

# Four Pinocchios for Obama's claim that Republicans have 'filibustered about 500 pieces of legislation'

By Glenn Kessler Updated: May 9 at 6:00 am

*"Here's what's more disconcerting. Their [Republicans'] willingness to say no to everything — the fact that since 2007, they have filibustered about 500 pieces of legislation that would help the middle class just gives you a sense of how opposed they are to any progress — has actually led to an increase in cynicism and discouragement among the people who were counting on us to fight for them."*

— President Obama, [remarks at a DCCC dinner](#), May 7, 2014

In addressing a dinner of the Democratic Congressional Campaign Committee in Los Angeles, President Obama made a rather striking claim — that Senate Republicans have filibustered "500 pieces of legislation that would help the middle class."

Regular readers know that The Fact Checker [has objected](#) to the way that Senate Democrats [tally these figures](#), but the president's claim makes little sense no matter how you do the numbers.

## The Facts

First, some definitions: A filibuster generally refers to extended debate that delays a vote on a pending matter, while cloture is a device to end debate. Filibusters are used by opponents of a nominee or legislation, while cloture is filed by supporters.

Since 2007, there have been 527 cloture motions that have been filed, [according to Senate statistics](#). This is apparently where Obama got his figure. But this tells only part of the story, as many of those cloture motions were simply dropped, never actually voted on, or "vitiated" in the senatorial nomenclature.

Obama is assuming every cloture motion can be counted as a filibuster. Political scientist [Sarah Binder](#) of the Brookings Institution, in 2002 [co-wrote a paper](#) that concluded there was 94 percent correlation between cloture motions and documented filibusters between 1917 and 1996. But the Congressional Research Service, using newer data, warned in [a 2013 report](#) that "it would be erroneous, however, to treat this table as a list of filibusters on nominations."

Indeed, when you go through the numbers, there have just been 133 successful filibusters — meaning a final vote could not take place — since 2007.

But, even if you accept the way Senate Democrats like to frame the issue, the president is still wrong. He referred to "legislation" — and most of these cloture motions concerned judicial and executive branch nominations. In the 113th Congress, for instance, 83 of the 136 cloture

motions so far have concerned nominations, not legislation.

Binder declined to comment on Obama's claim but said: "I would certainly agree with you that if I were counting cloture votes aimed at 'legislation that would help the middle class,' I would not count cloture votes aimed at confirmation votes."

Even then, while Obama referred to "500 pieces of legislation," the same bill can be subject to as many as three cloture motions, further inflating the numbers. For instance, there may be cloture to get on the bill, cloture on the substitute bill (if lawmakers are simply using an unrelated bill as a vehicle for passage), and cloture on the underlying bill. All of these votes might take place on the same day, but it creates the illusion of the same bill being "filibustered" three times. It certainly does not mean there were three pieces of legislation. So far in the 113th Congress, 36 pieces of legislation were subject to a cloture motion — and 12 were actually filibustered. That's a far cry from the 136 that Obama is counting in order to tally up 500.

Obama's count also includes at least a half-dozen instances when Republicans were blocked by Democrats through use of the filibuster. In fact, in the biggest oddity, the president reached back to 2007 in making his claim, so he includes two years when he was still a senator. On eight occasions, he voted against ending debate — the very thing he decried in his remarks. Here's a list of those votes:

2/12/08 – [Roll Call Vote #19, S. 2248 \(FISA Amendments Act of 2007\)](#)

1/28/08 – [Roll Call Vote # 3, S.Amdt. 3911 to S. 2248](#)

11/16/07 – [Roll Call Vote # 410, S. 2340](#)

10/24/07 – [Roll Call Vote #392, Nomination of Leslie Southwick To 5<sup>th</sup> Circuit Court](#)

5/16/07 – [Roll Call Vote #168, S.Amdt. 1134 to H.R. 1495](#)

3/9/07 – [Roll Call Vote # 68, S.Amdt. 312 to S.Amdt. 275 to S. 4](#)

2/1/07 – [Roll Call Vote #43, Motion to Proceed To S.Con.Res. 2](#)

1/24/07 – [Roll Call Vote #22, S.Amdt. 101 to S.Amdt. 100 to H.R. 2](#)

There is one further wrinkle. The counting of cloture motions does not include the many times senators agree to have a 60-vote threshold for the passage of legislation — in other words, the equivalent of a threatened filibuster. Just this week, Senate Majority Leader Harry Reid (D-Nev.) [sought unanimous consent](#) for a 60-vote threshold for a Republican-backed bill to approve the Keystone pipeline, as part of an agreement to set up a vote for an energy efficiency bill that also would have required 60 votes for passage. Republicans might argue that Reid's demand for a 60-vote threshold on Keystone is akin to a filibuster.

Such negotiated voting "suggests once again that cloture motion counts are an imperfect measure of threatened or actual filibusters," Binder said. "A negotiated 60-vote threshold avoids the lengthy mechanics of the cloture process, but still imposes a hurdle to simple majority rule."

The White House declined to provide an on-the-record response.

### **The Pinocchio Test**

On just about every level, this claim is ridiculous.

We realize that Senate rules are complex and difficult to understand, but the president did serve in the Senate and should be familiar with its terms and procedures. Looking at the numbers, he might have been able to make a case that Republicans have blocked about 50 bills that he had wanted passed, such as an increase in the minimum wage. But instead, he inflated the numbers to such an extent that he even included votes in which he, as senator, supported a filibuster.

### **Four Pinocchios**

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