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# Provisions in the Bipartisan Budget Act of 2013 as an Alternative to a Traditional Budget Resolution

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## Summary

The Bipartisan Budget Act of 2013 (P.L. 113-67) included as Title I, Subtitle B, a section titled, “Establishing a Congressional Budget” designed to serve as a substitute for a traditional congressional budget resolution for FY2014 and potentially for FY2015. This report provides an explanation of such provisions, highlights how those provisions compare with a traditional budget resolution, and places them within the context of the budget process for FY2014 and FY2015. This report assumes a general understanding of the congressional budget process. For more information on the budget resolution and the congressional budget process generally, see CRS Report 98-721, *Introduction to the Federal Budget Process*, coordinated by (name redacted)

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## Introduction

The House and Senate have not reached agreement on a traditional budget resolution since agreeing to the FY2010 budget resolution in 2009. Although there are prior examples of delayed agreement or the absence of agreement on a budget resolution,<sup>1</sup> the sustained lack of agreement in recent years has caused some to argue that the budget process is broken.<sup>2</sup> Various budget process reforms have been proposed in response to the perceived problem of a broken budget process. For example, in recent years, members of the House Budget Committee have introduced legislation that would alter the process associated with the budget resolution.<sup>3</sup> Such reform proposals have included replacing the concurrent resolution on the budget with a joint resolution that would require the President's signature. In addition, the committee has reported legislation replacing the requirement for annual action on a budget resolution with a requirement for biennial action.<sup>4</sup>

Others have pointed out that while Congress has not agreed on a budget resolution since 2009, it has agreed to budgetary parameters and constraints in other forms. For example, Congress agreed to legislation establishing budgetary constraints in the Budget Control Act of 2011 (P.L. 112-25; BCA) as well as the Bipartisan Budget Act of 2013 (P.L. 113-67; BBA). These statutes have included language to provide for enforceable budgetary parameters in the absence of a traditional budget resolution, and in the case of the BBA, these provisions are explicitly labeled as "Establishing a Congressional Budget." While these provisions function as an alternative to a traditional budget resolution, it is important to recognize how such provisions are constructed, and how they are similar to, or different from, the way in which a traditional budget resolution is constructed.

This report provides an explanation of the provisions of The Bipartisan Budget Act of 2013 (P.L. 113-67) included as Title I, Subtitle B, a section titled, "Establishing a Congressional Budget" designed to serve as a substitute for a traditional congressional budget resolution for FY2014 and potentially for FY2015. The report also highlights how those provisions compare with a traditional budget resolution and places them within the context of the budget process for FY2014 and FY2015.

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<sup>1</sup> No budget resolution was agreed to by both chambers for FY1999, FY2003, FY2005, FY2007, FY2011, FY2012, FY2013, and FY2014.

<sup>2</sup> For example, Former Senators Pete Domenici and Sam Nunn, "Congress's Budget Process Broken Because it's Ignored," *The Hill*, May 8, 2013, pp. <http://thehill.com/blogs/congress-blog/economy-a-budget/298629-congresss-budget-process-broken-because-its-ignored>.

<sup>3</sup> The House Budget Committee, "Repairing the Broken Budget Process," press release, December 6, 2011, <http://budget.house.gov/news/documentsingle.aspx?DocumentID=271552>, and The House Budget Committee, "House Budget Committee Approves Budget-Process-reform Bills," press release, February 11, 2014, <http://budget.house.gov/news/documentsingle.aspx?DocumentID=369610>.

<sup>4</sup> On February 11, 2014, the House Budget Committee reported H.R. 1869, the Biennial Budgeting and Enhanced Oversight Act of 2014. In 2011, the House Budget Committee introduced a package of ten legislative reforms "designed to help repair the broken budget process." Among them was H.R. 1868 (113<sup>th</sup> Congress) the Legally Binding Budget Act. Ibid.

## Legislative History

The Bipartisan Budget Act of 2013, enacted December 26, 2013, resulted from negotiations between the Chairs of the House and Senate Budget Committees in association with the conference committee on the FY2014 budget resolution. Previously, on March 21, 2013, the House agreed to an FY2014 budget resolution (H.Con.Res. 25) by a vote of 221-207. On March 23, 2014, the Senate agreed to its own FY2014 budget resolution (S.Con.Res. 8) by a vote of 50-49. The two chambers, however, did not agree to convene a conference committee at that time.

On October 16, 2013, the House requested, and the Senate agreed to, a conference on S.Con.Res. 8 to attempt to resolve their differences on an FY2014 budget plan, as part of the deal forged by House and Senate leadership to end the government shutdown. While the conference committee did not report, on December 10, the chairs of the House and Senate Budget Committees, Representative Paul Ryan and Senator Patty Murray “announced that they had reached a two-year budget agreement.”<sup>5</sup>

On December 11, the House Rules Committee reported a special rule (H.Res. 438) providing for the consideration of what was being referred to as the “Ryan-Murray agreement.” The special rule specified that the legislative vehicle for the agreement would be H.J.Res. 59. This measure had previously included language to provide continuing appropriations, but had been superseded by other congressional action and had not been enacted.<sup>6</sup> The special rule made in order House consideration of the two-year budget agreement, titled the Bipartisan Budget Agreement (BBA), modified by a further amendment provided in the Rules Committee report that consisted primarily of the “Pathway for SGR Reform Act,” also known as the “doc fix.” As specified in the special rule, upon the House’s adoption of H.Res. 438, Representative Paul Ryan was permitted to make a motion that resulted in the House voting to send the legislative text consisting of the BBA and the “doc fix” to the Senate as a further House amendment to H.J.Res. 59. The House agreed to the motion on December 12, 2013, by a vote of 332-94.

On December 15, the Senate agreed by unanimous consent to consider the House’s amendment to H.J.Res. 59, and Majority Leader Harry Reid moved that the Senate concur in the House amendment and filed cloture on the motion. Two days later, on December 17, the Senate voted to invoke cloture on the motion by a vote of 67-33 and the following day, December 18, the Senate agreed to the motion to concur in the House amendment by a vote of 64-46. The legislation was then sent to the President and was signed into law on December 26, 2013 (P.L. 113-67).

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<sup>5</sup> House Budget Committee, press release, December 10, 2013, <http://budget.house.gov/news/documentsingle.aspx?DocumentID=364030>.

<sup>6</sup> The legislative vehicle for the CR that ultimately ended the government shutdown and provided funding for the federal government was H.R. 2775, the Continuing Appropriations Act, 2014. For more information on appropriations activities for FY2014, CRS Report R43338, *Congressional Action on FY2014 Appropriations Measures*, by (name redacted).

## Provisions in the BBA Related to a “Budget Resolution

In addition to modifying the discretionary spending caps and extending the mandatory spending sequester related to the Budget Control Act of 2011 (BCA),<sup>7</sup> the BBA included various other provisions, titled “Establishing a Congressional Budget,” related to congressional budget resolutions for FY2014 and FY2015.

### Provisions in the BBA as a Traditional “Budget Resolution”

As described below, the provisions labeled “budget resolution” in the BBA differ from a traditional budget resolution, although they allow Congress to function largely in the same manner as it would under a budget resolution.

The Congressional Budget Act of 1974 (the Budget Act) provides for the annual adoption of a budget resolution with the objective of forging an agreement between the House and Senate that establishes parameters within which Congress will consider subsequent budgetary legislation for the upcoming fiscal year.<sup>8</sup> These parameters are enforced by points of order. Specifically, provisions in the Budget Act<sup>9</sup> allow any Member in either chamber to raise a point of order against the consideration of legislation that would violate budget limits once agreed to.<sup>10</sup>

In particular, budgetary levels are enforced through Sections 311 and 302 of the Budget Act, which deal with the enforcement of spending and revenue aggregates, and committee spending allocations, respectively. Section 311(a) generally prohibits the consideration of (1) any spending measure that would violate the aggregate budget authority and outlay levels for the first fiscal year covered by the budget resolution and (2) any revenue measure that would violate the aggregate revenue levels for the first fiscal year or the sum of all fiscal years covered by the budget resolution. Section 302(a) of the Budget Act generally requires that the aggregate amounts of spending recommended in the annual budget resolution be allocated by committee. Once allocated, these levels are enforced by generally prohibiting the consideration of legislation that would violate the committee allocation (under Section 302(f) of the Budget Act). The Budget Act requires that the House and Senate Appropriations Committees receive an allocation for only one fiscal year, but the remaining House and Senate committees receive allocations for the entire period covered by the budget resolution. As a result, the spending levels are enforceable for one year in the case of the Appropriations Committees, but are enforceable for a multi-year period in the case of the other House and Senate Committees. Section 302(b) of the Budget Act requires

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<sup>7</sup> For more information, see CRS Report R43411, *The Budget Control Act of 2011: Legislative Changes to the Law and Their Budgetary Effects*, by (name redacted).

<sup>8</sup> Titles I-IX of P.L. 93-344, as amended; 2 U.S.C. 601-688.

<sup>9</sup> Provisions in the Budget Act are supplemented by points of order included in annual budget resolutions as well as points of order included in rule-making statutes.

<sup>10</sup> Generally, the method by which the levels included in the budget resolution are enforced is by Members of Congress raising points of order against any subsequent legislation being considered on the floor if the measure would violate various spending or revenue levels agreed to in the budget resolution. Such points of order, however, may be waived, either by a simple majority in the House or, in most cases, by three-fifths in the Senate. For more information, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by (name redacted).

that the House and Senate Appropriations Committees subdivide their allocations by subcommittee. Section 302(f) also generally bars the consideration of any spending measures that would cause the Appropriations Committees' suballocations of spending made under Section 302(b) to be breached.

When the House and Senate do not reach final agreement on a budget resolution in a timely manner (or fail to reach agreement altogether), budget enforcement for the upcoming fiscal year is complicated. The multi-year budget levels in the prior year's budget resolution remain in effect and may provide some basis for enforcing points of order with respect to revenue and mandatory spending legislation. Changing economic conditions and technical factors, however, may have rendered the prior budget levels out of date, thereby undermining their value as a realistic basis for enforcement of current policies. Furthermore, since a committee allocation to the Appropriations Committee is only for one year, the House and Senate cannot rely on a prior year's budget resolution. If a budget resolution is not adopted for a fiscal year, there is no allocation of spending made to the Appropriations Committees under Section 302(a) and no basis for them to make the required spending suballocations under Section 302(b).

In such situations, the House and Senate may employ a variety of mechanisms to establish a basis for updated enforcement. Often, the House and Senate use simple resolutions to establish budgetary levels that are then enforceable in that respective chamber, as if they had been included in a budget resolution agreed upon by both the House and Senate. These are often referred to as "deeming resolutions." However, the term deeming resolution is not officially defined, nor is there any specific statute or rule authorizing such legislation or prescribing its content. Instead, the use of a deeming resolution simply represents the House and Senate, often separately, employing legislative procedures to deal with enforcement issues on an ad hoc basis.<sup>11</sup>

Recently, updated budgetary enforcement has been provided for in statutory budget control legislation. In such cases, the budgetary control legislation has included language stating that, in the absence of a budget resolution, the chair of the Budget Committee may file a statement of budgetary levels, which would have effect in the respective chamber. For example, Section 106 of the BCA (P.L. 112-25) established enforceable budgetary levels in the Senate for FY2012 and FY2013 if Congress did not adopt a budget resolution for that fiscal year. It required that the Senate Budget Committee chair file a statement of levels of various budgetary amounts, consistent with the statutory limits established in the act.<sup>12</sup>

Similarly, Section 111(a) of the BBA specifically provides that

For the purpose of enforcing the Congressional Budget Act of 1974 for fiscal year 2014, and enforcing, in the Senate, budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels provided for in subsection (b) shall apply in the same manner as for a concurrent resolution on the budget for fiscal year 2014 with appropriate budgetary levels for fiscal year 2014 and for fiscal years 2015 through 2023.

In addition, Section 115 and Section 116 include similar provisions for FY2015 for the House and Senate respectively.

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<sup>11</sup> For more information, see CRS Report RL31443, *The "Deeming Resolution": A Budget Enforcement Tool*, by (name redacted).

<sup>12</sup> For more information, see CRS Report R41965, *The Budget Control Act of 2011*, by (name redacted), (name redacted), and (name redacted).

One question that has arisen is whether the use of an alternative legislative vehicle has any impact on the enforceability of the budgetary levels and other provisions in the BBA.

Article I of the Constitution, however, gives Congress the broad authority to determine its rules of procedure. This constitutional authority allows Congress to include rule-making provisions, such as enforceable budgetary levels, in any legislative vehicle it desires, whether it is in chamber rules, a concurrent resolution, or a statute. In each case, the rule-making provisions have equal standing and effect. Further, under this rule-making principle, Congress has the authority to take parliamentary action that waives its rules in certain circumstances if it sees fit.<sup>13</sup> This power is not compromised by the fact that the rule-making provision may be established in statute. In short, the levels referenced in the BBA's budget resolution provisions are not any more, or less, enforceable than a traditional budget resolution because they originate in statute.

The Budget Act entails that the budget resolution "shall set forth" budgetary levels. Traditionally, budget resolutions have always included explicit budgetary totals in the form of dollar amounts. The FY2014 "budget resolution" included in the Bipartisan Budget Act, however, does not include specific dollar amounts. Instead, it states that the Chairs of the House and Senate Budget Committees shall subsequently file in the *Congressional Record* budgetary totals consistent with the amended discretionary spending caps and the May 2013 baseline adjusted for specified budgetary effects.<sup>14</sup> Once those budgetary totals are filed, they are enforceable as if they had been included in a budget resolution. This means that when Members agreed to the FY2014 "budget resolution" within the BBA, they did so without language providing explicit dollar amounts or reference to priorities in the form of functional categories. The fact that the exact dollar amounts were not specified, however, does not change enforceability of the levels once they are filed as specified. This provision is similar to the one that appeared in the BCA which instructed, for purposes of Senate budget enforcement, the Senate Budget chair to file in the *Congressional Record* certain budgetary levels for the purposes of enforcement, which specified that the levels be consistent with the statutory limits in the act. Once filed in March 2012, these levels were often referred to as a "deeming resolution."

The Budget Act requires the inclusion of certain budgetary levels in the text of the budget resolution, as well as the accompanying report. Of these required budgetary levels, only some are subsequently enforceable, while others appear only for informational purposes, such as functional categories. The levels specified in the Bipartisan Budget Act that were directed to be filed in the *Congressional Record* did not include all of the levels required to be in a budget resolution by the Budget Act. For example, it did not include the corresponding deficit level or the public debt. It did, however, include the levels enforced by points of order that are required by the Budget Act such as overall spending, overall revenue and the spending allocations for each committee.<sup>15</sup>

Although the budgetary levels enacted in the BBA are enforceable, one unconventional aspect of how the BBA functions in place of a traditional budget resolution are the provisions that

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<sup>13</sup> In the House, rules can generally be waived by unanimous consent, a two-thirds vote to suspend the rules, or majority vote to adopt a special rule reported from the House Rules Committee that waives rules. In the Senate, rules can generally be waived by unanimous consent or by a two-thirds or three-fifths majority under specific circumstances.

<sup>14</sup> Specifically, levels must be consistent with the May 2013 baseline of the Congressional Budget Office adjusted to account for the budgetary effects of this act and legislation enacted prior to this act but not included in the May 2013 baseline of the Congressional Budget Office.

<sup>15</sup> These committee spending allocations, as required under Section 302(a) of the Budget Act, are traditionally found in the joint explanatory statement that accompanies the budget resolution.



specifically refer to the relationship of the BBA to previous actions concerning a budget resolution. The most salient language with regard to this appears in Section 113, which provides that

In the House of Representatives, for the remainder of the 113<sup>th</sup> Congress, the provisions of H.Con.Res. 25 (113<sup>th</sup> Congress), as deemed in force by H.Res. 243 (113<sup>th</sup> Congress), shall remain in force to the extent its budgetary levels are not superseded by this subtitle or by further action of the House of Representatives.

As a consequence of this language, those provisions adopted as part of the deeming resolution for FY2014 previously agreed to by the House and not addressed in Title I, Subtitle B of P.L. 113-67 would continue to have force and effect. Similarly, deficit-neutral reserve funds adopted by the Senate in S.Con.Res. 8 (113<sup>th</sup> Congress), and enumerated in Section 114(d), are also deemed to have force and effect. As a consequence of these provisions, although the budgetary levels required to be filed for FY2014 under Section 111(b) by the chairs of the Budget Committees of the House of Representatives and the Senate are enforceable, the provisions enacted in the BBA and styled as the budget resolution for FY2014 cannot be read in isolation from previous budgetary actions.

Another feature of P.L. 113-67 functioning as a budget resolution for FY2015 that contrasts with more traditional budget resolutions is the language that addresses the specific possibility that it can be supplanted by future action. The authority for the provisions of the BBA to act in place of a budget resolution for FY2015 in the House is established in Section 115. Similar authority with respect to the Senate is established in Section 116. Sections 115(f) and 116(e) (along with Sections 112(b) and 114(e)), however, explicitly state that this authority shall expire if a concurrent resolution on the budget for FY2015 is agreed to by the Senate and House of Representatives. Similar language appeared in Section 106(e) of the BCA in 2011. As applied in that case, the language was interpreted to mean that although the allocations required to be filed under the act could function as the equivalent of a budget resolution for purposes of Senate enforcement, the BCA did not preclude the later adoption of a budget resolution, and did not preclude the consideration of a concurrent resolution under the privileged and expedited procedures provided under the Budget Act.<sup>16</sup>

As stated above, these variations in content, format, and structure are not necessarily significant for the purpose of House and Senate enforcement of budgetary levels. Such variations, however, could potentially affect the privileged nature of a measure intended to be considered as a budget resolution on the House and Senate floor. The Budget Act allows that the budget resolution be considered under expedited procedures, but only if the measure meets the qualifications to be a budget resolution as specified by the Budget Act. The option to use such special procedures may

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<sup>16</sup> The budget resolution is privileged for consideration in the Senate. See, for example, U.S. Congress, Senate, *Riddick's Senate Procedure, Precedents and Practices*, by Floyd M. Riddick and Alan S. Frumin, 101<sup>st</sup> Cong., 2<sup>nd</sup> sess., S.Doc. 101-28 (Washington: GPO 1992), p. 600 and Senate debate, *Congressional Record*, vol. 127 (May 12, 1981), p. 9455. This privilege means that unlike most measures, a motion for the Senate to proceed to consideration of a budget resolution is non-debatable. In addition, the Budget Act provides that debate time on a budget resolution itself, as well as amendments, is limited. Generally, this means that a simple majority of Senators is sufficient to bring a budget resolution to the floor for debate, adopt any amendments, and reach a decision on the budget resolution itself. Most measures in the Senate may require cloture to end debate on a motion to proceed or to end debate on the measure itself. Because the BCA did not alter this privilege, on May 16, 2012, the Senate was able to consider, and reject, each of a series of privileged motions to proceed to the consideration of five different proposed budget resolutions for FY2013.

be compromised if the measure includes the variations described above, because these would not fulfill the requirements in the Budget Act. This was not an issue for the budget resolution provisions included in the BBA, as the measure was not considered under such special procedures.

## Budgetary Levels in the FY2014 Budget Resolution

Although the BBA provisions in Section 111, styled as a budget resolution for FY2014, are not traditional in nature, they nonetheless established certain parameters for subsequent budgetary legislation. General information on those budgetary levels is provided below.

### Discretionary Spending

The BBA increased both the defense discretionary and nondefense discretionary statutory spending caps (associated with the BCA) to \$520 billion and \$492 billion in new budget authority, respectively, for FY2014. The BBA then states that those levels be incorporated into the FY2014 “budget resolution.” Specifically, the BBA states that the chairs of the House and Senate Budget Committees shall submit a statement for publication in the *Congressional Record* that includes committee spending levels (302(a) allocations) for the House and Senate Appropriations Committees for FY2014 “consistent with the discretionary spending limits set forth in this Act.”

These levels were submitted on January 14 and January 15, 2014, in the House and Senate, respectively.<sup>17</sup> Once filed, these levels became enforceable on the House and Senate floor.<sup>18</sup> FY2014 appropriations were enacted on January 17, 2014, adhering to these levels.<sup>19</sup>

### Mandatory Spending and Revenue

Section 111 also specifies various levels associated with mandatory spending and revenue; these generally keep mandatory spending and revenue levels at current law levels. Specifically, the act states that the chairs of the House and Senate Budget Committees shall submit a statement for publication in the *Congressional Record* that includes levels related to mandatory spending and revenue. In each case, such levels are to be “consistent with the May 2013 baseline of the Congressional Budget Office adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the May 2013 baseline of the Congressional Budget Office.”

The levels were submitted in the House and Senate on January 27 and January 15, respectively.<sup>20</sup> Once filed, these levels became enforceable on the House and Senate floor.

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<sup>17</sup> Rep. Paul Ryan, “Publication of Budgetary Material,” *Congressional Record*, daily edition, vol. 160 (January 14, 2014), p. H222; Sen. Patty Murray, “Budget Act Enforcement Details,” *Congressional Record*, daily edition, vol. 160 (January 15, 2014), p. S361.

<sup>18</sup> Generally, the method by which the levels included in the budget resolution are enforced is by Members of Congress raising points of order against any subsequent legislation being considered on the floor if the measure would violate the spending or revenue levels agreed to in the budget resolution. In addition, because the levels are consistent with the discretionary spending caps, they may also be subject to enforcement by sequestration under the BCA.

<sup>19</sup> P.L. 113-76.

<sup>20</sup> Rep. Paul Ryan, “Publication of Budgetary Material,” *Congressional Record*, daily edition, vol. 160 (January 27, 2014), p. H1428; Sen. Patty Murray, “Budget Act Enforcement Details,” *Congressional Record*, daily edition, vol. 160 (continued...)

## **Other Provisions in the 2014 Budget Resolution**

As with typical budget resolutions, the BBA budget resolution included various procedural provisions such as points of order. For example, a point of order against advance appropriations in the Senate was included in Section 112. In addition, the BBA includes dozens of provisions referred to as “adjustments” and “reserve funds.” Some of these incorporate by reference the provisions in versions of the budget resolutions separately agreed to by the House and Senate in March of 2013 (H.Con.Res. 25 and S.Con.Res. 8).

### **Reserve Funds and Adjustments**

Congress frequently includes “reserve funds” and “adjustments” in the annual budget resolution. These provisions provide the chairs of the House or Senate Budget Committees the authority to adjust the budgetary allocations, aggregates, and levels in the future if certain conditions are met. Typically these conditions consist of legislation dealing with a particular policy being reported by the appropriate committee or an amendment dealing with that policy being offered on the floor. If the specified condition is met, the Budget Committee chairman submits the revised levels to her or his respective chamber. Generally, the goal of such a reserve fund or adjustment is to allow certain policies to be considered on the floor without triggering a point of order for violating levels in the budget resolution.

Adjustments and reserve funds frequently require that the net budgetary impact of the specified legislation not increase the deficit, and are referred to as “deficit neutral” adjustments or reserve funds. Such deficit-neutral provisions provide that legislation may violate the levels or allocations in the budget resolution, but require the excess amounts, if they would increase the deficit, be “offset” by equivalent amounts. The Budget Committee chair may then revise budgetary levels to prevent a point of order from being offered against the legislation. Reserve funds are not always required to be deficit-neutral. They may, instead, allow the levels of spending or revenue set forth in the budget resolution to be breached, as long as the policy legislation meets the requirements specified in the reserve fund.

An example of a reserve fund in action is as follows: Section 114(d) incorporated by reference (to S.Con.Res. 8) the following deficit-neutral reserve fund for the Senate.

#### **SEC. 313. DEFICIT-NEUTRAL RESERVE FUND FOR A FARM BILL.**

The Chairman of the Committee on the Budget of the Senate may revise the allocations of a committee or committees, aggregates, and other appropriate levels in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that provide for the reauthorization of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246; 122 Stat. 1651) or prior Acts, authorize similar or related programs, provide for revenue changes, or any combination of the purposes under this section, by the amounts provided in such legislation for those purposes, provided that such legislation would not increase the deficit over either the period of the total of fiscal years 2013 through 2018 or the period of the total of fiscal years 2013 through 2023.

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(...continued)

(January 15, 2014), p. S361.

After enactment of P.L. 113-67, the House and Senate considered the Agricultural Act of 2014, also known as the “Farm bill.”<sup>21</sup> On January 30, 2014, the Senate began consideration of the Farm bill conference report, and Senate Budget Committee Chair, Senator Patty Murray, revised budgetary levels of the FY2014 budget resolution pursuant to the reserve fund.

An excerpt from the *Congressional Record* shows the following:

Mrs. MURRAY. Madam President, section 114(d) of H.J.Res. 59, the Bipartisan Budget Act of 2013, allows the chairman of the Senate Budget Committee to revise the allocations, aggregates, and levels filed on January 14, 2014, pursuant to section 111 of H.J.Res. 59, for a number of deficit-neutral reserve funds. These reserve funds were incorporated into the Bipartisan Budget Act by reference to sections of S.Con.Res. 8, the Senate-passed budget resolution for 2014. Among these sections is a reference to section 313 of S.Con.Res. 8, which establishes a deficit-neutral reserve fund for a farm bill. The authority to adjust enforceable levels in the Senate for a farm bill is contingent on that legislation not increasing the deficit over either the period of the total of fiscal years 2013 through 2018 or the period of the total of fiscal years 2013 through 2023.

I find that the conference agreement on H.R. 2642, the Agricultural Act of 2014, as reported on January 27, 2014, fulfills the conditions of the deficit-neutral reserve fund for a farm bill. Therefore, pursuant to section 114(d) of H.J.Res. 59, I am adjusting the budgetary aggregates, as well as the allocation to the Committee on Agriculture, Nutrition, and Forestry.<sup>22</sup>

Below this statement, revised budgetary tables were inserted. The conference report on the Farm bill passed the Senate several days later.

Senators have expressed concern regarding reserve fund or adjustment provisions and whether their presence would result in a situation in which legislative questions, which would otherwise have required a three-fifths threshold in the Senate, could be agreed to with only a simple majority. Such questions may have arisen because adjustment provisions give authority, under specified circumstances, to the Budget Committee chair to revise budgetary levels to possibly prevent a point of order from being offered against the legislation—a point of order which otherwise would have required three-fifths of the Senate to waive.<sup>23</sup> Such a reserve fund or adjustment provision, however, would only have an impact on whether a budgetary point of order could be made. But it would not affect the Senate’s other rules and procedural requirements, such as the cloture process, and the possibility that the measure would need three-fifths of the Senate to agree to end debate on a legislative question, such as final passage.<sup>24</sup>

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<sup>21</sup> H.R. 2642, P.L. 113-79.

<sup>22</sup> Senator Murray, BUDGETARY REVISIONS, *Congressional Record*, daily edition, vol. 160, part 2 (January 30, 2014), p. S649.

<sup>23</sup> CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by (name redacted).

<sup>24</sup> A colloquy on this subject occurred on the Senate floor. Senators Portman and Murray, “BUDGET ACT SECTION 114(c),” *Congressional Record*, daily edition, vol. 160, part 2 (January 7, 2014), p. S67. For more information on the cloture process, see CRS Report 98-425, *Invoking Cloture in the Senate*, by (name redacted).

## BBA Provisions Related to an FY2015 Budget Resolution

The BBA includes provisions for FY2015 related to a budget resolution, similar to those for FY2014, described above. If by April 15, 2014, the House and Senate have not agreed on a budget resolution for FY2015, then the House and Senate Budget Committee chairs are required to submit, by May 15, to the *Congressional Record*, allocations, aggregates, and levels that would become enforceable in the same manner as a concurrent budget resolution for FY2015. General information on those budgetary levels is provided below.

### Discretionary Spending

The BBA increased both the defense discretionary and nondefense discretionary statutory spending caps (associated with the BCA) for FY2015 to \$521 and \$492 billion respectively. The BBA states that in the event that a budget resolution has not been agreed to by April 15, 2014, the chairs of the House and Senate Budget Committees shall submit a statement for publication in the *Congressional Record* that includes committee spending levels (302(a) allocations)<sup>25</sup> for the House and Senate Appropriations Committees for FY2015 consistent with the discretionary spending caps.

### Mandatory Spending and Revenue

The BBA's FY2015 budget resolution provision also specifies various levels associated with mandatory spending and revenue in the absence of agreement on a concurrent resolution on the budget for FY2015. These generally keep mandatory spending and revenue levels at current law levels. Specifically, the act states that the chairs of the House and Senate Budget Committees shall submit a statement for publication in the *Congressional Record* that includes levels related to mandatory spending and revenue. In each case, such levels are to be "consistent with the most recent baseline of the Congressional Budget Office."

## Congressional Consideration of an Alternative FY2015 Budget Resolution

While the BBA was referred to as a two-year budget agreement, and does establish certain enforceable budgetary levels for FY2015, nothing precludes Congress from acting on a budget resolution for FY2015, either before or after these levels have been filed.

On April 4, 2014, the House Budget Committee reported a budget resolution for FY2015 (H.Con.Res. 96), which was agreed to by the House on April 10. Nonetheless, on April 29, the chair of the House Budget Committee, Representative Paul Ryan, filed in the *Congressional Record*, levels as provided for in the BBA.<sup>26</sup> Those were immediately enforceable on the House floor.

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<sup>25</sup> The 302(a) allocations made to the House and Senate Appropriations Committees reflect their jurisdiction over all discretionary spending. These allocations hold the appropriations committees accountable for staying within the spending limits established by the budget resolution. For more information, see CRS Report R40472, *The Budget Resolution and Spending Legislation*, by (name redacted).

<sup>26</sup> Rep. Paul Ryan, "PUBLICATION OF BUDGETARY MATERIAL," *Congressional Record*, daily edition, vol. 160, part 2 (April 28, 2014), p. H3288.

The Senate Budget Chair, Senator Patty Murray, has indicated that the Senate Budget Committee will not report an FY2015 budget resolution, and on May 5, filed in the *Congressional Record*, levels as provided for in the BBA.<sup>27</sup> This, however, does not necessarily preclude the Senate from considering a budget resolution. Under Senate precedent, if the Senate Budget Committee has not reported a budget resolution by April 1, the Budget Committee is discharged from further consideration of any budget resolution that has been referred.<sup>28</sup> As a consequence, the Senate Budget Committee was discharged of the House-passed budget resolution for FY2015 (H.Con.Res. 96), which was received in the Senate and referred to the Senate Budget Committee on April 11. Under Senate precedent, any Senator can make a non-debatable motion to proceed to the consideration of any such budget resolution.<sup>29</sup>

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<sup>27</sup> Paul M. Krawzak, "Murray Says Senate Won't Move 2015 Budget Resolution," *CQ News*, February 28, 2014. Sen. Patty Murray, BUDGET COMMITTEE SUBMISSIONS, *Congressional Record*, daily edition, vol. 160, part 2 (May 5, 2014), p. S2640.

<sup>28</sup> See Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices*, 101<sup>st</sup> Cong., 2<sup>nd</sup> sess., S.Doc. 101-28 (Washington: GPO, 1992), p. 599.

<sup>29</sup> Such was the case in 2011 and 2012 when the Senate Budget Committee did not report a budget resolution. In each of those years, the Senate Budget Committee was discharged from the consideration of multiple budget resolutions and motions to proceed to their consideration were considered on the Senate floor on May 25, 2011 and May 16, 2012, respectively.

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