



# TO SAVE THE SENATE

## PREAMBLE

Deliberation in the Senate has deteriorated over the past half-century, and senators from both parties are clamoring for change.

America today is larger, busier and more complex than the America our Founding Fathers designed the Senate and its rules to govern. The enormous workload and today's political polarization impairs the ability of the Senate to address the concerns of the American people.

These and other factors have caused the Senate to become unnecessarily—and unacceptably—diminished as an institution. In the coming few years it will either be further paralyzed by partisan politics and demands—breaking the few norms that remain—or it will rebound to an institution where robust debate and bipartisan policymaking both flourish.

The proposals below would make the Senate more functional by rewarding bipartisan deliberation. They would increase the Senate's capacity to process legislation, increase amendments considered on the floor, and strengthen the power of the committees, all while upholding the constitutional design and distinctive characteristics of the Senate. The goal is for the Senate to again function as a deliberative body that leads the way in addressing our national challenges and keeping our country unrivaled in strength and prosperity.

In addition to the rule proposals herein, the Senate should, in the future, consider additional rule changes. First, the Senate should consider a true talking filibuster process that would thoughtfully balance the needs of the majority and minority, restore debate before the public, and encourage bipartisan compromises.

Second, the Senate should consider reforming the budget process to facilitate bipartisan cooperation, strengthen the appropriations process, and restore reconciliation to its original purposes of being used to reduce the deficit. Reforms are necessary to reduce the increasingly frequent use of reconciliation to infringe on appropriations and reduce the threat of government shutdowns.



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## SUMMARY OF PROPOSALS

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- **Cloture:** Expand the time for debate on more legislation by reducing the time spent on closing debate.
  - Eliminate cloture on nominations, motions to proceed, and amendments.
  - Eliminate the “intervening day” that delays votes on cloture.
  - Reduce post-cloture time from 30 hours to 12 hours for legislation considered under existing rules.
- **Suspension:** Establish a new fast-track suspension process to allow bills that have passed out of Committee to pass the Senate at a two-thirds vote threshold. Chairs and Ranking Members would be responsible for leading this process.
- **Authorizing Legislation:** Empower Chairs and Ranking Members by creating a one-day fast track process for debating robustly bipartisan bills on the floor at a simple majority threshold.
- **Appropriations Legislation:** Empower the Chair and Ranking Member of the Appropriations Committee to bring bipartisan bills to the floor with an extensive opportunity to amend by creating a two-day fast track process for robustly bipartisan appropriation bills at a simple majority threshold.



## PROPOSALS

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2. **Suspension Calendar:** Create a Senate version of the House “suspension” calendar.
  - Note: the term “suspension” comes from a Motion to Suspend the Rules (MSR).
  - The MSR states which bills are to be considered. Options:
    - One bill.
    - A group of bills to be considered individually.
    - A batch of bills considered with a single vote on passage.
  - The MSR states how much time is allocated for debate on each bill.
  - The MSR would be a joint motion of the Chair and Ranking Member of the Committee of jurisdiction.
  - Debate on the MSR is limited to one hour; passage requires 2/3 majority.
  - Each bill is considered exactly as passed out of committee (committee-approved amendments are incorporated). No floor amendments would be in order.
  - Passage of a bill or batch of bills requires 2/3 majority.
3. **A One-Day Fast Track for Considering Robustly Bipartisan Bills:**
  - By motion, the Chair and Ranking Member of a committee can bring a committee-adopted bill to the floor, as amended in committee.
  - The bill must have been adopted in committee with a robustly bipartisan vote:
    - a majority of the minority and a majority of the majority members; or
    - at least 5 votes from the majority and 5 votes from the minority.
  - The motion (which is sometimes referred to as a petition):
    - must be signed by at least 16 members, including the Chair and Ranking Member, plus at least 3 more from each party.
    - can state specific amendments to be considered, but each amendment must include a list of cosponsors, including 4 from the majority and 4 from the minority.
    - would state how much debate time is allocated for each amendment.
  - The Majority Leader would have 15 session days to bring the bill to the floor. Absent action, the motion would ripen automatically on the 16<sup>th</sup> session day.
    - Adoption of the motion to proceed is by simple majority.
  - Total debate time on the bill is limited to six hours.
    - Any amendments listed in the motion that have not been voted on at the end of six hours would immediately be voted on.
  - No other amendments are in order except by unanimous consent.
  - A vote on passage occurs after 6 hours (or after a vote on all the amendments listed in the motion). Passage is by simple majority.



#### 4. **A Two-Day Fast Track for Bipartisan Appropriation Bills:**

- The fast track would apply to individual subcommittee bills passed out of committee with at least 5 votes from the majority and 5 votes from the minority.
  - The Committee may combine no more than three qualified individual subcommittee bills as one minibus and still be eligible for the fast-track process.
- Debate on the Motion to Proceed would be limited to 30 minutes.
  - Adoption requires simple majority.
- Once on the bill, the Chair and Ranking Member (RM) can file a fast-track cloture motion. That cloture motion:
  - must be signed by, in addition to the Chair and RM, at least three additional senators from each caucus.
  - must include a list of 20 germane amendments (10 per side) that can only increase or decrease funding for a line in the appropriations bill and do not authorize new programs.
  - would ripen the next day, rather than after an intervening day.
- Cloture would be invoked by simple majority.
- If cloture is invoked, the 20 amendments would be disposed of in an alternating fashion, with debate on each amendment limited to 5 minutes.
  - If an amendment is robustly bipartisan with at least 4 cosponsors from each party, adoption is by simple majority.
  - If an amendment is not robustly bipartisan, adoption requires 60 votes.
- Passage is in order upon completion of the amendment votes.
- Passage is by simple majority.
- **Note:** Because appropriation bills often originate in the House, we will establish a process that pairs individual Senate bills with the counterpart from the House or that pairs a Senate minibus with a House minibus. This will be done in a fashion that will solve Rule XVI challenges related to policy provisions (new or legacy) in appropriation bills. One solution is to start with the Senate bill, amend it, and then create a special motion to attach it to a House vehicle.



## PREMISES

- **Saving the Senate requires bipartisan Rules changes with broad buy-in from across the Senate.**
  - Both parties have discussed ending the legislative filibuster through nuclear option. To avoid that outcome, bold rule changes are needed now to facilitate debate.
- **Saving the Senate requires bipartisan Rules changes that are bold and substantial.**
  - Minor Rules changes and handshake agreements promising fewer filibusters and an open amendment process have demonstrably failed. And one of the reforms adopted in 2013 to facilitate debate--Clause 3 of Rule XXII--has never been used. Bolder action is needed.
- **In an ideal world, the Senate would consider changes to the Senate Rules without knowing the outcome of the election.**
  - It is easy to support changes to the Rules if it benefits your side, but restoring the bipartisan traditions of the Senate requires being willing to work under the same Rules in the majority and minority.
  - It is critical for the Senate to take the long view and build bipartisan consensus about rules changes that can last for future Congresses regardless of which party controls Congress or the Presidency.
- **Changes to Senate Rules must empower and reward committees for their bipartisan work.**
  - The Senate should adopt Rules changes that provide committee-passed bipartisan bills with expedited procedures—and simple majority cloture thresholds—on the Senate floor.
  - A common argument for Rule XXII is that bipartisan legislation is more durable and less likely to be fundamentally undone by future lawmakers or administrations. The proposed changes to Senate Rules protect this principle.
- **Any new, fast-track cloture authority must be paired with reforms to the amendment process.**
  - Too often the amendment process is restricted, and even germane amendments are commonly barred from an up-or-down vote. True debate and deliberation in the Senate cannot be achieved absent amendment reforms that provide both parties with the right to amend.



- **For nearly a century, majority rule and extended debate co-existed in the Senate. In fact, the Senate enacted enormously consequential legislation throughout this period.**
  - Senate scholars Gregory Wawro & Eric Schickler write, *“When an issue was salient to both the majority and the minority, the pre-cloture Senate was essentially majoritarian, with the sole caveat being that filibuster in the final few days of a congress posed a genuine threat to legislation.”*[1]
  - Senate scholar Lauren C. Bell summarizes Massachusetts Senator Henry Cabot Lodge’s “reciprocal courtesy” principle: *“Asserting that it was simply ‘courtesy’ that permitted senators to hold the floor for as long as they wished, Lodge suggested that over time there had been an erosion of ‘reciprocal courtesy,’ that is, a willingness on the part of the speaker to, upon making his case, surrender the floor and permit a vote to take place on the measure under consideration.”*[2]
  - But rules changes in 1975 rewarded the no-effort, no-show filibuster and its use exploded. Up until 1974, cloture was filed 126 times. Compare that to the period from 1975 to 2024, cloture was filed 2,762 times. The proposed changes establish a majority rule cloture process for bipartisan lawmaking and require filibusterers to block the majority. This represents a compromise between creating total majority rule and maintaining the current “minority veto” which scholars Catherine Fisk and Erwin Chemerinsky observe *“is not part of a long Senate tradition...”*[3]
  - According to Senate scholar Molly Reynolds the Senate established 161 “majoritarian exceptions” in law between 1969 and 2014. She writes that they generally fall into two categories: *“...efforts by the Senate to delegate some of its power to one or more actors”* or *“to limit the president’s power to take unilateral actions in the face of a range of disincentives to do so.”*[4]
  - In recent years many majoritarian exceptions have been used for overwhelmingly party-line initiatives, including budget reconciliation, judicial nominations, rescissions authority, blocking arms sales, Congressional Review Act authority, and the War Powers Resolution.
  - It is time for a Fast Track “majoritarian exception” in Senate rules that is by definition used for bipartisan initiatives.

- [1] Wawro, Gregory J. & Eric Schickler, *Filibuster: Obstruction and Lawmaking in the U.S. Senate*, Princeton University Press, Princeton, NJ, 2006, p. 28.
- [2] Bell, Lauren C., *Filibustering in the Senate*, Cambria Press, Amherst, NY, 2010, p. 45-46.
- [3] Fisk, Catherine & Erwin Chemerinsky, *The Filibuster*, Stanford Law Review, Vol. 49, Jan. 1997.
- [4] Reynolds, Molly, *Exceptions to the Rule: The Politics of Filibuster Limitations in the U.S. Senate*, Brookings Institution Press, Washington, D.C., 2017.



- **The Founding Fathers created the Senate as a “necessary fence” that ensures federal policy making is determined by sound judgment rather than political passions and is supported by a composite of different-sized States rather than larger-populated States alone. But in Federalist 62, James Madison makes clear that only a “majority of States” is needed to pass legislation in the Senate, even while highlighting that the Senate’s design establishing two seats per State will sometimes result in the defeat of legislation that clears the House where support from a “majority of the People” is sufficient.**
  - The Framers’ brilliant design for the Senate remains intact today and does not rely on a supermajority cloture rule which they neither established nor envisioned.
  - In the House, the nine states with the largest populations (representing roughly half of the population) control 218 seats. In the Senate, because representation is equally distributed across all 50 states regardless of population, Senators representing a significant minority of the population could defeat measures without a supermajority requirement. For example, the 25 largest states represent 85% of the population, but could be defeated by 25 states representing merely 15% of the population. The margins change slightly depending on who controls the Vice-Presidency, but the point is still the same: The original design and practice of the Senate remains a bulwark against larger-populated States crushing the interests of smaller-populated States.
- **Bipartisan consensus on issues great and small is largely driven by common interest and perspectives, not just the supermajority requirements of Rule XXII.**
  - While high-profile disagreements get the floor time and often overshadow bipartisan work, the fact remains that Republican and Democratic senators regularly work together on a wide range of issues. In fact, each committee can point to bipartisan bills on weighty issues that have cleared committee and await floor debate.
- **Current rules requiring multiple cloture votes and cumbersome delays in floor consideration make it practically impossible for the Senate to consider scores of bipartisan measures that have cleared committee.**
  - According to the Congressional Research Service, between the 115<sup>th</sup> and 118<sup>th</sup> Congresses 665 bipartisan Senate bills that passed committee subsequently died on the Senate floor.[5]
  - Debating bills on the floor—with the opportunity to amend—is preferable to the common practice of backroom negotiations and “Christmas Tree ornament” bills in which non-germane legislation is added to omnibus bills at the end of a year or session.

[5] Wartluft, Tig, Research Librarian, Congressional Research Service. Memo to Senator Steve Daines, “Bipartisan (co)sponsored Senate bills reported out of committee that received no further action, 115<sup>th</sup>-118<sup>th</sup> Congresses, 2017-2024,” July 24, 2026. Available upon request to the Office of Senator Steve Daines. A total of 797 bipartisan bills were reported out of committee. Only 132 related bills became law. Bipartisan bills are defined as bills that were cosponsored by at least one member of each party.