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"JOINT BUDGET RESOLUTION" COULD LEAD TO GRIDLOCK ON APPROPRIATIONS AND SHIFT POWER TO THE EXECUTIVE BRANCH

by Richard Kogan and James Horney

Under the Congressional Budget Act of 1974, budget resolutions are "concurrent resolutions" that do not go to the President for his signature or veto and are not laws. Also under current rules, if a budget resolution has not been approved by May 15, appropriations bills may be brought to the House floor so that the appropriations process is not inordinately delayed.

The Republican Study Committee, a group of conservative members of the House of Representatives, has called for converting the concurrent budget resolution into a joint budget resolution that is signed by the President and has the force of law.[1] As specified in H.R. 2290, introduced by Rep. Jeb Hensarling (R-TX), this proposal would bar consideration of appropriations bills until the joint budget resolution is enacted, regardless of how many months it takes for the Senate, the House, and the President to reach agreement on the resolution. The President and Congress would have to work out agreement on a budget law before passing any appropriations bills or, for that matter, taking up any other legislation that has any budgetary impact. The proposal to convert the Congressional budget resolution into a joint resolution may (or may not) be included in budget process legislation that the House Republican leadership has pledged to bring to the House floor in coming weeks.

This proposal raises several serious concerns.

Delays in the Budget Process

The process of developing a Congressional budget resolution already can be long and tedious, with budget deadlines being missed; it can take time to work out agreement between the House and Senate. Requiring the agreement of the President as well would almost certainly make the process more difficult and protracted.

In years in which the President and Congress were in serious disagreement on the budget, those disagreements might well not be resolved until the waning days of the Congressional session. As a result, if a joint budget resolution were required, action on appropriations bills could be held up until the final days of a Congressional session. In years in which budget agreements were delayed, the

[1] See Republican Study Committee, "RSC FY 2007 Budget, Contract With America Renewed," March 8, 2006, p. 72. http://www.house.gov/pence/rsc/doc/RSC_2007_BUDGET.pdf

Appropriations Committees could lose months of valuable time and find themselves under intense pressure to assemble and pass bills in extremely compressed timeframes very late in the year.

It is sometimes argued that a joint budget resolution will improve budget outcomes by bringing the President into negotiations with Congress over the entire budget. To be sure, much of the work to reduce projected deficits in the 1980's and 1990's occurred when the President and Congress hammered out major budget deals — in 1983, 1990, 1993, and (to a lesser extent) 1997. But these experiences show that when the President and Congress share a desire to reduce the deficit, a joint budget resolution is not needed to bring them to the negotiating table. And in years when Congress and the President do not share a strong desire to produce major deficit-reduction legislation, requiring enactment of a joint budget resolution is likely to slow down the budget process.

Aggravating these problems, the proposal does not provide a "fallback" if the President vetoed the budget resolution and Congress could not override the veto. Some Members of Congress have previously introduced joint budget resolution proposals that included a proviso that if the President vetoed the budget resolution and Congress did not override the veto, the vetoed resolution would go into effect as a concurrent resolution (i.e., as a resolution that functions as budget resolutions do today), so Congress would not be left with entirely without a budget. The joint budget resolution proposal included in H.R. 2290 and endorsed by the Republican Study Committee does not include this proviso and contains no safety valve in the event of a veto that is not overridden. Such a proposal would shift substantial power from Congress to the Executive Branch, since Congress could not act on budgetary matters until the President agreed to sign the budget resolution. This would markedly increase the likelihood of protracted gridlock.

Slippery Slope to Parliamentary Budgeting

The proposal also poses another risk. The joint resolution is not itself supposed to change tax, entitlement, or appropriations laws. But once the President and the Leadership find themselves negotiating over a real statute rather than a budget planning document, they may succumb to the temptation to turn the joint budget resolution into an omnibus law, enacting discretionary caps or actual appropriations levels, cutting or expanding entitlement programs, and raising or lowering taxes. If this happens, basic budget rules could be up for debate and amendment annually, budget outcomes may become more partisan (if one party has control of both the Presidency and Congress), "headline" proposals may rob resources from less glamorous but equally necessary program areas, and Congress may function more as a parliament, in which a single vote on a single piece of legislation enacts into law the majority party's budget.

If the annual budget resolution gradually turns into an annual omnibus budget bill, power over major budgetary details will slip from the various Congressional committees and gravitate toward the Budget Committee, the Leadership, and especially the President.