



NEW YORK
CITY BAR

TASK FORCE ON THE RULE OF LAW

STEPHEN L. KASS
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January 6, 2022

Hon. Charles Schumer
Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Hon. Mitch McConnell
Minority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

Re: The Need for Filibuster Reform

Dear Majority Leader Schumer and Minority Leader McConnell:

I write on behalf of the New York City Bar Association’s Task Force on the Rule of Law to urge the Senate to act promptly to reform its current “filibuster” rule to permit the Senate to perform its duties as contemplated by the Constitution.

As discussed in the recent City Bar report, *The Consent of the Governed: Enforcing Citizens’ Right to Vote*,¹ the current filibuster rule not only threatens to prevent critical legislation on voting rights, but “effectively paralyzes half of the Legislative Branch of our federal government and, by so doing, leads inevitably to greater reliance on the Executive Branch ... to establish policies and programs that are often properly within the purview of Congress.”

¹ See <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/american-right-to-vote-election-reform-laws>, p. 41. The report discusses potential filibuster reforms at pp. 41 – 45. (Websites last visited Jan. 6, 2022).

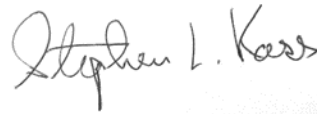
About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

We understand from press reports that the Senate will likely consider in the coming weeks a number of potential filibuster reforms, including (1) a reduced cloture requirement for voting rights; (2) the so-called “talking filibuster”; and (3) a shift in the burden of cloture by requiring 41 votes to maintain a filibuster, rather than 60 votes for cloture. We are aware of an additional reform that we hope the Senate will also consider – the “sliding scale” filibuster rule suggested by former Senator Tom Harkin,² which would maintain the current 60-vote cloture requirement but gradually reduce it (in weekly steps) to a conventional majority vote over the course of one month, giving the minority on any issue ample time to make its point yet assuring that the majority can ultimately act if it believes the matter is of sufficient importance.

While we take no position on which of these reforms is preferable, we again urge the Senate to move promptly on at least one such reform of its filibuster rule so that the Senate, and the American people, can have the benefit of the effective Legislative Branch that our Constitution and our nation require for voting rights and other matters of critical national concern.

Sincerely,

A handwritten signature in black ink that reads "Stephen L. Kass". The signature is written in a cursive style with a large initial 'S'.

Stephen L. Kass
Chair, Task Force on the Rule of Law

² Tom Harkin, *Here's another option for filibuster reform that could achieve compromise*, Wash. Post, July 22, 2021, <https://www.washingtonpost.com/opinions/2021/06/22/tom-harkin-filibuster-reform-proposal/>.