

Step six: Senator Reid appealed the ruling of the presiding officer. Crucially, the Senate accepted that the appeal in this parliamentary circumstance was not debatable. (Most appeals are in fact debatable and therefore can be filibustered.) Under Senate precedents, appeals that arise in connection with nondebatable motions are not debatable. No Senator made a point of order or a parliamentary inquiry regarding whether the appeal was debatable, and no debate was attempted. (The minority leader did ask several parliamentary inquiries to clarify the process and the meaning of the new precedent that was about to be established.)

Step seven: The Senate reversed the decision of the chair, 48 ayes to 52 nos. On this vote, a majority of senators answered no to the question, “Shall the decision of the Chair stand as the judgment of the Senate?” In this way, the Senate modified its procedures to allow cloture on most nominations to be invoked by majority vote (assuming the quorum necessary to conduct business is present).

SOURCE: *Congressional Record*, November 21, 2013, S8416–S8418.