

Testimony of Senator Robert C. Byrd
before the Senate Budget Committee

on

Senate Procedures for Consideration of the
Budget Resolution/Reconciliation

February 12, 2009

Mr. Chairman and Senator Gregg:

Thank you for this opportunity to testify on Senate procedures for considering budget resolutions and reconciliation bills. I commend the Committee and Senator Specter for focusing attention on this important matter.

I am one of the proud authors of the Congressional Budget and Impoundment Control Act of 1974. At the time, I served as Chairman of the Subcommittee on the Standing Rules of the Senate. With a staff comprised from 10 Senate Committees, I led 90 hours of meetings, during 25 sessions, over a 16-day period. I met with the Senate Parliamentarian, the Congressional Research Service, and the Senate Legal Counsel. As Majority Whip, I managed the Senate's floor deliberations on the Budget Act. When the Senate completed its many weeks of debate and amendment, I served on the conference committee that finalized the Budget Act.

I can say with confidence that the process the Senate utilizes today hardly resembles the process envisioned in 1974. The budget reconciliation process, for example, was once thought to allow for last-minute adjustments between two or more budget resolutions in a fiscal year, something that has never happened in the thirty-five years since the enactment of the Budget Act. Today, the reconciliation process serves as a reminder of how well-intentioned changes to the Senate rules can threaten the institution in unforeseen ways.

Reconciliation can be used by a determined majority to circumvent the regular rules of the Senate in order to advance partisan legislation. We have seen one party, and then the other, use this process to limit debate and amendments on non-budgetary provisions that otherwise may not have passed under the regular rules. The reconciliation process was designed to facilitate legislation to reduce deficits. Instead, the process has been used to enact multi-trillion tax cuts that led to record deficits over the last eight years.

Of the few checks on this fast-track process, I am proud to say that one of the most effective bears my name under the Byrd Rule, prohibiting extraneous matter on reconciliation bills. I also am pleased that the Committee created, at my request, a point of order in the Fiscal Year 2008 budget resolution, prohibiting reconciliation bills that worsen the deficit. I hope this prohibition will be codified in the Budget Act, as the Byrd Rule was codified. But these checks alone, I am sorry to say, are not sufficient to prevent abuse. It's long past time that the Senate take a look at the reconciliation process, and even consider doing away it, if it is found that the rights of the minority cannot be better protected.

While we are at it, let us get rid of the perennial and painfully ridiculous budget vote-aramas. I once described vote-aramas as pandemonium, which was the Palace of Satan in Milton's Paradise Lost. But that term fails to describe the ignominy of the Senate when it becomes engulfed in these budget vote carnivals. To the credit of Senators Gregg

and Conrad, vote-aromas have been limited in recent years, but they continue to occur nonetheless. In 2007, during the debate on the College Cost Reduction and Access Act, the so-called education reconciliation bill, a Senator offered an unrelated amendment on the Federal Communications Commission; which then prompted the other side to offer a Sense-of-the-Senate resolution on detainees at Guantanamo Bay; which then prompted an amendment urging President Bush not to pardon "Scooter" Libby; which then prompted a retaliatory amendment on pardons granted by President Clinton. Amendment after amendment was offered, each completely unrelated to the education reconciliation bill, and subject to multiple violations under the Budget Act. And, yet, each side continued to raise the stakes, taking political shots at the opposing side, while the Senate drifted far from its Constitutional responsibility to legislate for the American people.

It underscores the dangers of the reconciliation process – where bills and amendments are considered under expedited procedures, where vote-aromas occur and chaos ensues, and where Senators are called upon to cast votes on nearly anonymous, and potentially dangerous, amendments without adequate time for debate and understanding. No wonder the American people are losing faith in their governmental institutions. We engage in these vote-aromas once, and sometimes twice, a year, and make spectacles of ourselves in order to create fodder for press releases and campaign ads. Even the name "vote-arama" is ridiculous.

I call upon the Republican and Democratic leadership, as well as the members of the Budget Committee, and all Senators, to strengthen the Congressional budget process. I believe today, as I believed in 1974, that the Congress should produce an annual budget that reflects its views, just as the President is required to submit a budget that reflects his views. But reconciliation is different. Unlike the budget, a reconciliation bill can become the law of the land. And it is not a necessary exercise. The Budget Act does not require reconciliation, nor does the Budget Act require, or even mention, the use of vote-aromas. This is self-inflicted abuse, and our Nation suffers as a result.

What a magnanimous gesture it would be from the newly expanded Majority, in furthering a new tone and era of bipartisanship, if we were begin bipartisan discussions in earnest on improving and civilizing what has traditionally been a partisan process. As part of those discussions, I would encourage the Committee to consider the unprecedented deficits we are accumulating, and try to find consensus, as we did in 1990 at Andrews Air Force Base, on renewing the strong budget enforcement mechanisms that have served our nation in the past.

For the benefit of the record, I ask that my amendment on vote-arama from 2001, and that a statement from the Congressional Record on the Function 920 account, be included in the Committee record. This vote-arama amendment, which Senator Specter has embraced in his proposal, could serve as a starting point for this Committee as it considers reform.

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