

A GUIDE TO THE TALKING FILIBUSTER

Blog Articles · Feb 26, 2026

There's a lot of discussion about how Republicans can use the talking filibuster in the Senate to pass the SAVE America Act. But what is the talking filibuster exactly? To answer that question, a brief lesson in the history of the Senate is in order.

HISTORY OF THE FILIBUSTER

Starting in the early 1800s, the rules of the Senate allowed unlimited debate, which meant debate on pending legislation could continue indefinitely. This practice became known as the "filibuster." The only way to end debate was to exhaust all discussion, amendments, and motions on a bill, after which the Senate would move to a simple majority vote on passage. And that is how the Senate operated until 1917.

In 1917, the Senate adopted a new rule allowing two-thirds of all senators to end debate and move to a vote on a bill, a process known as "invoking cloture." The threshold for cloture was later lowered to three-fifths of all senators "duly chosen and sworn" (60 if every seat in the Senate has a sitting member).

Today's Senate operates as if cloture is the only way, under the rules, to end debate and move to a vote—this ignores the more than 100 years during which they operated without it. Pre-cloture unlimited debate is still an option, and though it is no easy feat, Senate Republicans could force Democrats to oppose bills not by voting down cloture, but by holding the floor and debating the bill under the rules of a "talking filibuster" until either side relents.

MECHANICS OF A TALKING FILIBUSTER

According to Senate rules, there are only three activities that can happen on the Senate floor: a speech, a vote, or a quorum call. A quorum call is held to establish the presence of at least 51 senators, the number required by the Constitution for the Senate to conduct business. Under current practice, when senators are not speaking, and a vote is not taking place, the Senate is held in a perpetual quorum call, freezing the floor until the next vote or speech. However, only the Senate Majority Leader has the power to make a quorum call go "live," which compels senators, by law, to report to the Senate floor.

Once a quorum has been established, senators opposed to the bill have two options: give speeches or offer motions or amendments. To do this, there would need to be at least 20 opposition allies on the floor to provide a sufficient second on the motion required to initiate a roll call vote. If there were fewer than 20, the bill supporters could table amendments by voice votes. Further, supporters of the bill could prevent any amendments from receiving a vote by offering a motion to table and voting to set aside the amendment under consideration. The final option is endless debate: the talking filibuster. This process becomes grueling very quickly.

During debate on a bill, Senate Rule XIX limits senators to two speeches per legislative day, defined as the time from start of business until the Senate is adjourned and thus one legislative day could span several calendar days. This is known as the “two-speech rule”— and it applies to filibusters. Once a senator gets up to speak, he or she may not leave the floor, not even to use the restroom. They can’t sit, and they can’t eat. They are only allowed to drink water or milk (yes, milk). Each senator could do this only twice, meaning each willing senator would have to commit to speaking for several hours, likely late into the night or early morning.

One of the common misconceptions about a talking filibuster is that it would require 51 bill supporters on the floor at all times. This is false. They would need only to be ready to go to the floor on short notice. Let’s use the SAVE America Act as an example. This is a bill strongly supported by the GOP and equally opposed by Democrats.

In this instance, Republicans would need to remain close by, and in communication with Majority Leader Thune -- they would not need to stay directly on the floor. Democrats could try to get a break by initiating a quorum call. In that case, Republicans could easily come to the floor and provide a quorum, and debate would resume. Once Democrats exhausted all their allowed speeches and motions or yielded the floor, the bill would go straight to a vote, and only a simple majority of 51 senators would be needed to pass the bill. The Republicans would aim to exhaust their opponents, while the Democrats would try to hold the line and prolong debate until Republicans backed down. The process could end in a negotiated settlement between Republicans and Democrats where Republicans agreed to change some elements of the bill in exchange for enough Democrat votes to invoke cloture. It is important to note that, despite what some in the Washington establishment claim, a talking filibuster would not require any changes to Senate rules or precedent. The process for initiating a talking filibuster is well within bounds and was the primary tool for ending Senate debate for more than a century.

The modern-day Senate has grown accustomed to silent filibusters that rely on cloture guarantees, but it is time to bring debate back to the public forum.