



Congressional Budget Office

United States Congress

**What You Should Know About
Congressional Budget Scoring**

March 10, 2011

**Prepared by Mark P. Hadley, General Counsel,
for presentation at the 2011 Appropriations Law Forum**



CBO Basics

- Director appointed jointly by the Speaker and President pro tempore based on the recommendation of the Budget Committees
- Director appoints all CBO staff, based solely on professional competence, not political affiliation
- CBO does not make policy recommendations (strictly nonpartisan; no judgments about a legislative proposal's merits)



Scoring Basics

- What is “scoring”?
- What gets scored?
- Who does the scoring?



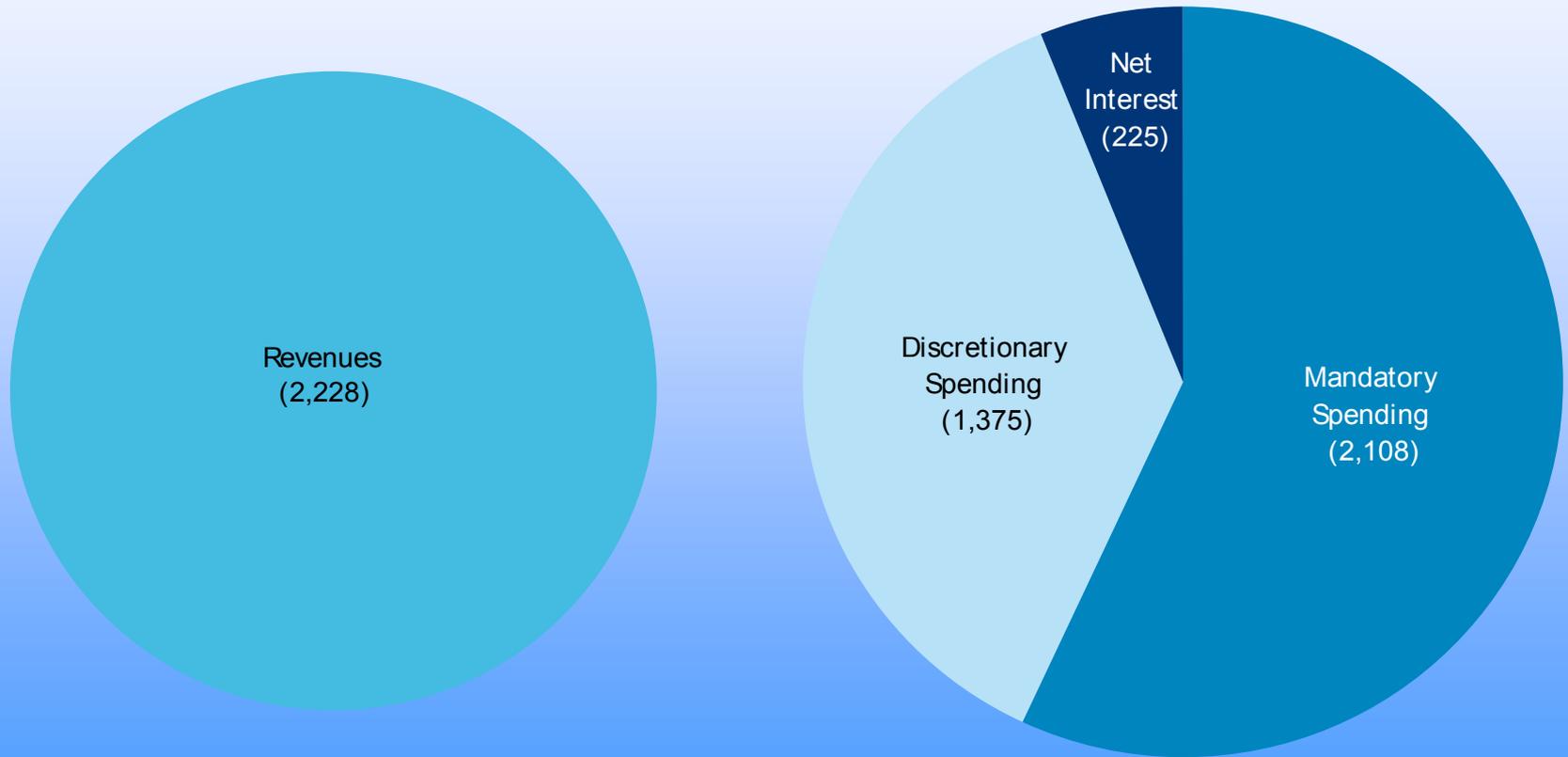
Helping Congress Develop a Budget Plan

- **10-year baseline prepared each winter to serve as a starting point**
- **CBO analyzes the President's budget request and compares it to the baseline**



Baseline Budget Projections, 2011

Billions of Dollars





Helping Congress Stay Within Its Budget Plan

- **CBO is required by law to prepare cost estimates for each bill approved by a committee**
 - The Joint Committee on Taxation prepares revenue estimates for legislation that would amend the Internal Revenue Code
- **CBO staff provide preliminary, informal estimates at other stages of the legislative process**
- **CBO's Scorekeeping system tracks pending legislation and helps the Budget Committees enforce the Budget Resolution**



Sources of Authority

- **Appropriations Law**
- **Congressional Budget and Impoundment Control Act of 1974**
- **Balanced Budget and Emergency Deficit Control Act of 1985**
- **Report of the President's Commission on Budget Concepts**



Budget Practice

- **Precedent**
- **OMB Circular A-11**
- **GAO Glossary of Terms Used in the Federal Budget Process**
- **Scorekeeping Guidelines and Precedents**



The Statutory Pay-As-You-Go Act of 2010 (S-PAYGO)

- Reestablishes statutory sequestration mechanism to curb increases in the deficit
- The S-PAYGO Act allows the Congress to require OMB to use cost estimates used during Congressional consideration of legislation, provided that certain procedures are followed:
 - Legislation must include a statement incorporating the cost estimate by reference [Sec. 4(a)(1)]
 - Cost estimate must be printed in the Congressional Record prior to a vote on passage [Sec. 4(a)(2)]



Incorporating Congressional Estimates By Reference

“The budgetary effects of this Act, for purposes 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/Senate] Budget Committee, provided that such statement has been submitted prior to the vote on passage.”

[Sec. 4(a)(1)]



OMB's Role in S-PAYGO

- **Produces cost estimates if the Congress does not follow the specified procedures**
- **Maintains 5- and 10-year scorecards** [Sec. 4(d)]
- **Orders a sequestration if either scorecard reflects a net cost in the budget year at the end of a Congressional session** [Sec. 5(b)]
 - **Section 11 of the Act lists the programs and activities that are exempt from sequestration—the vast majority of direct spending programs are exempt**



Deficit Impacts vs. S-PAYGO Impacts

- **S-PAYGO effects may differ from net deficit impact because S-PAYGO effects:**
 - Exclude off-budget impacts; [Sec. 3(4)(B)]
 - Exclude certain specified timing shifts; [Sec. 4(b)(1)]
 - Exclude impacts of provisions designated as emergency legislation; [Sec. 4(g)]
 - Are adjusted, for certain health and tax legislation, to reflect policies that are not in CBO's baseline. [Sec. 4(c)]



Policy Adjustments

- **The law requires CBO to adjust S-PAYGO estimates to reflect policies that are not in CBO's baseline** [Sec. 7]
 - Medicare Payments to Physicians
 - Estate and Gift Taxes
 - Certain provisions of the Economic Growth Tax Relief Reconciliation Act and the Jobs and Growth Tax Relief Reconciliation Act
 - Alternative Minimum Tax
- **The law specifies a maximum adjustment for each policy; any excess will be recorded as a budgetary cost**
- **Will require CBO to maintain the information necessary to estimate the effects of proposed changes for those S-PAYGO policy exclusions**

Questions and Answers

For more information, visit:

www.cbo.gov

APPENDIX A—SCOREKEEPING GUIDELINES

These budget scorekeeping guidelines are used by the House and Senate Budget Committees, the Congressional Budget Office, and the Office of Management and Budget (the "scorekeepers") in measuring compliance with the Congressional Budget Act of 1974 (CBA), as amended, GRH, as amended, and the [Statutory Pay-As-You-Go Act of 2010](#). The purpose of the guidelines is to ensure that the scorekeepers measure the effects of legislation on the deficit consistent with established scorekeeping conventions and with the specific requirements in those Acts regarding discretionary spending, direct spending, and receipts. These rules are reviewed annually by the scorekeepers and revised as necessary to adhere to the purpose. They cannot be changed unless all of the scorekeepers agree. New accounts or activities are classified only after consultation among the scorekeepers. Accounts and activities cannot be reclassified unless all of the scorekeepers agree. Even though the discretionary spending caps specified in the Budget Enforcement Act expired at the end of 2002, the scorekeepers continue to apply these scorekeeping principles. The scorekeeping guidelines have not been revised to reflect the impact of the Statutory Pay-As-You-Go Act of 2010, especially as it relates to rule 3.

1. Classification of appropriations

A list of appropriations that are normally enacted in appropriations acts is included in the conference report of the Balanced Budget Act of 1997, House Report 105–217, pp. 1014–1053. The list identifies appropriated entitlements and other mandatory spending in appropriations acts, and it identifies discretionary appropriations by category.

2. Outlays prior

Outlays from prior-year appropriations will be classified consistent with the discretionary/mandatory classification of the account from which the outlays occur.

3. Direct spending programs

Entitlements and other mandatory programs (including offsetting receipts) will be scored at current law levels, as defined in section 257 of GRH, unless congressional action modifies the authorizing legislation. Substantive changes to or restrictions on entitlement law or other mandatory spending law in appropriations laws will be scored against the Appropriations Committee's section 302(b) allocations in the House and the Senate. For the purpose of CBA scoring, direct spending savings that are included in both an appropriations bill and a reconciliation bill will be scored to the reconciliation bill and not to the appropriations bill. For scoring under sections 251 or 252 of GRH, such provisions will be scored to the first bill enacted.

4. Transfer of budget authority from a mandatory account to a discretionary account

The transfer of budget authority to a discretionary account will be scored as an increase in discretionary budget authority and outlays in the gaining account. The losing account will not show an offsetting reduction if the account is an entitlement or mandatory program.

5. Permissive transfer authority

Permissive transfers will be assumed to occur (in full or in part) unless sufficient evidence exists to the contrary. Outlays from such transfers will be estimated based on the best information available, primarily historical experience and, where applicable, indications of Executive or congressional intent.

This guideline will apply both to specific transfers (transfers where the gaining and losing accounts and the amounts subject to transfer can be ascertained) and general transfer authority.

6. Reappropriations

Reappropriations of expiring balances of budget authority will be scored as new budget authority in the fiscal year in which the balances become newly available.

7. Advance appropriations

Advance appropriations of budget authority will be scored as new budget authority in the fiscal year in which the funds become newly available for obligation, not when the appropriations are enacted.

8. Rescissions and transfers of unobligated balances

Rescissions of unobligated balances will be scored as reductions in current budget authority and outlays in the year the money is rescinded.

Transfers of unobligated balances will be scored as reductions in current budget authority and outlays in the account from which the funds are being transferred, and as increases in budget authority and outlays in the account to which these funds are being transferred.

In certain instances, these transactions will result in a net negative budget authority amount in the source accounts. For purposes of section 257 of GRH, such amounts of budget authority will be projected at zero. Outlay estimates for both the transferring and receiving accounts will be based on the spending patterns appropriate to the respective accounts.

9. Delay of obligations

Appropriations acts specify a date when funds will become available for obligation. It is this date that determines the year for which new budget authority is scored. In the absence of such a date, the act is assumed to be effective upon enactment.

If a new appropriation provides that a portion of the budget authority shall not be available for obligation until a future fiscal year, that portion shall be treated as an advance appropriation of budget authority. If a law defers existing budget authority (or unobligated balances) from a year in which it was available for obligation to a year in which it was not available for obligation, that law shall be scored as a rescission in the current year and a reappropriation in the year in which obligational authority is extended.

10. Contingent legislation

If the authority to obligate is contingent upon the enactment of a subsequent appropriation, new budget authority and outlays will be scored with the subsequent appropriation. If a discretionary appropriation is contingent on the enactment of a subsequent authorization, new budget authority and outlays will be scored with the appropriation. If a discretionary appropriation is contingent on the fulfillment of some action by the Executive branch or some other event normally estimated, new budget authority will be scored with the appropriation, and outlays will be estimated based on the best information about when (or if) the contingency will be met. If direct spending legislation is contingent on the fulfillment of some action by the Executive branch or some other event normally estimated, new budget authority and outlays will be scored based on the best information about when (or if) the contingency will be met. Non-lawmaking contingencies within the control of the Congress are not scoreable events.

11. Scoring purchases

When a law provides the authority for an agency to enter into a contract for the purchase, lease-purchase, capital lease, or operating lease of an asset, budget authority and outlays will be scored as follows:

For lease-purchases and capital leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount of the estimated net present value of the Government's total estimated legal obligations over the life of the contract, except for imputed interest costs calculated at Treasury rates for marketable debt instruments of similar maturity to the lease period and identifiable annual operating expenses that would be paid by the Government as owner (such as utilities, maintenance, and insurance). Property taxes will not be considered to be an operating cost. Imputed interest costs will be classified as mandatory and will not be scored against the legislation or for current level but will count for other purposes.

For operating leases, budget authority will be scored against the legislation in the year in which the budget authority is first made available in the amount necessary to cover the Government's legal obligations. The amount scored will include the estimated total payments expected to arise under the full term of a lease contract or, if the contract will include a cancellation clause, an amount sufficient to cover the lease payments for the first fiscal year during which the contract is in effect, plus an amount sufficient to cover the costs associated with cancellation of the contract. For funds that are self-insuring under existing authority, only budget authority to cover the annual lease payment is required to be scored.

Outlays for a lease-purchase in which the Federal government assumes substantial risk (for example, through an explicit Government guarantee of third party financing) will be spread across the period during which the contractor constructs, manufactures, or purchases the asset. Outlays for an operating lease, a capital lease, or a lease-purchase in which the private sector retains substantial risk will be spread across the lease period. In all cases, the total amount of outlays scored over time against legislation will equal the amount of budget authority scored against that legislation.

No special rules apply to scoring purchases of assets (whether the asset is existing or is to be manufactured or constructed). Budget authority is scored in the year in which the authority to purchase is first made available in the amount of the Government's estimated legal obligations. Outlays scored will equal the estimated disbursements by the Government based on the particular purchase arrangement, and over time will equal the amount of budget authority scored against that legislation.

Existing contracts will not be rescored.

To distinguish lease purchases and capital leases from operating leases, the following criteria will be used for defining an operating lease:

- Ownership of the asset remains with the lessor during the term of the lease and is not transferred to the Government at or shortly after the end of the lease period.
- The lease does not contain a bargain-price purchase option.
- The lease term does not exceed 75 percent of the estimated economic lifetime of the asset.
- The present value of the minimum lease payments over the life of the lease does not exceed 90 percent of the fair market value of the asset at the inception of the lease.
- The asset is a general purpose asset rather than being for a special purpose of the Government and is not built to unique specification for the Government as lessee.
- There is a private-sector market for the asset.

Risks of ownership of the asset should remain with the lessor.

Risk is defined in terms of how governmental in nature the project is. If a project is less governmental in nature, the private-sector risk is considered to be higher. To evaluate the level of private-sector risk associated with a lease-purchase, legislation and lease-purchase contracts will be considered against the following type of illustrative criteria, which indicate ways in which the project is less governmental:

- There should be no provision of Government financing and no explicit Government guarantee of third party financing.
- Risks of ownership of the asset should remain with the lessor unless the Government was at fault for such losses.
- The asset should be a general purpose asset rather than for a special purpose of the Government and should not be built to unique specification for the Government as lessee.
- There should be a private-sector market for the asset.
- The project should not be constructed on Government land.

Language that attempts to waive the Anti-Deficiency Act, or to limit the amount or timing of obligations recorded, does not change the Government's obligations or obligational authority, and so will not affect the scoring of budget authority or outlays.

Unless language that authorizes a project clearly states that no obligations are allowed unless budget authority is provided specifically for that project in an appropriations bill in advance of the obligation, the legislation will be interpreted as providing obligation authority, in an amount to be estimated by the scorekeepers.

12. Write-offs of uncashed checks, unredeemed food stamps, and similar instruments

Exceptional write-offs of uncashed checks, unredeemed food stamps, and similar instruments (i.e., write-offs of cumulative balances that have built up over several years or have been on the books for several years) shall be scored as an adjustment to the means of financing the deficit rather than as an offset. An estimate of write-offs or similar adjustments that are part of a continuing routine process shall be netted against outlays in the year in which the write-off will occur. Such write-offs shall be recorded in the account in which the outlay was originally recorded.

13. Reclassification after an agreement

Except to the extent assumed in a budget agreement, a law that has the effect of altering the classification or scoring of spending and revenues (e.g., from discretionary to mandatory, special fund to revolving fund, on-budget to off-budget, revenue to offsetting receipt), will not be scored as reclassified for the purpose of enforcing a budget agreement.

14. Scoring of receipt increases or direct spending reductions for additional administrative program management expenses

No increase in receipts or decrease in direct spending will be scored as a result of provisions of a law that provides direct spending for administrative or program management activities.

15. Asset sales

If the net financial cost to the Government of an asset sale is zero or negative (a savings), the amount scored shall be the estimated change in receipts and mandatory outlays in each fiscal year on a cash basis. If the cost to the Government is positive (a loss), the proceeds from the sale shall not be scored for purposes of the CBA or GRH.

The net financial cost to the Federal government of an asset sale shall be the net present value of the cash flows from:

- (1) Estimated proceeds from the asset sale;
- (2) The net effect on Federal revenues, if any, based on special tax treatments specified in the legislation;
- (3) The loss of future offsetting receipts that would otherwise be collected under continued Government ownership (using baseline levels for the projection period and estimated levels thereafter); and
- (4) Changes in future spending, both discretionary and mandatory, from levels that would otherwise occur under continued Government ownership (using baseline levels for the projection period and at levels estimated to be necessary to operate and maintain the asset thereafter).

The discount rate used to estimate the net present value shall be the average interest rate on marketable Treasury securities of similar maturity to the expected remaining useful life of the asset for which the estimate is being made, plus 2 percentage points to reflect the economic effects of continued ownership by the Government.

16. Indefinite borrowing authority and limits on outstanding debt

If legislation imposes or changes a limit on outstanding debt for an account financed by indefinite budget authority in the form of borrowing authority, the legislation will be scored as changing budget authority only if and to the extent the imposition of a limit or the change in the existing limit alters the estimated amount of obligations that will be incurred.