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CHANGING THE BUDGET RESOLUTION TO A JOINT RESOLUTION THAT IS SIGNED INTO LAW

By Robert Greenstein

On May 11, the House is scheduled to consider a scaled-down version of H.R. 853, the Comprehensive Budget Process Reform Act of 1999. The principal provision of the bill expected to be brought to the House floor is a proposal to convert the Congressional budget resolution from a *concurrent* resolution to a *joint* resolution — that is, from a resolution that is *not* sent to the President for signature, and is not a law, to a resolution that is sent to the President and would be signed into law.

Changing the budget resolution to a joint resolution with the force of law would represent a major change in the Congressional budget process. It is likely to have at least four consequences that raise concerns:

- It would likely lead to delays in action on appropriations bills, since working out an agreement on a budget resolution between both houses of Congress *and the President* would take longer than working out agreement just between the two houses. The chances that this change would lead to extensive delays in moving appropriations bills are enhanced by a related feature of the legislation, which would repeal the provision of current law that allows appropriations bills to be brought to the House floor after May 15 if a budget resolution has not been approved.

- Since the budget resolution would be "must pass" legislation, it would likely become a vehicle to which certain other pieces of legislation the Congressional leadership favored might be attached. This is particularly true of measures to change Congressional budget procedures, which might include measures to impose or change the level of the discretionary spending caps, as well as measures to impose caps on various entitlement programs at the expenditure levels the budget resolution assumes for those programs. (Such caps on entitlement programs would prevent these programs from responding automatically to changes in unemployment, poverty, the health status of the population, and other factors that increase needs for these programs.) This also could include measures to institute automatic continuing resolutions or alter the pay-as-you-go rules. Tacking budget process changes such as these on to the Congressional budget resolution would ensure that such changes could not be filibustered and would escape 60-vote requirements on the Senate floor, thereby making such controversial measures easier to enact.

- The power of small groups of Senators could be enhanced. In recent years, a handful of very conservative Senators has been able to insist on inclusion of certain provisions in the Senate budget resolution by threatening to vote "no" on the resolution and thereby insure its defeat if they are not granted concessions they seek. If the budget resolution is changed to a joint resolution, such Senators may be in a position to insist on items that could become law, not just be part of a concurrent resolution.

- The proposal also would alter the *content* of the budget resolution, removing from the resolution all material regarding the various budget "functions" (or categories of government programs) and focusing more on the mega-categories of "Spending" and "Taxes." The proposed changes in the budget resolution could lead to some reshaping of the annual budget priorities debate that surrounds the budget resolution, turning it into more of a debate over "spending" and "taxes" and less of a debate over various programs or program categories.

- The proposal would shift power to the Budget Committees and the White House and away from other Congressional committees.

This analysis examines several of these likely effects.

Background: The Proposed Changes in the Nature of the Budget Resolution

Under current rules, Congress approves its yearly budget plan as a concurrent resolution that does not go to the White House for a presidential signature and is not a law. In addition, if Congressional deliberations on a budget resolution take too long, they do not delay the appropriations process inordinately. After May 15, the House floor can consider appropriations bills regardless of whether a budget resolution has been approved.

The legislation the House will consider on May 11 would change the budget plan to a joint resolution sent to the President for signature. (If the President vetoes the joint budget resolution, Congress could use expedited procedures to pass a concurrent budget resolution, which would function as a concurrent budget resolution does under the current system.) The pending legislation also would repeal the rule allowing the House floor to consider appropriations bills after May 15 if action on the budget resolution has not been completed. Thus, appropriations bills could not come to the House floor until a joint budget resolution had been signed, a joint resolution was vetoed and a concurrent budget resolution approved in its place, or the House voted to waive the points of order preventing consideration of appropriations bills until a budget resolution had been finalized. House and Senate floor action on any authorizing legislation with budgetary effects also would be barred until work on the budget resolution had been completed.[1]

The pending legislation also would alter the content of the budget resolution. The legislation would eliminate the 20 budget "functions" now included in the resolution. The resolution would instead provide levels only for total spending and revenues, as well as for total mandatory spending, total defense spending, total non-defense discretionary spending, net interest, and emergency spending. Functional totals for areas such as Medicare, education and training, veterans programs, agriculture, and the like would no longer be part of the budget resolution.

Effects on Moving Appropriations Bills and Other Legislation

The sponsors of this legislation argue that these changes would strengthen the budget process by increasing pressure on Congress to pass a budget quickly and by involving the President earlier in the process. The more likely result in many years, however — especially years in which the White House and Congress are controlled by different parties — would be a protracted debate between Congress and the White House, with appropriations bills delayed. There is significant risk that appropriators would lack sufficient time in some years to bring their bills before Congress in an orderly manner.

- Even under current procedures, concurrent budget resolutions that do not require

Presidential approval often are not passed by May 15. In all but four of the last 24 years, the budget resolution was adopted after May 15. Requiring the President to sign the resolution would lengthen this process, especially when Congress and the President start from widely diverging positions. Negotiations on a budget agreement could take extended periods of time.

As a result, it is likely that under this legislation, budget resolutions would be approved significantly later than in the past. In some years, the President and Congress might take until summer or fall to consummate a budget agreement.

- The appropriations process already frequently extends beyond the beginning of the fiscal year. If appropriators cannot proceed after May 15 in the event that a budget resolution has not been approved — and must wait some additional months before they can start sending appropriation bills to the floor, while the White House and Congressional leaders are negotiating or positioning themselves for subsequent negotiations — appropriators could lose months of valuable time and find themselves under considerable strain to pass bills in compressed timeframes late in the year.

As noted, the appropriations committees would not be the only committees affected. Any authorization legislation with a budgetary effect also would be subject to a 60-vote point of order in the Senate until a budget resolution has been approved.

The Joint Budget Resolution Would Become a Tempting Legislative Vehicle

The provision converting the budget resolution to a joint resolution would likely have other ramifications as well. Once the budget resolution has been converted to a measure that goes to the President to be signed into law, the temptation to tack things on to it is likely to be strong.

H.R. 853 contains a provision aimed at keeping the budget resolution from becoming a major legislative vehicle. Budget resolutions are protected from filibusters in the Senate. Under H.R. 853, provisions inserted into a budget resolution that lie outside the resolution's scope, as H.R. 853 defines that scope, would not enjoy this protection from filibusters.

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While helpful, however, this provision is weak. For example, changes in Congressional budget process rules would be defined by H.R. 853 as falling *within* the scope of the budget resolution.

Thus, a joint budget resolution could lower statutory caps on discretionary spending in the out-years (particularly for years after the next election) as a way to finance larger tax cuts than the budget otherwise could accommodate. Alternatively, a joint budget resolution could assume unrealistically low levels for discretionary programs for years for which caps had not yet been set (as both of the last two budget resolutions have done) and then turn these assumed levels into low discretionary spending caps for those years in order to make projected surpluses appear greater and thereby to facilitate larger tax cuts. (A Congressional majority could well follow such a course, with uneasy Members being assured that if a discretionary cap for a future year proved too low, that cap could simply be raised in a future budget resolution.) The unrealistic discretionary spending levels included in the past few budget resolutions, and in the 1997 budget agreement, have been the principal factor in recent years leading to the erosion of fiscal discipline and the widespread use of budget gimmicks on the discretionary side of the budget.

A joint budget resolution also could become a vehicle for some of the controversial provisions of H.R. 853 that the House Leadership is dropping from the bill before bringing it to the House floor to boost prospects for the legislation's passage this week. These include a provision to institute automatic continuing resolutions, as well as a measure to alter the pay-as-you-go rules to let projected budget surpluses be used to "pay for" large tax cuts (with across-the-board cuts in such entitlement programs as Medicare, farm price supports, and student loans subsequently triggered if the projected surpluses ultimately fail to materialize as anticipated or the tax cuts turn out to cost substantially more than was estimated at the time of their enactment).

The joint budget resolution also could be used to impose statutory expenditure caps on various entitlement programs at the expenditure levels that the budget resolution assumes for these programs. That would prevent these programs from responding automatically to changes in economic conditions and other factors that can engender increases in need.

Shifts in Power

Changing the budget resolution to a joint resolution would enhance the power of the Budget Committees, which write the resolution, as well as the President, who would gain added leverage in the budget process because the resolution would be sent to him to sign or veto. The powers of other committees would be reduced accordingly.

Some other provisions of H.R. 853 also would shift power from the rest of Congress to the Budget Committees. In particular, the bill's provisions related to emergency spending would, in most cases, grant the Budget Committee exclusive authority to determine whether any spending that another committee seeks to designate as emergency spending satisfies the definition of emergency spending that H.R. 853 would establish. The Budget Committee's decision, in those cases, could not be overridden, not even by a majority on the House floor, unless the Rules Committee approved such a course.

> ***Changing the budget resolution to a joint resolution would enhance the power of the Budget Committees and the President, while reducing the powers of other committees.***

Conclusion

Changing the budget resolution to a joint resolution is a major change that is likely to have some rather far-reaching consequences. These consequences warrant careful consideration. A review of some of the likely effects of switching to a joint budget resolution suggests that it would be wiser to maintain the current approach.

Notes:

1. Points of order would enforce the rules preventing Congress from considering appropriations bills or other budget-related legislation until a budget resolution has been approved. In the Senate, such points of order already exist, but overriding them requires a majority vote rather than 60 votes. Under H.R. 853, overriding these points of order would require 60 votes.