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SENATE PROCEDURES FOR CONSIDERATION OF THE BUDGET RESOLUTION/RECONCILIATION

HEARING

BEFORE THE

COMMITTEE ON THE BUDGET
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

February 12, 2009—SENATE PROCEDURES FOR CONSIDERATION OF THE BUDGET RESOLUTION/RECONCILIATION

Printed for use of the Committee on the Budget

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SENATE PROCEDURES FOR CONSIDERATION OF THE BUDGET RESOLUTION/RECONCILIATION

THURSDAY, FEBRUARY 12, 2009

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC.

The Committee met, pursuant to notice, at 10:09 a.m., in room SD–608, Dirksen Senate Office Building, Hon. Kent Conrad, Chairman of the Committee, presiding.

Present: Senators Conrad, Cardin, Whitehouse, Gregg, Sessions, and Alexander.

Staff present: Mary Ann Naylor, Majority Staff Director; and Denzel McGuire, Minority Staff Director.

OPENING STATEMENT OF CHAIRMAN CONRAD

Chairman CONRAD. The hearing will come to order.

I want to welcome everyone to the Budget Committee this morning. I especially want to welcome our most senior member, Senator Byrd, who is also a valued member of this Committee.

Today's hearing will focus on Senate procedures for consideration of the budget resolution and reconciliation. I would like to address the practice known here as "vote-a-rama," and before I go further, I want to make very clear that I have no interest in restricting the rights of the minority. I have been in the minority. I have been in the majority. I am acutely aware that we might be in the minority again. And so I am absolutely devoted to continuing the full rights of the minority. That is not the issue before this hearing.

The fundamental issue before us is: Can we improve the process? Can we make it better? I think many of us felt acutely after last year that there had to be a better way. I think those of us who have been most deeply involved have felt this for many years. But last year, because the Presidential candidates were coming and going and it forced the votes into a very short period of time, at least the key votes, it became, I think, even more apparent than it has been, certainly to the general membership of the Senate, that this system really needs a review and a reworking.

I am delighted to have Senator Byrd as a witness today. Senator Byrd is a giant in the Senate. He is the Senate's Pro Tempore, former Majority Leader, and a valued member of this Committee. And he is a leading expert on Senate rules and procedures and played a critical role in the creation of the Congressional Budget Act under which we operate.

Senator Specter will also be here. Senator Specter is the Ranking Member and a former Chairman of the Senate Judiciary Com-

mittee. He is also an expert on Senate rules and procedures. He has introduced legislation, Senate Resolution 29, that builds on the ideas put forward by Senator Byrd on reforming the vote-a-rama process. So I very much look forward to both of their testimony.

Let me begin by making clear why we have vote-a-rama. Under the Congressional Budget Act, the budget resolution and reconciliation bills are given special fast-track treatment that limits debate: 50 hours for a budget resolution, 20 hours for a reconciliation bill. This means that these measures cannot be filibustered. As a way to protect the rights of the minority, the Budget Act allows an unlimited number of amendments to be filed even after all time has expired on the resolution or the bill. So as frustrating as vote-a-rama may be for all of us, the ability to offer unlimited amendments is meant to safeguard minority rights.

Again, I want to make clear I have no interest in truncating minority rights, but there are real problems with vote-a-rama, and I think they became even more clear last year.

What's Wrong With Vote-a-Rama

- Back-to-back votes, sometimes for several days
- Little time to review and debate many amendments
- Senators often don't know what they are voting on

No. 1, it results in many back-to-back votes, sometimes continuing for days, with little time for review and debate. And some of these amendments have far-reaching consequences. As a result, Senators often are not fully certain of the implications of the amendments they are voting on. When you have a debate that lasts 2 minutes, 1 minute a side, and nobody has seen the amendment until 15 minutes before it is voted on, we have got a problem.

The number of amendments offered to budget resolutions has generally been rising. According to the Congressional Research Service, the last 3 years are among the top 5 years with the most amendments offered. You can see that in 2008 we saw the most amendments ever—113.

Number of Amendments Offered to Budget Resolution Has Been Rising

2006, 2007, and 2008 Among Top Five Years

Year	Number of Amendments Offered
2008	113
1998	106
1999	94
2007	91
2006	87

Source: CRS

The number of roll call votes on budget resolutions has also generally been rising, and, disturbingly, the percentage of votes taken on amendments offered after all time has expired has been rising. This means that Senators are increasingly taking votes on amendments that were given no real time for debate. In 2008, we had 40 votes, 60 percent of which were on amendments that were given no time for debate.

Number of Budget Resolution Roll Call Votes Has Been Rising

Senators Taking More Votes on Amendments Given No Time to Debate

Year	Number of Votes	% Offered After Time Expired
1995	56	71%
2003	50	80%
1993	43	37%
2008	40	60%
1996	40	20%

Source: CRS

Here are some potential ways to reform the vote-a-rama process:

We could create filing deadlines for first and second degree amendments. This would prevent amendments from being filed after all time has expired and hopefully allow more time for debate.

Potential Ways to Reform Vote-a-Rama

- Filing deadlines for 1st and 2nd degree amendments
- Increase number of amendments debated prior to vote-a-rama by reducing time on each amendment
- Brief "lay over" period to review amendments
- Yielding back time only by UC

We could increase the number of amendments debated prior to vote-a-rama by reducing the time allotted to each amendment. Again, this would hopefully encourage more substantive debate on amendments.

Third, we could require a brief layover period to review amendments.

And, fourth, we could allow the yielding back of time only by unanimous consent. This would help protect Senators' rights to continue debate on amendments in light of the other changes we might make that would limit amendments being offered.

Now, I have not formed any hard and fast opinion on any of these. I am completely open to what we might agree to jointly as a way of reforming the process. I know we have got strong majorities here on the Committee and on the floor and that we could ram through rule changes perhaps. I have no intention of doing that. I want to make that very clear. That is not what this exercise is about. I am interested, though, in working together to see if we can improve the process.

With that, I will turn to Senator Gregg, who we are delighted is back in the Committee. While we in some ways wish him well in the confirmation process, if I am honest about it, I would not be heartbroken if somehow the confirmation process broke down and he were required to stay with us. But, in any event, we are delighted you are here.

OPENING STATEMENT OF SENATOR GREGG

Senator GREGG. Thank you, Mr. Chairman. Thank you for those generous words, and now I know who has the hold on me.

[Laughter.]

Chairman CONRAD. Multiple holds.

Senator GREGG. First off, it is always a pleasure to have the Senator Pro Tempore here today, or any day. He is the oracle of the Senate on the issue of rules, procedure, and proper decorum, and all of us have read much of his writings and enjoyed listening to his presentations on the floor, and we will today.

The issue of vote-a-rama is difficult, and there is no clear answer to it. The vote-a-rama is the Senate's equivalent to Chinese water torture, especially for those of us who manage the bill on the floor. But, on the other hand, it is the opportunity for the minority to make its points. We have seen in recent years where the minority has lost its capacity to make its points in the traditional way on the Senate floor, with a number of cloture petitions and tree-filling events. And so the budget rules, as they are presently structured, really is the last absolute bastion of the right of the minority to bring forward its opinions and have a vote on them without being able to be shut off.

Granted, the debate on the amendments is extremely truncated, as the Chairman said, and it is a minute on each side. But the right at least still exists.

Now, I want to express my great appreciation to Senator Reid in the way he has run the Senate so far in this session. It has been open. It is the way it used to be. It is the way it should be. And it has been enjoyable. It has been just plain enjoyable to have the Senate function as a house of debate and a place where people get

their points across on the floor and get to vote on them. And I hope we can maintain that approach, and I admire his leadership this year on that issue.

But I do not know that the minority is going to be willing—and I think the Chairman has not even implied that this would be his purpose, but the minority is not going to be willing to neutralize or significantly adjust its rights here if it would affect the ability to make our points. And so we have to come up with a procedure which addresses the rights of the minority and at the same time gets into a more orderly process at the end of the day when we get to the final hour on the budget. That is what we are looking for. And if there was a quick answer, we would have it. But we do not.

Some of the ideas that the Chairman has suggested in his four points here are, I think, worth discussing and seeing—you know, playing them back and forth and seeing if we can work them out. But at the end of the day, the bottom line for us is going to be that people in the minority—and we hope we will not be in the minority forever, and we will give the opportunity back to the Senator from North Dakota at some point. The people in the minority will have the ability in the budget process to amend without any limitation that is unreasonable, and that the rights of the minority would not, therefore, be curtailed.

But that does not mean we cannot in some way fix the vote-a-rama. I do believe there must be something better, and so let us take a look and see if we can find it.

Thank you, Mr. Chairman.

Chairman CONRAD. I thank very much the Ranking Member for his statement and the spirit that he brings to the exercise. Look, I have been in the minority. I have been in the majority. As I said, I am acutely aware that I might be in the minority again. So I am not going to be at all interested in something that truncates or reduces the rights of the minority.

Senator GREGG. And the Chairman's fairness is renowned throughout the Senate. You have always been extraordinarily fair and forthright with the minority, and we very much appreciate it. And we understand that that is your position as we move forward on this issue.

Chairman CONRAD. You know, one of the questions that has run through my mind is: If you are confirmed as Secretary, will you be hiring at all? Because maybe a number of us would like to join you up there.

Seriously, together hopefully we can have a chance here to explore how we can improve the process. We could not do better than to have Senator Byrd, a member of this Committee and somebody who has forgotten more about the rules than most of us know. Welcome, Senator Byrd. Good to have you here, sir. Please proceed with your testimony.

STATEMENT OF HON. ROBERT C. BYRD, A UNITED STATES SENATOR FROM THE STATE OF WEST VIRGINIA

Senator BYRD. Well, Mr. Chairman and Senator Gregg, I thank you for this opportunity to testify on Senate procedures for considering budget resolutions and reconciliation bills. I commend the

Committee and I commend Senator Specter for focusing attention on this important matter.

I am a proud author of the Congressional Budget and Impoundment Control Act of 1974. I am one of the proud authors. At the time, I served as Chairman of the Senate Committee on Standing Rules of the Senate. With a staff from 10 Senate Committees, I conducted 90 hours of meetings–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 floor deliberations on the Budget Act. When the Senate completed its several weeks of debate and amendments, I served on the conference committee that finalized the Budget Act. And I can say with confidence that the process that 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 35 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 we have seen the other party 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-dollar tax cuts that have led to record deficits over the last 8 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 am also pleased that the Committee created at my request a point of order in the fiscal year 2008 budget resolution prohibiting reconciliation bills that worsened the deficit. I hope that 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 is long past time, I say, that the Senate take a look at the reconciliation process and even consider doing away with it—doing away with 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-a-ramas. I once described vote-a-ramas 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-a-ramas have been limited in recent years, but they do continue to occur nonetheless.

In 2007—I hesitate. I want to welcome one of the best Senators, one of the finest Senators that this chamber has ever witnessed

who knows more about constitutional law than many of us ever read. He is a Senator's Senator.

Now, where was I?

Senator SPECTER. Go on with the theme you are developing, Senator Byrd. I like it.

[Laughter.]

Senator BYRD. You like that? All right.

Well, in 2007, during the debate on the College Cost Reduction and Access Act, the so-called education reconciliation bill—I do not know why we use that term, "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 after amendment was offered, each completely unrelated—I say each completely unrelated—Mr. Whitehouse—each completely unrelated to the education reconciliation bill, and subject to multiple violations under the Budget Act. Yet each side continued—continued to raise the stakes—that is S-T-A-K-E-S. I have got to have a little fun as we go along.

[Laughter.]

Senator BYRD. Taking shots, political shots, political potshots—you have to be careful how you say that now. Political potshots at the opposing side while the Senate drifted far—remember the old song, "Drifting Too Far from the Shore."

[Singing.]

Senator BYRD. While the Senate drifted too far from its constitutional responsibility to legislate for the American people.

We do have to have a little levity as we go along. Isn't that right?

It underscores the dangers of the reconciliation process—and would you say "ree-conciliation" or "reck-onciliation"? Reconciliation—where bills and amendments are considered under the expedited procedures where vote-a-ramas 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-a-ramas once and sometimes twice and sometimes more each year and make spectacles of ourselves in order to create fodder for press releases and for campaign ads. Even the name "vote-a-rama" 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-a-ramas. This is self-inflicted abuse, and our Nation can suffer and does suffer as a result.

What a magnanimous gesture it would be from the newly expanded majority in furthering a new tone and a new era of bipartisanship if we were to begin bipartisan discussions in earnest on improving and civilizing what has traditionally been a partisan process. As part of those discussions, I encourage the Committee to consider the unprecedented deficits that we—that is you and me, that is us—that we are accumulating and try to find consensus, as we did in 1990—Senator Gregg, you may remember—at Andrews Air Force Base. Do you remember that magnanimous spectacle over there? I should say "magnificent spectacle"—on renewing the strong budget enforcement mechanisms that have served our Nation in the past.

Now, for the benefit of the record, I ask that my amendment on vote-a-rama from 2001 and a statement from the Congressional Record on the Function 920 account be included in the Committee record.

Chairman CONRAD. Without objection.

Senator BYRD. I thank the Chairman and the Ranking Member.

This vote-a-rama amendment, which Senator Specter has embraced in his proposal, could serve as a starting point for this Committee as it considers reform.

[The prepared statement of Senator Byrd follows:]

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.

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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.

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It underscores the dangers of the reconciliation process – where bills and amendments are considered under expedited procedures, where vote-aramas 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-aramas 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.

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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.

Chairman CONRAD. Thank you, Senator Byrd. Thank you very much for your wise words, and thanks for your service to the country, especially your service to this body and certainly to this Committee. And what you have proposed will certainly form the basis of the discussions that we will have on how we can improve this process.

With that, we will turn to Senator Specter. Welcome.

Senator Specter, I want to indicate, last year approached me and said, "We have got to do better than this vote-a-rama process," and

urged me to engage on this issue to hold a hearing. I promised him then that we would hold a hearing and that we would seriously engage in an attempt to improve the process before we repeated it again this year.

So, Senator Specter, thank you for your leadership, and thank you for the energy that you have brought to the need for reform. Senator Specter.

STATEMENT OF HON. ARLEN SPECTER, A UNITED STATES SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SPECTER. Thank you, Mr. Chairman.

I begin by thanking the Committee for undertaking this consideration. I would supplement what the Chairman has said. To put a time on our conversation, it was March 14th at 1:50 a.m., and vote-a-rama had started on March 13th at 11:15 a.m., and we had 44 votes, and it was bedlam.

Before I describe it further briefly, I want to acknowledge the honor of sitting at this table with Senator Byrd. Senator Byrd, as we all know, was elected to the Senate in 1958, after he had been in the House of Representatives, having been elected there in 1952. And I attended the ceremony for Congressman Dingell a couple of days ago, the longest-serving House Member, but nowhere near the tenure of Senator Byrd, who has the all-time record. So it is an honor to sit beside him today. It has been an honor to sit with him for going on 29 years for me, which is a limited amount of time compared to what Senator Byrd has done.

Senator BYRD. It has been my treasured honor. My treasured honor.

Senator SPECTER. Thank you, Senator Byrd.

The subject matter is, I think, of vital importance to the procedures of the Senate because the way it has necessarily been conducted with the chamber full, that is the occasion when there are more Senators on the floor longer than any other time that the Senate functions, because if you step out of the chamber, you are likely to miss a vote. And with nearly 100 Senators on the floor, we do not sit in our seats waiting to be recognized, staying out of the well and staying out of conversations. There is no order. And it is impossible to hear what is happening.

And when the roll is called, we have to vote, and it is inevitable that votes are cast—I am right in the middle of the same procedure—where we do not know what we are voting on because we have not heard the debate. And there is only 2 minutes of debate, and if you listen closely, it is pretty hard to figure out some of these amendments. And they have not been written down; they have not been publicized. Staffs are totally overworked with each of us devoting many of our staff members, and they cannot get on the floor. So it is hardly a function of the world's greatest deliberative body.

I ask consent that my full statement be made a part of the record, and I will summarize it very briefly.

Chairman CONRAD. Without objection.

Senator SPECTER. It follows a proposal submitted by Senator Byrd back on April 5th of 2001, and the essence of it is, as the essence of Senator Byrd's was, to require that first degree amend-

ments be filed at the desk prior to the 10th hour of debate, second degree amendments prior to the 20th hour of debate, set aside the budget resolution one calendar day prior to the 40th hour of debate, to allow printing in the record and a review, and consent required to have time yielded back.

I am aware, acutely aware, of the issue of minority rights. But there is no doubt that the complex amendments are designed as "gotcha" amendments to put people on the record. I believe that this issue is closely interwoven with another resolution. My resolution this year is Senate Resolution 29, and earlier I reintroduced Senate Resolution 12, which would limit the procedures to fill the tree where we have seen Senators' rights to offer amendments very drastically curtailed.

The two unique qualities about the Senate as a legislative body are the right of any Senator at virtually any time to introduce virtually any amendment on any subject. Added to that unlimited debate, this is a chamber where the American people can see big issues debated. And you do not have to debate it for 26 hours, as Senator Thurmond did, to establish a record. It attracts attention. And people have an opportunity to focus on big issues—big issues—and Senators representing their constituents have an opportunity to improve the quality of public policy in America. And that change there would protect minority rights.

As usual, when there are undesirable practices, the partisan blame is pretty nearly evenly divided between the two parties, and leaders of both parties have undertaken this process. And I am glad to see this year that we had debate on SCHIP and we had debate on the stimulus package, and I hope we have put that behind us, so that Senators have an opportunity to offer amendments on pending legislation. And I think we need to refine what we mean by "germane." Perhaps we ought to adopt a term which is "relevancy" as opposed to what is "germane." Very hard to figure out what is germane. Not easy to figure out what is relevant, but we have a lot of law on the subject of what is relevant, a big body of case law.

So I hope we will make some changes, starting in this very distinguished body, and I think we have to move fast because we do not want to lose the wisdom of the Ranking Member, Senator Gregg, on this. And he may not be with us too long. So I would want to utilize his full talents, and if that sets a narrow parameter, it would not do this body any harm to move with some deliberate consideration, but no undue delay.

Thank you, Mr. Chairman.

[The prepared statement of Senator Specter follows:]

Statement of Senator Arlen Specter
Budget Committee Hearing - February 11, 2009

Mr. Chairman, Ranking Member, and other members of the committee, thank you for holding this hearing to examine the procedures under which the Senate considers the Budget Resolution, and to specifically examine the so-called "vote-a-rama."

I have introduced legislation (S.Res. 29) to provide greater efficiencies to what I believe is a broken process for consideration of the budget resolution. The need for reform is based on the most recent consideration of the budget resolution on March 13, 2008, when the Senate conducted 44 stacked roll call votes in one day – the so-called "vote-a-rama." With the 44 stacked votes, the frequent unavailability of amendment text in advance so there could be no analysis and preparation, the chamber full of senators, the unusual noise level, the constant banging of the gavel by the presiding officer, the near impossibility of hearing even just the two minutes allotted for discussion, and consideration of matters entirely unrelated to the budget, I believe the process needs reform. The resolution I have introduced is based on a proposal previously submitted by Senator Robert Byrd, whom most would agree is our most-knowledgeable Senator on parliamentary procedure. The proposal seeks to correct these problems I have cited by imposing several new rules designed to foster greater transparency and efficiency on a budget resolution.

Under the budget rules, once all debate time has been used or yielded back, the Senate must take action to agree to or to dispose of pending amendments before considering final passage. This scenario creates a dizzying process of voting on numerous amendments in a

stacked sequence, often referred to as a "vote-a-rama." During the course of the "vote-a-rama", dozens of votes may occur with little or no explanation, often leaving Senators with insufficient information or time to deliberate and evaluate the merits of an issue prior to casting a vote. By consent, the Senate has typically allowed two minutes of debate, equally divided, prior to votes. However, the budget process does not require Senators to file their amendments prior to their consideration. In many instances, members are voting on amendments on which the text has never been made available. This difficult working environment is further compounded by a chamber full of Senators and the constant banging of the gavel by the presiding officer to maintain order. This unusual noise level makes it nearly impossible to hear the one minute of debate per side.

The Budget Act of 1974 outlines the many clearly defined rules for consideration of a budget resolution, including debate time and germaneness. Despite these rules, the Senate has often set aside these rules and found clever ways to circumvent the rules. To restore some order to the process, S.Res. 29 would require first-degree amendments to be filed at the desk with the Journal Clerk prior to the 10th hour of debate. Accordingly, second-degree amendments must be filed prior to the 20th hour of debate. This legislation would require a budget resolution to be set aside for one calendar day prior to the 40th hour of debate. Doing so would allow all filed amendments to be printed in the *Record* allowing Senators, and their staff, an opportunity for review before debate on the resolution continues. To preserve the integrity of these new rules, debate time may only be yielded back by consent, instead of the current procedure whereby time may be yielded at the discretion of either side.

Another problem has been the subversion with the budget's germaneness rules by offering amendments to deal with authorization and substantive policy changes. It is important to remember that the Federal budget has two distinct but equally important purposes: the first is to provide a financial measure of federal expenditures, receipts, deficits, and debt levels; and the second is to provide the means for the Federal Government to efficiently collect and allocate resources. To keep the debate focused, amendments to the budget resolution must be germane, meaning those which strike, increase or decrease numbers, or add language that restricts some power in the resolution. Otherwise, a point of order lies against the amendment, and 60 votes are required to waive the point of order. Yet, to circumvent this germaneness requirement and inject debate on substantive policy changes, Senators have offered Sense of the Senate amendments and Deficit-Neutral Reserve Fund amendments that include exorbitant programmatic detail.

A sense of the Senate amendment allows a Senator to force members to either support or oppose any policy position they seek to propose. An excerpt of an amendment to the FY09 Budget Resolution follows:

> **Amendment #4299:**
> *(b) Sense of the Senate.--It is the sense of the Senate that –*
> *(1) the leadership of the Senate should bring to the floor for full debate in 2008 comprehensive legislation that legalizes the importation of prescription drugs from highly industrialized countries with safe pharmaceutical infrastructures and creates a regulatory pathway to ensure that such drugs are safe; (2) such legislation should be given an up or down vote on the floor of the Senate; and (3) previous Senate approval of 3 amendments in support of prescription drug importation shows the Senate's strong support for passage of comprehensive importation legislation.*

The use of sense of the Senate amendments on the budget resolution has been discouraged in recent years because they have little relevance to the intended purpose of the

budget resolution. As a result, it has become increasingly popular to offer deficit-neutral reserve fund amendments. Prior to the FY06 Budget Resolution, reserve funds were used sparingly. In in FY07, 22 were included in the Senate resolution and 8 in the House resolution; in FY08, 38 were included in the Senate resolution and 23 in the conference report; and in FY09, 31 were included in the Senate resolution.

Deficit-neutral reserve funds – which are specifically permitted by section 301(b)(7) of the Budget Act of 1974 – have an important functional use in the budget process, but do not *require* extensive programmatic detail to be useful. On the speculation that Congress may enact legislation on a particular issue – perhaps "immigration," "energy," or "health care" – a reserve fund acts as a "placeholder" to allow the Chairman of the Budget Committee to later revise the spending and revenue levels in the budget so that the future deficit-neutral legislation would not be vulnerable to budgetary points of order. Absent a reserve fund, legislation which increases revenues to offset increases in direct spending would be subject to a Budget Act point of order because certain overall budget levels (total revenues, total new budget authority, total outlays, or total revenues and outlays of Social Security) or budgetary levels specific to authorizing committees and the appropriations committee (committee allocations) would be breached.

However, it is unnecessary to include extensive programmatic detail into the language of a deficit-neutral reserve fund for it to be useful at a later date. An excerpt of an amendment to the FY09 Budget Resolution demonstrates the unnecessary level of programmatic detail that I refer to:

Amendment #4207:

At the end of title III, add the following:
SEC. 3__X. DEFICIT-NEUTRAL RESERVE FUND TO IMPROVE ENERGY EFFICIENCY AND PRODUCTION.
(a) In General.--Subject to subsection (b), the Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution by the amounts provided by a bill, joint resolution, amendment, motion, or conference report that would encourage--

(1) consumers to replace old conventional wood stoves with new clean wood, pellet, or corn stoves certified by the Environmental Protection Agency;
(2) consumers to install smart electricity meters in homes and businesses;
(3) the capture and storage of carbon dioxide emissions from coal projects;
(4) the development of oil and natural gas resources beneath the outer Continental Shelf; and
(5) the development of oil shale resources on public land pursuant to section 369(d) of the Energy Policy Act of 2005 (42 U.S.C. 15927(d)), without regard to section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110-161).

(b) Deficit Neutrality.--Subsection (a) applies only if the legislation described in subsection (a) would not increase the deficit over the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

Voting on amendments that advocate substantive policy changes in the context of a budget debate are a subversion of the budget's germaneness requirements and clearly fall outside the jurisdiction of the Budget Committee. In many instances, the programmatic detail is of a controversial nature, such as a recent amendment on the FY09 resolution to "provide for a deficit-neutral reserve fund for transferring funding for Berkeley, CA earmarks to the Marine Corps" (Amendment #4380).

To bring the focus back to the Budget, my legislation states that "provisions contained in a budget resolution, or amendments thereto, shall not include programmatic detail not within the jurisdiction of the Senate Committee on the Budget." It is my hope that this language will bring about a change in practice in the Senate whereby Senators will avoid including excessive

programmatic detail in their reserve fund amendments. Doing so will put the focus back on the important purposes of a budget resolution.

The provisions in my legislation may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members. Also, an affirmative vote of three-fifths of the Members of the Senate is required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

I commend the Chairman and Ranking Member of the Senate Budget Committee for their hard work in processing amendments to the budget resolution. Unfortunately, the process needs reforms to provide structure and to increase transparency and efficiency. The 44 roll call votes conducted in relation to the FY09 Budget Resolution are the largest number of votes held in one session dating back to 1964, according to records maintained by the Senate Historical Office. The Senate cast more votes on the budget in one day than it had previously cast all year on various other issues. It is my hope that this resolution, modeled in part on a previous proposal by Senator Byrd, will lead us to a more constructive debate on the budget resolution.

Chairman CONRAD. Thank you, Senator Specter, and thank you again for your interest and for taking the time. I know the Committee on which you are Ranking Member is meeting at this same time, and we understand that it took a special effort for you to be here with us today. I very much appreciate it.

I really do think working together there has got to be a way for us to reach conclusion on how to improve this process. It was not in the best traditions of the Senate to have circumstances in which so many votes were taken so rapidly with so little debate, so little

considerations, and a certain level of chaos, as the Senator describes. It seems to me there is a way to absolutely protect minority rights, but to do it in a way that we can be proud of. And that really is the test that we have.

With that, I want to thank both Senator Byrd and Senator Specter for being with us. We deeply appreciate your contributions to the Committee, and we will call on you as we move through this process. We hope we can do this together. It will not work unless we do. And do we are going to put together a proposal that tries to take the best ideas that come from this hearing and see if we cannot get all sides to agree.

Thank you both very much.

Senator SPECTER. Thank you.

Chairman CONRAD. Thank you, Senator Byrd.

Senator BYRD. Thank you.

Chairman CONRAD. Thank you for your service. Thank you, Senator Specter.

I will now turn to our second panel of witnesses. We are joined today by Bill Hoagland. Bill is currently serving as Vice President for Public Policy and Government Affairs at the CIGNA Corporation. He served as the Majority or Minority Staff Director on the Budget Committee from 1986 to 2002 and as a budget and economic adviser to the then- Senate Majority Leader Bill Frist from 2003 to 2007. I think it is fair to say that Bill Hoagland is one of the most respected staff persons to ever serve the U.S. Senate.

Second, we have Robert Dove. Bob Dove served as Senate Parliamentarian for 36 years. He is now a professor at George Washington University's Graduate School of Political Management, and Bob Dove brings a wealth of knowledge on parliamentary history of the U.S. Senate and on procedure.

Third, we have Bill Heniff with us. Bill is an analyst with the Congressional Research Service and is an expert on the Federal budget process and budget process reform.

I want to welcome all of you here today, and with that, I am going to ask Bill to proceed with his testimony. Bill Hoagland. We will ask Bill to proceed and, again, welcome back to the Budget Committee, Bill. We miss you around here, and we are delighted that you are here to share your views on how we could improve this process. Bill Hoagland.

STATEMENT OF G. WILLIAM HOAGLAND, FORMER STAFF DIRECTOR, SENATE BUDGET COMMITTEE

Mr. HOAGLAND. Thank you, Mr. Chairman, Senator Gregg and members of the Committee. I am humbled to appear before you on this side of the dais. I am also a little surprised to be asked to come back to the Committee on this particular topic. I anticipated that if I was ever asked to appear before the Committee, it would have been to atone for budget sins before what we staff used to refer to as the "Budget Committee Nuremberg Trials." I am pleased to be joined here by Bob Dove, one who understands the procedures much better than I could ever hope.

In preparing for what I was to say to the Committee, I consulted with two previous staff directors that served in the majority—Hazen Marshall under Senator Nickles and Scott Gudes under the

Ranking Member—both during a time when vote-a-rama expanded. There were three themes that emerged from our discussions.

First, we all agree that yes, vote-a-rama created much angst, frustration, and exhaustion for both Committee staff as well as floor staff. Nonetheless, this relatively minor inconvenience visited upon staff was acceptable as it was our responsibility to you to help manage the completion of the measure. Further, we note that despite the growing practice, budget resolutions were brought to completion, in large part because of the cooperation between the Chairman and the Ranking Member.

Second, but infinitely more important, our greater concern is the feeling that this procedure diminishes and embarrasses the institution we love, too. Further, the spectacle of vote-a-rama plays to the opponents of the congressional budget process—a process we obviously think that needs to be strengthened and preserved, particularly in these difficult economic times.

Finally, we all agreed that the rights of the minority had to be protected in this process. And, of course, we think vote-a-rama does protect those rights.

We concluded, as you have, Mr. Chairman, that there must be a better, more orderly, fairer way to complete action.

I was curious as to whether the Senators involved in the drafting of the original Budget Act had purposefully not considered Senate cloture procedures in crafting time limitations within the Act. Researching, I found very few answers. The legislative history of the Budget Act informs that the original bill to reform the budget process—introduced by Senator Sam Ervin and others in October 1973—included language on procedures for consideration of what was then referred to as a "budget limitation bill" that is almost identical to the language found today in Section 305 of the final Act, except that the introduced bill called for 60 hours of debate not 50. And when the bill was reported out of the Senate Committee on Government Operations in November 1973, the 60 hours had been increased to 100 hours with debate on amendments at 4 hours apiece.

I think the Senate drafters were very clear and explicit that the budget resolution was to be treated as a highly privileged matter and those 100 hours, which they referred to as "the equivalent of nearly 17 6-hour days," was to give assurances to both Houses of the Congress that adequate time for the full consideration of the budget would be held. I note also that in the original bill, as reported in the House, there would be a 10-day—unbelievable—a 10-day layover after the resolution was reported before it was considered in the chamber in its 10 hours. And today, of course, the House and the Senate can consider a resolution any day after it has been reported.

I conclude from the legislative history that vote-a-rama was never envisioned simply because it was assumed that there would be sufficient and adequate time available for the full consideration both before and after the resolution was presented to the chamber; and, further, that the requirement that amendments offered to the resolution must be germane would also be a limiting factor.

Now, thinking only the best motives of Senators, one could argue that vote-a-rama is not meant to be a delaying tactic, for after all

a final vote will happen if out of exhaustion for no other reason. Rather, Senators must feel that the full consideration of such an important blueprint to guide fiscal policy somehow has not been achieved within the time available.

Now, I recognize that arguing for additional time on a resolution or reconciliation bill runs counter to the pressures that are placed upon the current Majority Leader in managing the floor. And expanding time also would place tremendous pressure on the managers of the resolution to secure Senators' participation throughout the period and not, as the members are wont to do today, wait until the end of the period to offer their amendments.

Alternatively, without increasing the statutory time for consideration, the argument for greater review of the amendments offered within the time constraints must be considered. And I think that is how the amendments have evolved since the mid-1990's. We have already heard about in 1997, with Republicans in the majority, the Senate did adopt—it did adopt on a 92–8 vote—an amendment offered by Senator Byrd that modified debate on reconciliation bills that: increased the statutory time on reconciliation; set a time period for filing of first degree amendments; but most importantly, that 92–8 vote added in statute Senate Rule XXII that brought to a close all actions on reconciliation bills at the end of 30 hours.

Chairman Conrad, you and Senator Gregg voted in support of that Byrd amendment as did my former boss, Chairman Domenici, and Senator Nickles. The amendment was added during the Revenue Reconciliation Act that year. The balanced budget could not be worked out, so it was dropped in conference.

In 2001, as we have heard this morning already, the Senate once again adopted by a voice vote this time to a budget resolution—a Byrd amendment on a budget resolution that retained the 50 hours of debate on resolutions; increased time on reconciliation bills to the same, up to 50 hours, which I think is a good idea; and specified filing deadlines within the 50 hours, but dropped the post-cloture rule from the previous proposal. Again, that amendment was dropped in conference also.

In 2006, I believe the Chairman at that time, Senator Gregg, introduced reform legislation that maintained the 50 hours but eliminated vote-a-rama by limiting time to "consideration" rather than "debate." And I think Senator Specter's proposal here today is simply an evolution of moving forward from the 2001 vote.

So what should be done? Very quickly, Mr. Chairman, the Senate needs to decide what its goals are in considering a budget resolution. If the Senate wants to limit time for consideration of a budget reconciliation bill or to a specified time, there is one sure way of accomplishing through a hard and fast post-cloture type rule, and we understand the risk that creates for the minority.

Alternatively, if the purpose of the budget resolution is to provide an opportunity for the Senate to engage in a logical, fully informed debate surrounding fiscal policy, as was envisioned by the original drafters of the Act, then I think the reform proposals that have been evolving since 2001—setting deadlines for submitting amendments in a timeframe—seem appropriate. The risk, many amend-

ments, however, could still be filed and pending, requiring votes well beyond the 50 hours or the 30-hour limit.

My time is running out here so let me very quickly, if you will bear with me, Mr. Chairman, I have, with all due respect, a couple of recommendations I would proffer that might impact the amendments considered during budget deliberations.

No. 1, require at a minimum, at least a minimum, of a 1-day layover of the reported resolution or reconciliation bill before proceeding to the Senate floor.

No. 2, require unanimous consent to yield back time on budget resolutions or reconciliation bills.

No. 3, if you decide to have 50 hours statutory time limit, limit it to two amendments per Senator and require—as is the practice today—to alternate amendments but begin with the minority having the right of refusal on the first amendment.

No. 4, adopt in statute a very clear definition of "germaneness" that would prohibit the consideration of the sense of the Senate amendments. I thought when I left here that was taken care of. I understand it is not the case today. I am not critical of the Senate Parliamentarian's office. I am just saying they have a job to do, too, and I think if that is put in statute, that might help.

I might also suggest that that be extended to "deficit neutral reserve funds," but I have not fully thought through the consequences of limiting that like sense of the Senate amendments.

And then falling in the category of "green eyeshade" from the staff, I would say either do away with Function 920 Allowances in the reported budget resolution, or if technically needed, make it out of order to offer an amendment that touches the function on the Senate floor. Function 920, Senator Whitehouse, has become a magic asterisk for unspecified offsets on the floor and creates a number of amendments.

And, finally, one last observation. Mr. Chairman, I present with some trepidation. I believe that while increased vote-a-rama activity in recent years is a function of many variables, one of those variables is whether the resolution is considered in an even-numbered or odd-numbered year. Budget resolutions have become messaging instruments, not budgeting instruments. Too many times I was aware of amendments drafted on both sides of the aisle to stoke political press releases, and it was unspoken, but generally understood, that political campaigns considered budget resolutions the mother lode of opportunities for political ads. I have no suggestions on how to deal with the "gotcha" amendments. I only observe that to the extent these type amendments continue to proliferate, reform of the procedures to consider a budget resolution will likely prove unsatisfactory.

Thank you and continue to preserve the budget process.

[The prepared statement of Mr. Hoagland follows:]

Senate Procedures for Consideration of the Budget Resolution/Reconciliation "Vote-A-Rama"

Testimony before the Committee on the Budget, U.S. Senate
February 12, 2009
G. William Hoagland[1]

Mr. Chairman, Senator Gregg and members of the Committee, it is a pleasure to appear before you this morning on this side of the dais. I am honored to be joined by Bob Dove, former Senate parliamentarian, one who understands Senate procedures much better than I could ever hope.

I understand you want to focus on the practice that has become unflatteringly known by the term "vote-a-rama." In preparing this statement I consulted with two previous Budget Committee staff directors that served in the majority and during a time when vote-a-rama seemed to have expanded.[2]

Three themes emerged from our discussions. First we all agreed that yes -- vote-a-rama created much angst, frustration, and exhaustion for both Committee and floor staff in the mechanics of processing and disposing of amendments. Nonetheless this relatively minor inconvenience visited upon staff was acceptable as it was our responsibility to you as Senators to help you manage the completion of the measure. Further we noted that despite the growing practice, budget resolutions were brought to completion, in large part because of the cooperation between the Chairman and Ranking Member.

Maybe more interesting was the second and infinitely more important theme. The former staff directors' greater concern, including myself, was the feeling that this procedure denigrated, diminished, and embarrassed, the institution we love. Further, the spectacle of vote-a-rama we believe played to the opponents of the congressional budget process -- a process we collectively think must be strengthened and preserved particularly in these difficult fiscal and economic times.

Finally, we all agreed that the rights of the minority had to be protected in this process. Rightly or wrongly, vote-a-rama does ensure that the minority can offer amendments. Otherwise, it would be possible for the majority to continuously yield time off the resolution to prolong debate on only a handful of amendments until time had expired, fill the tree and lock out amendments until time had expired, or yield back time to consume portions of the hour limit so that amendments could not be offered under the cap. All three practices – yielding time to limit amendments, filling the tree, and yielding the majority's share of time – have been used to varying degrees over the years to weaken minority rights.

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[1] Staff of the Congressional Budget Office 1975 to 1981. Staff to the U.S. Senate Budget Committee, 1982 to 2002. Staff to the U.S. Senate Majority Leader 2003-2007. Currently Vice President for Public Policy and Government Affairs, CIGNA Corporation.
[2] Hazen Marshall, 2003-2004; Scott B. Gudes, 2005-2007.

We concluded that there must be a better, more orderly, and fairer way to complete action on budget resolutions and reconciliation bills while still protecting the rights of the minority to offer amendments.

How did this come about?

In theory, of course, once all debate time has been used or yielded back on a budget resolution or reconciliation bill, a vote should occur on adoption of the measure. But as the Committee knows, the Budget Act's time restrictions represent a limit on debate only and not on overall consideration of the measure. Contrast this with Senate Rule XXII governing cloture which provides for limitation on overall consideration including time in debate, quorum calls and roll call votes.

I was curious as to whether the Senators directly involved in the drafting of the Budget Act had purposefully not considered Senate cloture procedures in crafting time limitations within the Act. I found few clear answers to the question. The legislative history of the Budget Act informs that the original bill to reform the budget process (S.1541: The Congressional Budget Procedures Reform Act of 1973) introduced by Senators Ervin, Metcalf, Percy, Nunn, Brock, and Cranston in October1973 included language on procedures for consideration of the "budget limitation bill" that is almost identical to the language found today in Section 305 (b)(1) of the final Act, except that the introduced bill called for 60 hours of debate not 50.

When S.1541 was later reported from the Senate Committee on Government Operations in November 1973, the 60 hours had been increased to 100 hours with debate on amendments limited to 4 hours.

The Senate Report 93-579 accompanying the reported bill is instructive:

"Establishing such a concurrent resolution on the budget would mark the first time in the history of this country that Congress will have the opportunity to debate and adopt a plan selecting and relating spending priorities to the economy, to revenues and to the level of deficit or surplus in one *logical* (emphasis added) consistent package. It allows Congress to make *informed* (emphasis added) decisions on priorities..."[3]

The Senate drafters were clear and explicit that the budget resolution was to be treated as a highly privileged matter and those 100 hours, "the equivalent of nearly 17 six-hour days" was to give assurances that both Houses of the Congress had adequate time for the full consideration of the budget. I should also note that the original legislation contemplated that in the House there would be a 10 day lay over after the resolution was reported before it was considered in that Chamber under a 10 hour limit. Today of course the House and Senate can be considered of the resolution any day after it has been reported.

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[3] Congressional Budget and Impoundment Control Act of 1974; Legislative History S.1541—H.R. 7130, Committee on Government Operations, December 1974. p. 508.

I can only conclude from my reading of the legislative history that "vote-a-rama" was never envisioned simply because it was assumed that there would be sufficient and adequate time available for the full consideration of the resolution both before the resolution was presented to the Chamber and within the established statutory time constraints. Further that the strict requirement that amendments offered to the resolution must be germane[4] would also be a limiting factor.

But as I need not tell the Committee this was not to be the case particularly beginning toward the latter part of the 1990's when the number of amendments to resolutions exploded. For the first 20 years of the Budget Act the average number of amendments offered yearly to a resolution was 21. The next 12 years the number averaged nearly 80, reaching a peak of 106 with S.Con.Res.86 in 1998.

Thinking only the best motives of Senators, it seems one could argue that vote-a-rama is not meant to be a delaying tactic, for after all a final vote will happen if for no other reason than out of exhaustion. Rather, I would argue that Senators must feel that the full consideration of such an important blue-print to guide fiscal policy has not been achieved within the time available. I recognize that arguing for additional time on a resolution or reconciliation bill runs counter to the current demands placed on any Majority Leader to consider other legislation. Further, expanding time would place tremendous pressure on the managers of the resolution to secure Senators' participation throughout the period and not, as the members are wont to today, wait until the end of the time period to offer amendments.

Alternatively, without increasing the statutory time for consideration, the argument for greater review, study, and transparency of amendments offered within the time constraints must be considered. This has been the direction most reform proposals have taken since vote-a-rama became an issue in the 1990's.

In 1997, with Republicans in the majority, the Senate did adopt by a vote of 92-8 an amendment offered by Senator Byrd that modified debate on a reconciliation bill that did: (1) increase the statutory time on reconciliation to 30 hours (from 25 hours), (2) set a time period for the filing of first degree amendments within the first 15 hours and second degrees within the first 20 hours, but most importantly (3) adding in statute Senate Rule XXII language that brought to a close all action on a reconciliation bill at the end of the 30 hours. I would note that both you, Chairman Conrad and Senator Gregg, voted in support of the Byrd amendment as did former Chairmen Domenici and Nickles. The amendment added to the Revenue Reconciliation Act of 1997 died in conference. As you will recall that bill was a major component of the balanced budget agreement reached that year, and bipartisanship could not be found in conference on the Byrd amendment so it was dropped.

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[4] Section 305 ©, (4): Germaneness: prohibits the consideration of non-germane amendments to budget resolution and by cross reference to Section 310 (e), to reconciliation legislation. An amendment is per se germane: (1) changes numbers, (2) motion to strike, (3) changes dates. Other amendments are determined on a case by case basis. .

Following the explosion of amendments offered to the budget resolution in 1998, Senator Domenici directed me to work with Senator Byrd's staff and others to address the issue. S.Res.6 was introduced in January 1999 and among other things limited debate on resolutions and reconciliation bills to 30 hours, specified filing deadlines for amendments and once again proposed a post-cloture rule for budget resolutions and reconciliation bills. No action was taken on S.Res.6.

In 2001 the Senate adopted on a voice vote once again a Byrd amendment to that year's budget resolution. The amendment retained 50 hours of debate on resolutions but increased time on reconciliation bills to the same, and specified filing deadlines within the 50 hours for filing amendments, but dropped the post-cloture rule from previous proposals. The amendment was dropped in conference but had it been adopted it would not have eliminated the possibility of extended voting well beyond the statutory 50 hours; only a post-cloture rule would accomplish that objective.

In 2006, Chairman Gregg introduced reform legislation that maintained the 50 hours but eliminated vote-a-rama by limiting time to "consideration" rather than "debate". This proposal would have brought to a conclusion debate and votes on the resolution after 50 hours.

Senator Specter's proposal last year (S.Res.493) and his current proposal here today in many ways returns to that which the Senate adopted on a voice vote in 2001. A 50 hour time limit, first degree amendments to be filed in the first 10 hours, second degrees in the first 20 hours, and one calendar day time-out for review of all amendments printed in the Congressional Record before voting. It does not eliminate the possibility of extended voting well beyond the statutory 50 hours; only a post-cloture rule would accomplish that objective.

So what should or should not be done? I believe the Senate needs to decide what its goals are in considering a budget resolution. If the Senate wants to limit all time for consideration of a budget resolution or reconciliation bill to a specified time, there is one sure way to accomplish that through the imposition of a post-cloture rule. However, the risks remain high that such an approach could preclude the minority from offering amendments.

Alternatively, if the purpose of the budget resolution is to provide an opportunity for the Senate to engage in a logical, fully informed debate surrounding fiscal policy while protecting the rights of the minority to express their views, then the reform proposals that have been evolving since 2001 -- setting deadlines for submitting amendments early within the time period -- seems appropriate. The risk of this approach, however, means that many amendments could still be filed requiring votes beyond a 50 or 30 hour time limit, and vote-a-rama continues. The benefit, however, the Senate would have a better, informed debate and avoid some of the pandemonium present in the current process.

However the Senate chooses to address this issue, there are a couple of recommendations I would respectfully proffer that might impact the number of amendments considered during budget deliberations:

1. Require at a minimum 1 day lay-over of the reported resolution or reconciliation bill before proceeding to the Senate floor.

2. Require unanimous consent to yield back time on a budget resolution or reconciliation bill.

3. If 50 hours is the statutory time limit, limit to two amendments per Senator and require (as is the practice today) to alternate amendments but begin with the minority having the right of refusal on the first amendment.

4. Adopt in statute a clear definition of germaneness that would prohibit the consideration of Sense of the Senate amendments both during the consideration of budget resolutions and reconciliation bills. I thought this had been resolved, but I understand the practice continues today through revised interpretations from the Senate Parliamentarian's office. This is not a criticism of that office. I simply believe that without statutory guidance the Senate Parliamentarians must use their discretion in interpreting amendments while continuously seeking to balance the rights of the minority. I might expand this prohibition to "deficit neutral reserve funds" but I have not fully thought through the consequences of such a recommendation at this time.

5. Falling in the category of "green-eye shade" issues: either due away with Function 920 (Allowances) in the reported budget resolution, or if technically needed, allow for the reporting of a budget resolution with the function but make it out of order to offer an amendment that touches the function on the Senate floor. Function 920 has become the magic asterisk for offsets to often frivolous spending amendments in other functions.

One last observation I present with trepidation. I believe that while increased vote-a-rama activity in recent years is a function of many variables, one of those variables is whether the resolution is considered in an even versus an odd numbered year. Too many times I was aware of amendments drafted on both sides of the aisle to stoke political press releases, and it was unspoken, but generally understood, that political campaigns considered budget resolutions the mother load of opportunities for political ads. I have no suggestions to how to deal with the "gotcha" amendments; unless it would be to establish a biennial budget and appropriation process, but that would be a subject for later. I only observe that to the extent these amendments continue to proliferate, no reform of the procedures to consider a budget resolution will ultimately prove satisfactory.

Thank you and continue to preserve the congressional budget process.

Chairman CONRAD. Thank you, Bill. We very much appreciate your thoughtful testimony. And I tell you, sense of the Senate really became absurd, and I think Senator Gregg and I have been able to accomplish something in terms of discouraging sense of the Senate resolutions. But, you know, you talk about the ultimate absurdity, that really is it on a budget resolution, has no force and effect of anything. It is purely messaging, and it is a giant waste of time, in my judgment. We have been able to reduce that largely by an

agreement between the two of us to discourage it on both sides. But you cannot prevent it without some stronger medicine.

Mr. Dove, welcome, our former Parliamentarian, deeply knowledgeable on budget process and the precedents. Please proceed.

STATEMENT OF ROBERT DOVE, FORMER PARLIAMENTARIAN, UNITED STATES SENATE

Mr. DOVE. Thank you. First of all, I am not here as a representative of the Parliamentarian's office, and I appreciate Bill's acquiescence in that. I am a college professor now, and I teach about congressional procedure, and I talk about the budget process. And I tell my students, "We meant well."

Basically, when Senator Byrd spoke of those hours in his office, I remember them. I was the representative from the Parliamentarian's office when this law was being crafted. I can explain to Bill why we did not use the cloture language which ends all possibility of amendment at the end of the time. That is because that cloture language did not exist then. The cloture rule in 1974 was the old rule, the two-thirds rule. It had no limitation on consideration. That came into being after basically that rule was shown in 1977 to be somewhat worthless. And then in 1979, a limitation on consideration was put in place.

But I will tell you that I really picked up on Senator Byrd's statement about what was intended with the Budget Act and what has resulted. No, I do not recognize today's budget process from what was intended in the 1974 Act, and vote-a-rama was certainly never intended. I can think of reasons why it has happened and why probably there are members of the minority who would be loath to give up their rights to offer amendments, and it is largely because there are so few opportunities on the Senate floor to offer amendments in the recent past.

I did see that Senator Specter complimented the Majority Leader on the open amendment process on the stimulus bill. My reaction is it is like a steam kettle. You fire it up, and it is going to come out someplace. If Senators can freely offer amendments on other measures, they may not be as interested in offering amendments on the budget resolution. But as long as the budget resolution stands almost alone as a way for minority members to get votes on things that they are very interested in getting votes on, you will be a target. And that is, I think, in a sense very sad for the budget process.

The budget process, I will say, was devised in an atmosphere—Richard Nixon was the President when the budget process act was enacted. And the view, frankly, was that the Democratic Congress was going to continue forever, and that probably the Republicans were going to hold the White House forever. This is only 2 years after the landslide of the 1972 bill, and it was a way for the Democratic Congress in effect to take their most important power, the money power, into their own hands.

It has not worked out that way. Instead of taking power away from a President, to me the reconciliation process has given power to the President. President Reagan used it. President Clinton used it. President George W. Bush used it.

When Senator Byrd talked about reconciliation and whether it was necessary, to me that is an area that I think the Budget Committee might concentrate on. That to me is what has been abused. Yes, vote-a-rama is an embarrassment, but the abuse of reconciliation is much more serious. After all, reconciliation bills become law. The budget resolution does not. So if——

Chairman CONRAD. Can I stop you on that point?

Mr. DOVE. Absolutely.

Chairman CONRAD. Because, you know, I think the impetus for this hearing was vote-a-rama.

Mr. DOVE. Yes.

Chairman CONRAD. But as we have gone through this hearing and the preparations for this hearing, there has been much more of a focus on reconciliation. And what you have just said I think is critically important for us not to lose sight of. And maybe here lies a place for compromise, because I, too, believe reconciliation has been abused, and been abused by both sides. It was never intended for the purposes to which it has been put, and the minority should be especially concerned about our now using the reconciliation process the way it has been used by both Democratic and Republican Presidents in the past.

And I can tell you as the Budget Committee Chairman, I have been approached repeatedly already—repeatedly—about using reconciliation to achieve one goal or another, however meritorious, whether it is health care reform, whether it is global climate change legislation. I think we need as a body to think very, very carefully about do we want reconciliation to be used in that way, to override the normal process and to allow without ability to filibuster a simple majority to pass sweeping legislation.

And we all know the make-up of the House. We know where the White House—the White House is in the hands of the majority. So this may be a critical moment for us to think very carefully about reconciliation.

Please.

Mr. DOVE. That is really very encouraging. I think maybe there is the basis for some kind of grand bargaining, because I remember very well in January of 2001 when the House passed a budget resolution providing for multiple tax reconciliation bills. And the idea was the Senate was going to be dealing with these all year long, just one after another. And I gave advice that that was not in order, that the Senate should only deal with one tax reconciliation bill. And as far as I know, the Parliamentarian's office has maintained that advice. But it has been abused, yes.

That basically is where I would come down on this issue.

[The prepared statement of Mr. Dove follows:]

Federal Budget Process Reform—An Overview

The Context of Budget Process Reform
The federal budget process is rooted in constitutional mandates, statutory requirements, House and Senate rules and practices, and administrative directives.

Thus, there are several avenues through which Congress can change the various elements of the budget process.

In some years, comprehensive changes were made in the budget process through statutes enacted by Congress and the President. The Budget and Accounting Act of 1921 established the executive budget process, the Congressional Budget Act of 1974 created the congressional budget process, and the Balanced Budget and Emergency Deficit Control Act of 1985 and the Budget Enforcement Act (BEA) of 1990 imposed additional budget controls on a temporary basis.

In other years, such as 1987, 1993, and 1997, existing budget process statutes were modified in a less comprehensive fashion and extended for limited periods. At other times, Congress and the President enacted statutes changing selected aspects of the budget process; the Line Item Veto Act (of 1996) is one example.

Finally, in every Congress, the House and Senate have modified existing rules and practices in the budget process and sometimes instituted new ones. Because nearly every committee of the House and Senate has jurisdiction over legislation with a budgetary impact, interest in the budget process and proposals to change it radiates throughout both chambers.

Changes in the budget process may take the form of freestanding legislation (e.g., the Line Item Veto Act) or may be incorporated into other budgetary legislation, such as acts raising the debt limit (e.g., the 1985 Balanced Budget Act) or implementing reconciliation instructions (e.g., the BEA of 1990). Budget process changes also may be included in the annual budget resolution or other House and Senate resolutions.

Congressional Budget Resolution and Reconciliation. The Congressional Budget Act of 1974 requires the House and Senate to adopt a budget resolution each year, setting forth aggregate spending and revenue levels, and spending levels by major functional categories, for at least five fiscal years. The budget resolution, which is a concurrent resolution and therefore does not become law, provides an overall budget plan that guides congressional action on individual spending, revenue, and debt-limit measures. The 1974 act includes an optional reconciliation procedure that provides for the development and consideration of revenue, spending, and debt-limit legislation to carry out budget resolution policies; enforcement of budget resolution policies also occurs by means of various points of order that may be raised on the floor. Budget resolutions and reconciliation measures are considered under expedited procedures in both chambers.

Some Members of Congress, as well as the President, have argued that the budget resolution would be more effective in enforcing budget policy by making it a joint resolution requiring the President's approval. A joint budget resolution would directly involve the President in congressional actions on the budget early in the process. If the President and Congress reach an impasse on a joint budget resolution, however, some are concerned that action on spending and revenue bills may be significantly delayed.

The expedited features applicable to the consideration of budget resolutions and reconciliation measures are a particular concern in the Senate, which often operates under "extended debate," where legislation may be considered without constraints on debate time or the offering of nongermane amendments.

The Senate also controls reconciliation legislation by a device known as the Byrd rule (which is Section 313 of the 1974 act). Under the Byrd rule, which prohibits the inclusion of extraneous matter in reconciliation legislation, a Senator may raise a point of order against a provision that meets any of the six definitions of extraneous matter specified in the 1974 act. While the Byrd rule has been very effective in excluding extraneous matter from reconciliation measures, some assert that the rule unduly limits the flexibility needed to formulate effective legislative policies and disadvantages the House in conference negotiations with the Senate on such legislation.7

As mentioned, Congress enforces budget resolution policies through points of order on the floor of each chamber during the consideration of budget legislation. Points of order, however, are not self-enforcing; a Member must raise a point of order on the floor. In addition, points of order under the 1974 act may be waived or set aside by unanimous consent. In the Senate, a motion to waive most Budget Act points of order requires a three-fifths vote (60 Senators if no seats are vacant). In the House, points of order may be waived by a special rule reported by the Rules Committee. Therefore, points of order under the 1974 act may be waived by a simple majority. Some argue that a super-majority vote should be required to waive Budget Act points of order in the House, to make it more difficult to consider legislation that would violate the policies set forth in the budget resolution. Others, however, argue that a super-majority threshold to waive Budget Act points of order would obstruct the will of the majority in the House.

Annual Appropriations Process. Discretionary spending, which amounts to about one-third of federal spending, is provided each year in regular, supplemental, and continuing appropriations acts. Discretionary spending funds most of the routine operations of federal agencies.

When a regular appropriations act or a continuing resolution is not in place after the start of the fiscal year on October 1, an agency does not have the legal authority to incur obligations in order to function and must shut down, resulting in the furlough of federal employees and disruptions in service. To prevent a government shutdown (or the threat of one) due to the expiration of funding, some Members have proposed establishing an automatic continuing resolution. An automatic continuing resolution would provide an uninterrupted source of funding for discretionary activities in the event one or more regular appropriations acts are not enacted by the start of a new fiscal year. While such

a device could eliminate or reduce employee furloughs and service disruptions, some view an automatic continuing resolution as substituting a formulaic response for deliberate and informed decision-making.

Biennial Budgeting. While most authorizations are enacted on a multiyear cycle, Congress acts on budget resolutions and appropriations acts annually. Biennial budgeting proposals would change the cycle under which Congress acts on budget resolutions and appropriations acts (and annual authorization acts) to two years. Biennial budgeting proposals are intended to reduce the amount of time Congress spends on budgetary legislation, to allow more time for congressional oversight of federal agencies and programs, and generally to provide for more efficient budget decision-making. In the view of some, a biennial approach could impair Congress's ability to respond to changing economic and budgetary circumstances.

Constitutional Amendments. Over the years, constitutional amendments have been proposed to change the budget process in various ways, including requiring a balanced budget, providing for a line-item veto, and limiting tax increases. First, balanced budget amendment proposals generally would require that total federal spending not exceed total federal revenues.8 Second, line-item veto amendment proposals would provide the President the constitutional authority to disapprove items contained in budgetary legislation signed into law. In 1996, Congress and the President enacted the Line Item Veto Act, which provided the President statutory authority to cancel any dollar amount of discretionary budget authority, any item of new direct spending, or any limited tax benefit. In 1998, however, the U.S. Supreme Court found that this statutory authority was unconstitutional. Third, tax limitation amendment proposals would require a supermajority vote in each chamber to pass legislation that would increase revenues.9
Advocates of these budget reforms argue that the changes must be incorporated into the Constitution in order to be enforced effectively, while critics maintain that they would impede the ability to respond to compelling budget circumstances and would diminish Congress's "power of the purse" by delegating too much power to the President.

VOTE-A-RAMA Under 1974 Budget Act provisions for considering the annual budget resolution, once all 50 hours of floor debate on the measure have expired, senators can continue to offer an unlimited number of amendments without debate. That means continuous back-to-back voting on amendments until senators choose to stop offering them.

Limits on debate time sometimes lead to a situation referred to as "vote-arama," where the Senate considers and disposes of many amendments after official debate time has expired. Some Senators have proposed various solutions to the "vote-arama" problem so that they have better opportunities to understand the content of amendments and to debate them adequately.

One of the simplest way to avoid a "vote-a-rama" is to guarantee a minimum of 30 minutes for the debate of any amendment, which would force Senators to explain and debate any particular amendment. If the debate time ran during the normal "vote-a-rama" period (after the expiration of time on the resolution) this would indefinitely extend the time for debate, however.

In recent years, the Chair and Ranking Member of the Budget Committee have worked together to minimize the duration of the stacked votes at the end of the consideration of the budget resolution. As with the vast majority of activity on the Senate floor, managing the duration and organization of the vote-a-rama requires the cooperation and strategic direction of the floor managers and leadership. The floor managers have successfully balanced the right of the Minority to offer unlimited amendments with the need for a finite end to the amendment process for most of the budget resolutions.

If the Senate dispenses with the right of the Minority to offer and vote on amendments to the budget, the procedures governing the floor consideration of a budget resolution will more closely resemble the rules associated with cloture. The Minority's ability to offer and vote on amendments to a bill which has attracted 60 votes in favor of a cloture petition is extremely limited, as the Majority can use its prerogatives for priority recognition to "fill the tree" and effectively limit amendments. The budget resolution (and associated reconciliation measures) are the only Senate vehicles with a guaranteed right for any Senator to offer an amendment and receive a recorded vote.

Robert Dove
Parliamentarian Emeritus
United States Senate

Chairman CONRAD. This may be a very critical moment for this body and this Committee and this Budget Act. And if I were in the minority at this moment, I would want to think very, very carefully: Do I want an unfettered reconciliation process? Now, it may not get used this year. May not. I have been arguing strenuously against it. But I can tell you, there are people who have a very different view. And I do not think my views will be dispositive. And just as I know there is enormous pressure to use it this year, I suspect those pressures will only grow. And next year we will really

be confronted with intense pressure to whatever extent the agenda does not move this year.

With that, Mr. Heniff, welcome.

STATEMENT OF BILL HENIFF JR., ANALYST, CONGRESSIONAL RESEARCH SERVICE

Mr. HENIFF. Mr. Chairman, members of the Committee, thank you for inviting me here today to present information on the topic of the consideration of the budget resolution and reconciliation legislation. It is a privilege and an honor to have this opportunity to testify to the Senate Committee on the Budget, and I hope you will find the information I present today helpful as you consider how the process might be modified.

I will add that it is also an honor and a bit humbling to be on the same panel as those so much more experienced than I—Bill Hoagland and Bob Dove.

The Chairman and others have noted the contours of the vote-a-rama. As provided by the Budget Act, budget resolutions and reconciliation have debate limits, putting some constraints to expedite consideration, but not too strict constraints such as Rule XXII, the cloture rule.

In my testimony this morning, I plan to provide a brief description of the information my colleagues and I compiled at the request of the Committee to help you assess the proportion of amendments and roll call votes that might be affected by various proposals that change the procedures.

Let me first tell you what we did. We reviewed the amendment activity related to the budget resolutions and reconciliation legislation for the period 1987 to 2008, covering the 100th Congress to the 110th Congress, a period that includes an equal number of years with a Democratic majority and a Republican majority.

Specifically, for both budget resolutions and reconciliation bills, we examined the number of amendments offered, the number of roll call votes in relation to those amendments, and the disposition of those amendments, both before and after the expiration of the statutory limit on debate. This information and a more extensive analysis is provided in a memorandum we have provide the Committee.

Now let me make some general observations based on that study.

The first observation is that the existing procedure under the Budget Act does not require a vote-a-rama every year on the budget resolution or on reconciliation legislation. In the first 6 years of this study, 1987 to 1992, as well as 2 years since 1992—in 1994 and 2004—the Senate completed all consideration of the budget resolution, including disposing of all amendments offered within the statutory 50-hour limit on debate. That is, in the period we looked at, eight times the Senate considered the budget resolution without a vote-a-rama.

As for reconciliation legislation, the Senate completed all consideration, including disposing of all amendments offered, within the statutory 20-hour limit on debate twice—both prior to 1990.

Indeed, there is variation regarding the amendment activity under the existing procedures. However, experience becomes practice with regularity. In most years since 1992 for the budget resolu-

tion and every reconciliation measure considered since 1989, the Senate has had a vote-a-rama. My next set of observations provides some numbers to objectively illustrate the extent of vote-a-rama. These numbers relate to the consideration of the budget resolution, but the patterns are the same with reconciliation legislation.

First, let me present data on the amendments actually offered after time expired. These are amendments that receive little or no floor debate after being formally presented to the Senate. And it is this set of amendments that most concern many Senators because these amendments may not be available for a sufficient amount of time and debate before having to make a decision on them.

Since 1992, an average of 31 amendments have been offered after time expired. This makes up about 41 percent of the total number of amendments offered to the budget resolution. And, again, this is the proportion of amendments that might not have been available in writing until shortly before the vote and that likely received little or no actual discussion on the floor.

Second, let us talk about the numbers that perhaps directly speak to the vote-a-rama, the number of amendments disposed of after the expiration of the statutory time limit on debate. I say these amendments directly speak to the vote-a-rama because it is these that are included in the succession of votes after time expired. As we have heard from Senators and other panelists, it is this succession of votes that some complain is confusing, frantic, and opens the door to potential mistakes.

Between 1993 and 2008, most amendments offered to budget resolutions were disposed of after debate time expired. An average of almost 49 amendments, or 65 percent of the total number of amendments, was disposed of after debate time expired. Now, some of these were offered before time expired. They may or may not have been debated at length. But they at least were available for review. The data show that about 24 percent of the total number of amendments, or an average of almost 18 amendments per budget resolution, were offered before debate time expired, but not disposed of until after time had expired.

The third set of numbers I want to highlight is the percentage of amendments on which a roll call vote occurred. These figures address the amount of statutory debate time being consumed by voting. They also represent to some degree the extent to which Senators are registering their individual preferences on amendments that may or may not have been available before the vote and that may or may not have been discussed on the floor before the vote.

After 1992, again, when the Senate has regularly considered the budget resolution, including amendments, beyond the 50-hour debate limit, most amendments were disposed of without any associated roll call vote. That is, 57 percent of all amendments were disposed of without a roll call vote. And roll call votes were more likely to occur in relation to amendments disposed of before debate expired than in relation to amendments disposed of after debate expired. That is, over half of the amendments disposed of before debate time expired received a roll call vote. In contrast, only about 39 percent of the amendments disposed of after debate time expired received a roll call vote.

Most amendments offered to budget resolutions are disposed of by unanimous consent or voice vote or withdrawn. When amendments are disposed of by roll call vote, more of those roll call votes occur before debate time expires than after.

That is the research that we provided, as I said, in the memorandum. CRS, of course, would be happy to do further research to address this information or any other questions that you may have.

Thank you, and I would be happy to answer any questions now as well.

[The prepared statement of Mr. Heniff follows:]

MEMORANDUM February 11, 2009

To: Senate Committee on the Budget

From: Bill Heniff Jr. (7-8646)
Analyst on the Congress and Legislative Process

Subject: **Budget Resolutions and Reconciliation Legislation in Calendar Years 1987-2008: Amendments Considered Before and After the Statutory Limit on Debate Expired**

This memorandum responds to your request for information regarding amendments to budget resolutions and reconciliation legislation considered in calendar years 1987-2008, covering the 100th Congress through the 110th Congress.[1] Specifically, the memorandum examines the number of amendments considered, the number of roll call votes in relation to amendments, and the disposition of amendments, both before and after the expiration of the statutory limit on debate.

The Senate considers the budget resolution and reconciliation legislation under procedures set forth in the Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, 2 U.S.C. 601-688), as amended, which are generally intended to expedite consideration. In particular, debate on the initial consideration of the budget resolution and reconciliation legislation, and all amendments, debatable motions, and appeals, is limited to 50 hours and 20 hours, respectively.[2] After debate time has expired, or is yielded back, the Senate may continue to consider, and Senators may continue to offer, amendments, motions, and appeals, but without debate. During this period, however, the Senate typically agrees by unanimous consent to consider amendments under accelerated voting procedures, allowing two minutes per amendment for explanation and a 10-minute limit per vote. Such consideration is usually referred to as "vote-arama," reflecting the nature of successive votes in relation to amendments pending and offered after debate time has expired.

The information contained in this memorandum was compiled from the Legislative Information Service (LIS) of the U.S. Congress [www.congress.gov] and the *Congressional Record*. In particular, in order to determine when the statutory limit on debate expired or was yielded back, we reviewed the consideration of budget resolutions and reconciliation measures in the *Congressional Record*. In some years, there was a clear indication of when debate on the resolution or bill expired. The Presiding Officer, for example, explicitly stated that "all time for debate on the resolution [or bill] has expired," or the floor managers explicitly yielded back all time on the resolution or bill.[3] In other cases, there was no explicit indication of

[1] Elizabeth Rybicki and Momoko Soltis, Analysts on the Congress and Legislative Process, assisted in compiling the information in this memorandum.

[2] Debate on a conference report, and amendments between the House and Senate, related to a budget resolution and reconciliation legislation is limited to 10 hours.

[3] In addition, in some cases, a Senator would state that the "vote-arama" would begin at a time or date certain. In 2000, for (continued...)

when debate time expired. In those cases, we attempted to approximate, in relation to the offering of amendments, and the roll call votes in relation to amendments, when the statutory limit on debate expired.[4]

Budget Resolutions

Number of Amendments

Table 1 contains the number of amendments to budget resolutions considered in calendar years 1987-2008. During the 22 years under this study, the Senate considered an average of about 58 amendments to each of 21 budget resolutions.[5] This average, however, obscures an increase in the number of amendments beginning in 1993. Specifically, the Senate considered an average of only about 15 amendments per budget resolution from 1987 to 1992, whereas the Senate considered an average of over 74 amendments per budget resolution from 1993 to 2008. Perhaps not coincidentally, from 1987 to 1992, the Senate considered and disposed of all amendments to the budget resolution within the 50-hour statutory time limit on debate. In contrast, in only two years since 1992 (in 1994 and 2004) has the Senate considered and disposed of all amendments to the budget resolution before debate time expired.

Even after 1992, however, most amendments to budget resolutions were offered before the 50-hour statutory limit of debate expired. Between 1993-2008, an average of almost 44 amendments, or almost 59% of the total number of amendments, was offered, and presumably debated before time expired. When time expired, however, an average of almost 18 amendments, or almost 24% of the total number of amendments, was pending. Such a high average number of pending amendments seems to suggest that the disposition of such amendments is deliberately delayed, perhaps so as to not use the statutory debate time for roll call votes. While Senators presumably had an opportunity to discuss these amendments before debate time expired, debate immediately prior to disposition was likely limited. In addition, an average of 31 amendments, or 41% of the total number of amendments, was offered after debate time expired. Consequently, most amendments were disposed of after debate time expired. An average of almost 49 amendments, or 65% of the total number of amendments, was disposed of after debate time expired. This compares to an average of 26 amendments, or almost 35% of the total number of amendments, disposed of before debate time expired. In summary, between 1993 and 2008, while most amendments to budget resolutions were offered and presumably debated before the statutory limit on debate expired (i.e., almost 59% vs. 41%), most amendments were disposed of after debate time expired (i.e., about 35% vs. 65%).

Looking at individual years after 1992, however, there was significant variation in the number of amendments offered after debate time had expired. For six of the 15 budget resolutions considered since 1992, for instance, no more than 11 amendments were offered after time expired, with no amendments

(...continued)

example, in relation to the consideration of the FY2001 budget resolution, Senator Jeff Sessions announced that the "vote-arama" would begin at 9:00 a.m. on April 7. *Congressional Record* (daily edition), Apr. 6, 2000, p. S2333. In other cases, the Senate agreed by unanimous consent that all time for debate on the resolution or bill would expire at a time or date certain, or after some action occurred.

[4] In 1990, for example, during the consideration of the Omnibus Budget Reconciliation Act of 1990, the Presiding Officer indicated, in response to a parliamentary inquiry, that all debate time on the reconciliation bill had expired at some previous point. Such point could not be determined from a review of the previous debate. Therefore, for purposes of this memorandum, debate was considered to have expired when the Presiding Officer responded to the parliamentary inquiry. *Congressional Record*, vol. 136, Oct. 18, 1990, p. 30668.

[5] The Senate did not consider the FY2003 budget resolution (S.Con.Res. 100, 107th Congress) on the floor.

offered in two of these instances, as noted above. In contrast, for the remaining nine budget resolutions, the number of amendments offered after time expired ranged from 20 in 1993 to a high of 92 in 2008. Further, over the past nine years, with the exception of 2002 (when the budget resolution was not considered) and 2004 (when all amendments were offered and disposed of within the statutory limit on debate), 35 or more amendments to the budget resolution have been offered after debate time has expired.

The proportion of amendments to budget resolutions offered after debate time has expired has varied by year as well. In six years, over half of the amendments were offered after time expired, ranging from almost 63% in 2000 to over 84% in 2003. While in the other nine years, less than half of the amendments were offered after time expired, the proportion of amendments offered after time expired ranged from zero to almost 48%.

Roll Call Votes in Relation to Amendments

Table 2 contains the number of roll call votes in relation to amendments offered to budget resolutions during the period 1987-2008.[6] Roll call votes were taken in relation to an average of about 25 amendments per budget resolution during the entire period. Like the number of amendments to budget resolutions considered by the Senate, the number of roll call votes in relation to such amendments also significantly increased beginning in 1993. An average of almost seven roll call votes was taken in relation to amendments to budget resolutions from 1987 to 1992, whereas an average of 32 roll call votes was taken in relation to amendments to budget resolutions from 1993 to 2008.

As noted above, between 1987 and 1992, the Senate did not consider any amendments after debate time expired, and therefore, no roll call votes occurred after time expired. After 1992, however, most roll call votes in relation to amendments to budget resolutions occurred after debate time expired. An average of about 19 roll call votes in relation to amendments to budget resolutions, or approximately 59% of the total number of roll call votes, occurred after debate time expired. In contrast, an average of 13 roll call votes, or 41% of the total number of roll call votes, occurred before debate time expired. Most roll call votes, however, occurred in relation to amendments offered and presumably debated before time expired. An average of over 20 roll call votes, or 64% of the total number of roll call votes, occurred in relation to amendments offered before debate time expired. In contrast, an average of almost 12 roll call votes, or approximately 36% of the total number of roll call votes, occurred in relation to amendments offered after debate time expired. Because debate time had expired, the Senate likely debated these amendments for two or fewer minutes prior to the roll call vote in relation to the amendments. In summary, between 1993 and 2008, while most roll call votes in relation to amendments to budget resolutions occurred after the statutory limit on debate expired (i.e., almost 59% vs. 41%), most roll call votes occurred in relation to amendments offered and presumably debated prior to debate time on the budget resolution expiring (i.e., 64% vs. almost 36%).

As with the number of amendments to budget resolutions, there was significant variation in the number of roll call votes after 1992, from a relatively few to several to a relatively large number of roll call votes after debate time expired. For four of the 15 budget resolutions considered since 1992, for instance, after time expired, no more than nine roll call votes occurred in relation to amendments after time expired, with no such roll call votes in two of these instances (1994 and 2004), as noted above. Further, for six of the

[6] Roll call votes in relation to amendments to budget resolutions include roll call votes on agreeing to an amendment, on a motion to waive a point of order against an amendment, and on a motion to table an amendment. For purposes of this memorandum, however, if the Senate voted affirmatively to waive a point of order against an amendment, only the vote on agreeing to the amendment was counted (i.e., in such a case, the vote on the motion to waive a point of order was not counted).

budget resolutions, between 11 and 20 roll call votes occurred in relation to amendments after time expired. Finally, for five of the budget resolutions, 24 or more roll call votes occurred after time expired, with a high of 43 roll call votes in 2003. As a proportion of all roll call votes in relation to such amendments after 1992, during the consideration of eight budget resolutions, over half of the roll call votes occurred after debate time expired, with all roll call votes occurring after debate time expired in 2008. Further, during the consideration of an additional two budget resolutions, more than 45% of the roll call votes occurred after debate time expired.

Some of these roll call votes occurred in relation to amendments that were offered and presumably debated before time expired and prior to the roll call vote, although debate immediately prior to the roll call vote was likely limited, as noted above. The remaining roll call votes occurred in relation to amendments that were offered after debate time expired, and therefore, the roll call votes occurred presumably after little or no debate (i.e., two minutes or less) on such amendments. For most of the budget resolutions considered after 1992, however, relatively few roll call votes occurred in relation to amendments offered after debate time expired; that is, during the consideration of nine of the 15 budget resolutions after 1992, eight or fewer roll call votes occurred in relation to amendments offered after such time expired.[7] During the consideration of the other six budget resolutions, the number of roll call votes in relation to amendments offered after debate time expired ranged from 13 to 40.

During the entire period covered by this study (1987-2008), a roll call vote did not occur in relation to most amendments offered to budget resolutions (see **Table 3**). That is, most amendments (almost 57% of all amendments) were disposed of without any associated roll call vote. After 1992, when the Senate regularly considered the budget resolution after debate time expired, however, roll call votes were more likely to occur in relation to amendments disposed of before debate time expired than in relation to amendments disposed of after debate time expired. About half of the amendments disposed of before debate time expired received a roll call vote. In contrast, only about 39% of the amendments disposed of after debate time expired received a roll call vote. Of the amendments disposed of after debate time expired, those offered before time expired were only slightly more likely to receive a roll call vote (42% of such amendments received a roll call vote) than those offered after debate time expired (37% of such amendments received a roll call vote).

Disposition of Amendments

Table 4 contains the percentage of amendments to budget resolutions adopted by the Senate. Between 1987 and 2008, most amendments (62%) to budget resolutions were adopted. The practice of considering the budget resolution after debate time expired does not appear to have significantly affected this success rate. Between 1987 and 1992, 66% of amendments to budget resolutions were adopted, and since 1992, almost 62% of amendments were adopted. During this latter period (1993-2008), while over half of the amendments were adopted regardless of when they were offered or disposed of, there are some differences. Of the amendments disposed of after debate time expired, amendments pending when time expired (i.e., offered and presumably debated) were less likely to be adopted (approximately 51%) than those offered and presumably debated for little or no time (almost 70%).

The disposition of an amendment is clearly correlated with the method of its disposition. As indicated in **Table 5**, amendments on which a roll call vote occurred were less likely to be adopted. Excluding the first two reconciliation measures, an average of about 17 amendments per budget resolution was either rejected on the roll call vote or fell on a point of order after a motion to waive the point of order was

[7] In three of these cases, no roll call votes occurred in relation to amendments offered after debate time expired.

rejected, whereas an average of 8 amendments per budget resolution was adopted by roll call vote. In contrast, as indicated in **Table 6**, amendments on which no roll call vote occurred were more likely to be adopted. Excluding the first two reconciliation measures, an average of approximately 28 amendments per budget resolution was adopted by either voice vote or unanimous consent, whereas an average of less than one amendments was rejected by voice vote, unanimous consent, or fell on a point of order. This pattern appears to hold regardless of when an amendment was offered or disposed of.

Reconciliation Legislation

Number of Amendments

Table 7 contains the number of amendments to reconciliation legislation considered in the Senate in calendar years 1987-2008.[8] During the 22 years under this study, the Senate considered an average of about 44 amendments to each of 16 reconciliation measures.[9] The number of amendments to reconciliation bills ranged from a low of two in 1989 to a high of 80 in 1995. In addition, after exceeding 40 amendments during consideration of each of the reconciliation measures considered between 1993 and 2005, the number of amendments to reconciliation measures declined to 30, 14, and 25, respectively, during the consideration of the last three reconciliation measures.

The practice of considering reconciliation legislation, including amendments, after the statutory limit on debate expired appears to have begun earlier than such practice with budget resolutions. As **Table 7** indicates, the Senate considered reconciliation legislation after debate time expired in 1990, three years earlier than it first did in relation to the budget resolution. Since then, all reconciliation measures have been considered beyond the 20-hour statutory limit on debate.

Even so, most amendments to reconciliation legislation were offered before debate time expired. Between 1990 and 2007, an average of almost 29 amendments, or 60% of the total number of amendments, was offered and presumably debated within the 20-hour limit on debate. When time expired, an average of almost 17 amendments, or approximately 35% of the total number of amendments, was pending. While Senators presumably had an opportunity to discuss these amendments before debate time expired, debate immediately prior to disposition was likely limited. After debate time expired, an average of an additional 19 amendments, almost 40% of the total number of amendments, was offered, and presumably considered with little or no debate. Consequently, most amendments were disposed of after debate time expired. An average of 36 amendments per reconciliation bill, or about 75% of the total number of amendments, was disposed of after debate expired. This compares to an average of 12 amendments per reconciliation bill, or approximately 25% of the total number of amendments, disposed of before debate time expired. In summary, between 1990 and 2007, while most amendments were offered and presumably debated before the statutory limit on debate expired (i.e., 60% vs. 40%), most amendments were disposed of after debate time expired (i.e., approximately 75% vs. 25%).

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[8] For purposes of this study, motions to commit and recommit the reconciliation legislation to a committee were counted as amendments to the reconciliation legislation. Therefore, references to amendments in this memorandum also include motions to commit and recommit.

[9] Reconciliation is an optional process, and as such, reconciliation legislation has not been considered in each year. In addition, multiple reconciliation measures may be considered in a year. During the period covered by this study, the Senate considered two reconciliation measures in a year twice, in 1997 and 2005.

Roll Call Votes in Relation to Amendments

Table 8 contains the number of roll call votes in relation to amendments offered to reconciliation legislation during the period 1987-2008.[10] Roll call votes were taken in relation to an average of about 21 amendments per reconciliation bill during the entire period, ranging from zero in 1989 to a high of 51 roll call votes twice, in 1995 and 2001. Between 1990 and 2007, when the Senate regularly considered reconciliation measures beyond the 20-hour debate limit, most roll call votes in relation to amendments occurred after debate time expired. An average of 17 roll call votes in relation to amendments, or approximately 74% of the total number of roll call votes, occurred after debate time expired. In contrast, an average of six roll call votes, or 26% of the total number of roll call votes, occurred before debate time expired. Most roll call votes, however, like the disposition of amendments to reconciliation legislation, as noted above, occurred in relation to amendments offered and presumably debated before time expired. An average of 14 roll call votes, or almost 62% of the total number of roll call votes, occurred in relation to amendments offered before debate time expired. In contrast, an average of almost 9 roll call votes, or approximately 38% of the total number of roll call votes, occurred in relation to amendments offered after debate time expired. In summary, between 1990 and 2007, while most roll call votes in relation to amendments to reconciliation legislation occurred after the statutory limit on debate expired (i.e., almost 74% vs. 26%), most roll call votes occurred in relation to amendments offered and presumably debated prior to debate time on the budget resolution expiring (i.e., 64% vs. almost 36%).

During the entire period covered by this study (1987-2008), a roll call vote occurred in relation to less than half (46.5%) of the amendments offered to reconciliation legislation (see **Table 9**). After 1989, when the Senate regularly considered reconciliation legislation beyond the statutory limit on debate, roll call votes occurred in relation to only a slightly higher percentage (47.4%) of amendments. Between 1990 and 2007, roll call votes were more likely to occur in relation to amendments disposed before debate time expired than in relation to amendments disposed of after debate time expired, but the difference is not very great (50% vs. almost 48%). Of the amendments disposed of after debate time expired, those offered before time expired were only slightly more likely to receive a roll call vote (almost 49% of such amendments received a roll call vote) than those offered after debate time expired (46% of such amendments received a roll call vote).

Disposition of Amendments

Table 10 contains the percentage of amendments to reconciliation legislation adopted by the Senate. Between 1987 and 2007, less than half (43%) of the amendments offered during the consideration of reconciliation legislation were adopted. Most amendments were withdrawn, rejected, or fell on a point of order. A similar success rate (almost 42%) occurred in relation to reconciliation measures considered after 1989, when the Senate regularly considered the reconciliation measures, including amendments, beyond the 20-hour limit on debate. During this period (1990-2007), amendments disposed of before debate time expired were more likely to be adopted than those amendments disposed of after debate time expired. Specifically, 48% of the amendments disposed of before debate time expired were adopted, whereas 39% of the amendments disposed of after debate time expired were adopted. In addition, of the amendments disposed of after debate time expired, only 28% of the amendments pending when debate time expired

[10] As noted above regarding budget resolutions, roll call votes in relation to amendments to reconciliation legislation include roll call votes on agreeing to an amendment, on a motion to waive a point of order against an amendment, and on a motion to table an amendment. For purposes of this memorandum, however, if the Senate voted affirmatively to waive a point of order against an amendment, only the vote on agreeing to the amendment was counted (i.e., in such a case, the vote on the motion to waive a point of order was not counted).

were adopted. In contrast, amendments offered after debate time expired were more likely to be approved; over 39% of such amendments were adopted.

As with budget resolutions, the disposition of an amendment to reconciliation legislation is clearly correlated with the method of its disposition. As indicated in **Table 11**, amendments on which a roll call vote occurred were less likely to be adopted. Excluding the first two reconciliation measures, an average of almost 21 amendments per reconciliation bill was either rejected on the roll call vote or fell on a point of order after a motion to waive the point of order was rejected, whereas an average of only almost 3 amendments per reconciliation bill was adopted by roll call vote. In contrast, as indicated in **Table 12**, amendments on which no roll call vote occurred were more likely to be adopted. Excluding the first two reconciliation measures, an average of over 17 amendments per reconciliation bill was adopted by either voice vote or unanimous consent, whereas an average of less than two amendments was rejected by voice vote, unanimous consent, or fell on a point of order. This pattern appears to hold regardless of when an amendment was offered or disposed of.

Table 1. Amendments to Budget Resolutions, 1987-2008

	Disposed Before Debate Time Expired		Disposed After Debate Time Expired				Total
			Pending When Debate Time Expired		Offered After Debate Time Expired		
Calendar Year	Number	Percentage	Number	Percentage	Number	Percentage	
1987	15	100%	0	—	0	—	15
1988	12	100%	0	—	0	—	12
1989	26	100%	0	—	0	—	26
1990	1	100%	0	—	0	—	1
1991	14	100%	0	—	0	—	14
1992	21	100%	0	—	0	—	21
1993	30	60.0%	0	—	20	40.0%	50
1994	39	100%	0	—	0	—	39
1995	20	27.8%	1	1.4%	51	70.8%	72
1996	17	25.8%	38	57.6%	11	16.7%	66
1997	44	69.8%	16	25.4%	3	4.8%	63
1998	52	49.1%	53	50.0%	1	0.9%	106
1999	14	14.9%	79	84.0%	1	1.1%	94
2000	21	37.5%	0	—	35	62.5%	56
2001	11	16.7%	12	18.2%	43	65.2%	66
2002	[Budget resolution was not considered on Senate floor.]						
2003	9	11.0%	4	4.9%	69	84.1%	82
2004	64	100%	0	—	0	—	64
2005	13	17.8%	25	34.2%	35	47.9%	73
2006	31	35.6%	17	19.5%	39	44.8%	87
2007	25	27.5%	1	1.1%	65	71.4%	91
2008	0	—	21	18.6%	92	81.6%	113

	Disposed Before Debate Time Expired		Disposed After Debate Time Expired				Total
			Pending When Debate Time Expired		Offered After Debate Time Expired		
Calendar Year	Number	Percentage	Number	Percentage	Number	Percentage	
1987-2008	479	39.6%	267	22.0%	465	38.4%	1211
Average Per Budget Resolution	22.8	—	12.7	—	22.1	—	57.7
1987-1992	89	100%	0	—	0	—	89
Average Per Budget Resolution	14.8	—	0	—	0	—	14.8
1993-2008	390	34.8%	267	23.8%	465	41.4%	1122
Average Per Budget Resolution	26.0	—	17.8	—	31.0	—	74.8

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Table 2. Roll Call Votes in Relation to Amendments to Budget Resolutions, 1987-2008

	Roll Call Votes Before Debate Time Expired		Roll Call Votes After Debate Time Expired				Total
			Amendments Pending When Debate Time Expired		Amendments Offered After Debate Time Expired		
Calendar Year	Number	Percentage	Number	Percentage	Number	Percentage	
1987	11	100%	0	—	0	—	11
1988	8	100%	0	—	0	—	8
1989	4	100%	0	—	0	—	4
1990	0		0	—	0	—	0
1991	6	100%	0	—	0	—	6
1992	10	100%	0	—	0	—	10
1993	27	62.8%	0	—	16	37.2%	43
1994	12	100%	0	—	0	—	12
1995	15	26.8%	1	1.8%	40	71.4%	56
1996	7	17.5%	25	62.5%	8	20.0%	40
1997	14	73.7%	4	21.1%	1	5.3%	19
1998	17	51.5%	15	45.5%	1	3.0%	33
1999	9	50.0%	9	50.0%	0	—	18
2000	12	48.0%	0	—	13	52.0%	25
2001	10	47.6%	7	33.3%	4	19.0%	21
2002	[Budget resolution was not considered on Senate floor.]						
2003	7	14.0%	3	6.0%	40	80.0%	50
2004	24	100%	0	—	0	—	24
2005	12	33.3%	19	52.8%	5	13.9%	36
2006	17	50.0%	10	29.4%	7	20.6%	34

	Roll Call Votes Before Debate Time Expired		Roll Call Votes After Debate Time Expired				Total
			Amendments Pending When Debate Time Expired		Amendments Offered After Debate Time Expired		
Calendar Year	Number	Percentage	Number	Percentage	Number	Percentage	
2007	17	53.1%	1	3.1%	14	43.8%	32
2008	0	—	16	40.0%	24	60.0%	40
1987-2008	239	45.8%	110	21.1%	173	33.1%	522
Average Per Budget Resolution	11.4	—	5.2	—	8.2	—	24.9
1987-1992	39	100.0%	0	—	0	—	39
Average Per Budget Resolution	6.5	—	0	—	0	—	6.5
1993-2008	200	41.4%	110	22.8%	173	35.8%	483
Average Per Budget Resolution	13.3	—	7.3	—	11.5	—	32.2

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Table 3. Percentage of Amendments to Budget Resolutions On Which a Roll Call Vote Occurred, 1987-2008

Calendar Year	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
1987	73.3%	—	—	—	73.3%
1988	66.7%	—	—	—	66.7%
1989	15.4%	—	—	—	15.4%
1990	0.0%	—	—	—	0.0%
1991	42.9%	—	—	—	42.9%
1992	47.6%	—	—	—	47.6%
1993	90.0%	—	80.0%	80.0%	86.0%
1994	30.8%	—	—	—	30.8%
1995	75.0%	100.0%	78.4%	78.8%	77.8%
1996	41.2%	65.8%	72.7%	67.3%	60.6%
1997	31.8%	25.0%	33.3%	26.3%	30.2%
1998	32.7%	28.3%	100.0%	29.6%	31.1%
1999	64.3%	11.4%	0.0%	11.3%	19.1%
2000	57.1%	—	37.1%	37.1%	44.6%
2001	90.9%	58.3%	9.3%	20.0%	31.8%
2002	[Budget resolution was not considered on Senate floor.]				
2003	77.8%	75.0%	58.0%	58.9%	61.0%
2004	37.5%	—	—	—	37.5%
2005	92.3%	76.0%	14.3%	40.0%	49.3%
2006	54.8%	58.8%	17.9%	30.4%	39.1%
2007	68.0%	100.0%	21.5%	22.7%	35.2%

Calendar Year	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
2008	—	76.2%	26.1%	35.4%	35.4%
1987-2008	49.9%	41.2%	37.2%	38.7%	43.1%
1987-1992	43.8%	—	—	—	43.8%
1993-2008	51.3%	41.2%	37.2%	38.7%	43.0%

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Table 4. Percentage of Amendments to Budget Resolutions Adopted, 1987-2008

Calendar Year	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
1987	33.3%	—	—	—	33.3%
1988	66.7%	—	—	—	66.7%
1989	88.5%	—	—	—	88.5%
1990	100%	—	—	—	100%
1991	50.0%	—	—	—	50.0%
1992	71.4%	—	—	—	71.4%
1993	56.7%	—	25%	25%	44.0%
1994	66.7%	—	—	—	66.7%
1995	30.0%	0	39.2%	39.2%	36.1%
1996	70.6%	55.3%	72.7%	59.2%	62.1%
1997	61.4%	56.3%	100%	63.2%	61.9%
1998	73.1%	34.0%	100%	35.2%	53.8%
1999	64.3%	59.5%	100%	60.0%	60.6%
2000	57.1%	—	74.3%	74.3%	67.9%
2001	63.6%	66.7%	83.7%	80.0%	77.3%
2002		[Budget resolution was not considered on the Senate floor]			
2003	44.4%	50.0%	55.1%	54.8%	53.7%
2004	60.9%	—	—	—	60.9%
2005	38.5%	52.0%	85.7%	71.7%	65.8%
2006	61.3%	23.5%	79.5%	62.5%	62.1%
2007	48.0%	0	78.5%	77.3%	69.2%

Calendar Year	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
2008	—	61.9%	82.4%	77.9%	77.9%
1987-2008	60.9%	50.6%	69.9%	62.8%	62.1%
1987-1992	66.3%	—	—	—	42.4%
1993-2008	59.7%	50.6%	69.9%	62.8%	61.8%

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Table 5. Disposition of Amendments to Budget Resolutions on Which a Roll Call Vote Occurred, 1987-2008

Calendar Year	Amendments Disposed Before Debate Time Expired		Amendments Disposed After Debate Time Expired				All Amendments	
			Amendments Pending Before Debate Time Expired		Amendments Offered After Debate Time Expired			
	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order
1987	3	8	0	0	0	0	3	8
1988	4	4	0	0	0	0	4	4
1989	2	2	0	0	0	0	2	2
1990	0	0	0	0	0	0	0	0
1991	0	6	0	0	0	0	0	6
1992	5	5	0	0	0	0	5	5
1993	14	13	0	0	1	15	15	28
1994	3	9	0	0	0	0	3	9
1995	2	13	0	0	9	31	11	44
1996	3	4	9	16	6	2	18	22
1997	3	11	2	2	1	0	6	13
1998	7	10	7	8	1	0	15	18
1999	4	5	1	8	0	0	5	13
2000	5	7	0	0	5	8	10	15
2001	6	4	3	4	3	1	12	9
2002								
2003	3	4	1	2	9	31	13	37
2004	5	19	0	0	0	0	5	19
2005	4	8	8	11	2	3	14	22

Calendar Year	Amendments Disposed Before Debate Time Expired		Amendments Disposed After Debate Time Expired				All Amendments	
			Amendments Pending Before Debate Time Expired		Amendments Offered After Debate Time Expired			
	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order
2006	6	11	2	8	1	6	9	25
2007	5	12	0	1	2	12	7	25
2008	0	0	8	8	8	16	16	24
Averages Per Budget Resolution								
1987-2008	4.0	7.4	2.0	3.2	2.3	6.0	8.3	16.5
1987-1992	2.3	4.2	0	0	0	0	2.3	3.8
1993-2008	4.7	8.7	2.7	4.5	3.2	8.3	10.7	21.5

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Table 6. Disposition of Amendments to Budget Resolution On Which No Roll Call Vote Occurred

Calendar Year	Amendments Disposed Before Debate Time Expired		Amendments Disposed After Debate Time Expired				All Amendments	
			Amendments Pending Before Debate Time Expired		Amendments Offered After Debate Time Expired			
	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order
1987	2	0	0	0	0	0	2	0
1988	4	0	0	0	0	0	4	0
1989	21	0	0	0	0	0	21	0
1990	1	0	0	0	0	0	1	0
1991	7	0	0	0	0	0	7	0
1992	10	0	0	0	0	0	10	0
1993	3	0	0	0	4	0	7	0
1994	23	0	0	0	0	0	23	0
1995	4	0	0	0	11	0	15	0
1996	9	0	12	1	2	0	23	1
1997	24	0	7	0	2	0	33	0
1998	31	0	11	2	0	0	42	2
1999	5	0	46	4	1	0	52	4
2000	7	0	0	0	21	0	28	0
2001	1	0	5	0	33	3	39	3
2002	[Budget resolution was not considered on Senate floor.]							
2003	1	0	1	0	29	0	31	0
2004	34	2	0	0	0	0	34	2
2005	1	0	5	0	28	2	34	2

Calendar Year	Amendments Disposed Before Debate Time Expired		Amendments Disposed After Debate Time Expired				All Amendments	
			Amendments Pending Before Debate Time Expired		Amendments Offered After Debate Time Expired			
	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order
2006	13	0	2	0	30	2	45	2
2007	7	0	0	0	49	0	56	0
2008	0	0	5	0	67	0	72	0
Averages Per Budget Resolution								
1987-2008	9.9	0.1	4.5	0.3	13.2	0.3	27.6	0.8
1987-1992	7.5	0.0	0.0	0.0	0.0	0.0	7.5	0.0
1993-2008	10.9	0.1	6.3	0.5	18.5	0.5	35.6	1.1

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Table 7. Amendments to Reconciliation Legislation, 1987-2008

Reconciliation Legislation	Disposed Before Time Limit Expired		Disposed After Time Limit Expired				Total
			Pending When Time Limit Expired		Offered After Time Limit Expired		
	Number	Percentage	Number	Percentage	Number	Percentage	
Omnibus Budget Reconciliation Act of 1987 (S. 1920, P.L. 100-203)	25	100%	0	—	0	—	25
Omnibus Budget Reconciliation Act of 1989 (S. 1750, P.L. 101-239)	2	100%	0	—	0	—	2
Omnibus Budget Reconciliation Act of 1990 (S. 3209, P.L. 101-508)	15	68.2%	0	—	7	31.8%	22
Omnibus Budget Reconciliation Act of 1993 (S. 1134, P.L. 103-66)	35	83.3%	0	—	7	16.7%	42
Balanced Budget Act of 1995 (S. 1357, vetoed)	22	27.5%	7	8.6%	51	63.8%	80
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (S. 1956, P.L. 104-193)	34	59.6%	23	40.4%	0	—	57
Balanced Budget Act of 1997 (S. 947, P.L. 105-33)	13	16.7%	65	83.3%	0	—	78
Taxpayer Relief Act of 1997 (S. 949, P.L. 105-34)	19	33.9%	8	14.3%	29	51.8%	56

Reconciliation Legislation	Disposed Before Time Limit Expired		Disposed After Time Limit Expired				Total
			Pending When Time Limit Expired		Offered After Time Limit Expired		
	Number	Percentage	Number	Percentage	Number	Percentage	
Taxpayer Refund and Relief Act of 1999 (S. 1429, vetoed)	13	21.7%	0	—	47	78.3%	60
Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810, vetoed)	1	2.5%	38	95.0%	1	2.5%	40
Economic Growth and Tax Relief Reconciliation Act of 2001 (H.R. 1836, P.L. 107-16)	5	7.8%	34	53.1%	25	39.1%	64
Jobs and Growth Tax Relief Reconciliation Act of 2003 (S. 1054, P.L. 108-27)	1	1.4%	26	35.6%	37	50.7%	73
Deficit Reduction Omnibus Reconciliation Act of 2005 (S. 1932, P.L. 109-171)	1	2.4%	16	38.1%	25	59.5%	42
Tax Relief Act of 2005 (S. 2020, amended H.R. 4297, P.L. 109-222)	6	20.0%	13	43.3%	11	36.7%	30
Tax Increase Prevention and Reconciliation Act of 2005 (H.R. 4297, P.L. 109-222)	0	—	3	21.4%	11	78.6%	14
College Cost Reduction Act of 2007 (H.R. 2669, P.L. 110-84)	5	20.0%	2	8.0%	18	72.0%	25

Reconciliation Legislation	Disposed Before Time Limit Expired		Disposed After Time Limit Expired				Total
			Pending When Time Limit Expired		Offered After Time Limit Expired		
	Number	Percentage	Number	Percentage	Number	Percentage	
1987-2008	197	28.1%	235	33.5%	269	38.4%	701
Average Per Bill	12.3	—	14.7	—	16.8	—	43.8
1987-1989	27	100%	0	—	0	—	27
Average Per Bill	13.5	—	—	—	—	—	13.5
1990-2008	170	25.2%	235	34.9%	269	39.9%	674
Average Per Bill	12.1	—	16.8	—	19.2	—	48.1

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Note: For purposes of this study, motions to commit and recommit the reconciliation legislation to a committee were counted as amendments to the reconciliation legislation. Therefore, references to amendments in this table also include motions to commit and recommit.

Table 8. Roll Call Votes in Relation to Amendments to Reconciliation Legislation, 1987-2008

Reconciliation Legislation	Roll Call Votes Before Debate Time Expired		Roll Call Votes After Debate Time Expired				Total
			Amendments Pending When Debate Time Expired		Amendments Offered After Debate Time Expired		
	Number	Percentage	Number	Percentage	Number	Percentage	
Omnibus Budget Reconciliation Act of 1987 (S. 1920, P.L. 100-203)	6	100.0%	0	0.0%	0	0.0%	6
Omnibus Budget Reconciliation Act of 1989 (S. 1750, P.L. 101-239)	0	—	0	—	0	—	0
Omnibus Budget Reconciliation Act of 1990 (S. 3209, P.L. 101-508)	8	72.7%	0	0.0%	3	27.3%	11
Omnibus Budget Reconciliation Act of 1993 (S. 1134, P.L. 103-66)	21	91.3%	0	0.0%	2	8.7%	23
Balanced Budget Act of 1995 (S. 1357, vetoed)	18	35.3%	6	11.8%	27	52.9%	51
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (S. 1956, P.L. 104-193)	10	41.7%	14	58.3%	0	0.0%	24
Balanced Budget Act of 1997 (S. 947, P.L. 105-33)	3	18.8%	13	81.3%	0	0.0%	16
Taxpayer Relief Act of 1997 (S. 949, P.L. 105-34)	5	20.0%	4	16.0%	16	64.0%	25

Reconciliation Legislation	Roll Call Votes Before Debate Time Expired		Roll Call Votes After Debate Time Expired				Total
			Amendments Pending When Debate Time Expired		Amendments Offered After Debate Time Expired		
	Number	Percentage	Number	Percentage	Number	Percentage	
Taxpayer Refund and Relief Act of 1999 (S. 1429, vetoed)	7	35.0%	0	0.0%	13	65.0%	20
Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810, vetoed)	0	0.0%	13	100.0%	0	0.0%	13
Economic Growth and Tax Relief Reconciliation Act of 2001 (H.R. 1836, P.L. 107-16)	3	5.9%	27	52.9%	21	41.2%	51
Jobs and Growth Tax Relief Reconciliation Act of 2003 (S. 1054, P.L. 108-27)	1	3.6%	18	64.3%	9	32.1%	28
Deficit Reduction Omnibus Reconciliation Act of 2005 (S. 1932, P.L. 109-171)	0	0.0%	12	60.0%	8	40.0%	20
Tax Relief Act of 2005 (S. 2020, amended H.R. 4297, P.L. 109-222)	5	29.4%	7	41.2%	5	29.4%	17
Tax Increase Prevention and Reconciliation Act of 2005 (H.R. 4297, P.L. 109-222)	0	0.0%	0	0.0%	7	100.0%	7
College Cost Reduction Act of 2007 (H.R. 2669, P.L. 110-84)	4	22.2%	1	5.6%	13	72.2%	18

Reconciliation Legislation	Roll Call Votes Before Debate Time Expired		Roll Call Votes After Debate Time Expired				Total
			Amendments Pending When Debate Time Expired		Amendments Offered After Debate Time Expired		
	Number	Percentage	Number	Percentage	Number	Percentage	
1987-2007	91	27.6%	115	34.8%	124	37.6%	330
Average Per bill	5.7	—	7.2	—	7.8	—	20.6
1987-1989	6	100%	0	—	0	—	6
Average Per Bill	3.0	—	0	—	0	—	3.0
1990-2007	85	26.2%	115	35.5%	124	38.3%	324
Average Per bill	6.1	—	8.2	—	8.9	—	23.1

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Note: For purposes of this study, motions to commit and recommit the reconciliation legislation to a committee were counted as amendments to the reconciliation legislation. Therefore, references to amendments in this table also include motions to commit and recommit.

Table 9. Percentage of Amendments to Reconciliation Legislation On Which a Roll Call Vote Occurred, 1987-2008

Reconciliation Bill	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
Omnibus Budget Reconciliation Act of 1987 (S. 1920, P.L. 100-203)	24.0%	—	—	—	24.0%
Omnibus Budget Reconciliation Act of 1989 (S. 1750, P.L. 101-239)	0%	—	—	—	0%
Omnibus Budget Reconciliation Act of 1990 (S. 3209, P.L. 101-508)	53.3%	—	42.9%	42.9%	50.0%
Omnibus Budget Reconciliation Act of 1993 (S. 1134, P.L. 103-66)	60.0%	—	28.6%	28.6%	54.8%
Balanced Budget Act of 1995 (S. 1357, vetoed)	81.8%	85.7%	52.9%	56.9%	63.8%
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (S. 1956, P.L. 104-193)	29.4%	60.9%	—	60.9%	42.1%
Balanced Budget Act of 1997 (S. 947, P.L. 105-33)	23.1%	20.0%	—	20.0%	20.5%
Taxpayer Relief Act of 1997 (S. 949, P.L. 105-34)	26.3%	50.0%	55.2%	54.1%	44.6%
Taxpayer Refund and Relief Act of 1999 (S. 1429, vetoed)	53.8%	—	27.7%	27.7%	33.3%

Reconciliation Bill	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810, vetoed)	0%	34.2%	0%	33.3%	32.5%
Economic Growth and Tax Relief Reconciliation Act of 2001 (H.R. 1836, P.L. 107-16)	60.0%	79.4%	84.0%	81.4%	79.7%
Jobs and Growth Tax Relief Reconciliation Act of 2003 (S. 1054, P.L. 108-27)	100%	69.2%	24.3%	42.9%	38.4%
Deficit Reduction Omnibus Reconciliation Act of 2005 (S. 1932, P.L. 109-171)	0%	75.0%	32.0%	48.8%	47.6%
Tax Relief Act of 2005 (S. 2020, amended H.R. 4297, P.L. 109-222)	83.3%	53.8%	45.5%	50.0%	56.7%
Tax Increase Prevention and Reconciliation Act of 2005 (H.R. 4297, P.L. 109-222)	—	0	63.6%	50.0%	50.0%
College Cost Reduction Act of 2007 (H.R. 2669, P.L. 110-84)	80.0%	50.0%	72.2%	70.0%	72.0%
1987-2007	46.2%	48.9%	46.1%	41.7%	46.5%
1987-1989	22.2%	—	—	—	22.2%
1990-2007	50.0%	48.9%	46.1%	47.7%	47.4%

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Note: For purposes of this study, motions to commit and recommit the reconciliation legislation to a committee were counted as amendments to the reconciliation legislation. Therefore, references to amendments in this table also include motions to commit and recommit.

Table 10. Percentage of Amendments to Reconciliation Legislation Adopted, 1987-2008

Reconciliation Bill	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
Omnibus Budget Reconciliation Act of 1987 (S. 1920, P.L. 100-203)	68.0%	—	—	—	68.0%
Omnibus Budget Reconciliation Act of 1989 (S. 1750, P.L. 101-239)	100%	—	—	—	100%
Omnibus Budget Reconciliation Act of 1990 (S. 3209, P.L. 101-508)	27.8%	—	42.9%	42.9%	32.0%
Omnibus Budget Reconciliation Act of 1993 (S. 1134, P.L. 103-66)	40.0%	—	85.7%	85.7%	47.6%
Balanced Budget Act of 1995 (S. 1357, vetoed)	36.4%	—	43.1%	43.1%	41.1%
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (S. 1956, P.L. 104-193)	67.6%	42.9%	—	42.9%	63.4%

Reconciliation Bill	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
Balanced Budget Act of 1997 (S. 947, P.L. 105-33)	69.2%	52.2%	—	52.8%	58.3%
Taxpayer Relief Act of 1997 (S. 949, P.L. 105-34)	68.4%	50.0%	44.8%	45.9%	53.6%
Taxpayer Refund and Relief Act of 1999 (S. 1429, vetoed)	46.2%	—	55.3%	55.3%	53.4%
Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810, vetoed)	0%	26.3%	100%	28.2%	27.5%
Economic Growth and Tax Relief Reconciliation Act of 2001 (H.R. 1836, P.L. 107-16)	20.0%	8.9%	20.0%	13.6%	14.1%
Jobs and Growth Tax Relief Reconciliation Act of 2003 (S. 1054, P.L. 108-27)	0%	30.8%	56.8%	46.0%	45.3%
Deficit Reduction Omnibus Reconciliation Act of 2005 (S. 1932, P.L. 109-171)	100%	25.0%	60.0%	46.3%	47.6%
Tax Relief Act of 2005 (S. 2020, amended H.R. 4297, P.L. 109-222)	16.7%	15.4%	36.4%	25.0%	23.3%

Reconciliation Bill	Amendments Disposed Before Debate Time Expired	Amendments Disposed After Debate Time Expired			All Amendments
		Amendments Pending When Debate Time Expired	Amendments Offered After Debate Time Expired	All Amendments Disposed After Debate Time Expired	
Tax Increase Prevention and Reconciliation Act of 2005 (H.R. 4297, P.L. 109-222)	—	66.7%	45.5%	50.0%	50.0%
College Cost Reduction Act of 2007 (H.R. 2669, P.L. 110-84)	40.0%	0%	22.2%	20.0%	24.0%
1987-2008	51.0%	28.2%	46.5%	39.4%	43.0%
1987-1989	70.4%	—	—	—	70.4%
1990-2008	48.0%	28.2%	46.5%	39.4%	41.8%

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Note: For purposes of this study, motions to commit and recommit the reconciliation legislation to a committee were counted as amendments to the reconciliation legislation. Therefore, references to amendments in this table also include motions to commit and recommit.

Table 11. Disposition of Amendments to Reconciliation Legislation On Which Roll Call Votes Occurred, 1987-2008

Reconciliation Legislation	Amendments Disposed Before Debate Time Expired		Amendments Disposed After Debate Time Expired				All Amendments	
			Amendments Pending Before Debate Time Expired		Amendments Offered After Debate Time Expired			
	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order
Omnibus Budget Reconciliation Act of 1987 (S. 1920, P.L. 100-203)	1	3	0	0	0	0	1	3
Omnibus Budget Reconciliation Act of 1989 (S. 1750, P.L. 101-239)	0	0	0	0	0	0	0	0
Omnibus Budget Reconciliation Act of 1990 (S. 3209, P.L. 101-508)	1	7	0	0	0	3	1	10
Omnibus Budget Reconciliation Act of 1993 (S. 1134, P.L. 103-66)	2	19	0	0	1	1	3	20
Balanced Budget Act of 1995 (S. 1357, vetoed)	7	11	2	4	1	26	10	41
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (S. 1956, P.L. 104-193)	1	9	3	11	0	0	4	20
Balanced Budget Act of 1997 (S. 947, P.L. 105-33)	0	3	0	13	0	0	0	16
Taxpayer Relief Act of 1997 (S. 949, P.L. 105-34)	0	5	2	2	2	14	4	21
Taxpayer Refund and Relief Act of 1999 (S. 1429, vetoed)	1	6	0	0	0	13	1	19
Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810, vetoed)	0	0	2	11	0	0	2	11

Reconciliation Legislation	Amendments Disposed Before Debate Time Expired		Amendments Disposed After Debate Time Expired				All Amendments	
			Amendments Pending Before Debate Time Expired		Amendments Offered After Debate Time Expired			
	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order
Economic Growth and Tax Relief Reconciliation Act of 2001 (H.R. 1836, P.L. 107-16)	0	3	2	25	1	20	3	48
Jobs and Growth Tax Relief Reconciliation Act of 2003 (S. 1054, P.L. 108-27)	0	1	4	14	1	8	5	23
Deficit Reduction Omnibus Reconciliation Act of 2005 (S. 1932, P.L. 109-171)	0	0	3	9	0	8	3	17
Tax Relief Act of 2005 (S. 2020, amended H.R. 4297, P.L. 109-222)	0	5	0	7	0	5	0	17
Tax Increase Prevention and Reconciliation Act of 2005 (H.R. 4297, P.L. 109-222)	1	5	0	7	0	5	1	17
College Cost Reduction Act of 2007 (H.R. 2669, P.L. 110-84)	2	2	0	1	1	12	3	15
Averages Per Bill								
1987-2008	1.0	4.9	1.1	6.5	0.4	7.2	2.5	18.4
1987-1989	0.5	1.5	0	0	0	0	0.5	1.5
1990-2008	1.1	5.4	1.3	7.4	0.5	8.2	2.9	20.9

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Note: For purposes of this study, motions to commit and recommit the reconciliation legislation to a committee were counted as amendments to the reconciliation legislation. Therefore, references to amendments in this table also include motions to commit and recommit.

Table 12. Disposition of Amendments to Reconciliation Legislation On Which No Roll Call Votes Occurred, 1987-2008

Reconciliation Legislation	Amendments Disposed Before Debate Time Expired		Amendments Disposed After Debate Time Expired				All Amendments	
			Amendments Pending Before Debate Time Expired		Amendments Offered After Debate Time Expired			
	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order
Omnibus Budget Reconciliation Act of 1987 (S. 1920, P.L. 100-203)	16	0	0	0	0	0	16	0
Omnibus Budget Reconciliation Act of 1989 (S. 1750, P.L. 101-239)	2	0	0	0	0	0	2	0
Omnibus Budget Reconciliation Act of 1990 (S. 3209, P.L. 101-508)	7	0	0	0	3	1	10	1
Omnibus Budget Reconciliation Act of 1993 (S. 1134, P.L. 103-66)	12	0	0	0	5	0	17	0
Balanced Budget Act of 1995 (S. 1357, vetoed)	1	0	1	0	21	0	23	0
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (S. 1956, P.L. 104-193)	22	0	9	0	0	0	31	0
Balanced Budget Act of 1997 (S. 947, P.L. 105-33)	9	0	24	0	0	0	33	0
Taxpayer Relief Act of 1997 (S. 949, P.L. 105-34)	13	0	2	0	11	2	26	2
Taxpayer Refund and Relief Act of 1999 (S. 1429, vetoed)	5	0	0	0	26	7	31	7
Marriage Tax Relief Reconciliation Act of 2000 (H.R. 4810, vetoed)	0	0	8	0	1	0	9	0

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Reconciliation Legislation	Amendments Disposed Before Debate Time Expired		Amendments Disposed After Debate Time Expired				All Amendments	
			Amendments Pending Before Debate Time Expired		Amendments Offered After Debate Time Expired			
	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order	Adopted	Rejected or Fell on Point of Order
Economic Growth and Tax Relief Reconciliation Act of 2001 (H.R. 1836, P.L. 107-16)	1	0	1	1	4	0	6	1
Jobs and Growth Tax Relief Reconciliation Act of 2003 (S. 1054, P.L. 108-27)	0	0	4	0	20	6	24	6
Deficit Reduction Omnibus Reconciliation Act of 2005 (S. 1932, P.L. 109-171)	1	0	1	0	15	1	17	1
Tax Relief Act of 2005 (S. 2020, amended H.R. 4297, P.L. 109-222)	1	0	2	4	4	1	7	5
Tax Increase Prevention and Reconciliation Act of 2005 (H.R. 4297, P.L. 109-222)	0	0	2	0	4	0	6	0
College Cost Reduction Act of 2007 (H.R. 2669, P.L. 110-84)	0	0	0	1	3	0	3	1
Averages Per Bill								
1987-2008	5.6	0	3.4	0.4	7.3	1.1	16.3	1.5
1987-1989	9.0	0	0	0	0	0	9.0	0
1990-2008	5.1	0	3.9	0.4	8.4	1.3	17.4	1.7

Sources: Legislative Information System (LIS) of the U.S. Congress [www.congress.gov] and *Congressional Record*, applicable years.

Note: For purposes of this study, motions to commit and recommit the reconciliation legislation to a committee were counted as amendments to the reconciliation legislation. Therefore, references to amendments in this table also include motions to commit and recommit.

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Chairman CONRAD. Thank you very much.

Let me ask each of you, what are the two or three things that you think are most important to reforming the process? If you could pick out two or three things and say, look, these are things that you really ought to try to accomplish in terms of reforming the process, what would those be? Bill?

Mr. HOAGLAND. As it relates specific to vote-a-rama or general?

Chairman CONRAD. Either way.

Mr. HOAGLAND. Well, specific to vote-a-rama, I think I outlined specifically some—I think you really do need to put some layover time after the resolution is reported from the Committee and before it goes to the floor. Whether that is 1 day or 2 days, I do not know.

But I think going straight from the Committee to the floor creates problems.

I also think you ought to require——

Senator SESSIONS. You mean a layover from the Committee——

Mr. HOAGLAND. To the floor, yes, sir. Yes, Senator.

Senator SESSIONS. You are not talking about the amendments at this point.

Mr. HOAGLAND. No, no, no. In fact, the theory a little bit is, as I think—when I think about why that original Budget Act has 10 days' layover in the House with only 10 hours on the House floor, I think the theory when I read the history, Bob, was that this would give members a chance to actually read the resolution and understand what is in it. Some amendments they would not offer because they now understood what was in it, because lots of amendments get created because people just—staff are creating amendments down there because they want to get to it as quickly as possible.

The other one, I guess I would also suggest that this germaneness issue—I know we talked about relevancy. I will leave it to the Parliamentarian to get into that, but I think you really do need to specify that we know those are not germane amendments. And if you have to write that in statute—it is like pornography. We know it when we see it, and let us—you have got to tighten that up on the sense of the Senate. And I think one—I am going to go here a little bit further than I should. I think that deficit-neutral reserve funds are just a little bit higher-class sense of the Senate amendments. And I know that Senator Domenici, when I was here as staff, with Chairman Gray over in the House, we started those things, and we probably should not have.

And then, of course, I would not be true to my old boss if I did not say that in the broad scheme of things, I think it would be nice if there was a way that we could have a biennial budgeting and appropriation process. Do the authorizations, give time for the authorizing—this is not just the Budget Committee. This is the whole Senate. We were always criticized as occupying too much time, that the budget takes up too much of the time of the Senate. If there is a way to do the appropriations and budgeting 1 year and give time for the authorizing committees to do their oversight and work, maybe that would be another approach.

I will stop there.

Chairman CONRAD. Let me ask you, on reconciliation, do you think we ought to take action with respect to reconciliation?

Mr. HOAGLAND. I am hesitating. I am thinking, in honor of President Lincoln's birthday today, better to remain silent and thought a fool than open one's mouth and remove all doubt.

President Carter used reconciliation, Bob.

Mr. DOVE. The big bill of 1980 was put through when President Carter was in office. I would not say that he used it. It was regularly used against him because his budget was rejected. And to me, that leads me to my suggestion. I do not think a budget process that tries to shut out the President is a good idea. I wish the budget resolution were a joint resolution and that the President, therefore, would have to sign it, and you would no longer have Presidential budgets that come down and are marked "dead on arrival,"

as I have seen in many ways. And I also think it is not necessary to have a written unanimous consent agreement into a law for handling the budget resolution.

We thought it was a good idea in 1974. In retrospect, I do not think it was a good idea. I do not think people who are in the Senate now feel that they had anything to do with writing that unanimous consent agreement in 1974 and, therefore, look at ways to get around it. I think the budget resolution could be handled as a joint resolution in the normal process that other things are handled in the Senate, with the President having to sign it at the end.

Chairman CONRAD. And how about reconciliation?

Mr. DOVE. Well, I have already mentioned that, to me, the great departure from what was perceived in 1974 was, I think, the perversion of the reconciliation process. It was never designed to be anything like it has become.

Chairman CONRAD. They would not believe it, would they? I think Senators at that time would be absolutely stunned at how reconciliation has come to be treated.

Mr. DOVE. Well, I can tell you, in the 1975 reconciliation bill, Senators were stunned on the floor that it was a reconciliation bill. In the 1980 reconciliation bill, Senators were stunned. And even in 1981, a number of Senators were stunned. Yes.

Chairman CONRAD. Other elements in terms of priorities, Dr. Dove, that you think if you were in charge of writing a reform package, the two or three things that you would most emphasize?

Mr. DOVE. Well, I do not know how you would reform this, but what I remember is the Budget Committee that I started working with in 1975 was a truly bipartisan Committee. Senator Muskie and Senator Bellmon worked together and defended the budget that they had come up with together. I do not know how easy it would be to return to that kind of system. But to me, it is not a good thing that the Budget Committee is so divided on a partisan basis.

Chairman CONRAD. You know, the Budget Committee was seen as a very different instrument at the time, that you would have Finance Committee represented here, you would have Appropriations Committee represented here at a high level. And that other key committees, the heads of, would be here. And you would work out a budget that then would be enforceable throughout the year to prevent the siloing effect of what occurs without the budget process.

Mr. DOVE. Well, that is what happened. I remember Senator Muskie taking on Senator John Stennis, a very powerful Senator, over a defense issue and beating him. It was seen as a turning point for the Budget Committee that they had basically proven themselves that they would take on the vested interests and win.

Chairman CONRAD. Mr. Heniff, what would be your two or three top priorities?

Mr. HENIFF. Well, I guess, first, of course, CRS has no official position on any particular reform. But I will say two things:

First, I think it is important, as you consider changes to this process, to think of the budget resolution and reconciliation separately. And it may be time to decouple the two. In my capacity at CRS, I am often asked questions relating to the two, and there is

a lot of confusion between the two. And it is very important to understand, as this Committee obviously knows, that a budget resolution does not become law. And so the consideration of the budget resolution is quite different than a reconciliation bill that does become law, and if mistakes happen, they have graver consequences.

The second point I would make is that it is important that with regard to the budget process—and this is basically the history of the budget process—is that if the budget process loses support, then it loses its legitimacy. And so I would just simply suggest, rather than take a position on any particular reform proposal, to keep in mind that if there is not a lot of support for the budget process and all its elements, then it can lose its legitimacy. And so this hearing, I think, is basically addressing that.

Chairman CONRAD. All right. Senator Sessions, for Senator Gregg.

Senator SESSIONS. Well, I would be glad to let Senator Alexander, who was here before me, take my time.

Senator ALEXANDER. That is nice of you.

Chairman CONRAD. Senator Alexander.

Senator ALEXANDER. Thank you, Senator Sessions.

This has been real helpful, and I wonder if I could in my comments and my time get the sense of the other Senators here about, you know, where we go from here with this. What occurs to me—and Senator Whitehouse is here within the last 3 years. We have a lot of new Senators, and even some who have been here a while, like me, who do not have a clue what reconciliation means, how it is different from the budget process, where this all came from, what it was supposed to accomplish, and whether it deserves some amendment. So understanding what we are talking about would seem to me to be a precondition of doing anything within the Senate, because if we were to make some recommendations to the whole Senate about the budget process and reconciliation, they would not know what we are talking about. That happens all the time around here, but in this case, I do not think we should.

So one thing we could do or could consider doing is during our Tuesday morning bipartisan breakfast, we might spend one or two times just bringing people up to speed, those who would like to come, on reconciliation and the vote-a-rama and minority rights and these various issues. There is no school for this except being here a long time. So that is one thing that occurs to me, and I wonder if the Chairman might want to think about that, and Senator Sessions and Senator Whitehouse might want to think about that, too, as we go ahead.

The second thing that occurs to me is I really appreciate what both the Chairman and Judd Gregg said about your motives here. We do not question each other's motives, but it is nice to hear you say that this is not a time when you want to ram through some rules changes at a time when you could. It was nice to hear Senator Byrd say that this would be a good time—he added that to his statement, actually—to have some civilized discussion about procedures around here. That would be very helpful. Again, maybe our bipartisan breakfast could spend a couple or three times on different aspects of that before we choose up sides and say, oh, you

are working on minority rights. Maybe Senator Byrd could be a part of that.

Chairman CONRAD. Can I just interrupt the Senator on this point and say to you, I tell you, there is no single element of Senate rules that goes more against minority rights than reconciliation that I know of. Reconciliation is the 800-pound gorilla, and I have already been approached on three occasions about my willingness to use reconciliation to do things, because a simple majority, no ability to filibuster. Now, that is real power of a process. No ability to filibuster, simple majority, and other than Byrd Rule issues, boy, you could really grease the skid.

Senator ALEXANDER. That is true, and as Senator Byrd—I wish he were still here because I can remember how he and Senator Baker used to work when they were Leaders. There is that great story in 1981 when Baker suddenly became the Majority Leader. He went over to Byrd and said, "Bob, you know more about the rules than I ever will. I will make a deal with you. I will not surprise you if you do not surprise me." And Senator Byrd said, "I will think about it."

[Laughter.]

Senator ALEXANDER. And the next day he told him yes, and that is how they worked. I am oversimplifying this, but basically they worked out an understanding, sort of a general unanimous consent agreement by which the Senate ran which protected lots of minority rights and created lots of opportunities and it worked pretty well. And Senator Byrd has said publicly that during that time the idea of filling up the tree as a way of using the Majority Leader's prerogative to limit minority rights was rarely—rarely—exercised. That was not the spirit of the Senate. That is not the way they work.

Senator Byrd gave a speech to an orientation of Senators in 1996 that was distributed to new Senators this year. It was so good that I gave it out to every member of the Republican Conference because it is one of the most eloquent defenses of minority rights that anyone could have. And it is in the same spirit as his testimony today.

And if you go all the way back to de Tocqueville's writing in the 1830's about our democracy, this young Frenchman who came here to observe what we saw and, you know, ran into all sorts of strange people like Davy Crockett and had a little opinion of Andrew Jackson and wrote it all down. The one thing he said was the greatest danger to the American democracy, he said, was "the tyranny of the majority." The Senate is the one place where that is so visibly protected. And as Senator Byrd said in here, what makes the Senate different is virtually unlimited debate, virtually unlimited amendment.

We are talking about a big subject here, and we have made a few little steps back this year to getting the Senate functioning like it is supposed to function. But even though we are debating amendments, we are not taking very long to do it, for example, on this $800 billion bill, and it did not go to authorizing committees. I mean, the thing that we are passing is probably the biggest education bill ever passed without any consideration of policy. It is probably one of the biggest energy bills ever passed without any

consideration of policy. It is a major preemption of the national health care debate we are going to have later this year. I am not making a speech about the stimulus bill, but we have got a ways to go before we get back to the regular order of things.

I greatly welcome this testimony and the spirit of it, and I would like to see us take additional steps. Senator Reid has taken steps with more amendments. That is good. You have taken some steps with this hearing. That is good. Maybe we could think of ways and maybe Senator Sessions, Senator Whitehouse, and Senator Conrad can reflect on whether it would be useful to have two or three sessions at our bipartisan breakfast on where reconciliation came from and where the budget came from as we approach the budget. In that time we might get a number of Senators interested in these issues, and from that might come a grand bargain. That would be a pretty big bargain if we ever got to that, or maybe even a minor change like agreeing on the layover.

One of the issues, it seems to me—and I am not asking questions because I have listened. But one of the issues is it all goes so fast that Senators do not have time to consider everything. And the other is if you fill up the tree, then there is no outlet for all these amendments. Well, if Senator Reid allows a lot of amendments, and if we have a longer layover even than 1 or 2 days and more time to debate, maybe the vote-a-rama takes care of itself. And maybe it is reduced as much of a problem.

This has been a terrific discussion. It is almost Senate 101, and it is the course that most of us skip coming in here, and maybe one of the services that we could do is help other Senators—how many new Senators do we have? I almost need a photograph album. You know, it is like a bus station down here, people coming in I have never seen, barely heard of before. I mean, how are they going to know about all this?

Maybe we could make a special effort to see if we could bring up the level of understanding so we could adopt some of these suggestions.

I apologize for not asking questions, although I have listened to every single word, and I thank Senator Sessions for giving me a chance to make my remarks.

Chairman CONRAD. Thank you very much. They are very thoughtful remarks, and this is an opportunity to fix some things that really do need fixing, and to fix them in a way that is not an attack on minority rights. In fact, I tell you, I have not thought it through fully, but I would be—I think I could be persuaded on reconciliation. And if you are in the minority, if somebody in the majority says they would consider altering the reconciliation process, you should think very carefully about that. That is a big thing.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Mr. Chairman. I have enjoyed being at this hearing, and I was particularly struck by the testimony of the President Pro Tempore, Senator Byrd. He has served in this institution longer than any other human, I believe. He has led it. He has studied it, I think more assiduously than any other Senator. He knows its rules and its nature better than any person ever has, I believe. And when he uses words like "pandemonium" "carnival," "ignominy," "ridiculous," "chaos," and "spectacle" about

an organization that he loves so deeply and has dedicated so much of his life to, I think that sends a very cautionary message out.

I had the mixed pleasure—I am still so excited to be here that every day is a good day. But in that context, it was a little strange to go through the 2007 experience that Senator Byrd chronicled in his testimony. And we were the new Senators then, Senator Alexander, and we were still finding our way around. And as we went up to vote on these kind of preposterous, comical, bomb-throwing, positioning amendments, a lot of the new freshmen at the time were thinking and saying to each other, "You know, this is just too damn silly to vote on." And so we at the time discussed the idea of actually changing the Senate voting tally so that your choices were "yea," "nay," or "too damn silly to vote on."

Senator ALEXANDER. Mr. Chairman, if I may say, Senator Whitehouse actually wrote that down on a piece of paper, and it was "yes," "no," "maybe," or "too silly to vote on." And we have it framed and hanging in my office in case anyone wants to see it. [Laughter.]

Senator WHITEHOUSE. And, you know, that is probably not the right rule change to make to solve this problem, but I do think it touches on a point, which is that if the Senate is dignified and decent, then we can find a way to have that dignity and decency control. If the Senate is itself neither dignified nor decent, then no amount of rules are going to make us behave that way.

But it does seem to me that through peer pressure and through some mechanism—I mean, perhaps there could be a point of order raised that something is too damn silly to vote on so that the opprobrium of peers can be brought to bear when a line is cross of some kind. Then you do not actually have to change the voting tally, but, you know, you are back to yea and nay again. I am far too new here and too junior here to get too deeply into the details and the weeds of this discussion, and I certainly am too respectful of others' judgments to suggest that that is a fine idea and we should sign up on it. But I do think that there is an element in this discussion of using the rules that we do pursue to enable the better angels of our nature to come forward, because I can remember one particular amendment that I thought was just idiotic. It happened to be a Republican amendment, but we had ones that were blameworthy as well. So I am not picking that as an example to make a partisan point. But what I remember from that is Republican Senators coming forward to vote on that, and they looked as miserable and as ashamed as we did.

And so I think that there is a critical mass that can be obtained once things get beyond a certain point, and so there may be hope for solving this, and I hope to be helpful in doing it. I think Senator Alexander's idea of trying to take this up a little bit more formally, particularly with the new Senators, is a very good one.

Two quick questions.

Senator Specter indicated that he thought "relevancy" might be more useful than "germaneness." I think of "relevancy" as a judicial term, "germaneness" as a legislative term. I would ask Dr. Dove, the Parliamentary, I would expect that after hundreds of years of operations we had a pretty nailed-down definition of "germaneness" from a Parliamentarian point of view.

And the second question is: With respect to his proposal that a joint resolution and a Presidential signature might help with this, would that not have the effect of accomplishing a fairly significant power shift from legislative to executive branch?

Those are the questions.

Mr. DOVE. OK. The first one I can address because I was at a meeting where they were working out an agreement where they were going to impose germaneness, which because of the series of precedents set in the late 1970's had become an extraordinarily narrow area. And I actually suggested that they use the term "relevant," and I said our office would interpret that in a rather broad subject matter test.

It was accepted, and that is why there are now two standards. Relevancy seems to be more useful, frankly, from a Senate standpoint of limiting amendments without limiting them in an extraordinary way.

As to the joint resolution giving power to the President, I can tell you the whole purpose of the Congressional Budget Act was to snatch away power from the President. In my view, it did not work. It simply allowed Presidents like Reagan and Clinton and George W. Bush to get their programs through in spite of the Congressional Budget Act trying to take power from them without any responsibility and made a division in terms of Presidential budgets and congressional budgets that to me is artificial.

That is why I suggested—if it had worked, if basically Congress had been able to marginalize the President's role on budgeting—as they wanted to do in 1974—I would not have this proposal. But I do not think it has worked.

Senator WHITEHOUSE. Mr. Chairman, in the final seconds that I have, let me just join you in thanking these witnesses for their testimony. I think for as long as I am here, I will continue to be a student of this institution, and their considerable expertise and time here and their palpable affection and regard for the institution I think has been very salutary this morning. Thank you.

Chairman CONRAD. Thank you, Senator Whitehouse.

Senator Sessions?

Senator SESSIONS. Thank you, Mr. Chairman. It has been a very excellent hearing. In all of your hearings, you allow honest discussion, and I appreciate that. Sometimes it does not always occur in the Senate.

I think, Bob, you did not notice there that slipping into the back of the room was a wonderful lady whose presence in front of the presiding officer in the Senate, a little better visage for the Senate than when you were sitting there, your daughter, Laura, back there who is a fabulous staff member of the Senate, and we appreciate her and you did a good job raising that young lady.

Bob, wasn't it the purpose of the Budget Act—this is just an impression I have—that various committees would go out and report appropriations reports and spending, and there was no real way for somebody to say, wait a minute, this one wants to spend more here, this one wants to spend more here, and you couldn't stop it? So the budget was created to say this is all you have. It was designed to contain an unhealthy tendency of each Committee appropriations—each appropriations bill, more correctly—to exceed a

reasonable amount and, therefore, subject the country to excessive spending?

Mr. DOVE. You are absolutely right in that the Budget Act was aimed at appropriations. The reconciliation process was aimed at appropriations. The view was that under the original act, which had not just one but two budget resolutions, that having passed the first one, if during the summer the Appropriations Committees had passed bills that the Senate thought were excessive, in the second they would limit that using the reconciliation process and, in effect, draw back appropriations. That was——

Senator SESSIONS. The Budget Committee had a power to actually constrict the appropriations process.

Mr. DOVE. Through the use of reconciliation. That was the idea. That has never been taken into effect. Frankly, the Appropriations Committee I think was simply too powerful.

Senator SESSIONS. Well, that is probably true. But did it have some impact in containing excessive spending or, in your opinion, very little?

Mr. DOVE. The Appropriations Committee, which before 1974, in effect, was the Budget Committee, I think was turned by the budget process from a committee which really, I think, tried to guard the taxpayers' dollar into a committee that now tries to spend every dime it can get away with under the budget process and then hide behind the thing that, "Well, it is the Budget Committee that is supposed to be controlling us. And if we can do things like changing a pay date from September 30th to October 1st, we should be able to do that." They have come up with repeated ways, in effect, to spend every dime they can under the present process.

Senator SESSIONS. That is my observation, that sometimes it makes you think that they consider their very existence, the most important characteristic of some of the members is to see how much they can beat the budget and see how much more they can spend than they were actually allocated, and the more they are successful, they feel like they have accomplished something.

That is too unkind. You know, I know that was an exaggeration. I probably should not have said it. But every now and then, that thought crosses my mind, I will admit.

Now, the Chairman is correct. A lot of this is about pure power. I remember in Alabama one time when President Reagan was running for President against George Bush, the First, and the State committee was set to vote, and the question was: Was it winner take all, in which case Reagan would get every delegate, or proportional representation, in which Mr. Bush would get a number of delegates?

Well, they had the most beautiful political side speeches you ever heard, but after it was over, I observed that everybody that was for Ronald Reagan had a beautiful argument for winner take all, and everybody who was for President Bush had the proportional representation.

So every time one party has a majority, they begin to make the same arguments the other party was making previously because it is so close to us and it is hard to get in and see it in perspective.

So, Mr. Chairman, you courageously have given us some perspective here for the long term, and it is hard to do in the immediacy of the issues we face.

I will just tell you one of the things I worry about: End runs around the budget are increasing, it seems to me. We had the war supplemental each year, sometimes more than one a year, and that was used to tack on other things to it. We had the hurricanes. Each year we had at least a hurricane or some emergency of that nature, and other things get added to it. This past fall, we passed the $700 billion TARP outside the budget process. We just finished or are about to finish the $800 billion stimulus bill outside the process. And we are expecting more housing and financial TARP-like money or housing bailout money all outside the process.

This year, during this period, the numbers are so huge, it is almost as much as the discretionary budget. It may be as much as the discretionary budget.

Do you sense that another erosion of the power of the process, Mr. Hoagland and Mr. Dove, is the emergency spending idea and when we get outside of it, we have a core emergency need and tacked onto it are matters that should normally go through the budget process?

Mr. HOAGLAND. Senator Sessions, one of your colleagues told me just 2 weeks ago, "Why do we need a budget anymore?" on the concept that given what is going on, does the budget matter anymore? And so I would wholeheartedly agree with you that if this Committee is to start to re-establish its role, which I still think it has a major role in setting broad fiscal policy in this country, spending, revenues, I think you need to seriously revisit the whole issue of a definition of "emergency spending" or set up some mechanism to bring it back through this Committee to revise the budget resolution appropriately. I realize that is time-consuming, but the definition of "emergency" I think was crafted at that 1990 Andrews Air Force Base with Dick Darman because it was necessary, immediate, and we were about ready to go into Kuwait at that time.

The problem was we set discretionary caps, and then we said, But we cannot anticipate floods, hurricanes, wars, and so we have to have this definition of "emergency." And I think the emergencies now have kind of gotten out of hand. As you will recall, the Census Bureau was defined as an emergency one time even though we knew it was coming 10 years in advance.

Senator SESSIONS. In fact, Bob, I would like for you to comment, but just to note that is a lack of will in the Senate. I mean, we have the ability to say no, this is not an emergency; you have got too much in this bill that is not an emergency, and we will not waive the Budget Act. But the truth is, as a practical matter, it seems to me we lack the will to challenge the core emergency spending bill to fix that.

Would you comment on that, Mr. Hoagland and then Bob?

Mr. DOVE. Well, I am reminded of Brutus' statement that the fault is not in the stars but in ourselves. Yes, only the Senate can govern itself, and if it wants to get around the budget, it does.

Mr. HOAGLAND. I have been away a little while, so I may have forgotten the procedure, and the staff will certainly correct. But I thought you did have a point of order against items as to whether

it was an emergency or not, that you could raise the point of order against that as specifically not emergency.

Now, again, it is not self-executing. You have to raise the point of order. But unless there are 60 votes to waive you can knock out an emergency disgnation

Senator SESSIONS. Against a line item in the bill?

Mr. HOAGLAND. Yes.

Senator SESSIONS. Is that right, Mr. Dove? Do you recall?

Mr. DOVE. I have been away too long. I am sorry.

[Laughter.]

Senator SESSIONS. Thank you for the advice. I am going to check that, Mr. Hoagland. I have got to tell you.

Well, I want to thank you for your suggestion on biennial budgeting. I really believe that is a good reform. That is a good government reform.

Mr. Chairman, one point, I tried to push it, and the Democrats were in the minority, and they felt, I think, a little uneasy. Then they got the majority for a while there, and they were still uneasy, and some Republicans were, and vice versa. But I really think, if anything, it may be a benefit to the majority to do biennial budgeting. And I do not see how it hurts the minority—I mean helps the minority, who could wrestle through this process and extract some concessions, you know, to go through the process each year and maybe get a little more.

So, at any rate, I would hope we could discuss that again. President Clinton favored it. President Bush favored it. Pete Domenici, a lot of Appropriations Committee members do, so maybe we can consider it.

Chairman CONRAD. Absolutely. One of the great things about the U.S. Senate is nothing is ever settled.

[Laughter.]

Chairman CONRAD. I want to thank all the members who have participated. I want to thank the witnesses. There just has to be a better way, and I think some of the suggestions here have been especially helpful, and I am delighted that the three witnesses were willing to come here and put your energy and your effort into testimony and providing your insights to this Committee, because I think we have got an opportunity here to improve things.

One of the things that just jumps out at you—and, Dr. Dove, I think your testimony really hit on this point: unintended consequences. I do not think anybody—if you would go back to 1974—would ever have dreamed the reconciliation process was going to be used the way it has been. It would never, ever have gotten through if people would have thought it was going to be used in this way. And, you know, both sides have used it in a way that I think is way beyond what was ever intended. And I think we had better think very carefully about that as we go into this new Presidency, because anybody that does not think the pressure is going to build to use reconciliation for a certain purpose—it was used for tax cuts in the Bush administration. There is absolutely no reason this majority cannot flip it and use it for spending. And I can tell you, health care reform and climate change are out there, and people are thinking about options for how they move it, and move it with

the least resistance possible. And reconciliation is the tool that some are thinking about. So that is the reality.

I very much like, Senator Alexander, your proposal that we take this up in the bipartisan group for several sessions or whatever in your judgment is reasonable. I think we do have a real challenge if so many new Senators do not know the history here, do not know the background. Many sitting Senators do not know the history and the background, how these things have been used, how far away from those who wrote the legislation things have strayed, and what the consequences are and the implications for body, because, you know, as I read the history, our forefathers intended the Senate to be the cooling saucer. This was the place you could slow things down, think very carefully, have extended debate to be able to even change people's minds. Maybe that is a rarity around here, but I think it still happens. And that is the fundamental function in our structure of the U.S. Senate. And I tell you, reconciliation goes directly against that. Directly against that.

So, again, thanks to the witnesses, thanks to the members, and we will continue to work together and see if we cannot make this process work better.

The Committee stands adjourned.

[Whereupon, at 12:02 p.m., the Committee was adjourned.]

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