



## What Filibuster ‘Reform’ Is Really About

By: Chris Edwards – December 3<sup>rd</sup>, 2012

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As the current Congress wraps up, and in the after-glo of the election, Senate Majority Leader Harry Reid (D-NV) is proposing to limit the ability of senators to filibuster in the next Congress. Of course, we’ve heard the arguments about Republican “obstructionism” and not allowing measures to come to a vote. Having spent seven years as Senate staff, this is all spin. Reid’s attempt to “reform” the filibuster is about one thing: limiting the ability of Republicans to offer amendments that Reid doesn’t want Democrats to have to vote on.

First, let’s remember that the objective of every majority leader is to stay majority leader. To do so means members of his party must win re-election. One of the important ways a majority leader can facilitate such is to protect his members from tough votes. For instance, witness Reid’s current attempts to stop a vote on Rand Paul’s (R-KY) amendment to limit indefinite detention. You’d think that since many liberal voters and groups oppose indefinite detention, Reid would welcome such a vote. But such a vote would put Democrats and President Obama at odds. So Reid’s favored course of action is to avoid such a vote.

How does this relate to the filibuster? Well after cloture is invoked (see Senate Rule XXII), the only amendments that can be voted on are those that are both pending and germane. And an amendment only gets pending if there’s no objection. All Reid needs to do is oppose amendments for 30 hours, then the curtain comes down and he can force a vote, and this assumes he hasn’t already filled the amendment tree (I’ve witnessed such a process too many times to count). So when Majority Whip Dick Durbin (D-IL) claims, “[w]e’ve had over 300 filibusters in the last six years,” he fails to mention that few of these were actual filibusters. The vast majority were attempts by the Majority to limit amendments by pre-emptively filing cloture.

I’m an empirical person. So while I haven’t found a perfect way to measure this, a good proxy is the ratio of roll call votes to measures passed. After all, a voice vote isn’t much use in forcing uncomfortable votes. Since 1992, the annual average of roll call votes to measures passed is 67 percent. Under Reid its fallen to 60 percent. A good check on whether this a useful indicator is that in election years the measure has been 50 percent, but in non-election years 84 percent, which is what one would expect if a majority leader is trying to protect his members from tough votes.

So don’t be fooled. Reid’s efforts at filibuster reform is not to have more votes, but to have fewer, and to have those votes only on the things which Reid wants voted on. What the Senate really needs is more debate, deliberation, and recorded voting, not less.