

## **Harkin leading drive to reform filibuster (Cedar Rapids Gazette- Dec 19)**

By Paul Barton

WASHINGTON - A band of Democrats, including Sen. Tom Harkin, D-Iowa, want the next Congress to start with a thunderclap. They want to see a change in Senate rules on the filibuster, the procedural weapon Republicans use exhaustively to stall or derail legislative Democratic initiatives.

The first day of a 112th Congress, Jan. 5, provides a unique opportunity for such changes, Harkin and others contend. If they succeed, some political observers say, it could significantly benefit President Barack Obama and change the lawmaking equation, especially in regard to judicial nominations.

Harkin is spearheading the drive along with Democratic Sens. Tom Udall of New Mexico and Jeff Merkley of Oregon.

Filibusters involve the threat or use of extended debate - most often by the minority - to keep measures from coming to a vote. It takes 60 votes, a supermajority, to pass a cloture motion, which overcomes a filibuster.

Citing scholarly studies, critics say filibusters used to be rare. Now, they contend, they amount to 'tyranny by the minority,' as Republicans have used them hundreds of times since Democrats gained control of the Senate in 2006.

Republicans argue that Democrats abused the filibuster from 2001-2006.

'Here at the close of the 111th Congress, the abuse of the filibuster has been on full, disgusting display,' Harkin said at a seminar hosted by the watchdog group Common Cause.

On Jan. 5, he vowed, 'There could be some fireworks.' Harkin and his colleagues want to use the 'constitutional option.' It calls for Vice President Joe Biden, who will preside over the chamber, to declare that senators are meeting as a new body, made new by having a third of its members winning election or reelection.

Such a declaration would briefly return the Senate to a kind of natural or original state, where it would have to decide its rules anew.

Under the Constitution, adopting new rules - including a new rule on the filibuster - under such conditions would require only a simple majority.

As a result, changing the filibuster couldn't be filibustered.

The House, where all members run every two years, has long operated under this mindset, adopting rules at the start of every Congress. However, the Senate, where members serve staggered six-year terms, has traditionally viewed itself as a 'continuing body,' with its rules carrying over from one Congress to the next.

The Constitution, filibuster reform advocates note, gives both chambers the power to determine their own rules. And it doesn't say anything about the filibuster, which is a Senate tradition rather than a creation of the Founding Fathers.

However, would-be reformers worry that if altering the filibuster is not attempted right off the bat, the Senate will be viewed as accepting the rules of previous congresses.

Harkin's rule change would continue the filibuster, but make it so that the number of votes needed for cloture drops after it is repeatedly employed on a particular bill, eventually reaching just 51.

Harkin's Iowa colleague, Republican Sen. Chuck Grassley, opposes the idea. 'The Senate filibuster protects the rights of the minority and the minority point of view.

It makes the Senate different from the House of Representatives where the party in control calls all the shots,' he said in a statement.

Still, Democrats, who retained a 53 to 47-seat majority in the midterm elections, pose a real threat to carry out the constitutional option, said Mike Franc, congressional analyst at the conservative Heritage Foundation.

'They [conservatives] are clearly worried,' Franc said. 'We might be talking about a totally different country.' But University of Virginia political analyst Larry Sabato doubts all Democrats will go along.

'Usually, there are enough members of the Senate majority party who remember their days in the minority - and their need for the filibuster - to prevent these reform efforts from happening,' Sabato said.

Harkin, however, notes he first made his proposal in 1995, when Democrats were in the minority.

If change does happen, Sabato said, it will mainly affect judicial appointments, which solely need Senate approval.

Democratic legislation could still be stopped by a House under solid GOP control.

Franc, however, said House members are easier to isolate and pressure than Senators and that Democrats 'may be able to box in the House.'