

111TH CONGRESS  
1ST SESSION

# H. R. 3961

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## AN ACT

To amend title XVIII of the Social Security Act to reform the Medicare SGR payment system for physicians and to reinstitute and update the Pay-As-You-Go requirement of budget neutrality on new tax and mandatory spending legislation, enforced by the threat of annual, automatic sequestration.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **DIVISION A—MEDICARE PHYSI-**  
 4 **CIAN PAYMENT REFORM ACT**  
 5 **OF 2009**

6 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

7 (a) SHORT TITLE.—This division may be cited as the  
 8 “Medicare Physician Payment Reform Act of 2009”.

9 (b) TABLE OF CONTENTS.—The table of contents for  
 10 this Act is as follows:

DIVISION A—MEDICARE PHYSICIAN PAYMENT REFORM ACT OF  
 2009

Sec. 1. Short title; table of contents.  
 Sec. 2. Medicare sustainable growth rate reform.

DIVISION B—STATUTORY PAY-AS-YOU-GO ACT OF 2009

Sec. 101. Short Title.  
 Sec. 102. Purpose.  
 Sec. 103. Definitions.  
 Sec. 104. PAYGO estimates and PAYGO scorecards.  
 Sec. 105. Annual report and sequestration order.  
 Sec. 106. Calculating a sequestration.  
 Sec. 107. Current policy adjustment to the CBO estimates.  
 Sec. 108. Application of BBEDCA.  
 Sec. 109. Technical corrections.  
 Sec. 110. Conforming amendments.  
 Sec. 111. Exempt programs and activities.

11 **SEC. 2. MEDICARE SUSTAINABLE GROWTH RATE REFORM.**

12 (a) TRANSITIONAL UPDATE FOR 2010.—Section  
 13 1848(d) of the Social Security Act (42 U.S.C. 1395w–  
 14 4(d)) is amended by adding at the end the following new  
 15 paragraph:

16 “(10) UPDATE FOR 2010.—The update to the  
 17 single conversion factor established in paragraph

1       (1)(C) for 2010 shall be the percentage increase in  
 2       the MEI (as defined in section 1842(i)(3)) for that  
 3       year.”.

4       (b) REBASING SGR USING 2009; LIMITATION ON  
 5 CUMULATIVE ADJUSTMENT PERIOD.—Section 1848(d)(4)  
 6 of such Act (42 U.S.C. 1395w–4(d)(4)) is amended—

7           (1) in subparagraph (B), by striking “subpara-  
 8       graph (D)” and inserting “subparagraphs (D) and  
 9       (G)”; and

10          (2) by adding at the end the following new sub-  
 11       paragraph:

12           “(G) REBASING USING 2009 FOR FUTURE  
 13       UPDATE ADJUSTMENTS.—In determining the  
 14       update adjustment factor under subparagraph  
 15       (B) for 2011 and subsequent years—

16           “(i) the allowed expenditures for 2009  
 17       shall be equal to the amount of the actual  
 18       expenditures for physicians’ services during  
 19       2009; and

20           “(ii) the reference in subparagraph  
 21       (B)(ii)(I) to ‘April 1, 1996’ shall be treat-  
 22       ed as a reference to ‘January 1, 2009 (or,  
 23       if later, the first day of the fifth year be-  
 24       fore the year involved)’.”.

1       (c) LIMITATION ON PHYSICIANS' SERVICES IN-  
 2 CLUDED IN TARGET GROWTH RATE COMPUTATION TO  
 3 SERVICES COVERED UNDER PHYSICIAN FEE SCHED-  
 4 ULE.—Effective for services furnished on or after January  
 5 1, 2009, section 1848(f)(4)(A) of such Act is amended by  
 6 striking “(such as clinical” and all that follows through  
 7 “in a physician’s office” and inserting “for which payment  
 8 under this part is made under the fee schedule under this  
 9 section, for services for practitioners described in section  
 10 1842(b)(18)(C) on a basis related to such fee schedule,  
 11 or for services described in section 1861(p) (other than  
 12 such services when furnished in the facility of a provider  
 13 of services)’’.

14       (d) ESTABLISHMENT OF SEPARATE TARGET  
 15 GROWTH RATES FOR CATEGORIES OF SERVICES.—

16           (1) ESTABLISHMENT OF SERVICE CAT-  
 17 EGORIES.—Subsection (j) of section 1848 of the So-  
 18 cial Security Act (42 U.S.C. 1395w–4) is amended  
 19 by adding at the end the following new paragraph:  
 20           “(5) SERVICE CATEGORIES.—For services fur-  
 21 nished on or after January 1, 2009, each of the fol-  
 22 lowing categories of physicians’ services (as defined  
 23 in paragraph (3)) shall be treated as a separate  
 24 ‘service category’:

“(A) Evaluation and management services that are procedure codes (for services covered under this title) for—

“(i) services in the category designated Evaluation and Management in the Health Care Common Procedure Coding System (established by the Secretary under subsection (c)(5) as of December 31, 2009, and as subsequently modified by the Secretary); and

“(ii) preventive services (as defined in section 1861(iii)) for which payment is made under this section.

“(B) All other services not described in subparagraph (A).

Service categories established under this paragraph shall apply without regard to the specialty of the physician furnishing the service.”.

(2) ESTABLISHMENT OF SEPARATE CONVERSION FACTORS FOR EACH SERVICE CATEGORY.—

Subsection (d)(1) of section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(A) in subparagraph (A)—

(i) by designating the sentence beginning “The conversion factor” as clause (i)

1 with the heading “APPLICATION OF SIN-  
2 GLE CONVERSION FACTOR.—” and with  
3 appropriate indentation;

4 (ii) by striking “The conversion fac-  
5 tor” and inserting “Subject to clause (ii),  
6 the conversion factor”; and

7 (iii) by adding at the end the fol-  
8 lowing new clause:

9 “(ii) APPLICATION OF MULTIPLE CON-  
10 VERSION FACTORS BEGINNING WITH  
11 2011.—

12 “(I) IN GENERAL.—In applying  
13 clause (i) for years beginning with  
14 2011, separate conversion factors  
15 shall be established for each service  
16 category of physicians’ services (as de-  
17 fined in subsection (j)(5)) and any  
18 reference in this section to a conver-  
19 sion factor for such years shall be  
20 deemed to be a reference to the con-  
21 version factor for each of such cat-  
22 egories.

23 “(II) INITIAL CONVERSION FAC-  
24 TORS.—Such factors for 2011 shall be  
25 based upon the single conversion fac-

tor for the previous year multiplied by the update established under paragraph (11) for such category for 2011.

“(III) UPDATING OF CONVERSION FACTORS.—Such factor for a service category for a subsequent year shall be based upon the conversion factor for such category for the previous year and adjusted by the update established for such category under paragraph (11) for the year involved.”; and

(B) in subparagraph (D), by striking “other physicians’ services” and inserting “for physicians’ services described in the service category described in subsection (j)(5)(B)”.

(3) ESTABLISHING UPDATES FOR CONVERSION FACTORS FOR SERVICE CATEGORIES.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w-4(d)), as amended by subsection (a), is amended—

(A) in paragraph (4)(C)(iii), by striking “The allowed” and inserting “Subject to paragraph (11)(B), the allowed”; and

1 (B) by adding at the end the following new  
2 paragraph:

3 “(11) UPDATES FOR SERVICE CATEGORIES BE-  
4 GINNING WITH 2011.—

5 “(A) IN GENERAL.—In applying paragraph  
6 (4) for a year beginning with 2011, the fol-  
7 lowing rules apply:

8 “(i) APPLICATION OF SEPARATE UP-  
9 DATE ADJUSTMENTS FOR EACH SERVICE  
10 CATEGORY.—Pursuant to paragraph  
11 (1)(A)(ii)(I), the update shall be made to  
12 the conversion factor for each service cat-  
13 egory (as defined in subsection (j)(5))  
14 based upon an update adjustment factor  
15 for the respective category and year and  
16 the update adjustment factor shall be com-  
17 puted, for a year, separately for each serv-  
18 ice category.

19 “(ii) COMPUTATION OF ALLOWED AND  
20 ACTUAL EXPENDITURES BASED ON SERV-  
21 ICE CATEGORIES.—In computing the prior  
22 year adjustment component and the cumu-  
23 lative adjustment component under clauses  
24 (i) and (ii) of paragraph (4)(B), the fol-  
25 lowing rules apply:



1 “(I) APPLICATION BASED ON  
 2 SERVICE CATEGORIES.—The allowed  
 3 expenditures and actual expenditures  
 4 shall be the allowed and actual ex-  
 5 penditures for the service category, as  
 6 determined under subparagraph (B).

7 “(II) APPLICATION OF CATEGORY  
 8 SPECIFIC TARGET GROWTH RATE.—  
 9 The growth rate applied under clause  
 10 (ii)(II) of such paragraph shall be the  
 11 target growth rate for the service cat-  
 12 egory involved under subsection (f)(5).

13 “(B) DETERMINATION OF ALLOWED EX-  
 14 PENDITURES.—In applying paragraph (4) for a  
 15 year beginning with 2010, notwithstanding sub-  
 16 paragraph (C)(iii) of such paragraph, the al-  
 17 lowed expenditures for a service category for a  
 18 year is an amount computed by the Secretary  
 19 as follows:

20 “(i) FOR 2010.—For 2010:

21 “(I) TOTAL 2009 ACTUAL EX-  
 22 PENDITURES FOR ALL SERVICES IN-  
 23 CLUDED IN SGR COMPUTATION FOR  
 24 EACH SERVICE CATEGORY.—Compute  
 25 total actual expenditures for physi-

1           cians’ services (as defined in sub-  
 2           section (f)(4)(A)) for 2009 for each  
 3           service category.

4                   “(II) INCREASE BY GROWTH  
 5           RATE TO OBTAIN 2010 ALLOWED EX-  
 6           PENDITURES FOR SERVICE CAT-  
 7           EGORY.—Compute allowed expendi-  
 8           tures for the service category for 2010  
 9           by increasing the allowed expenditures  
 10          for the service category for 2009 com-  
 11          puted under subclause (I) by the tar-  
 12          get growth rate for such service cat-  
 13          egory under subsection (f) for 2010.

14                   “(ii) FOR SUBSEQUENT YEARS.—For  
 15          a subsequent year, take the amount of al-  
 16          lowed expenditures for such category for  
 17          the preceding year (under clause (i) or this  
 18          clause) and increase it by the target  
 19          growth rate determined under subsection  
 20          (f) for such category and year.”.

21                   (4) APPLICATION OF SEPARATE TARGET  
 22          GROWTH RATES FOR EACH CATEGORY.—

23                   (A) IN GENERAL.—Section 1848(f) of the  
 24          Social Security Act (42 U.S.C. 1395w–4(f)) is

1           amended by adding at the end the following  
2           new paragraph:

3           “(5) APPLICATION OF SEPARATE TARGET  
4           GROWTH RATES FOR EACH SERVICE CATEGORY BE-  
5           GINNING WITH 2010.—The target growth rate for a  
6           year beginning with 2010 shall be computed and ap-  
7           plied separately under this subsection for each serv-  
8           ice category (as defined in subsection (j)(5)) and  
9           shall be computed using the same method for com-  
10          puting the target growth rate except that the factor  
11          described in paragraph (2)(C) for—

12                 “(A) the service category described in sub-  
13                 section (j)(5)(A) shall be increased by 0.02; and

14                 “(B) the service category described in sub-  
15                 section (j)(5)(B) shall be increased by 0.01.”.

16           (B) USE OF TARGET GROWTH RATES.—  
17          Section 1848 of such Act is further amended—

18                 (i) in subsection (d)—

19                         (I) in paragraph (1)(E)(ii), by in-  
20                         serting “or target” after “sustain-  
21                         able”; and

22                         (II) in paragraph (4)(B)(ii)(II),  
23                         by inserting “or target” after “sus-  
24                         tainable”;

1 (ii) in the heading of subsection (f),  
2 by inserting “AND TARGET GROWTH  
3 RATE” after “SUSTAINABLE GROWTH  
4 RATE”;

5 (iii) in subsection (f)(1)—

6 (I) by striking “and” at the end  
7 of subparagraph (A);

8 (II) in subparagraph (B), by in-  
9 serting “before 2010” after “each  
10 succeeding year” and by striking the  
11 period at the end and inserting “;  
12 and”; and

13 (III) by adding at the end the  
14 following new subparagraph:

15 “(C) November 1 of each succeeding year  
16 the target growth rate for such succeeding year  
17 and each of the 2 preceding years.”; and

18 (iv) in subsection (f)(2), in the matter  
19 before subparagraph (A), by inserting after  
20 “beginning with 2000” the following: “and  
21 ending with 2009”.

22 (e) APPLICATION TO HEALTH CARE GROUP DEM-  
23 ONSTRATION PROGRAM AND SUCCESSOR ACCOUNTABLE  
24 CARE ORGANIZATION PILOT PROGRAM.—In applying the  
25 target growth rate under subsections (d) and (f) of section

1 1848 of the Social Security Act to services furnished by  
2 a practitioner to beneficiaries who are attributable to a  
3 health care group under the demonstration program pro-  
4 vided under section 1886A of such Act (or to an account-  
5 able care organization under a pilot program that is a  
6 successor to such demonstration program under a section  
7 of such Act), the Secretary of Health and Human Services  
8 shall develop, not later than January 1, 2012, for applica-  
9 tion beginning with 2012, a method that—

10 (1) allows each such group or organization to  
11 have its own expenditure targets and updates for  
12 such practitioners, with respect to beneficiaries who  
13 are attributable to that group or organization, that  
14 are consistent with the methodologies described in  
15 such subsection (f); and

16 (2) provides that the target growth rate appli-  
17 cable to other physicians shall not apply to such  
18 physicians to the extent that the physicians' services  
19 are furnished through the group or organization.

20 In applying paragraph (1), the Secretary of Health and  
21 Human Services may apply the difference in the update  
22 under such paragraph on a claim-by-claim or lump sum  
23 basis and such a payment shall be taken into account  
24 under the demonstration or pilot program.

1     **DIVISION B—STATUTORY PAY-**  
2             **AS-YOU-GO ACT OF 2009**

3     **SEC. 101. SHORT TITLE.**

4             This division may be cited as the “Statutory Pay-As-  
5     You-Go Act of 2009”.

6     **SEC. 102. PURPOSE.**

7             The purpose of this division is to reestablish a statu-  
8     tory procedure to enforce a rule of budget neutrality on  
9     new revenue and direct spending legislation.

10    **SEC. 103. DEFINITIONS.**

11            As used in this division—

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

14                (2) The definitions set forth in section 3 of the  
15     Congressional Budget and Impoundment Control  
16     Act of 1974 and in section 250 of BBEDCA shall  
17     apply to this division, except to the extent that they  
18     are specifically modified as follows:

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

22                    (B) In section 250(c)(8)(C), the reference  
23     to the food stamp program shall be deemed to  
24     be a reference to the Supplemental Nutrition  
25     Assistance Program.

1           (3) The term “AMT” means the Alternative  
2       Minimum Tax for individuals under sections 55–59  
3       of the Internal Revenue Code of 1986, the term  
4       “EGTRRA” means the Economic Growth and Tax  
5       Relief Reconciliation Act of 2001 (Public Law 107–  
6       16), and the term “JGTRRA” means the Jobs and  
7       Growth Tax Relief and Reconciliation Act of 2003  
8       (Public Law 108–27).

9           (4)(A) The term “budgetary effects” means the  
10      amounts by which PAYGO legislation changes direct  
11      spending or revenues relative to the baseline and  
12      shall be determined on the basis of estimates in-  
13      cluded by reference in the PAYGO Act or prepared  
14      under section 104(d)(3), as applicable. Budgetary  
15      effects that increase direct spending or decrease rev-  
16      enues are termed “costs” and budgetary effects that  
17      increase revenues or decrease direct spending are  
18      termed “savings”.

19          (B) For purposes of these definitions, off-budg-  
20      et effects shall be counted as budgetary effects un-  
21      less such changes flow directly from amendments to  
22      title II of the Social Security Act and related provi-  
23      sions of the Internal Revenue Code of 1986 and debt  
24      service effects shall not be counted as budgetary ef-  
25      fects.

1           (C) Solely for purposes of recording entries on  
2           a PAYGO scorecard, provisions in appropriations  
3           Acts are also considered to be budgetary effects for  
4           purposes of this division if such provisions make out-  
5           year modifications to substantive law, except that  
6           provisions for which the outlay effects net to zero  
7           over a period consisting of the current year, the  
8           budget year, and the 4 subsequent years shall not be  
9           considered budgetary effects. For purposes of this  
10          paragraph, the term, “modifications to substantive  
11          law” refers to changes to or restrictions on entitle-  
12          ment law or other mandatory spending contained in  
13          appropriations Acts, notwithstanding section  
14          250(c)(8) of BBEDCA. Provisions in appropriations  
15          Acts that are neither outyear modifications to sub-  
16          stantive law nor changes in revenues have no budg-  
17          etary effects for purposes of this division.

18          (D) If a provision is designated as an emer-  
19          gency requirement under this division and is also  
20          designated as an emergency requirement under the  
21          applicable rules of the House of Representatives,  
22          CBO shall not include the cost of such a provision  
23          in its estimate of the PAYGO legislation’s budgetary  
24          effects.



1           (5) The term “debit” refers to the net total  
2           amount, when positive, by which costs recorded on  
3           the PAYGO scorecards for a fiscal year exceed sav-  
4           ings recorded on those scorecards for that year.

5           (6) The term “entitlement law” refers to a sec-  
6           tion of law which provides entitlement authority.

7           (7) The term “PAYGO legislation” or a  
8           “PAYGO Act” refers to a bill or joint resolution  
9           that affects direct spending or revenue relative to  
10          the baseline. The budgetary effects of changes in  
11          revenues and outyear modifications to substantive  
12          law included in appropriation Acts as defined in  
13          paragraph (4) shall be treated as if they were con-  
14          tained in PAYGO legislation.

15          (8) The term “timing shift” refers to a delay of  
16          the date on which direct spending would otherwise  
17          occur from the ninth outyear to the tenth outyear or  
18          an acceleration of the date on which revenues would  
19          otherwise occur from the tenth outyear to the ninth  
20          outyear.

21 **SEC. 104. PAYGO ESTIMATES AND PAYGO SCORECARDS.**

22          (a) PAYGO ESTIMATES.—(1) A PAYGO Act shall in-  
23          clude by reference an estimate of its budgetary effects as  
24          determined under section 308(a)(3) of the Congressional  
25          Budget Act of 1974, if timely submitted for printing in

1 the Congressional Record by the chairs of the Committees  
2 on the Budget of the House of Representatives and the  
3 Senate, as applicable, before the vote on the PAYGO legis-  
4 lation. The Clerk of the House or the Secretary of the  
5 Senate, as applicable, shall also incorporate by reference  
6 such estimate printed in the relevant portion of the Con-  
7 gressional Record under section 308(a)(3) of the Congres-  
8 sional Budget Act of 1974 into the enrollment of a  
9 PAYGO Act. Budgetary effects that are not so included  
10 shall be determined under section 104(d)(3).

11 (2)(A) Section 308(a) of the Congressional Budget  
12 Act of 1974 is amended by adding at the end the following  
13 new paragraph:

14 “(3) CBO PAYGO ESTIMATES.—Before a vote in  
15 either House on a PAYGO Act that, if determined  
16 in the affirmative, would clear such Act for enroll-  
17 ment, the chairs of the Committees on the Budget  
18 of the House and Senate, as applicable, shall request  
19 from the Director of the Congressional Budget Of-  
20 fice an estimate of the budgetary effects of such Act  
21 under the Statutory Pay-As-You-Go Act of 2009. If  
22 such an estimate is timely provided, the chairs of the  
23 Committees on the Budget of the House of Rep-  
24 resentatives and the Senate shall post such estimate  
25 on their respective committee websites and cause it

1 to be printed in the Congressional Record under the  
2 heading ‘PAYGO ESTIMATE’. For purposes of this  
3 section, the Director of the Congressional Budget  
4 Office shall not count timing shifts in his estimates  
5 of the budgetary effects of PAYGO legislation (as  
6 defined in section 103 of the Statutory Pay-As-You-  
7 Go Act of 2009).”.

8 (B) The side heading of section 308(a) of the Con-  
9 gressional Budget Act of 1974 is amended by striking  
10 “REPORTS ON”.

11 (b) Section 308 of the Congressional Budget Act of  
12 1974 is amended by adding at the end the following new  
13 subsection:

14 “(d) SCOREKEEPING GUIDELINES.—The Director of  
15 the Congressional Budget Office shall provide estimates  
16 under this section in accordance with the scorekeeping  
17 guidelines determined under section 252(d)(5) of the Bal-  
18 anced Budget and Emergency Deficit Control Act of 1985.  
19 Upon agreement, the chairs of the Committees on the  
20 Budget of the House of Representatives and the Senate  
21 shall submit updates to such guidelines for printing in the  
22 Congressional Record.”.

23 (c) CURRENT POLICY ADJUSTMENTS FOR CERTAIN  
24 LEGISLATION.—For purposes of calculating budgetary ef-  
25 fects under this division, CBO shall adjust its estimates

1 as described below for any provision of legislation des-  
2 ignated as meeting the criteria in subsection (b), (c), or  
3 (d) of section 107 and which the chairman of the Com-  
4 mittee on the Budget of the House of Representatives or  
5 the Senate, as applicable, designates as meeting those cri-  
6 teria. A single piece of legislation may contain provisions  
7 designated as meeting criteria in more than one of the  
8 subsections listed above. For appropriately designated pro-  
9 visions, CBO shall exclude from its estimates for purposes  
10 of this division any costs of a provision to the extent that  
11 those costs, when combined with all other excluded costs  
12 of any other previously designated provisions of enacted  
13 legislation under the same subsection of section 107, do  
14 not exceed the maximum applicable current policy adjust-  
15 ment defined under the applicable subsection of section  
16 107 for the applicable 10-year period, using the most re-  
17 cent baseline estimates supplied by the Congressional  
18 Budget Office consistent with section 257 of the Balanced  
19 Budget and Emergency Deficit Control Act of 1985 used  
20 in considering a concurrent resolution on the budget; or,  
21 after the beginning of a new calendar year and before con-  
22 sideration of a concurrent resolution on the budget, using  
23 the most recent baseline estimates supplied by the Con-  
24 gressional Budget Office consistent with section 257 of the  
25 Balanced Budget and Emergency Deficit Control Act of

1 1985. CBO estimates of legislation containing a current  
2 policy designation under this subsection shall include a  
3 separate presentation of costs excluded from the calcula-  
4 tion of budgetary effects for the legislation, as well as an  
5 updated total of all excluded costs of provisions within the  
6 same subsection of section 107.

7 (d) OMB PAYGO SCORECARDS.—

8 (1) IN GENERAL.—OMB shall maintain and  
9 make publicly available a continuously updated docu-  
10 ment containing two PAYGO scorecards displaying  
11 the budgetary effects of PAYGO legislation as deter-  
12 mined under section 308 of the Congressional Budg-  
13 et Act of 1974, applying the look-back requirement  
14 in subsection (e) and the averaging requirement in  
15 subsection (f), and a separate addendum displaying  
16 the estimates of the costs of provisions designated in  
17 statute as emergency requirements.

18 (2) ESTIMATES IN LEGISLATION.—Except as  
19 provided in paragraph (3), in making the calcula-  
20 tions for the PAYGO scorecards, OMB shall use the  
21 budgetary effects included by reference in the appli-  
22 cable legislation.

23 (3) OMB ESTIMATES.—If legislation does not  
24 contain the estimate of budgetary effects under  
25 paragraph (2), then OMB shall score the budgetary

1 effects of that legislation upon its enactment, based  
2 on the approaches to scorekeeping set forth in this  
3 division.

4 (4) 5-YEAR SCORECARD.—The first scorecard  
5 shall display the budgetary effects of PAYGO legis-  
6 lation in each year over the 5-year period beginning  
7 in the budget year.

8 (5) 10-YEAR SCORECARD.—The second score-  
9 card shall display the budgetary effects of PAYGO  
10 legislation in each year over the 10-year period be-  
11 ginning in the budget year.

12 (e) LOOK-BACK TO CAPTURE CURRENT-YEAR EF-  
13 FECTS.—For purposes of this section, OMB shall treat the  
14 budgetary effects of PAYGO legislation enacted during a  
15 session of Congress that occur during the current year as  
16 though they occurred in the budget year.

17 (f) AVERAGING USED TO MEASURE COMPLIANCE  
18 OVER 5-YEAR AND 10-YEAR PERIODS.—OMB shall cumu-  
19 late the budgetary effects of a PAYGO Act over the budg-  
20 et year (which includes any look-back effects under sub-  
21 section (e)) and—

22 (1) for purposes of the 5-year scorecard re-  
23 ferred to in subsection (d)(4), the four subsequent  
24 outyears, divide that cumulative total by five, and  
25 enter the quotient in the budget-year column and in

1       each subsequent column of the 5-year PAYGO score-  
2       card; and

3           (2) for purposes of the 10-year scorecard re-  
4       ferred to in subsection (d)(5), the nine subsequent  
5       outyears, divide that cumulative total by ten, and  
6       enter the quotient in the budget-year column and in  
7       each subsequent column of the 10-year PAYGO  
8       scorecard.

9   **SEC. 105. ANNUAL REPORT AND SEQUESTRATION ORDER.**

10       (a) ANNUAL REPORT.—Not later than 14 days (ex-  
11       cluding weekends and holidays) after Congress adjourns  
12       to end a session, OMB shall make publicly available and  
13       cause to be printed in the Federal Register an annual  
14       PAYGO report. The report shall include an up-to-date  
15       document containing the PAYGO scorecards, a description  
16       of any current policy adjustments made under section  
17       104(c), information about emergency legislation (if any)  
18       designated under section 103(4)(D), information about  
19       any sequestration if required by subsection (b), and other  
20       data and explanations that enhance public understanding  
21       of this division and actions taken under it.

22       (b) SEQUESTRATION ORDER.—If the annual report  
23       issued at the end of a session of Congress under sub-  
24       section (a) shows a debit on either PAYGO scorecard for  
25       the budget year, OMB shall prepare and the President

1 shall issue and include in that report a sequestration order  
2 that, upon issuance, shall reduce budgetary resources of  
3 direct spending programs by enough to offset that debit  
4 as prescribed in section 106. If there is a debit on both  
5 scorecards, the order shall fully offset the larger of the  
6 two debits. OMB shall include that order in the annual  
7 report and transmit it to the House of Representatives  
8 and the Senate. If the President issues a sequestration  
9 order, the annual report shall contain, for each budget ac-  
10 count to be sequestered, estimates of the baseline level of  
11 budgetary resources subject to sequestration, the amount  
12 of budgetary resources to be sequestered, and the outlay  
13 reductions that will occur in the budget year and the sub-  
14 sequent fiscal year because of that sequestration.

15 **SEC. 106. CALCULATING A SEQUESTRATION.**

16 (a) REDUCING NONEXEMPT BUDGETARY RE-  
17 SOURCES BY A UNIFORM PERCENTAGE.—OMB shall cal-  
18 culate the uniform percentage by which the budgetary re-  
19 sources of nonexempt direct spending programs are to be  
20 sequestered such that the outlay savings resulting from  
21 that sequestration, as calculated under subsection (b),  
22 shall offset the budget-year debit, if any on the applicable  
23 PAYGO scorecard. If the uniform percentage calculated  
24 under the prior sentence exceeds 4 percent, the Medicare  
25 programs described in section 256(d) of BBEDCA shall



1 be reduced by 4 percent and the uniform percentage by  
2 which the budgetary resources of all other nonexempt di-  
3 rect spending programs are to be sequestered shall be in-  
4 creased, as necessary, so that the sequestration of Medi-  
5 care and of all other nonexempt direct spending programs  
6 together produce the required outlay savings.

7 (b) OUTLAY SAVINGS.—In determining the amount  
8 by which a sequestration offsets a budget-year debit, OMB  
9 shall count—

10 (1) the amount by which the sequestration in a  
11 crop year of crop support payments, pursuant to  
12 section 256(j) of BBEDCA, reduces outlays in the  
13 budget year and the subsequent fiscal year;

14 (2) the amount by which the sequestration of  
15 Medicare payments in the 12-month period following  
16 the sequestration order, pursuant to section 256(d)  
17 of BBEDCA, reduces outlays in the budget year and  
18 the subsequent fiscal year; and

19 (3) the amount by which the sequestration in  
20 the budget year of the budgetary resources of other  
21 nonexempt mandatory programs reduces outlays in  
22 the budget year and in the subsequent fiscal year.

1 **SEC. 107. CURRENT POLICY ADJUSTMENT TO THE CBO ES-**  
2 **TIMATES.**

3 (a) PURPOSE.—The purpose of this section is to pro-  
4 vide for adjustments of estimates of budgetary effects of  
5 PAYGO legislation for legislation affecting four areas of  
6 the budget—

7 (1) payments made under section 1848 of the  
8 Social Security Act (titled Payment for Physicians’  
9 Services);

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

12 (3) the AMT; and

13 (4) provisions of EGTRRA or JGTRRA that  
14 amended the Internal Revenue Code of 1986 (or  
15 provisions in later statutes further amending the  
16 amendments made by EGTRRA or JGTRRA), other  
17 than—

18 (A) the provisions of those two Acts that  
19 were made permanent by the Pension Protec-  
20 tion Act of 2006 (Public Law 109–280);

21 (B) amendments to the estate and gift tax  
22 referred to in paragraph (2);

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

24 (D) the 35 percent bracket and that por-  
25 tion of the 33 percent bracket that applies to

1 taxable income greater than \$200,000 for an  
2 individual and \$250,000 for a couple; and

3 (E) provisions in those two Acts relating to  
4 taxes rates on capital gains and dividends.

5 (b) MEDICARE PAYMENTS TO PHYSICIANS.—

6 (1) CRITERIA.—Legislation that includes provi-  
7 sions amending or superseding the system of pay-  
8 ments under section 1848 of the Social Security Act  
9 shall trigger the current policy adjustment required  
10 by this division.

11 (2) ADJUSTMENT.—The amount of the max-  
12 imum current policy adjustment shall be the dif-  
13 ference between—

14 (A) estimated net outlays attributable to  
15 the payments made to physicians under that  
16 section of the Social Security Act (as scheduled  
17 on July 15, 2009, to be in effect); and

18 (B) what those net outlays would have  
19 been if the nominal payment rates and related  
20 parameters in effect for 2009 had been in effect  
21 thereafter without change.

22 (c) ESTATE AND GIFT TAX.—

23 (1) CRITERIA.—Legislation that includes provi-  
24 sions amending the Estate and Gift Tax under sub-  
25 title B of the Internal Revenue Code of 1986 shall

1 trigger the current policy adjustment required by  
2 this division.

3 (2) ADJUSTMENT.—The amount of the max-  
4 imum current policy adjustment shall be the dif-  
5 ference between—

6 (A) total revenues projected to be collected  
7 under the Internal Revenue Code of 1986 (as  
8 scheduled on July 15, 2009, to be in effect);  
9 and

10 (B) what those revenue collections would  
11 have been if, on the date of enactment of the  
12 legislation meeting the criteria in paragraph  
13 (1), estate and gift tax law had instead been  
14 amended so that the tax rates, nominal exemp-  
15 tion amounts, and related parameters in effect  
16 for tax year 2009 had remained in effect there-  
17 after without change.

18 (d) PERMANENT EXTENSION OF MIDDLE-CLASS TAX  
19 CUTS AND AMT RELIEF.—

20 (1) CRITERIA.—Legislation that includes provi-  
21 sions extending middle-class tax cuts or AMT relief  
22 shall trigger the current policy adjustment required  
23 by this division if those provisions extend one or  
24 more of the following provisions—

1 (A) AMT relief for calendar year 2010 and  
2 subsequent years in such a manner that the  
3 number of AMT taxpayers is not estimated to  
4 exceed the number of AMT taxpayers in tax  
5 year 2008 in any year through the tenth year  
6 after enactment;

7 (B) the 10 percent bracket as in effect for  
8 tax year 2010, as provided for under section  
9 101(a) of the Economic Growth and Tax Relief  
10 Reconciliation Act of 2001 and any later  
11 amendments through July 15, 2009;

12 (C) the child tax credit as in effect for tax  
13 year 2010, as provided for under section 201 of  
14 the Economic Growth and Tax Relief Reconcili-  
15 ation Act and any later amendments through  
16 July 15, 2009;

17 (D) tax benefits for married couples as in  
18 effect for tax year 2010, as provided for under  
19 title III of the Economic Growth and Tax Relief  
20 Reconciliation Act and any later amendments  
21 through July 15, 2009;

22 (E) the adoption credit as in effect in tax  
23 year 2010, as provided for under section 202 of  
24 the Economic Growth and Tax Relief Reconcili-

1           ation Act of 2001 and any later amendments  
2           through July 15, 2009;

3           (F) the dependent care credit as in effect  
4           in tax year 2010, as provided for under section  
5           204 of the Economic Growth and Tax Relief  
6           Reconciliation Act of 2001 and any later  
7           amendments through July 15, 2009;

8           (G) the employer-provided child care credit  
9           as in effect in tax year 2010, as provided for  
10          under section 205 of the Economic Growth and  
11          Tax Relief Reconciliation Act of 2001 and any  
12          later amendments through July 15, 2009;

13          (H) the education tax benefits as in effect  
14          in tax year 2010, as provided for under title IV  
15          of the Economic Growth and Tax Relief Rec-  
16          onciliation Act of 2001 and any later amend-  
17          ments through July 15, 2009;

18          (I) the 25 and 28 percent brackets as in  
19          effect for tax year 2010, as provided for under  
20          section 101(a) of the Economic Growth and  
21          Tax Relief Reconciliation Act of 2001 and any  
22          later amendments through July 15, 2009; and

23          (J) the 33 percent brackets as in effect for  
24          tax year 2010, as provided for under section  
25          101(a) of the Economic Growth and Tax Relief

1           Reconciliation Act of 2001 and any later  
2           amendment affecting taxpayers with taxable in-  
3           come of \$200,000 or less for individuals and  
4           \$250,000 or less for couples in calendar year  
5           2010 and increased in each subsequent year by  
6           an amount equal to the cost of living adjust-  
7           ment determined under section 1(f)(3) of the  
8           Internal Revenue Code of 1986 for the calendar  
9           year in which the taxable year begins, deter-  
10          mined by substituting “calendar year 2008” for  
11          “calendar year 1992” in subparagraph (B)  
12          thereof.

13          (2) ADJUSTMENT.—The amount of the max-  
14          imum current policy adjustment shall be the dif-  
15          ference between what total revenues would have been  
16          under the Internal Revenue Code of 1986 (as sched-  
17          uled on July 15, 2009, to be in effect) and what rev-  
18          enues would be if legislation—

19                 (A) permanently extending the AMT ex-  
20                 emption and brackets in effect in tax year 2009  
21                 but increased in tax year 2010 and each subse-  
22                 quent tax year as indicated under subsection  
23                 (d)(2)(B), along with any additional amount  
24                 necessary to prevent the number of taxpayers  
25                 who must pay AMT from increasing; and

1 (B) permanently extending the provisions  
2 identified in paragraph (1),  
3 were enacted on the same day as the legislation re-  
4 ferred to in paragraph (1).

5 **SEC. 108. APPLICATION OF BBEDCA.**

6 For purposes of this division—

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

11 (2) references in sections 255, 256, 257, and  
12 274 to “this part” or “this title” shall be interpreted  
13 as applying to this division;

14 (3) references in sections 255, 256, 257, and  
15 274 of BBEDCA to “section 254” shall be inter-  
16 preted as referencing section 105 of this division;

17 (4) the reference in section 256(b) of BBEDCA  
18 to “section 252 or 253” shall be interpreted as ref-  
19 erencing section 105 of this division;

20 (5) the reference in section 256(d)(1) of  
21 BBEDCA to “section 252 or 253” shall be inter-  
22 preted as referencing section 106 of this division;

23 (6) the reference in section 256(d)(4) of  
24 BBEDCA to “section 252 or 253” shall be inter-  
25 preted as referencing section 105 of this division;



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

3           (8) references in section 257(e) of BBEDCA to  
4           “section 251, 252, or 253” shall be interpreted as  
5           referencing section 104 of this division.

6 **SEC. 109. TECHNICAL CORRECTIONS.**

7           (a) Section 250(c)(18) of BBEDCA is amended by  
8           striking “the expenses the Federal deposit insurance agen-  
9           cies” and inserting “the expenses of the Federal deposit  
10          insurance agencies”.

11          (b) Section 256(k)(1) of BBEDCA is amended by  
12          striking “in paragraph (5)” and inserting “in paragraph  
13          (6)”.

14 **SEC. 110. CONFORMING AMENDMENTS.**

15          (a) Section 256(a) of BBEDCA is repealed.

16          (b) Section 256(b) of BBEDCA is amended by strik-  
17          ing “origination fees under sections 438(c)(2) and 455(c)  
18          of that Act shall each be increased by 0.50 percentage  
19          point.” and inserting in lieu thereof “origination fees  
20          under sections 438(c)(2) and (6) and 455(c) and loan  
21          processing and issuance fees under section  
22          428(f)(1)(A)(ii) of that Act shall each be increased by the  
23          uniform percentage specified in that sequestration order,  
24          and, for student loans originated during the period of the  
25          sequestration, special allowance payments under section

1 438(b) of that Act accruing during the period of the se-  
 2 questration shall be reduced by the uniform percentage  
 3 specified in that sequestration order.”.

4 (c) Section 256(c) of BBEDCA is repealed.

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

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

8 (2) by amending paragraph (1) to read as fol-  
 9 lows:

10 “(1) CALCULATION OF REDUCTION IN PAYMENT  
 11 AMOUNTS.—To achieve the total percentage reduc-  
 12 tion in those programs required by section 252 or  
 13 253, subject to paragraph (2), and notwithstanding  
 14 section 710 of the Social Security Act, OMB shall  
 15 determine, and the applicable Presidential order  
 16 under section 254 shall implement, the percentage  
 17 reduction that shall apply, with respect to the health  
 18 insurance programs under title XVIII of the Social  
 19 Security Act—

20 “(A) in the case of parts A and B of such  
 21 title, to individual payments for services fur-  
 22 nished during the one-year period beginning on  
 23 the first day of the first month beginning after  
 24 the date the order is issued (or, if later, the  
 25 date specified in paragraph (4)); and

1           “(B) in the case of parts C and D, to  
2           monthly payments under contracts under such  
3           parts for the same one-year period;  
4           such that the reduction made in payments under  
5           that order shall achieve the required total percentage  
6           reduction in those payments for that period.”;

7           (3) by inserting after paragraph (1) the fol-  
8           lowing:

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

16          (4) by inserting after paragraph (3), as redesign-  
17          ated, the following:

18          “(4) TIMING OF SUBSEQUENT SEQUESTRATION  
19          ORDER.—A sequestration order required by section  
20          252 or 253 with respect to programs under such  
21          title XVIII shall not take effect until the first month  
22          beginning after the end of the effective period of any  
23          prior sequestration order with respect to such pro-  
24          grams, as determined in accordance with paragraph  
25          (1).”;

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

3           “(6) SEQUESTRATION DISREGARDED IN COM-  
4       PUTING PAYMENT AMOUNTS.—The Secretary of  
5       Health and Human Services shall not take into ac-  
6       count any reductions in payment amounts which  
7       have been or may be effected under this part, for  
8       purposes of computing any adjustments to payment  
9       rates under such title XVIII, specifically including—

10           “(A) the part C growth percentage under  
11       section 1853(e)(6);

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

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

17       (6) by adding after paragraph (6), as redesign-  
18       nated, the following:

19           “(7) EXEMPTIONS FROM SEQUESTRATION.—In  
20       addition to the programs and activities specified in  
21       section 255, the following shall be exempt from se-  
22       questration under this part:

23           “(A) PART D LOW-INCOME SUBSIDIES.—  
24       Premium and cost-sharing subsidies under sec-  
25       tion 1860D–14 of the Social Security Act.

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

4                   “(C) QUALIFIED INDIVIDUAL (QI) PRE-  
5                   MIUMS.—Payments to States for coverage of  
6                   Medicare cost-sharing for certain low-income  
7                   Medicare beneficiaries under section 1933 of  
8                   the Social Security Act.”.

9   **SEC. 111. EXEMPT PROGRAMS AND ACTIVITIES.**

10           (a) DESIGNATIONS.—Section 255 of BBEDCA is  
11   amended by redesignating subsection (i) as (j) and strik-  
12   ing “1998” and inserting in lieu thereof “2010”.

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

17           “(a) SOCIAL SECURITY BENEFITS AND TIER I RAIL-  
18   ROAD RETIREMENT BENEFITS.—Benefits payable under  
19   the old-age, survivors, and disability insurance program  
20   established under title II of the Social Security Act (42  
21   U.S.C. 401 et seq.), and benefits payable under section  
22   231b(a), 231b(f)(2), 231c(a), and 231c(f) of title 45,  
23   United States Code, shall be exempt from reduction under  
24   any order issued under this part.

1       “(b) VETERANS PROGRAMS.—The following program  
2 shall be exempt from reduction under any order issued  
3 under this part—

4               “All programs administered by the Department  
5 of Veterans Affairs.

6               “Special Benefits for Certain World War II  
7 Veterans (28–0401–0–1–701).

8       “(c) NET INTEREST.—No reduction of payments for  
9 net interest (all of major functional category 900) shall  
10 be made under any order issued under this part.

11       “(d) REFUNDABLE INCOME TAX CREDITS.—Pay-  
12 ments to individuals made pursuant to provisions of the  
13 Internal Revenue Code of 1986 establishing refundable  
14 tax credits shall be exempt from reduction under any order  
15 issued under this part.”.

16       (c) OTHER PROGRAMS AND ACTIVITIES, LOW-IN-  
17 COME PROGRAMS, AND ECONOMIC RECOVERY PRO-  
18 GRAMS.—Subsections (g) and (h) of section 255 of  
19 BBEDCA are amended to read as follows:

20       “(g) OTHER PROGRAMS AND ACTIVITIES.—

21               “(1)(A) The following budget accounts and ac-  
22 tivities shall be exempt from reduction under any  
23 order issued under this part:

1           “Activities resulting from private dona-  
2           tions, bequests, or voluntary contributions to  
3           the Government.

4           “Activities financed by voluntary payments  
5           to the Government for goods or services to be  
6           provided for such payments.

7           “Administration of Territories, Northern  
8           Mariana Islands Covenant grants (14-0412-0-  
9           1-808).

10          “Advances to the Unemployment Trust  
11          Fund and Other Funds (16-0327-0-1-600).

12          “Black Lung Disability Trust Fund Refi-  
13          nancing (16-0329-0-1-601).

14          “Bonneville Power Administration Fund  
15          and borrowing authority established pursuant  
16          to section 13 of Public Law 93-454 (1974), as  
17          amended (89-4045-0-3-271).

18          “Claims, Judgments, and Relief Acts (20-  
19          1895-0-1-808).

20          “Compact of Free Association (14-0415-  
21          0-1-808).

22          “Compensation of the President (11-  
23          0209-01-1-802).

24          “Comptroller of the Currency, Assessment  
25          Funds (20-8413-0-8-373).

1           “Continuing Fund, Southeastern Power  
2           Administration (89-5653-0-2-271).

3           “Continuing Fund, Southwestern Power  
4           Administration (89-5649-0-2-271).

5           “Dual Benefits Payments Account (60-  
6           0111-0-1-601).

7           “Emergency Fund, Western Area Power  
8           Administration (89-5069-0-2-271).

9           “Exchange Stabilization Fund (20-4444-  
10          0-3-155).

11          “Federal Deposit Insurance Corporation,  
12          Deposit Insurance Fund (51-4596-4-4-373).

13          “Federal Deposit Insurance Corporation,  
14          FSLIC Resolution Fund (51-4065-0-3-373).

15          “Federal Deposit Insurance Corporation,  
16          Noninterest Bearing Transaction Account  
17          Guarantee (51-4458-0-3-373).

18          “Federal Deposit Insurance Corporation,  
19          Senior Unsecured Debt Guarantee (51-4457-  
20          0-3-373).

21          “Federal Housing Finance Agency, Admin-  
22          istrative Expenses (95-5532-0-2-371).

23          “Federal Payment to the District of Co-  
24          lumbia Judicial Retirement and Survivors An-  
25          nuity Fund (20-1713-0-1-752).



1           “Federal Payment to the District of Co-  
2           lumbia Pension Fund (20-1714-0-1-601).

3           “Federal Payments to the Railroad Retire-  
4           ment Accounts (60-0113-0-1-601).

5           “Federal Reserve Bank Reimbursement  
6           Fund (20-1884-0-1-803).

7           “Financial Agent Services (20-1802-0-1-  
8           803).

9           “Foreign Military Sales Trust Fund (11-  
10          8242-0-7-155).

11          “Hazardous Waste Management, Con-  
12          servation Reserve Program (12-4336-0-3-  
13          999).

14          “Host Nation Support Fund for Relocation  
15          (97-8337-0-7-051).

16          “Internal Revenue Collections for Puerto  
17          Rico (20-5737-0-2-806).

18          “Intragovernmental funds, including those  
19          from which the outlays are derived primarily  
20          from resources paid in from other government  
21          accounts, except to the extent such funds are  
22          augmented by direct appropriations for the fis-  
23          cal year during which an order is in effect.

24          “Medical Facilities Guarantee and Loan  
25          Fund (75-9931-0-3-551).

1           “National Credit Union Administration,  
2           Central Liquidity Facility (25–4470–0–3–373).

3           “National Credit Union Administration,  
4           Corporate Credit Union Share Guarantee Pro-  
5           gram (25–4476–0–3–376).

6           “National Credit Union Administration,  
7           Credit Union Homeowners Affordability Relief  
8           Program (25–4473–0–3–371).

9           “National Credit Union Administration,  
10          Credit Union Share Insurance Fund (25–4468–  
11          0–3–373).

12          “National Credit Union Administration,  
13          Credit Union System Investment Program (25–  
14          4474–0–3–376).

15          “National Credit Union Administration,  
16          Operating fund (25–4056–0–3–373).

17          “National Credit Union Administration,  
18          Share Insurance Fund Corporate Debt Guar-  
19          antee Program (25–4469–0–3–376).

20          “National Credit Union Administration,  
21          U.S. Central Federal Credit Union Capital Pro-  
22          gram (25–4475–0–3–376).

23          “Office of Thrift Supervision (20–4108–0–  
24          3–373).

1           “Panama Canal Commission Compensation  
2 Fund (16–5155–0–2–602).

3           “Payment of Vietnam and USS Pueblo  
4 prisoner-of-war claims within the Salaries and  
5 Expenses, Foreign Claims Settlement account  
6 (15–0100–0–1–153).

7           “Payment to Civil Service Retirement and  
8 Disability Fund (24–0200–0–1–805).

9           “Payment to Department of Defense Medi-  
10 care-Eligible Retiree Health Care Fund (97–  
11 0850–0–1–054).

12           “Payment to Judiciary Trust Funds (10–  
13 0941–0–1–752).

14           “Payment to Military Retirement Fund  
15 (97–0040–0–1–054).

16           “Payment to the Foreign Service Retire-  
17 ment and Disability Fund (19–0540–0–1–153).

18           “Payments to Copyright Owners (03–  
19 5175–0–2–376).

20           “Payments to Health Care Trust Funds  
21 (75–0580–0–1–571).

22           “Payment to Radiation Exposure Com-  
23 pensation Trust Fund (15–0333–0–1–054).

24           “Payments to Social Security Trust Funds  
25 (28–0404–0–1–651).

1           “Payments to the United States Terri-  
2           tories, Fiscal Assistance (14-0418-0-1-806).

3           “Payments to trust funds from excise  
4           taxes or other receipts properly creditable to  
5           such trust funds.

6           “Payments to widows and heirs of de-  
7           ceased Members of Congress (00-0215-0-1-  
8           801).

9           “Postal Service Fund (18-4020-0-3-372).

10          “Radiation Exposure Compensation Trust  
11          Fund (15-8116-0-1-054).

12          “Reimbursement to Federal Reserve Banks  
13          (20-0562-0-1-803).

14          “Salaries of Article III judges.

15          “Soldiers and Airmen’s Home, payment of  
16          claims (84-8930-0-7-705).

17          “Tennessee Valley Authority Fund, except  
18          nonpower programs and activities (64-4110-0-  
19          3-999).

20          “Tribal and Indian trust accounts within  
21          the Department of the Interior which fund  
22          prior legal obligations of the Government or  
23          which are established pursuant to Acts of Con-  
24          gress regarding Federal management of tribal  
25          real property or other fiduciary responsibilities,

1 including but not limited to Tribal Special  
2 Fund (14-5265-0-2-452), Tribal Trust Fund  
3 (14-8030-0-7-452), White Earth Settlement  
4 (14-2204-0-1-452), and Indian Water Rights  
5 and Habitat Acquisition (14-5505-0-2-303).

6 “United Mine Workers of America 1992  
7 Benefit Plan (95-8260-0-7-551).

8 “United Mine Workers of America 1993  
9 Benefit Plan (95-8535-0-7-551).

10 “United Mine Workers of America Com-  
11 bined Benefit Fund (95-8295-0-7-551).

12 “United States Enrichment Corporation  
13 Fund (95-4054-0-3-271).

14 “Universal Service Fund (27-5183-0-2-  
15 376).

16 “Vaccine Injury Compensation (75-0320-  
17 0-1-551).

18 “Vaccine Injury Compensation Program  
19 Trust Fund (20-8175-0-7-551).

20 “(B) The following Federal retirement and dis-  
21 ability accounts and activities shall be exempt from  
22 reduction under any order issued under this part:

23 “Black Lung Disability Trust Fund (20-  
24 8144-0-7-601).

1           “Central Intelligence Agency Retirement  
2           and Disability System Fund (56–3400–0–1–  
3           054).

4           “Civil Service Retirement and Disability  
5           Fund (24–8135–0–7–602).

6           “Comptrollers general retirement system  
7           (05–0107–0–1–801).

8           “Contributions to U.S. Park Police annu-  
9           ity benefits, Other Permanent Appropriations  
10          (14–9924–0–2–303).

11          “Court of Appeals for Veterans Claims Re-  
12          tirement Fund (95–8290–0–7–705).

13          “Department of Defense Medicare-Eligible  
14          Retiree Health Care Fund (97–5472–0–2–551).

15          “District of Columbia Federal Pension  
16          Fund (20–5511–0–2–601).

17          “District of Columbia Judicial Retirement  
18          and Survivors Annuity Fund (20–8212–0–7–  
19          602).

20          “Energy Employees Occupational Illness  
21          Compensation Fund (16–1523–0–1–053).

22          “Foreign National Employees Separation  
23          Pay (97–8165–0–7–051).

1           “Foreign Service National Defined Con-  
2           tributions Retirement Fund (19-5497-0-2-  
3           602).

4           “Foreign Service National Separation Li-  
5           ability Trust Fund (19-8340-0-7-602).

6           “Foreign Service Retirement and Dis-  
7           ability Fund(19-8186-0-7-602).

8           “Government Payment for Annuitants,  
9           Employees Health Benefits (24-0206-0-1-  
10          551).

11          “Government Payment for Annuitants,  
12          Employee Life Insurance (24-0500-0-1-602).

13          “Judicial Officers’ Retirement Fund (10-  
14          8122-0-7-602).

15          “Judicial Survivors’ Annuities Fund (10-  
16          8110-0-7-602).

17          “Military Retirement Fund (97-8097-0-  
18          7-602).

19          “National Railroad Retirement Investment  
20          Trust (60-8118-0-7-601).

21          “National Oceanic and Atmospheric Ad-  
22          ministration retirement (13-1450-0-1-306).

23          “Pensions for former Presidents (47-  
24          0105-0-1-802).

1                   “Postal Service Retiree Health Benefits  
2 Fund (24–5391–0–2–551).

3                   “Public Safety Officer Benefits (15–0403–  
4 0–1–754).

5                   “Rail Industry Pension Fund (60–8011–  
6 0–7–601).

7                   “Retired Pay, Coast Guard (70–0602–0–  
8 1–403).

9                   “Retirement Pay and Medical Benefits for  
10 Commissioned Officers, Public Health Service  
11 (75–0379–0–1–551).

12                   “Special Benefits for Disabled Coal Miners  
13 (16–0169–0–1–601).

14                   “Special Benefits, Federal Employees’  
15 Compensation Act (16–1521–0–1–600).

16                   “Special Workers Compensation Expenses  
17 (16–9971–0–7–601).

18                   “Tax Court Judges Survivors Annuity  
19 Fund (23–8115–0–7–602).

20                   “United States Court of Federal Claims  
21 Judges’ Retirement Fund (10–8124–0–7–602).

22                   “United States Secret Service, DC Annuity  
23 (70–0400–0–1–751).

24                   “Voluntary Separation Incentive Fund  
25 (97–8335–0–7–051).



1           “(2) Prior legal obligations of the Government  
2           in the following budget accounts and activities shall  
3           be exempt from any order issued under this part:

4                   “Biomass Energy Development (20–0114–  
5                   0–1–271).

6                   “Check Forgery Insurance Fund (20–  
7                   4109–0–3–803).

8                   “Credit liquidating accounts.

9                   “Credit reestimates.

10                  “Employees Life Insurance Fund (24–  
11                  8424–0–8–602).

12                  “Federal Aviation Insurance Revolving  
13                  Fund (69–4120–0–3–402).

14                  “Federal Crop Insurance Corporation  
15                  Fund (12–4085–0–3–351).

16                  “Federal Emergency Management Agency,  
17                  National Flood Insurance Fund (58–4236–0–  
18                  3–453).

19                  “Federal Home Loan Mortgage Corpora-  
20                  tion (Freddie Mac).

21                  “Federal National Mortgage Corporation  
22                  (Fannie Mae).

23                  “Geothermal resources development fund  
24                  (89–0206–0–1–271).

1                   “Low-Rent Public Housing—Loans and  
2                   Other Expenses (86–4098–0–3–604).

3                   “Maritime Administration, War Risk In-  
4                   surance Revolving Fund (69–4302–0–3–403).

5                   “Natural Resource Damage Assessment  
6                   Fund (14–1618–0–1–302).

7                   “Overseas Private Investment Corporation,  
8                   Noncredit Account (71–4184–0–3–151).

9                   “Pension Benefit Guaranty Corporation  
10                  Fund (16–4204–0–3–601).

11                  “San Joaquin Restoration Fund (14–  
12                  5537–0–2–301).

13                  “Servicemembers’ Group Life Insurance  
14                  Fund (36–4009–0–3–701).

15                  “Terrorism Insurance Program (20–0123–  
16                  0–1–376).

17                  “(h) LOW-INCOME PROGRAMS.—The following pro-  
18                  grams shall be exempt from reduction under any order  
19                  issued under this part:

20                  “Academic Competitiveness/Smart Grant Pro-  
21                  gram (91–0205–0–1–502).

22                  “Child Care Entitlement to States (75–1550–  
23                  0–1–609).

24                  “Child Enrollment Contingency Fund (75–  
25                  5551–0–2–551).

1           “Child Nutrition Programs (with the exception  
2 of special milk programs) (12–3539–0–1–605).

3           “Children’s Health Insurance Fund (75–0515–  
4 0–1–551).

5           “Commodity Supplemental Food Program (12–  
6 3507–0–1–605).

7           “Contingency Fund (75–1522–0–1–609).

8           “Family Support Programs (75–1501–0–1–  
9 609).

10          “Federal Pell Grants under section 401 Title  
11 IV of the Higher Education Act.

12          “Grants to States for Medicaid (75–0512–0–1–  
13 551).

14          “Payments for Foster Care and Permanency  
15 (75–1545–0–1–609).

16          “Supplemental Nutrition Assistance Program  
17 (12–3505–0–1–605).

18          “Supplemental Security Income Program (28–  
19 0406–0–1–609).

20          “Temporary Assistance for Needy Families  
21 (75–1552–0–1–609).”.

22          (d) ECONOMIC RECOVERY PROGRAMS.—Section 255  
23 of BBEDCA is amended by adding the following after  
24 subsection (h):

1       “(i) ECONOMIC RECOVERY PROGRAMS.—The fol-  
2       lowing programs shall be exempt from reduction under  
3       any order issued under this part:

4               “All programs enacted in, or increases in pro-  
5       grams provided by, the American Recovery and Re-  
6       investment Act of 2009.

7               “Exchange Stabilization Fund-Money Market  
8       Mutual Fund Guaranty Facility (20–4274–0–3–  
9       376).

10              “Financial Stabilization Reserve (20–0131–4–  
11       1–376).

12              “GSE Mortgage-Backed Securities Purchase  
13       Program Account (20–0126–0–1–371).

14              “GSE Preferred Stock Purchase Agreements  
15       (20–0125–0–1–371).

16              “Office of Financial Stability (20–0128–0–1–  
17       376).

18              “Special Inspector General for the Troubled  
19       Asset Relief Program (20–0133–0–1–376).

20              “Troubled Asset Relief Program Account (20–  
21       0132–0–1–376).

22              “Troubled Asset Relief Program Equity Pur-  
23       chase Program (20–0134–0–1–376).

1           “Troubled Asset Relief Program, Home Afford-  
2           able Modification Program (20–0136–0–1–604).”.

          Passed the House of Representatives November 19,  
2009.

Attest:

*Clerk.*

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3961

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## AN ACT

To amend title XVIII of the Social Security Act to reform the Medicare SGR payment system for physicians and to reinstitute and update the Pay-As-You-Go requirement of budget neutrality on new tax and mandatory spending legislation, enforced by the threat of annual, automatic sequestration.