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# **Budget Enforcement Procedures: House Pay-As-You-Go (PAYGO) Rule**

Updated August 12, 2019

**Congressional Research Service**

<https://crsreports.congress.gov>

R41510

## Summary

The House pay-as-you-go (PAYGO) rule is generally intended to discourage or prevent Congress from taking certain legislative action that would increase the deficit. The rule requires that legislation affecting direct spending or revenues not increase the projected deficit over either a 6-year or an 11-year period. In effect, the rule requires that any legislation projected to increase direct spending or reduce revenues must be offset by equivalent amounts of direct spending cuts, revenue increases, or a combination of the two, over the two specified periods.

The House PAYGO rule applies to legislation affecting *direct spending* and *revenues*. It does not apply to *discretionary spending*.

This rule exempts provisions designated as an emergency from being counted in determining compliance with the PAYGO rule.

First established at the beginning of the 110<sup>th</sup> Congress, the House PAYGO rule was modified during the 111<sup>th</sup> Congress: at the beginning of the 111<sup>th</sup> Congress, as part of the opening-day rules package; and again in the second session of the 111<sup>th</sup> Congress, as part of a special rule providing for the consideration of an unrelated measure. At the beginning of the 112<sup>th</sup> Congress, it was replaced with the Cut-As-You-Go (CUTGO) rule, which focused exclusively on the mandatory spending effects of legislation, eliminating any revenue effects from the budgetary evaluation under the rule. Most recently, at the beginning of the 116<sup>th</sup> Congress, the PAYGO rule was reinstated, covering both direct spending and revenues, with certain modifications.

The House PAYGO rule exists alongside similar PAYGO requirements in statute, but with some significant differences. The House rule (1) applies the PAYGO requirement during the consideration of legislation on the House floor, (2) applies generally to each measure individually, and (3) is enforced by a point of order on the House floor.

The Statutory PAYGO Act, in contrast, (1) applies the requirement to legislation after it has been enacted, (2) applies to the net effect of all legislation enacted during a session of Congress, and (3) is enforced by sequestration—the cancellation of budgetary resources provided by laws affecting direct spending—to eliminate an increase in the deficit resulting from the enactment of legislation.

This report updates the previous version (dated November 30, 2010) with descriptions of the changes instituted by the CUTGO rule, adopted at the beginning of the 112<sup>th</sup> Congress, and the current PAYGO rule, adopted at the beginning of the 116<sup>th</sup> Congress.

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The House pay-as-you-go (PAYGO) rule is generally intended to discourage or prevent Congress from taking certain legislative action that would increase the deficit. It prohibits the consideration of direct spending and revenue legislation that is projected to increase the deficit over either a 6-year or an 11-year period. In effect, the rule requires legislation that includes provisions projected to increase direct spending or reduce revenues to also include offsetting provisions over the two specified periods.

The House PAYGO rule was first established at the beginning of the 110<sup>th</sup> Congress and modified in the 111<sup>th</sup> Congress. It was replaced by the cut-as-you-go (CUTGO) rule, which applied only to direct spending legislation, at the beginning of the 112<sup>th</sup> Congress. The PAYGO rule was reinstated, with modifications, replacing the CUTGO rule, at the beginning of the 116<sup>th</sup> Congress.

This report explains the House PAYGO rule's features, describes its legislative history, and discusses how it compares to statutory PAYGO requirements. It updates the previous version (dated November 30, 2010), largely with information about the CUTGO rule and the PAYGO rule, as adopted in the 116<sup>th</sup> Congress.

The full text of the House PAYGO rule is provided in the **Appendix**.

## Features of the House PAYGO Rule

The House PAYGO rule adopted for the 116<sup>th</sup> Congress prohibits the consideration of legislation affecting direct spending and revenues that is projected to increase the deficit, or reduce the surplus, over either of two time periods: (1) the 6-year period consisting of the current fiscal year, the budget year, and the 4 ensuing fiscal years; or (2) the 11-year period consisting of the current year, the budget year, and the ensuing 9 fiscal years.<sup>1</sup>

The House PAYGO rule applies to legislation affecting *direct spending* and *revenues*. Direct spending, also referred to as mandatory spending, has two distinguishing features: (1) it is provided or controlled in authorizing legislation; and (2) it generally continues without any annual legislative action. Examples of programs funded through direct spending include Medicare, unemployment compensation, and federal retirement.<sup>2</sup> Direct spending is within the jurisdiction of the respective authorizing 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 Committee on Ways and Means in the House.<sup>3</sup>

The House PAYGO rule does not apply to *discretionary spending*, which is provided and controlled through the annual appropriations process.<sup>4</sup> Discretionary spending is not counted for purposes of determining whether legislation increases the deficit under the House PAYGO rule.

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<sup>1</sup> 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 5-year and 10-year periods, instead of the 6-year and 11-year periods.

<sup>2</sup> Direct spending also includes many offsetting collections, such as Medicare premiums, which are treated as negative spending instead of as revenues.

<sup>3</sup> Other legislative committees may have jurisdiction over legislation affecting a small portion of revenues.

<sup>4</sup> Discretionary spending may be constrained by other budget enforcement procedures associated with the budget resolution, the Congressional Budget Act of 1974, as amended (2 U.S.C. 601-688), and statutory limits in the Balanced

The rule generally requires that each measure affecting direct spending and revenues not increase the deficit over either of the two time periods specified.<sup>5</sup> That is, to comply with the rule, each measure that includes provisions projected to increase direct spending or reduce revenues must also include offsetting provisions projected to reduce direct spending, increase revenues, or both, by equivalent amounts. A projected deficit reduction resulting from a measure previously passed by the House, or one to be considered subsequently by the House, cannot be used to offset a deficit 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 PAYGO compliance if a special rule provides that the two measures are to be combined upon engrossment.

The rule specifies that a determination of the effect of direct spending and revenue legislation on the deficit or surplus is to be based on estimates made by the Committee on the Budget relative to the Congressional Budget Office (CBO) baseline estimates.<sup>6</sup> In producing its baseline estimates, CBO projects revenues, spending, and deficit or surplus levels under existing law (i.e., assuming no legislative changes). Under the rule, such baseline estimates are to be consistent with Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.<sup>7</sup>

The House PAYGO rule does not apply to direct spending increases or revenue reductions that occur under existing law. That is, if direct spending increases because more individuals qualify for benefits under existing law, for example, any increase in the deficit is not counted for PAYGO purposes and is beyond the rule's control.

The House PAYGO rule exempts provisions designated as an emergency from being counted in determining compliance with the rule. Under clause 10(c) of House Rule XXI, a determination as to whether legislation increases the deficit, or reduces the surplus, shall exclude any provision "expressly designated as an emergency for the purposes of pay-as-you-go principles."<sup>8</sup> If legislation contains such a designation, the chair must put the question of consideration to the full House prior to its consideration. That is, the House must vote on whether or not to consider the

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Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 901).

<sup>5</sup> The current rule defines "direct spending" by reference to §250 of the Balanced Budget and Emergency Deficit Control Act of 1985 "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." §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." §3(4)(C) of the Statutory Pay-As-You-Go Act of 2010 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]." While no specific provision of the rule defines revenue legislation, the rule presumably would apply to any measure that affects revenues, as defined in the text above.

<sup>6</sup> Generally, the estimates used by the Budget Committee are based on the cost estimates prepared by CBO and, for revenue legislation, the Joint Committee on Taxation (JCT), but the Budget Committee has the authority to make its own estimates, which may vary from the CBO and JCT estimates. This requirement is consistent with other budget-related rules. Specifically, estimates by the Budget Committee also must be used to determine any violations of the enforcement rules associated with the budget resolution (see §312 of the Budget Act). Clause 4 of House Rule XXIX, which was added at the beginning of the 112<sup>th</sup> Congress, provides that the chair of the Budget Committee may provide "authoritative guidance" on the budgetary impact of legislation on the committee's behalf.

<sup>7</sup> §257 sets forth rules for calculating the baseline levels of direct spending and revenues (as well as discretionary spending). It is codified at 2 U.S.C. 907.

<sup>8</sup> 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. It does not apply to an emergency designation contained in other types of amendments, such as a floor amendment.

legislation, even though all or certain budgetary effects would be exempt from the House PAYGO rule. If the question is decided in the affirmative (by simple majority), the legislation may then be considered. Alternatively, if the question is decided in the negative, the legislation may not be considered.

The House PAYGO 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., increases the deficit, or reduces the surplus, 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).<sup>9</sup> 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 PAYGO rule, as part of the standing rules of the House, is effective for the current Congress for which it is adopted.

## **Legislative History of the House PAYGO Rule**

The House PAYGO rule was first established at the beginning of the 110<sup>th</sup> Congress. It was modified at the beginning of the 111<sup>th</sup> Congress, as part of the opening-day rules package, and again in the second session of the 111<sup>th</sup> 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 111<sup>th</sup> Congress, as part of the FY2010 budget resolution (S.Con.Res. 13). At the beginning of the 112<sup>th</sup> Congress, it was replaced with the CUTGO rule, which focused exclusively on the mandatory spending effects of legislation, eliminating any revenue effects from the budgetary evaluation under the rule. Most recently, at the beginning of the 116<sup>th</sup> Congress, the PAYGO rule was reinstated, covering both mandatory spending and revenues, with certain modifications.

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<sup>9</sup> Under the House rule, as noted above, the presiding officer is required to make the determination as to the effect on the deficit on the basis of estimates made by the Committee on the Budget.

## Actions in the 110<sup>th</sup> Congress

Even before the 110<sup>th</sup> Congress began, the new Democratic leadership in both chambers indicated an intention to “restore” PAYGO rules.<sup>10</sup> Accordingly, the House adopted its own PAYGO rule as part of its opening-day rules package.<sup>11</sup>

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 6-year and an 11-year period.<sup>12</sup> In this original form, as it does in its current form, the rule counted 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 the following particular baseline estimates when determining the effect of legislation on the deficit:

- 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; and
- 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.

Lastly, the original rule provided no explicit exemptions, such as adopted in the 116<sup>th</sup> Congress.<sup>13</sup>

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<sup>10</sup> 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 upon request. At the beginning of 2010, a similar statutory PAYGO requirement was enacted. For additional information on the statutory PAYGO requirement, see the “Comparison to Statutory PAYGO Requirements” section, below.

<sup>11</sup> On the opening day of the 110<sup>th</sup> 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 §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.

<sup>12</sup> In its original form and until the changes during the second session of the 111<sup>th</sup> Congress, the House PAYGO rule counted on-budget and off-budget entities in determining the effect on the deficit (referred to as the unified budget deficit).

<sup>13</sup> 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. In addition, the original 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 though it increased the deficit.

## Actions in the 111<sup>th</sup> Congress

At the beginning of the 111<sup>th</sup> 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.<sup>14</sup>

Three changes were made to the PAYGO rule.<sup>15</sup> 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 still in the rule in the 116<sup>th</sup> Congress, 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 an emergency and to provide for a question of consideration for legislation containing such a designation.

Later in the 111<sup>th</sup> Congress, during the second session, the House further amended clause 10 of Rule XXI generally to align the House PAYGO rule with the Statutory Pay-As-You-Go Act of 2010, which was enacted earlier in the year.<sup>16</sup> The changes were included in Section 5 of H.Res. 1500, a special rule providing for the consideration of an unrelated measure.<sup>17</sup>

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
- 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 (AMT); and (4) middle-class tax cuts.

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<sup>14</sup> On January 6, 2009, the House agreed to H.Res. 5, adopting the standing rules for the 111<sup>th</sup> 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.

<sup>15</sup> 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.

<sup>16</sup> Title I of P.L. 111-139, enacted on February 12, 2010 (codified at 2 U.S.C. 931-939).

<sup>17</sup> 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.

## Actions in the 112<sup>th</sup> Congress

At the beginning of the 112<sup>th</sup> Congress, in adopting the rules of the House, the new Republican majority replaced the PAYGO rule with a new Cut-As-You-Go (CUTGO) rule.<sup>18</sup> In general, the CUTGO rule focused on the net effect of new legislation 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 6-year and 11-year periods as the previous PAYGO rule.<sup>19</sup>

Excluding the projected revenue effects had at least two implications: (1) the House could consider legislation reducing revenues, regardless of whether it would increase the projected deficit, without being vulnerable to a point of order under the rule; and (2) legislation projected to increase mandatory spending could not be offset by an increase in revenues, in order to comply with the rule.

The CUTGO rule also did not continue the “adjustments for current policies,” as provided in the Statutory PAYGO Act. It is worth noting that these statutory adjustments were set to expire at the end of 2011 and were not extended beyond 2011.

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 also required a vote on the question of consideration, as provided in the new PAYGO rule, as described above.<sup>20</sup>

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

## Actions in the 116<sup>th</sup> Congress

At the beginning of the 116<sup>th</sup> Congress, in adopting the rules of the House, the new Democratic majority reinstated the PAYGO rule, replacing the previous CUTGO rule.<sup>21</sup> Most significantly, the PAYGO rule reincorporates the projected revenue effects of legislation into the evaluation of determining a violation. The new rule, however, is not exactly the same PAYGO rule that existed at the end of the 111<sup>th</sup> Congress. In particular, unlike the previous PAYGO rule, it includes *off-*

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<sup>18</sup> On the opening day of the 112<sup>th</sup> 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.

<sup>19</sup> The rule did not restrict its focus to *on-budget* accounts as the previous PAYGO rule did. That is, the CUTGO rule included both on-budget mandatory spending and *off-budget* mandatory spending, such as Social Security benefits.

<sup>20</sup> The CUTGO rule excluded such budgetary effects by reference to the Statutory PAYGO Act. This reference, according to the House Parliamentarian, was “less clear” but was determined to cover 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*, 94<sup>th</sup> Cong., February 8, 2013, H.Doc. 94-661 (Washington: GPO, 2013), Ch. 41, §§22 and 23.1, pp. 318-319.

<sup>21</sup> On the opening day of the 116<sup>th</sup> 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 115<sup>th</sup> Congress, with certain amendments, which included amending House Rule XXI to replace clause 10 with the current 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.

*budget* effects, such as those that affect the receipts and outlays of the Social Security trust funds.<sup>22</sup>

In general, other than these changes, the new House PAYGO rule retains the procedures related to the operation of the former CUTGO and PAYGO rules. For example, the new PAYGO rule continues to provide for combining the budgetary effects of two measures, under particular circumstances, and for excluding budgetary effects designated as an emergency, as described in the “Features of the House PAYGO Rule,” section above.

## Comparison to Statutory PAYGO Requirements

The House PAYGO rule exists alongside similar PAYGO requirements in statute. Like the House rule, the Statutory Pay-As-You-Go Act of 2010 (Title I of P.L. 111-139, 124 Stat. 8-29), enacted on February 12, 2010, is intended to discourage or prevent Congress from taking certain legislative action that would increase the on-budget deficit.<sup>23</sup> It generally requires that legislation affecting direct spending or revenues not increase the deficit over the 6-year and 11-year time periods, as in the House rule.<sup>24</sup> Notably, the Statutory PAYGO Act relates only to the *on-budget* effects of legislation, excluding any *off-budget* effects, such as those affecting the Social Security trust funds.

While the House PAYGO rule and the statutory requirements are similar, they are different in significant ways relating to when and how they are enforced. The House rule applies during the consideration of legislation on the House floor. That is, the House rule prohibits the consideration of the legislation on the House floor if it does not comply with the requirement. In addition, under the House PAYGO rule, each measure affecting direct spending and revenues must comply with the requirement, with the one exception of two measures combined upon engrossment, as explained above.

The Statutory PAYGO Act, in contrast, applies the requirement to legislation after it has been enacted. Moreover, instead of requiring that each enacted bill not increase the deficit, the statutory rule requires that the net effect of all bills affecting direct spending and revenues (referred to as PAYGO legislation or PAYGO acts) enacted during a session of Congress not increase the deficit. That is, under the statutory rule, the net effect of all PAYGO acts enacted during a session of Congress must not increase the deficit over either a 5-year or a 10-year period. In other words, Congress can enact legislation increasing the deficit and still comply with the statutory rule as long as separate legislation offsetting such increases in the deficit is enacted during the same year.

Reflecting the difference in when the PAYGO requirement is applied, the congressional and statutory rules also differ in how they are enforced. As noted above, the House PAYGO rule is enforced by a point of order to prevent the consideration of legislation that does not meet the requirement. In contrast, the statutory PAYGO rule is enforced by sequestration—the cancellation of budgetary resources provided by laws affecting direct spending—to eliminate an increase in the deficit resulting from the enactment of legislation. The former is an internal procedure of the

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<sup>22</sup> The CUTGO rule, as noted above, also included off-budget accounts.

<sup>23</sup> For more detailed information on the statutory requirement, see CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*.

<sup>24</sup> While the Statutory PAYGO Act requires the calculation of budgetary effects of legislation over 5-year and 10-year periods, it also requires that any budgetary effects in the current year shall be treated as though they occurred in the budget year (i.e., the first year of the 5-year and 10-year periods), effectively applying the requirement over 6-year and 11-year periods.

House, whereas the latter involves actions taken by the President and the Office of Management and Budget.

The statutory PAYGO rule provides that if the net effect of direct spending and revenue legislation enacted during a year increases the deficit (i.e., violates the PAYGO requirement), budgetary resources in certain direct spending programs are cut in order to eliminate the increase in the deficit. Specifically, the average budgetary effects (i.e., any increase or decrease in the deficit) over 5-year and 10-year periods of each PAYGO act are placed on 5-year and 10-year scorecards, respectively.<sup>25</sup> The PAYGO requirement effectively is applied to the balances on each of these scorecards 14 days after Congress adjourns at the end of a session. If either scorecard shows a positive balance (referred to as a *debit*) for the budget year, the President is required to issue a sequestration order cancelling budgetary resources in non-exempt direct spending programs sufficient to eliminate the balance (the larger balance if both scorecards show a positive balance).<sup>26</sup>

Finally, although the House PAYGO rule must be adopted anew at the beginning of each new Congress, the Statutory PAYGO Act does not include any expiration date.

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<sup>25</sup> The 5-year period covers the budget year and four fiscal years thereafter, and the 10-year period covers the budget year and nine fiscal years thereafter. As noted in the previous footnote, the statutory rule also requires that any budgetary effects for the current year must be added to the budgetary effects for the budget year. Also, the budgetary effects of any PAYGO act are determined either by a statement of budgetary effects (i.e., generally, a CBO cost estimate) printed in the *Congressional Record* prior to passage referenced in the act, or by the Office of Management and Budget if no appropriate statement or reference in the act exists.

<sup>26</sup> Most direct spending programs and activities, including Social Security benefits, veterans' programs, retirement and disability benefits, and low-income programs, among others, are exempt from any sequestration. In addition, the amount of any sequestration is limited to 4% for Medicare and 2% for certain health and medical care activities.

## **Appendix. Text of the House Pay-As-You-Go (PAYGO) Rule: Clause 10 of House Rule XXI (116<sup>th</sup> 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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## **Acknowledgments**

The author is grateful to Robert Keith, formerly a Specialist in American National Government at CRS, for sharing his knowledge on this and many other budget process issues over the years.

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