HOW THE FILIBUSTER HAS HURT AMERICAN WORKERS AND PROTECTED CORPORATE INFLUENCE

ISSUE BRIEF BY **EMILY DIVITO** | JANUARY 2021

INTRODUCTION

In recent decades, the routine use of the filibuster in the United States Senate has effectively created a 60-vote threshold for passage of most major pieces of legislation. Although some scholars have examined the effect of that heightened threshold on the enactment of civil rights legislation, there has been less analysis of how the filibuster has affected economic policymaking (National Constitution Center 2016) (O'Donnell 2014).

This issue brief examines bills that the Senate has considered since 1947 relating to worker power or corporate influence, which I define as any legislation addressing campaign finance and lobbying disclosures, financial sector regulations, workplace discrimination and labor law reform, worker pay, and corporate tax rates.[1] Of the almost 700 failed cloture votes since 1947, 456 of them—on over 300 different pieces of legislation, nominations, and treaties—received more than 50 votes but fell short of the requisite 60 (US Senate 2020). From that set of bills, I identified 49 related to worker power or corporate misconduct or influence. I further identified nine such bills that appeared likely *to be enacted* had the Senate approved them. Of those nine bills, eight would either have empowered workers or reined in corporate influence or misconduct, while only one would have had the opposite effect.

This analysis demonstrates that, in recent history, the filibuster has stood in the way of progressive policies intended to put more power in the hands of American workers. While historical practice is not necessarily indicative of future results, this analysis suggests that the filibuster will primarily serve as a barrier to pro-worker reforms in the years to come, rather than as a check against anti-worker measures.

[1] I began this analysis with 1947, the year the Labor Management Relations Act, popularly known as Taft-Hartley, was passed. Taft-Hartley, which greatly restricted labor union activities and reduced worker leverage, ushered in a new era of strained labor relations in the US and offers a useful starting point for this historical review.

HOW THE FILIBUSTER WORKS AND HOW IT HAS BEEN USED

While the filibuster is considered one of the most distinctive features of the United States Senate, it was not part of the founders' original vision, but an accident created by the *absence* of a rule (Binder 2010). In 1806, the Senate attempted to simplify its rulebook by eliminating the "previous question" motion, which allowed a simple majority to end debate on a bill and move to a vote (Binder 2010). The elimination of that procedural motion created a loophole whereby Senators could filibuster, or hold the floor and refuse to end debate on a bill to delay a vote, indefinitely.

As a consequence of its unintended origin, the Senate has few rules for filibustering. For much of the Senate's history, none were needed as norms prevented abuse of the filibuster. In 1917, after a small band of senators effectively blocked a military arms bill, the Senate created the Cloture Rule (Senate Rule XXII) to formally end debate and force a vote on a bill (Heitshusen and Beth 2017) (Fisk and Chemerinsky 1997).

Until 1975, cloture required two-thirds of the Senate; since then, the threshold has remained at its current level of three-fifths (or 60 votes) (US Senate 2020). When a motion to invoke cloture meets the 60-vote threshold, all further consideration (including debate, quorum calls, and procedural motions) is limited to 30 hours before a final vote must be held (Heitshusen and Beth 2017). Final passage of the bill is subject only to a majority (or 50-vote) threshold.

There is no perfect record of how many filibusters have been initiated, in part because whether or not one is being conducted is sometimes unclear. The closest metric is the count of cloture motions, but this is an imperfect proxy because not all filibusters prompt cloture votes, and not all cloture votes succeed filibusters.

Nevertheless, the skyrocketing use of motions to invoke cloture suggests that filibusters have become routine. Since 1947, the Senate has held more than 1,749 votes to invoke cloture (compared to only 19 total such votes between 1917 and 1947), and 1,216 of those votes have occurred over the last 20 years alone (US Senate 2020). More and more legislative business is being filibustered in the Senate, creating a de facto 60-vote threshold for passage of major legislation.

HOW THE FILIBUSTER HAS BLOCKED PROGRESSIVE PRO-WORKER LEGISLATION

To conduct this analysis, I identified every bill between 1947 and the present day that fell short of the 60-vote threshold for cloture but received at least 50 votes in favor of ending debate (strong, but not absolute, evidence that the bill would have passed the Senate if it were subject to a simple majority-vote threshold). I then narrowed that list to bills that appeared likely to be enacted if not for failing in the Senate—that is, bills that appeared to have the support of both the House of Representatives and the president at the time. Finally, I focused on the subset of those bills relating to workers' rights and corporate influence or misconduct. Bills primarily related to fiscal policy (i.e., tax or spending proposals) were not included in the analysis.

Of the nine bills I identified that met these criteria, eight would have expanded worker power or reined in corporate conduct. Here are those nine bills in chronological order:

FAIR EMPLOYMENT PRACTICES (S.1728) (1950)

This bill would have codified President Franklin D. Roosevelt's 1941 executive order prohibiting discrimination based on race, color, religion, or national origin within federal agencies, private companies, and labor unions engaged in war-related work ("Executive Order 8802" 1941) (S. 1728 1949) and expanded such antidiscrimination protections to all sectors. It would also have made permanent the Fair Employment Practices Commission (FEPC) that Roosevelt's order established to investigate and intervene in instances of employment discrimination.

Despite numerous delay tactics deployed by opponents, which included a band of conservative Southern Democrats, a version of the bill passed the Democratic-majority House. However, after senators filibustered, the bill failed to clear the threshold to invoke cloture on two occasions by votes of 52-32 and 55-33 (Aronson 1950).

President Harry Truman was strongly in favor of the bill, as was a broadening coalition of civil rights, religious, and labor groups (US Congress 1950) (Aronson 1950). Thus, the Senate's failed cloture was the reason for the bill's failure. In the absence of this bill or any other prominent related legislation, it was not until the 1960s—with the Civil Rights Act of 1964—that employment discrimination on the basis of race became illegal in the US (US Department of Labor 2020).

TABLE 1. FAIR EMPLOYMENT PRACTICES (S.1728)[2]	
Introduced by	Sen. J. Howard McGrath (D-RI)
Date Introduced	1950
Cloture Votes	52-32 (Y-N) on 5/19/1950 55-33 on 7/12/1950
House	D-263D, 171R, 1American Labor
Senate	D-54D, 42R
President	Truman

NATIONAL RIGHT TO WORK REPEAL (H.R. 77) (1966)

Section 14(b) of the 1947 Taft-Hartley Act permits states to pass so-called "right-to-work" laws that ban union shops. This 1966 bill would have repealed section 14(b) and eliminated states' rights to pass such laws (H.R. 77 1966).

The bill passed a Democratic-majority House but fell short of cloture in the Senate by a 51-48 vote on February 8, 1966 (and fell short again on a 50-49 vote two days later). Because President Lyndon B. Johnson strongly supported section 14(b) repeal, the Senate's vote blocked the bill from being enacted (Mohr 1964).

Given the bill's failure, section 14(b) has remained on the books for more than 70 years and has permitted 27 states to pass right-to-work laws undermining labor unions (NCSL 2020). Studies show that right-to-work laws hurt workers by encouraging states to weaken labor protections and lower wages by as much as $1,500 per year (Gould and Kimbal 2015).

[2] Each table in this brief cites the elected official who introduced the proposed bill and the date on which it was introduced. The cloture vote counts and dates can be found at (US Senate 2020). The respective party composition of each chamber can be found at (US House of Representatives: History, Art & Archives 2021) and at (US Senate 2021).

TABLE 2. NATIONAL RIGHT TO WORK REPEAL (H.R. 77)[2]	
Introduced by	Rep. Frank Thompson, Jr. (D-NJ)
Date Introduced	1965
Cloture Votes	45-47 (Y-N) on 10/11/1965 51-48 on 2/8/1966 50-49 on 2/10/1966
House	D-255D, 180R
Senate	D-68D, 32R
President	Johnson

LABOR LAW REFORM ACT (H.R. 8410) (1977)

The initial Labor Law Reform Act included several pro-worker reforms. Among other things, it would have revamped the National Labor Relations Board, established procedures for certain expedited union elections, and denied government contracts to companies willfully violating orders regarding unfair labor practices (H.R. 8410 1977). Labor groups at the time supported the bill (Lugar 1978).

The bill passed the House, and after two failed cloture votes, the Democratic-majority Senate changed strategy and offered an amendment that would have rolled back the bill's provisions around union elections and lifted the loss of federal contracts for labor violations (Labor Law Reform 1978). Though weaker, the measure retained the support of labor groups (Shelton 2017), and President Jimmy Carter worked closely with them to move the bill through Congress (Halpern 1996). But the amended bill still failed a final vote to invoke cloture (53-45).

TABLE 3. LABOR LAW REFORM ACT (H.R. 8410)	
Introduced by	Rep. Frank Thompson, Jr. (D-NJ)
Date Introduced	July 19, 1977
Cloture Votes	49-41 (Y-N) on 6/8/1978 42-47 on 6/7/1978 53-45 *on S.Amdt. 2445* on 6/13/1978 58-41 *on S.Amdt. 2445* on 6/14/1978 58-39 *on S.Amdt. 2445* on 6/15/1978 53-45 *on S.Amdt. 2445* on 6/22/1978
House	D-292D, 143R
Senate	D-61D, 38R, 1I
President	Carter

LABOR RELATIONS AND RAILWAY ACT AMENDMENT (S.55) (1994)

This 1994 bill would have amended the National Labor Relations Act to strengthen worker protections during disputes, including by prohibiting an employer from hiring permanent replacements for strikers (S. 55 1978). The bill passed the Democratic-majority House but fell short of clearing cloture in the Senate by a final vote of 53-46. Because President Bill Clinton had made striker protections a priority for his administration, the Senate's vote blocked the bill from being enacted (Moberly 2006).

In 1995, President Clinton—attempting to compensate for the failed bill—issued an executive order that authorized the secretary of labor to terminate federal contracts with companies that permanently replaced economic strikers (Moberly 2006). But the order's applicability was narrow and was overturned by a federal court the next year (Moberly 2006).

Today, strikers have some limited protections, but many still can be lawfully replaced by their employers—undermining the leverage workers have at their disposal when considering a potential strike (NLRB 2020).

TABLE 4. LABOR RELATIONS AND RAILWAY LABOR ACT AMENDMENT (S.55)	
Introduced by	Sen. Howard Metzenbaum (D-OH)
Date Introduced	July 1, 1994
Cloture Votes	53-47 (Y-N) on 7/12/1994 53-46 on 7/13/1994
House	D-258D, 176R, 1I
Senate	D-56D, 44R
President	Clinton

BIPARTISAN CAMPAIGN FINANCE ACT OF 1999 (S.1593)

This 1999 bill would have instituted new campaign finance regulations, including banning unlimited "soft money" contributions to political committees and parties—a loophole that outside organizations and corporations took advantage of to funnel unregulated money into political candidates and parties (S. 1593 1999).[3] Between 1992 and 2000, organizations provided more than $700 million in soft money contributions—more than twice as much as soft money contributions from individuals for the same time period (OpenSecrets n.d.).

The failed cloture vote of note was on an amendment, which would have substituted into the Senate bill the text of the House version that had already overwhelmingly passed with bipartisan support (Bipartisan Campaign Reform Act 1999). Thus, the Senate's failed cloture vote of 53-47 on that substitute amendment thwarted congressional attempts to send an aligned and bipartisan bill to the president. Because President Clinton was supportive of campaign finance reform, the Senate's failed cloture vote prevented the bill's passage (Dewar 1999).

[3] Outside organizations include for-profit businesses, trade associations, special interest groups, and labor unions.

In 2002, another iteration of bipartisan campaign finance reform—known as McCain-Feingold—passed Congress and was signed into law by President George W. Bush, making it the first major campaign finance legislation since 1974 (Washburn 2018). But McCain-Feingold's passage came after the 2000 presidential election, during which unregulated soft money contributions reached record highs, and the major parties spent more than candidates themselves on television ads for the first time in the history of US elections (Rabinowitz et al. 2004).

TABLE 5. BIPARTISAN CAMPAIGN REFORM ACT OF 1999 (S.1593)	
Introduced by	Sen. John McCain (R-AZ)
Date Introduced	September 16, 1999
Cloture Votes	53-47 (Y-N) *on S.Amdt. 2299* on 10/19/1999 52-48 *on S.Amdt. 2298* on 10/19/1999
House	R-211D, 223R, 1I
Senate	R-45D, 55R
President	Clinton

CLASS ACTION FAIRNESS ACT OF 2003 (S.1751)

This 2003 bill is the one bill I identified that would have made it harder to hold corporations accountable or address their misconduct. The bill would have extended federal jurisdiction over state class action lawsuits to prevent (what the bill's supporters considered) plaintiffs' ability to game state courts and secure large judgments (S.1751 2003). The bill's opponents argued that it would have discouraged consumers from bringing suit against big corporations and limited their ability to secure adequate compensation for wrongdoing.

The Republican-controlled House passed the bill, but it failed cloture in a closely divided Senate by a 59-39 vote. President Bush was supportive of the bill, so its failure to overcome

a Senate filibuster stopped the bill's enactment (Purcell 2008). A nearly identical version of the bill passed Congress with strong bipartisan support two years later (Public Citizen Litigation Group 2005) (Branigin 2005).

TABLE 6. CLASS ACTION FAIRNESS ACT OF 2003	
Introduced by	Sen. Chuck Grassley (R-IA)
Date Introduced	October 16, 2003
Cloture Vote	59-39 (Y-N) on 10/22/2003
House	R-204D, 228R
Senate	R-48D, 51R, 1I
President	Bush

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010 (S.3217)

This bill was the precursor to what later came to be known as the Dodd-Frank Act, a set of reforms to the financial system in the wake of the 2008 financial crisis (S. 3217 2010). This initial version of the bill passed the House and received 56 and 57 votes for cloture in various forms, before the Senate significantly weakened the bill to secure the necessary 60 votes to invoke cloture.

The original version of the bill included a much stronger Volcker Rule—the rule that prevents banks from engaging in proprietary trading (Federal Reserve Board of Governors 2020). The updated version carved out several exemptions, including one that allowed banks to invest a certain amount of their capital in private equity and hedge funds (Merkley and Levin 2011). The original version of the bill included other provisions that banks and corporate lobbyists opposed, such as tighter regulations for derivative

exchanges, more independence for the new consumer bureau, and a fund to make big banks pay for any future bailouts (Kaiser 2014, 641—911). Negotiations to secure enough votes to invoke cloture necessitated these concessions.

TABLE 7. RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010 (S.3217)	
Introduced by	Sen. Chris Dodd (D-CT)
Date Introduced	April 15, 2010
Cloture Votes	57-41 (Y-N) on 4/26/2010 57-42 *on vote to reconsider* on 4/27/2010 56-42 on 4/28/2010 57-42 *on S.Amdt. 3739* on 5/19/2010 60-40 *on vote to reconsider* S.Amdt. 3739 (5/20/2010)
House	D-257D, 178R
Senate	D-57D, 41R, 2I
President	Obama

DEMOCRACY IS STRENGTHENED BY CASTING LIGHT ON SPENDING IN ELECTIONS (DISCLOSE) ACT (S.3628) (2010)

This 2010 bill, motivated by the *Citizens United v. FEC* Supreme Court ruling, aimed to combat the influence of unchecked corporate spending in American politics. The bill would have established new and stricter disclosure requirements for political spending by corporations, including by prohibiting US corporations with foreign ownership from making political contributions, enhancing disclosure requirements for electioneering communications, and instituting a 24-hour time clock for reporting political contributions greater than $10,000 (S. 3628 2010).

The bill passed the Democratic-majority House but fell a single vote short of cloture with a vote of 59-39. Because President Barack Obama was strongly in favor of the bill's passage, the Senate's vote blocked the bill from being enacted (White House Office of the Press Secretary 2010).

Political spending remains largely unregulated, granting corporations and high-worth donors undue influence. Since 2010, nonparty political contributions have totaled more than $4.5 billion, $1.2 billion of which has been donated by 10 individuals alone (Evers-Hillstrom 2020). A version of the DISCLOSE Act has been introduced in every Congress since 2012, though none has ever cleared the Senate (Senator Sheldon Whitehouse of Rhode Island 2019).

TABLE 8. DISCLOSE ACT OF 1999 (S.3628)

Introduced by	Sen. Chuck Schumer (D-NY)
Date Introduced	July 21, 2010
Cloture Votes	54-41 (Y-N) on 7/27/2010 59-39 *on vote to reconsider* on 9/23/2010
House	D-257D, 178R
Senate	D-57D, 41R, 2I
President	Obama

PAYCHECK FAIRNESS ACT (S.3772) (2010)

This 2010 bill would have updated the Equal Pay Act of 1966 to make it easier for female workers to raise pay discrimination claims against their employers. It would have strengthened employer penalties for wage violations, protected workers against retaliation for discussing wages with colleagues, and placed a burden on employers to

prove that any wage differentials are based on factors *other* than sex (S. 3772 2010). The bill passed the Democratic-majority House but fell two votes short of cloture in the Senate by a margin of 58-41. Because President Obama was a strong proponent of the bill, the Senate's failed cloture vote blocked the bill from being enacted (Lee 2010).

Without stronger enforcement provisions, the Equal Pay Act continues to fall short of safeguarding women's wages. Women workers—especially women of color—are consistently paid less than their male counterparts (Bleiweis 2020). As yet, the Paycheck Fairness Act has never passed Congress, even though it is routinely introduced.

TABLE 9. PAYCHECK FAIRNESS ACT (S.3772)

Introduced by	Sen. Harry Reid (D-NV)
Date Introduced	September 13, 2010
Cloture Vote	58-41 (Y-N) on 9/29/2010
House	D-257D, 178R
Senate	D-57D, 41R, 2I
President	Obama

CAVEATS

There are three key caveats with this analysis. First, it is always possible that the Senate votes on these measures would have been different in the absence of the filibuster. Senators who voted to end debate knowing that the bill would not surpass the 60-vote threshold might have voted against the actual bill if it were subject to a 50-vote threshold for passage. As a result, it is possible this analysis overstates the number of bills that might have passed in the absence of the filibuster. But it is also possible this analysis understates the numbers of bills that otherwise would have passed because it does not

include bills that were never put up for a vote because Senate leaders knew the bill would not secure the requisite 60 votes.

Second, the alignment of the House of Representatives and the presidency plays a role in this outcome. In the years between 1947 and the present day, Democrats have controlled the House and the presidency at the same time for 20 of them (Renka 2010). There were only 10 years in that 74-year span during which Republicans controlled both the House and the presidency (Renka 2010). That means there were more opportunities for the Senate to act as the barrier to adoption of progressive legislation.

Third, this analysis is confined to economic legislation relevant to worker power and corporate influence. It does not address fiscal policy or social policy (including reproductive rights), where other analyses have found that the historical record on use of the filibuster is more mixed (Tausanovitch and Berger 2019).

CONCLUSION

Over the last 74 years, the use of the filibuster in the Senate has blocked meaningful action to improve the lives of American workers, preventing the passage of eight bills that would have empowered workers or reined in corporate misconduct. In most instances, the problems these bills attempted to address remain unaddressed. While the filibuster also stopped one anti-worker bill from passing, it was only temporary, as a substantially similar bill passed two years later.

As Congress debates whether to modify or eliminate the filibuster in the coming months and years, it should consider this historical record and its implications for potential progress on the critical issues facing American workers today.

REFERENCES

Aronson, Arnold. 1950. "Civic and Political: Employment." Edited by Morris Fine. *American Jewish Yearbook* 52 (December 29, 1950): 29—39.

Bipartisan Campaign Finance Act of 1999 (S. 1593). 106th Cong. http://www.congress.gov/bill/106th-congress/senate-bill/1593.

Bleiweis, Robin. 2020. "Quick Facts About the Gender Wage Gap." Center for American Progress, March 24, 2020. https://www.americanprogress.org/issues/women/reports/2020/03/24/482141/quick-facts-gender-wage-gap/.

Branigin, William. 2005. "Congress Changes Class Action Rules." *Washington Post*, February 17, 2005. https://www.washingtonpost.com/wp-dyn/articles/A32674-2005Feb17.html.

Class Action Fairness Act of 2003. S. 1751. 108th Cong. https://www.congress.gov/bill/108th-congress/senate-bill/1751.

Democracy Is Strengthened by Casting Light on Spending in Elections (DISCLOSE) Act. S. 3628. 111th Cong. http://www.congress.gov/bill/111th-congress/senate-bill/3628.

Dewar, Helen. 1999. "Campaign Finance Special Report." *Washington Post*, September 15, 1999. https://www.washingtonpost.com/wp-srv/politics/special/campfin/stories/finance091599.htm.

Evers-Hillstrom, Karl. 2020. "More Money, Less Transparency: A Decade under Citizens United." OpenSecrets, January 14, 2020. https://www.opensecrets.org/news/reports/a-decade-under-citizens-united.

"Executive Order 8802 of June 25, 1941, The Prohibition of Discrimination in the Defense Industry." https://www.ourdocuments.gov/doc.php?flash=false&doc=72&page=transcript.

Federal Reserve Board of Governors. 2020. "Volcker Rule." Last updated January 30, 2020. https://www.federalreserve.gov/supervisionreg/volcker-rule.htm.

Fisk, Catherine, and Erwin Chemerinsky. 1997. *The Filibuster*, 48 Stan. L. Rev. 182. https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1682&context=faculty_scholarship.

Gould, Elise, and Will Kimbal. 2015. *"Right-to-Work" States Still Have Lower Wages*. Washington, DC: Economic Policy Institute. https://www.epi.org/publication/right-to-work-states-have-lower-wages/.

Halpern, Martin. 1996. "Jimmy Carter and the UAW: Failure of an Alliance." *Presidential Studies Quarterly* 26, no. 3. (Summer): 755—77. http://www.jstor.org/stable/27551630.

Kaiser, Robert G. 2014. *An Act of Congress: How America's Essential Institution Works, and How It Doesn't*. Vintage.

Labor Law Reform Act of 1977. H.R. 8410. 95th Cong. https://www.congress.gov/bill/95th-congress/house-bill/8410/text.

Labor Relations and Railway Act Amendment. S. 55. 102nd Cong. https://www.congress.gov/bill/103rd-congress/senate-bill/55.

Lee, Jesse. 2010. "President Obama Speaks Out for Paycheck Fairness." Whitehouse.gov, July 20, 2010. https://obamawhitehouse.archives.gov/blog/2010/07/20/president-obama-speaks-out-paycheck-fairness.

Lugar, Dick. 1978. "That Labor Bill." *New York Times*, June 20, 1978. https://www.nytimes.com/1978/06/20/archives/that-labor-bill.html.

Merkley, Senator Jeff, and Senator Carl Levin. 2011. "The Dodd-Frank Act Restrictions on Proprietary Trading and Conflicts of Interest: New Tools to Address Evolving Threats." *Harvard Journal on Legislation* 48 (June 2011): 515—53.

Moberly, Robert B. 2006. "Labor-Management Relations during the Clinton Administration." *Hofstra Labor and Employment Law Journal* 24, no. 1, article 2. https://scholarlycommons.law.hofstra.edu/hlelj/vol24/iss1/2.

Mohr, Charles. 1964. "Johnson to Back Labor Act Change, Unions to Press Repeal of 'Right to Work' Section." *New York Times*, December 18, 1964. https://www.nytimes.com/1964/12/18/archives/johnson-to-back-labor-act-change-unions-to-press-repeal-of-right-to.html.

National Conference of State Legislatures. n.d. "Right-to-Work States." Accessed October 26, 2020. https://www.ncsl.org/research/labor-and-employment/right-to-work-laws-and-bills.aspx.

National Constitution Center. 2016. "The Filibuster That Almost Killed the Civil Rights Act." April 11, 2016. https://constitutioncenter.org/blog/the-filibuster-that-almost-killed-the-civil-rights-act.

National Labor Relations Board. n.d. "The Right to Strike." Accessed October 26, 2020. https://www.nlrb.gov/strikes#:~:text=A%20strike%20that%20violates%20a,practices%20committed%20by%20the%20employer.

National Right to Work Repeal. H.R. 77. 111th Cong. (Text from *Congressional Record Permanent Digital Collection*).

O'Donnell, Michael. 2014. "How LBJ Saved the Civil Rights Act." *The Atlantic*, April 2014, sec. Politics. https://www.theatlantic.com/magazine/archive/2014/04/what-the-hells-the-presidency-for/358630/.

OpenSecrets. n.d. "Soft Money Backgrounder." Accessed October 27, 2020. https://www.opensecrets.org/parties/softsource.php.

Paycheck Fairness Act. S. 3772. 111th Cong. http://www.congress.gov/bill/111th-congress/senate-bill/3772.

Public Citizen Litigation Group. 2005. "A Section-by-Section Analysis of the Class Action Fairness Act of 2005." Public Citizen. February 18, 2005. https://www.citizen.org/article/a-section-by-section-analysis-of-the-class-action-fairness-act-of-2005/.

Purcell, Edward A. 2008. "The Class Action Fairness Act in Perspective: The Old and the New in Federal Jurisdictional Reform." *University of Pennsylvania Law Review* 156, no. 6 (2008): 1823—927. https://doi.org/10.2307/40041425.

Rabinowitz, Steve, Matt Dorf, Steve Schell, and Ken Goldstein. 2004. "2000 Presidential Race First in Modern History Where Political Parties Spend More on TV Ads Than Candidate." Brennan Center for Justice, December 12, 2004. https://www.brennancenter.org/our-work/analysis-opinion/2000-presidential-race-first-modern-history-where-political-parties-spend.

Restoring American Financial Stability Act of 2010 S. 3217. 111th Cong. http://www.congress.gov/bill/111th-congress/senate-bill/3217.

Renka, Russell. 2010. "Party Control of the Presidency and Congress, 1933—2010." Southeast Missouri State University, January 13, 2010. https://cstl-cla.semo.edu/rdrenka/ui320-75/presandcongress.asp.

Shelton, Jon. 2017. "'Compulsory Unionism' and Its Critics: The National Right to Work Committee, Teacher Unions and the Defeat of Labor Law Reform in 1978." *Journal of Policy History* 29, no. 3 (July): 381. https://doi.org/10.1017/S0898030617000161.

Tausanovitch, Alex, and Sam Berger. 2019. *The Impact of the Filibuster on Federal Policymaking*. Washington, DC: Center for American Progress. https://www.americanprogress.org/issues/democracy/reports/2019/12/05/478199/impact-filibuster-federal-policymaking/.

US Congress. Congressional Record. 111th Cong., 1st sess., 1999. Vol. 145. pt. 18.

US Congress. Congressional Record. 81st Cong., 2nd sess., 1950. Vol. 96. pt. 2.

US Department of Labor. n.d. "Legal Highlight: The Civil Rights Act of 1964." Office of the Assistant Secretary for Administration and Management. Accessed December 21, 2020. https://www.dol.gov/agencies/oasam/civil-rights-center/statutes/civil-rights-act-of-1964.

US House of Representatives: History, Art & Archives. 2021 "Party Divisions of the House of Representatives, 1789 to Present," January 2021. https://history.house.gov/Institution/Party-Divisions/Party-Divisions/.

US Library of Congress. 2017. Congressional Research Service. *Filibusters and Cloture in The Senate*, by Valerie Heitshusen, and Richard S. Beth. RL30360. https://www.senate.gov/CRSpubs/3d51be23-64f8-448e-aa14-10ef0f94b77e.pdf.

US Senate. 1978. Labor Law Reform Act. *Committee on Human Resources* Hearing, 29 June 1978. Washington: Government Printing Office. https://www.govinfo.gov/content/pkg/CHRG-95shrg30850O/pdf/CHRG-95shrg30850O.pdf.

US Senate. 2020. "Cloture Motions Count." Last updated October 26th, 2020. https://www.senate.gov/legislative/cloture/clotureCounts.htm.

US Senate. 2021. "Party Division," January 2021. https://www.senate.gov/history/partydiv.htm.

US Senator Sheldon Whitehouse of Rhode Island. 2019. "Whitehouse Introduces DISCLOSE Act to Restore Americans' Trust in Democracy." April 11, 2019. https://www.whitehouse.senate.gov/news/release/whitehouse-introduces-disclose-act-to-restore-americans-trust-in-democracy.

Washburn, Kaitlin. 2018. "The Legacy and Impact of McCain-Feingold." *OpenSecrets*, August 28, 2018. https://www.opensecrets.org/news/2018/08/the-legacy-of-mccain-feingold/.

White House Office of the Press Secretary. 2010. "Statement by the President on Passage of the DISCLOSE Act in the House of Representatives." June 24, 2010. https://obamawhitehouse.archives.gov/realitycheck/node/13860.

ABOUT THE AUTHOR

Emily DiVito is the program manager for the corporate power program at the Roosevelt Institute. She works with the corporate power team and Roosevelt fellows on issues related to unchecked corporate influence, wealth concentration in today's economy, and consumer protections.

ACKNOWLEDGMENTS

The author thanks Ivan Cazarin, Bill Dauster, and Adam Jentleson for their research, feedback, and insights. Roosevelt staff Suzanne Kahn and Matt Hughes also contributed to the project.

ROOSEVELT INSTITUTE

ABOUT THE ROOSEVELT INSTITUTE

The Roosevelt Institute is a think tank, a student network, and the nonprofit partner to the Franklin D. Roosevelt Presidential Library and Museum that, together, are learning from the past and working to redefine the future of the American economy. Focusing on corporate and public power, labor and wages, and the economics of race and gender inequality, the Roosevelt Institute unifies experts, invests in young leaders, and advances progressive policies that bring the legacy of Franklin and Eleanor into the 21st century.