REPUBLICAN CAUCUS
THE COMMITTEE ON THE BUDGET
B-71 Cannon House Office Building
Washington, DC 20515
Representative Paul D. Ryan, *Ranking Republican*
Phone: (202)-226-7270
Fax: (202)-226-7174
Augustine T. Smythe, *Republican Staff Director*

THE DEMOCRATIC PAY-GO LEGISLATION

A FACADE OF FISCAL RESPONSIBILITY

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SUMMARY

- The Democrats' pay-as-you-go [pay-go] bill is an attempt to appear fiscally responsible while they push through an explosion of spending, deficits, and debt. But the bill and the process are deeply flawed. Specifically:
  - *It is a needlessly complex rewrite of pay-go, not a simple extension.*
  - *It extends the Democrats' dismal track record with pay-go.*
  - *It is riddled with loopholes, and weakened with broad exemptions.*
  - *It fails to reduce deficits, and fails to address the existing crisis of entitlement spending.*
  - *It's being jammed through the House, bypassing the Budget Committee.*
- In short, the bill is merely a facade of "fiscal responsibility." This discussion elaborates on these and other flaws of the bill, and provides a technical description of the legislation.

CRITIQUE OF THE DEMOCRATIC SUBSTITUTE

- **Adds Needless Complexity.** This is not a simple extension of the previous pay-go law. It is a complicated piece of legislation, drafted in the inner sanctum of leadership offices, that involves rolling "scorecards" based on averaging the cost of legislation. This complexity only invites more gimmickry to give the illusion of budget discipline, making the law less credible.

- **Extends the Democrats' Dismal Pay-Go Track Record.** When House Democrats adopted their pay-go rule, they said it would eliminate deficit spending. But the facts tell a different story:
  - Deficits leapt from $162 billion in fiscal year 2007 (the last budget under a Republican Congress) to an estimated *$1.8 trillion* this year – an increase of more than ten-fold. Further, under the Democrats' budget, deficits never fall below $600 billion, and they exceed $1 trillion in 2019 (see Figure 1, next page).

- During the 110th Congress, the Majority waived pay-go for legislation that increased the deficit by $420 billion. So far, Democrats have waived pay-go for legislation that will increase the deficit by hundreds of billions of dollars more.

- **Riddled With Loopholes.** Some examples:

  - The bill does not apply to discretionary spending, about 40 percent of the budget, which the administration and congressional Democrats are increasing by 8 percent this year alone.

  - "Emergencies" are not subject to pay-go; and because the legislation allows Congress unilaterally to apply the emergency designation, a simple majority can easily exploit the emergency loophole to dodge pay-go.

  - It modifies the scoring of health care legislation in an attempt to erase $285 billion in Medicare spending.

  - Because of these loopholes, the President's budget, which doubles the debt in 5 years and triples it in slightly more than 10 years, would comply with pay-go (see Figure 2 above).

  - The House legislation does close some loopholes compared with the President's proposal. For example, it does not allow converting discretionary programs to mandatory cost-free, as the administration plan does; and it does not assume permanent extension of all entitlement programs, including recently enacted "temporary" programs. But these are minor improvements in a bill that remains fundamentally and deeply flawed.

- **Weakened by Broad Exemptions.** Pay-go is a weak deterrent because so much spending is exempted from its enforcement procedure (across-the-board cuts called "sequesters"). More than 160 programs are exempt from pay-go, including such huge additions as the $700-billion Troubled Assets Relief Program, the State Children's Health Insurance Program, and provisions of the $787-billion "stimulus" bill (even though most of the "stimulus," the administration now says, will be spent after this year).

- **Fails to Reduce Deficits and Debt.** This pay-go bill allows deficits to grow at record levels after 2013, and lets the debt keep climbing inexorably as well (see Figure 1 and Figure 2, next page). For that matter, it allows an unlimited expansion of government by chasing ever-higher spending with higher taxes – and lets Democrats call this "fiscal responsibility."

- **Fails to Address the Existing Crisis.** The legislation does nothing to address the already unsustainable rate of entitlement spending growth – led by Medicare and Medicaid – which threatens both the economy and the very benefits these programs are intended to provide.

- **Bypasses the Budget Committee.** So eager are Democratic leaders to jam this measure through that they have denied its consideration by the committee of jurisdiction – the

Budget Committee – where at least some of its flaws could have been corrected. This hasty approach also continues a disturbing trend that diminishes a great strength of the democratic process: serious deliberation is a crucial part of legislating; and the distribution of authority among committees is one of the vital safeguards against the concentration of power that is always hazardous, regardless of political philosophy.

- **Is Nothing More Than Public Relations.** The net effect is that pay-go is a slogan designed to distract the public from the explosion of spending, deficits, and debt pursued by the President and the Democratic Congress in their relentless drive to expand government. Congress needs to get spending, deficits, and debt under control – and not push an empty public relations exercise masquerading as "fiscal responsibility," while at best forcing higher taxes to chase higher spending.

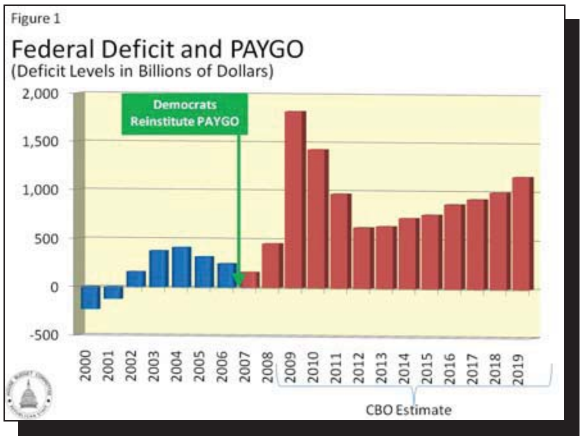

Figure 1
Federal Deficit and PAYGO
(Deficit Levels in Billions of Dollars)

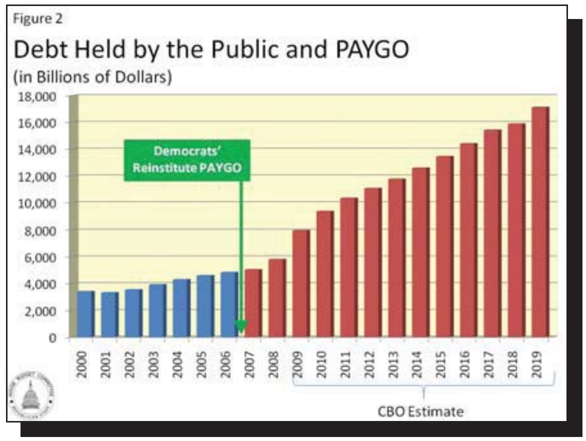

Figure 2
Debt Held by the Public and PAYGO
(in Billions of Dollars)

TECHNICAL DESCRIPTION OF THE DEMOCRATIC PAY-GO BILL

Summary. The Democratic legislation rewrites the statutory pay-as-you-go system that expired in 2002. The legislation is effective on the date of enactment and would become permanent law.

- It requires that legislation reducing taxes or increasing entitlement spending relative to the pay-go "baseline" (described below) must be offset by spending reductions, tax increases, or a combination of the two so as not to increase the baseline deficit.
- Offsets are calculated by a system of cost "averaging" (described below).
- The legislation does not apply to discretionary spending, and there are numerous exemptions.

Scoring. Legislation is scored using Congressional Budget Office [CBO] estimates. To address the problem posed by the Chadha case (which prohibits legislative branch agencies from executing laws), the bill provides a procedure to insert CBO cost estimates into each bill that affects mandatory spending or revenue. If a CBO cost estimate is not included, the administration's Office of Management and Budget [OMB] estimates the cost of the legislation.

Deficit Averaging. The legislation requires OMB to keep two "scorecards": one to reflect the average deficit impact of legislation over the first 5 years; the second to show the average deficit impact over the 10-year period. If at the end of a session of Congress either of the two scorecards shows a net deficit increase, OMB issues a sequester order (across-the-board reduction in non-exempt spending) to eliminate that deficit. If there is a net cost on both the 5- and 10-year scorecards, OMB sequesters the larger deficit amount.

Baseline Adjustments. The legislation modifies the baseline to assume extension of 2001 and 2003 tax relief except for tax brackets affecting those with higher incomes ($200,000 for single; $250,000 for joint), and the estate and gift tax is assumed to be extended at 2009 levels. The legislation also modifies the baseline to extend the alternative minimum tax [AMT] "patch" and the "doc fix" (with the latter freezing physician payment rates under Medicare instead of scheduled reductions under current law).

Exemptions. More than 160 spending programs are exempt from pay-go or operate under special rules. The legislation adds numerous large programs to the exemptions carried over from the previous version of pay-go.

- The bill continues the exemptions for Social Security, Medicaid, most veterans benefits, refundable tax credits, and programs focused on low-income populations, such as food stamps.
- It adds to these exemptions the $700-billion Troubled Assets Relief Program; the State Children's Health Insurance Program; provisions of the $787-billion "stimulus" bill; the Low Income Home Energy Assistance Program [LIHEAP]; the Special Supplemental Nutrition Program for Women, Infants, and Children [WIC]; housing assistance; Pell Grants; and other programs created since the law expired in 2002 to this exemption list.
- Congress can also exempt legislation designated as an emergency, and Congress can apply the designation unilaterally.

This document was prepared by the Republican staff of the Committee on the Budget, U.S. House of Representatives. It has not been approved by the full committee and may not reflect the views of individual committee members.