
REMAPPING DEBATE

Asking "Why" and "Why Not"

No vote on gun control? No votes on judicial nominees? Filibuster reform coming?

Original Reporting | By Samantha Cook, Meade Klingensmith | Legislation, Open government

May 22, 2013 — Last month, we reported on the fact that [most Senate Democrats hide when asked about ending the cap on income that is subject to Social Security taxes](#). This month, we decided to try to find out where Senators actually stand on reforming filibuster rules.

The issue has drawn renewed attention in the face of the ability of a minority of Senators to prevent a vote on whether to expand background checks on gun sales, and in light of the Senate's [continued delays](#) in confirming judicial and cabinet-level nominations.

Our focus was the Senators who supported the failed gun control legislation but who had not co-sponsored an effort to enact substantive filibuster reform this past January. Were they ready to support legislation that would curtail abuse of the filibuster?

Over the period from May 10 to May 16, Remapping Debate reached out repeatedly, through both phone calls and email messages, to the offices of the 34 Senators who voted for the Manchin-Toomey gun control legislation in April but were not co-sponsors of the "talking filibuster" bill in January, originally sponsored by Senators Tom Udall (D-N.M.), Jeff Merkley (D-Ore.), and Tom Harkin (D-Iowa) (see box titled "Legislative proposals to limit casual use of the filibuster").

We found that many Senators were unresponsive to our repeated requests for comment, despite the fact that we posed straightforward questions about specific pieces of legislation to which it can be reasonably assumed each Senator has a position. Of the 34 Senate offices Remapping Debate repeatedly contacted — in most, cases five times — only eight responded to our inquiries. The remaining 26 either never responded or refused to comment. Of the eight that commented, three explicitly supported the "talking filibuster" proposal, and five broadly supported the need for some degree of filibuster reform but would not answer our questions regarding specific policy proposals.

Few open supporters

Senator Benjamin Cardin (D-Md.) told Remapping Debate in an interview, "The use of stalling tactics in the United States Senate is inexcusable, and the rules should not condone this." He said that though he did not co-sponsor the "talking filibuster" legislation proposed by Sens. Harkin, Merkley, and Tom Udall, "I did support that effort. The people who were moving it forward knew that they could count on my vote." When asked about Sen. Harkin's proposal, he replied, "I'm for just about any proposal that

will diminish the use of filibusters in the United States Senate, and the Harkin proposal certainly gives a light at the end of the tunnel,” though he believes “there are more effective ways to get it done.” For example, he proposed dismantling the filibuster altogether: “I like the idea of just majority vote. I’m old-fashioned. I believe in a majority vote.”

In addition, the communications director for Senator Frank Lautenberg (D-N.J.) wrote in an email, “Senator Lautenberg was a leading proponent of the talking filibuster,” noting that the Senator voted for the 2011 iteration of Senator Harkin’s proposal, and referred us to an op-ed the Senator wrote for Politico in January. Finally, a press secretary for Senator Bob Casey (D-Pa.) sent us a list of the proposals for filibuster reform that the Senator has supported, which included a “talking filibuster” (though not Sen. Harkin’s proposal).

General support for limiting the filibuster

The office of Senator Bill Nelson (D-Fla.) emailed us a statement from the Senator, which pointed out he has “voted for proposals that would make those that want to slow the process down stay on the Senate floor to voice their objections.”

Remapping Debate wrote back in a follow up email, asking if this was the case, why didn’t the Senator co-sponsor the Senate Resolution to create a “talking filibuster,” requiring those who filibuster to actually speak on the Senate floor. We received no reply.

Senators Barbara Boxer (D-Calif.), Sherrod Brown (D-Ohio), Tom Carper (D-Del.), and Carl Levin (D-Mich.) also declined to address whether or not they support the specific legislative proposals on filibuster reform we inquired about, although they did express broad support for rolling back the abuse of the filibuster.

Legislative proposals to limit casual use of the filibuster

The start of this Congressional session saw the introduction of several pieces of legislation designed to reform the filibuster system. Sens. Harkin, Merkley, and Tom Udall proposed a [Senate Resolution](#) that would create a “talking filibuster,” requiring those who wish to hold up progress on a bill to actually hold the floor of the Senate for the duration of their filibuster.

This bill was co-sponsored by Senators Tammy Baldwin (D-Wis.), Mark Begich (D-Alaska), Richard Blumenthal (D-Conn.), Al Franken (D-Minn.), Kirsten Gillibrand (D-N.Y.), Martin Heinrich (D-N.M.), Tim Kaine (D-Va.), Angus King (I-Maine), Amy Klobuchar (D-Minn.), Bob Menendez (D-N.J.), Barbara Mikulski (D-Md.), Chris Murphy (D-Conn.), Bernie Sanders (I-Vt.), Brian Schatz (D-Hawaii), Jeanne Shaheen (D-N.H.), Jon Tester (D-Mont.), Mark Warner (D-Va.), Elizabeth Warren (D-Mass.), and Sheldon Whitehouse (D-R.I.).

In addition, Senator Harkin proposed a [more far-reaching plan](#) that would, over the course of eight days, gradually reduce the number of votes required to cut off debate on a bill, from 60 for the first vote to 51 for the fourth. The most recent version of this proposal, which Harkin first introduced in 1995 and has periodically re-introduced since, only has two co-sponsors, Sens. Mikulski and Schatz.

A few offices claimed that the Senator and their staff were too busy working on other issues to comment on filibuster reform. The press secretary of Senator Patrick Leahy (D-V.t.), said that because the Senator was working on an immigration bill, he would most likely be unable to answer our questions. Even when Remapping Debate emailed a list of questions, we were told that it was “not probable,” that we would get responses. We sent a follow up email, informing the press secretary of an extended deadline, but received no reply.

The offices of Senator Dick Durbin (D-Ill.) and Mary Landrieu (D-La.), also indicated the Senator was busy and would most likely be unable to reply.

Remapping Debate’s questions for the Senators

We emailed the following questions to the press offices of Senators who supported the Manchin-Toomey gun control legislation but did not co-sponsor the “talking filibuster” proposal at the beginning of this year:

1. Last month, the Manchin-Toomey amendment failed to garner the 60 necessary votes required for passage by the consent agreement requested by Senate Majority Leader Harry Reid. You voted for the passage of that amendment. Does the failure to pass meaningful gun control legislation give you cause to question the Senate’s current filibuster rules? If not, why?
2. According to Gallup, the Manchin-Toomey amendment was supported by 65 percent of Americans and opposed by only 29 percent. If a measure with such national popularity failed to pass the Senate, doesn’t that indicate a broken legislative system? If so, isn’t filibuster reform the best way to fix it?
3. Last January, Senators Udall, Merkley, and Harkin proposed a Senate Resolution that would create a “talking filibuster,” requiring those who filibuster to actually speak on the floor of the Senate for the duration of their filibuster. You were not among the 22 Senators to co-sponsor this bill. Would you now support such legislation? If not, what is your objection?
4. Shouldn’t Senators who want to stymie an up or down vote have to stand and explain their reasons?
5. Wouldn’t the talking filibuster deter frivolous filibusters and keep the filibuster reserved for extraordinary circumstances?
6. Senator Harkin has proposed legislation that would, over the course of eight days, gradually reduce the number of votes required to cut off debate on an initial procedural motion, from 60 for the first vote to 51 for the fourth. Would you support this plan? If not, what is your objection?
7. Isn’t it the case that Senator Harkin’s proposal would still allow for at least eight days, plus 30 hours of debate, to discuss legislation?
8. Why isn’t that enough time for a substantive debate?
9. What are the reasons, if any, that the Senate should *not* reform its filibuster rule?
10. Isn’t there a tremendous cost associated with only allowing legislation with a supermajority in support to pass?
11. Don’t the current filibuster rules condemn us to a legislative system in which no substantive bill can become law without 60 votes?
12. What other proposals, if any, do you have for improving the functionality of the Senate?

Refused to comment

The press secretary for Senator Mark Kirk (R-Ill.) wrote back to Remapping Debate, “Unfortunately the Senator will not be available for an interview.” We followed up by emailing a list of questions and asking if it was possible to receive written responses instead. We then followed up to inform the office of our deadline extension. We followed up once more both through phone and email, but never received a reply.

The press office of Senators Mazie Hirono (D-Hawaii), John McCain (R-Ariz.), and Pat Toomey (R-Pa.) also declined to answer our questions.

Did not respond

The majority of Senators we reached out to refused to give any explanation as to why our questions remained unanswered. For example, after repeatedly reaching out to the press office of Senator Dianne Feinstein (D-Calif.), the communications director wrote back asking for our specific question. Remapping Debate sent him our questions, but received no response. We then followed up with a deadline extension, but no one got back to us.

Remapping Debate received no substantive response from the press offices of Senators Michael Bennet (D-Colo.), Maria Cantwell (D-Wash), Susan Collins (R-Maine), Chris Coons (D-Del.), William Cowan (D-Mass.), Joe Donnelly (D-Ind.), Kay Hagan (D-N.C.), Tim Johnson (D-S.D.), Joe Manchin (D-W. Va.), Claire McCaskill (D-Mo.), Patty Murray (D-Wash.), Jack Reed (D-R.I.), Harry Reid (D-Nev.), Jay Rockefeller (D-W.Va.), Chuck Schumer (D-N.Y.), Debbie Stabenow (D-Mich.), Mark Udall (D-Colo.), and Ron Wyden (D-Ore.).

This content originally appeared at <http://www.remappingdebate.org/node/1949>