

United States Senate

WASHINGTON, DC 20510

MEMO

TO: Members of the Senate Democratic Caucus
FROM: Ranking Member Alex Padilla, Senate Committee on Rules and Administration
DATE: June 29, 2025
SUBJECT: Republicans Go Nuclear Again to Break Filibuster by Fabricating a Budget Score

Summary

On May 21, the Republican majority utilized the nuclear option to eliminate a legislative filibuster for three joint resolutions regarding EPA waivers issued to California under the *Clean Air Act*.

Senate Republicans are now using nuclear tactics AGAIN to avoid budget reconciliation restrictions, effectively tearing up filibuster rules.

Now, they are using a fabricated budget score that claims their bill costs \$440 billion, while their billionaire-first budget reconciliation bill actually costs \$3.5 trillion over 10 years and adds to the deficit beyond the 10-year window, which is prohibited by the statutory Byrd Rule.

The Republican Anti-Filibuster Playbook

Step One – Abuse an existing law that provides expedited Senate consideration. With California’s *Clean Air Act* waivers, Senate Republicans abused the *Congressional Review Act*, which provides fast-track consideration to repeal rules, and created a new precedent to use the CRA on any action an agency submits to Congress, including waivers (which the Senate Parliamentarian determined are not rules).

Now, Republicans are abusing Sec. 312(a) of the *Congressional Budget Act* in an unprecedented way to distort the true cost of their reconciliation bill while taking advantage of reconciliation’s simple majority vote threshold. For the first time in the Senate’s history, Chairman Graham is using Sec. 312 to sidestep the non-partisan CBO scorekeepers and singlehandedly use a “current policy baseline” score for reconciliation purposes. Chairman Crapo directed the production of their own, partisan budget score, and today, Senate Republicans confirmed their plan.

Step Two – Go nuclear by ignoring the Parliamentarian’s guidance. With California’s waivers, the Republicans falsely claimed that they were not “overruling” the Parliamentarian because they contrived a process to avoid formally asking the question, but the record shows the Parliamentarian determined those resolutions were not entitled to expedited procedures. Republicans simply ignored that determination and went nuclear to create a new precedent and break a filibuster.

When it comes to “current policy baseline,” Republicans are running a very similar play – to abuse Sec. 312, they are refusing to meet with the Parliamentarian on their planned tactics to violate the *Budget Act* and the Byrd Rule. **No matter what Republicans try to call it, or floor tactics they use, this will be a nuclear option to avoid a 60-vote threshold where Senate rules say that it would otherwise apply.**

Future Senate Filibuster Implications

The Legislative Filibuster: In May, Leader Thune stated: “[w]hile Republicans are in charge, the legislative filibuster will remain in place.” But Senate Republicans’ commitments to not overrule the Parliamentarian have a huge loophole – whenever the Parliamentarian may rule against them, they can contrive a process to ignore the rules and evade a filibuster and its 60-vote threshold.

The reality is that Republicans will use majority-rule, filibuster-breaking tactics whenever it suits them. **Once again, Senate Democrats should not forget.**