



Weekly Checkup

Why Do We Still Have the Filibuster?

CHRISTOPHER HOLT | MARCH 26, 2021

The filibuster looms over President Biden’s legislative agenda, in particular his health policy goals. Biden campaigned on lowering the Medicare eligibility age and adding a public option to the Affordable Care Act (ACA). Many Democrats would like to go even further and implement a single payer “Medicare for All” system. But even with Democrats holding unified control of government for the first time since 2009, none of those policies can get past a Republican filibuster. As a result, **progressives are eager to end the filibuster, but doing so may not result in the bevy of policy victories many on the left are hoping for. That’s because if Senate Democrats really had consensus across enough of these policy matters, they would likely have eliminated the filibuster already.**

The popular narrative around the filibuster is that it is a tool of the minority that is both undemocratic and the primary cause of congressional gridlock. The reality is that the Senate majority sets the rules of the chamber, and the filibuster, as we know it today with its cloture motion, was once seen as a boon to the majority. The ability of individual senators to prevent action on legislation [dates back](#) to a somewhat unrelated rule change in 1806, and the process of invoking cloture (voting to end debate) was established in 1917. The idea behind cloture was to give a substantial majority of senators (at the time two-thirds of those present and voting) the ability to force an end to debate and vote on the underlying measure.

Right now, the debate among Democrats is over whether to allow a simple majority to invoke cloture. But making that change may not be advantageous to the majority. When Senators Manchin and Sinema—along with six of their Democratic colleagues—[opposed](#) overriding the Senate parliamentarian to pass a minimum wage hike as part of reconciliation, it was framed as a matter of process rather than a policy. In the absence of the 60-vote threshold, those senators would have been forced to vote on the underlying policy, a more politically fraught calculation. **Without the filibuster, Senate Majority Leader Schumer won’t have a procedural excuse to avoid bringing more divisive and controversial progressive priorities that divide his conference to the Senate floor, and Democratic senators won’t have procedural cover if they oppose those policies.** Republicans didn’t eliminate the filibuster in 2017 (or in 2001 for that matter) in part because their slim majorities weren’t sufficiently unified on policy for the filibuster to matter. Repealing the ACA didn’t fail in 2017 because of the filibuster; it failed because 50 Republicans couldn’t agree on the policy specifics. Similarly, the ACA debate occurred with a 60-seat Democratic majority. In that case as well it was policy disagreements among Democrats, not procedural hurdles, that ultimately blocked progressive priorities such as a public option. **Blaming minority obstruction is often preferable—at least to party leaders—to putting inter-party policy disagreements on full display.**

Could a public option pass in the absence of the filibuster? It’s possible, though at least one Democratic senator is [on record](#) opposing it. While members often succumb to party pressure when faced with a floor vote, forcing senators into politically difficult votes is not something Senate leaders like to do. If ending the filibuster becomes clearly advantageous to the Senate majority, then the filibuster will end, but the truth is that the filibuster, while frustrating, is also useful to members of the majority. It allows policy divisions to be papered over, provides a convenient excuse for why the Senate isn’t acting on more controversial policy

matters, and prevents politically vulnerable senators from being forced to stake out electorally damaging positions. **Democrats have moved to the left on health policy in recent years, but it's not clear that all fifty Senate Democrats have moved far enough to the left to make eliminating the filibuster worthwhile.**

Will the filibuster survive the 117th Congress? Very possibly not, but **if it is eliminated it will be because the Democratic majority has achieved consensus over a substantial enough subset of salient policy issues that the filibuster is no longer advantageous to them.** The filibuster survived the 115th Congress not because Senate Democrats in the minority valued it, but because enough Senate Republicans in the majority did. The reverse is also true for now.

VIDEO: MEDICAID CAPS IN U.S. TERRITORIES

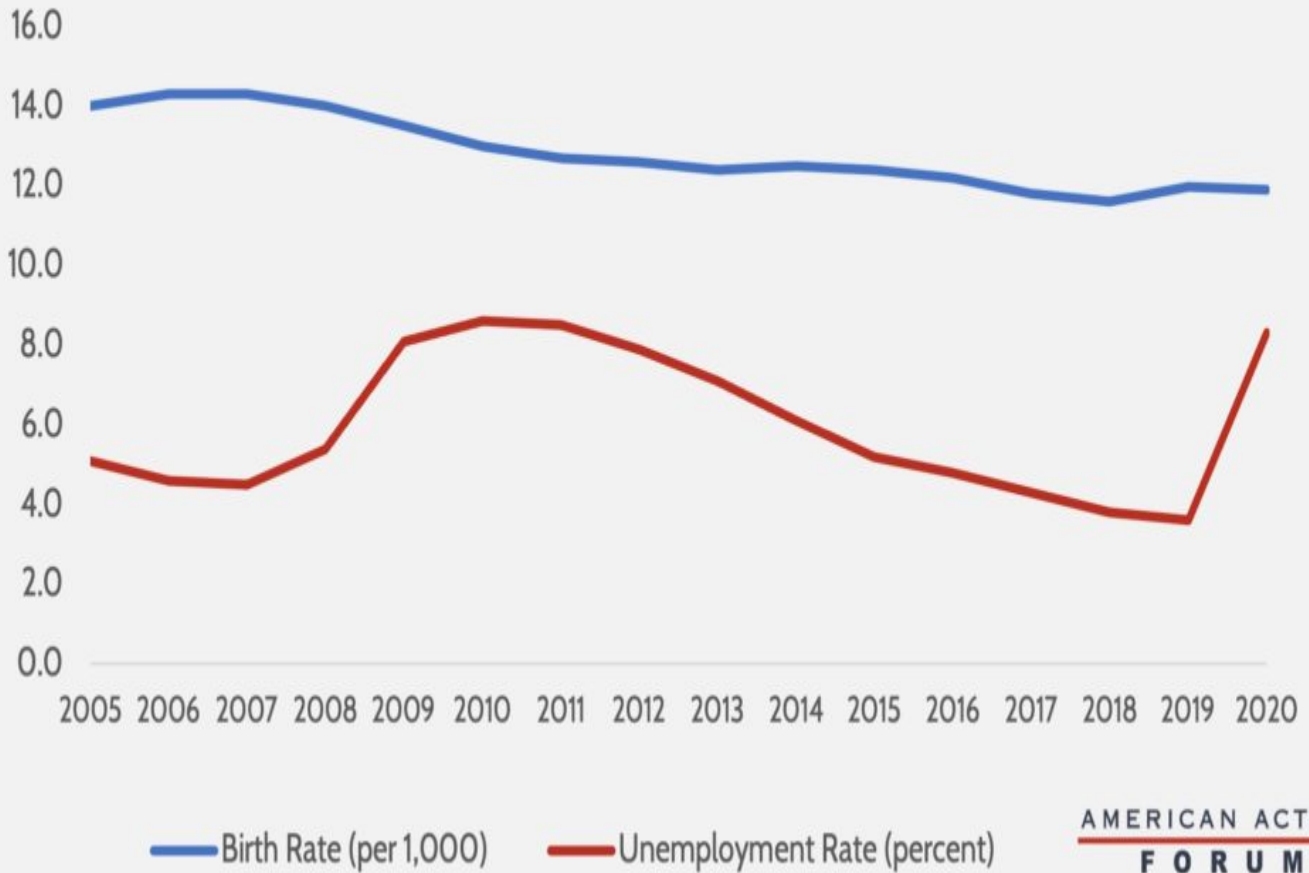
Should Medicaid caps in U.S. territories be increased or eliminated? AAF's Christopher Holt explains the pros and cons of such a proposal.

CHART REVIEW: DOES WOMEN'S UNEMPLOYMENT RATE AFFECT THE BIRTH RATE IN THE UNITED STATES?

Ashley Brooks, Health Care Policy Intern

At the start of the COVID-19 pandemic and consequent lockdowns, some [suggested](#) the possibility of a baby boom, or at least a baby “blip.” This discussion involved analysis from previous natural disasters and catastrophes on birth and fertility rates. Other [reports](#) resurfaced, however, emphasizing the impact of unemployment on childbearing, suggesting a 1.4 percent decrease in birth rates for every one-percentage point increase in unemployment rates. As with the general public, the women's unemployment rate was on a consistent decline over the past 10 years, following the 2008 recession, until the pandemic. Between 2019 and 2020, the women's unemployment rate jumped from [3.6 percent to 8.3 percent](#). Similarly, the birth rate has remained on a steady decline since 2008, dropping from [14 to 12](#) births per 1,000 people over the decade. As the graphic below shows, the pandemic does not appear to have impacted the birth rate thus far, although there was a slightly more precipitous drop in the years following the 2008 recession. With the increase in the unemployment rate in 2020, the potential effect on the birth rate may yet be seen in the next decade; in 2021, [300,000 fewer births](#) are expected due to societal and economic factors.

Birth Rate Versus Women's Unemployment Rate in the United States, 2005-2020



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TRACKING COVID-19 CASES AND VACCINATIONS

Ashley Brooks, Health Care Policy Intern

To track the progress in vaccinations, the Weekly Checkup will compile the most relevant statistics for the week, with the seven-day period ending on the Wednesday of each week.

Week Ending:	New COVID-19 Cases: 7-day average	Newly Fully Vaccinated: 7-Day Average	Daily Deaths: 7-Day Average
March 24, 2021	57,249	638,487	1,040

March 17, 2021	54,005	933,665	1,058
March 10, 2021	55,857	893,939	1,497
March 3, 2021	63,046	867,067	1,935
Feb. 24, 2021	66,719	807,150	2,062
Feb. 17, 2021	76,993	713,039	2,689
Feb. 10, 2021	104,061	669,817	3,011
Feb. 3, 2021	134,814	462,804	3,015
Jan. 27, 2021	162,317	321,969	3,298

Sources: Centers for Disease Control and Prevention [Trends in COVID-19 Cases and Deaths in the US](#), and [Trends in COVID-19 Vaccinations in the US](#)

Note: The U.S. population is 330,158,843.

WORTH A LOOK

[New York Times](#): The Next Trick: Pulling Coronavirus Out of Thin Air

[Fierce Healthcare](#): House introduces bill to expand coverage of audio-only telehealth to MA plans