation) was invented and developed by racist Senators who wanted to perpetuate slavery and who later wanted to prevent the federal government from enacting civil rights legislation. Cynically, the filibuster was justified as a protection of the rights of the Senate minority all the while it was being used to perpetrate grave injustices against Black Americans. Although the modern filibuster now threatens nearly every piece of legislation considered by the Senate, it is still used to block civil rights legislation that would prevent states from disenfranchising Black, Brown, Asian, and Indigenous people.

The filibuster owes its existence to racism. The first true antecedent to the filibuster appeared in 1841, when Senator John Calhoun delayed the passage of a charter for the Bank of the United States while invoking the principle of minority rights. (Jentleson 50-51). Calhoun was opposing the bank because of the threat that he and other southerners perceived that it represented to slavery, an institution that Calhoun argued was a "positive good" for both White and Black Americans.

After the Civil War and the end of Reconstruction, the filibuster reemerged as a way for racist senators, many of them from southern states, to stop the federal government from protecting the civil rights of Black Americans. From 1877 to 1964, the only bills that were blocked by filibusters were civil rights bills. (Jentleson at 70). They included an 1891 proposal to give federal judges to the power to monitor elections for voter intimidation tactics. They included anti-lynching bills that were supported by House majorities and Presidents of both parties in 1922, 1937, and 1940 and anti-poll tax bills that had similar support in 1942, 1944, and 1946. (Jentleson at 67). Because of the filibuster, the Supreme Court's 1883 decision in the *Civil Rights Act Cases* invalidating the 1875 Civil Rights Act and paving the way for the racial segregation of public accommodations remained the law of the land until 1964.

During the decades that racist senators used the filibuster to stop civil rights legislation, Black Americans suffered horrendous injustices. State laws and state constitutional provisions were [created](#) to disenfranchise Black people by establishing obstacles to voting like poll taxes and literacy tests. The political subjugation of Black Americans was accompanied by horrendous violence. According to one count, at least 4,743 Americans were [murdered](#) at the hands of lynch mobs; 3,446 of the victims were Black. According to the Equal Justice Initiative's report, [Lynching in America](#), many of these lynchings were gruesome, public spectacles: "At these often festive community gatherings, large crowds of whites watched and participated in the Black victims' prolonged torture, mutilation, dismemberment, and burning at the stake."

Those who supported the filibuster of civil rights legislation cynically claimed that they, not Black people, were the true aggrieved minority. When the 74-day filibuster of the 1964 civil rights bill was defeated, the organizer of the filibuster, avowed segregationist Senator Richard Russell [claimed](#) that he was the victim of a “lynch mob.” (Jentleson at 107). His colleague Senator John Stennis consoled him by noting that a strong civil rights bill would have passed the Senate as early as 1948 had it not been for Russell’s efforts.

In the wake of the 1964 Civil Rights Act, Senator Russell and other racists grew more obstructionist and created the modern filibuster. Knowing that they could not win if they defended racism and segregation on the merits, they framed unlimited Senate debate as a foundational principle of Senate procedure and practice. (Jentleson at 69). The notion that a Senate minority was entitled to unlimited debate and that the majority had to produce the votes to invoke cloture prevailed because Russell and other white supremacists made it so in the 1960s and 70s. Only in the last few decades did the long-established principle of majority rule fully succumb to the notion that a Senate minority is entitled to block any legislation for which there are fewer than 60 votes to end debate.

Although the filibuster has evolved into a procedure that today is used to stop all types of legislation, it continues to have a specific and pernicious impact on Black Americans and other people of color. That’s because the legislature is the primary vehicle of enduring change in a democracy, and our nation has never fully embraced the notion that all people, regardless of their race, are entitled to participate equally in our democracy. Two months after Georgia [voted](#) to elect Rev. Raphael Warnock to serve as the state’s first Black senator, the state [enacted](#) sweeping voting rights restrictions aimed at curtailing rules that encouraged record-breaking turnout from state voters. In sum, state legislators across the country [have introduced](#) 361 bills with restrictive voting provisions in 47 states in the wake of the 2020 election. Legislation [pending](#) in Congress would address these and other restrictions on voting rights by, among other things, expanding and protecting voter registration opportunities, mandating accessible early and absentee voting, and limiting discriminatory voter-ID requirements, but it is unlikely to become law as long as the legislative filibuster is in place.

The result is the perpetuation of a fundamental contradiction that Senator Warnock identified in his [maiden floor speech](#) in the Senate:

I stand before you saying that this issue—access to voting and preempting politicians’ efforts to restrict voting—is so fundamental to our democracy that it is too important to be held hostage by a Senate rule, especially one historically used to restrict the expansion of voting rights. It is a contradiction to say we must protect minority rights in the Senate while refusing to protect minority rights in the society.

For most of its history, the filibuster has been a tool by which racist Senators have prevented the federal government from addressing grave injustices suffered by Black Americans and people of color. It is not a neutral procedure by which an aggrieved Senate minority can stand up to the tyranny of majority rule. The idea of using extended debate to delay or block votes was invented to protect slavery; for the first eighty years of its existence, the only bills successfully blocked using the filibuster were civil rights legislation; and today, the filibuster continues to stand in the way of federal legislation that would ensure that Black Americans and other disenfranchised communities can participate in our democracy.

The filibuster prevents congressional majorities from enacting needed reforms.

Securing all Americans' right to vote is hardly the only much-needed reform that the filibuster is blocking. The modern filibuster serves the forces of corruption because legislation is needed to restore the legitimacy on which our democracy depends; to combat the pernicious effects of unlimited and anonymous political spending; and to prevent unethical and corrupt conduct. In each of these cases, the filibuster serves the interests of those who benefit from a democracy that is less representative, less accountable, and more corrupt.

Our democracy stands on a precipice. In the months following the 2020 election, a sitting president and millions of his followers disputed the validity of his opponent's victory. They advanced unfounded claims of election fraud, they pressured state election officials to change reported results, and they incited violence against Congress on January 6, 2021 when the House and Senate convened to finalize the election results. After those efforts failed, the same forces are now mobilizing to restrict voting rights. Instead of competing to win the most votes, these forces are trying to change the rules to ensure that votes for their competition will not be counted. This effort could not be more cynical and undemocratic. It seeks to permanently empower a narrow, primarily white minority with full control of the apparatus of our government, yet it could easily succeed if majority rule is not restored in the Senate.

The acute crisis our democracy faces is made possible by chronic problems. Twice in a generation, the Electoral College has permitted a president to win election despite losing the popular vote. Millions of Americans are not afforded full participation in our democracy because they do not live in a state and therefore have no elected representatives in Congress. Those who live in federal territories outside of the District of Columbia also have no vote in presidential elections. The legitimacy on which our democracy depends is growing more and more hollow.

The [full set of reforms](#) needed to secure accountable, inclusive, and ethical government in Washington is staggering. Our nation has arrived at a moment of enormous consequence in which we must seize the opportunity to reimagine our democracy, to establish new expectations for public officials, to remake the institutions that preserve government by the people and for the people—all in order to protect and strengthen those endangered democratic institutions we hold most dear. Setting aside the filibuster would allow Congress to consider legislation including:

- The [For the People Act](#), H.R. 1/S.R. 1 (117th Congress, 2021), which includes [bipartisan proposals](#) to help restore our democracy by providing for clean and fair elections, reducing the influence of money in politics, and establishing new ethics requirements for federal officials;
- The [John Lewis Voting Rights Advancement Act](#), H.R. 4/S.R. 4263 (116th Congress, 2019), which would revise the criteria for determining which jurisdictions' election laws are subject to enhanced scrutiny under the 1965 Voting Rights Act and thereby restore portions of the statute invalidated in *Shelby County v. Holder*;
- The [Washington, D.C. Admission Act](#), H.R. 51 (117th Congress, 2021), which would

admit into the United States of the state of Washington, Douglass Commonwealth, composed of most of the territory of the District of Columbia and give the residents of Washington D.C. full representation in Congress;

- The [Protecting Our Democracy Act](#), H.R. 8363 (116th Congress, 2020), which would prevent presidential abuses of power, reestablish checks and balances on executive power, strengthen government accountability and transparency, and protect our elections from foreign interference;
- The [Transparency in Government Act](#), H.R. 5150 (116th Congress, 2019), which would increase access to information regarding potential conflicts for members of Congress, provide greater transparency, increase transparency of taxpayer funded federal contracts, and provide public access to the interpretations of law applied by our government in decisions of enormous consequence to our democracy; and
- The [Anti-Corruption and Public Integrity Act](#), S. 3357 (115th Congress, 2018), which would provide stricter lobbying rules and disclosure requirements, better regulate the revolving door between government service and private employment, establish a mandatory judicial ethics program, and reform federal rulemaking.

Unless majority rule is restored in the Senate, these and other important pieces of legislation will not become law, even if they are supported by House and Senate majorities and would be signed by the President. The budget reconciliation process, which allows the Senate to pass certain spending and revenue laws with a bare majority, is unavailable for bills like these that are intended to implement reforms like these.

The Senate's failure to pass these and related reforms could place the future of American democracy in jeopardy. Left unchecked, state governments are determined to restrict the vote, and future presidential administrations will advance their own power without regard for the rule of law. Excessive devotion to Senate tradition at the expense of majority rule, may result in losing our remaining chance to safeguard American democracy.

The filibuster incentivizes partisan obstructionism, not genuine debate and compromise.

Alexander Hamilton warned that supermajority requirements tended to produce “tedious delays; continual negotiation and intrigue; [and] contemptible compromises of the public good.” Recent experience has proven him right. Far from promoting bipartisanship and compromise, the filibuster has rewarded partisan obstructionism. It is so easy to prevent the majority's will from becoming law that there is no incentive for a Senate minority to engage in compromise.

The [list of bills](#) that have been successfully blocked by the filibuster in Congresses when a single party has controlled the Senate, House, and White House is breathtaking. It includes major policy priorities for both parties, such as class action lawsuit reform, welfare reform, estate tax repeal, public campaign financing, enhanced campaign spending transparency requirements, paycheck fairness legislation, and a path to citizenship for undocumented

immigrants who arrived in the United States as children. The mere threat of a filibuster has prevented consideration of legislation to address climate change and gun violence or to establish a public option for health insurance.

The problem is particularly stark in an era of polarization in which [both parties](#) can expect to control at least 41 seats. That is especially true for the Republican party, which has managed to hold Senate majorities in nine of the last sixteen Congresses despite representing less than fifty percent of the U.S. population in every Congress save one

Election Year	Seats won by Party Caucus on Election Day		Proportion of 50-State Population Represented		3-Election Cycle Aggregate	Three-Cycle Aggregate National Vote	
	Democratic	Republican	Democratic	Republican	Years	Democratic	Republican
2020	50+VP	50	56.5%	43.5%	2016-2020	50.3%	43.4%
2018	47	53	52.0%	48.0%	2014-2018	50.2%	42.8%
2016	48	52	55.3%	44.7%	2012-2016	50.5%	44.2%
2014	46	54	53.3%	46.7%	2010-2014	50.4%	46.5%
2012	55	45	58.2%	41.8%	2008-2012	51.8%	45.1%
2010	53	47	56.3%	43.7%	2006-2010	50.8%	46.1%
2008	59	41	62.1%	37.9%	2004-2008	52.5%	44.6%
2006	51	49	56.8%	43.2%	2002-2006	51.3%	45.9%
2004	45	55	50.5%	49.5%	2000-2004	49.0%	47.6%
2002	49	51	55.2%	44.8%	1998-2002	48.4%	48.3%
2000	50	50+VP	58.0%	42.0%	1996-2000	48.8%	48.2%
1998	45	55	50.5%	49.5%	1994-1998	47.8%	49.8%
1996	45	55	49.7%	50.3%	1992-1996	48.7%	47.8%
1994	48	52	52.3%	47.7%	1990-1994	49.1%	47.6%
1992	57	43	66.0%	34.0%	--	--	--
1990	56	44	59.4%	40.6%	--	--	--

Source: Stephen Wolf, *Daily Kos*

Because both parties can expect to block legislation they disfavor, neither has an incentive to work to improve legislation proposed by the other party.

The result is partisan obstructionism that prevents Congress from advancing the interests of the American people. Senator Angus King, an independent who caucuses with Democrats, has [stated](#) that “[t]he Senate has literally forgotten how to function.” He compares the Senate to “a high school football team that hasn’t won a game in five years. We’ve forgotten how to win.” Republican Senator Ben Sasse has [shared](#) similar sentiments: “Congress is weaker than it has been in decades, the Senate isn’t tackling our great national problems, and this has little to do with who sits in the Oval Office.”

It is time for the filibuster to go.

Advocating for the end of the legislative filibuster is not a position that we adopt lightly. The filibuster has friends in both major parties and eliminating it will undoubtedly have repercussions for each when they are in and out of power. It is possible that eliminating the filibuster will result in the enactment of laws that we would not support. Nonetheless, it has become clear that the costs to our democracy of sustaining the filibuster far exceed the benefits.

We recognize that institutional norms are important. The traditions passed down from one political generation to the next often advance foundational principles that are critical to the smooth functioning of democratic government and to the peaceful exchange of power from one administration to the next. While institutional norms therefore merit reverence, it is also important to ensure that those norms in fact advance the principles that they are supposed to reflect.

The filibuster fails this test. Instead of advancing the foundational principles of majority rule and permitting a Senate minority to object but not obstruct, the filibuster has subjected the majority to the will of the minority. The right to get Senate minority opposition on record has evolved into a supermajority threshold that affords 41 Senators the opportunity to block any bill that has fewer than 60 votes, regardless of its merits.

The Senate has aligned its rules and practices with the principle of majority rule several times. In 1806, the Senate dispatched with the rules for ending debate because they were thought to be unnecessary to secure majority rule. In 1917, the Senate created Rule XXII to terminate filibusters. In 1975, the Senate reduced the threshold to end debate from two-thirds to three-fifths. In 2013, the Senate eliminated the filibuster for executive branch and federal district court and circuit court nominations. And finally, in 2017, the Senate eliminated the filibuster for Supreme Court nominations.

It is time to restore majority rule for legislation in the Senate. It is time to break the legislative gridlock that has upset our constitutional balance of powers. It is time to acknowledge and address the role of the filibuster in perpetuating grave injustices against Black Americans. It is time to enact meaningful reforms to secure the future of our democracy. It is time to change the rules of the Senate to give the minority party an incentive to improve legislation rather than simply obstruct it. It is time for the legislative filibuster to go.

Resources

- Adam Jentleson, Kill Switch: The Rise of the Modern Senate and the Crippling of American Democracy, *Liveright Publishing Corporation* (2021).
- Caroline Fredrickson, The Case Against the Filibuster, *The Brennan Center* (Oct. 30, 2020), available at <https://www.brennancenter.org/our-work/research-reports/case-against-filibuster>.
- Alex Tausanovitch and Sam Berger, The Impact of the Filibuster on Federal Policymaking, *Center for American Progress* (Dec. 5, 2019), available at <https://www.americanprogress.org/issues/democracy/reports/2019/12/05/478199/impact-filibuster-federal-policymaking/>.
- Molly E. Reynolds, What is the Senate filibuster and what would it take to eliminate it?, *Brookings* (Sept. 9, 2020), available at <https://www.brookings.edu/policy2020/votervital/what-is-the-senate-filibuster-and-what-would-it-take-to-eliminate-it/>.
- Vital Statistics on Congress: Data on the U.S. Congress, *Brookings* (Feb. 8, 2021), available at <https://www.brookings.edu/multi-chapter-report/vital-statistics-on-congress/>.