

## High-Stakes Budget Politics: The 2013 Government Shutdown and the Ryan-Murray Deal

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Every year, Congress is supposed to pass a budget resolution setting guidelines for its spending decisions. Intended to provide some coherence to such decisions, the budget resolution specifies how much the federal government will spend in the next fiscal year, how much it expects to collect in taxes, and how large the deficit or surplus (the difference between the two) is expected to be. It also specifies how much is to be spent in each of twenty broad functional categories—health or agriculture, for example. Since these sorts of issues are at the heart of the policy differences between the parties, the budget resolution is always controversial.

An account of passing the budget resolution in 2013 illustrates the contemporary budget process and how it can morph into even more unorthodox lawmaking. Both chambers passed budget resolutions in the spring of 2013 but they were very different, and no real attempt to reconcile them was made. However, months later, after the government shutdown, the chairs of the two Budget Committees negotiated a compromise specifying the guidelines for spending decisions that the budget resolution is supposed to provide.

### Act One: The FY 2014 Budget Resolutions

When Republicans won control of the House of Representatives in the 2010 elections, the likelihood of a normal budget process dimmed from faint to none. The Republican House determined to shrink the size of government via sharp cuts in domestic spending and the Democratic Senate differed

starkly in their priorities, and budgets are basically statements of policy priorities. In fact, the Democratic 111th Congress had failed to complete a budget resolution in 2010; with widespread concern about the deficit and their members fearful about the upcoming election, the majority-party leadership was unsure it could pass a resolution. Eager to highlight its view of good budget policy, the Republican-controlled House passed budget resolutions in each of the subsequent years. The “Ryan budgets,” named after Paul Ryan, the Republican chair of the House Budget Committee (HBC), specified huge cuts in domestic spending and suggested converting the Supplemental Nutrition Assistance Program (SNAP; formerly food stamps) and Medicaid from entitlement programs into block grants to the states and turning Medicare into a voucher program. Democrats vehemently opposed all of these proposals. On the defensive in 2011, the Democratic Senate never considered its Budget Committee’s very different budget resolution. The debt limit agreement passed in August 2011 (the Budget Control Act [BCA] of 2011) set spending caps for FY 2012 through FY 2021 and separate caps for domestic and defense discretionary spending for FY 2012 and FY 2013. The BCA obviated the need for budget resolutions, Senate Democrats argued, and the Senate did not consider a budget resolution in 2012.

### House Committee Action

On March 13, 2013, late in the evening, the HBC approved its chairman’s budget resolution draft on a 22–17 strict party line vote. The committee had spent all day and a good part of the night in markup, during which it defeated twenty-two of twenty-three amendments offered by Democrats.

The budget plan purported to balance the federal budget in ten years by cutting \$4.6 billion over the course of the period. It was very similar to the previous Ryan budgets; the cuts would come from domestic programs. It also called for repeal of the Patient Protection and Affordable Care Act of 2010 (the ACA, or Obamacare), converting SNAP and Medicaid into block grants to the states and cutting their cost in the process as well as turning Medicare into a voucher program. It also proposed an overhaul of the tax code, reducing the top income tax rate to 25 percent but bringing in the same amount of revenue through closing unspecified tax loopholes.

The BCA of 2011 governed spending decisions in 2013 unless it was altered. The BCA specified that, were a select committee set up under the act unable to agree on \$1.5 trillion in spending cuts beyond what was included in the Act itself, automatic cuts (called sequestration) would take effect, with half from defense and half from domestic spending (*CQ Weekly* [CQW], August, 8, 2011, 1761–1762). The automatic and thus mindless cuts sequestration entailed were considered such bad public policy that

the threat thereof was expected to force agreement, with Republicans particularly concerned about the defense cuts and Democrats the domestic. Nevertheless, the select committee had been unable to come to an agreement, and sequestration went into effect in the spring of 2012.

The Republican budget resolution altered the sequester numbers for FY 2014, proposing a further cut in domestic discretionary spending and adding spending to defense. It set total spending below what was called for by the BCA, thus balancing the budget sooner.

### Senate Committee Action

On March 14, after two days of markup, the Senate Budget Committee (SBC) approved with no significant changes the draft budget resolution its chair, Patty Murray, D-WA, had prepared. GOP amendments, many to make the SBC resolution more like the HBC one, were defeated on party line votes, and the resolution was approved on a 12–10 vote along party lines.

The SBC budget resolution reflected Democratic priorities just as the HBC resolution reflected those of the GOP. In this period of high partisan polarization, that meant that the resolutions were very different. Murray's proposal called for replacing all of the remaining nine years of the sequester with a package of tax increases and spending cuts. It set a cap of \$1.058 trillion in FY 2014 discretionary spending compared with a \$967 trillion cap in the HBC budget resolution. It protected entitlement programs such as Medicaid and Medicare and, of course, did not repeal the ACA. The Senate resolution included reconciliation instructions to committees to make the tax and other program changes required to carry out the budget resolution. Although the HBC budget resolution would also have required numerous changes in law, Ryan did not include reconciliation instructions in his resolution.

### House Floor Action

At 12:40 p.m. on March 19, the House of Representatives began debate on H.Res. 122, the special rule for consideration of H.Con.Res. 25, the budget resolution reported by the HBC. Rob Woodall, R-GA, majority-party manager of the rule, explained that it provided four hours of general debate and made, in order, five substitute amendments. He praised the rule for allowing such a diverse set of choices. In fact, it was a typical budget resolution rule; it gave a number of important subgroups in the chamber an opportunity to present and get a vote on their own budgets. Minority-party manager Louise Slaughter, D-NY, focused on the contents of the Ryan budget and so did most of the other speakers. Democrats argued for defeating the rule because the Ryan budget cut programs important to all sorts of

Americans but especially to poor ones much too deeply. Republicans extolled the budget as responsible and likely to foster economic growth.

After the hour of debate allotted to a rule, Woodall moved the previous question, which would cut off debate. When it passed, he moved that the House approve the rule. Both passed on strictly party line votes as is now common on rule votes.

As the rule specified, the House resolved itself into the Committee of the Whole to debate H.Con.Res. 25, the budget resolution. Paul Ryan, the chairman of the Budget Committee, and Chris Van Hollen, D-MD, the ranking minority member, served as floor managers and began the debate. Their opening statements demonstrated how far apart the parties were. As chair of the reporting committee, Ryan led off:

Mr. Chairman, today I rise to bring forward and present the budget resolution for fiscal year 2014. We believe that we owe the American people a responsible, balanced budget, and that is precisely what we are bringing to the floor today. Our budget balances the budget within 10 years, and it does so without raising taxes. Balancing the budget will help us foster a healthier economy, and it will help us create jobs. (*Congressional Record* [CR], March 19, 2013, S1597)

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We've got to control our spending appetite. We've got to reform programs like Medicare so they're solvent. We've got to reform our safety net so that it works to get people on their feet. That's what this budget does. (CR, March 19, 2013, S1598)

Van Hollen responded:

Last fall throughout this country, we had a vigorous debate. . . . The American people chose to support President Obama's vision of accelerating economic growth, putting more people to work, taking a shared-responsibility approach to our long-term deficits so we bring them down in a balanced and smart way, and they rejected the idea that we're going to move the economy forward by giving windfall tax cuts to the very wealthiest in the country and that somehow the benefits of that would trickle down and lift everybody up. They rejected that lopsided approach that balanced the budgets on the backs of everybody but the folks at the very top. It balanced the budget on the backs of our kids' education by slashing important investments. . . . they doubled the cut from the sequester. Those are investments in our kids' education. Those are investments in science and research to help power our economy. Those are investments to help modernize our infrastructure. They cut transportation by 15 percent when we have 15 percent unemployment in the construction industry.

Mr. Chairman, the American people rejected the kind of uncompromising, lopsided approach that we see once again presented here in the House. (CR, March 19, 2013, S1598)

The next day, when consideration resumed, the five substitute amendments were considered. First up was the Mulvaney amendment, which essentially consisted of the budget resolution passed by the SBC. Mick Mulvaney, a very conservative South Carolina Republican, offered a Democratic budget in order to demonstrate it could not pass the House. After the twenty minutes of debate time allotted by the rule, a voice vote was called, the chair ruled the amendment had failed, a recorded vote was demanded, and the roll call was put off until later in the day as the rule allowed. Eventually it was defeated 261–154, with thirty-five Democrats voting no.

The Congressional Black Caucus substitute was considered next, followed by the Progressive Caucus substitute. Both funded domestic programs far more generously than the Ryan budget. In contrast, the conservative Republican Study Committee (RSC) budget, considered after that, cut even more than the Ryan budget and would balance the budget in four years. All three were defeated; the Black Caucus substitute on a 305–105 vote with 80 Democrats voting no; the Progress Caucus substitute 327–84, with 102 Democrats voting no. No Republican voted for either. The RSC budget was defeated 132–104, with 118 Republicans voting no. As they had done the previous year, 171 Democrats voted “present” in order to force Republicans to vote against the RSC plan to ensure it did not win. If it had, it would have replaced the Ryan plan.

The Democratic Caucus substitute, offered by HBC ranking minority member Chris Van Hollen, provided for more generous domestic funding than the Ryan budget; it replaced the automatic spending cuts under the sequester with a combination of revenue increases and spending cuts. All three of the party’s top leaders spoke in favor. Majority Leader Nancy Pelosi, D-CA, ended her comments by saying, “The choice is clear: Job-killer Ryan Republican budget bill, job-creator Van Hollen substitute bill. I urge my colleagues to support the Van Hollen bill” (*CR*, March 20, 2013, H1707). It was defeated by a vote of 253–165, with twenty-eight Democrats, most from conservative-leaning districts, voting no. After the vote, the Committee of the Whole rose.

The next morning consideration resumed. The House resolved itself into the Committee of the Whole and the chair declared “pursuant to the rule, it is now in order to consider a final period of general debate, which shall not exceed 10 minutes, equally divided and controlled by the chair and ranking minority member of the Committee on the Budget.” Ryan yielded to House Speaker John Boehner who emphasized that the Ryan budget balanced in 10 years and urged its approval. Van Hollen advocated its defeat:

Mr. Chairman, I’m going to urge our colleagues to vote against this Republican budget for a variety of reasons.

First of all, this is an uncompromising, ideological approach to our budget issues. We've just been through a major national campaign where both Presidential candidates, President Obama and Governor Romney, agreed on one thing, and that was that the people in this country faced a fundamental choice in the direction we were going to take. The American people voted, and they resoundingly rejected the approach that is now taken once again for the third year in a row in this Republican budget.

This budget, as we've heard over the last couple of days, fails on a number of counts. Number one, it adopts the European-style austerity approach that we've seen slow down economies in many parts of Europe. We should instead be focusing on job growth and putting people back to work . . .

It also fails the test of taking a balanced approach because it is founded on the failed idea that giving another round of tax cuts to people at the very high end of the income scale will somehow trickle down and lift up all the other boats . . .

We know we have an aging infrastructure problem. . . . yet this cuts our infrastructure and transportation budget by over 20 percent.

It makes it harder for students to go to college. The Republican budget will double the student loan interest rate in July from 3.4 percent to 6.8 percent.

In the part of our budget where we make important investments in science and research and education, it more than doubles the sequester cut.

It violates important commitments we've made to our seniors . . .

I urge my colleagues to reject this approach and to adopt the balanced Democratic approach to dealing with these national challenges. (*CR*, March 21, 2013, H1795)

Ryan responded for the Republican majority:

Mr. Chairman, this budget is constructive. It reveals each side's priorities. It clarifies the divide that exists between us.

We want to balance the budget; they don't. We want to restrain spending; they want to spend more money. We think taxpayers have given enough to Washington; they want to raise taxes by at least a trillion dollars. Take more to spend more. We want to strengthen programs like Medicare; they seem to be complicit with its demise. We see ObamaCare as a roadblock to patient-centered health care reform; they see it as a sacred cow. We think our national security is a top priority; they want to hollow out our military. We offer modernization, reform, growth and opportunity; they're clinging to the status quo: more taxing, more spending, more borrowing.

This plan recognizes that if we cannot handle our out-of-control debt, we will lose control of our future. (*CR*, March 21, 2013, H1795)

The chairman of the Committee of the Whole announced that all time for debate had expired. The Committee of the Whole rose; the Speaker pro temp assumed the chair, and a roll call vote was ordered. The Ryan budget resolution passed 221–207. Ten Republicans voted against it, six argued

that the budget plan did not cut spending fast enough, while four said it cut spending too steeply or in the wrong areas (*CQW*, March 25, 2013, 578).

## Senate Floor Action

The Senate began floor consideration of its budget resolution on March 20. Floor consideration is governed by the Congressional Budget and Impoundment Control Act of 1974 (or Budget Act), not by ordinary Senate rules. Thus, no filibuster is allowed, and amendments must be germane. Still, floor consideration in the Senate differs substantially from that in the House. Debate time is fifty hours, and there is no limit on the number of amendments that may be offered.

Patty Murray, Budget Committee chair, asked unanimous consent that S.Con.Res. 8, the budget resolution reported by the SBC, be considered. She also asked unanimous consent that no amendments be in order until the following day. Thus, debate began.

In the Senate as in the House, the stark difference between the parties immediately became evident. Murray extolled her budget for being a balanced plan that replaced the sequester and reduced the deficit by a combination of smart budget cuts and revenue increases. Jeff Sessions, R-AL, SBC ranking minority member, excoriated it for not balancing the budget. Other senators spoke, largely reiterating their party's themes.

The next day, March 21, consideration began with Senate majority leader Harry Reid, D-NV, making an announcement about the schedule and issuing a warning. He said the following:

Mr. President, as we just heard, the Senate has resumed consideration of . . . the budget resolution. We will continue debate during today's session. Senators will be notified when votes are scheduled, of course.

The budget has 34 hours left, and then following that, we will have some votes. It is up to the two managers of this bill if we have votes before the 34 hours expire. These are two experienced Senators and they know how to handle this budget, but it would seem to me that we should move as quickly as we can to debate these issues. . . .

Everyone should understand that this time will run out at the latest at 7 p.m. tomorrow night. It seems to me the two managers could reduce that time somewhat. If they don't, it doesn't matter; we will be here until we finish this budget. If we are here all night Friday, we will be in all night Friday. I spoke to Senator Murray, and she was willing to be in all night last night; she is willing to be here all night tonight and all night Friday night until we finish this. We are going to move forward and finish this budget. (*CR*, March 21, 2013, S2053)

Debate recommenced. Ranking minority member Jeff Sessions led off Republican efforts to change the SBC budget resolution: "I offer a motion to recommit this budget that is on the floor today to the committee with

instructions that it be altered to produce a balanced budget.” In effect, a motion to recommit with instructions is equivalent to an amendment. Both Republicans and Democrats offered amendments, with the Senate generally alternating between members of the parties.

During the day, a unanimous-consent-time agreement was reached to vote on four specified amendments later in the day and six named amendments the next morning.

The next day’s proceeding began with Reid laying out the terms of the unanimous consent agreement (UCA; which had also been printed in the *Daily Digest*) and again issuing a warning.

Mr. REID. Mr. President, from now until 11 a.m., there will be conversation on the floor. At 11 a.m., we will have six rollcall votes. The first vote will be 15 minutes and after that the votes will be 10 minutes each, as we said yesterday, and I enforced it. When the time is up, we are closing the vote. If the Republicans are not here, too bad; if the Democrats are not here, too bad. We are going to have a lot of votes today, so everyone should make sure they are here. Understand if you are not here in time, the clerk has been asked to turn the vote in.

After we complete the six rollcall votes starting at 11 a.m., there will be 2 hours of debate remaining on the resolution. Therefore, unless something untoward happens, the vote-a-rama is expected to begin at 3 p.m. this afternoon. I hope everyone will understand we have had about 400 amendments that have been filed. We are not going to vote on 400 amendments. The average is usually between 25 and 35 votes. So everyone should understand that is about where we should wind up.

Everyone is going to be tired. The two managers have worked very hard on this for a long time, so be considerate of their time, their thoughts, and their efforts also. (*CR*, March 22, 2013, S2225–S2226)

Senator Murray elaborated:

We have a few more hours of debate this morning between now and 11 a.m., followed by some votes, and then we will close out the debate and move on to all the rest of the votes we will take before final passage late tonight or early tomorrow morning.

As the majority leader said, we have hundreds of amendments. If we were to vote on all of them, we would be here every single hour voting between Monday and Tuesday. I think every Member knows that is probably not going to happen. I encourage every Member of the Senate to work with the manager on their side so we can get the amendments up sooner rather than later and vote on the ones each side wants us to.

I urge all my colleagues to work with us and our staff to make sure we know where the priorities are, how to proceed, and we will work with everyone to combine similar amendments. Obviously, among those 400 amendments, there are a number that are similar. We will clear as many noncontroversial amendments by voice vote as we can, and we will get through as many votes as

possible in a fair and reasonable manner. We look forward to working with Senator Sessions to make sure we can do that. (*CR*, March 22, 2013, S2236)

The fifty hours of debate time expired and the “vote-a-rama” began at 3:45 p.m. Although debate time on a budget resolution is limited, the number of amendments allowed is not, and Senate rules require that a pending amendment—one that has been proposed on the floor—must be disposed of before a vote on passage is in order. Consequently, after debate time is exhausted, there are always a number of amendments still pending. What follows has been dubbed a vote-a-rama. Amendments are voted on one after another. If the rules are strictly followed, there is no debate time on an amendment before the vote but the Senate often waives this rule and allows the proponent and an opponent thirty seconds or one minute each. The votes are usually shortened to ten minutes from the usual fifteen and are not allowed to run over as the usual roll call vote is.

On the 2014 budget resolution, 573 amendments had been submitted and 113 proposed on the floor and so were pending at some point during consideration; 46 were disposed of by roll call vote, so many more were subject to a voice vote. Republicans offered amendments to remove reconciliation instructions calling for higher taxes, to repeal the ACA, and to approve the Keystone XL pipeline among other hot-button topics. Democrats offered amendments to prevent Medicare from being converted into a voucher program and to assure women access to health care including family planning and birth control or employer-provided contraceptive coverage. Murray herself offered an amendment to adopt the Ryan budget; the purpose was to show that it could not pass the Senate. Not all of the amendments were controversial or highly partisan, and many of those could be passed by voice votes or unanimous consent.

As the floor session stretched late into the night and into the early morning hours, senators became more amenable to shortcut procedures. Thus, in the wee hours, Murray and Sessions reached agreement on a package of seventeen Democratic and thirteen Republican amendments to be considered and agreed to en bloc. They had negotiated the package with the sponsors as the vote-a-rama proceeded and during a short quorum call called for that purpose. Then Murray made the unanimous consent request, listing the amendments included in the package and assuring the Senate that the package had been agreed to by both managers (*CR*, March 22, 2013, S2308). This sort of improvisation is typical of the Senate and is still another characteristic that distinguishes it from the House.

In total, the Senate agreed to 63 amendments though none that significantly changed the budget resolution (data from Congress.gov).

An exhausted Senate finally finished the vote-a-rama in the early hours of March 23. The motion to adopt H.Con.Res. 8 was made and passed on a

50–45 vote. All Republicans voted against as did four Democrats, all from red states. At 4:56 a.m., Senator Murray declared the budget resolution had passed.

### Attempting to Reconcile House-Senate Differences

The next step in the process under regular order would be designation of a conference committee to negotiate a compromise between the two chambers. The enormous differences between these two budget resolutions made the prospect of an agreement slim. As a Senate staffer colorfully expressed the consensus view, “There’s a better chance that [Senator] Marco Rubio and Jay-Z will go on a concert tour this summer than there is [for] a conference agreement between Paul Ryan and Patty Murray” (*Roll Call [RC]*, April 11, 2013).

Still, Senate Democrats wanted to go to conference and try. Even though they had criticized Senate Democrats unmercifully for not passing a budget resolution for three years, House Republicans now refused to go to conference. A framework for an agreement needed to be reached first, they argued. Speaker Boehner expressed concern about the motions to instruct conferees that Democrats could offer after a conference committee failed to reach an agreement for twenty days. He suspected members would offer “politically motivated bombs,” he said (*RC*, April 22, 2013).

Senate Democrats attempted to name conferees to put pressure on House Republicans to follow suit, but Senate Republicans backed up their House colleagues and denied unanimous consent. Democrats tried over and over again, hoping to shame Republicans into agreeing; by early June they had made eleven attempts to name conferees (*CQW*, June 3, 2013). With Democrats lacking the necessary sixty votes to impose cloture and Republicans hanging tough, the budget resolution appeared to be dead.

## Act Two: From Budget Resolution to the Ryan-Murray Deal

In the second half of 2013, the inside-the-beltway drama over whether there would be a budget resolution conference was overtaken by what became a national drama over a government shutdown. The budget resolution is supposed to set guidelines for spending decisions, but since it is basically a directive by Congress to itself and does not become law, the failure of Congress to pass a budget resolution results in no dire real-life consequences. Congress makes the actual spending decisions through appropriations bills, which do become law, and if Congress fails to pass these bills, many of the programs in their jurisdiction would have to shut down.

In the spring and summer of 2013, the House and Senate Appropriations Committees set about drafting appropriations bills based on their own chamber's budget resolution. In late July, just before the August recess, House party leaders brought the transportation appropriations bill, usually one of the least controversial, to the floor but they were not able to muster enough votes to pass it; suburban Republicans opposed the bill because of some of the draconian cuts that would impact their districts and those members for whom no cuts were ever severe enough refused to relent. "With this action, the House has declined to proceed on the implementation of the very budget it adopted just three months ago," a frustrated Hal Rogers, chair of the Appropriations Committee, said (*RC*, July 31, 2013). It seemed unlikely that House Republicans would be able to pass any of the domestic appropriations bills individually. The next day, Republicans blocked cloture on the Senate transportation appropriations bill, which had come out of committee with considerable Republican support. Thus, it seemed that the Senate too would be unable to pass individual appropriations bills.

The new fiscal year begins October 1, and appropriations would run out at the point. To avoid a hiatus in funding, Congress would ordinarily pass a continuing (appropriations) resolution, with funding most often set at the previous year's level. The debt ceiling would also have to be raised sometime in the fall of 2013.

By August, the notion of using the upcoming continuing resolution (CR) to defund Obamacare was gaining traction among hard-line Republicans. First advocated by the Club for Growth and Heritage Action, two of the most aggressive far-right groups, Senator Ted Cruz, R-TX, soon became a vociferous proponent. Senators Mike Lee, R-UT, Ted Cruz, and ten of their party colleagues signed a letter pledging to vote against any CR that funded Obamacare. In the House, sixty Republicans soon followed suit, signing the so-called Meadows letter (*RC*, July 29, 2013). Although Speaker John Boehner opposed the strategy and attempted to come up with other approaches that would satisfy his members, he failed. The House passed CRs that defunded Obamacare, the Senate stripped out the defunding provisions and returned clean CRs, and October 1 passed without any sort of appropriations bill enacted. The government shutdown began.

The shutdown lasted for sixteen days. As the House Republican leadership had feared, the public reacted negatively to the party's conduct. Polls showed that only 26 percent approved of how the GOP was handling negotiations over the budget (Gallup Organization 2013; Pew Research Center on People and the Press 2013). Furthermore the mid-October deadline for raising the debt ceiling was approaching, and as bad as shutting down government programs people liked and depended on was, the consequences of allowing the U.S. government to default on its debt were likely to be horrendous.

Senate majority leader Reid and Senate minority leader Mitch McConnell, R-KY, began serious negotiations on October 14. Speaker John Boehner occasionally took part, and he and President Obama were kept informed. By October 16 the deal was ready for floor action. Reid opened debate:

. . . After weeks spent facing off across a partisan divide that often seemed too wide to cross, our country came to the brink of disaster. But in the end, political adversaries set aside their differences and disagreements to prevent that disaster.

I thank the Republican leader for his diligent efforts to reach this important agreement. The Republican leader's cooperation was essential to reach an accord to pass both Chambers of Congress and also be signed by President Obama.

As part of our agreement, in order to ensure Congress continues the work of setting this country on a path of fiscal sustainability, this legislation instructs leaders to name conferees to a budget conference committee that will set our country on a long-term path to fiscal sustainability. . . .

This legislation also funds the government through January 15 and averts default through February 7, during which time we can work toward a long-term budget agreement that prevents these frequent crises.

Perhaps most importantly, this legislation ends a standoff that ground the work of Washington to a halt this fall. (*CR*, October 16, 2013, S7500–S7504)

Because speed was essential and doing so would decrease the number of filibusters possible, Senate leaders agreed to use HR 2775, an unrelated House-passed bill, as their legislative vehicle. The leaders reached a UCA to speed action on that bill. Reid announced the agreement on the floor:

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 193, H.R. 2775; that the substitute amendment [the deal on appropriations and the debt ceiling] which is at the desk be agreed to; that a cloture motion on the bill, as amended, which is at the desk then be read; that the mandatory quorum required under rule XXII be waived; that no other amendments, points of order or motions be in order to the bill; that the Senate then proceed to vote on the motion to invoke cloture on the bill, as amended; that if cloture is invoked, all postcloture time be yielded back, and the bill, as amended, be read a third time and the Senate proceed to vote on passage of the bill, as amended; that if the bill, as amended, is passed, a title amendment which is at the desk be agreed to; finally, that if cloture is not invoked, the action above with respect to the amendment to the bill be vitiated and the bill be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

This UCA assured quick action, and it was now evening. In rapid succession cloture was voted 83–16, and HR 2775 was passed with amendments—the deal—of 81–18. All of the nay votes were cast by Republicans.

The House was awaiting the bill. Pete Sessions, R-TX, the chairman of the Rules Committee, was recognized at about 9:30 p.m.:

Mr. SESSIONS. Madam Speaker, I ask unanimous consent that it be in order at any time to take from the Speaker's table H.R. 2775, with the Senate amendments thereto, and to consider in the House, without intervention of any point of order, a single motion offered by the chair of the Committee on Appropriations or his designee that the House concur in the Senate amendments; that the Senate amendments and the motion be considered as read; that the motion be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations; and that the previous question be considered as ordered on the motion to its adoption without intervening motion or demand for division of the question.

Pete Sessions' proposal looks like a special rule but is in the form of a unanimous consent request. Although the House does not use unanimous consent to bring legislation to the floor frequently, it can do so, and as in this case, unanimous consent can speed up the process. It does, of course, require the assent of the opposition. The colloquy that followed Sessions' unanimous consent request confirms that he had it.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Ms. SLAUGHTER [Rules Committee ranking minority member]. Reserving the right to object, Madam Speaker, I wanted to advise my colleagues that we support this request on this side of the aisle.

With that, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection. (*CR*, October 16, 2013, H6616)

Hal Rogers, chair of the Appropriations Committee and majority floor manager, said this in his opening statement:

Essentially, this bill before us tonight allows us to move on. It deals with the Nation's immediate short-term problem and allows time for Congress to address the broader picture: what the real drivers of our debt are, how we can keep from reaching the debt limit in the future, and how we avoid staggering from fiscal crisis to fiscal crisis.

After 2 long weeks, it is time to end the government shutdown. It is time to take the threat of default off the table. It is time to restore some sanity to this place. To do this, we have all got to give a little. (HR 6619–6620)

After the debate, which ran shorter than the hour allowed, the House voted on the Rogers “motion to recede from House amendments and concur in the Senate amendment [that is, the deal] to the bill . . .” Because the Senate had used an unrelated House-passed bill as its legislative vehicle, House approval of the deal took the form of approving a Senate amendment and reconciling the two chambers’ bills took the form of amendments between the chambers. The House vote was 285–144, with Republicans splitting 87 in favor to 144 against.

HR 2775, once signed by the president, reopened the government and funded it until January 15 and raised the debt ceiling through February 7. Clearly it was just a temporary fix. The deal also called for convening a Budget Committee conference committee charged with hammering out a longer-term budget agreement by December 13 (*New York Times* [NYT], October 16, 2013). Setting that process in motion required further legislative steps and, since both chambers were intent on beginning a recess, they had to be carried out the same evening.

The House took up S.Con.Res 8, the Senate budget resolution, struck all after the enacting clause and inserted in lieu thereof the provisions of H.Con.Res. 25, the House budget resolution, insisted on its amendment and requested a conference. The Senate followed suit, with “conferees [being] instructed to report back by December 13, 2013” (S 7532). Both chambers appointed conferees. All this was agreed to without a roll call.

Thus, the budget resolution finally made it to conference. Senate Republicans did insist on an agreement that “provid[ed] that it not be in order for the Senate to consider a conference report with respect to H. Con. Res. 25, or S. Con. Res. 8, if it includes reconciliation instructions to raise the debt limit . . .” Reconciliation bills can be passed by a simple majority, thus depriving Senate Republicans of their opportunity to filibuster and so most of their leverage.

The budget resolution conference committee met for the first time on October 30. It consisted of twenty-nine members: seven from the House and twenty-two from the Senate. The House delegation was made up of four Republicans, all members of the Budget Committee, and three Democrats: Chris Van Hollen, the ranking minority member; James Clyburn, D-SC, assistant Democratic leader; and Nita Lowey, D-NY, ranking minority member on the Appropriations Committee. In contrast, the Senate appointed its entire Budget Committee. The members’ opening statements that began the meeting expressed hope for a significant agreement but also made clear

the large divide between Republicans and Democrats. Paul Ryan, who chaired the conference, immediately ruled out any kind of tax increase, saying, "If this conference becomes an argument about taxes, we're not going to get anywhere." Patty Murray, who served as vice chair, responded that Republicans would have to agree to end some tax breaks to get an agreement. "While we scour programs to find responsible savings, Republicans are also going to have to work with us to scour the bloated tax code and close some wasteful tax loopholes and special-interest subsidies," she said (*CQW*, November 4, 2013).

Although the conference committee met periodically, Ryan and Murray were the primary negotiators. They had, in fact, started informal talks well before the deal that ended the shutdown was reached. They soon figured out that an ambitious deal was out of reach and focused on a more limited agreement. Both were close to the party leaders in their chamber and consulted with them frequently. On a deal of this importance to the parties' reputations, the leaders had to be involved. Murray and Reid also made sure that the Obama administration was on board.

On December 10, Ryan and Murray announced an agreement setting a FY 2014 discretionary spending cap of \$1.012 trillion and a FY 2015 cap of \$1.014 trillion and scaling back sequester cuts by \$63 billion over the two years. This higher spending was paid for by various fees and by future spending cuts. The increased spending would be split between defense and domestic programs. Although not a comprehensive deal, it would alleviate the worst of the problems due to sequestration for the next two years and allow the appropriations process to go forward.

Ordinarily a budget resolution conference committee would produce a compromise budget resolution that would then go to the floor of both chambers for approval. In this case, following regular order would create several problems. A budget resolution, in addition to including estimates for the upcoming year, projects expenditures, revenues, and deficits or surpluses for either five or ten years into the future; attempting to do that would have generated potentially irreconcilable partisan conflict. Because the deal changed sequestration levels as specified in the BCA of 2011, legislation was necessary to alter those levels. The budget resolution does not have the force of law; it is, in effect, a set of instructions by Congress to itself. If Congress passed a compromise budget resolution, it would still need to pass separate legislation. The party and committee leaderships decided to just pass legislation and to use a stalled House bill as the vehicle. H.J.Res. 59, a CR, which had passed the House and passed the Senate amended became the Bipartisan Budget Act of 2013. (Joint resolutions are regular legislation; they have to be signed by the president and then become law.)

On December 12 shortly after noon, the House of Representatives began consideration of HR 438, the rule for H.J.Res. 59. The special rule began like this:

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the joint resolution (H.J.Res. 59) . . . and to consider in the House, without intervention of any point of order, a motion offered by the chair of the Committee on the Budget or his designee that the House recede from its amendment and concur in the Senate amendment with the amendment printed in part A of the report of the Committee on Rules accompanying this resolution modified by the amendment printed in part B of that report. (*CR*, December 12, 2013, H7702)

According to the rule, the House is amending the Senate amendment to a House passed bill—that is, it is engaging in reconciling the differences between the chambers by the process of amendments between the chambers (informally know as ping pong). That is technically true, but “the amendment printed in part A of the report” is the Ryan-Murray deal and, if adopted, replaces the entirety of the old bill. “The amendment printed in part B of that report” is a temporary “doc fix” and created a great deal of controversy.

The rule also provided for seventy minutes of debate with sixty minutes controlled by the chair and ranking minority member of the Budget Committee and ten minutes controlled by the chair and ranking minority member of the Energy and Commerce Committee.

A rule is debatable for one hour and a heated debate ensued. Democrats believed they had been deceived and were truly angry. Budget Committee ranking minority member Chris Van Hollen explained:

Mr. Speaker, I do believe that the budget agreement that was reached was a small but positive step forward, and I plan to talk about that a little later today; but what I want to talk about right now is the abuse of process that has taken place in the last 8 hours and the changing of the terms of that agreement.

During that agreement, the Democrats from the House and others put forward a proposal that said, as we deal with the budget issues, we should also deal with what we call the doc fix, making sure that doctors are fully reimbursed to help Medicare patients, but that we should also help folks who are about to lose their unemployment compensation. That is what we said, and we put it on paper and offered it. We said, if we do a doc fix for 3 months, we should do a UI extension for 3 months, and if we do a doc fix for a year, we should deal with the UI issue for a year; but that was not part of the budget negotiation even though we wanted it to be.

Chairman Ryan acknowledged that yesterday as did Senator Murray. They said we wouldn't deal with either of those two issues—the doc fix or the UI—as part of the budget agreement but that we would deal with them

outside of that agreement. Yet the ink was barely dry, Mr. Speaker, on that agreement before the House Republicans and the Speaker of the House put forward a rule that injected the doc fix, which we support, into the budget agreement, so it is all going to be one whole thing.

They did that to take care of a real issue of the doc fix, but what did they leave out? They left out an extension of unemployment insurance for 1.3 million Americans who are going to lose that important support 3 days after Christmas. They left that out of that last-minute procedure.

Now, as Mr. Levin [ranking member of the Ways and Means Committee] said, he and I went to the Rules Committee last night and said, All right. If we are going to fix the SGR issue, let's deal with the unemployment compensation issue, and we presented an amendment. I have it in my hand—3 months. We said we would pay for it, and we paid for it, Mr. Woodall, in a way that has been agreed to on a bipartisan basis . . .

Yet, while we are going to get a chance to vote on the doc fix and on the budget agreement, the Rules Committee and the Speaker of the House have told the American people you won't allow a vote to help 1.3 million Americans who are going to be left out in the cold.

So, Mr. Speaker, it is absolutely unconscionable and shameful, after we have reached an agreement in which we had wanted to include a fixed SGR and UI in the agreement but it was decided not to, that we would have this last-minute thing parachuted in and would leave the 1.3 million Americans out in the cold. That is shameful. You should allow a vote, and if you vote against the previous question, we will have a chance to do our job and vote on that. (*CR*, December 12, 2013, H7706–H7707)

Democrats denounced the rule and urged a vote against the previous question, which if it were defeated would permit them to offer an amendment to the rule allowing a vote on an amendment on extending unemployment insurance. Most, however, expressed support for the deal itself. “Mr. Speaker, I urge a ‘no’ vote on the rule, and a ‘yes’ on the bill,” said Democratic leader Nancy Pelosi as she closed her floor speech.

Votes on moving the previous question and on approving special rules are now almost always strongly party line votes and that was the case here. Both passed with no Democrats voting in favor and only one Republican voting against.

Debate on the bill itself then began. Paul Ryan, chairman of the Budget Committee, led off:

. . . I rise on behalf of the bipartisan budget agreement. . . .

Here is what the bill does:

It reduces the deficit by \$23 billion; it does not raise taxes; and it cuts spending in a smarter way. We take temporary across-the-board cuts, and we replace them with targeted permanent reforms, and these reforms take place immediately. . . .

This bill isn't as far as I would like. It is not near the breadth and the scope of the budget that we passed earlier, but that is how it works in divided government. That is the nature of compromise. In a divided government, you don't get everything you want, but I think this bill is a firm step in the right direction. . . . (*CR*, December 12, 2013, H8066)

Ranking minority member Van Hollen followed:

This agreement is far from perfect. It is not the budget agreement I or many of my colleagues would have written, but I do believe that, on balance, at the margin, it represents a small but positive step forward. (*CR*, December 12, 2013, H8073)

Most of the speakers echoed the same themes. The deal was far from perfect. It was modest rather than ambitious and contained provisions the speaker disliked and left out others the speaker very much wanted, but it was a small step forward and definitely better than the alternative. Democrats and Republicans differed primarily in what they saw as the deal's main virtues and defects. All three of the top Republican leaders—Majority Whip Kevin McCarthy, R-CA; Majority Leader Eric Cantor, R-VA; and Speaker John Boehner, R-OH, spoke and urged approval. Democratic Leader Pelosi had done so during the rule debate. Only Minority Whip Steny Hoyer, D-MD, spoke in opposition.

No amendments being allowed, the vote was next taken on “the House reced[ing] from its amendment and concur[ring] in the Senate amendment with the amendment printed in part A of the report of the Committee on Rules accompanying this resolution modified by the amendment printed in part B of that report.” The motion passed 332–94; Republicans split 169–62; Democrats 163–32. Republican no votes came mostly from hardliners who opposed any relaxation of the sequestration numbers; liberals upset about the exclusion of an extension of unemployment insurance made up most of the Democratic opposition.

The House sent the bill to the Senate and recessed for Christmas.

On December 15 the message from the House was laid before the Senate. Majority Leader Reid moved “to concur in the House amendment to the Senate amendment to H.J. Res. 59.” He next offered a cloture motion and then immediately offered a sequence of amendments that would fill the amendment tree. By doing so, he prevented any other amendments from being offered. The majority leader's right to first recognition made it possible for him to do so. With the House no longer in session, the Senate had to pass the bill unchanged for it to become law before Christmas. Furthermore, amendments changing the agreement reached by Ryan and Murray might well blow up the deal.

Under Senate rules, a cloture petition cannot be voted on immediately but needs to lay over a day. The Senate can, however, conduct other business in the interim so it moved on to the defense authorization bill.

On December 17, the Senate returned to the budget. An opponent explained the situation:

Mr. WICKER [R-Miss.]. Mr. President, it is my understanding that at 10 a.m. the Senate will proceed to a cloture vote on the proposed budget. It has already been passed by the House of Representatives. The cloture vote will take 60 Senators. If those 60 votes are in favor, we would then move to a period of debate—pro forma debate, actually, because the question would already have been decided. If Members do not favor this budget, the time to register that opposition is this morning. At 10 a.m. is the last chance to say no to this proposal and simply send it back to the negotiators and ask them to do a better job. (*CR*, December 17, 2013, S8870)

Opponents did come forward. Senator Jeff Sessions, ranking minority member of the Budget Committee, argued strongly against cloture on the basis of process as well as substance:

Mr. President, the budget conference didn't meet. We didn't produce a budget in conference. Our conferees did not vote. The two leaders of the conference, Senator Murray and Congressman Ryan, prepared the legislation now before us which has a number of problems, in my opinion. To skip the conference and create this legislation instead is not the right way to have conducted this process. But the question is, Should we advance with this legislation or does it need to be improved? I believe it can be improved, I believe it should be improved. . . . I suggest the right vote today would be to vote against cloture and say to the leadership and Senator Reid that we want to have amendments on this legislation. (*CR*, December 17, 2013, S8871)

Patty Murray, chair of the Budget Committee, responded that while the agreement was far from perfect, it was much better than the “lurch[ing] from one budget crisis to another, from one fiscal cliff to the next” that had preceded it (*CR*, December 17, 2013, S8871). She also defended the process:

We spent 7 weeks working on this. I worked very closely with the House Budget Committee's ranking member Chris Van Hollen as well as my colleagues in the Senate on and off the Budget Committee, and I am very proud that last week Chairman Ryan and I reached an agreement on the bipartisan Budget Act of 2013. (*CR*, December 17, 2013, S8871)

At 10:00 a.m. the motion to invoke cloture was read, and then the mandatory roll call vote was taken. Cloture was invoked by a vote of 67–33; twelve Republicans joined all the Democrats in voting in favor. Since only a simple

majority is needed to pass legislation once cloture is invoked, it was clear the bill would pass. Yet thirty hours of postcloture debate are allowed, and opponents were determined to use it. They argued substance; many Republicans, including Minority Leader Mitch McConnell were angered that the sequester spending levels for FY 2014 and FY 2015 had been breached; almost all expressed outrage that military pension cost-of-living adjustments (COLAs) for younger retirees would be trimmed to pay for increased spending. Some also argued process as Sen. Jeff Sessions had done. "I am on that conference committee. When the deal was made, we read about it in the papers just like everybody else," Sen. Mike Enzi, R-WY, complained. "We did not get any special notice that there had been a deal made. On conference committees, I have seen the deals made before. I have never seen one made by so few people before" (*CR*, December 17, 2013, S8875).

Proponents made much of the same arguments that Murray had made: it was far from a perfect deal but better than the alternative, and alleviating the sequester for two years was an important accomplishment. Sen. Mark Warner, D-VA, expressed it this way:

I look forward to supporting this bipartisan agreement. . . . It rolls back the most draconian parts of sequestration. Sequestration was set up to be the most stupid option so that no rational group of people would ever agree to it. I call it stupidity on steroids. (*CR*, December 18, 2013, S8944)

All postcloture time expired at about 4:30 p.m. on December 18. Sessions, in a last-ditch effort, made a motion to table (i.e., kill) the Reid motion to concur; it failed 54–46. The vote was then on the Reid motion to concur in the House amendment to the Senate amendment to the joint resolution (H.J. Res. 59). It passed 54–36 with nine Republicans joining all the Democrats in voting in favor.

The Ryan-Murray deal had won approval and was sent to the president for his signature. The budget process is never really over; in this case, the deal provided feasible top line spending numbers and so allowed the congressional appropriations committees to write an appropriations bill that took account of changing conditions and priorities as CRs do not. Although they, too, had to work under severe time limits, the appropriators were successful. Working through the Christmas holidays, they produced an omnibus appropriations bill that passed before the mid-January deadline, and another government shutdown was averted.

## Unorthodox Budget Politics

The budget process could at one time itself be considered unorthodox lawmaking. Over time, it has become a normal part of the legislative process.

TABLE 8.1 The FY 2014 Budget Resolution and the Ryan-Murray Budget Deal: A Chronology

Date (all 2013)	House Action	Senate Action	Postpassage Action
March 13	Budget Committee approves H.Con. Res. 25 (Ryan Budget)		
March 14		Budget Committee approves S.Con.Res. 8	
(Murray budget)			
March 21	House passes H.Con.Res. 25		
March 23			
March-June		Senate passes H.Con.Res. 8	Senate Democrats' attempts to go to conference fail
October 1-16	<b>Government shutdown</b>		
October 14-16	<i>Leaders negotiate agreement to end shutdown and charge House and Senate Budget Committees with reaching deal to fund government</i>		
October 16	House passes deal	Senate passes deal	
October 30			Budget conference starts meeting
December 10	<i>Ryan and Murray, Budget Committee chairs, announce deal</i>		
	<i>Leaders decide to use H.J.Res. 59 as vehicle for Ryan-Murray budget deal</i>		
December 12	House recedes and concurs with an amendment (Ryan-Murray budget deal) in the Senate amendment		
December 18		Senate agrees to the House amendment to the Senate amendment	
December 26			President signs H.J.Res. 59

Yet now that the ideological distance between the parties has become so great, Congress has great difficulty in making it work effectively when control of the branches and chambers is divided.

Budget resolutions are not themselves must-pass measures but the appropriations bills they guide and legislation raising the debt ceiling are. When control is divided and a proportion of the majority party is unwilling to compromise, as has been the case in the House, a stalemate can result. In the fall of 2013, hard-line Republicans forced a government shutdown and threatened a government default on the debt. Republican Party leaders, cognizant of the damage done to their party's reputation, eventually prevailed and came to bipartisan compromises with congressional Democrats. The process of actually enacting the deals, especially the Ryan-Murray deal, was unorthodox; a conference committee on the budget resolution produced legislation rather than a resolution. Much of the unorthodox procedure was aimed at speeding the process as well as at holding the deal together. In the end, the Republican and Democratic leaderships managed to prevent disaster—at least for a while.

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