

Subject: The Confirmation Process**Text:**

“The Senate shall decide whether to provide advice and consent to a nomination of a Judge of the Supreme Court within ninety days of notification by the President.

“The Senate shall decide whether to provide advice and consent to a nomination of any other federal Judge within sixty days of notification by the President.

“The Senate shall decide whether to provide advice and consent to an Officer of the United States whose appointment requires confirmation within thirty days of notification by the President.

“Should the Senate fail to make a decision within the time provided, the nomination shall be considered confirmed. For each nomination, the Senate may request a single, one-month extension, which the President may, but is not obliged to, grant.”

Reform Category(ies):

- ☐ Anti-Corruption, Transparency, Accountability
- ☐ Counter-Majoritarian Requirements
- ☒ Democratic Processes
- ☐ Enhanced Rights/Protections
- ☐ Limits to Political Power/Immunities
- ☐ Necessary Clarifications
- ☒ Responsible Government
- ☒ Separation of Powers/Check and balances

Branch(es) targeted:

- ☒ Legislative ☐ Executive ☐ Judicial

Justification:

There is no greater example of Congressional chicanery in recent decades than Mitch McConnell’s cynical (but successful) efforts to pack the Supreme Court by refusing to consider Democratic nominees and ramming through Republican ones. Hard deadlines on advice and

consent, and automatic confirmation absent a Senate vote to the contrary, will ensure consistency and fairness across Administrations.

The filibuster of judicial candidates by the Senate's minority party has been killed off, now that both Democratic and Republican majorities have exercised the so-called "nuclear option" to enforce majority-rule voting. No party holding the majority in the Senate is likely to bring it back. The majority party can still refuse to act on judicial nominations by a President from a different party, however, in cases where they wish to obstruct nominations without allowing the nominee a hearing and forcing individual Senators to take direct responsibility for voting against.

This amendment also enforces discipline on the advice and consent process for other federal office holders subject to confirmation. The varying periods of Senatorial consideration reflect that a President should have the greatest leeway in appointing executive branch officials, but the Congress should have additional time to consider judicial candidates, and particularly Supreme Court candidates.

Alternatives to Amendment? Timely Senatorial consideration of nominees could, in principle, be respected absent an amendment, but each party would have an incentive to cheat when it holds a majority and the stakes are highest.