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PROPOSAL FOR *AUTOMATIC* CONTINUING RESOLUTIONS WOULD LIKELY MAKE IT HARDER TO PASS REGULAR APPROPRIATIONS BILLS

By Richard Kogan

A proposal likely to be offered when budget-process legislation comes to the House floor this week — under which a year-long continuing resolution would take effect automatically if a regular appropriations bill has not been enacted by October 1, and a temporary continuing resolution has not yet been passed — would provide strong incentives for Members of Congress who oppose various appropriations bills to impede progress on them. The proposal's main purpose is to avoid government shutdowns. But its principal effect would likely be to disrupt the appropriations process and make appropriations bills harder to pass.

The proposal in question is included in H.R. 3800, a bill introduced by Rep. Jeb Hensarling and more than 100 co-sponsors. It may be offered on the House floor either as a single amendment or as part of a larger amendment.

How the "Automatic" Continuing Resolution Would Operate

The automatic CR would go into effect if neither a regular appropriations bill nor a normal, temporary CR has been enacted by October 1 (or if a normal, temporary CR had expired without being extended). This part of the proposal is straightforward enough. But the automatic CR in H.R. 3800 would *not* expire after a few days or weeks or even a month. Instead, it would last for the *entire fiscal year*, unless superseded by enactment of a regular appropriations bill.

Under the automatic CR, each program would be funded at the *lowest* of the following:

- the prior year's rate of operation;
- the new year's rate of operation if the year started under a normal CR that has since expired;
- the rate in the House-passed regular appropriations bill for the new year; or
- the rate in the Senate-passed regular appropriations bill for the new year.

What Problem Does an "Automatic" Continuing Resolution Solve?

The automatic CR is supposed to prevent government shutdowns caused by a failure to pass either appropriations bills or a continuing resolution. But the likelihood of a government shutdown is extremely low. It is not difficult to enact continuing resolutions; Congress has enacted *60 of them* over the past seven years.

Two government shutdowns occurred in the early part of fiscal year 1996, but those shutdowns were deliberate. They were described by their supporters as a method of compelling President Clinton to accede to the budget plan that the Congress had enacted. The public proved unsympathetic to the shutdowns, and this tactic failed. If anything, that lack of success makes it even more unlikely that Congress would choose to shut down the government again.

How the Automatic CR Could Affect Consideration of Appropriations Bills

Although the automatic CR provision is intended to avert government shutdowns, its principal effect would probably be to make it more likely that Congress failed to work out agreements on controversial appropriations bills, since a year-long CR would kick in automatically. In particular, the automatic CR provision could encourage minority Senate factions of 41 or more Senators to use filibusters to block appropriations bills to which they objected, since doing so would not threaten disruption of government operations.

This could result in automatic CRs beginning to supplant some appropriations bills. Under the automatic CR proposal, Congress would no longer need to pass appropriations bills, and the President would no longer need to sign them. For any given appropriations bill, the House, the Senate, or the President might prefer the level under the automatic CR to the level that otherwise would result from the give-and-take of the appropriations process. Suppose that in a given year the House, 41 Senators, or the President prefer the funding level under the automatic CR for one or more appropriations bills to the level that otherwise would prevail. In such a case:

- The President would be more likely to veto an appropriations bill, since he would not be charged with risking a government shutdown;
- The House of Representatives or the Senate may be more likely simply to defeat an appropriations bill without coming up with an alternative; and
- A minority of 41 Senators may feel emboldened to maintain a filibuster against an appropriations bill.

Because there would be no prospect of disruption of government operations if policymakers battling over one or more appropriations bills failed to come to agreement, the automatic CR provision could draw out what already is a lengthy appropriations process and increase the chances of appropriations bills never being enacted.

Currently, failing to appropriate is unthinkable. With an automatic CR, failing to appropriate could become a common occurrence. The current process puts a premium on being reasonable and willing to compromise, since it is irresponsible for the President, a House majority, or a Senate minority to stubbornly refuse to pass an appropriations bill without having an alternative. With an automatic CR waiting in the wings, it would become easier simply to veto, defeat, or filibuster an appropriations bill (perhaps on the grounds that the bill costs too much, even though the bill fully complies with the congressional budget resolution).

Proposal Would Retard Efforts to Change the Status Quo and Improve Inefficiency

Relying upon automatic CRs rather than passing regular appropriations bills also would reduce government efficiency, since it would keep Congress from moving resources form less effective programs to more effective ones. Funding levels for programs covered by automatic CRs would be stuck at the level dictated by the automatic CR formula, rather than raised for some programs and lowered for others to reflect changes in need and effectiveness. Permanent CRs frustrate efforts both to fund promising new initiatives and to pare back less effective, outdated, and less important programs. The *status quo* would be reinforced at the expense of more responsive and effective government.

Strengthening the Hand of Those Who Want to Cut Appropriations Bills Below Levels Agreed to in the Budget Resolution

The automatic CR provision also could serve to reduce the overall resources available for discretionary programs below the levels agreed to in the congressional budget resolution. The Appropriations Committees typically allocate available resources so that funding levels rise for some appropriations bills and fall for others; that is a normal part of setting priorities and responding to changing conditions. Under the automatic CR proposal, if most or all appropriations bills with reduced funding levels have been enacted but some appropriations bills slated for increases have not yet been approved, the increases that those bills are supposed to receive will not be reflected in the automatic CR. As a result, the automatic CR procedure could create incentives for those who seek to shrink government and lower discretionary spending to impede progress on certain appropriation bills and to seek to fund the programs covered in those bills through an automatic CR instead.

Automatic CR Also Would Disrupt Funding for Certain Entitlement Programs

Some entitlement programs such as veterans' compensation and pensions, Medicaid, the Supplemental Security Income program, the social services block grant, and the food stamp program are funded through annual appropriations bills. The automatic CR in H.R. 3800 would fund these programs, like all others, at the level reflected in the automatic CR formula. In many years, that formula would fail to provide sufficient funding for some entitlement programs because the formula fails to take into account either inflation or growth in the U.S. population.

In such circumstances, the insufficient funding that the automatic CR would provide would necessitate "supplemental" appropriations later in the fiscal year to meet entitlement funding requirements and comply with the authorizing statutes that govern these entitlement programs. Supplemental appropriations bills, however, have the drawback of being time-consuming, risking disruption at federal agencies and in the delivery of needed benefits, and possibly becoming vehicles for unnecessary add-ons in a variety of programs.