Let’s Reform the Senate

# I. Introduction/Background: Why the Senate is Broken

Summary of paper 2, citing it and diving deeper into the problems that aren’t just diversity or over/underrepresentation (i.e. campaign finance/election stuff, deadlocking/the filibuster). Emphasis on *what* is wrong, with some citations to *why* it’s wrong.

AND WHY IT MATTERS – e.g. funding (look at fulcrum article)

# II. Solutions: Ways to Fix the Senate (2014 words)

This part lays out each solution in turn for proposed ways to fix the senate. These should be fairly detailed, and link to more in depth readings where possible. The first three are pretty plausible in the current political climate (and could all be done – not mutually exclusive); the last three are much more radical, harder, and mutually exclusive with each other. ([123] could go with either 4 or 5, but not 6.)

For each, note 1) whether it benefits one party more than the other 2) how feasible/likely it is

## 1. Statehood for Washington, D.C. and Puerto Rico **X**

DESCRIPTION: Puerto Rico and Washington, D.C. are both poised to become states in the near future, which helps the Senate become less white (DC is idk 60% black, PR is 98% Hispanic). By any consistent standard they’re ready to become a state: their citizens want it, PR is bigger than whoever in area and population, DC has the highest GDP per capita of any state and there are two states smaller than it.(Also, it’s absolutely constitutional to admit DC.) Remember that state admission used to be common, and often the bar for consideration was only 60k people! (cite) It’s only in the last few decades that we’ve gotten used to having a set number of states.

Proponents: Lots of people, idk

Feasibility: Very! Might be a bill in Congress rn? Good chance for happening in the next couple years

What it fixes: A small amount of the lack of representation, particularly for racial diversity, plus their own taxation without representation stuff

Partisanship: Clearly benefits the Democrats, particularly DC, which is some ridiculous percent blue. That’s why it’s suddenly popular again

Read more:

## 2. The Filibuster: Two (and a half) Paths **X**

### Intro **X**

The filibuster has also been in the news recently. A *very* brief summary: essentially, in order to close debate and vote on a bill, 60 senators must vote for ‘cloture’ (and the Majority Leader must agree). Most bills require only a simple majority to pass, but that is moot if the bill cannot be voted upon, and so (except under certain circumstances where the filibuster has been removed) even when a majority of senators agree, sometimes a bill cannot pass. In the current circumstances, this means the 10 most moderate Republicans must agree with the Democrats in order for the Senate to pass a bill.

If you think this sounds like a poorly designed system, that’s because the filibuster was an accident of history. In 1804, VP(?) Aaron Burr suggested a number of changes to the Senate rules, for the purpose of making its processes easier and less obscure. One of the provisions he removed, thinking it was of little use, actually left behind a loophole that led to the situation we have today. This was only noticed 60+ years later, and since that time its history has mainly been a weapon against civil rights.

Finally, it’s important to note that the filibuster could be removed at any time, by a simple majority of senators. The Senate can dictate its own rules at will, as specified by the Constitution, and so over time the Senate has carved out a few exceptions where the filibuster cannot be used, which allows at least a bare minimum of legislation to pass. It is entirely within the power of the current Senate majority to abolish the filibuster altogether; the only thing stopping them is tradition and resistance to change.

### Make Them Talk (1/2 solution) **X**

Change the filibuster so senators have to waste time actually talking until the other side gives up rather than the current status of it being automatic (which it was changed to in the 1970s so that the Senate could function more efficiently). Makes it more painful to use, less likely to be used on small bills, and most importantly Joe Manchin and Kyrsten Sinema have expressed some acceptance of the notion, unlike removing the filibuster altogether.

Proponents:

Feasibility: One of the simplest in this list. Only convince Manchin and Sinema of the idea, and it will happen.

What it fixes: Lack of doing anything; minority rule (kinda)

Partisanship: Currently strongly favors Democrats; in the longer term is equal or perhaps slightly favoring to Democrats (because Republicans are overrepresented and such)

Read more:

### Nuke the Filibuster **X**

Remove the filibuster altogether.

Proponents:

Feasibility: Again, just convince Sinema and Manchin. (Other people might also need some convincing; this is a slightly more controversial idea.)

What it fixes: Same as above but more

Partisanship: same as above

Read more:

### Change the Filibuster to be Pro-majoritarian **X**

This is the interesting / weird one! *Democratizing the Senate from Within* suggests a change to the cloture rules so that debate can be closed by, instead of 60 senators, a majority of the *population*. That is, the twenty largest states could call for a bill to be voted upon even if everyone else disagreed, because they represent more than half of the U.S. population. This is potentially much better than merely removing the filibuster entirely, because it guards against the consequence of minority rule – that is, nuking the filibuster is all well and good in that it gives the majority party more power and the minority party has less of a stranglehold, but that’s only more democratic and fair if the majority party actually represents the popular majority.

Proponents: Gould et al.

Feasibility: changing senate rules same as other versions

What it fixes:

Partisanship: Kinda democratic? Right now? But mostly nonpartisan I think

Read more:

## 3. Election & Campaign Finance Reform **X**

Some of the problems, esp. stuff like diversity, comes from how we run our elections and what candidates can make it in the system. There are a *lot* of proposed reforms here, so I’ll only list them briefly, but there are links if you want to read more.

### HR1 **X**

House Resolution 1, the For the People Act of 2021, is the omnibus voting and campaign finance bill which the Democrats chose to label their highest priority bill (thus ‘1’). It has already been passed by the House of Representatives in March, and now the challenge is to pass it through the Senate as well. An overview:

* Election integrity – gerrymandering ban, protections for minority and disenfranchised communities
* Voting access/rights – modernize registration, expands vote by mail, gives felons the right to vote
* Campaign finance report – protect against foreign influence, increase transparency in political ads and donations
* (Maybe find Opening Arguments episode breaking it down?)

### Other **X**

For an overview of a bunch of different reforms in this area, try *Economic Realities of Political Reform*. [link] Looking a little further into the past, in 1976 the Senate released a report[link] with recommendations for the functioning of the Senate in great detail. A few more radical reforms in this area: (check these aren’t in the other things)

* Elect Senators with [Ranked Choice Voting], which in general elects a more representative person, and [source??] gives diverse candidates a better chance. It could also lead to more parties (I think?)
* Publicly fund elections
* ??

(most of the overview here should be in the intro probably?) Talk about HR1 and detail some of what it does (link both to actual bill and a summary because the bill is LONGGG). Also briefly mention the 1970 commission with some similar findings (maybe).

## 4. Reallocate Senate seats **X**

There are a few ideas for reallocating Senate seats or changing the makeup of the Senate to make it more representative and democratic. One of those is [covered in great detail below], but I’ll list the others here:

* Add 100 senators allocated using [MMP] voting. (This is somewhat similar to the Senate Reform Act below, but MMP voting is a whole extra layer of interesting and complicated.) – no source
  + Feasibility: constitutional amendment/convention
* [find source] Keep the seats themselves exactly the same, but change voting rules in the Senate such that each senator’s vote counts for as many ‘points’ as there are people in their state, and passing a bill requires getting the support of over half the total points/population
  + Feasibility: only requires changing senate rules! so on a practical level not bad, just convince a majority to do it

## 5. Redraw the Map **X**

An alternative way to make Senate seats more representative would be to alter current state lines in some way to be more evenly distributed in population. This has been suggested a number of times over the years, but proposals tend to fall into two categories.

### Divide and Combine

Professor Burt Neuborne, a law professor at NYU, suggests dividing states. This has precedent: five states [need link] have been created and admitted to the Union in that way, and the process is the same as any admission of a state (except that the legislature of the state has to agree to divide). Congress could allow any state with a large enough population (Neuborne suggests 20x the size of the smallest state) to divide in half and become two separate states. Using the 2010 census [note: update to 2020!!), six states would fall under this category and be able to divide. [graph??] A smaller ratio rebalances representation even more – Neuborne notes that the ratio between the largest and smallest states when the Constitution was ratified was 6 to 1, so perhaps that would be a good benchmark. (NOTE: check – probably total pop not just voting?)

Notably, Neuborne also points out that this solution is not particularly beneficial toward either party, though the Democrats might have a very short-term advantage. The division of Texas might give the Democrats a couple extra senators, for instance, but dividing California might allow the Republicans to pick up a seat or two.

Kristin Eberhard, director of democracy and climate policy at the Sightline Institute, echoes Neuborne’s suggestion and adds combining states as well as dividing them. There are 21 states which each contain less than 1% of the national population, many of which sit next to each other. Allowing them combine would lessen their Senate representation but increase representation in the House, and become a more powerful state overall.

Proponents: Professor Neuborne, Kristin Eberhard

Feasibility: Surprisingly doable! Wouldn’t require a constitutional amendment, since this is already within the power of Congress, and could be decided on a state-by-state basis, meaning the entire nation wouldn’t have to agree

What it fixes:

Read more: Neuborne WSJ OpEd, Book, Fulcrum article, [Eberhard book?]

Partisanship: Not a lot

### Redraw the Whole Thing

Going even further, we could redraw the entire map. There have been [a number] [of different] [maps] proposed over the years, but in general the idea is to create states which are both more equally-sized and more representative of cultural and economic connections. The boundaries drawn during the creation of territories or colonies are not particularly related to today’s America, and plenty of states have extremely distinct sub-areas. Eastern Oregon, for instance, [is trying to] become part of Idaho, with which it shares much more similarity than the urbanity of Oregon’s west coast.

Proponents:

Feasibility:

What it fixes:

Read more: Neuborne WSJ OpEd, Book

Partisanship:

## 6. Abolish the Senate **X**

DESCRIPTION: Remove the Senate entirely. This is the most extreme option, and probably the most difficult, but it would certainly fix the problems listed above. Former Representative John Dingell, the longest-serving member of Congress in American history, suggested [link] combining the two chambers of Congress into one. Other options include abolishing with no changes to the House of Representatives or replacement with a citizen’s veto. [SOURCE, also explain?]

Proponent(s): John Dingell, ??

Feasibility: Would probably require a constitutional (article V) convention, which would be the first since 178?.

What it fixes: Everything, maybe! There would probably be other problems, but the opportunity to start fresh would clear the current slate pretty thoroughly.

Partisanship [come up with a better name seriously]: Heavily favors Democrats, because the Republican small-state advantage in the Senate makes it consistently overrepresented [link]

Read more: Atlantic article, memoir

[maybe with reference to that comparative international paper?]

# III. Proposal: the Senate Reform Act

Now we get deep into the weeds.

## How it Works

explain the actual mechanisms. pictures?

## What it Means

show how states end up, comparative representation graphs (hopefully), ???

## Can We Do It I: Constitutionality

Orts argues, thoroughly, that his proposal is constitutional. As he is a law professor and I am decidedly not, I have left that argument to him, but you may read it [here] (pp. x-y). For the purposes of this page/paper, we assume that the Act is constitutionally viable.

## Can We Do It II: Political Feasibility

read section IV of orts.

# IV. Conclusion

stuffffff

Call to Action?