

CE #6 Here's why the Senate's 'nuclear option' might be key to Neil Gorsuch's Supreme Court confirmation

Erin Kelly , USA TODAY

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WASHINGTON — The U.S. Senate may be about to "go nuclear" to ensure that Supreme Court nominee Neil Gorsuch is confirmed.

With Senate Minority Leader Chuck Schumer, D-N.Y., urging his colleagues to block an up-or-down vote on Gorsuch, Republican leaders are considering using the "nuclear option" to change Senate rules so the judge can be confirmed without the support of a single Democratic senator.

The Senate is expected to vote on Gorsuch next week.

It starts with "cloture" and "filibuster"

Senate procedure requires an agreement to move any issue to the floor for a vote. If some senators — or even one senator — object, they can just keep talking to delay a vote. That's a filibuster. To stop a filibuster, 60 senators have to vote to stop the filibuster. That's called a "cloture" vote. If they can't get 60 votes for cloture, the Senate can't schedule a vote on the underlying issue.

What is the "nuclear option"?

It is a Senate rule that strips the minority party of the power to use a filibuster to block confirmation of a presidential nominee; instead of 60 votes, supporters need only 51 to confirm the nominee.

Is the nuclear option already being used in the Senate?

Yes. In 2013, then-Senate majority leader Harry Reid, D-Nev., persuaded his fellow Democrats to approve the rule change because he was frustrated that Republicans kept blocking President Obama's judicial nominees. The move was denounced by Republicans as a power grab by the Democrats. The change allowed the majority party to confirm Cabinet secretaries and federal court judges without any support from the minority, and without a cloture vote. However, there was one big exception: It did NOT apply to Supreme Court nominees.

Can Democrats use a filibuster to block Trump's nominee?

Yes. Under current Senate rules, the nuclear option does not apply to Supreme Court nominees, which are still subject to a filibuster by the minority party, and the majority needs 60 votes to stop the filibuster. Schumer has vowed to filibuster Gorsuch.

Can Republicans invoke the nuclear option to confirm Trump's nominee?

Yes. Majority Leader Mitch McConnell, R-Ky., could expand the nuclear option to apply to Supreme Court nominees. That would give Republicans — who hold 52 seats in the Senate — the power to easily confirm Trump's choice. Democrats would no longer be able to use a filibuster to block confirmation.

How would Republicans change the rules?

McConnell could schedule a vote to change the existing rule and apply the nuclear option to Trump's Supreme Court nominee. He would need only a simple majority of 51 senators to approve that rule change.

Will Republicans do that?

That's the big question. So far, McConnell has refused to say. However, the majority leader has made statements declaring that Trump's choice will definitely be confirmed, leading to speculation that he will invoke the nuclear option to ensure that his prediction comes true. But McConnell will likely try first to convince eight Democrats — including those most vulnerable in next year's congressional elections — to support Trump's choice. Trump has urged McConnell to employ the nuclear option if Democrats try to block the nominee. But McConnell has made it clear that the choice is up to senators, not the White House.

Isn't using the nuclear option risky for Republicans?

Yes. It would set a precedent that Democrats could use against Republicans the next time that Democrats hold the Senate majority and a Supreme Court nominee is being confirmed. Reid's decision to use the nuclear option to confirm non-Supreme Court nominees has already been used against Democrats by GOP leaders, who are relishing turning the tables on their Democratic colleagues to confirm Trump's Cabinet nominees.

CE #6

1. **Briefly summarize the article (pretend I haven't read it and you're giving me the short version of what it's about). Make sure you include the terms "nomination" "filibuster" "nuclear option".**
2. **Analyze: Why would the Senate have a filibuster rule in the first place (what's the value in having the possibility to filibuster?) Think short-term (a particular case) vs. longer-term (for the health of the Senate as a part of our democracy). Why do you think the Senate has changed rules in the past few years, after working successfully under them for so long?**
3. **Opinion: What do you think? Was removing the filibuster for judicial nominations a good idea in 2013? Is the nuclear option a good idea now?**
4. **Include a question about the process, or something you'd like to know more about.**