SECTION 21—OVERVIEW OF SCORING LEGISLATION

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21.1 What is scoring?

Scoring is the process of estimating the change in Government spending and collections resulting from enacted or proposed legislation, compared to what would happen in the absence of that legislation. These estimates are prepared both to inform policy makers of the budgetary effects of proposed legislation, and to inform congressional and statutory budget enforcement procedures.

21.2 When does scoring occur during the budget process?

Scoring occurs typically during budget formulation, the consideration of proposed legislation, and after a law has been enacted.

Budget formulation. As part of the budget formulation process, agencies submit baseline program levels and discretionary, mandatory, and governmental receipt proposals to OMB for consideration. Agencies work with OMB to determine the effect of proposals on budget authority, collections, and outlays based on the Administration's economic and technical assumptions. The scored level of budget authority, collections, and outlays for each approved budget proposal and the baseline for all programs create an overall picture of the President's proposed fiscal path.

Congressional process and enactment. During the congressional legislative process, CBO is required by statute to score legislation. Such scoring advises congressional committees on compliance with congressional budget enforcement procedures. During a legislative session, pursuant to statute, OMB updates the Congress on its estimates of the costs of the annual appropriations bills and publishes PAYGO scorecards that include estimates of enacted legislation that affect mandatory spending or governmental receipts. A sequestration is triggered at the end of a legislative session if OMB's scoring of appropriations Acts determines a breach of the discretionary caps has occurred or if OMB's PAYGO scorecard shows a debit in the budget year. See section 100.3 for more information on sequestration, section 100.4 for the budget enforcement reports issued by OMB, and section 15.3 for more information on the congressional budget process.

21.3 What are the basic concepts I need to know to score legislation?

(a) Overview of budget laws

The Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) divides spending into two categories—discretionary and mandatory. The Explanatory Statement of the Committee of Conference for the Balanced Budget Act of 1997 (BBA of 1997) classified all accounts under the Appropriations Committee's jurisdiction at the time as discretionary, mandatory, or split between discretionary and mandatory. The "scorekeepers" (House and Senate Budget Committees, CBO, and OMB) consult on the classification of spending, determine the classification of new accounts, and may reclassify the designation of an existing account.

Discretionary and mandatory spending are controlled by different statutory enforcement procedures. The Budget Control Act of 2011 amended BBEDCA, and instituted limits ("caps") on the amount of discretionary budget authority for 2012 through 2021. For mandatory spending, the Statutory Pay-As-You-Go Act of 2010 (PAYGO) reestablished and made permanent a statutory procedure to enforce deficit neutrality on new revenue and mandatory spending legislation.

For more information on these statutes and budget enforcement, see chapters 9 and 11, "Budget Concepts" and "Budget Process" in the *Analytical Perspectives* volume of the Budget. For detailed information on how sequestration is applied for purposes of budget enforcement, see section 100.

(b) Definition of discretionary spending

Discretionary spending is the budget authority provided by annual appropriations Acts and the outlays that result from that budget authority. For example, the budget authority and outlays for the salaries and expenses of federal personnel and other operating expenses of Government agencies are usually provided by annual appropriations Acts and, therefore, are usually discretionary.

(c) Definition of mandatory spending

Mandatory spending, also referred to as "direct spending," is budget authority and outlays provided by permanent laws. For example, permanent laws authorize payments for Medicare, unemployment insurance benefits, and farm price supports, so the budget authority and outlays for these programs are mandatory.

In addition, budget authority provided in annual appropriations Acts for certain programs, such as Medicaid, is treated as mandatory. Such accounts are called "appropriated entitlements" or "appropriated mandatories." The BBA of 1997 classified these accounts as such, predominantly because the authorizing legislation directs that the Government make or beneficiaries receive payments. While mandatory and discretionary classifications are used for measuring compliance with BBEDCA and PAYGO, they do not determine whether a program provides legal entitlement to a payment or benefit or the availability of funding. You should address questions about BBEDCA classifications and legal entitlements to your OMB representative.

(d) Committee of jurisdiction

When scoring legislative language or a Budget proposal, it is important to know which congressional committees have jurisdiction over the proposal and whether the affected spending is mandatory or discretionary, or whether the proposal would affect governmental receipts. While most scoring concepts apply to each type of spending and to governmental receipts, the budget enforcement laws differ. Authorizing committees have jurisdiction over mandatory (or "direct") spending and governmental receipts, and budget enforcement for this spending is governed by PAYGO. The Appropriations Committees have jurisdiction over discretionary spending, and budget enforcement is governed by the spending limits (caps) set in BBEDCA.

In some cases, legislative action by an appropriations committee may affect spending or receipts under the jurisdiction of an authorizing committee, and vice versa. In these cases, the budgetary effects are scored against the committee taking the legislative action.

Explicit OMB approval is required to include authorizing language in the Budget *Appendix*, either as account-specific appropriations language or as a general provision. Please consult first with your OMB representative if your agency has such a proposal. Both scoring and jurisdictional issues will be part of the consideration for inclusion of a proposal in the Budget. See section 95.5 and 95.6 for guidance on the legislative language included in the Budget *Appendix*.

(e) How are scoring estimates measured?

Authorizing legislation is measured as a change to outlays or governmental receipts from the President's Budget baseline, updated for enacted legislation and certain other actions. See section 80 for how to construct the baseline. Scoring for discretionary programs is generally measured in terms of budget authority provided in appropriations Acts. For both authorizing legislation and discretionary programs, offsetting collections and offsetting receipts net against both budget authority and outlays in the year they are collected.

(f) Economic and technical assumptions

BBEDCA requires agency and OMB scoring to use the economic and technical assumptions underlying the most recently released President's Budget. OMB provides agencies with economic assumptions to be used for Budget estimates. Examples of economic assumptions include interest rate projections, housing price projections, and projections of inflation. Technical assumptions are assumptions that are not determined by economic factors, such as outlay rates, caseload projections, and estimates for offsetting collections or receipts. For more information on the economic and technical assumptions underlying baseline and policy estimates see section 80 and section 31.

For Mid-Session Review, OMB provides revised economic assumptions to agencies, and asks agencies to update their technical assumptions. Updates of economic and technical assumptions for the Mid-Session Review are not used for scoring, which is based on the economic and technical assumptions from the most recently released President's Budget. For more information on Mid-Session Review, see section 10.6.

(g) Scoring timeframes

The budgetary effects of authorizing legislation and discretionary appropriations are scored over different timeframes. Authorizing legislation is scored as the change to outlays or governmental receipts from the President's Budget baseline in each year of the budget window (the current year, the budget year, and the nine subsequent years). Discretionary appropriations are scored in the current and budget year only, and the overall score for those years includes discretionary amounts provided for those years in previous appropriation Acts (i.e., advance appropriations).

21.4 What are the budget enforcement mechanisms for discretionary and mandatory spending?

(a) Caps on discretionary budget authority

BBEDCA specifies spending limits or "caps," on discretionary budget authority for 2012 through 2021. The caps are divided between a "revised security category" and a "revised nonsecurity category." The revised security category (or defense category) includes discretionary budget authority in the defense budget function 050, which primarily consists of the Department of Defense. The "revised nonsecurity category" (or non-defense category) includes all discretionary budget authority not included in the defense budget function 050.

BBEDCA includes requirements for OMB to adjust the caps for changes in concepts and definitions and for appropriations designated by Congress and the President as either emergency requirements or for Overseas Contingency Operations/Global War on Terrorism. BBEDCA also specifies adjustments to the caps for appropriations for continuing disability reviews and redeterminations by the Social Security Administration; the health care fraud and abuse control program at the Department of Health and Human Services; and appropriations designated by the Congress as being for disaster relief.

BBEDCA requires OMB to provide cost estimates of each appropriations Act in a report to the Congress within seven days of enactment of such Act and to publish three sequestration reports—a "preview" report when the President submits the Budget, an "update" report in August, including a preview estimate of the adjustment for disaster funding for the upcoming fiscal year, and a "final" report within 15 days after the end of a session of Congress (see section 100.4).

If OMB's final discretionary sequestration report for a given fiscal year indicates that the amount of discretionary budget authority provided in appropriations Acts for that year exceeds the cap for that category in that year, the President must issue a sequestration order to eliminate the breach. See section 100 for guidance on sequestration.

(b) Pay-as-you-go for mandatory spending

PAYGO requires that new legislation changing governmental receipts or mandatory spending or collections must be enacted on a "pay-as-you-go" basis; that is, that the cumulative effects of such legislation must not increase projected on-budget deficits. The PAYGO statute established special scorekeeping rules, scorecards, an annual report, and a sequestration requirement.

The enforcement requirements in PAYGO are permanent, unlike the budget enforcement mechanism for discretionary programs, and does not impose a cap on spending or a floor on governmental receipts. Instead, PAYGO requires that bills reducing governmental receipts or increasing mandatory spending must be fully offset by enacting revenue increases or mandatory spending reductions. This requirement of deficit neutrality is not enforced on a bill-by-bill basis, but is based on two scorecards that tally the cumulative budgetary effects of PAYGO legislation over the course of a congressional session.

The PAYGO rules also apply to the outlays resulting from changes in outyear budget authority for mandatory programs made in appropriations Acts (CHIMPs) and to all changes to governmental receipts made in appropriations Acts.

The PAYGO rules do not apply to increases in mandatory spending or decreases in governmental receipts that result automatically under existing law. For example, mandatory spending for benefit programs, such as unemployment insurance, rises when the population of eligible beneficiaries rises, and many benefit payments are automatically increased for inflation under existing laws. Also, if the Congress designates a provision of mandatory spending or governmental receipts legislation as an emergency requirement, the effect of the provision is not scored as PAYGO.

Over the course of a congressional session, all PAYGO legislation is scored to determine the budgetary effects—costs and savings—except if exempted in law. The score for each bill is recorded by OMB on two PAYGO scorecards in which costs or savings are averaged over rolling five-year and 10-year periods (see section 100.4). OMB is required to update the scorecards on a continuous basis.

In addition, within 14 business days after the end of a congressional session, OMB is required to issue an annual PAYGO report and determines whether a violation of the PAYGO requirement has occurred. If costs exceed savings in the budget year column of either scorecard, the President is required to issue a sequestration order implementing across-the-board cuts to nonexempt mandatory programs by an amount sufficient to offset the net costs on the PAYGO scorecard. This sequestration process is separate from that described above for a breach of the discretionary caps.

(c) Congressional enforcement procedures

Congress has procedural requirements for bills to advance through the legislative process. Agencies may be asked to develop cost estimates to inform Congress of the budgetary effects of potential legislation. For more information on congressional enforcement procedures see section 10.5 and Chapter 9 and 11, "Budget Concepts," on Congressional Action in the *Analytical Perspectives* volume of the Budget.

21.5 What resources are available to help me score legislation?

The general concepts used by scorekeepers are found throughout Circular A-11, including the resources cited below. Your OMB representative can provide assistance in applying the concepts, rules, and conventions for scoring legislation.

Appendix A, *the Scorekeeping Guidelines*, is used by the House and Senate Budget Committees, CBO, and OMB in measuring compliance with the Congressional Budget Act of 1974 (CBA), as amended; the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended; and the Statutory Pay-As-You-Go Act of 2010.

Appendix B, *the Budgetary Treatment of Lease-Purchases and Leases of Capital Assets* is also used to assist in scoring legislative authority to enter into a variety of leasing contracts.

Section 20.4 addresses a variety of scoring concepts, including reappropriations, cancellations and rescissions, and transfers.

Additional information on PAYGO and the special rules for certain PAYGO estimates can be found on the OMB website at https://www.whitehouse.gov/omb/paygo_description/.

21.6 When are scores of legislation due to OMB?

Mandatory and governmental receipt proposals for the Budget. OMB requires that all proposals included in the Budget be scored and included in the appropriate transmittal code in MAX A-11 Data Entry by the deadlines provided in the annual budget season guidance. See section 79.3 for information on transmittal codes. The schedule for the 2018 Budget can be found in section 25.

Enacted authorizing legislation. Agencies should work with their OMB representative to finalize PAYGO estimates by no more than two weeks after legislation is signed into law. Agencies should follow legislation affecting their programs as it moves through the congressional process in order to identify difficult scoring issues as soon as possible and to be prepared to provide scores in a timely manner to meet the requirements outlined in section 21.4(b).

Discretionary appropriations. The annual budget formulation schedule requires the annual appropriations request in time to complete the President's Budget. In addition, throughout the appropriations season, and particularly upon enactment of full-year appropriations Acts, agencies are required to work with their OMB representatives to resolve any questions on scoring effects so that OMB can meet the statutory reporting requirements as outlined above in section 21.4(a).