

(4)(A) The term “budgetary effects” means the amount by which PAYGO legislation changes outlays flowing from direct spending or revenues relative to the baseline and shall be determined on the basis of estimates prepared under section 933 of this title. Budgetary effects that increase outlays flowing from direct spending or decrease revenues are termed “costs” and budgetary effects that increase revenues or decrease outlays flowing from direct spending are termed “savings”. Budgetary effects shall not include any costs associated with debt service.

(B) For purposes of these definitions, off-budget effects shall not be counted as budgetary effects.

(C) Solely for purposes of recording entries on a PAYGO scorecard, provisions in appropriation Acts are also considered to be budgetary effects for purposes of this chapter if such provisions make outyear modifications to substantive law, except that provisions for which the outlay effects net to zero over a period consisting of the current year, the budget year, and the 4 subsequent years shall not be considered budgetary effects. For purposes of this paragraph, the term, “modifications to substantive law” refers to changes to or restrictions on entitlement law or other mandatory spending contained in appropriations Acts, notwithstanding section 250(c)(8) of BBEDCA [2 U.S.C. 900(c)(8)]. Provisions in appropriations Acts that are neither outyear modifications to substantive law nor changes in revenues have no budgetary effects for purposes of this chapter.

(5) The term “debit” refers to the net total amount, when positive, by which costs recorded on the PAYGO scorecards for a fiscal year exceed savings recorded on those scorecards for that year.

(6) The term “entitlement law” refers to a section of law which provides entitlement authority.

(7) The term “PAYGO legislation” or a “PAYGO Act” refers to a bill or joint resolution that affects direct spending or revenue relative to the baseline. The budgetary effects of changes in revenues and outyear modifications to substantive law included in appropriation Acts as defined in paragraph (4) shall be treated as if they were contained in PAYGO legislation or a PAYGO Act.

(8) The term “timing shift” refers to a delay of the date on which outlays flowing from direct spending would otherwise occur from the ninth outyear to the tenth outyear or an acceleration of the date on which revenues would otherwise occur from the tenth outyear to the ninth outyear.

(Pub. L. 111-139, title I, §3, Feb. 12, 2010, 124 Stat. 8.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 111-139, Feb. 12, 2010, 124 Stat. 8, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 931 of this title and Tables.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in par. (1), is title II of Pub. L. 99-177, Dec. 12, 1985, 99 Stat. 1038, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of this title, amended sections 602, 622, 631 to 642, and 651 to 653 of this title, sections 1104 to 1106 and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of this title, enacted provisions set out as notes under section 900 of this title and section 911 of Title 42, and amended provisions set out as a note under section 621 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 900 of this title and Tables.

The Economic Growth and Tax Relief Reconciliation Act of 2001, referred to in par. (3), is Pub. L. 107-16, June 7, 2001, 115 Stat. 38. For complete classification of this Act to the Code, see Short Title of 2001 Amendment note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

The Jobs and Growth Tax Relief Reconciliation Act of 2003, referred to in par. (3), is Pub. L. 108-27, May 28, 2003, 117 Stat. 752. For complete classification of this Act to the Code, see Short Title of 2003 Amendment note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

§ 933. PAYGO estimates and PAYGO scorecards

(a) PAYGO estimates

(1) Required designation in PAYGO Acts

(A) House of Representatives

To establish the budgetary effects of a PAYGO Act consistent with the determination made by the Chairman of the House Budget Committee, a PAYGO Act originated in or amended by the House of Representatives may include the following statement: “The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act¹ of 2010, shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.”.

(B) Senate

To establish the budgetary effects of a PAYGO Act consistent with the determination made by the Chairman of the Senate Budget Committee, a PAYGO Act originated in or amended by the Senate shall include the following statement: “The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act¹ of 2010, shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.”.

(C) Conference reports and amendments between the Houses

To establish the budgetary effects of the conference report on a PAYGO Act, or an amendment to an amendment between

¹ So in original. Probably should be “Pay-As-You-Go Act”.

Houses on a PAYGO Act, which if estimated shall be estimated jointly by the Chairmen of the House and Senate Budget Committees, the conference report or amendment between the Houses shall include the following statement: “The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act¹ of 2010, shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.”.

(2) Determination of budgetary effects of PAYGO Acts

(A) Original legislation

(i) Statement and estimate

Prior to a vote on passage of a PAYGO Act originated or amended by one House, the Chairman of the Budget Committee of that House may submit for printing in the Congressional Record a statement titled “Budgetary Effects of PAYGO Legislation” which shall include an estimate of the budgetary effects of that Act, if available prior to passage of the Act by that House and shall submit, if applicable, an identification of any current policy adjustments made pursuant to section 936 of this title. The timely submission of such a statement, in conjunction with the appropriate designation made pursuant to paragraph (1)(A) or (1)(B), as applicable, shall establish the budgetary effects of the PAYGO Act for the purposes of this Act.

(ii) Effect

The latest statement submitted by the Chairman of the Budget Committee of that House prior to passage shall supersede any prior statements submitted in the Congressional Record and shall be valid only if the PAYGO Act is not further amended by either House.

(iii) Failure to submit estimate

If—

(I) the estimate required by clause (i) has not been submitted prior to passage by that House;

(II) such estimate has been submitted but is no longer valid due to a subsequent amendment to the PAYGO Act; or

(III) the designation required pursuant to this subsection has not been made;

the budgetary effects of the PAYGO Act shall be determined under subsection (d)(3), provided that this clause shall not apply if a valid designation is subsequently included in that PAYGO Act pursuant to paragraph (1)(C) and a statement is submitted pursuant to subparagraph (B).

(B) Conference reports and amendments between Houses

(i) In general

Prior to the adoption of a report of a committee of conference on a PAYGO Act in either House, or disposition of an amendment to an amendment between Houses on a PAYGO Act, the Chairmen of the Budget Committees of the House and Senate may jointly submit for printing in the Congressional Record a statement titled “Budgetary Effects of PAYGO Legislation” which shall include an estimate of the budgetary effects of that Act if available prior to passage of the Act by the House acting first on the legislation and shall submit, if applicable, an identification of any current policy adjustments made pursuant to section 936 of this title. The timely submission of such a statement, in conjunction with the appropriate designation made pursuant to paragraph (1)(C), shall establish the budgetary effects of the PAYGO Act for the purposes of this Act.

(ii) Failure to submit estimate

If such estimate has not been submitted prior to the adoption of a report of a committee of conference by either House, or if the designation required pursuant to this subsection has not been made, the budgetary effects of the PAYGO Act shall be determined under subsection (d)(3).

(3) Procedure in the Senate

In the Senate, upon submission of a statement titled “Budgetary Effects of PAYGO Legislation” by the Chairman of the Senate Budget Committee for printing in the Congressional Record, the Legislative Clerk shall read the statement.

(4) Jurisdiction of the Budget Committees

For the purposes of enforcing section 637 of this title, a designation made pursuant to paragraph (1)(A), (1)(B), or (1)(C), that includes only the language specifically prescribed therein, shall not be considered a matter within the jurisdiction of either the Senate or House Committees on the Budget.

(b) Omitted

(c) Current policy adjustments for certain legislation

(1) In general

For any provision of legislation that meets the criteria in subsection (c), (d), (e) or (f) of section 936 of this title, the Chairs of the Committees on the Budget of the House and Senate, as applicable, shall request that CBO adjust the estimate of budgetary effects of that legislation pursuant to paragraph (2) for the purposes of this chapter. A single piece of legislation may contain provisions that meet criteria in more than one of the subsections referred to in the preceding sentence. CBO shall adjust estimates for legislation designated under subsection (a) and estimated under subsection (b). OMB shall adjust estimates for legislation estimated under subsection (d)(3).

(2) Adjustments**(A) Estimates**

CBO or OMB, as applicable, shall exclude from the estimate of budgetary effects any budgetary effects of a provision that meets the criteria in subsection (c), (d), (e) or (f) of section 936 of this title, to the extent that those budgetary effects, when combined with all other excluded budgetary effects of any other previously designated provisions of enacted legislation under the same subsection of section 936 of this title, do not exceed the maximum applicable current policy adjustment defined under the applicable subsection of section 936 of this title for the applicable 10-year period.

(B) Baseline

Any estimate made pursuant to subparagraph (A) shall be prepared using baseline estimates supplied by the Congressional Budget Office, consistent with section 907 of this title. CBO estimates of legislation adjusted for current policy shall include a separate presentation of costs excluded from the calculation of budgetary effects for the legislation, as well as an updated total of all excluded costs of provisions within subsection (c), (d), or (e) of section 936 of this title, as applicable, and in the case of paragraph (1) of section 936(f) of this title, within any of the subparagraphs (A) through (L) of such paragraph, as applicable.

(3) Limitation on availability of excess savings**(A) Prohibition on use of excess saving² for ineligible policies**

To the extent the adjustment for current policy of any provision estimated under this subsection exceeds the estimated budgetary effects of that provision, these excess savings shall not be available to offset the costs of any provisions not otherwise eligible for a current policy adjustment under section 936 of this title, and shall not be counted on the PAYGO scorecards established pursuant to subsections (d)(4) and (d)(5).

(B) Prohibition on use of excess savings across budget areas

For provisions eligible for a current policy adjustment under subsections (c) through (f) of section 936 of this title, to the extent the adjustment for current policy of any provision exceeds the estimated budgetary effects of that same provision, the excess savings shall be available only to offset the costs of other provisions that qualify for a current policy adjustment in that same subsection. Each paragraph in section 936(f)(1) of this title shall be considered a separate subsection for purposes of this section.

(4) Further guidance on estimating budgetary effects

Estimates of budgetary effects under this subsection shall be consistent with the guidance provided at section 936(h) of this title.

(5) Inclusion of statement

For PAYGO legislation adjusted pursuant to section 936 of this title, the Chairman of the

House or Senate Budget Committee, as applicable, shall include in any statement titled “Budgetary Effects of PAYGO Legislation”, submitted for that legislation pursuant to this section, an explanation of the current policy designation and adjustments.

(d) OMB PAYGO scorecards**(1) In general**

OMB shall maintain and make publicly available a continuously updated document containing two PAYGO scorecards displaying the budgetary effects of PAYGO legislation as determined under section 639 of this title, applying the look-back requirement in subsection (e) and the averaging requirement in subsection (f), and a separate addendum displaying the estimates of the costs of provisions designated in statute as emergency requirements.

(2) Estimates in legislation

Except as provided in paragraph (3), in making the calculations for the PAYGO scorecards, OMB shall use the budgetary effects included by reference in the applicable legislation pursuant to subsection (a).

(3) OMB PAYGO estimates

If a PAYGO Act does not contain a valid reference to its budgetary effects consistent with subsection (a), OMB shall estimate the budgetary effects of that legislation upon its enactment. The OMB estimate shall be based on the approaches to scorekeeping set forth in section 639 of this title, as amended by this title,³ and subsection (g)(4), and shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31.

(4) 5-year scorecard

The first scorecard shall display the budgetary effects of PAYGO legislation in each year over the 5-year period beginning in the budget year.

(5) 10-year scorecard

The second scorecard shall display the budgetary effects of PAYGO legislation in each year over the 10-year period beginning in the budget year.

(6) Community Living Assistance Services and Supports Act

Neither scorecard maintained by OMB pursuant to this subsection shall include net savings from any provisions of legislation titled “Community Living Assistance Services and Supports Act”, which establishes a Federal insurance program for long-term care, if such legislation is enacted into law, or amended, subsequent to February 12, 2010.

(e) Look-back to capture current-year effects

For purposes of this section, OMB shall treat the budgetary effects of PAYGO legislation enacted during a session of Congress that occur during the current year as though they occurred in the budget year.

² So in original. Probably should be “savings”.

³ See References in Text note below.

(f) Averaging used to measure compliance over 5-year and 10-year periods

OMB shall cumulate the budgetary effects of a PAYGO Act over the budget year (which includes any look-back effects under subsection (e)) and—

(1) for purposes of the 5-year scorecard referred to in subsection (d)(4), the four subsequent outyears, divide that cumulative total by five, and enter the quotient in the budget-year column and in each subsequent column of the 5-year PAYGO scorecard; and

(2) for purposes of the 10-year scorecard referred to in subsection (d)(5), the nine subsequent outyears, divide that cumulative total by ten, and enter the quotient in the budget-year column and in each subsequent column of the 10-year PAYGO scorecard.

(g) Emergency legislation

(1) Designation in statute

If a provision of direct spending or revenue legislation in a PAYGO Act is enacted as an emergency requirement that the Congress so designates in statute pursuant to this section, the amounts of new budget authority, outlays, and revenue in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purposes of this Act.

(2) Designation in the House of Representatives

If a PAYGO Act includes a provision expressly designated as an emergency for the purposes of this chapter, the Chair shall put the question of consideration with respect thereto.

(3) Point of order in the Senate

(A) In general

When the Senate is considering a PAYGO Act, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) Supermajority waiver and appeals

(i) Waiver

Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(ii) Appeals

Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(C) Definition of an emergency designation

For purposes of subparagraph (A), a provision shall be considered an emergency designation

if it designates any item as an emergency requirement pursuant to this subsection.

(D) Form of the point of order

A point of order under subparagraph (A) may be raised by a Senator as provided in section 644(e) of this title.

(E) Conference reports

When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a PAYGO Act, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(4) Effect of designation on scoring

If a provision is designated as an emergency requirement under this Act, CBO or OMB, as applicable, shall not include the budgetary effects of such a provision in its estimate of the budgetary effects of that PAYGO legislation.

(Pub. L. 111-139, title I, § 4, Feb. 12, 2010, 124 Stat. 9.)

Editorial Notes

REFERENCES IN TEXT

The Statutory Pay-As-You-Go Act of 2010, referred to in subsec. (a)(1), is title I of Pub. L. 111-139, Feb. 12, 2010, 124 Stat. 8, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 931 of this title and Tables.

This Act, referred to in subsecs. (a)(2)(A)(i), (B)(i) and (g)(1), (4), is Pub. L. 111-139, Feb. 12, 2010, 124 Stat. 8, which enacted this chapter, amended sections 639, 900, 905, and 906 of this title and section 3101 of Title 31, Money and Finance, and enacted provisions set out as a note under section 712 of Title 31. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsecs. (c)(1) and (g)(2), was in the original “this title”, meaning title I of Pub. L. 111-139, Feb. 12, 2010, 124 Stat. 8, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 931 of this title and Tables.

As amended by this title, referred to in subsec. (d)(3), means as amended by title I of Pub. L. 111-139.

Legislation titled the “Community Living Assistance Services and Supports Act”, referred to in subsec. (d)(6), was enacted as title VIII of Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 828. Title VIII, which was also known as the “CLASS Act”, enacted subchapter XXX of chapter 6A of Title 42, The Public Health and Welfare, amended section 1396a of Title 42, enacted provisions set out as notes under section 3007 of Title 42, and

amended provisions set out as a note under section 1396p of Title 42, prior to repeal by Pub. L. 112-240, title VI, § 642(b)(1), Jan. 2, 2013, 126 Stat. 2358.

CODIFICATION

Section is comprised of section 4 of Pub. L. 111-139. Subsec. (b) of section 4 of Pub. L. 111-139 amended section 639 of this title.

§ 934. Annual report and sequestration order

(a) Annual report

Not later than 14 days (excluding weekends and holidays) after Congress adjourns to end a session, OMB shall make publicly available and cause to be printed in the Federal Register an annual PAYGO report. The report shall include an up-to-date document containing the PAYGO scorecards, a description of any current policy adjustments made under section 933(c) of this title, information about emergency legislation (if any) designated under section 933(g) of this title, information about any sequestration if required by subsection (b), and other data and explanations that enhance public understanding of this chapter and actions taken under it.

(b) Sequestration order

If the annual report issued at the end of a session of Congress under subsection (a) shows a debit on either PAYGO scorecard for the budget year, OMB shall prepare and the President shall issue and include in that report a sequestration order that, upon issuance, shall reduce budgetary resources of direct spending programs by enough to offset that debit as prescribed in section 935 of this title. If there is a debit on both scorecards, the order shall fully offset the larger of the two debits. OMB shall transmit the order and the report to the House of Representatives and the Senate. If the President issues a sequestration order, the annual report shall contain, for each budget account to be sequestered, estimates of the baseline level of budgetary resources subject to sequestration, the amount of budgetary resources to be sequestered, and the outlay reductions that will occur in the budget year and the subsequent fiscal year because of that sequestration.

(Pub. L. 111-139, title I, § 5, Feb. 12, 2010, 124 Stat. 15.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title I of Pub. L. 111-139, Feb. 12, 2010, 124 Stat. 8, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 931 of this title and Tables.

§ 935. Calculating a sequestration

(a) Reducing nonexempt budgetary resources by a uniform percentage

(1) In general

OMB shall calculate the uniform percentage by which the budgetary resources of non-exempt direct spending programs are to be sequestered such that the outlay savings resulting from that sequestration, as calculated under subsection (b), shall offset the budget-

year debit, if any, on the applicable PAYGO scorecard. If the uniform percentage calculated under the prior sentence exceeds 4 percent, the Medicare programs described in section 906(d) of this title shall be reduced by 4 percent and the uniform percentage by which the budgetary resources of all other non-exempt direct spending programs are to be sequestered shall be increased, as necessary, so that the sequestration of Medicare and of all other nonexempt direct spending programs together produce the required outlay savings.

(2) Programs and activities in unified budget only

Subject to the exemptions set forth in section 11,¹ OMB shall determine the uniform percentage required under paragraph (1) with respect to programs and activities contained in the unified budget only.

(b) Outlay savings

In determining the amount by which a sequestration offsets a budget-year debit, OMB shall count—

(1) the amount by which the sequestration in a crop year of crop support payments, pursuant to section 906(j) of this title, reduces outlays in the budget year and the subsequent fiscal year;

(2) the amount by which the sequestration of Medicare payments in the 12-month period following the sequestration order, pursuant to section 906(d) of this title, reduces outlays in the budget year and the subsequent fiscal year; and

(3) the amount by which the sequestration in the budget year of the budgetary resources of other nonexempt mandatory programs reduces outlays in the budget year and in the subsequent fiscal year.

(Pub. L. 111-139, title I, § 6, Feb. 12, 2010, 124 Stat. 16.)

Editorial Notes

REFERENCES IN TEXT

Section 11, referred to in subsec. (a)(2), means section 11 of Pub. L. 111-139, which amended section 905 of this title.

§ 936. Adjustment for current policies

(a) Purpose

The purpose of this section is to provide for adjustments of estimates of budgetary effects of PAYGO legislation for legislation affecting 4 areas of the budget—

(1) payments made under section 1395w-4 of title 42 (referred to in this section as “Payment for Physicians’ Services”);

(2) the Estate and Gift Tax under subtitle B of title 26;

(3) the AMT; and

(4) provisions of EGTRRA or JGTRRA that amended title 26 (or provisions in later statutes further amending the amendments made by EGTRRA or JGTRRA), other than—

(A) the provisions of those 2 Acts that were made permanent by the Pension Protection Act of 2006 (Public Law 109-280);

¹ See References in Text note below.