

OPINION

The filibuster is not the problem. It’s the point

Congress remains locked in the longest government shutdown in U.S. history. While headlines understandably focus on safety-net and healthcare talks, a broader institutional danger looms: elimination of the Senate filibuster.



Dustin Isaacs
COMMUNICATIONS PROFESSIONAL

The filibuster, which requires 60 votes to advance most legislation, is no gimmick. It’s a structural safeguard rooted in the Senate’s constitutional role. Preserving it maintains balance, protects minority voices, and prevents rapid, destabilizing policy shifts the Founders feared.

As Senator Mitch McConnell has noted, the Senate exists to require deliberation and cooperation, not to ratify the passions of the moment.

The Federalist Papers, particularly No. 51, show the framers intended government to act deliberately, not impulsively. James Madison believed legislative authority predominates and must be divided, with each chamber operating on different principles. The filibuster embodies that vision. While it’s frustrating to the majority, that’s the point.

This constitutional logic isn’t just theoretical. Senator Rand Paul has echoed this view, repeatedly using the filibuster to oppose legislation he saw as infringing civil liberties—a reminder that it protects principles, not just parties.

Though not in the Constitution, the filibuster aligns with the Founders’ intent. It emerged in the early 1800s, when the Senate dropped a rule allowing debate to be cut off. Both parties have used it, including Robert Byrd, who attempted to block the Civil Rights Act of 1964. Yet the law passed under existing rules—a testament to the system’s resilience. But not every bill is as noble as the Civil Rights Act.

That history reminds us: the filibuster doesn’t prevent change, but ensures only broadly supported, thoughtfully crafted change endures. In an era of hyper-partisanship, that kind of stability matters to every Kentuckian and American.

In 2013, the U.S. Senate Democratic majority eliminated the filibuster for most federal judicial nominations, a decisive break with more than two centuries of precedent. At the time, McConnell warned Democrats would “rue the day” they weakened that guardrail. His prediction proved prescient when Republicans later extended the same precedent to Supreme Court confirmations.

While Republicans followed Democrats’ path on judges, McConnell has consistently drawn a principled line between nominations and legislation. “Legislation is very different,” he said in 2021, and he is right.

Even in power, McConnell resisted pressure to scrap the rule for legislation. We should all hope this is a position the entire Republican Party will take and maintain. Democrats are invited to join.

Critics of the filibuster claim it obstructs progress. But what some call obstruction, the Founders would call caution. Major legislation should be difficult to pass, and the deliberative Senate chamber is designed to slow down the process.

There’s a well-known story, perhaps apocryphal, about Thomas Jefferson questioning George Washington on the need for a second legislative chamber. In the tale, Washington responds by comparing the Senate to a saucer: just as one pours hot coffee into a saucer to cool it before drinking, legislation is poured into the Senate to cool it through deliberation. Whether or not the exchange actually happened, the metaphor has endured as a symbol of the Senate’s role in tempering hasty decision-making.

Imagine a Senate where impulse and passion have no time to cool, and where a shift in the balance of power brings sweeping reversals and a sense of whiplash to the American public. When Democrats regain power, and they will, there will be calls to grant statehood to Washington, D.C., pack the Supreme Court, and more. Without the filibuster, little stands in the way. They’ve already laid the rhetorical groundwork, framing such moves as essential to “sustain democracy.”

This is why Senate Republicans, no matter the pressure, must not take the bait. The shutdown, serious as it is, cannot justify undermining a cornerstone of the institution.

Still, some Republicans may feel tempted to act preemptively.

That’s a mistake.

Once this line is crossed, it’s unlikely we could ever go back. Republicans wouldn’t just share the blame; they’d carry the legacy of weakening the Senate beyond recognition. If Democrats dismantle norms, let them do so on their own record. Let them own it.

By the time this appears, I hope the shutdown has ended, and not because the nuclear option was deployed. It may look like a shortcut, but scrapping the filibuster, also known as the “nuclear option,” is the political equivalent of the Manhattan Project: once used, it permanently alters the future.

In today’s climate, it’s easy to view procedural rules as obstacles. However, for millions of Americans, they are the very tools that keep government fair and accountable, regardless of who is in power.

The Senate’s structure reflects the Founders’ wisdom: liberty survives when government moves cautiously, anchored in consensus. The filibuster embodies that principle. Kentucky is fortunate to have senators who have recognized this truth. Others must join them.

Preserve the filibuster.

Dustin Isaacs is from Sand Gap and is a graduate of Eastern Kentucky University. He has over a decade of experience in communications, political consulting, campaigns, and elections. He is currently Deputy Communications Director for the GOP Senate President’s Office. These views are his own and do not reflect those of his employer.



Session Results: Elections, Constitutional Amendments, and Intergovernmental Affairs

With candidates lining up for next year’s U.S. Senate race, this may prove to be a great time to talk about the work done by the House Elections, Constitutional Amendments, and Intergovernmental Affairs Committee during this year’s legislative session.

This committee’s work can be tedious, but think of elections and constitutional amendments as the ultimate “tune-ups” for our Commonwealth’s government. Like our nation, our state is a representative democracy (or democratic republic), so we elect women and men to make decisions and pass laws on their behalf. That is exactly what happens in Kentucky: voters elect the governor, legislators, local officials, and school board members to represent them.

In short, participating in elections and understanding amendments is more than just civic duty, it is how we make sure our government actually works for us. And yes, it is also a little like steering a ship: the more people on board who work toward the direction, the smoother the journey.

Specifically, this committee handles everything related to elections and protecting the integrity of our democracy. That includes:

- Proposing changes to the Kentucky Constitution and even deciding whether

a constitutional convention is necessary. Amending the constitution matters because



Shane Baker
KENTUCKY STATE REP.

it’s how we fix outdated rules, protect new rights, and make government work better for the people;

- Ratifying amendments to the U.S. Constitution when the federal government proposes changes that impact Kentucky;
- Overseeing elections for state, local, and school board officials—the leaders who make decisions that affect our daily lives;
- Managing election commissioners, precincts, and poll workers to ensure elections are organized and fair;
- Setting rules for who can vote, how voters register, and how voter rolls are kept accurate;
- All types of elections: regular, primary, special elections to fill vacancies, and even presidential and congressional elections;
- Investigating election disputes or challenges to ensure outcomes are legiti-

mate;

- Combating corruption and enforcing rules for campaign spending so elections aren’t bought or influenced unfairly;
- Writing laws to help prevent campaign violations;
- Approving the voting machines and absentee ballot systems that make voting accessible and secure; and
- Working with other states and the federal government on election matters and other issues affecting multiple levels of government, ensuring Kentucky is part of broader agreements and complies with interstate compacts.

In short, the committee’s work ensures that every Kentuckian’s vote counts, the rules are fair, and our constitutional rights stay strong.

This session, the committee considered a number of proposals, these are the measures that made it through the entire process to become law:

Preserving Free Speech – HB 27 clarifies existing laws to prohibit homeowner associations from banning political yard signs in planned communities.

Clarifying Disclosures and Foreign National Contributions to Ballot Measures – HB 45 closes a loophole that allows foreign nationals to donate to campaigns for ballot measures by requiring

donors to certify that they are not a foreign national. The measure includes penalties on the donor and recipient if a foreign donation is not certified or reported. Also requires disclosure of what party paid for an advertisement regarding a ballot measure.

Ensuring Election Integrity – HB 455 creates the Unit of Elections Investigation and Security within the Attorney General’s Office and requires annual reporting of office investigations to the legislature.

Ensuring Election Integrity – HB 684 strengthens the election process with changes that include clarification of candidate filing and reporting information; prohibiting a credit or debit card to be used as identification; allowing caregivers of those qualified to vote in-person absentee to do the same; requiring advance notification to school boards if a school will be used as a polling location, and eliminating a requirement that schools used as voting locations be closed on election day.

As always, I can be reached anytime through the toll-free message line in Frankfort at 1-800-372-7181. You can also contact me via email at shane.baker@kylegislature.gov and keep track through the Kentucky legislature’s website at legislature.ky.gov.



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