

Senate Republicans breaking committee rules opens gate for partisan overrides

'Unprecedented' move to advance cabinet nominees could be first in series of revisions to circumvent Democratic pushback on Supreme Court and legislation

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Thursday 2 February 2017 09.30 EST Last modified on Tuesday 7 February 2017 23.44 EST



President Trump encouraged the Senate majority leader, Mitch McConnell, to use 'nuclear option' to override 'supermajority' rule to confirm Neil Gorsuch for the supreme court. Photograph: J Scott Applewhite/AP

As a presidential candidate, [Donald Trump](#) skipped a debate, refused to release his tax returns, hesitated to divest from his businesses and otherwise demonstrated little regard for the supposed rules of national politics.

As president, Trump has shown what some consider to be an equal hostility for the rule of law, [banning](#) permanent US residents from entering their own country (if only temporarily), unceremoniously [firing](#) the head of the justice department and ordering officials to breeze past environmental regulations to approve permits for industry.

Now Trump has invited congressional Republicans to join him out of bounds, telling the Senate majority leader, Mitch McConnell, to “[go nuclear](#)”, if he has to, in order to confirm the president’s first supreme court nominee, [Neil Gorsuch](#).

Hours before Trump extended that invitation, Senate [Republicans](#) had set to work, seemingly of their own initiative, to suspend finance committee rules in order to advance two Trump cabinet nominees. The move, acknowledged by the committee chairman, Orrin Hatch, to be “unprecedented”, was attacked by Democrats as a new frontier in partisanship.

But Republican rule-tampering in the Senate fits nicely with the president’s broad objectives of installing his nominees and, one day soon, signing legislation that would deliver on the central promises of his campaign.

What may in Trump’s case be an exceptional disregard for rules, however, may in the Senate’s case be discouragingly closer to business as usual, with potential new rule changes arriving as the latest in a series of revisions pointing to a longer-term gridlock on Capitol Hill.

Republicans are quick to point out that it was Senate Democrats, under the leadership of majority leader Harry Reid in 2013, who first took apart a “supermajority” rule requiring 60 votes for the confirmation of executive nominees. [Democrats](#) snap back that the measure was a last resort to combat years of stubborn Republican refusal to allow Barack Obama’s nominees to come up for consideration.

Reid’s rule changes stopped short of applying to supreme court nominees, who require, for now, 60 votes in the Senate to win nomination. The “nuclear” option as encouraged by Trump involves a rules change that would bring the necessary number down to a simple majority of 51. Republicans currently hold 52 of 48 Senate seats.

Steven S Smith, a professor of political science at Washington University in St Louis and an expert on Senate procedure, described “a certain inevitability” in talk of the “nuclear option” for supreme court nominees.

“The truth is, almost everyone in the Senate thought there would come a time, sooner rather than later, actually, in which the so-called Reid precedent of 2013 would be extended to the supreme court,” Smith said. “The feeling is, with the parties being so polarized, it’s almost inevitable that a filibuster would materialize eventually, and the majority party would be moved to overcome the obstacle.”

While some Democratic senators have vowed to filibuster the Gorsuch nomination, that is not, as yet, the stated strategy of the minority leader, Chuck Schumer, who must choose which ramparts of policy to defend – and how to spend what political capital the Democrats may have.

Schumer and the Democrats may pick up some unexpected victories. Two Republican senators, Susan Collins of Maine and Lisa Murkowski of Alaska, said on Wednesday that they would oppose Trump’s education secretary nominee, philanthropist [Betsy DeVos](#). One more Republican defection would probably sink the nomination.

But the challenges on the horizon, for Schumer and his colleagues, are numerous. After grappling with Trump's cabinet nominees and his supreme court nominee, congressional Democrats are likely to face waves of hostile legislation to [repeal](#) Barack Obama's healthcare law, cut taxes for the wealthy or finance the construction of a wall on the Mexican border.

After taking the "nuclear" option on Gorsuch, a Republican majority could eliminate the filibuster possibility for legislation as well, further marginalizing the Democratic minority and empowering the Republican president.

Trump's free advice, as president, for the legislature on its own rules on Wednesday was unusual, but not unprecedented, Smith said. In the early 1960s, President John F Kennedy convinced Democrats to reform a conservative-dominated House rules committee to secure passage of civil rights legislation.

"The filibuster rule itself, the cloture rule, Rule 22, adopted in 1917, was urged on the Senate by President Woodrow Wilson, who found a critical legislation leading up to world war I being blocked by a handful of senators," Smith said. "That time, there was no law to overcome a filibuster. If a handful of senators wanted to continue talking on the Senate floor, there was no way to stop them, because the cloture rule didn't exist."

As Democrats decide whether to force the issue of filibuster reform by opposing Gorsuch, Republicans may be free to tamper with committee rules, as they did on the finance committee on Wednesday, Smith said. Committee rules are not formal Senate rules and are not prescribed in the constitution.

Democrats led by ranking member Ron Wyden, a senator from Oregon, boycotted the finance committee for two days running, demanding that the nominees, Tom Price for health secretary and Steven Mnuchin for treasury secretary, explain perceived inaccuracies in their testimonies and supply missing information.

"At the very least, these cabinet nominees should answer basic questions about their records before we move forward with a committee vote," Democrats on the committee wrote in a letter to the chairman, Hatch.

"We took some unprecedented actions today due to the unprecedented obstruction on the part of our colleagues," Hatch responded in a statement. "Republicans on this committee showed up to do our jobs. Yesterday, rather than accept anything less than their desired outcome, our Democrat colleagues chose to cower in the hallway and hold a press conference."

The Republicans voted without the Democrats, passing both nominees through to a Senate floor vote, where they could be confirmed in a vote along strict party lines.

"It does kind of set a precedent," Smith said, "and next time the majority might pull the trigger a little more easily."