

For Your Information

What is the filibuster?

By Lauri Strauss

There has been a lot of talk recently about whether the U.S. Senate should get rid of the filibuster or keep it.

A “filibuster” is a tactic used during debates on pending legislation.. Once recognized on the Senate floor, a U.S. Senator may speak for as long as he or she wishes during a filibuster in order to delay or stop the Senate from voting on legislation.

In order to stop a filibuster, the Senate can invoke cloture. Cloture limits the amount of time allowed for debate before voting on the pending legislation, which ends a filibuster. The Senate must have at least 60 votes in order to invoke cloture, which means at least 60 Senators must be in favor of bringing the legislation to a vote. If the majority party knows there are not 60 Senators in favor of voting on the legislation, many times the majority leader will not bring the legislation to the Senate floor to avoid the filibuster.

The filibuster has been a valuable tool for the minority party in the U.S. Senate for as long as the Senate has existed. It helps ensure the party that holds the majority in Congress does not have complete control over what legislation is passed. Although the filibuster helps the minority party stall or even kill pending legislation, it also helps the majority party have more time to find the 60 votes necessary for cloture. The U.S. House of Representatives does not have a filibuster rule because the House limits the amount of time each Congressperson is allowed to speak.

The cloture rule was first created in 1917. At that time, it required two-thirds of the Senate to vote in favor of ending debate. In 1975, the rules were updated requiring only three-fifths of the Senate, or 60 votes. Although cloture is required to vote on many types of legislation, there is some legislation that requires only a simple majority. This includes nominations to the executive branch and federal judgeships. [Budget reconciliation](#) also requires only a simple majority of votes.

In the past, both parties have tried to end the filibuster rule. Ironically, many times it never went to a vote due to filibustering the legislation. Since the U.S. Senate is evenly balanced at this time, ending the filibuster is once again a topic of conversation. It likely will be harder for Congress to pass much of President Biden’s legislation as long as the filibuster is allowed because it will be hard for the majority Democratic party to get the necessary 60 votes. For this reason, it is understandable many in the majority party wish to end the filibuster, while those in the minority think it’s important to keep.

Facts on the filibuster:

- The first known successful filibuster was in 1837. President Andrew Jackson had been censured, and a group of Senators filibustered to stop legislation that would have removed the censure.

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- Former Republican Sen. Strom Thurman of South Carolina holds one of the records for the longest filibuster at 24 hours and 18 minutes to delay the vote on the 1957 Civil Rights Act.
- In 2017, Democrat Sen. Jeff Merkley from Oregon spoke for more than 15 hours to oppose President Trump’s nomination of Judge Neil Gorsuch to the U.S. Supreme Court.
- Since Senators can speak indefinitely during a filibuster, they have had to find creative ways to fill their time. In 2013, Republican Sen. Ted Cruz of Texas read the Doctor Seuss book “Green Eggs and Ham” and cited the lyrics to a Toby Keith song while filibustering against President Obama’s Affordable Healthcare Act.
- In the past, Senators had to stand and speak during their entire filibuster. Neither standing nor speaking the whole time is required any longer.

If you are interested in Hollywood’s depiction of the filibuster, you can find it in the 1939 film “Mr. Smith Goes to Washington.” In 2001, the TV show “The West Wing” also featured an episode on the filibuster during its second season, episode 17.

Resources used for this article and for more information on the filibuster and cloture rules:

[ABC News: A look at memorable filibusters in the Senate](#)

[Brookings Institute: What is the Senate filibuster, and what would it take to eliminate it?](#)

[Congressional Research Service: Filibusters and Cloture in the Senate](#)

[History.com: Filibuster](#)

[United States Senate: About Filibusters and Cloture – Historical Overview](#)

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