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THE PEW CHARITABLE TRUSTS

THE COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET

PETERSON-PEW COMMISSION ON BUDGET REFORM

Joint vs. Concurrent Budget Resolution - Introduction

At the last Commission meeting, the staff was directed to report back with a model for a joint budget resolution, which would be submitted to the president and have the force of law. A number of commissioners at the meeting appeared to support a joint resolution, although several were strongly opposed, and one was ambivalent. The key reason articulated in support of the resolution was the perception that it would give the budget resolution more force in the overall budget process, particularly with respect to budget enforcement.

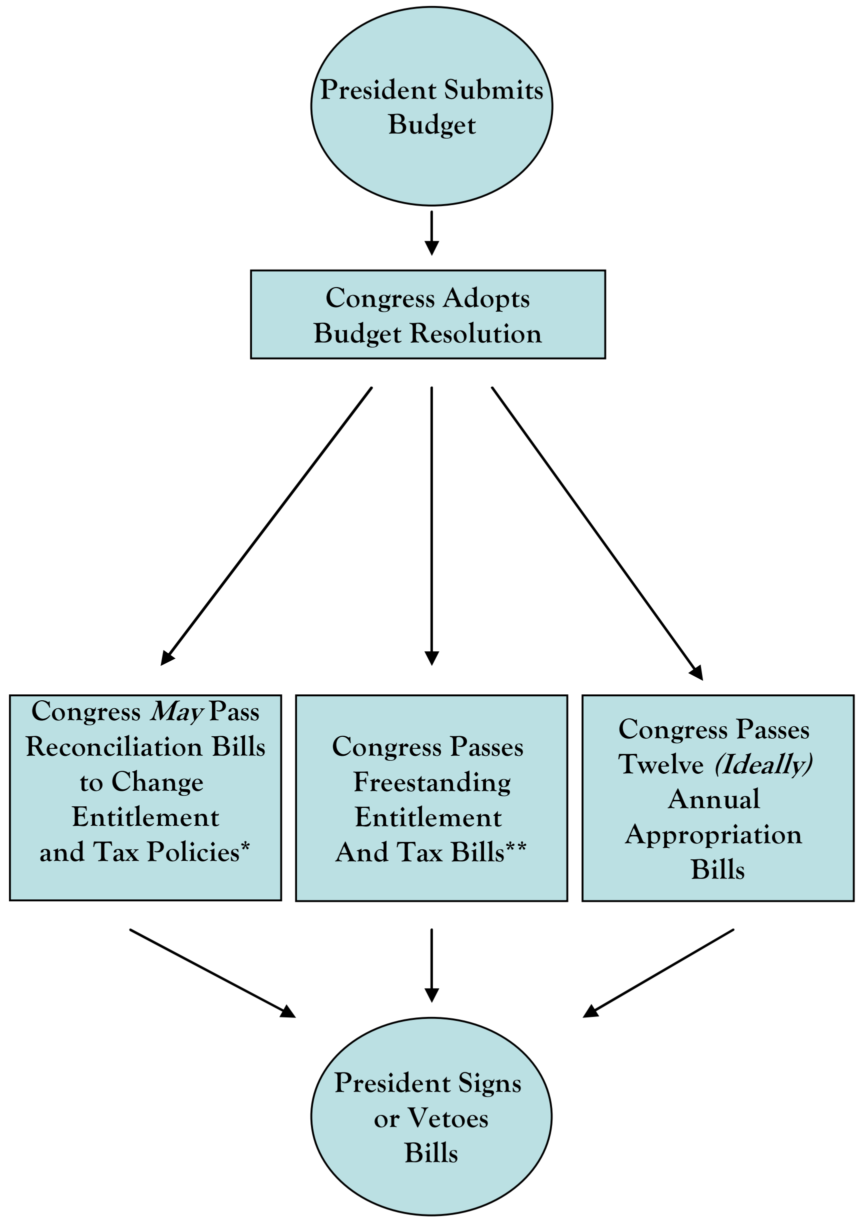
This memo lays out a simple model for converting the concurrent budget resolution into a joint resolution. It includes a description of the model and a discussion of its key advantages and disadvantages. Particular attention is devoted to how it would impact budget enforcement, both in terms of how budget limits would be enforced and the processes and procedures utilized to implement, comply with, or modify the limits.

For comparison purposes, a second model is included to show how the existing budget process might be modestly enhanced without converting the resolution into a law.

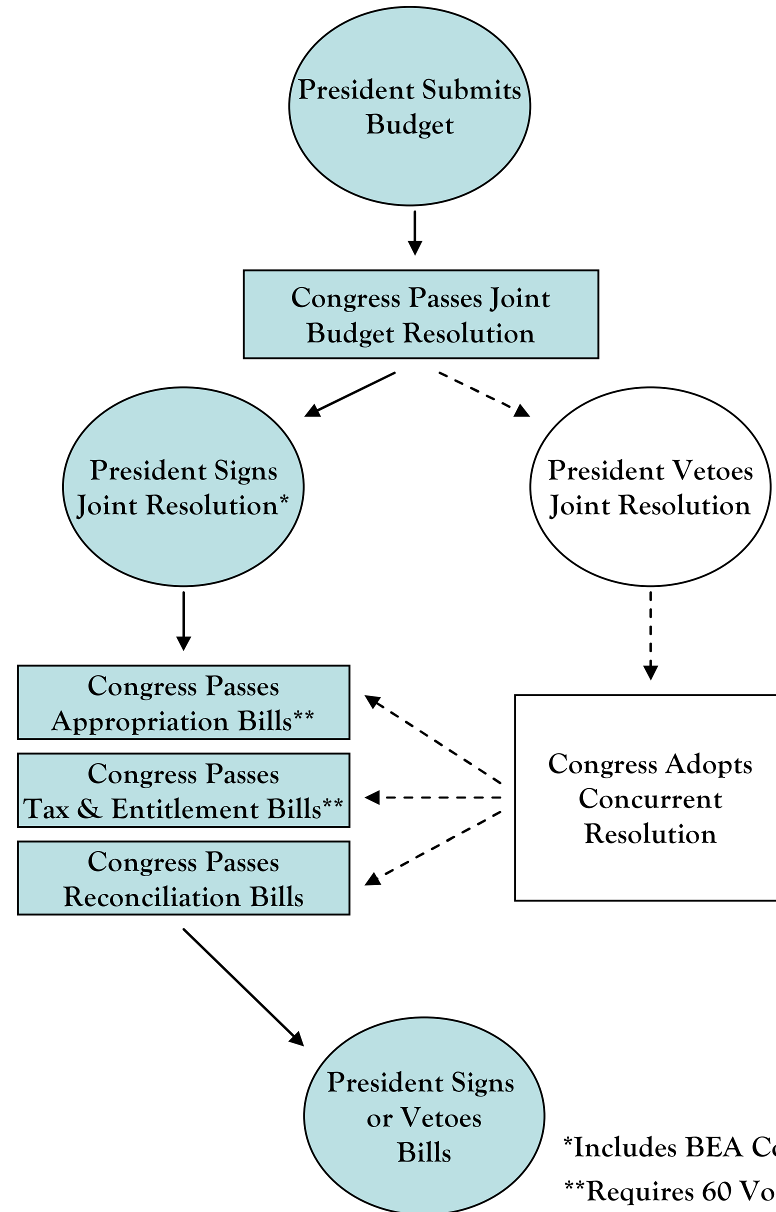
Option 1- Joint budget resolution

The essence of the joint resolution model is that the budget would be presented to the president for his signature or veto and would have the force of law if enacted. Besides the added legitimacy of a document agreed to by both branches due to negotiations between Congress and the president, any budgetary limits could be made legally binding and enforceable through sequestration or some other process. The basic elements of the model are summarized on the next page in Figure 1.

Concurrent Budget Resolution (Current)



Joint Budget Resolution



*Includes BEA Controls

**Requires 60 Votes in the Senate

Fig. 1: Joint budget resolution

Key elements of a joint budget resolution:

- The budget resolution would be changed from a concurrent resolution, which is a form of congressional rulemaking, to a joint resolution with the force of law.
- Some changes would be required in the content of the budget resolution if its levels were to be enforced with sequestration.
- The joint resolution would be considered under the same expedited procedures as the concurrent resolution (therefore it could be passed by a simple majority in the Senate).
- The budget resolution would continue to provide the framework for congressional action on spending and tax bills (i.e., 302(a) allocations, reconciliation instructions, etc.). The allocations and spending and revenue totals would continue to be enforced through points of order.
- Upon enactment, the discretionary and mandatory levels in the budget resolution could be automatically enforced through sequestration or some other policy changes.
- If the joint resolution were not enacted, the statutory level from the multiyear caps contained in prior budget resolutions would remain in effect. Congress could either default to the previous year's budget, or enact a concurrent resolution under expedited procedures.

The process for considering the budget resolution would be identical to that of the concurrent resolution in terms of the markup by the budget committees, consideration in the House and Senate, and approval of a conference report. However, unlike the concurrent budget resolution, which takes effect upon the adoption of the conference report by both chambers, the concurrent resolution would not have any force until it became law.

Some or all of the budgetary limits in the budget resolution could be turned into hard [in quotes?]budgetary limits that would trigger sequestration or other programmatic responses. To do this, the budgetary levels would be drafted as amendments to an existing law that includes the statutory infrastructure necessary to trigger a sequester or other policy change.

Other potential changes to the budget resolution include moving the allocations from the report into the budget resolution and limiting the classes of information that can be incorporated into it without subjecting it to procedural roadblocks.

Impact on enforcement

The principal advantage of a joint resolution over a concurrent resolution is that the levels could be made legally binding. A breach of its spending limits could be enforced through triggered automatic spending cuts, more programmatic changes in entitlements, or even a surtax. Currently, these limits are enforced through points of order that can be unilaterally waived by either chamber.

Equally important, it would be easier to enact fiscal rules such as the Budget Enforcement Act (BEA) if such rules could be folded into the budget resolution. Under current law, it takes 60 votes in the Senate to pass legislation that includes budget process-related provisions. Under this model, these rules could be enacted as part of the budget resolution – one of the few measures that cannot be blocked by a simple majority in the Senate.

Advantages and disadvantages

The chief advantage of the joint resolution lies in its potential to strengthen budget enforcement. If tied to a sequestration process the levels would be self-enforcing. While either the House or the Senate can unilaterally waive a budget limit established in the budget resolution, it would take *both* chambers of Congress *and* the president to preempt a sequester.

Enacting the budget into law gives the budget a degree of legitimacy it does not have as a product of the legislative branch. Since there would be less confusion as to what constitutes the budget, the public and the media would have a document with which they can hold members accountable.

Finally, once Congress and the president agree to the overall budget numbers in the context of the budget resolution, it should be easier to reach an agreement on the individual appropriations bills.

A clear disadvantage of a joint resolution is that it will make reaching an agreement on the resolution extremely difficult. Not only would the joint resolution bring an additional player– the president – into negotiations, it also would raise the congressional threshold to enact the measure from the simple majority required to pass a budget resolution to the two-thirds necessary to overcome a veto. Moreover, it would increase the stakes of such negotiations because the budget levels would be enforced by sequestration.

Another disadvantage is that Congress might use whatever budget limits are in place to ratify the spending and revenue levels in the budget resolution. In other words, the limits might drive the rules rather than the rules driving the budget.

It is worth noting that this is not a problem in state governments because many of their fiscal rules are enshrined in state constitutions where they are out of the reach of budget-related legislation. Similarly, the deficit limitation faced by European Union countries is reflected in a treaty rather than a national law.

Another downside is that Congress conceivably could waive the restrictions on the content of the budget and use it as a vehicle for enacting programmatic changes that would undermine the autonomy of the authorizing committees with jurisdiction over entitlement programs.

Option 2 – Concurrent resolution

A few modest changes could be made in existing procedures to strengthen the current resolution. The most significant change would permit the Senate to consider statutory budget enforcement provisions as part of reconciliation.

Fig. 2: Enhanced concurrent resolution

Elements of an "enhanced" concurrent resolution:

- The budget resolution would remain a concurrent resolution, which is binding only on Congress.
- The budget resolution would continue to set limits on spending and tax legislation through 302(a) allocations.
- The budget would continue to include directives to the authorizing committees to meet deficit-reduction targets.
- The supermajority hurdle to consider budget control as part of reconciliation would be eliminated (either annually or on a periodic basis to correspond with periodic sunsets of mandatory programs).
- A supermajority would be required in the House to consider a spending or tax bill if the budget has not first been adopted.
- The threshold for making budget process changes would be periodically dropped from three-fifths to a simple majority.

Effect on enforcement

The simple change of dropping the 60-vote requirement to extend budget control would significantly increase the likelihood that the BEA would be extended. If PAYGO and the budget caps were extended, it would make it more difficult for Congress to waive PAYGO for spending and tax legislation or to breach its allocation on discretionary spending, although Congress could still waive their application through riders in the appropriations and authorizations legislation.

However, making it easier to extend BEA-type budget controls will would not directly strengthen enforcement of the budget resolution. Congress would continue to rely on points of order, which can be easily waived in the House, to enforce the budget. It might be conjectured that members of Congress would be less likely to waive congressional rules to the extent that these rules are consistent with the statutory rules. It makes little political sense for Congress to waive PAYGO rules if the enactment of the bills would trigger a sequester.

Advantages and disadvantages

The key advantage of this approach is that it does not change the status quo with respect to the president's role in the budget process. Taking discretionary appropriations as an example, the president's role would be confined to setting limits on each of the 12 individual appropriations bills rather than on the overall level for all the bills.

Nor does it make it more difficult to approve a budget. It would not impose further roadblocks to reaching an agreement on the budget resolution by bringing in the president and increasing the stakes of reaching an agreement.

Finally, relaxing Senate rules that preclude the Senate from considering statutory budget limits in reconciliation would enhance enforcement, but not directly through the budget resolution, and as a result does not pose an overt threat to the appropriations and authorizing committees.

However, as a concurrent resolution, the budget would continue to lack the legitimacy of a law agreed to by both Congress and the president. More important, the limits established by the budget resolution would still be enforced through rulemaking, which can always be waived by a simple majority of the House.

A comparison of the two models

The merits of the two types of resolutions can be evaluated relative to the Commission's goals.

Fig. 3: Assessing models based on goals of the Commission

COMMISSION GOAL	JOINT RESOLUTION	REVISED CONCURRENT RESOLUTION
Simplification/transparency	Provides budgetary/fiscal framework agreed to by both sides.	None
Priority-setting	None	None
Engagement	Potential to accelerate engagement between Congress and president from fall debate on appropriations bills to spring debate on budget resolution.	None
Enforcement	Increases likelihood that BEA would be extended; Congress might be less likely to waive rules if they are buttressed with statutory controls.	No direct improvement in enforcement of budget resolution; dropping the 60-vote threshold on budget controls in reconciliation increases likelihood of budget controls and might be adjusted, which might increase Congress' willingness to enforce its role.
Focus on entitlements & long-term obligations	No clear impact unless long-term entitlement controls included in joint resolution.	None

A joint resolution would clearly address some of the goals of the commission, but this would only be the case if Congress and the president are able to agree on a budget resolution, and this is a fairly significant "if." If agreement were reached, it would simplify the budget process because the budget would clearly reflect the "declared" policy of the United States.

If Congress and the president were able to reach agreement on the joint resolution, one might conclude that a joint resolution promotes engagement between the two branches. The question will be whether they would have agreed to an informal framework for the budget and appropriations bills without the necessity of adopting a joint resolution.

The joint resolution would not increase the focus on entitlements unless it included entitlement controls such as PAYGO or entitlement triggers. Similarly, a joint resolution would not necessarily enhance the ability of policymakers to set priorities without further reforms.

Moreover, the Senate is more likely to drop the supermajority requirement for the BEA in the budget resolution than agree to drop it for any and all legislation that might be included in reconciliation.

However, there is nothing in these relatively modest reforms to the concurrent budget resolution that will simplify the process, improve priority setting, or promote greater engagement on the budget.