

Partisan Differences on Filibuster Reform in the American Public

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Although their views are often tentative and conditional, Senate Democrats are once again talking about filibuster reform in response to agitation among liberal groups and commentators. Has the discussion registered with the American public? The answer is yes.

Recent Developments

Public commentary on filibuster reform in the U.S. Senate heated up during the 2020 primary season. Pushed by a variety of liberal groups and opinion leaders anticipating that the super-majority cloture rule will be an obstacle to Senate action on a Democratic president's legislative agenda, Democratic candidates began to express views about filibuster reform in the fall of 2019. This was an unusual development. Parliamentary procedures seldom become an issue in presidential campaigns.

By the time Joe Biden was the apparent winner of the Democratic nomination by March 2020, several presidential candidates appeared to have shifted from opposing simple majority cloture to being open to the idea. They included Senators Bernie Sanders (D-VT) and Kamala Harris (D-CA). Harris, of course, became Biden's running mate. Biden, notably, continued to express opposition to filibuster reform during the primary season, a position consistent with his longstanding pattern of defending Senate traditions.¹ Only in the summer of 2020, after agitation for filibuster reform continued among Democrats and Biden was closer to election and confronting Senate obstructionism, did Biden shift to being open to reforms that would allow Senate votes on administration legislation. In mid-July, he told reporters that "it's going to depend on how obstreperous they [the Republicans] become," adding that "I think you're going to just have to look at it."²

As the months passed, more Democratic senators who once opposed filibuster reform expressed a willingness to consider it. Senators Joe Manchin (D-WV) and Chris Coons (D-DE), perhaps the Democrat least likely to support reform, loosened his opposition. Coons is particularly important because of his close relationship with Biden. Barack Obama added his voice in favor of reform at the funeral of Congressman John Lewis (D-

¹ <https://www.washingtonpost.com/graphics/politics/policy-2020/voting-changes/eliminate-senate-filibuster/>.

² <https://www.nytimes.com/2020/07/14/briefing/joe-biden-california-tucker-carlson-your-tuesday-briefing.html>.

GA) by explicitly connecting the filibuster to the Jim Crow era and the failure of Congress to enact civil rights measures.³

What We Can Learn from the Past

Pollsters largely ignore the filibuster except when a controversial legislation or nomination is before the Senate and a filibuster is in progress. A fair generalization is that only a few Americans show real familiarity with the filibuster and cloture and that, in the aggregate, the balance of opinion shifts with attitudes about the legislation or nomination at stake. Moreover, the public favors both majority rule and minority rights, with preferences about the right balance affected by which party benefits from majority rule at the moment.⁴ But attitudes about the filibuster are transient.

Our knowledge of public views of the filibuster over the decades is mainly derived from polls conducted by George Gallup's American Institute of Public Opinion (AIPO) and a few other commercial firms. Consequently, public preferences regarding the filibuster have been measured only sporadically and only when a particularly salient filibuster has taken place. The earliest poll on the filibuster is a July 1937 AIPO poll that shows that a slightly higher percentage of respondents (34 percent versus 31 percent, with the other third saying they did not understand the question or had no opinion) opposed than favored a filibuster of President Franklin D. Roosevelt's plan to expand the size of the Supreme Court (AIPO 1937). In the late 1940s, when the context was the use of the filibuster on civil rights legislation, 57 percent favored a simple majority threshold for cloture over a two-thirds majority threshold that was in the rule at the time (*Public Opinion Quarterly*, 1947, 291). The pattern continued in the 1950s and 1960s, with the polls showing that a majority of Americans supported the enactment of civil rights legislation and a lower threshold for cloture.

More recently, polls on the filibuster were conducted in 2005, 2013, and 2017 when nominations were at issue and in 2010 when the Democrats used reconciliation to avoid a filibuster on Obamacare. In 2005, for example, respondents favored the use of the filibuster (after the practice was described to them), but of those who approved of the majority Republicans' efforts to get Bush nominees confirmed, 59 percent opposed the use of the filibuster. Of those on the Democrats' side, only 28 percent opposed the use of the filibuster (Gallup 2005).

The public's understanding of the cloture threshold always has had a hit-and-miss quality. In early 2018, the Pew Research Center found the 41 percent of a large sample could correctly identify 60 votes as the number of votes required to end a filibuster on legislation. About a third responded that a simple majority of 51 was required.⁵

³ <https://www.washingtonpost.com/politics/2020/07/31/senate-democrats-filibuster/>;
<https://www.politico.com/news/2020/06/23/chris-coons-biden-senate-334270>.

⁴ Steven S. Smith and Hong Min Park, "Partisanship, Sophistication, and Public Attitudes about Majority Rule and Minority Rights in Congress," *Legislative Studies Quarterly* 41:4 (November 2016): 841-871.

⁵ <https://www.pewresearch.org/politics/2018/04/26/the-public-the-political-system-and-american-democracy/>.

Most Americans appear to have only weakly held views about the filibuster. In Appendix 1, I list the results of a few national surveys conducted since late 2009. I have noted the anti-filibuster responses in bold. The list excludes the common questions that mention a specific issue or the political parties, with the exception of Supreme Court nominations generally.

A quick review of the questions will persuade you that quizzing a general audience about the filibuster and cloture thresholds is a challenge. Many of the questions are long, complex, and therefore confusing. For example, one interpretation of the CBS News question from 2013 is that the “good thing” response refers to having a way to end a filibuster; another interpretation is that “good thing” refers to the super-majority threshold for cloture. Multi-feature questions tend to produce unreliable responses.

Of the eight questions in seven surveys that are listed, a majority of Americans appears to favor simple-majority cloture in two cases and opposes simple-majority cloture in the six others. However, in only one case is the majority opposed larger than 56 percent and that case involves Supreme Court nominations. Otherwise, through most of the last decade, the public seems to favor the inherited rule but inconsistently and by small majorities.

New Data

The events of the last year may or may not have shaped public opinion about filibuster reform. Unfortunately, the irregular pattern of pollsters questions about the Senate practice and variation in questions makes a definitive account of evolving public opinion on the matter impossible. We can get a fresh measure of attitudes and explore who favors and opposes filibuster reform. A reasonable working hypothesis, based on elite commentary over the past year, is that Democrats and liberals favor reform while Republicans and conservatives do not.

In August 2020, a survey sponsored by the Weidenbaum Center of Washington University (Appendix 2) included questions to check knowledge of the cloture threshold and support or opposition to reform. Responses to questions about party affiliation, ideology, education, age, and presidential candidate preference allow us to explore the correlates on knowledge and support for reform.

Knowledge

In response to the question, “How many votes are required to end debate and get a vote on normal legislation in the U.S. Senate,” only 15.5 percent accurately identified “60 votes, a three-fifths majority.” Incorrect answers were spread across the other possible responses (51, 67, 75, unanimous), with 26.4 percent responding 51 and 32.0 percent responding “not sure.”

Who are the respondents who answered correctly? The patterns correspond to political knowledge more generally. Better educated, higher income, and older respondents are more likely to correctly identify the threshold, although the independent effects of these

factors are difficult to sort out. Men were more likely to respond correctly than women, even controlling for age and education. Ideological and partisan self-identification do not distinguish correct from incorrect responses.

Reform

Support for reform is measured by responses to the question, “How strongly do you favor or oppose changing the Senate rule so that a simple majority of 51 senators may end debate and get a vote on normal legislation?” This question has the disadvantage of not giving the respondent a direct comparison between the current super-majority cloture threshold and a simple-majority threshold, as many other surveys have done. Its bias is likely to favor an endorsement of majority rule.

That is what I find. Nearly half (45.0 percent) of respondents chose “neither support nor oppose” reform or did not answer the question. Indifference seems to run deep. The percentage who chose “strongly support” or “support” was 41.0. With no clear alternative specified in the question, the percentage “strongly opposed” or “opposed” is expected to be small and it is: only 14.0 percent.

Nevertheless, the question does allow for some discrimination among respondents, although it is primarily based on the difference between neutral and supportive attitudes. As I show in the table below, multivariate estimates of the effects of age, education, income, and party and ideological self-identification show that younger, Democratic, and liberal respondents (party and ideology are strongly correlated) are more likely to support filibuster reform than older, Republican, and conservative respondents. Education, knowledge of the cloture threshold, income are not correlated with support for reform. These relationships hold up if we limit the estimates to the respondents who correctly identified the cloture threshold (data not shown).

Age	-.02* (.004)
Party Identification	.18* (.03)
Ideological Identification	--
Education	.06 (.06)
Knowledge of threshold	-.21 (.19)
Income	-.01 (.02)
Pseudo R ₂	.02

It appears the rhetoric of political elites in the recent past has had the predicted effect. As Table 2 shows, Democrats lean toward reform, although opinion is not fully crystallized among Democrats. Republicans, who have held a Senate majority since 2015

but use the filibuster to block action on House Democrats' initiatives, are at best indifferent about reform. Remarkably, independents are least supportive of moving to simple-majority cloture but are mostly indifferent.

	Democrats	Independents	Republicans
Support	51.4	25.6	35.4
Neither	38.3	63.2	44.3
Oppose	10.3	11.2	20.3
Total	100.0	100.0	100.0

While Democrats clearly favor reform more than Republicans do, the lack of knowledge about the current rule surely must make the issue difficult to understand for the average citizen. Strong procedural preferences, independent of partisan or policy considerations, are likely to exist for only a few Americans. The result is that party and opinion leaders have a quite malleable audience for their procedural moves and are not likely to suffer a political price for those moves on whatever grounds motivate their strategies.

Appendix 1. Survey Questions on Filibuster Reform Since Late 2009.

Survey	Survey Date	Question	Responses in Percent
CNN	Nov. 13-15, 2009	As you may know, the filibuster is a Senate procedure which has been used to prevent the Senate from passing controversial legislation or confirming controversial appointments by the President, even if a majority of senators support that action. A vote of at least sixty Senators out of one hundred is needed to end a filibuster. Do you favor or oppose the use of the filibuster in the US Senate?	Favor 56 Oppose 39 DK/NA 5
Quinnipiac	Mar. 16-21, 2010	Some people have suggested eliminating the filibuster procedure in the US (United States) Senate so that all that would be needed to pass legislation would be a simple majority of votes, 51 out of 100. Do you think that is a good idea or a bad idea?	Good idea 39 Bad idea 51 DK/NA 10
Quinnipiac	Jan. 4-11, 2011	Some people have suggested eliminating the filibuster procedure in the US (United States) Senate so that all that would be needed to pass legislation would be a simple majority of votes, 51 out of 100. Do you think that is a good idea or a bad idea?	Good idea 42 Bad idea 45 DK/NA 13
CBS News	Jul. 18-22, 2013	Under current rules, legislation and appointments in the US Senate may be blocked by a procedure known as a	Good thing 52 Bad thing 35 DK/NA 13

		<p>filibuster, which can halt legislation and appointments unless sixty senators out of 100 vote to end the filibuster. In general, do you think the filibuster rule in the US Senate is a good thing or a bad thing?</p>	
National Journal	Dec. 12-15, 2013	<p>As you may know, the Senate recently voted to change its rules so that presidential nominees for executive branch jobs and the lower-level federal courts can be approved with a 51-vote majority. Previously, those nominations had been subject to delaying actions called filibusters, which meant 60 votes were needed to approve most nominees. Supporters of the change say too many filibusters were preventing presidents from appointing their team. Opponents of the change say it will increase conflict between the parties and leave the minority party too little influence on nominations. Do you agree or disagree with the Senate's decision to allow most nominations to be approved with 51 votes?</p>	<p>Agree <u>47</u> Disagree 44 DK/NA 9</p>
National Journal	Dec. 12-15, 2013	<p>Despite the change on appointments, Senate rules still require 60 votes to end the delaying actions called filibusters on any legislative proposal. Do you think the senate should...keep the current 60-vote requirement to end filibusters on legislation</p>	<p>Keep the current requirement 55 <u>Reduce to 51 vote</u> 37 DK/NA 9</p>

		or reduce to 51 the number of votes to end a filibuster and allow legislation to pass?	
Bipartisan Policy Center	Mar. 3-6, 2014	Which of the following statements comes closer to your view about the filibuster, a rule that can be used in the US Senate to require the votes of 60 out of 100 senators to pass legislation? The filibuster is a good rule, because it forces senators to gain broad support for their ideas, and ensures that new legislation has broad support among the American people, the filibuster is a bad rule, because it can be used to block legislation supported by the majority of senators, and allows a minority of senators to block the will of the American people.	<p>Filibuster good rule 42</p> <p>Filibuster bad rule 49</p> <p>DK/NA 9</p>
Quinnipiac	Mar. 30, 2017-Apr. 3, 2017	The current rules of the US Senate allow a filibuster to be used on a vote to confirm a Supreme Court nominee, which means it would require 60 votes instead of 51 to confirm the nominee. In most cases, this allows the minority party to have a say on the Supreme Court nominee. Do you think it would be a good idea to change this rule and allow a Supreme Court nominee to be confirmed with 51 votes, or do you think it would be a bad idea to change the rule?	<p>Good idea 25</p> <p>Bad idea 67</p> <p>DK/NA 8</p>

Appendix 2. The Survey

The American Social Survey is a project of the Weidenbaum Center of Washington University in St. Louis. The survey was conducted August 3-24, 2020. 1,567 interviews were conducted. The margin of error is +/- 2.5 percent.

The survey is designed by the Center and conducted on the AmeriSpeak panel of the National Opinion Research Center at the University of Chicago. AmeriSpeak is a probability-based panel designed to be representative of the US household population. Randomly selected US households are sampled using area probability and address-based sampling, with a known, non-zero probability of selection from the NORC National Sample Frame. These sampled households are then contacted by US mail, telephone, and field interviewers (face to face). The panel provides sample coverage of approximately 97% of the U.S. household population. Those excluded from the sample include people with P.O. Box only addresses, some addresses not listed in the USPS Delivery Sequence File, and some newly constructed dwellings. While most AmeriSpeak households participate in surveys by web, non-internet households can participate in AmeriSpeak surveys by telephone. Households without conventional internet access but having web access via smartphones are allowed to participate in AmeriSpeak surveys by web. AmeriSpeak panelists participate in NORC studies or studies conducted by NORC on behalf of governmental agencies, academic researchers, and media and commercial organizations.