

**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 10<sup>th</sup> hour of debate. Accordingly, second-degree amendments must be filed prior to the 20<sup>th</sup> hour of debate. This legislation would require a budget resolution to be set aside for one calendar day prior to the 40<sup>th</sup> 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 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.