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House Rule XXI, Clause 10: The CUTGO Rule

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Summary

House Rule XXI, clause 10, currently referred to as the CUTGO (or cut-as-you-go) rule, prohibits the consideration of legislation that is estimated to result in a net increase in mandatory spending over either of two periods: (1) the six-year period consisting of the current fiscal year, the budget year, and the four ensuing fiscal years or (2) the 11-year period consisting of the current year, the budget year, and the ensuing nine fiscal years.

The CUTGO rule applies to legislation affecting mandatory spending only. It does not apply to discretionary spending or revenues: Any budgetary effects treated (or "scored") as discretionary spending or revenues are not counted for purposes of determining compliance with the House CUTGO rule. As a result, in practical terms, the rule generally requires legislation that includes provisions estimated to increase mandatory spending to also include offsetting reductions in other mandatory spending over the two specified periods.

The rule is generally applied on a measure-by-measure basis. In other words, an estimated reduction in mandatory spending resulting from a measure previously passed by the House, or one to be considered subsequently by the House, cannot be used to offset a mandatory spending increase due to provisions in a measure currently under consideration. The rule, however, allows for one exception: If a special rule provides that two measures are to be combined upon engrossment (i.e., combined into a single bill before being sent to the Senate), then their budgetary effects may be added together in determining CUTGO compliance.

The House CUTGO rule exempts (i.e., does not count) the budgetary effects of provisions designated as an emergency for the Statutory Pay-As-You-Go Act of 2010. If a measure includes such designation, the chair is required to put the question of consideration to the House for a vote—effectively requiring a separate vote on whether to consider the legislation even though it exempts the applicable budgetary effects from the CUTGO rule.

Clause 10 was first added to Rule XXI at the beginning of the 110th Congress as a PAYGO (or pay-as-you-go) rule, applying to both mandatory spending and revenues. It was replaced by the CUTGO rule at the beginning of the 112th Congress, returned to the PAYGO rule at the beginning of the 116th Congress, and is now once again replaced by the CUTGO rule at the beginning of the 118th Congress.

This report explains, in more detail, the features of the current House CUTGO rule and describes the legislative history of clause 10 of Rule XXI. It updates the previous version (dated August 12, 2019) to reflect the current provisions of the rule.

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House Rule XXI, clause 10, currently referred to as the CUTGO (or cut-as-you-go) rule, prohibits the consideration of legislation that is estimated to increase *mandatory spending* over either a six-year period or an 11-year period. In practical terms, the rule generally requires legislation that includes provisions estimated to increase mandatory spending to also include offsetting reductions in other mandatory spending over the two specified periods. It *does not* apply to *discretionary spending* or *revenues*—neither may be used to offset an increase in mandatory spending to comply with the rule.

Clause 10 was first added to Rule XXI at the beginning of the 110th Congress as a PAYGO (or pay-as-you-go) rule, applying to both mandatory spending and revenues. At the beginning of the 112th Congress, it was replaced by the CUTGO rule, with the key change being that it would not apply to revenues but only mandatory spending.

Clause 10 was returned to the PAYGO rule at the beginning of the 116th Congress and is now once again replaced by the CUTGO rule at the beginning of the 118th Congress.

This report explains, in more detail, the features of the current House CUTGO rule and describes the legislative history of clause 10 of Rule XXI. It updates the previous version (dated August 12, 2019) to reflect the current provisions of the rule.

The full text of the current House CUTGO rule (clause 10 of Rule XXI) is provided in the **Appendix**.

Features of the House CUTGO Rule

The House CUTGO rule prohibits the consideration of legislation that is estimated to result in a net increase in mandatory spending over either of two periods: (1) the six-year period consisting of the current fiscal year, the budget year, and the four ensuing fiscal years or (2) the 11-year period consisting of the current year, the budget year, and the ensuing nine fiscal years.[1]

The CUTGO rule applies to legislation affecting mandatory spending only. Mandatory spending, also referred to as direct spending, has two distinguishing features: (1) It is provided or controlled in authorizing legislation, and (2) it generally continues without any annual legislative action.[2] Examples of programs funded through mandatory spending include Medicare, unemployment compensation, and federal retirement. Mandatory spending also includes many *offsetting collections and receipts*, such as Medicare premiums and spectrum auction proceeds, which are

[1] The *budget year* refers to the fiscal year that begins on October 1 of the calendar year in which the session of Congress begins. The *current fiscal year* is the fiscal year immediately preceding the budget year. Taken literally, between October and December of any given year, the requirement would cover five-year and 10-year periods instead of the six-year and 11-year periods.

[2] The current rule defines *mandatory spending* by reference to *direct spending* as specified in Section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. §§900-922; hereafter referred to as the Deficit Control Act) "except that such term shall also include provisions in appropriations Acts that make outyear modifications to substantive law as described in section 3(4)(C) of the Statutory Pay-As-You-Go Act of 2010." Section 250(c)(8) of the Deficit Control Act states that "'direct spending' means—(A) budget authority provided by law other than appropriations acts; (B) entitlement authority; and (C) the food stamp program." Section 3(4)(C) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. §§931-939) defines *outyear modifications to substantive law* as "changes to or restrictions on entitlement law or other mandatory spending contained in appropriations Acts, notwithstanding section 250(c)(8) of [the Deficit Control Act]." A comprehensive list of accounts funded with mandatory spending, currently and historically, is available using the Public Budget Database, filtered by "BEA category." The FY2024 database can be accessed on GPO's GovInfo website at https://www.govinfo.gov/app/details/BUDGET-2024-DB/context.

treated as negative spending rather than revenues.[3] Mandatory spending is within the jurisdiction of the respective House and Senate authorizing committees.

The CUTGO rule does not apply to discretionary spending or revenues.[4] Any budgetary effects treated (or "scored") as discretionary spending or revenues are not counted for purposes of determining compliance with the House CUTGO rule.

Discretionary spending is provided and controlled through the annual appropriations process.[5] It funds a wide variety of federal agencies, programs, and activities, such as the Department of Defense, the National Institutes of Health, and the Edward Byrne Memorial Justice Assistance Grant program within the Department of Justice.[6] Discretionary spending is within the jurisdiction of the House and Senate Appropriations Committees.

Revenues are the funds collected from the public primarily as a result of the federal government's exercise of its sovereign taxing power. They consist of receipts from individual income taxes, payroll taxes, corporate income taxes, excise taxes, duties, gifts, and miscellaneous receipts. Revenues are within the jurisdiction of the House Ways and Means Committee and the Senate Finance Committee.[7]

Notably, the key difference between the CUTGO rule and the PAYGO rule is the exclusion of any estimated revenue effects.[8] This difference has two main implications: (1) Under CUTGO, the House could consider legislation reducing revenues, regardless of whether it would increase the estimated deficit, without being vulnerable to a point of order under the rule, and (2) legislation estimated to increase mandatory spending could not be offset by an increase in revenues in order to comply with the rule.

The budgetary effects of legislation on mandatory spending are determined based on estimates provided by the House Committee on the Budget (i.e., the chair of the committee, in accordance

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[3] For more information about offsetting collections and receipts, see the chapter on the subject in Office of Management and Budget, *Analytical Perspectives, Budget of the United States Government, Fiscal Year 2024* (Washington, D.C.: GPO, 2023), ch. 18, pp. 195-202.

[4] Legislation affecting discretionary spending or revenues may be constrained by other budget enforcement rules associated with the budget resolution and the Congressional Budget Act of 1974, as amended (2 U.S.C. §§601-661f). For information on such budget rules, see CRS Report R47413, *Points of Order in the Congressional Budget Process*.

[5] Specifically, for budget enforcement purposes, discretionary spending is budget authority and obligation limitations "(except to fund [mandatory spending] programs) provided in appropriation Acts." See Section 250(c)(7) of the Deficit Control Act (codified at 2 U.S.C. §900(c)(7)). In some recent instances, Congress has designated certain budget authority provided in authorizing legislation (i.e., non-appropriations acts) as discretionary spending for budget enforcement purposes. See, for example, Division J, Section 905(c), of the Infrastructure Investment and Jobs Act (P.L. 117-58).

[6] A comprehensive list of accounts funded with discretionary spending, currently and historically, is available using the Public Budget Database, filtered by "BEA category.".

[7] Other legislative committees have jurisdiction over legislation affecting a small portion of revenues. For example, the House Committee on Natural Resources has jurisdiction over legislation relating to Federal Migratory Bird Hunting and Conservation Stamps (referred to as federal duck stamps), the collections from which are recorded in the budget as revenues. See, for example, H.R. 5069 (113th Congress).

[8] The previous House PAYGO rule did not apply to discretionary spending, just as the current CUTGO rule does not.

with clause 4 of Rule XXIX).[9] The Budget Committee has typically used the cost estimates for mandatory spending legislation prepared by the Congressional Budget Office (CBO).[10]

The rule generally requires that *each measure* affecting mandatory spending not cause a net increase of mandatory spending over either of the two specified periods.[11] That is, to comply with the rule, each bill, amendment, or conference report that includes provisions estimated to increase mandatory spending must also include offsetting provisions estimated to reduce other mandatory spending by equal or greater amounts.[12] An estimated reduction in mandatory spending resulting from a measure previously passed by the House, or one to be considered subsequently by the House, cannot be used to offset a mandatory spending increase due to provisions in a measure currently under consideration.

The rule provides one exception to this measure-by-measure application: Under clause 10(b) of House Rule XXI, savings from a previously passed measure may be included in determining a separate measure's CUTGO compliance if a special rule provides that the two measures are to be combined upon engrossment (i.e., combined into a single bill before being sent to the Senate).[13]

The House CUTGO rule exempts provisions designated as emergencies. Under clause 10(c) of House Rule XXI, a determination as to whether legislation increases mandatory spending shall exclude any "provision expressly designated as an emergency for the Statutory Pay-As-You-Go

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9 See, for example, *Congressional Record*, daily edition, vol. 164 (May 24, 2018), pp. H4722-H4721, in which the presiding officer, in ruling on a point of order under the CUTGO rule, stated the following: "Pursuant to clause 10 of rule XXI and clause 4 of rule XXIX, the Chair is authoritatively guided by estimates from the chair of the Committee on the Budget." While the CUTGO rule does not explicitly address the basis of such determinations, the use of Budget Committee estimates is consistent with other budget-related rules. For example, estimates by the Budget Committee must be used to determine any violations of the enforcement rules associated with the budget resolution (see Section 312 of the Congressional Budget Act). Clause 4 of House Rule XXIX, which was added at the beginning of the 112th Congress, provides that the chair of the Budget Committee may provide "authoritative guidance" on the budgetary impact of legislation on the committee's behalf.

10 CBO prepares cost estimates consistent with Section 257 of the Deficit Control Act (codified at 2 U.S.C. §907), which sets forth rules for calculating baseline levels of mandatory spending (as well as revenues and discretionary spending), and certain scorekeeping guidelines. For further information on CBO cost estimates, see CBO, *How CBO Prepares Cost Estimates* (February 2018), and CBO, *CBO Explains Budgetary Scorekeeping Guidelines* (January 2021).

11 Like other budget rules, the House CUTGO rule applies to new legislation only. That is, it does not apply to mandatory spending increases that occur under existing law. For example, if mandatory spending increases because more individuals qualify for benefits under existing law, the associated increase in mandatory spending is not counted for CUTGO purposes.

12 A bill or conference report is evaluated as to its budgetary effects in relation to existing law (i.e., in relation to budget baseline projections). However, an amendment is evaluated in relation to the measure it is proposing to change. That is, if the underlying measure is estimated to reduce mandatory spending by $250 million over both periods, then an amendment complies with the CUTGO rule *only* if the measure as amended by the amendment also has the net effect of reducing mandatory spending *by at least* $250 million over both periods. See, for example, *Congressional Record*, daily edition, vol. 157 (January 26, 2011), pp. H494-H406, in which the chair sustained a point of order under the CUTGO rule against an amendment because it "would increase mandatory spending over a relevant period *as compared to the bill*" (emphasis added).

13 See, for example, House action on H.R. 1229 and H.R. 1230 (112th Congress). CBO estimated that H.R. 1229 would increase mandatory spending by $6 million over the six-year period (FY2012-FY2016), and H.R. 1230 would reduce mandatory spending by $25 million over the same six-year period. The House considered the bills separately under a special rule (H.Res. 245) that directed the House Clerk, in the engrossment of H.R. 1229, to add at the end of the bill the text of H.R. 1230, as passed by the House. In other words, in accordance with clause 10(b) of Rule XXI, the mandatory spending increase in H.R. 1229 was offset by the mandatory spending decrease in H.R. 1230, complying with the CUTGO rule. For the estimated mandatory effects, see CBO cost estimate, *H.R. 1229, Putting the Gulf of Mexico Back to Work Act, As ordered reported by the House Committee on Natural Resources on April 13, 2011* (dated April 27, 2011); and CBO cost estimate, *H.R. 1230, Restarting American Offshore Leasing Now Act, As ordered reported by the House Committee on Natural Resources on April 13, 2011* (dated April 28, 2011).

[PAYGO] Act of 2010."[14] If legislation contains such a designation, under provisions of the Statutory PAYGO Act, the chair must put the question of consideration to the full House prior to its consideration.[15] That is, the House must vote on whether or not to consider the legislation, even though all or certain budgetary effects would be exempt from the House CUTGO rule. If the question is decided in the affirmative (by simple majority), then the legislation may be considered. Alternatively, if the question is decided in the negative, then the legislation may not be considered.

The House CUTGO rule is enforced by a point of order to prevent the consideration of legislation that does not meet the requirement. If legislation brought up on the House floor violates the rule (i.e., would result in a net increase in mandatory spending in either of the two fiscal-year periods), a Member may raise a point of order against it. If the point of order is sustained, the legislation may not be considered. (In the case of an amendment, the amendment falls.)[16] The House rule, however, is not self-enforcing: A Member must raise the point of order to enforce it. In addition, the House rule may be waived by a special rule reported by the House Rules Committee and agreed to by the House by majority vote, by considering the legislation under the suspension of the rules procedures, or by unanimous consent.

Finally, the House CUTGO rule, as part of the standing rules of the House, is effective for the current Congress for which it is adopted.

Legislative History of Clause 10 of House Rule XXI

Clause 10 was first added to House Standing Rule XXI at the beginning of the 110th Congress as the PAYGO (or pay-as-you-go) rule. It was modified at the beginning of the 111th Congress as part of the opening-day rules package and again in the second session of the 111th Congress as part of a special rule providing for the consideration of an unrelated measure. In addition, its application to certain legislation was modified during the first session of the 111th Congress as part of the FY2010 budget resolution (S.Con.Res. 13).

At the beginning of the 112th Congress, clause 10 of Rule XXI was amended to establish the CUTGO rule, replacing the PAYGO rule. The CUTGO rule existed without change through the 115th Congress. At the beginning of the 116th Congress, the PAYGO rule was reinstituted with certain modifications, again as clause 10 of Rule XXI. Most recently, at the beginning of the 118th Congress, clause 10 of Rule XXI was once again amended to re-establish the CUTGO rule exactly as it existed during the 112th-115th Congresses.

[14] The exemption applies to an emergency designation contained in a bill or joint resolution, an amendment made in order as original text by a special rule, a conference report, or an amendment between the houses. Notably, this exemption does not apply to emergency designations contained in other types of amendments, such as floor amendments.

[15] Section 4(g)(2) of the Statutory PAYGO Act (codified at 2 U.S.C. §933(g)(2)). See, for example, *Congressional Record*, daily edition, vol. 163 (December 21, 2017), p. H10364, in which the Speaker pro tempore put the question of consideration to the House prior to the consideration of H.R. 4667 because it contained such emergency designation. The question was decided in the affirmative by voice vote.

[16] Under the House rule, as noted above, the presiding officer is required to make the determination as to the effect on mandatory spending on the basis of estimates made by the Committee on the Budget.

Actions in the 110th Congress

Even before the 110th Congress began, the new Democratic leadership in both chambers indicated an intention to "restore" PAYGO rules.[17] Accordingly, the House adopted its own PAYGO rule as part of its opening-day rules package.[18]

The original House PAYGO rule generally prohibited the consideration of legislation affecting direct spending and revenues that was projected to increase the deficit or reduce the surplus over a six-year and an 11-year period.[19] In this original form, the rule counted both on-budget and off-budget entities (such as Social Security) in determining the effect on the deficit (referred to as the *unified budget deficit*). The rule also directed the Budget Committee to use certain baseline estimates in determining the budgetary effects of legislation, based on when the House considered the budget resolution, as follows:

- *After the beginning of a new calendar year but before the consideration of a budget resolution*, the Budget Committee was to use the most recent baseline estimates supplied by CBO.
- *After the consideration of the budget resolution*, the Budget Committee was to use the most recent baseline estimates supplied by CBO used in considering the budget resolution.

[17] By "restore," the leadership was presumably referring to the statutory PAYGO rules first enacted as part of the Budget Enforcement Act (BEA) of 1990 and extended in 1993 and 1997. See, for example, Steven T. Dennis, "Democrats' First 100 Hours: Costly AMT Rewrite an Opening Challenge to Anti-Deficit Goals," *CQ Weekly*, November 20, 2006, p. 3107. Under the BEA's statutory PAYGO requirement, the projected net effect of new direct spending and revenue legislation enacted during each session of Congress could not cause a positive balance (reflecting an increase in the deficit or a reduction in the surplus) on a multiyear PAYGO "scorecard." For each fiscal year, covering a rolling six-year period, this scorecard maintained the balances of the accumulated budgetary effects of laws enacted during the session and prior years. The statutory PAYGO requirement was enforced by sequestration, which involved automatic, largely across-the-board spending cuts in non-exempt programs. This statutory PAYGO requirement effectively expired at the end of FY2002 (i.e., September 30, 2002). For more information, see archived CRS Report R41005, *The Statutory PAYGO Process for Budget Enforcement: 1991-2002*, available to congressional clients from the author upon request. At the beginning of 2010, a similar statutory PAYGO requirement was enacted. For additional information on the statutory PAYGO requirement, see CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*.

[18] On the opening day of the 110th Congress, January 4, 2007, the House agreed to H.Res. 5, which provided for the consideration of H.Res. 6 (i.e., the opening-day rules package) and divided the question of adopting the resolution into five parts, each part consisting of one of its five titles. Title IV, entitled "Fiscal Responsibility," included Section 405, which amended House Rule XXI by adding a new clause 10 to establish the new House PAYGO rule. On January 5, the House adopted Title IV of H.Res. 6 by a vote of 280-152. For the consideration and adoption of Title IV of H.Res. 6, see *Congressional Record*, daily edition, vol. 153 (January 5, 2007), pp. H69-H83.

[19] Notably, in its original form, the House PAYGO rule did not count any direct spending contained in an appropriations act. That is, new direct spending could be provided in an appropriations act without violating the PAYGO rule even if it increased the deficit. See, for example, the consideration of a House amendment to a Senate amendment to H.R. 2642, Supplemental Appropriations Act, 2008, during which the Speaker pro tempore did not sustain a point of order raised under the House PAYGO rule on the basis that "the budget authority portended by the [House amendment] does not constitute 'direct spending' [as defined in Section 250 of the Deficit Control Act], and by extension, the Chair finds that the [House amendment] does not affect direct spending for purposes of clause 10 of rule XXI." *Congressional Record*, daily edition, vol. 154 (May 15, 2008), p. H3934. Based on unpublished CBO data, the legislation, as amended, was estimated to increase direct spending by $35.0 billion and $66.1 billion over the applicable six-year and 11-year periods, respectively. When combined with the estimated revenue increases in the legislation, it was estimated to increase the deficit by $11.8 billion and $10.4 billion over the same periods, respectively. Unpublished CBO data available to congressional clients from the author upon request.

Lastly, the original rule provided no explicit exemptions, such as those adopted in the following Congress (111th).[20]

Actions in the 111th Congress

At the beginning of the 111th Congress, following the customary practice, the House adopted its rules by adopting the preceding Congress's rules, including the House PAYGO rule, with certain amendments.[21]

Three changes were made to the PAYGO rule.[22] First, the rule was modified to require the Budget Committee to use baseline estimates supplied by CBO, replacing the particular baseline estimates specified in the original rule. Second, a provision was added to the rule to allow for an exception to its measure-by-measure application. Under this exception, which is also included in the current CUTGO rule, the budgetary effects of a House-passed bill may be used to determine compliance with the PAYGO requirement of a separate measure if a special rule provides that the two measures are to be combined upon engrossment. Lastly, the rule was amended to exempt provisions designated as emergencies and to provide for a question of consideration for legislation containing such a designation.

Later in the 111th Congress, during the second session, the House further amended clause 10 of Rule XXI to generally align the House PAYGO rule with the Statutory Pay-As-You-Go Act of 2010, which was enacted earlier in the year.[23] The changes were included in Section 5 of H.Res. 1500, a special rule providing for the consideration of an unrelated measure.[24]

The changes largely related to scoring issues—what budgetary effects would count and not count for purposes of determining if legislation increased the deficit (or reduced the surplus). First, the rule was amended to focus on the "on-budget deficit," excluding any "off-budget" effects, such as those affecting the Social Security trust funds. Second, the rule was amended to require that determinations of the budgetary effects of legislation were consistent with the Statutory PAYGO Act. Specifically, the following scoring requirements were incorporated into the House PAYGO rule.

Included in estimates:

- budgetary effects resulting from "outyear modifications" of direct spending laws contained in appropriations acts.

Excluded from estimates:

- budgetary effects due to "timing shifts" from inside to outside the 11-year period covered by the PAYGO rule; and

[20] The original rule, as is the case with the current rule, could be waived by a special rule reported by the House Rules Committee and agreed to by the House by majority vote, by considering the legislation under the suspension of the rules procedures, or by unanimous consent.

[21] On January 6, 2009, the House agreed to H.Res. 5, adopting the standing rules for the 111th Congress, by a vote of 242-181. For the consideration and adoption of H.Res. 5, see *Congressional Record*, daily edition, vol. 155 (January 6, 2009), pp. H6-H20.

[22] For an explanation of these changes by the majority staff of the House Committee on Rules, see *Congressional Record*, daily edition, vol. 155 (January 6, 2009), pp. H11-H12.

[23] Title I of P.L. 111-139, enacted on February 12, 2010 (codified at 2 U.S.C. §§931-939).

[24] The House agreed to H.Res. 1500 on July 1, 2010, by a vote of 215-210. For the consideration of H.Res. 1500, see *Congressional Record*, daily edition, vol. 156 (July 1, 2010), pp. H5342-H5356.

- budgetary effects resulting from legislation extending current policy (referred to as "adjustments for current policies"), which were scheduled by statute to expire at the time, in four areas: (1) Medicare payments to physicians, (2) the estate and gift tax, (3) the alternative minimum tax, and (4) middle-class tax cuts.

Actions in the 112th Congress

At the beginning of the 112th Congress, in adopting the rules of the House, the new Republican majority replaced the PAYGO rule with a new CUTGO rule.[25] In general, the CUTGO rule focused on the net effect on mandatory spending only, excluding any effects on revenues. Specifically, the rule prohibited the consideration of any legislation that would have the net effect of increasing mandatory spending over the same six- and 11-year periods as the previous PAYGO rule.

The most notable change from the previous PAYGO rule was the exclusion of any estimated revenue effects. As a result, under the new CUTGO rule, the House could consider legislation reducing revenues, regardless of whether it would increase the projected deficit, without being vulnerable to the respective point of order. In addition, any estimated increase in mandatory spending could not be offset by an increase in revenues in order to comply with the rule.

The CUTGO rule included three other changes from the previous PAYGO rule:

1. The rule did not restrict its focus to *on-budget* accounts. That is, the CUTGO rule included both on-budget mandatory spending and off-budget mandatory spending, such as Social Security benefits.
2. The rule did not continue the "adjustments for current policies," as provided in the Statutory PAYGO Act.[26] It is worth noting that these statutory adjustments were set to expire at the end of 2011 and were not extended.
3. The rule did not indicate what estimates, and baseline projections, were to be used in determining compliance. That is, it eliminated the explicit requirement that compliance was to be based on estimates provided by the Budget Committee using baseline projections supplied by CBO, consistent with Section 257 of the Deficit Control Act.[27]

Other than these changes, the CUTGO rule generally retained the procedures related to the operation of the previous PAYGO rule. For example, the budgetary effects designated as emergency requirements under the Statutory PAYGO Act were excluded and, by reference to that act, also required a vote on the question of consideration, as described above.[28]

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[25] On the opening day of the 112th Congress, January 5, 2011, the House agreed to H.Res. 5 (i.e., the opening-day rules package) by a vote of 240-191. For the consideration and adoption of H.Res. 5, including a section-by-section analysis of the changes by the majority staff of the House Rules Committee, see *Congressional Record*, daily edition, vol. 157 (January 5, 2011), pp. H7-H27.

[26] See Section 7 of the Statutory PAYGO Act (2 U.S.C. §936).

[27] However, the lack of any explicit directive in the new rule did not appear to result in any changes to the practice of determining compliance on the basis of estimates provided by the Budget Committee. For further information, see the "Features of the House CUTGO Rule" section, above—particularly footnote 9.

[28] The CUTGO rule excluded such budgetary effects by reference to the Statutory PAYGO Act. This reference, according to the House Parliamentarian, covered an emergency designation in "a PAYGO bill and a proposal to insert such a designation into a PAYGO bill" and "amendments between the Houses." U.S. Congress, House, *Deschler-Brown-Johnson-Sullivan Precedents of the U.S. House of Representatives*, 94th Cong., February 8, 2013, H.Doc. 94-661 (Washington: GPO, 2013), ch. 41, §§22 and 23.1, pp. 318-319.

The CUTGO rule was renewed, without change, in each subsequent Congress through the 115th Congress (i.e., through 2018).

Actions in the 116th Congress

At the beginning of the 116th Congress, in adopting the rules of the House, the new Democratic majority reinstituted the PAYGO rule, replacing the previous CUTGO rule.[29] Most significantly, the PAYGO rule reincorporated the estimated revenue effects of legislation into the evaluation of determining a violation. This PAYGO rule, however, was not exactly the same PAYGO rule that existed at the end of the 111th Congress. In particular, unlike the previous PAYGO rule, it included *off-budget* effects, such as those that affect the receipts and outlays of the Social Security trust funds.[30]

In general, other than these changes, this modified PAYGO rule retained the procedures related to the operation of the former CUTGO and PAYGO rules. For example, the modified PAYGO rule continued to provide for combining the budgetary effects of two measures, under particular circumstances, and for excluding budgetary effects designated as emergencies, as described above.

The PAYGO rule was renewed, without change, in the following 117th Congress (i.e., through 2022).

Actions in the 118th Congress

At the beginning of the 118th Congress, in adopting the rules of the House, the new Republican majority amended clause 10 of Rule XXI to re-establish the CUTGO rule, replacing the previous PAYGO rule.[31] Notably, the re-established CUTGO rule is exactly the same as the rule that was first established in the 112th Congress and continued through the 115th Congress.

For further information on the current CUTGO rule, see the "Features of the House CUTGO Rule" section above.

[29] On the opening day of the 116th Congress, January 3, 2019, the House agreed to H.Res. 5, which provided for the consideration of H.Res. 6 (i.e., the opening-day rules package) and divided the question of adopting the resolution into three parts, each part consisting of one of its three titles. The first title adopted the standing rules of the 115th Congress, with certain amendments, which included amending clause 10 of House Rule XXI to replace the CUTGO rule with the modified PAYGO rule. On January 3, the House agreed to Title I of H.Res. 6 by a vote of 234-197. For the consideration and adoption of Title I of H.Res. 6, including a section-by-section analysis of the changes by the majority staff of the House Rules Committee, see *Congressional Record*, daily edition, vol. 165 (January 3, 2019), pp. H17-H32.

[30] The CUTGO rule, as noted above, also includes off-budget accounts.

[31] On January 9, 2023, the House agreed to H.Res. 5 (i.e., the House rules package for the new Congress) by a vote of 220-213. For the consideration and adoption of H.Res. 5, including a section-by-section analysis of its provisions by the majority staff of the House Rules Committee, see *Congressional Record*, daily edition, vol. 169 (January 9, 2023), pp. H51-H72.

Appendix. Text of House Rule XXI, Clause 10

CUTGO Rule—Current Rule (118th Congress)

10. (a)(1) Except as provided in paragraphs (b) and (c), it shall not be in order to consider a bill or joint resolution, or an amendment thereto, or a conference report thereon if the provisions of such measure have the net effect of increasing mandatory spending for the period of either—

(A) the current fiscal year, the budget year, and the four fiscal years following that budget year; or

(B) the current fiscal year, the budget year, and the nine fiscal years following that budget year.

(2) For purposes of this clause, the terms 'budget year' and 'current year' have the meanings specified in section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the term 'mandatory spending' has the meaning of 'direct spending' specified in such section 250 except that such term shall also include provisions in appropriation Acts that make outyear modifications to substantive law as described in section 3(4)(C) of the Statutory Pay-As-You-Go Act of 2010.

(b) If a bill or joint resolution, or an amendment thereto, is considered pursuant to a special order of the House directing the Clerk to add as new matter at the end of such bill or joint resolution the entire text of a separate measure or measures as passed by the House, the new matter proposed to be added shall be included in the evaluation under paragraph (a) of the bill, joint resolution, or amendment.

(c)(1) Except as provided in subparagraph (2), the evaluation under paragraph (a) shall exclude a provision expressly designated as an emergency for the Statutory Pay-As-You-Go Act of 2010, in the case of a point of order under this clause against consideration of—

(A) a bill or joint resolution;

(B) an amendment made in order as original text by a special order of business;

(C) a conference report; or

(D) an amendment between the Houses.

(2) In the case of an amendment (other than one specified in subparagraph (1)) to a bill or joint resolution, the evaluation under paragraph (a) shall give no cognizance to any designation of emergency.

PAYGO Rule—Previous Text (117th Congress)

10. (a)(1) Except as provided in paragraphs (b) and (c), it shall not be in order to consider any bill, joint resolution, amendment, or conference report if the provisions of such measure affecting direct spending and revenues have the net effect of increasing the deficit or reducing the surplus for either the period comprising—

(A) the current fiscal year, the budget year, and the four fiscal years following that budget year; or

(B) the current fiscal year, the budget year, and the nine fiscal years following that budget year.

(2) The effect of such measure on the deficit or surplus shall be determined on the basis of estimates made by the Committee on the Budget relative to baseline estimates supplied by the Congressional Budget Office consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) If a bill, joint resolution, or amendment is considered pursuant to a special order of the House directing the Clerk to add as new matter at the end of such measure the provisions of a separate measure as passed by the House, the provisions of such separate measure as passed by the House shall be included in the evaluation under paragraph (a) of the bill, joint resolution, or amendment.

(c)(1) Except as provided in subparagraph (2), the evaluation under paragraph (a) shall exclude a provision expressly designated as an emergency for purposes of pay-as-you-go principles in the case of a point of order under this clause against consideration of—

(A) a bill or joint resolution;

(B) an amendment made in order as original text by a special order of business;

(C) a conference report; or

(D) an amendment between the Houses.

(2) In the case of an amendment (other than one specified in subparagraph (1)) to a bill or joint resolution, the evaluation under paragraph (a) shall give no cognizance to any designation of emergency.

(3) If a bill, joint resolution, an amendment made in order as original text by a special order of business, a conference report, or an amendment between the Houses includes a provision expressly designated as an emergency for purposes of pay-as-you-go principles, the Chair shall put the question of consideration with respect thereto.

(d) For the purpose of this clause, the terms "budget year" and "current year" have the meanings specified in section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the term "direct spending" has the meaning specified in such section 250 except that such term shall also include provisions in appropriations Acts that make outyear modifications to substantive law as described in section 3(4)(C) of the Statutory Pay-As-You-Go Act of 2010.

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