

Emery-Dreifuss Facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal muscular dystrophies.  
S. 2625

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2625, a bill to ensure that deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts, be excluded from consideration as annual income when determining eligibility for low-income housing programs.

S. 2639

At the request of Mr. JOHNSON, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2639, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 2660

At the request of Mr. SANDERS, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2660, a bill to amend the Federal Power Act to ensure that the mission and functions of Regional Transmission Organizations and Independent System Operators include keeping energy costs as low as reasonably possible for consumers, and for other purposes.

S. 2672

At the request of Mr. CONRAD, the names of the Senator from Maine (Ms. COLLINS), the Senator from Nebraska (Mr. HAGEL) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2672, a bill to provide incentives to physicians to practice in rural and medically underserved communities.

S. 2684

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2684, a bill to reform the housing choice voucher program under section 8 of the United States Housing Act of 1937.

S. 2719

At the request of Mrs. DOLE, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Louisiana (Mr. VITTER) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 2719, a bill to provide that Executive Order 13166 shall have no force or effect, and to prohibit the use of funds for certain purposes.

S. 2722

At the request of Mrs. DOLE, the names of the Senator from North Carolina (Mr. BURR), the Senator from South Carolina (Mr. DEMINT), the Senator from Louisiana (Mr. VITTER) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 2722, a bill to prohibit aliens who are repeat drunk drivers from obtaining legal status or immigration benefits.

S. 2729

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S.

2729, a bill to amend title XVIII of the Social Security Act to modify Medicare physician reimbursement policies to ensure a future physician workforce, and for other purposes.

S. 2760

At the request of Mr. LEAHY, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Oregon (Mr. WYDEN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 2760, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 2766

At the request of Mr. NELSON of Florida, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2766, a bill to amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

At the request of Mrs. BOXER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2766, supra.

S. 2774

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 2774, a bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

S. 2785

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2785, a bill to amend title XVIII of the Security Act to preserve access to physicians' services under the Medicare program.

S. RES. 138

At the request of Mr. SALAZAR, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 138, a resolution honoring the accomplishments and legacy of Cesar Estrada Chavez.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself and Mr. VITTER):

S. 2794. A bill to protect older Americans from misleading and fraudulent marketing practices, with the goal of increasing retirement security; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, many of America's seniors are discovering that their life savings may not be enough to sufficiently provide for their retirement needs. To bridge the gap, some seniors are turning to investments to increase their retirement income and

frequently rely on financial advisors to help them invest wisely. Unfortunately, we have learned that seniors are placing their trust in so-called "senior investment advisors" who in many cases may not deserve it. More and more, individuals are representing themselves as certified "senior investment specialists" when often they have limited or no education and experience in extremely complicated financial matters. It is estimated that there are hundreds of different designations for senior financial advisors that all sound very official, and that there are thousands of unscrupulous individuals marketing themselves out as such "senior" specialists.

You would be surprised to know that in order to obtain some of them, all it takes is a weekend and as many cracks at an open-book, multiple-choice exam as is needed? It is almost impossible for seniors to tell the difference between the more legitimate titles and those with less rigorous standards.

Today, Senator VITTER and I are introducing the Senior Investor Protection Act of 2008 to help ensure there are rules to separate reputable designations, like Certified Financial Planners, from less rigorous designations and clarifications that are meant to confuse and mislead seniors. This bill would encourage states to improve their own rules regulating the use of designations by encouraging them to adopt provisions outlined in the North American Securities Administrators Association's, NASAA, new model rule on the use of senior designations. It would create a grant to help States protect senior investors from unscrupulous individuals who use misleading designations to sell seniors inappropriate financial products.

We know that an attorney must go to school for 3 years and pass a State bar exam. A CPA must have a college degree, an additional year of study and must pass a national exam. Neither can offer their professional services without those credentials. Seniors should be able to trust the people who invest their money. They should not be worried that the title after their advisor's name is scarcely more than a marketing ploy, and that it was not earned through sufficiently rigorous financial education or training.

I strongly encourage my colleagues to cosponsor this measure.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 493—TO LIMIT CONSIDERATION OF AMENDMENTS UNDER A BUDGET RESOLUTION

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Budget:

S. RES. 493

*Resolved,*

# SECTION 1. LIMITATION ON CONSIDERATION OF AMENDMENTS UNDER A BUDGET RESOLUTION.

For purposes of consideration of any Budget Resolution reported under section 305(b) of the Congressional Budget Act of 1974—

(1) time on a budget resolution may only be yielded back by consent;

(2) no first degree amendment may be proposed after the 10th hour of debate on a budget resolution unless it has been submitted to the Journal Clerk prior to the expiration of the 10th hour;

(3) no second degree amendment may be proposed after the 20th hour of debate on a budget resolution unless it has been submitted to the Journal Clerk prior to the expiration of the 20th hour;

(4) after not more than 40 hours of debate on a budget resolution, the resolution shall be set aside for 1 calendar day, so that all filed amendments are printed and made available in the Congressional Record before debate on the resolution continues; and

(5) 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.

## SEC. 2. WAIVER AND APPEAL.

Section 1 may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 1.

Mr. SPECTER. Mr. President, I submit a resolution which would modify the budget process to bring some sanity to the Senate as we consider the budget resolution.

On March 13, less than a month ago, we took up the budget resolution. From 11:15 a.m. until 2 a.m. on March 14, this body was bedlam. May the record show the distinguished presiding Senator from Montana was nodding in the affirmative. If he wishes to have a disclaimer on that—he has just signaled it is OK with him.

There are two Senators on the floor of the Senate now, one presiding and one speaking, who can attest to an extraordinary event. The Senate is billed as the world's greatest deliberative body. During the time from 11:15 a.m. on the 13th, until 2 a.m. on the 14th, the place was bedlam—absolute bedlam. We were considering amendments which had not been available for examination by Senators or their staffs. We were considering them in a context of 2 minutes equally divided, so the proponent had a full minute. That may be a little long for speeches in the House of Representatives, but it is not in the Senate. The opposite side had 1 minute.

It was impossible to hear what was going on in the Chamber. If you tried to listen to get the gravamen of what was going on, it simply could not be heard. During the course of the deliberations after midnight I had occasion to talk to the distinguished majority leader, Senator REID, and the chair of the Rules Committee, Senator FEINSTEIN, about doing something about it. My staff and I have done some research. We found that a resolution had been submitted, a proposal had been

submitted by Senator BYRD in the past. I have taken Senator BYRD's approach, having my staff consult with his staff. We do not yet have it worked out as to whether he will cosponsor because we have been in the period of recess for the past 2 weeks, but Senator BYRD is renowned for his expertise on parliamentary matters. The essence of the resolution would provide that first-degree amendments would have to be filed prior to the 10th hour of debate. Then, second-degree amendments would have to be filed prior to the 20th hour of debate. Then the resolution would be set aside for 1 day prior to the 40th hour of debate so that the amendments could be printed in the CONGRESSIONAL RECORD.

For those who may be watching on C-SPAN, it is impossible to deal with an amendment which has not been filed and printed so that staff and Senators can review it. When the amendments are offered—as there is a right to offer them, under the existing procedures, on the spur of the moment—nobody can follow them. One minute of explanation is totally insufficient.

There was one complex amendment which was offered with respect to the city of Berkeley, to take away their earmarks and their grants. I happened to be on the other end of the Chamber at the time and actually could not hear; the bedlam, the noise just precluded hearing. I later found out that there was a lot more to the consideration of the issue than I could digest in the course of that time.

The procedures that have been used on the budget resolution have taken two forms which have subverted the process. One is the sense-of-the-Senate resolution, and the second is the resolution on deficit-neutral reserve funds to try to bring it within the confines of the budget resolution. Through those two artifices there are efforts made to legislate, put legislative proposals in the budget resolution.

I will ask unanimous consent my full statement be printed in the RECORD at the close of my comments. The full statement has a reference to amendment No. 4299, which was offered, which was on prescription drugs. It doesn't have anything to do with the budget resolution, but it was a sense of the Senate. This is just illustrative of substantive matters which are offered which have no place on the budget resolution.

My prepared statement also refers to amendment No. 4231, which refers to immigration, a detailed proposal.

Many of these, if not most of these amendments, are “gotcha” amendments. I am getting a lot of agreement from the distinguished Presiding Officer. If anyone is watching on C-SPAN II, a “gotcha” amendment is an amendment that compels people to vote on complex questions which can be used on a 30-second commercial.

One of the difficulties of campaign practice is to be able to defend your votes. It is sometimes hard to defend a

vote on a complex matter where you have no advance notice of the issue and no opportunity to hear it debated. The procedures of the Senate, worth just a momentary comment, are, somebody proposes legislation and files it at the desk. It is referred to a committee. The committee has hearings. Then there is a markup where the bill is considered. Then the committee files a report, analyzing it. Then it comes to the Senate floor for consideration.

That is the way the Senate is supposed to function. That is what makes the Senate, arguably, the world's greatest deliberative body. But not when you have amendments which are offered on the spur of the moment with no opportunity to know what is in the amendment and all of these votes are recorded. Try to explain a “gotcha” amendment as to why you voted a certain way in answering on a commercial. It just cannot be done.

It is my hope the Senate will take up this issue. I think the proposal by Senator BYRD on the scheduling is a good approach. I am not wedded to this approach. There are other approaches which could be undertaken which would be satisfactory to this Senator. We had some discussions on the Senate floor about perhaps limiting the number of amendments with a certification by the two leaders that you had germane amendments. But one way or another, we ought not to again next year undertake a process which has 44 votes. That established a new record—although on prior years we came close to that with votes numbering in the thirties. We ought to avoid this kind of process and redo our procedures under the budget resolution.

Mr. President, I ask unanimous consent my full statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## BILL INTRODUCTION

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation 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 am introducing today is based on a proposal previously submitted by Senator ROBERT BYRD, whom most would agree is our most-knowledgeable Senator on parliamentary procedure. The Byrd 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, the resolution I am offering today 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 NO. 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 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 NO. 4231

#### DEFICIT-NEUTRAL RESERVE FUND FOR BORDER SECURITY, IMMIGRATION ENFORCEMENT, AND CRIMINAL ALIEN REMOVAL PROGRAMS.

(a) IN GENERAL.—The Chairman of the Committee on the Budget of the Senate may revise the allocations of 1 or more committees, aggregates, and other appropriate levels in this resolution by the amounts authorized to be appropriated for the programs described in paragraphs (1) through (6) in 1 or more bills, joint resolutions, amendments, motions, or conference reports that funds border security, immigration enforcement, and criminal alien removal programs, including programs that—(1) expand the zero tolerance prosecution policy for illegal entry (commonly known as "Operation Streamline") to all 20 border sectors; (2) complete the 700 miles of pedestrian fencing required under section 102(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note); (3) deploy up to 6,000 National Guard members to the southern border of the United States; (4) evaluate the 27 percent of the Federal, State, and local prison populations who are noncitizens in order to identify removable criminal aliens; (5) train and reimburse State and local law enforcement officers under Memorandums of Understanding entered into

under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); or (6) implement the exit data portion of the US-VISIT entry and exit data system at airports, seaports, and land ports of entry.

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 to "provide for a deficit-neutral reserve fund for transferring funding for Berkeley, CA earmarks to the Marine Corps" (Coburn Amendment No. 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 rollcall votes conducted in relation to S. Con. Res. 70 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.

I urge the support of my colleagues.

#### SENATE RESOLUTION 494—EXPRESSING THE SENSE OF THE SENATE ON THE NEED FOR IRAQ'S NEIGHBORS AND OTHER INTERNATIONAL PARTNERS TO FULFILL THEIR PLEDGES TO PROVIDE RECONSTRUCTION ASSISTANCE TO IRAQ

Mr. CASEY (for himself and Mr. CORKER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

#### S. RES. 494

Whereas a sustained flow of international economic reconstruction assistance to the Government of Iraq and provincial and regional authorities in Iraq is essential to the restoration of basic services in Iraq, job creation, and the future stabilization of that country;

Whereas reconstruction assistance should be administered in a transparent, accountable, and equitable manner in order to help alleviate sectarian grievances and facilitate national political reconciliation;

Whereas the United States has already spent approximately \$29,000,000,000 on reconstruction assistance and Congress has authorized the expenditure of an additional \$16,500,000,000 for reconstruction assistance;