

# Democrats consider filibuster rule change in 2021 if they take Senate, White House

*ABC News*

Democrats, increasingly hopeful they can retake the White House and Senate in November, are discussing changing Senate rules to pass legislation with a simple majority of votes.

Known as the "nuclear option," the move to eliminate the 60-vote threshold currently needed to end debate in a full Senate would allow a [Joe Biden](#) administration - and a Democrat-led Congress - to act swiftly on key party priorities, including climate change, voting rights and gun control, with just 51 votes.

It's a possibility that the former vice president, who spent 36 years in the Senate, recently signaled more interest in considering - and one that could have significant implications for governing.

"If Biden wins, one of the most important discussions he's going to have with Schumer and Pelosi is whether to pull the trigger or not," James Manley, a former Senate Democratic leadership aide, said of the rule change. "The pressure from the base is going to be so strong, the demands are going to be so pent up, they're going to have to make their move sooner rather than later."

For decades, the 60-vote threshold has been a mechanism to facilitate compromise between the parties in the Senate, and served as one of several checks to distinguish the chamber from the House of Representatives.

But a growing number of Democrats have grown frustrated with the procedural hurdle, which has stymied repeated efforts to push gun control and comprehensive immigration reform in recent years.

While the Senate was envisioned as a place to "cool" the legislative actions of the House, just as a saucer is meant to cool hot tea, according to an alleged comment [attributed](#) to George Washington, "there is a huge difference between a cooling saucer and a deep freeze," Sen. Jeff Merkley, D-Oregon, who is leading intraparty discussions on the topic, told ABC News.

Critics of the potential change have warned that ending the filibuster would lead to one party undoing legislation from the other every time control of the Senate flipped.

"The important thing for our Democratic friends to remember is that you may not be in total control in the future and any time you start fiddling around with the rules of the Senate, I think you always need to put yourself in the other fellow's shoes and just imagine what might happen when the winds shift," Senate Majority Leader Mitch McConnell, R-Kentucky, said recently.

"If we eliminate the filibuster, you can forget bipartisanship for a long time," said Bill Hoagland, the senior vice president of the Bipartisan Policy Center, who served as an aide to former GOP Senate Majority Leader Bill Frist of Tennessee.

Sen. Joe Manchin, D-WV, one of the most conservative members of the Democratic caucus, echoed those concerns on Twitter, warning that it could lead to greater partisanship.

Both parties have chipped away at the filibuster in recent years.

In 2013, Democrats, led by Reid, used the nuclear option on all nominations except to the Supreme Court, in response to what Democrats said was an unprecedented GOP blockade of President Barack Obama's nominees to the administration and federal bench.

Four years later, Republicans cited that precedent when they removed the filibuster on Supreme Court picks to confirm Neil Gorsuch, President Donald Trump's first nominee to the nation's highest court. In 2019, they also changed Senate rules to limit debate on certain nominees, which allowed the chamber to act on more nominations.

Senate Minority Leader Chuck Schumer, D-New York, who is poised to lead Democrats if they retake the chamber, once suggested that Democrats would reimpose the three-fifths threshold for ending debate on Supreme Court nominations after Gorsuch's confirmation.

But last year he didn't rule out rethinking the legislative filibuster, telling reporters "nothing's off the table" at a press conference last July.

Biden repeatedly defended the filibuster as a senator, though changed his tune when he joined the Obama administration.

In 2005, he opposed GOP efforts in 2005 to lower the threshold for judicial nominations, calling the proposal a "naked power grab." But as vice president, he [supported](#) Reid's move to make the same change.

In the 2020 primary, he was one of several candidates who opposed eliminating the filibuster, which was endorsed by Sens. Kamala Harris, D-Calif., and Elizabeth Warren, D-Mass, who are both in the running to join his ticket as vice president.

"There are a number of areas where you can reach consensus that relate to things like cancer and health care and a whole range of things. I think we can reach consensus on that and get it passed without changing the filibuster rule," he told the New York Times editorial board in January.

Now, as he works to unite Democrats, Biden suggested he would be open to considering the move depending on the tenor of the Senate next January.

"It's going to depend on how obstreperous they become," he said of Republicans on a call with the New York Times and Washington Post. "I think you're going to just have to take a look at it."

Sen. Chris Coons, D-Delaware, a key Biden ally, has opposed eliminating the

filibuster for legislation in the past, noting that the threshold prevented Republicans from undoing the Affordable Care Act during the Obama administration.

"Working hard across the aisle and trying to find partners, willing to move on past the Trump era is the first thing I'm going to do," he said. "But, you know, I'm not gonna sit by for four years and allow obstruction to prevent us from making progress on anything."

"The general public, they think we don't work together and bills at all. There are dozens of bipartisan bills that are still moving ahead, even in this environment," Coons added. "They're just not the bills that address things like gun violence or climate change."

It's also possible that Democrats could act on some pieces of their agenda without the dramatic rule change by relying on the budget reconciliation process, which allows the Senate to take up narrow fiscal measures that impact taxes and spending with a simple majority.

Republicans used the process in 2017 in an effort to repeal Obamacare, but came up short after GOP Sens. John McCain of Arizona and Lisa Murkowski of Alaska voted with Democrats against the GOP proposal.

Democrats could use the process to advance some health care and environmental provisions, as well as undo the 2017 GOP tax law, a frequent target of criticism that, if undone, could help finance other initiatives.

Hoagland, who worked in the Senate for 25 years, suggested that Democrats could make other changes short of removing the legislative filibuster that could help speed up proceedings and force more consensus in the chamber, such as a return to the talking filibuster made famous in the movie "Mr Smith Goes to Washington," that would require a senator to speak on the floor to continue filibustering, something Merkley has advocated for.

"Either we drop it, or we find a compromise, and we stay on a bill until it's resolved. The way it's been working today, it just becomes a process for delaying and not really ever considering," he said.