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**STATUTORY PAY-AS-YOU-GO ACT OF 2010**

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PUBLIC LAW 111-139, 124 STAT. 8; FEBRUARY 12, 2010; H. J. RES. 45

Sponsor:	No Sponsor
April 29, 2009	Introduced in House
April 29, 2009	Passed/agreed to in House: Pursuant to the provisions of S. Con. Res. 13, H.J. Res. 45 is considered passed House.
January 20, 2010	Senate Committee on Finance discharged by Unanimous Consent.
January 28, 2010	Passed/agreed to in Senate: Passed Senate, under the order of 12/22/2009, having achieved 60 votes in the affirmative, with an amendment by Yea-Nay Vote. 60 - 39. Record Vote Number: 14.
February 4, 2010	Resolving differences – House actions: On motion to adopt the second portion of the divided question Agreed to by the Yeas and Nays: 233 - 187 (Roll no. 48).
February 4, 2010	Cleared for White House.
February 4, 2010	Presented to President.
February 12, 2010	Signed by President.
February 12, 2010	Became Public Law No: 111-139

# STATUTORY PAY-AS-YOU-GO ACT OF 2010

[PUBLIC LAW 111–139; 124 STAT. 8; FEBRUARY 12, 2010]

Increasing the statutory limit on the public debt.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof \$14,294,000,000,000.

## TITLE I—STATUTORY PAY-AS-YOU-GO ACT OF 2010

### SEC. 1. [2 U.S.C. 931 note] SHORT TITLE.

This title may be cited as the “Statutory Pay-As-You-Go Act of 2010”.

### SEC. 2. [2 U.S.C. 931] PURPOSE.

The purpose of this title is to reestablish a statutory procedure to enforce a rule of budget neutrality on new revenue and direct spending legislation.

### SEC. 3. [2 U.S.C. 932] DEFINITIONS AND APPLICATIONS.

As used in this title—

(1) The term “BBEDCA” means the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) The definitions set forth in section 3 of the Congressional Budget and Impoundment Control Act of 1974 and in section 250 of BBEDCA<sup>66</sup> shall apply to this title, except to the extent that they are specifically modified as follows:

(A) The term “outyear” means a fiscal year one or more years after the budget year.

(B) In section 250(c)(8)(C), the reference to the food stamp program shall be deemed to be a reference to the Supplemental Nutrition Assistance Program. (3) The term “AMT” means the Alternative Minimum Tax for individuals under sections 55–59 of the Internal Revenue Code of 1986, 26 U.S.C. 55–59, the term “EGTRRA” means the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16), and the term “JGTRRA” means the Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108–27).

(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 4. 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 title 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. Provisions in appropriations Acts that are neither outyear modifications to substantive law nor changes in revenues have no budgetary effects for purposes of this title.

(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.

## SEC. 4. [2 U.S.C. 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-Act 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-Act 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 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-Act 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 7 of this Act. 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 THE 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 7 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 306 of the Congressional Budget Act of 1974, 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) CBO PAYGO ESTIMATES.—

(1) IN GENERAL.—

(A) ESTIMATES.—Section 308(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following new paragraph:

“(3) CBO PAYGO ESTIMATES.—

“(A) The Chairs of the Committees on the Budget of the House and Senate, as applicable, shall request from the Director of the Congressional Budget Office

an estimate of the budgetary effects of PAYGO legislation.

“(B) Estimates shall be prepared using baseline estimates supplied by the Congressional Budget Office, consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(C) The Director shall not count timing shifts, as that term is defined at section 3(8) of the Statutory Pay-As-You-Go Act of 2010, in estimates of the budgetary effects of PAYGO Legislation.”.

(B) SIDEHEADING.—The side heading of section 308(a) of the Congressional Budget Act of 1974 is amended by striking “Reports on”.

(2) GUIDELINES.—Section 308 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

“(d) SCOREKEEPING GUIDELINES.—Estimates under this section shall be provided in accordance with the scorekeeping guidelines determined under section 252(d)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985.”.

(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 7, 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 title. 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 7, 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 7, do not exceed the maximum applicable current policy adjustment defined under the applicable subsection of section 7 for the applicable 10-year period.

(B) BASELINES.—Any estimate made pursuant to subparagraph (A) shall be prepared using baseline estimates supplied by the Congressional Budget Office, consistent with section 257 of the BBEDCA. 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 7, as applicable, and in the case of paragraph (1) of section 7(f), 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 SAVINGS 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 7, 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 7, 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 7(f)(1) 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 7(h).

(5) INCLUSION OF STATEMENTS.—For PAYGO legislation adjusted pursuant to section 7, 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 section 4, 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 308 of the Congressional Budget Act of 1974, 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 308 of the Congressional Budget Act of 1974, as amended by this title, 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 of the United States Code.

(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 the date of enactment of this title.

(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.

(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 lookback 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 title, 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 POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.<sup>247</sup>

(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.<sup>248</sup>

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<sup>247</sup> Section 313 of the Budget Act, (“the Byrd Rule”), sets out a procedure by which extraneous provisions are stricken from a bill or joint resolution in the Senate considered under the “reconciliation” process as set forth in section 310 of the Budget Act. A provision deemed “extraneous” is removed but the measure continues to be considered. It may be waived by 60 votes. See §120 and §123, *supra*.

<sup>248</sup> Provisions designated as emergencies under this subsection are not entered on S-Paygo scorecards and are not counted for purposes of clause 10

**SEC. 5. [2 U.S.C. 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 4(c), information about emergency legislation (if any) designated under section 4(g), information about any sequestration if required by subsection (b), and other data and explanations that enhance public understanding of this title 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 6. 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.

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of rule XXI in the House (Cutgo).

**SEC. 6. [2 U.S.C. 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 nonexempt 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 256(d) of BBEDCA shall be reduced by 4 percent and the uniform percentage by which the budgetary resources of all other nonexempt 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<sup>249</sup>, 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 256(j) of BBEDCA, 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 256(d) of BBEDCA, 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.

**SEC. 7. [2 U.S.C. 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—

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<sup>249</sup> See section 255 of BBEDCA, *supra* at §207.

(1) payments made under section 1848 of the Social Security Act (referred to in this section as “Payment for Physicians’ Services”);

(2) the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986;

(3) the AMT;<sup>250</sup> and

(4) provisions of EGTRRA or JGTRRA that amended the Internal Revenue Code of 1986 (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);

(B) amendments to the Estate and Gift Tax referred to in paragraph (2);

(C) the AMT referred to in paragraph (3); and

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<sup>250</sup> “AMT” is the “Alternative Minimum Tax.”

(D) the income tax rates on ordinary income that apply to individuals with adjusted gross incomes greater than \$200,000 for a single filer and \$250,000 for joint filers.

(b) DURATION.—This section shall remain in effect through December 31, 2011.

(c) MEDICARE PAYMENTS TO PHYSICIANS.—

(1) CRITERIA.—Legislation that includes provisions amending or superseding the system for updating payments under subsections (d) and (f) of section 1848 of the Social Security Act shall trigger the current policy adjustment required by this title.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between—

(A) estimated net outlays attributable to the payment rates and related parameters in accordance with subsections (d) and (f) of section 1848 of the Social Security Act (as scheduled on December 31, 2009, to be in effect); and

(B) what those net outlays would have been if—

(i) the nominal payment rates and related parameters in effect for 2009 had been in effect through December 31, 2014, without change; and

(ii) thereafter, the nominal payment rates and related parameters described in subparagraph (A) had applied and the assumption described in clause (i) had never applied.

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2014, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) estimated net outlays attributable to the payment rates and related parameters specified in that section of the Social Security Act (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those net outlays would have been if the nominal payment rates and related parameters in effect for 2009 had been in effect, without change, for the same period of time covered by the relevant provisions of the eligible legislation as under

subparagraph (A).

(d) ESTATE AND GIFT TAX.—

(1) CRITERIA.—Legislation that includes provisions amending the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986 shall trigger the current policy adjustment required by this title.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections would have been if, on the date of enactment of the legislation meeting the criteria in paragraph (1), estate and gift tax law had instead been amended so that the tax rates, nominal exemption amounts, and related parameters in effect for tax year 2009 had remained in effect through December 31, 2011, with nominal exemption amounts indexed for inflation after 2009 consistent with subsection (g).

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2011, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those revenues would have been if the estate and gift tax law rates, nominal exemption amounts, and related parameters in effect for 2009, with nominal exemption amounts indexed for inflation after 2009 consistent with subsection (g), had been in effect for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(4) DURATION OF POLICY ADJUSTMENT.—Adjustments made pursuant to this subsection are available for policies affecting the estate and gift tax through only December 31, 2011. Any adjustments shall include budgetary effects in all years from these policy changes.

(e) AMT RELIEF.—

(1) CRITERIA.—Legislation that includes provisions extending AMT relief shall trigger the current policy adjustment required by this title.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), AMT law had instead been amended by making commensurate adjustments in the exemption amounts for joint and single filers in such a manner that the number of taxpayers with AMT liability or lost credits that occur as a result of the AMT would not be estimated to exceed the number of taxpayers affected by the AMT in tax year 2008 in any year for which relief is provided, through December 31, 2011.

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) cover a time period that ends before December 31, 2011, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant provisions of the eligible legislation); and

(B) what those revenues would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), AMT law had instead been amended by making commensurate adjustments in the exemption amounts for joint and single filers in such a manner that the number of taxpayers with AMT liability or lost credits that occur as a result of the AMT would not be estimated to exceed the number of AMT taxpayers in tax year 2008 for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(4) DURATION OF POLICY ADJUSTMENT.—Adjustments made pursuant to this subsection are available for policies affecting the AMT through only December 31,

2011. Any adjustments shall include budgetary effects in all years from these policy changes.

(f) PERMANENT EXTENSION OF MIDDLE-CLASS TAX CUTS.—

(1) CRITERIA.—Legislation that includes provisions extending middle-class tax cuts shall trigger the current policy adjustment required by this title if those provisions extend 1 or more of the following provisions:

(A) The 10 percent bracket as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendments through December 31, 2009.

(B) The child tax credit as in effect for tax year 2010, as provided for under section 201 of EGTRRA and any later amendments through December 31, 2009.

(C) Tax benefits for married couples as in effect for tax year 2010, as provided for under title III of EGTRRA and any later amendments through December 31, 2009.

(D) The adoption credit as in effect in tax year 2010, as provided for under section 202 of EGTRRA and any later amendments through December 31, 2009.

(E) The dependent care credit as in effect in tax year 2010, as provided for under section 204 of EGTRRA and any later amendments through December 31, 2009.

(F) The employer-provided child care credit as in effect in tax year 2010, as provided for under section 205 of EGTRRA and any later amendments through December 31, 2009.

(G) The education tax benefits as in effect in tax year 2010, as provided for under title IV of EGTRRA and any later amendments through December 31, 2009.

(H) The 25 and 28 percent brackets as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendments through December 31, 2009.

(I) The 33 percent bracket as in effect for tax year 2010, as provided for under section 101(a) of EGTRRA and any later amendment through December 31, 2009, affecting taxpayers with adjusted gross income of \$200,000 or less for single filers and \$250,000 or less for joint filers in tax year 2010, with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(J) The rates on income derived from capital gains and qualified dividends as in effect for tax year 2010, as provided for under sections 301 and 302 of JGTRRA and any later amendment through December 31, 2009, affecting taxpayers with adjusted gross income of \$200,000 or less for single filers and \$250,000 for joint filers with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(K) The phaseout of personal exemptions and the overall limitation on itemized deductions as in effect for tax year 2010, as provided for under sections 102 and 103 of EGTRRA of 2001, respectively, and any later amendment through December 31, 2009, affecting taxpayer with adjusted gross income of \$200,000 or less for single filers and \$250,000 for joint filers, with these income levels indexed for inflation in each subsequent year consistent with subsection (g).

(L) The increase in the limitations on expensing depreciable business assets for small businesses under section 179(b) of the Internal Revenue Code of 1986 as in effect in tax year 2010, as provided under section 202 of JGTRRA and any later amendment through December 31, 2009.

(2) ADJUSTMENT.—The amount of the maximum current policy adjustment shall be the difference between—

(A) total revenues projected to be collected and outlays to be paid under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect); and

(B) what those revenue collections and outlay payments would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), the provisions identified in paragraph (1) were made permanent.

(3) LIMITATION.—If the provisions in the legislation that cause it to meet the criteria in paragraph (1) are not permanent, subject to the maximum adjustment provided for under paragraph (2), the amount of each current policy adjustment made pursuant to this section shall be limited to the difference between—

(A) total revenues projected to be collected and outlays to be paid under the Internal Revenue Code of 1986 (as scheduled on December 31, 2009, to be in effect for the period of time covered by the relevant

provisions of the eligible legislation); and

(B) what those revenue collections and outlay payments would have been if, on the date of enactment of legislation meeting the criteria in paragraph (1), the provisions identified in paragraph (1) had been in effect, without change, for the same period of time covered by the relevant provisions of the eligible legislation as under subparagraph (A).

(g) INDEXING FOR INFLATION.—Indexed amounts are assumed to increase in each year by an amount equal to the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, determined by substituting “calendar year 2008” for “calendar year 1992” in subparagraph (B) of such section.

(h) GUIDANCE ON ESTIMATES AND CURRENT POLICY ADJUSTMENTS.—

(1) MIDDLE CLASS TAX CUTS.—For purposes of estimates made pursuant to subsection (f)—

(A) each of the income tax provisions shall be estimated as though the AMT had remained at current law as scheduled on December 31, 2009 to be in effect; and

(B) if more than 1 of the income tax provisions is included in a single piece of legislation, those provisions shall be estimated in the order in which they appear.

(2) AMT.—For purposes of estimates made pursuant to subsection (e), changes to the AMT shall be estimated as if, on the date of enactment of legislation meeting the criteria in subsection (e)(1), all of the income tax provisions identified in subsection (f)(1) were made permanent.

#### SEC. 8. [2 U.S.C. 937] APPLICATION OF BBEDCA.

For purposes of this title—

(1) notwithstanding section 275 of BBEDCA, the provisions of sections 255, 256, 257, and 274 of BBEDCA, as amended by this title, shall apply to the provisions of this title;

(2) references in sections 255, 256, 257, and 274 to “this part” or “this title” shall be interpreted as applying to this title;

(3) references in sections 255, 256, 257, and 274 of BBEDCA to “section 254” shall be interpreted as referencing section 5 of this title;

(4) the reference in section 256(b) of BBEDCA to

“section 252 or 253” shall be interpreted as referencing section 5 of this title;

(5) the reference in section 256(d)(1) of BBEDCA to “section 252 or 253” shall be interpreted as referencing section 6 of this title;

(6) the reference in section 256(d)(4) of BBEDCA to “section 252 or 253” shall be interpreted as referencing section 5 of this title;

(7) section 256(k) of BBEDCA shall apply to a sequestration, if any, under this title; and

(8) references in section 257(e) of BBEDCA to “section 251, 252, or 253” shall be interpreted as referencing section 4 of this title.

#### SEC. 9. TECHNICAL CORRECTIONS.

(a) Section 250(c)(18) of BBEDCA is amended by striking “the expenses the Federal deposit insurance agencies” and inserting “the expenses of the Federal deposit insurance agencies”.

(b) Section 256(k)(1) of BBEDCA is amended by striking “in paragraph (5)” and inserting “in paragraph (6)”.

#### SEC. 10. CONFORMING AMENDMENTS.

(a) Section 256(a) of BBEDCA is repealed.<sup>251</sup>

(b) Section 256(b) of BBEDCA is amended by striking “origination fees under sections 438(c)(2) and 455(c) of that Act shall each be increased by 0.50 percentage point.” and inserting in lieu thereof “origination fees under sections 438(c)(2) and (6) and 455(c) and loan processing and issuance fees under section 428(f)(1)(A)(ii) of that Act shall each be increased by the uniform percentage specified in that sequestration order, and, for student loans originated during the period of the sequestration, special allowance payments under section 438(b) of that Act accruing during the period of the sequestration shall be reduced by the uniform percentage specified in that sequestration order.”.

(c) Section 256(c) of BBEDCA is repealed.<sup>252</sup>

<sup>251</sup> Before its repeal, section 256(a) read as follows:

“AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

“Special milk program; and

“Vocational rehabilitation basic State grants.

“In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this part.”

<sup>252</sup> Before its repeal, section 256(c) of BBEDCA read as follows:

“(c) TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.—Any order issued by the President under section 254 shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which

(d) Section 256(d) of BBEDCA is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (5), and (6);

(2) by amending paragraph (1) to read as follows:

“(1) CALCULATION OF REDUCTION IN PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by section 252 or 253, subject to paragraph (2), and notwithstanding section 710 of the Social Security Act, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply, with respect to the health insurance programs under title XVIII of the Social Security Act—

“(A) in the case of parts A and B of such title, to individual payments for services furnished during the one-year period beginning on the first day of the first month beginning after the date the order is issued (or, if later, the date specified in paragraph (4)); and “(B) in the case of parts C and D, to monthly payments under contracts under such parts for the same one-year period; such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that period.”.

(3) by inserting after paragraph (1) the following:

“(2) UNIFORM REDUCTION RATE; MAXIMUM PERMISSIBLE REDUCTION.—Reductions in payments for programs and activities under such title XVIII pursuant to a sequestration order under section 254 shall be at a uniform rate, which shall not exceed 4 percent, across all such programs and activities subject to such order.”;

(4) by inserting after paragraph (3), as redesignated, the following:

“(4) TIMING OF SUBSEQUENT SEQUESTRATION ORDER.—A sequestration order required by section 252 or 253 with respect to programs under such title XVIII shall not

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increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage.”

take effect until the first month beginning after the end of the effective period of any prior sequestration order with respect to such programs, as determined in accordance with paragraph (1).”;

(5) in paragraph (6), as redesignated, to read as follows:

“(6) SEQUESTRATION DISREGARDED IN COMPUTING PAYMENT AMOUNTS.—The Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part, for purposes of computing any adjustments to payment rates under such title XVIII, specifically including—

“(A) the part C growth percentage under section 1853(c)(6);

“(B) the part D annual growth rate under section 1860D-2(b)(6); and

“(C) application of risk corridors to part D payment rates under section 1860D-15(e).”;

(6) by adding after paragraph (6), as redesignated, the following:

“(7) EXEMPTIONS FROM SEQUESTRATION.—In addition to the programs and activities specified in section 255, the following shall be exempt from sequestration under this part:

“(A) PART D LOW-INCOME SUBSIDIES.—Premium and cost-sharing subsidies under section 1860D-14 of the Social Security Act.

“(B) PART D CATASTROPHIC SUBSIDY.—Payments under section 1860D-15(b) and (e)(2)(B) of the Social Security Act.

“(C) QUALIFIED INDIVIDUAL (QI) PREMIUMS.—Payments to States for coverage of Medicare cost-sharing for certain low-income Medicare beneficiaries under section 1933 of the Social Security Act.”.

**SEC. 11. EXEMPT PROGRAMS AND ACTIVITIES.**

(a) DESIGNATIONS.—Section 255 of BBEDCA is amended by redesignating subsection (i) as (j) and striking “1998” and inserting in lieu thereof “2010”.

(b) SOCIAL SECURITY, VETERANS PROGRAMS, NET INTEREST, AND TAX CREDITS.—Subsections (a) through (d) of section 255 of BBEDCA are amended to read as follows:

[...]

(c) OTHER PROGRAMS AND ACTIVITIES, LOW-INCOME PROGRAMS, AND ECONOMIC RECOVERY PROGRAMS.—Subsections (g) and (h) of section 255 of BBEDCA are amended to read as follows:

[...]

**SEC. 12. [2 U.S.C. 938] DETERMINATIONS AND POINTS OF ORDER.**

Nothing in this title shall be construed as limiting the authority of the chairmen of the Committees on the Budget of the House and Senate under section 312 of the Congressional Budget Act of 1974. CBO may consult with the Chairmen of the House and Senate Budget Committees to resolve any ambiguities in this title.

**SEC. 13. [2 U.S.C. 939] LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.**

(a) **LIMITATION ON CHANGES TO THE SOCIAL SECURITY ACT.**—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any bill or resolution pursuant to any expedited procedure to consider the recommendations of a Task Force for Responsible Fiscal Action<sup>253</sup> or other commission that contains recommendations with respect to the old-age, survivors, and disability insurance program established under title II of the Social Security Act, or the taxes received under subchapter A of chapter 9; the taxes imposed by subchapter E of chapter 1; and the taxes collected under section 86 of part II of subchapter B of chapter 1 of the Internal Revenue Code.

(b) **WAIVER.**—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) **APPEALS.**—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

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<sup>253</sup> Legislation has been introduced in Congress to establish a bipartisan commission to develop proposals addressing long term budgetary issues. None has been enacted, though this point of order applies to measures recommending changes to OASDI by any commission.

In the 110<sup>th</sup> Congress:

S. 2063, the *Bipartisan Task Force for Responsible Fiscal Action Act of 2007*, was introduced by Sen. Kent Conrad [ND]. H.R.3655, the *Bipartisan Task Force for Responsible Fiscal Action Act of 2007*, by Rep. Jim Cooper [TN]. Hearings were held but no other legislative action was taken on these bills.

In the 111<sup>th</sup> Congress:

S. 2853, the *Bipartisan Task Force for Responsible Fiscal Action Act of 2009*, was introduced by Sen. Kent Conrad [ND].

S. 2965, the *Commission for Fiscal Sustainability Act of 2010*, was introduced by Sen. John Ensign [NV].

No legislative action was taken on these bills.

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**TITLE II—ELIMINATION OF  
DUPLICATIVE AND WASTEFUL  
SPENDING**

**SEC. 21. IDENTIFICATION, CONSOLIDATION, AND ELIMINATION  
OF DUPLICATIVE GOVERNMENT PROGRAMS.**

The Comptroller General of the Government Accountability Office shall conduct routine investigations to identify programs, agencies, offices, and initiatives with duplicative goals and activities within Departments and governmentwide and report annually to Congress on the findings, including the cost of such duplication and with recommendations for consolidation and elimination to reduce duplication identifying specific rescissions.

