The Statutory Pay-As-You Go Act
and the Role of the Congress

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The Statutory Pay-As-You-Go Act of 2010 (often called S-PAYGO) established procedures to control the effects of newly enacted legislation on the deficit by constraining increases in spending and reductions in revenues. This document describes how estimates of the budgetary effects of enacted legislation are recorded and used to enforce S-PAYGO requirements.

Is All Legislation Subject to S-PAYGO?
Yes. All legislation is evaluated for compliance with S-PAYGO. Although the S-PAYGO law sets out permanent budget-reporting and enforcement procedures for all legislation, only provisions that affect mandatory spending and revenues are subject to S-PAYGO enforcement.

Mandatory, or direct, spending includes outlays for most federal benefit programs and for certain other payments to people, businesses, nonprofit institutions, and state and local governments. Such spending is generally governed by statutory criteria and is not normally constrained by the annual appropriation process. Certain types of payments that federal agencies receive from the public and from other government agencies are classified as offsetting receipts and accounted for in the budget as reductions in mandatory spending.

The law applies to provisions in appropriation acts that change mandatory outlays or revenues unless their estimated effects on outlays net to zero over the period encompassing the current fiscal year, the upcoming budget year, and four subsequent fiscal years. If an entire law consists of discretionary spending provisions (that is, appropriations), the legislation is still subject to S-PAYGO evaluation and reporting, but the costs are recorded by the Office of Management and Budget (OMB) as zero for S-PAYGO purposes.

Who Enforces S-PAYGO Requirements and How?
In keeping with the law's provisions, OMB enforces S-PAYGO requirements through sequestration—the cancellation of mandatory budgetary resources.[1] To do that, the agency uses 5- and 10-year scorecards (see the table) to track the projected budgetary effects of new laws subject to S-PAYGO.[2] The scorecards align with the budget window that the Congressional Budget Office uses for its baseline projections and legislative cost estimates: the current year, the upcoming budget year, and either four or nine subsequent fiscal years. Unless otherwise directed by law, OMB uses its own estimates to create those scorecards.

If, at the end of a session of Congress, either scorecard shows a positive balance (indicating a net increase in the projected deficit) for the budget year, OMB must reduce budgetary resources for mandatory programs (except for those that are exempted by law) for that year to reduce the deficit by the amount of the larger balance.[3]

How Does OMB Calculate Scorecard Amounts?
The balance used to determine the amount of a sequestration is not the projected increase in the deficit for that particular year. Rather, OMB's scorecards identify *average annual effects* of legislation over the 5- and 10-year periods and assign that average to each year in the period. Before the averages are calculated, any current-year effects

OMB's scorecards itemize the deficit effects of each new law that affects direct spending or revenues.

The total columns summarize deficit effects for the two enforcement periods. Here, 2018 is the current year and 2019 is the upcoming budget year. The 5- and 10-year S-PAYGO scorecards show estimated effects through fiscal years 2023 and 2028, respectively.

Statutory PAYGO Effects for the Miscellaneous Tariff Bill Act of 2018 (P.L. 115-239)

By Fiscal Year, Millions of Dollars

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2018-2023	2018-2028
Net Increase or Decrease (-) in the Deficit													
Statutory Pay-As-You-Go Effect	0	388	423	109	0	0	0	0	0	-779	-148	920	-7
Amounts Recorded on 5-Year PAYGO Scorecard	0	184	184	184	184	184							
Amounts Recorded on 10-Year PAYGO Scorecard	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1		

Source: Office of Management and Budget.

The top row is OMB's estimate of S-PAYGO effects for each year in the enforcement period.

The 5-year scorecard shows OMB's calculation of average annual effects over the 2018–2023 period.

The 10-year scorecard shows OMB's calculation of average annual effects over the 2018-2028 period.

are combined with those for the budget year. (In some cases, legislation requires OMB to use Congressional estimates of year-by-year effects.) "Insignificant" outlay or revenue effects (between -$500,000 and $500,000) are recorded as zeros.

What Budgetary Effects Does OMB Not Record? OMB's scorecards exclude changes in three areas: off-budget accounts (the surpluses or deficits in the Social Security trust funds and the net cash flows of the Postal Service); spending or revenues that the Congress designates as emergency requirements; and differences that arise from certain timing shifts that, for example, cause spending from one fiscal year to be recorded in the prior year because the later fiscal year begins on a weekend.

In addition, in new legislation, the Congress sometimes includes provisions that require OMB to exclude certain budgetary effects from its scorecards.

Can Statutory Enforcement Be Waived?

The law specifies that OMB must execute sequestration if a positive balance exists on the 5-year or 10-year scorecard. However, lawmakers can enact legislation to eliminate a balance or roll it over to future years, thereby eliminating or delaying the need for sequestration.

What Is the Role of the Congress Under S-PAYGO?

If certain procedures are followed, the Congress can require OMB to adopt the cost estimates used during its consideration of legislation. (Those estimates are usually, but not necessarily, prepared by CBO for spending and by the staff of the Joint Committee on Taxation for revenues.)

Before a vote by the House of Representatives or the Senate, the cost estimate for the version of the bill to be considered—including all amendments that have been adopted—must be printed in the *Congressional Record.* The legislation also must include a statement that incorporates the cost estimate by reference:

> The budgetary effects of this Act, for the purpose of complying with the Statutory Pay As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the [Chair of the House or Senate] Budget Committee, provided that such statement has been submitted prior to the vote on passage.

If the legislation is amended after one chamber has approved it, lawmakers must submit an updated estimate referencing the revised version of the legislation for publication in the *Congressional Record* before a vote is taken. The estimate must be updated even if subsequent amendments do not change the estimated costs of the legislation. Ultimately, if the House and the Senate pass identical versions of a bill that references the same cost estimate, OMB must use that estimate of year-by-year direct spending and revenue effects to calculate the 5- and 10-year averages it enters on the S-PAYGO scorecards.

How Are S-PAYGO and Congressional PAYGO Related?

S-PAYGO established procedures in law that are distinct from the procedures set forth in rules of the House of Representatives and the Senate for enforcing Congressional budgetary goals. Like S-PAYGO procedures, the House and Senate pay-as-you-go (PAYGO) rules aim to constrain legislative changes that would increase the deficit. However, the Congressional rules apply during consideration of individual legislative proposals and are enforced through points of order (prohibitions against consideration of certain types of legislation) that lawmakers can raise against bills or amendments under consideration by either chamber. The Chair of the House or Senate Committee on the Budget determines the budgetary effects that are the bases for ruling on such points of order—often (but not necessarily) using cost estimates prepared by CBO and the staff of the Joint Committee on Taxation. The chairs of the Budget Committees also maintain PAYGO scorecards for their members.

Notes

1. For more information, see Office of Management and Budget, “Sequestration Reports & Orders” (accessed August 13, 2020), https://go.usa.gov/xwsJy.
2. See Office of Management and Budget, “PAYGO” (accessed August 13, 2020), www.whitehouse.gov/omb/paygo.
3. Sections 255 and 256 of the Balanced Budget and Deficit Control Act of 1985 specify the mandatory budgetary resources that are exempt from sequestration.

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