

BUDGET RESOLUTION

Mr. LOTT. Mr. President, I am deeply concerned about reports that I have been hearing that indicate that perhaps the Senate may not even consider a budget resolution this year. It is not clear whether we will or we won't, but in the discussions I have had with Senator DASCHLE, his only response has been: Well, that decision has not been made yet.

I must say that is very troubling, and I hope the decision is not made to just defer action completely on the budget resolution this year.

If we don't have a budget resolution, I predict that it will lead to legislative chaos for the remainder of the year. When you look at the budget resolution, you see page after page of numbers. I realize it is not very exciting, it is difficult to read, and the debate on the budget resolution, while it is under expedited procedures, leads to highly arcane descriptions of such things as reserve funds, reconciliation procedures, and references to points of order. But, clearly, it is a process that you can go through and you can usually do it in about a week. Yes, it leads to a number of votes, quite often even the very unattractive carousel-type procedure where you vote on amendment after amendment.

I wish we could find a way to limit that. Maybe this is the year we can come to some sort of agreement to not have 20 or 30 votes, one right after the other. It makes it very difficult to legislate properly and difficult for Senators to even understand the ramifications of those votes. But that is the way it has been done.

I think that in spite of the messy procedure, it will determine whether or not we are able to really govern this year. The budget resolution is not really about numbers in the final analysis; it is about setting priorities and making choices. What will be the position of the Senate on spending for the year? What is the position of the Senate on tax policy? What is the position of the Senate in terms of defense and improving education and health care? Everything sort of depends on having this statement of policy in the budget resolution.

Now, in the years we have had the Budget Empowerment Act, since about 1974, the Senate has never failed to act. Two or 3 years ago, we did have a situation where the Senate passed a resolution, the House passed a resolution, and we could not get a conference agreement. But the two bodies agreed on the numbers that would be followed by the Appropriations Committee and we went forward. I was not proud of that. I thought that was an abdication of our responsibility. At least we agreed on numbers and we went forward.

The idea we would not even make an effort this year sends a fairly bad signal. I realize there is a time problem here. We have about 5 weeks before the Memorial Day recess. We need to finish

the energy bill, and we need to do trade promotion authority and bills associated with that, at least indirectly, such as the Andean trade authority and the Trade Adjustment Assistance Act. We still have to do supplemental appropriations. We need to do the Defense authorization bill and a budget resolution, and we need to do all that before the Memorial Day recess. The law requires that we do a budget resolution by April 15.

More years than not, we do not meet that deadline, but at least we go forward and have a budget resolution. If we do not do this by Memorial Day, then it will be very difficult for the Appropriations Committee to proceed. When we look at the fact we have June, July, and September basically remaining in this legislative year, we will have to get going with Defense—well, with all the appropriations bills. Hopefully, Defense appropriations will be first. We need to make sure we fund that program before anything else because our men and women are so dependent on it.

I am very worried about what the situation will be if we do not have a budget resolution. I have been looking at what it could lead to, and I have to say it is going to be a wild-west-type approach. If appropriations bills come up, there are no limits, no points of order to limit spending beyond what a subcommittee may have designated as its numbers. The 60-vote point of order will not apply. The bills could very well collapse of their own weight because there will be so many brilliant ideas of how spending can be added.

If I were a subcommittee chairman, regardless of on which aisle I sat, that would be a very difficult situation to manage.

The argument might be: It will be hard; we will have to vote on all those amendments. That is true, but we do it year after year.

The argument can be made: We are closely divided. Last year we got a budget resolution, and we were divided 50–50. Here are the budget resolutions we passed over the past 6½ years, including last year when it was 50–50. By the way, when we got to a final vote, it was passed by a wide bipartisan vote. In fact, the Senate passed the budget resolution on April 6, before the April 15 date that is included in the budget law, and it was by a bipartisan vote of 65 to 35. It can be done, it should be done, and every year I served as majority leader, we got it done. Here are the budget resolutions. The evidence is there.

I think perhaps what is going on here is just a desire to not have Senators cast these tough votes. That is an abdication of our responsibility.

Perhaps the Senate majority leader and the budget chairmen have something different in mind. Maybe they are saying they prefer to just operate under last year's budget resolution. By choosing not to vote on their own, they are, in effect, choosing to continue

under the budget resolution we passed last year. Obviously, that would create a number of problems.

I support the President's budget. The President came up with a good budget. He does provide a significant increase in the priorities that need to have increases. There is an increase for defense funding. We need a supplemental for defense to pay for what we have already spent, and we need to make sure our military men and women have a decent quality of life, have the weapons they need to do the job, the most modern technology possible, which has saved a lot of lives.

We need to move forward on national security. Of course, we realized last year after September 11 that we were vulnerable and we needed to do more with respect to homeland security. There are a lot of hearings occurring now in the Appropriations Committee and other committees of jurisdiction about exactly where this additional spending in homeland security should go. We know we need to do more for port security, airport security, first responders, law enforcement, firemen.

Clearly, we are going to have to add significant increases in funds for homeland security. That has been acknowledged and called for on both sides of the aisle. So national defense, homeland security, and economic security are priorities.

We need to make sure we are doing the right thing with fiscal policy at the Federal Government level so that the economy will grow. We see positive signs, but it is not universal. It is uneven, and it varies from sector to sector, and there are even some regional differences.

This year maybe more than ever we need to have a budget resolution that sets some priorities so that we can do what we need to do but not lose control of it when it gets to this Chamber.

Let me speak a minute about one of the specifics in the budget resolution that came out of the Senate Budget Committee. I commend Senator CONRAD, the chairman of the committee. He could have just said it is not worth the effort, we are not even going to try to get it out of committee. He did make the effort, and they reported out a budget resolution. That signaled to me we were going to be ready to go to the floor with the resolution that came out of the committee.

Now you see it, now you don't. I do not quite understand why that change occurred, even after the Budget Committee stepped up, and while it did not pass on a bipartisan vote, it went through within 2 or 3 days of consideration and is now ready for full Senate consideration.

My concern is specifically in the defense area. I am worried that the budget that came out of the Budget Committee is soft on defense. While it fully funds the President's defense request for next year, it shortchanges the President's request by \$225 billion over the next succeeding 9 years. It is \$225

billion short. That means the troops will not get the supplies and armaments they need to prosecute the war on terrorism, and this, we all know, is not a short-term issue; this is something that is going to take months and years as we try to root out terrorism and make sure we can be safe around the world at our embassies and at home.

It means that operations and maintenance will suffer. Pilots will not be able to fly the missions they need for training, and upkeep on ships will slow down. It means Secretary Rumsfeld and the Joint Chiefs will have fewer resources in place to plan for the next step. It will mean we will not have the resources to take action against Saddam Hussein and the "axis of evil."

The President has established our priorities, and national defense is tops. The President has called on us to act on the defense bill first.

Why in the world would this decision be made not to fully fund the war? I think the response we are going to hear is: We do fully fund the President's request next year, but then we are going to create a reserve fund for defense spending for the future. Unfortunately, the reserve fund is nothing more than a gimmick.

If one looks elsewhere in the budget, specifically in the section titled "Functional Totals," one will see that the defense money in the reserve fund is not there for defense. It would be used supposedly to reduce the debt. That certainly is a worthwhile objective, and we should continue to try to find ways to live within a budget and reduce the debt, as we had been doing for the previous 4 years.

We have to make some choices now. We should fund defense first, and we should not set up a mechanism that would short the Defense Department by \$225 billion.

Our world changed on September 11. We know national security and homeland security is going to be important. We are going to have to act on it. We have to be prepared to defend ourselves against attacks internationally and at home. We have to provide support for our allies and friends, such as NATO and Israel. We must repel and deter and, in some instances, take preemptive action to prevent attacks on American citizens. No one in the Senate disagrees we are going to have to do more in national security and it is going to take more than 1 year. This is a long-term commitment.

I do want to particularly point out to my colleagues that there is a huge problem in the budget resolution reported by the committee in the defense area. We need to stand shoulder to shoulder with the President, and we have in the war on terrorism. We did it repeatedly and courageously after the events of September 11. But slowly we have slipped back into our normal sniping.

We will always have legitimate debate. It is about democracy. That is

the great thing about America. We can disagree without undermining what needs to be done for our country. When it comes to defense, we cannot shortfund it, and we cannot allow it to slip off into partisan debate.

Here is what we need to do in the Senate, and we need to do it before the Memorial Day recess: Pass a budget resolution. What other form of discipline can we possibly have? What more important indicator is there about whether or not we are prepared to govern and make tough choices? Pass a budget resolution, fully fund the President's budget request in both the short and long term, add the \$225 billion for defense back into the budget resolution, and eliminate the reserve fund. Pass the defense resolution first.

That, Mr. President, is how we stand shoulder to shoulder with the President in this war on terrorism.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business not to extend beyond the hour of 12:30 with Senators permitted to speak therein for up to 10 minutes each, and with the time to be equally divided between the two leaders, or their designees.

The Senator from Kentucky.

Mr. MCCONNELL. Thank you, Mr. President.

VACANCY CRISIS IN THE SIXTH CIRCUIT

Mr. MCCONNELL. Mr. President, as the Senate is aware, we are facing a vacancy crisis in the Federal courts with over 11 of the Federal judgeships open.

This crisis is even worse at the appellate level where almost 19 percent of the appellate court judgeships are vacant. That means that one out of every five seats is empty.

Nowhere is the problem felt more acutely than in my home circuit, the Sixth Circuit Court of Appeals, which consists of Michigan, Ohio, Kentucky, and Tennessee. We have an astonishing 50-percent vacancy rate. Half of the seats of my home circuit are empty.

I would like to take a little time to discuss what that means to the people

who live in Michigan, Ohio, Kentucky, and Tennessee—the people who make up the Sixth Circuit.

We have a chart of the Sixth Circuit—Michigan, Ohio, Kentucky, and Tennessee. There are 16 total seats on the Sixth Circuit. There are eight sitting judges representing, of course, a 50-percent vacancy. The President has sent up seven nominees for the eight vacancies. To date, there have been no hearings on any of those nominees.

The practical effect of that is each judge is having to dispose of many more cases. As the chart shows, according to the Administrative Office of the Courts, the average number of cases that active-status judges on the Sixth Circuit are having to dispose of has increased by 46 percent in the last 5 years.

As a result of this vacancy rate, the dispositions per active judge have gone up 46 percent since 1996—a 46-percent increase—to 535 matters per judge.

From just 1996 to 2001, the average number of cases each Sixth Circuit judge is deciding has increased by almost half—50 percent.

Let us take a look at this chart and the dramatic increase in decision time.

Why this matters is that with Sixth Circuit judges having to dispose of many more cases, this results in a dramatic increase in the length of time for an appellate decision to be rendered. In fact, according to the Administrative Office of the Courts, the Sixth Circuit is ranked next to last among all Federal circuits in median time for disposition of an appeal.

The national average is 10.9 percent. In Sixth Circuit, it is 15.3 percent, which is 40 percent as a result of the eight vacancies that we have.

It is not just the Sixth Circuit is next to last—someone has to be next to last—but that the deviation from the national average is so great.

Specifically, as my third chart shows, in 1994, when there were no vacancies, the Sixth Circuit was about 1 month slower in processing appeals than the national average, about 10 percent slower.

By the time of the first vacancy in the following year, 1995, the Sixth Circuit was a little over 2 months slower than the national average, or about 17 percent slower than the national average.

But by last year when there were eight vacancies, the Sixth Circuit was almost 4½ months slower than the national average, which translates into a full 40 percent below average.

There is no question that the significant number of vacancies has had an impact on litigants in the Sixth Circuit.

What that means is that in other circuits, if you file your appeal at the beginning of the New Year, you get your decision by about Halloween. But in the Sixth Circuit, if you file your appeal at the same time, you are forced to wait until Easter of the following year to get your case resolved.