

Congressional Closeup by Carl Osgood

Budget Resolution Passes Senate With Gimmicks

By a 51 to 49 vote, the Senate passed its version of the Fiscal 2007 budget resolution, on March 16. The process was characterized by gimmicks, and a fair amount of wheeling and dealing around issues such as allowing oil drilling in the Alaska National Wildlife Refuge. There was very little appetite for the kinds of austerity measures that the Bush Administration, and its neo-conservative supporters in the Senate wanted, however. An amendment to cut \$10 billion from Medicare and Medicaid over the next five years, sponsored by Sen. John Cornyn (R-Tex.) was rejected on a 43 to 57 vote.

On the other hand, numerous amendments increasing discretionary spending, passed by wide margins. Sen. Arlen Specter (R-Pa.), the chairman of the Labor, Health and Human Services, and Education Departments Appropriations Subcommittee, pushed through, by a 73 to 27 vote, an amendment adding \$7 billion to programs under his jurisdiction. Specter used the gimmick of advancing appropriations from Fiscal 2008, thereby technically not exceeding the discretionary spending cap. He had threatened to vote against the resolution, unless he got that money. Also adopted, though by a much closer vote of 51 to 49, was an amendment by Sen. Jack Reed (D-R.I.), to fully fund the Low Income Home Energy Assistance Program (LIHEAP) to the level of \$5 billion, authorized in last year's Energy Policy Act of 2005.

Efforts to fund Amtrak, were exemplary of how Senators from both sides tried to increase funding for many programs without "busting" the discretionary spending cap. The Senate debated two different amendments to increase Amtrak's funding by \$550 million; one by Sen. Robert Byrd (D-

W.Va.) and one by Sen. Rick Santorum (R-Pa.). Byrd's amendment would have paid for the funding by closing a number of tax loopholes, whereas Santorum's would have taken the money from a section of the budget called "Function 920." As Democrats pointed out, and Santorum grudgingly admitted, Function 920 had no money in it. Byrd called Santorum's amendment "a magic asterisk," because it would not increase the allocation to the Appropriations Committee.

Byrd fared no better with his proposal, however. Senate Finance Committee Chairman Charles Grassley (R-Ia.) argued that the loopholes proposed to be closed by the Democrats are already addressed in the Fiscal 2006 tax cut reconciliation bill, currently in conference committee with the House. Any loophole-closing proposals put into the resolution, he said, would have to be removed from the tax cut bill. Both amendments were defeated, Byrd's on a 44 to 53 vote and Santorum's on a 39 to 59 vote.

Debate on Ports Dominates Iraq War Supplemental

After disposing of some 50 amendments, the House voted 348 to 71 to pass the supplemental appropriations bill, providing \$67 billion for the wars in Iraq and Afghanistan, \$19 billion in additional hurricane relief, and about \$4.2 billion for foreign aid. While the bulk of the money in the bill goes to the Pentagon, the debate was dominated by the port security issue and, to a lesser extent, Hurricane Katrina relief. The bill arrived on the House floor with an amendment, passed in the House Appropriations Committee by a 62 to 2 vote, blocking the takeover of U.S. ports by Dubai Ports World, but the House turned back an effort by

Rep. Martin Sabo (D-Minn.) to change the way such deals are reviewed. Sabo's amendment was ruled out of order because it proposed changes to law on an appropriations bill, a violation of the House rules.

The issue of who controls U.S. ports is not going to go away, however. House Armed Services Committee Chairman Duncan Hunter (R-Calif.) is planning legislation that would ban foreign ownership of U.S. infrastructure deemed critical to national security. In the Senate, Senators Hillary Clinton (D-N.Y.) and Robert Menendez (D-N.J.) have proposed legislation that would bar ownership of U.S. port operations by foreign government-owned corporations. Sen. Charles Schumer (D-N.Y.) tied the Senate up in knots on March 8, when he unexpectedly offered an amendment to the lobbying reform bill, to prohibit any country that had recognized the Taliban rule in Afghanistan from any involvement in U.S. port operations. "Dubai is not the beginning and the end," Menendez told the *Congressional Quarterly*. "It is only the beginning, actually, of a more comprehensive review, and action that I hope the Senate will take."

Debt Limit Increases To \$8.965 Trillion

On March 16, the Senate voted 52 to 48 to increase the statutory debt limit from \$781 billion to \$8.965 trillion. Senate Majority Leader Bill Frist (R-Tenn.) had delayed the vote until the last possible moment, to the point at which Treasury Secretary John Snow was warning that he could no longer avoid a U.S. default on its debt. A Democratic amendment to require the Treasury Department to report on the economic and security implications of

U.S. debt held by foreigners, was defeated by a 44 to 55 vote. The Senate action cleared the measure for President Bush's signature, as the House had passed it, last year.

Democrats tried to make the debate on the debt-limit increase a debate about the massive growth in U.S. debt that has occurred under the George W. Bush Presidency. Indeed, the total U.S. debt when Bush took office was \$5.6 trillion, and has increased by \$3.5 trillion since then. \$1 trillion of that has been financed from overseas. Senate Minority Leader Harry Reid (D-Nev.) told the Senate that "The deterioration of the Federal government's finances is the direct result of the misguided priorities of this administration and this rubber stamping Republican Congress." Sen. Barack Obama (D-Ill.) noted that the \$220 billion in interest that the government will spend this year is more money "than we'll spend on Medicaid and the State Children's Health Insurance Program."

Law Suit Filed Against Budget Bill

On March 22, Public Citizen filed suit against the so-called "Deficit Reduction Act of 2005," charging that it is unconstitutional because the version of the bill signed into law by President Bush on Feb. 8 was not the same as that passed by the House of Representatives. The Constitution requires that the House and Senate pass identical versions of a bill before it can become law. The bill imposes substantial changes on certain entitlement programs that benefit the poor and the elderly, including Medicare and Medicaid, to reduce spending on those and other programs by \$40 billion over five years, and was the result of last year's budget reconciliation process.

Both the House and the Senate had voted on the conference report, last December (Vice President Dick Cheney flew back from a trip to South-west Asia to cast the tie-breaking vote in the Senate), but the Senate struck three provisions from the bill that were in violation of the budget rules, necessitating a re-vote by the House when it returned from recess on Feb. 3. However, because of a reported drafting error by a Senate clerk, the House voted on a different version than that passed by the Senate. The error alters the duration of Medicare payments for certain durable medical equipment from 36 months to 13 months.

"The Congress and the President have to be brought to account for their rogue actions in moving to enact this very controversial legislation without complying with the Constitution," said Joan Claybrook, president of Public Citizen. Rep. Henry Waxman (D-Calif.), the ranking Democrat on the House Government Reform Committee, reported, in a March 15 letter to White House Chief of Staff Andrew Card, that it was his understanding that President Bush had been informed of the differing versions of the bill before it was sent to him for his signature. "If the President signed the Reconciliation Act knowing its Constitutional infirmity," Waxman wrote, "he would, in effect, be placing himself above the Constitution."

Specter, Dewine Bills At Odds on NSA Wiretapping

On March 16, Senate Judiciary Committee chairman Arlen Specter (R-Pa.) introduced a bill to make any surveillance by the National Security Agency that involves at least one party in the United States, subject to the Foreign Intelligence Surveillance Court. In re-

marks on the Senate floor, Specter noted the many unanswered questions about the program authorized by President Bush remain, even after two hearings by the Senator's committee. On the one hand, he said, "We are a nation at war," against a ruthless enemy, but on the other, "We are not willing to sacrifice our rights and live in a state of fear." Instead, he said it was possible to "provide the Presidency with the flexibility and secrecy he needs to track terrorists, while providing for meaningful supervision outside of the Executive branch."

Specter's bill would require the Attorney General to apply to the FISA Court for permission to initiate a surveillance program and then re-apply every 45 days. In his application, the Attorney General would have to provide the information that the court would require to evaluate the program. The court would then have to rule on whether or not the program is Constitutional, determine that at least one of the targets of the surveillance is of a foreign country or terrorist group, and consider the privacy costs of the proposed surveillance.

A competing bill, introduced by Sen. Mike Dewine (R-Ohio) the same day as Specter's bill, and called the Terrorist Surveillance Act, would essentially legalize the current Bush Administration program, with much more limited oversight by the FISA Court. It provides for limited Congressional oversight by special subcommittees of the House and Senate Intelligence Committees, to which the President must submit annual reports on surveillance programs. It also criminalizes the release of any information on such programs. Dewine insisted, in a press release, that his bill "does not . . . give the President a blank check. The Terrorist Surveillance Act authorizes a limited, but necessary, program."