

Testimony of
Martin Paone
Executive Vice President Prime Policy Group
Senate Democratic Secretary 1995-2008
Submitted to the
U.S. Senate Committee on The Budget
For the hearing entitled
Improving the Budget Process: Strategies for More Effective
Congressional Budgeting
October 4, 2011

Mr. Chairman, Senator Sessions and members of the Committee,

I'm honored to be appearing here with Bill Hoagland and Eric Ueland discussing the Senate's Budget floor procedures.

I understand that today you'd like to discuss the procedure for the disposition of amendments to Budget related vehicles when all debate time has expired. This has become known by the term the floor staff dubbed the "vote-a-rama". It is a process which elicits universal reactions of groans and derision from those who have had to endure it.

When the Congressional Budget and Impoundment Control Act of 1974 was enacted it established the much needed linkage between the Federal government's spending and revenue activities. It created the House and Senate Budget Committees and established the Senate's procedures for the consideration of Budget Resolutions and Reconciliation bills. As you know it limits debate time for the consideration of a Budget resolution to 50 hours, for a

possible second Budget Resolution there is a 15 hour limit and for Reconciliation bills it is a 20 hour limit.

These limits are for debate on the Budget vehicle including as the statute says, “all amendments thereto and debatable motions and appeals in connection therewith”. It was crafted at a time when the Senate was a far different place than it is today. It is my belief that the authors of this act may well have considered their debate limitation as sufficient enough to bring about an orderly end to the Budget’s consideration.

They did not have the example of finality as embodied in Cloture’s Rule XXII because it did not yet exist. At that time there existed a huge loophole in the cloture rule since it did not count the time spent on quorum calls, the reading of amendments and the voting on amendments. In those days cloture only provided for a limit of one hour for debate per senator-- there was no overall cap. Senators would file literally hundreds of amendments to carry on a post cloture filibuster. The Natural Gas filibuster in 1977 went a painful 13 days after cloture was invoked. It helped enable Senator Byrd in 1979 to convince the Senate to adopt rules changes which brought much needed finality to the cloture process. Except for later lowering the time from 100 to 30 hours the 1979 reforms reflect the cloture process that exists today. As you know when the time has elapsed the rule requires that the “Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time...”

While the authors of the Budget Act may have thought they had established an orderly procedure for floor consideration it didn’t take long for smart senators and staff to realize the loophole the Act afforded them. In June 1981 there was a series of 15 votes on that year’s Reconciliation bill and that was followed the next year in May 1982 with a series of 17 amendment votes on the Budget Resolution. The template was set for future “vote-a-ramas”.

Technically these amendment votes, at the conclusion of the debate time, are supposed to occur with no debate but in return for an agreement to reduce the time on the votes to 10 minutes there evolved the permission for either two minutes or one minute, depending on the year, for debate prior to the vote. This came about because one year we refused to agree to reduce the time for the votes without that limited debate time, the logic being that without the short explanatory time prior to the vote senators would need the full vote time to educate their colleagues as to the merits of their amendment.

Repeated votes on never before seen or filed amendments, with practically no debate, does a disservice to the Senate's stature as a deliberative body. Any type of reform is going to limit senators' current rights to amend, this effects the minority to a greater extent since it is the majority that writes the Budget. Any such reform should take this into account and lean towards the minority's ability to amend. Having said that, it should be remembered that the Budget Act was intentionally written so that the majority could express its will without fear of filibuster. Its authors specifically wrote in these debate limitations in order to deny the minority the ability to derail difficult fiscal decisions. Since the impact of reconciliation spending and/or revenue bills can cut across the geographic and economic spectrum the authors naturally expected that the opposition could well be bipartisan in nature.

There are many suggested solutions to this problem. Senators Byrd and Specter, my fellow panelists Bill Hoagland and Eric Ueland, former parliamentarian Bob Dove and others have all suggested worthwhile changes. Some that I think are most useful include the following:

--Require the Resolution or Bill to be available for 48 hours prior to beginning it's consideration.

--No yielding back of resolution or bill time without unanimous consent.

- Increasing the time for a Reconciliation bill to 50 hours.
- Ending the amendment process when the debate time has elapsed similar to the current cloture requirement but with the exception of not counting the time consumed by roll call votes. Not counting vote time would ensure the consideration of more amendments.
- Reducing the time on amendments to one hour for first degrees and 30 minutes on second degrees.
- Limiting the yielding of time from the resolution or bill during the consideration of an amendment to no more than 30 minutes per side for first degree amendments and 15 minutes per side for second degree amendments.
- Permit the minority to offer the first 3 first degree amendments thereafter alternating of first degree amendments per side, should one side not have an amendment ready to offer it revert to the other side at the expiration of 30 minutes of resolution/bill time.
- Requiring the filing of amendments, first degree amendments by the 15th hour of consideration and second degree amendments by the 25th hour.
- Limit the managers opening statements to 90 minutes each and specify that the opening 4 hours for debate on economic goals and policies does not bar the offering of amendments.

Some have suggested only modifying the vote-a-rama by establishing a set number of amendments per side. If that is combined with the filing stipulation that might also be a way to proceed. But then the leadership on both sides will have the unenviable task of deciding who gets to be included in that limited list. This would not be my preferred way to go.

Much has changed in the Senate since the Budget Act was enacted, cell phones, the internet, 24 hour cable news, blackberries, computer tablets, etc. No longer

do you have a Senate where new members learn from their colleagues the location of the best neighborhoods in which to live and raise their children. Senators getting to know each other by attending their children's school activities, by commuting together and spending weekends together at backyard barbeques are but echoes of a distant Camelot. The partisan divides are sharper now so any reform will be difficult but if it is attempted it should be viewed by the majority through the lens of the minority, since eventually they too will have to live with the outcome.

If it is not possible to reform this vote-a-rama process than it may still be possible to limit its attractiveness.

One of the changes in the Senate that contributes to the desire by members from both sides of the aisle to participate in the vote-a-rama is the lack of a day to day open amendment process. To me one of the true beauties of the Senate lies in its lack of germaneness restrictions in the amending process. If you are not trying to add a tax amendment to a senate bill, dealing with an appropriations bill, or a statutorily established vehicle like the Budget Resolution or a Trade Agreement, there are no limits to the ability to amend. You could start out the day on a Farm bill and finish it debating the Middle East peace process.

Over the last 30 years there has been increasing pressure brought to bear on the leaders of both parties to "protect" their members from having to cast difficult votes. As a result the amendment process has been scaled back to the point where a bill considered without the amendment tree being filled is a rarity. This is resented by those denied the ability to offer amendments, and not just by those in the minority.

So when a Budget Resolution or Reconciliation bill comes along even though it has a built in germaneness restriction, members are eager to take advantage of this opportunity. Returning to a more open amendment process with all the possible nasty political votes is a better alternative. Difficult political amendment votes are not new, there have always been some on both sides of the aisle who have been eager to offer them. But while you can't legislate good behavior an open amendment process will be more productive and will relieve some of the pent up

amendment pressure so that when a Budget vehicle is considered the vote-arama will lose some of its attractiveness.

Thank you again for the privilege of appearing before you today.