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Reid, Democrats trigger 'nuclear' option; eliminate most filibusters on nominees

By [Paul Kane](#), Published: November 21

Senate Democrats took the dramatic step Thursday of eliminating filibusters for most nominations by presidents, a power play they said was necessary to fix a broken system but one that Republicans said will only rupture it further.

Democrats used a rare parliamentary move to change the rules so that federal judicial nominees and executive-office appointments can advance to confirmation votes by a simple majority of senators, rather than the 60-vote supermajority that has been the standard for nearly four decades.

The immediate rationale for the move was to allow the confirmation of three picks by President Obama to the U.S. Court of Appeals for the District of Columbia Circuit — the most recent examples of what Democrats have long considered unreasonably partisan obstruction by Republicans.

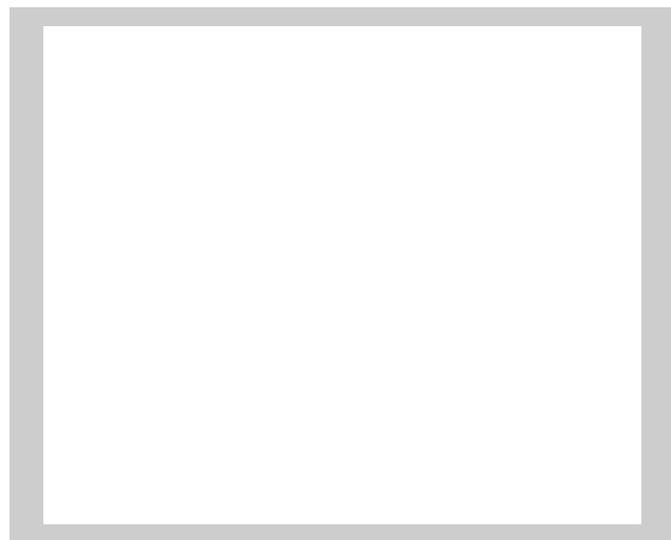
In the long term, the rule change represents a substantial power shift in a chamber that for more than two centuries has prided itself on affording more rights to the minority party than any other legislative body in the world. Now, a president whose party holds the majority in the Senate is virtually assured of having his nominees approved, with far less opportunity for political obstruction.

The main combatants Thursday were the chamber's two chiefs, Majority Leader Harry M. Reid (D-Nev.) and Minority Leader Mitch McConnell (R-Ky.), who have clashed for several years over Republican filibusters of Obama's agenda and nominees.

Reid said the chamber "must evolve" beyond parliamentary roadblocks. "The American people believe the Senate is broken, and I believe the American people are right," he said, adding: "It's time to get the Senate working again."

McConnell linked the rule change to the methods used to approve Obama's health-care law solely with Democratic votes. The normally reserved GOP leader paced at his desk during his speech, often turning his back to Democrats to address only his fellow Republicans.

"It's a sad day in the history of the Senate," McConnell told reporters, calling the move a Democratic "power grab."



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The clash ended with a vote nearly as partisan as the times — 52 to 48, with all but three Democrats backing the move and every Republican opposing it.

The vote was the culmination of more than 25 years of feuding over nominations, beginning with President Ronald Reagan's choices for the Supreme Court and including Obama's picks for obscure federal regulatory agencies. Each side in Thursday's debate cited its own statistics to state its case.

Democrats said the attempted filibusters of Chuck Hagel during his confirmation hearing to become defense secretary, a first for any nominee to lead the Pentagon — as well as a blockade of picks to head the National Labor Relations Board and the Consumer Financial Protection Bureau — exceeded anything Democrats did when they were in the minority. In addition, Democrats charged that Republicans didn't even have substantive objections to the D.C. Circuit nominees they filibustered.

After the vote, Obama told reporters at the White House that Republicans had turned nomination fights into a "reckless and relentless tool" to grind the gears of government to a halt and noted that "neither party has been blameless for these tactics." However, he said, "today's pattern of obstruction . . . just isn't normal; it's not what our founders envisioned."

Republicans countered that they had confirmed 99 percent of Obama's judicial selections. McConnell accused Democrats of eyeing the D.C. Circuit in an effort to stack the court, which reviews many cases related to federal laws and regulations, to tilt its balance in a liberal direction.

What made the day so historic for senators, former senators and the small collection of parliamentary experts in Washington was the simple majority vote used to execute the changes — a tactic so extreme it is known as the "nuclear option."

Previous majorities had threatened to upend filibuster rules in this manner, but relying on a simple majority vote had been used only for relatively minor procedural changes to how amendments were handled, never to eliminate the supermajority requirement altogether. Before Thursday, the standard precedent was that major rule changes needed a two-thirds majority. The change was so significant that Reid and his leadership team held a victory party with liberal activists afterward in a room just off the Senate floor.

Republicans said the way Democrats upended the rules will result in fallout for years. "It's another raw exercise of political power to permit the majority to do anything it wants whenever it wants to do it," Sen. Lamar Alexander (Tenn.), the GOP's parliamentary expert, told reporters.

Republicans vowed to reciprocate if they reclaim the majority.

"Democrats won't be in power in perpetuity," said Sen. Richard C. Shelby (Ala.), a 27-year member. "This is a mistake — a big one for the long run. Maybe not for the short run. Short-term gains, but I think it changes the Senate tremendously in a bad way."

After the vote, Reid told reporters that his views on the issue had evolved — from eight years ago, when Republicans held the majority and he led the fight to protect the filibuster. He acknowledged that he wouldn't mind seeing the supermajority requirement abolished for everything but that there were not enough votes in his caucus to support such a move.

Reid first faced pressure on this issue from junior Democrats four years ago, particularly Sen. Jeff Merkley, a former speaker of the Oregon state House, who became the point person for growing the anti-filibuster movement. But Reid repeatedly rejected their effort as too radical.

Even if Republicans want to do away with the filibuster someday, Reid said, Thursday's move was worth it because the current climate had become too hostile to get anything significant done. Reid said he faced a choice: "Continue like we are or have democracy?"

The rule change does not apply to Supreme Court nominations or to legislation.

Individual senators will still be able to seize the floor for marathon speeches opposing nominees, as Sen. Rand Paul (R-Ky.) did in a nearly 13-hour session in March against the nomination of John Brennan as CIA director. But once such speeches end, the majority will be able to confirm nominees without needing bipartisan support.

With the Senate majority very much up for grabs in midterm elections next year, Democrats placed a big bet on maintaining control of the chamber. GOP leaders have suggested that, if given the Senate majority back, they might further strip filibuster rules so they could dismantle Obama's landmark domestic achievement, the Affordable Care Act, on a simple majority vote.

In his remarks, McConnell finally turned to Democrats and said that a majority of them had never served in the minority and then lectured the longtime members who knew what it was like to be on the other side.

"The solution to this problem is at the ballot box," he said. "We look forward to having a great election in 2014."

William Branigin and Ed O'Keefe contributed to this report.

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