

Final Statutory PAYGO Legislation Reflects Changes to President's Proposal

President Obama transmitted legislation to Congress establishing a statutory PAYGO requirement on June 14, 2009. Majority Leader Steny Hoyer introduced the legislation the President submitted by request by as H.R. 2920. The legislation the House will consider this week includes several modifications to the President's proposal to address concerns that have been raised and to bring the requirements of the legislation in line with the House PAYGO rule and policies set forth in the House budget resolution.

Limit the exception for the costs of extending the 2001 and 2003 tax cuts to middle class tax cuts:

Under the President's proposal, statutory PAYGO would not apply to the extension of any of the tax cuts enacted in 2001 and 2003, including those benefitting upper income taxpayers would. The legislation that the House will consider this week limits the current policy adjustment for extension of the 2001 and 2003 tax cuts to the ten percent bracket, marriage penalty relief, expansion of the child tax credit (including refundability) and the reduction in income tax rates for taxpayers with incomes below \$250,000.

Unlike the President's proposal, legislation extending the 33 and 35 percent income tax rates for taxpayers with incomes above \$250K and the lower rate 15 percent rate on capital gains and dividends would be subject to PAYGO and the costs of those policies would need to be offset. This change would reduce the amount of current policy extensions that would not be subject to PAYGO by approximately \$700 billion from the President's proposal.

Provide for the use of Congressional Budget Office estimates:

The legislation the House will consider provides that the cost estimates provided by CBO and already used to determine compliance with the House PAYGO rule would be used for measuring compliance with the statutory PAYGO requirement as well. The Chairman of the Budget Committee would submit estimates prepared by CBO in the Congressional Record before Congress voted to approve legislation and send it to the President for signature. OMB would record the costs of enacted legislation on a PAYGO scorecard based on CBO estimates printed in the Congressional Record and incorporated directly or indirectly in the legislation enacted into law.

OMB estimates would only be used if a CBO estimate was not incorporated in legislation passed by Congress. OMB would maintain the scorecard to determine

if the net effect of legislation enacted during a session of Congress would increase the deficit and order a sequester if there was a net cost on the scorecard at the end of the year to comply with Constitutional requirements.

Require deficit neutrality over five and ten years to mirror the existing House PAYGO rule:

The net effect of legislation enacted during a session of Congress would be required to be deficit neutral over five years as well as ten years in order to avoid a sequester. The legislation would establish scorecards compiling the cost of legislation over five years and ten years. If there was a deficit at the end of the year on the scorecard for either the five or ten year period, there would be a sequester. If there was a deficit on both scorecards, the sequester would be based on the larger amount.

Follow the emergency designation procedures in the House PAYGO rule and eliminate the requirement for a separate Presidential emergency designation:

Provisions of legislation would be considered emergency costs not subject to statutory PAYGO if the provision was designated as emergency for purposes of the House PAYGO rule. Under the existing House PAYGO rule, legislation which includes an emergency designation triggers a separate vote on the motion to proceed. Unlike the President's proposal, a separate emergency designation by the President would not be required to qualify for the emergency exception. Under the President's proposal it would be possible for the costs of legislation Congress designated as emergency to be placed on the PAYGO scorecard and potentially cause a sequester if the President did not also designate it as an emergency.