



# Washington Examiner

The midterm elections could permanently reshape American democracy. Here's how.

By Matt Sandgren | Thursday, November 3, 2022

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The stakes could not be higher heading into Election Day.

Inflation is at record levels, with [two-thirds](#) of Americans now living paycheck to paycheck. Gas prices are poised to climb even higher as we wring every last drop from the Strategic Petroleum Reserve. And with tensions rising in Ukraine, the world has not felt this close to a nuclear conflict since the Cuban Missile Crisis.

An economy on edge, a growing energy crisis, and a potential nuclear war. All three issues weigh heavy on the minds of voters as they prepare to go to the polls next week. But amid the urgency of the moment, another crisis has slipped quietly under the radar: This Election Day, the very nature of our system of government is on the ballot.

For [nearly two centuries](#), the legislative filibuster has been *the* defining feature of the United States Senate. The Founders intended the Senate to be a deliberative body that would temper the majoritarian impulses of the House—and the legislative filibuster is the functional tool that makes this possible.

Despite what its detractors may say, the legislative filibuster is essential to our democracy and a force for bipartisanship and moderation. It requires the Senate to reach 60 votes to pass legislation, all but necessitating collaboration between Democrats and Republicans on matters ranging from spending and infrastructure to international trade and foreign policy.

Unlike the House of Representatives, where the majority party governs and the minority is mostly a spectator, Senate rules guarantee that minority parties, minority coalitions, and even individual senators enjoy meaningful influence. The filibuster ensures that a bipartisan consensus of senators must agree before most legislation can move forward.

Yes, at times, the filibuster slows legislation down. But that's the point. In an age of tweet storms and online mobs, when social media magnifies the loudest voices in the public discourse above all others, the legislative filibuster is arguably more necessary today than ever before.

But this important tool is now at risk. A number of Democrats have made it clear that they will try to abolish the filibuster if they gain the number of votes necessary.

Abolish the filibuster and the Senate loses its very reason for being. Gone is any functional difference between the two chambers of Congress as the Senate becomes the House 2.0. Gone is a powerful check against polarization and party-line votes. Gone is the last safeguard protecting the minority from the tyranny of the majority.

Historically, leaders from both parties have recognized the importance of the legislative filibuster. Perhaps this is why, just six months in office, President Joe Biden [warned](#) that abolishing the filibuster would “throw the entire Congress into chaos.” Sadly, like so many other members of his party, Biden has since changed his tune.

But there have been two notable holdouts: Sens. Kyrsten Sinema (D-AZ) and Joe Manchin (D-WV). Together, they have withstood mounting pressure from outside political groups to abolish the filibuster, and with it, the 60-vote threshold for legislation. For taking a principled stance to put the integrity of the Senate above the short-term desires of their party, they were smeared as supporting “racism,” while Sinema was even chased by protesters and harassed in a public restroom.

But their opposition may be for nothing if Democrats pick up just two more seats in the midterm elections.

Imagine the consequences: if the Senate abolishes the legislative filibuster it would supercharge polarization. Whichever party holds power would have carte blanche to push through extreme legislation, with little to no resistance. Of course, this overreach would invite backlash from the opposing party — and when that opposing party takes power, it would respond tit for tat. As Senate Minority Leader Mitch McConnell (R-KY) [cautioned](#) in March 2021, the “pendulum would swing both ways, and it would swing hard.”

The resulting whiplash between progressive and conservative policies would leave the country reeling and only deepen the animosity between the Left and Right. Even worse, many proponents of abolishing the filibuster want to follow that move with legislation to add new states, expand the size of the Supreme Court, and federalize all elections, ramming through fundamental changes to the very structure of our government with bare congressional majorities.

Deep down, critics of the filibuster — whether they be Democrats or Republicans — know that eliminating it would only magnify polarization and distrust. The question then becomes: How do we help them see reason? How do we help them set aside partisan feelings to do what’s best for the country and its institutions?

Cooler heads will prevail only if we can rebuild bipartisan consensus around the legislative filibuster — and this next Congress may be our last chance to do so.

Suppose Democrats lose both the House and the Senate next week. With Republicans calling the shots on legislation, Democrats will no longer be clamoring for a fundamental reshaping of the Senate as an institution. This, then, would be an ideal opportunity to bring both sides together for an honest conversation on the future of the filibuster.

To facilitate that conversation, the Orrin G. Hatch Foundation is [partnering](#) with Martin B. Gold — one of the nation’s foremost scholars on Senate procedure—to make the definitive case for preserving the legislative filibuster. Our comprehensive report will highlight the essential

moderating role the legislative filibuster has played throughout our nation's history and the pivotal role it can play in tamping down polarization in the future. It will also detail new norms and procedures lawmakers can put in place to promote greater collaboration and compromise in the Senate.

Our nation faces a perilous moment, with levels of division higher today than at any period since the Civil War. Abolishing the filibuster would only harden that division. A future without a filibuster is a future without bipartisanship, compromise, and meaningful deliberation – in other words, the very things that make the Senate the Senate. That's why, for the long-term health of our democracy, we must preserve the legislative filibuster.

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