



The Statutory PAYGO Process for Budget Enforcement: 1991-2002

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Summary

“Pay-as-you-go” (PAYGO) procedures play an important role in enforcing budget policies with respect to the consideration of revenue and direct spending legislation. Generally, the purpose of PAYGO procedures is to discourage or prevent the enactment of legislation that would cause, or increase, a deficit or reduce a surplus in the federal budget. PAYGO procedures are not a comprehensive means of budget enforcement because they do not apply to discretionary spending, which is provided in annual appropriations acts; such spending is subject to other enforcement procedures. Further, PAYGO rules deal only with the budgetary impact of legislation considered by Congress; they do not address changes in direct spending and revenue levels under current law stemming from changes in the economy, demographic trends, and other factors.

Over the years, several different PAYGO procedures have been used for budget enforcement purposes. The PAYGO procedures have been based in statute as well as congressional rules. Statutory and rules-based PAYGO procedures have been in effect simultaneously at times, while at other times only one form of PAYGO procedures was in effect.

This report examines the statutory PAYGO process that was in effect from 1991 through 2002, beginning with a discussion of the complex and evolving budget enforcement framework of which it was an important part. The report continues with an explanation of the origin, extension, and termination of the PAYGO process; a review of its regular operation and statutory interventions in that operation involving directed scorekeeping; and an identification of major direct spending and revenue legislation subject to the PAYGO process. It concludes with a brief discussion of proposals to restore the PAYGO process.

The statutory PAYGO process was established in 1990 as Section 252 of an underlying law, the 1985 Balanced Budget Act. As extended in 1993 and 1997, the PAYGO process applied to legislation enacted through the end of FY2002, but it covered the effects of such legislation through FY2006. The PAYGO process was effectively terminated in December 2002 by the enactment of P.L. 107-312, which set all remaining balances on the PAYGO scorecard to zero.

Under the PAYGO process, if the OMB director determined that there was a positive balance for a fiscal year on the PAYGO scorecard, then the President was required to issue a sequestration order implementing across-the-board cuts in nonexempt direct spending to eliminate the balance. The OMB director issued 12 final sequestration reports under the PAYGO process, for FY1992-FY2003. The final balances on the PAYGO scorecard for all years were either negative amounts (reflecting net savings) or zero. Accordingly, no PAYGO sequester was required for any fiscal year during this period. While the OMB director’s final determinations indicated compliance with the PAYGO requirement in all years, in some cases the balances reflected adjustments due to emergency requirements, provided for under the process, or directed scorekeeping provisions in law that intervened in the normal operation of the process in order to prevent a sequester. Emergency designations and directed scorekeeping provisions sometimes involved amounts ranging from tens of billions to more than one hundred billion dollars for a year.

This report will be updated as developments warrant.

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Over the years, several different PAYGO procedures have been used for budget enforcement purposes. The PAYGO procedures have been based in statute as well as congressional rules. Statutory and rules-based PAYGO procedures have been in effect simultaneously at times, while at other times only one form of PAYGO procedures was in effect.

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Budget Enforcement Framework

The modern congressional budget process commenced with the Congressional Budget and Impoundment Control Act of 1974. With respect to budget enforcement procedures, significant revisions and augmentations occurred under the Balanced Budget and Emergency Deficit Control Act of 1985, the Budget Enforcement Act of 1990, and other laws. In addition, the House and Senate established their own PAYGO rules.¹ These laws and rules are summarized briefly below.

Congressional Budget Act of 1974

The Congressional Budget and Impoundment Control of 1974 established the congressional budget process that is in use today.² Under current practices, the process centers around the annual adoption of a multiyear budget plan in the form of a concurrent resolution.³ The budget

¹ The text of various budget process laws and rules is presented in: House Budget Committee, *Compilation of Laws and Rules Relating to the Congressional Budget Process*, committee print CP-3, November 2008, available on the Committee's website at <http://budget.house.gov/laws.shtml> (the first item listed). The acts addressed in this section are discussed in more detail in CRS Report RL30795, *General Management Laws: A Compendium*, by (name redacted) et al.

² For an explanation of the congressional budget process, see CRS Report 98-721, *Introduction to the Federal Budget Process*, by (name redacted). The 1974 act was P.L. 93-344 (88 Stat. 297-339), signed into law by President Richard Nixon on July 12, 1974; the portions of the act affecting Congress are codified beginning at 2 U.S.C. 621. Titles I-IX of the act are referred to as the Congressional Budget Act of 1974; Title X is the Impoundment Control Act of 1974.

³ Extensive information on budget resolutions is presented in CRS Report RL30297, *Congressional Budget Resolutions: Historical Information*, by (name redacted) and (name redacted).

resolution, as a concurrent resolution (rather than a bill or joint resolution), is not sent to the President for his approval or veto and serves as an internal “blueprint” for congressional action on budgetary legislation.

The act established House and Senate Budget Committees, which exercise jurisdiction over budget resolutions, and an independent, nonpartisan agency, the Congressional Budget Office (CBO), which provides Congress with budgetary information and analysis. The policies of the budget resolution, which pertain to the aggregate levels of revenue, spending, the deficit or surplus, and the public debt, as well as functional allocations of spending, are enforced during the subsequent consideration of revenue, spending, and debt-limit legislation by various means, including points of order, the optional budget reconciliation process, scorekeeping procedures, and CBO (and Joint Tax Committee) estimates of the budgetary effects of individual measures.⁴

Balanced Budget Act of 1985

By 1985, the emergence of large deficits in the preceding few years, and the forecast of even larger deficits in the future, motivated Congress in part to augment the congressional budget process with strengthened budget enforcement procedures. The actual budget deficits for FY1983 and FY1984 were \$208 billion and \$185 billion, respectively, and President Ronald Reagan’s budget for FY1986 estimated the current services deficit at \$230 billion for FY1986 and at comparable levels through FY1990.⁵ There was widespread concern that procedures under the 1974 act were not sufficient to cope with persistent deficits of such size.

The Balanced Budget and Emergency Deficit Control Act of 1985 provided strengthened procedures in the form of declining annual deficit targets, set in statute, that were expected to lead from a deficit of \$171.9 billion for FY1986 to a balanced budget by FY1991.⁶ The deficit targets were enforced by a process known as sequestration, which involved largely across-the-board spending cuts in nonexempt programs that would be triggered automatically toward the beginning of the fiscal year if the Comptroller General determined that the applicable deficit target was not expected to be met.⁷ A sequester was viewed as such a draconian approach, and the consequences of it so unacceptable, that the threat of one would force Congress and the President to reach agreement on needed budgetary legislation under regular legislative procedures.

⁴ For further information on budget enforcement procedures under the 1974 act, see CRS Report 97-865, *Points of Order in the Congressional Budget Process*, by (name redacted), and CRS Report RL33030, *The Budget Reconciliation Process: House and Senate Procedures*, by (name redacted) and (name redacted)

⁵ Office of Management and Budget, *Budget of the United States Government, Fiscal Year 1986, Special Analyses*, Feb. 4, 1985, Special Analysis A, p. A-5. Current service estimates project budget levels into the future without policy changes.

⁶ The 1985 Balanced Budget Act was Title II (99 Stat. 1038-1101) of P.L. 99-177, signed into law by President Ronald Reagan on December 12, 1985. The measure originated as a joint resolution increasing the statutory limit on the public debt. Title II of the act contained five parts, each dealing with a different aspect of budget procedure. Part C (Emergency Powers to Eliminate Deficits in Excess of the Maximum Deficit Amount) of Title II set forth the sequestration procedures used to enforce the deficit targets (“maximum deficit amounts”), but the targets themselves were placed in Section 3(7) of the Congressional Budget Act of 1974 by a provision in Part A (99 Stat. 1039). The 1985 Balanced Budget Act initially was referred to as the “Gramm-Rudman-Hollings Act” after its three sponsors—Senators Phil Gramm, Warren Rudman, and Ernest Hollings.

⁷ Sequestration procedures are explained in CRS Report RL31137, *Sequestration Procedures Under the 1985 Balanced Budget Act*, by (name redacted).

The 1985 Balanced Budget Act was modified two years later by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, signed into law by President Reagan on September 29, 1987.⁸ The two major modifications were: (1) in order to overcome constitutional objections, placing the authority to trigger a sequester in the hands of the director of the Office of Management and Budget (OMB); and (2) revising the deficit targets and extending the goal of a balanced budget by two years, to FY1993.⁹

Unlike the congressional budget process under the 1974 act, in which enforcement procedures were internal to Congress, the sequestration process relied on actions by the executive: the OMB director determined whether a sequester would occur and the amount of the required spending cuts; the President issued any required sequestration order; and executive agencies implemented the bulk of the spending cuts (sequestration also applied to legislative and judicial agencies, which constitute a relatively small portion of the federal budget).

During the period that deficit targets were in effect, three deficit sequesters occurred, for FY1986, FY1988, and FY1990.¹⁰ Initial outlay savings associated with the three deficit target sequesters were substantial: \$11.7 billion for FY1986; \$20.0 billion for FY1988; and \$16.1 billion for FY1990. The across-the-board cuts made in different categories of spending ranged in size from 4.3% to 10.5%. Except for FY1986, these savings subsequently were rescinded as part of a budget agreement (FY1988) or were reduced by a later law (to \$4.55 billion for FY1990). Notwithstanding the implementation of a sequester for each of these three fiscal years, the deficit targets proved to be ineffective on the whole. The actual deficit for each of these years exceeded the applicable target by an average of about \$60 billion.

Budget Enforcement Act of 1990

Continuing difficulties associated with the use of deficit targets prompted Congress and the President to enact the Budget Enforcement Act (BEA) of 1990, which fundamentally revised the procedures under the 1985 Balanced Budget Act.¹¹ In mid-October of 1990, the OMB director estimated that the deficit for FY1991 would amount to \$147.3 billion, representing an excess of \$83.3 billion over the revised deficit target for that year of \$64 billion. The required deficit target sequester for FY1991, had it been allowed to remain in effect, would have required across-the-board cuts of 34.5% for defense programs and 31.6% for nondefense programs.¹² Although the

⁸ The 1987 Reaffirmation Act was Title I (101 Stat. 754-784) of P.L. 100-119, signed into law by President Ronald Reagan on September 29, 1987. The measure originated as a joint resolution increasing the statutory limit on the public debt.

⁹ In *Bowsher v. Synar* (478 U.S. 714), decided on July 7, 1986, the Supreme Court determined that placing the authority to trigger a sequester in the hands of the Comptroller General, an officer of the legislative branch, violated the separation of powers required under the Constitution.

¹⁰ For a discussion of deficit sequesters, see CRS Report RS20398, *Budget Sequesters: A Brief Review*, by (name redacted).

¹¹ The BEA of 1990 was Title XIII (104 Stat. 1388-573 through 630) of P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990, signed into law by President George H.W. Bush on November 5, 1990.

¹² The final sequestration order for FY1991, issued by President George H.W. Bush on October 15, 1990, was rescinded by Section 13401 of the BEA of 1990 (104 Stat. 1388-628) and amounts that had been sequestered were restored.

BEA of 1990 extended the deficit targets through FY1995, it effectively replaced them with statutory limits on discretionary spending and the PAYGO process, covering FY1991-FY1995.¹³

As discussed in more detail in the next section, the main purpose of these enforcement procedures was to preserve deficit savings reached in a budget summit agreement between President George H.W. Bush and Congress and implemented in reconciliation and other budgetary legislation. Sequestration was retained as the means of enforcing the new procedures. The procedures were revised and extended by budget reconciliation legislation enacted in 1993 and 1997, and were modified by other laws.

House and Senate PAYGO Rules

In 1993, the Senate established its own PAYGO rule as a means of buttressing the statutory PAYGO process. The rule has been revised significantly several times during its existence and currently is in effect through September 30, 2017.¹⁴ The House established its own PAYGO rule in 2007, long after the statutory process had been terminated, and revised it in 2009.¹⁵ The PAYGO rules of the two chambers operate in a roughly similar manner, but differ significantly from the way the statutory PAYGO process operated.¹⁶

Origin, Extension, and Termination of the PAYGO Process

The statutory PAYGO process originated in the Budget Enforcement Act of 1990, was extended by the Omnibus Budget Reconciliation Act of 1993 and the Budget Enforcement Act of 1997, and effectively was terminated by P.L. 107-312. The first three of these acts were budget reconciliation measures, while the last act was a freestanding measure devoted solely to the purpose of terminating the PAYGO process before its scheduled expiration.¹⁷ Each of these measures is discussed in more detail below.

Origin of PAYGO: Budget Enforcement Act of 1990

The Omnibus Budget Reconciliation Act (OBRA) of 1990 was signed into law, as P.L. 101-508, by President George H.W. Bush on November 5, 1990. The act largely represented the

¹³ With the extension of the deficit targets through FY1995, the President was given the authority to adjust them for changing economic and technical assumptions, thereby making them moot.

¹⁴ The Senate's PAYGO rule is Section 201 of S.Con.Res. 21 (110th Congress), the FY2008 budget resolution; see pp. 12-13 (legislative text) and 96-97 and 102-103 (joint explanatory statement) of the conference report to accompany the measure, H.Rept. 110-153, May 16, 2007. The rule is examined in detail in CRS Report RL31943, *Budget Enforcement Procedures: Senate Pay-As-You-Go (PAYGO) Rule*, by (name redacted)

¹⁵ The House PAYGO rule is summarized in CRS Report RL33850, *The House's "Pay-As-You-Go" (PAYGO) Rule in the 110th Congress: A Brief Overview*, by (name redacted).

¹⁶ The differences between the statutory and rules-based PAYGO procedures are discussed in CRS Report RL34300, *Pay-As-You-Go Procedures for Budget Enforcement*, by (name redacted).

¹⁷ For a perspective on budget reconciliation legislation, see CRS Report R40480, *Budget Reconciliation Measures Enacted Into Law: 1980-2008*, by (name redacted).

culmination of bipartisan budget summit negotiations between congressional and administration negotiators, occurring at Andrews Air Force Base, that began in early May of 1990 and concluded on September 30, 1990. According to CBO estimates, OBRA of 1990 reduced the deficit by \$482 billion over five years (FY1991-FY1995), including \$158 billion in revenue increases and \$324 billion in spending cuts and debt service savings.¹⁸

Title XIII of the act (104 Stat. 1388, 1-630), referred to as the Budget Enforcement Act (BEA) of 1990, amended the 1985 Balanced Budget Act, the 1974 Congressional Budget Act, and other laws and rules. The BEA of 1990 established special deficit-reduction procedures for FY1991-FY1995 and made other permanent changes in the budget process.

The budget process changes made by the BEA of 1990 fulfilled commitments that had been made during the lengthy negotiations to promote fiscal responsibility. On June 26, 1990, for example, the President issued a statement that he and congressional negotiators were in accord that any bipartisan budget agreement should include budget process reform “to assure that any Bipartisan agreement is enforceable and that the deficit problem is brought under responsible control.” On September 11, 1990, in an address to a joint session of Congress, the President reiterated his position that any budget agreement “must reform the budget process.”

Initial House consideration of the reconciliation bill, H.R. 5835, occurred under the terms of a special rule (H.Res. 509, 101st Congress), reported by the House Rules Committee, that provided for the automatic adoption of a budget process title under a “self-executing” feature of the rule. The special rule was adopted by the House on October 16, 1990, and the bill, as amended, was approved later that day, by a vote of 227-203.¹⁹

During Senate consideration of a companion measure, S. 3209, on October 18, Senate Majority Leader George Mitchell offered a leadership amendment (numbered 3046) to the bill adding a budget process title. A point of order was raised that the leadership amendment was nongermane; after a waiver motion was approved by a vote of 77-22, the amendment was agreed to by a voice vote. Following the adoption of further amendments, the Senate passed its version of the reconciliation legislation on October 18, by a vote of 54-46.

House and Senate conferees filed a conference report on H.R. 5835 on October 26 (H.Rept. 101-964). Both chambers agreed to the conference report the next day; the House approved it by a vote of 228-200, and the Senate approved it by a vote of 54-45.

The BEA of 1990 established a PAYGO process, covering FY1991-FY1995, to impose a deficit neutrality requirement on direct spending and revenue legislation. The process was set forth in Section 252 of an underlying law, the 1985 Balanced Budget Act. Under the process, legislation proposing new direct spending or decreasing revenues for a fiscal year could not result in a net cost for that year. The PAYGO process generally was intended to preserve the deficit reduction achieved in OBRA of 1990 by keeping an on-budget deficit from being increased or an on-budget surplus from being reduced.

¹⁸ For information on the budgetary impact of OBRA of 1990 and the other two reconciliation acts discussed here, see CRS Report RS22098, *Deficit Impact of Reconciliation Legislation Enacted in 1990, 1993, 1997, and 2006*, by (name redacted).

¹⁹ The legislative history of the BEA of 1990 is summarized in CRS Report 90-518, *Budget Enforcement Act of 1990: Legislative History*, by Edward Davis and (name redacted) (archived, available from (name redacted)).

Extension of PAYGO: OBRA of 1993 and the BEA of 1997

The statutory PAYGO process, as well as the discretionary spending limits, were extended later in the 1990s by provisions in budget reconciliation acts that resulted from budget agreements between the President and Congress.

In 1993, the enforcement procedures were modified by the Omnibus Budget Reconciliation Act (OBRA) of 1993, signed into law by President Bill Clinton on August 10, 1993, as P.L. 103-66. Title XIV (107 Stat. 683-685) of the act extended the procedures for three more fiscal years, through FY1998, and made some relatively minor adjustments in them. The extension of the procedures was intended to help preserve the \$433 billion in deficit reduction over FY1994-FY1998 that CBO estimated would be achieved by OBRA of 1993 and other acts. (The title also included an adjustment to the PAYGO scorecard under a directed scorekeeping provision, as discussed in a later section.)

In 1997, the enforcement procedures were modified by the Balanced Budget Act of 1997, signed into law by President Bill Clinton on August 5, 1997, as P.L. 105-33. The act was one of two budget reconciliation measures considered that year, the other being the Taxpayer Relief Act of 1997 (P.L. 105-34), which also was signed into law on August 5. Together, the two reconciliation acts implemented most of the deficit reduction, estimated by CBO to amount to \$118 billion over FY1998-FY2002, and tax relief policies underlying the bipartisan budget agreement between President Clinton and congressional leaders reached on May 2, 1997.

Title X (111 Stat. 677-712) of the Balanced Budget Act of 1997, referred to as the Budget Enforcement Act (BEA) of 1997, generally extended the enforcement procedures through the end of FY2002 and made various adjustments in them.²⁰ In the case of the PAYGO process, the BEA of 1997 extended it to legislation enacted through the end of FY2002 (i.e., September 30, 2002), but it covered the effects of such legislation through FY2006.

Termination of PAYGO: P.L. 107-312

The PAYGO requirement effectively was terminated toward the end of 2002 by the enactment of P.L. 107-312 in December of that year.²¹

Shortly after the second session of the 107th Congress began on January 23, 2002, OMB indicated that the balance on the PAYGO scorecard for FY2003 exceeded \$110 billion and that the balances for the remaining years on the scorecard, FY2004-FY2006, were over \$130 billion for each year. Although the House and Senate did not reach agreement in 2002 on a budget resolution for FY2003, it was clear that neither house intended to pursue policies that would eliminate the FY2003 balance on the PAYGO scorecard through revenue increases or direct spending reductions. Rather, it was expected that Congress and the President would agree to use procedural means for preventing a PAYGO sequester from occurring, as had been done in other years.

²⁰ Background information on the BEA of 1997 is provided in CRS Report 97-931, *Budget Enforcement Act of 1997: Summary and Legislative History*, by (name redacted).

²¹ For a discussion of the enactment of P.L. 107-312, see CRS Report RS21378, *Termination of the "Pay-As-You-Go" (PAYGO) Requirement for FY2003 and Later Years*, by (name redacted).

As the session unfolded, Congress and the President enacted legislation that added several billion dollars more in net costs to the PAYGO scorecard. According to OMB estimates, only \$31 billion could be cut under a PAYGO sequester because most direct spending was exempt from sequestration; consequently, a violation of more than \$90 billion would have remained even if a full PAYGO sequester had occurred.

In order to prevent a PAYGO sequester for FY2003 from occurring after the end of the session, the House and Senate passed H.R. 5708, which President George W. Bush signed into law on December 2, 2002, as P.L. 107-312 (116 Stat. 2456). In addition to eliminating the imminent threat of a sequester by reducing the PAYGO balance for FY2003 (and FY2002) to zero, it also eliminated the sequester threat for FY2004-FY2006 by setting those balances at zero as well.

Regular Operation of the PAYGO Process

This section identifies and describes the main elements of the statutory PAYGO process as it was intended to operate. Further, it analyzes the operation of the process by focusing on the final PAYGO determinations made each year by the OMB director and the use of emergency designations. Statutory interventions in the process involving directed scorekeeping, and the major direct spending and revenue legislation enacted under PAYGO procedures, are discussed in later sections.

Main Elements of the PAYGO Process

The PAYGO process unfolded during the course of a congressional session, with several actions scheduled to occur under a fixed timetable. The timetable was designed to give Congress and the President ample notice regarding the implications of its actions on budgetary legislation with respect to the possibility of a sequester occurring at the end of the session, after the beginning of the fiscal year to which it applied. As indicated earlier, the sequestration process was modified by several laws over the years and these modifications revised the timetable; the timetable in its most recent form is used in this report. Actions under the PAYGO process were synchronized with actions pertaining to the discretionary spending limits (and, for the remainder of their existence, the deficit targets).

As a general rule, the enforcement procedures for the PAYGO process, on the one hand, and the discretionary spending limits, on the other, were separated by a “firewall.” Violations of the PAYGO requirement were corrected by reductions solely in direct spending programs, while violations of the discretionary spending limits were remedied by reductions only in discretionary spending programs.²² Further, savings made on one side of the firewall could not be used to the advantage of programs on the other side. For example, the cost of tax-cut legislation could not be

²² Direct spending programs, which typically are funded in substantive legislation, are under the jurisdiction of the legislative committees of the House and Senate; direct spending includes such programs as Social Security, Medicare, Medicaid, federal military and civilian retirement programs, and unemployment compensation. Discretionary spending is provided in, and controlled by, annual appropriations acts under the jurisdiction of the House and Senate Appropriations Committees. Direct spending also is referred to as mandatory spending. Discretionary spending, for the most part, funds the routine operations of federal departments and agencies. Direct spending and discretionary spending together make up all federal spending.

offset by reductions in discretionary spending in annual appropriations acts in order to avoid a PAYGO sequester.

As mentioned previously, the PAYGO process was set forth in Section 252 of the 1985 Balanced Budget Act. Procedures dealing with the enforcement of the discretionary spending limits were set forth in Section 251 of the act, and procedures for the enforcement of the deficit targets were contained in Section 253. Aside from these core elements, the act also contained sections providing definitions (Section 250), dealing with the timetable for, and contents of, sequestration reports and orders (Section 254), exempt programs and activities (Section 255), general sequestration rules and special rules for selected programs (Section 256), construction of the budget baseline (Section 257), as well as other sections.²³

With regard to direct spending, the PAYGO requirement applied to outlay levels rather than levels of budget authority. Outlays, rather than budget authority, are compared to revenue levels to determine the amount of the surplus or deficit.

During the course of the session, OMB was required to provide Congress with a cost estimate for each budgetary measure within seven days of its enactment, so that compliance with the PAYGO requirement and discretionary spending limits could be monitored. The cost estimates had to be based on the economic and technical assumptions used in the President's most recent budget, and had to include similar cost estimates prepared by CBO together with an explanation of any differences between the two sets of estimates.

The PAYGO balances for each fiscal year were recorded on a rolling PAYGO "scorecard," maintained by the OMB director, that accumulated the budgetary effects of laws enacted during the session and in prior years. The threshold test for a PAYGO sequester dealt with how legislation affected the net cost for a fiscal year on the PAYGO scorecard, not how it changed the surplus or deficit for that fiscal year in the federal budget.

Under the timetable for the sequestration process, the OMB director issued a sequestration report at the time the President's budget was submitted to Congress (the preview report), midway through the congressional session (the update report), and within 15 days after the end of the session (the final report). In preparing its update and final sequestration reports, OMB had to use the economic and technical assumptions that were used in the earlier preview report. The CBO director issued sequestration reports in advance of the OMB reports, but they were advisory only. (CBO sequestration reports are not addressed in this report.)

If the OMB director's final sequestration report indicated that enacted direct spending and revenue levels had incurred a net cost for the fiscal year on the PAYGO scorecard, then the President was required to immediately issue a sequestration order to remedy the violation through automatic, across-the-board spending reductions. If a sequester under this process was required, it had to occur within 15 calendar days after Congress adjourned at the end of a session and on the same day as any sequestration tied to enforcement of the discretionary spending limits.

The sequester had to eliminate any net positive balance on the PAYGO scorecard, for that fiscal year and the prior fiscal year combined, caused by the enactment of legislation during the session

²³ All of these sections, which stem from Part C of the 1985 Balanced Budget Act, are codified beginning at 2 U.S.C. 900.

and in prior years. (In order to close any enforcement loophole, the budgetary impact of direct spending and revenue legislation enacted during a session, but after the OMB director's final sequestration report had been issued, was recorded on the PAYGO scorecard in the following session. Hence, this balance was combined with the balance for the budget year to determine if a violation had occurred.)

Any required reductions would have been made in non-exempt direct spending programs. Emergency direct spending and revenue legislation, so designated by the President and in statute, was not subject to the PAYGO sequestration process. Spending for the Social Security program, except for administrative expenses, was exempt from sequestration, as were many other direct spending programs. Any reductions in Medicare spending were limited to 4% and other special sequestration rules applied to selected programs.

Section 258 of the 1985 Balanced Budget Act provided for the suspension of selected budget enforcement procedures because of low economic growth or war.²⁴ With regard to low economic growth (i.e., at least two consecutive quarters of GDP growth below 1% or negative growth), the suspension procedure would have been triggered automatically by the issuance of a "low-growth report" by CBO. Under the suspension procedure, certain budget enforcement procedures would have been suspended if Congress and the President subsequently enacted a "suspension resolution." Action on a suspension resolution was required in the Senate but was optional in the House.

During the years that these suspension provisions were available, the United States was in a period of sustained low economic growth only twice—in late 1990 through early 1991 and in late 2001 through early 2002. CBO issued low-growth reports three times in 1991, but in each instance a measure to suspend enforcement procedures was defeated in the Senate by a wide margin. More recently, CBO issued low-growth reports on October 31, 2001, and on January 30, 2002. In each instance, the Senate Budget Committee reported unfavorably a suspension resolution that subsequently was defeated on the floor.

No suspension resolutions were enacted, although the Senate considered (and rejected) a total of five such measures in the 102nd and 107th Congresses. The House did not consider any suspension resolutions under this procedure. The suspension procedure expired on September 30, 2006.

The suspension of enforcement procedures due to war was not triggered, despite the involvement of the United States in military operations in Iraq and Afghanistan, because a declaration of war was not enacted.

In the late 1990s, as the budget moved from an overall deficit to an overall surplus, and as the prospect of an on-budget surplus emerged, there was some confusion regarding whether the PAYGO requirement would continue to apply. The concern arose from the fact that the stated purpose of the PAYGO requirement (in Section 252(a) of the 1985 Balanced Budget Act) referred only to legislation "that increases the deficit." In the report accompanying the FY2000 budget resolution, the House Budget Committee stated:

²⁴ For more information, see CRS Report RL31068, *Suspension of Budget Enforcement Procedures During Low Economic Growth*, by (name redacted) and CRS Report RS20182, *Suspension of Budget Enforcement Procedures During Hostilities Abroad*, by (name redacted).

The law is somewhat unclear whether PAYGO lapses when there is an on-budget surplus. OMB has hinted that PAYGO would indeed lapse if the budget was in balance without counting excess Social Security receipts.²⁵

In response to this concern, OMB Director Jacob Lew issued a statement indicating that such a position was not correct, stating “we believe that PAYGO does apply when there is an on-budget surplus.”²⁶ The controlling factor, as stated previously, was how legislation changed the balance on the PAYGO scorecard.

Final PAYGO Determinations Made by the OMB Director

Under Section 252 of the 1985 Balanced Budget Act, as amended, the OMB director was required to issue a final sequestration report each year after the end of the congressional session indicating whether a PAYGO sequester was required. Although Section 252 required the issuance of such reports for each year over the 15-year period covering FY1992-FY2006, the OMB director only issued 12 reports. As mentioned previously, P.L. 107-312 effectively terminated the PAYGO requirement in late 2002; the final sequestration report for FY2003, issued by the OMB director on December 6, 2002, was the last report in the series.

In order to determine whether a PAYGO sequester for a fiscal year was required, the OMB director had to combine the balance for that fiscal year (known as the “budget year”) with the balance for the preceding fiscal year (known as the “current year”). The purpose behind adding in the balance for the current year was to fully capture the budgetary effects of any direct spending and revenue legislation enacted into law after the final sequestration report for a fiscal year had been issued but before the next congressional session got underway, thereby closing any enforcement loophole.

Positive balances on the PAYGO scorecard were reflected to the extent that direct spending increases and revenue reductions in the net were greater than direct spending reductions and revenue increases in the net. A combined balance for the current year and the fiscal year that was zero or a negative amount indicated that no sequester was necessary.

Table 1 shows the PAYGO determinations made by the OMB director in his final sequestration reports for FY1992-FY2003. As the table shows, the final combined balances on the PAYGO scorecard for all years either were negative amounts or zero. Accordingly, no PAYGO sequester was required for any fiscal year during this period.

For the first nine fiscal years, FY1992-FY2000, the final combined balances were all negative amounts, ranging from -\$0.011 billion (for FY1998) to -\$7.532 billion (for FY1997). The average combined balance for these nine years was -\$2.130 billion. In eight of the nine years, the balance for the budget year was a negative amount; for the other fiscal year (FY1996), a positive balance of \$0.717 billion for the budget year was more than offset by a negative balance of -\$1.822 for the current fiscal year.

²⁵ See the report of the House Budget Committee to accompany H.Con.Res. 68 (H.Rept. 106-73), Mar. 23, 1999, at page 87.

²⁶ Letter of April 6, 1999, from OMB Director Jacob Lew to the Honorable John Spratt, then the ranking minority member of the House Budget Committee.

**Table 1. Final PAYGO Determinations by the OMB Director:
Scorecard Balances for FY1992-FY2006**
(amounts in \$ billions)

Fiscal Year	Congress/ Session	Final PAYGO Balances ^b			PAYGO Sequester Required?
		Current Year	Budget Year	Combined Balance	
1992	102/1	- ^a	-1.095	-1.095	No
1993	102/2	1.753	-1.813	-0.059	No
1994	103/1	-2.696	-0.026	-2.722	No
1995	103/2	-0.480	-2.009	-2.489	No
1996	104/1	-1.822	0.717	-1.105	No
1997	104/2	-1.231	-6.301	-7.532	No
1998	105/1	^a	-0.011	-0.011	No
1999	105/2	-0.271	-0.872	-1.143	No
2000	106/1	0.058	-3.072	-3.014	No
2001	106/2	0	0	0	No
2002	107/1	0	0	0	No
2003	107/2	0	0	0	No
2004	— ^c	0 ^c	0 ^c	0 ^c	No
2005	— ^c	0 ^c	0 ^c	0 ^c	No
2006	— ^c	0 ^c	0 ^c	0 ^c	No

Source: Prepared by the Congressional Research Service using information provided in the OMB director's final sequestration reports for FY1992-FY2003.

- a. Impact less than \$500,000.
- b. The final PAYGO balances reflect the removal of both costs and savings from the scorecard due to emergency designations and directed scorekeeping provisions in law.
- c. The final PAYGO balances for FY2003-FY2006, as set forth in the OMB final sequestration report for FY2003, were reduced to zero in compliance with P.L. 107-312.

For the remaining six fiscal years, FY2001-FY2006, the final combined balances on the PAYGO scorecard all were zero.

While the OMB director's final determinations indicated compliance with the PAYGO requirement in all years, in some cases the balances reflected adjustments due to emergency requirements or directed scorekeeping provisions in law that prevented a sequester from occurring, as discussed in subsequent sections of this report.

Table 2 shows the 5-year total balances on the PAYGO scorecard (including the current year, the budget year, and the three succeeding outyears) as scored by the OMB director in each of his final sequestration reports. While the outyear balances were not used in a sequestration report to determine whether a PAYGO sequester was required for that year, they had to be taken into account in sequestration reports for succeeding years.

Table 2. Five-Year Total Balances on the PAYGO Scorecard for FY1992-FY2006 in OMB Final Sequestration Reports

(amounts in \$ billions)

Fiscal Year	Congress/Session	Combined Balance ^a	Five-Year Total Balance
1992	102/1	-1.095	-3.712
1993	102/2	-0.059	-3.097
1994	103/1	-2.722	-4.576
1995	103/2	-2.489	-3.003
1996	104/1	-1.105	1.188 ^b
1997	104/2	-7.532	-25.852
1998	105/1	-0.011	0.004
1999	105/2	-1.143	-5.067
2000	106/1	-3.014	10.187
2001	106/2	0	53.854
2002	107/1	0	371.122
2003	107/2	0	0.000
2004	— ^c	0 ^c	0.000
2005	— ^c	0 ^c	0.000
2006	— ^c	0 ^c	0.000

Source: Prepared by the Congressional Research Service using information provided in the OMB director's final sequestration reports for FY1992-FY2003.

- The final PAYGO balances reflect the removal of both costs and savings from the scorecard due to emergency designations and directed scorekeeping provisions in law. The "combined balance" is the balance for the current year and the budget year combined.
- The sequestration report for FY1996 provided balances only for four fiscal years (FY1995-FY1998).
- The final PAYGO balances for FY2003-FY2006, as set forth in the OMB final sequestration report for FY2003, were reduced to zero in compliance with P.L. 107-312.

In six of the first eight fiscal years (FY1992-FY1999), according to **Table 2**, the 5-year total balances remained negative. They ranged in total from -\$3.003 billion (for FY1995) to -\$25.852 billion (for FY1997). In the other two years, the 5-year total balances changed to a modest positive amount, ranging in total from \$0.004 billion (for FY1998) to \$1.188 billion (for FY1996).

In the next three fiscal years, FY2000-FY2002, the pattern changed significantly. A negative combined balance for FY2000 of -\$3.014 billion changed to a positive 5-year total balance of \$10.187 billion. The combined balances of zero for each of FY2001 and FY2002 changed to positive 5-year total balances of \$53.854 billion and \$371.122 billion, respectively.

As indicated previously, the final PAYGO balances for FY2003-FY2006, as set forth in the OMB final sequestration report for FY2003, were reduced to zero in compliance with P.L. 107-312.

The multi-year balances on the PAYGO scorecard, as scored by the OMB director on a year-by-year basis in each of his final sequestration reports, are presented in **Table 3**. In some years, as

Table 3 shows, the OMB director provided balances for more than five fiscal years; in the sequestration report for FY1996, balances were provided only for four fiscal years (FY1995-FY1998).

Emergency Requirements

Section 252 of the 1985 Balanced Budget Act provided that any provision of direct spending or revenue legislation could be designated by the President and Congress as an “emergency requirement.” While the President could make his designation in various ways, a designation by Congress had to be made in the statute. The budgetary impact of any provision so designated was not scored on the PAYGO scorecard. An emergency exemption also was authorized for discretionary spending provisions under the parallel enforcement mechanism, the discretionary spending limits.

Although the emergency designation was used often for discretionary spending provisions in annual appropriations acts, it rarely was used for direct spending or revenue provisions. The most significant emergency designation under the PAYGO process applied to the Job Creation and Worker Assistance Act (P.L. 107-147), which was signed into law on March 9, 2002. Section 502 (116 Stat. 58) of the act stated:

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

According to the OMB director’s final sequestration report for FY2003, the effect of the emergency designation for P.L. 107-147 was to remove net costs of \$88.723 billion from the PAYGO scorecard over the period covering FY2002-FY2006, as follows:

- FY2002, costs of \$46.538 billion;
- FY2003, costs of \$36.878 billion;
- FY2004, costs of \$29.022 billion;
- FY2005, savings of \$3.001 billion; and
- FY2006, savings of \$20.714 billion.

Table 3. Final PAYGO Scorecard Balances for FY1992-FY2006: Multi-Year Balances (by Varying Timeframes)

(amounts in \$ billions)

Calendar Year (Congress/Session)	Fiscal Year							
Timeframe 1	1991	1992	1993	1994	1995	1996	1997	1998
FY1992 PAYGO Report								
1991 (102/1)	-a	-1.095	-1.136	-0.476	-1.005	—	—	—
FY1993 PAYGO Report								
1992 (102/2)	—	+1.753	-1.813	-0.182	-0.507	-2.348	+0.348	—
FY1994 PAYGO Report								
1993 (103/1)	—	—	-2.696	-0.026	-0.971	-0.473	-0.410	-0.521
FY1995 PAYGO Report								
1994 (103/2)	—	—	—	-0.480	-2.009	-0.148	-0.357	-0.009
FY1996 PAYGO Report								
1995 (104/1)	—	—	—	—	-1.822	+0.717	+0.778	+1.515
Timeframe 2	1996	1997	1998	1999	2000	2001	2002	2003
FY1997 PAYGO Report								
1996 (104/2)	-1.231	-6.301	-3.401	-6.449	-8.470	-9.266	-11.078	—
FY1998 PAYGO Report								
1997 (105/1)	—	+a	-0.011	+0.006	+0.006	+0.003	+0.001	—
FY1999 PAYGO Report								
1998 (105/2)	—	—	-0.271	-0.872	-2.927	-0.833	-0.164	-1.092

Calendar Year (Congress/Session)	Fiscal Year							
Timeframe 3	1999	2000	2001	2002	2003	2004	2005	2006
FY2000 PAYGO Report								
1999 (106/1)	+0.058	-3.072	+4.055	+7.384	+1.762	+2.562	—	—
FY2001 PAYGO Report								
2000 (106/2)	—	0	0	+16.053	+18.465	+19.336	+20.673	—
FY2002 PAYGO Report								
2001 (107/1)	—	—	0	0	+110.694	+129.857	+130.571	+134.698
FY2003 PAYGO Report								
2002 (107/2)	—	—	—	0	0	0	0	0

Source: Prepared by the Congressional Research Service using information provided in the OMB director's final sequestration reports for FY1992-FY2003. These reports subsequently were printed as House documents (except for FY1996, FY2002, and FY2003), as follows:

- FY1992—January 13, 1992, H.Doc. 102-181 (January 28, 1992);
- FY1993—October 23, 1992, H.Doc. 103-27 (January 21, 1993);
- FY1994—December 10, 1993, H.Doc. 103-201 (January 26, 1994);
- FY1995—December 16, 1994, H.Doc. 104-16 (January 4, 1995);
- FY1997—November 15, 1996, H.Doc. 105-30 (February 4, 1997);
- FY1998—November 24, 1997, H.Doc. 105-188 (February 3, 1998);
- FY1999—December 10, 1998, H.Doc. 105-356 (December 19, 1998);
- FY2000—January 25, 2000, H.Doc. 106-182 (January 31, 2000); and
- FY2001—January 16, 2001, H.Doc. 107-31 (January 30, 2001).

Note: Negative amounts (-) equal savings; positive amounts (+) equal costs.

- a. Less than \$500 million.

Another significant emergency designation occurred with respect to the Air Transportation Safety and System Stabilization Act (P.L. 107-42), which was signed into law on September 22, 2001. Section 101(b) (115 Stat. 230) of the act designated direct spending provisions in Title I as an emergency requirement. According to OMB, these provisions amounted to \$8.000 billion over three years (\$2.328 billion for FY2001, \$4.172 billion for FY2002, and \$1.500 billion for FY2003). The act also included direct spending and revenue provisions, not designated an emergency requirement, that were expected to yield costs of \$6.130 billion over FY2001-FY2004 and no costs for FY2005-FY2006.

According to CBO, provisions in two other measures, Section 6 (107 Stat. 34-35) of the Emergency Unemployment Compensation Amendments of 1993 (P.L. 103-6) and Section 3309(c) (112 Stat. 745) of the Internal Revenue Service Restructuring and Reform Act of 1996 (P.L. 105-206) contained costs designated as emergency requirements (for extended unemployment benefits and a waiver of interest penalties on underpayments of income taxes filed by taxpayers in a presidentially-declared disaster area). CBO estimated the impact on the 1993 and 1996 acts, respectively, at \$5.7 billion for FY1993-FY1994 and \$0.130 billion for FY1998-FY2003. No information on the budgetary impact of the emergency requirements was provided by the OMB director in his sequestration reports.

Statutory Interventions Involving Directed Scorekeeping

In addition to availing itself of the authority under the 1985 Balanced Budget Act to designate direct spending and revenue changes in legislation as emergency requirements, Congress and the President also modified the operation of the PAYGO process through interventions using regular legislative procedures. In these instances, Congress and the President included “directed scorekeeping” provisions in legislation instructing the OMB director on how to treat the budgetary effects of legislation with regard to the PAYGO scorecard.

Successful Interventions

Congress and the President enacted legislation intervening in the operation of the PAYGO process largely to deal with two different types of problems. First, in some years, the enactment of deficit-reduction measures would have resulted in large negative balances on the PAYGO scorecard that were not intended. The savings reflected in these balances could have been used to offset direct spending increases or revenue reductions that were not contemplated by the budget resolution.

Second, in more recent years, the budget resolution recommended significant reductions in revenues, coupled with increases in direct spending, that would have incurred substantial positive balances (reflecting net costs) on the PAYGO scorecard. The barrier between the PAYGO process and procedures to enforce the discretionary spending limits did not permit savings from constraints on the growth of discretionary spending to offset or “pay for” revenue reductions. Consequently, the enactment of legislation imposing tax cuts and direct spending increases threatened to trigger a PAYGO sequester in some years.

As a result of these two concerns, Congress and the President enacted provisions in at least seven different laws intervening significantly in the normal operation of the PAYGO requirement. The

interventions involved scorekeeping directions to the OMB director that prohibited him from counting direct spending or revenue changes in certain legislation on the PAYGO scorecard, or that instructed him to reduce balances on the PAYGO scorecard or to set them to zero.

Additionally, the OMB director sometimes was directed in statute to reclassify direct spending or revenue provisions in annual appropriations acts so that they would not be scored under the discretionary spending limits. In recent years, Congress and the President several times used omnibus appropriations measures to bring action on regular appropriations acts for a fiscal year to a close. Because the congressional leadership sometimes used such measures as a legislative vehicle for direct spending and revenue provisions, the directed scorekeeping provisions prevented the Appropriations Committees from being held responsible under budget enforcement procedures for budgetary provisions that were the responsibility of other House and Senate committees.

Statutory interventions in the PAYGO process involving directed scorekeeping, and their implications for sequesters, are summarized in **Table 4**. The text of the directed scorekeeping provisions is provided in **Table 5**. **Table 6** provides year-by-year detail on the budgetary effects of the directed scorekeeping provisions; the table divides them into two categories—those in which savings were removed from the PAYGO scorecard or not counted, and those in which costs were removed or not counted.

As **Table 4** and **Table 6** show, in the first three instances of directed scorekeeping, the OMB director was instructed not to count savings from legislation on the scorecard, to remove savings balances from the scorecard, or to do both (so that the savings could not be used to offset legislation considered in subsequent sessions). The OMB director

- removed a total of \$504.763 billion in savings stemming from the Omnibus Budget Reconciliation Act of 1993 from the FY1994-FY1998 balances on the scorecard;
- removed \$6.301 billion in savings stemming from the Omnibus Consolidated Appropriations Act for FY1997 from the FY1997 balance on the scorecard; and
- removed \$41.144 billion in prior savings from the FY1997-FY2002 balances on the scorecard and did not count \$73.700 billion in savings for the same period stemming from the Balanced Budget Act of 1997 and the Taxpayer Relief Act of 1997.

The fourth measure, the Consolidated Appropriations Act for FY2000, prohibited counting net costs of \$15.193 billion for FY2000-FY2004 on the scorecard. (Even if the costs of \$1.552 billion for FY2000 had been counted, a sequester for FY2000 would not have occurred because a combined savings balance of \$1.462 billion would have remained). In addition, the act set balances for FY2000-FY2004 on the scorecard to zero (effective January 3, 2000). This action both removed savings from the scorecard (\$3.072 billion for FY2000) and costs (total costs of \$15.820 billion for FY1999 and FY2001-FY2004).

Table 4. Summary of Statutory Interventions in the PAYGO Process

Fiscal Year	Congress/ Session	Intervention in the PAYGO Process	Did Intervention Prevent a Sequester?	
			Budget Year	Future Years
1992	102/1	[none]	—	—
1993	102/2	[none]	—	—
1994	103/1	Omnibus Budget Reconciliation Act of 1993: removed a total of \$504.763 billion in savings from the FY1994-FY1998 balances on the scorecard.	No	No
1995	103/2	[none]	—	—
1996	104/1	[none]	—	—
1997	104/2	Omnibus Consolidated Appropriations Act for FY1997: removed \$6.301 billion in savings from the FY1997 balance on the scorecard.	No	No
1998	105/1	Balanced Budget Act (BBA) of 1997: removed a total of \$41.144 billion in savings from the FY1997-FY2002 balances on the scorecard. Also, prohibited counting net savings of \$73.700 billion for FY1997-FY2002 from the BBA of 1997 and the Taxpayer Relief Act of 1997.	No	No
1999	105/2	[none]	—	—
2000	106/1	Consolidated Appropriations Act for FY2000: prohibited counting net costs of \$15.193 billion for FY2000-FY2004 on the PAYGO scorecard (even if the costs of \$1.552 billion for FY2000 had been counted, a sequester for FY2000 would not have occurred because a combined savings balance of \$1.462 billion would have remained). Also, set balances for FY2000-FY2004 on the scorecard to zero (effective January 3, 2000), thereby removing from the scorecard FY2000 savings of \$3.072 billion and FY1999 and FY2001-FY2004 costs of \$15.820 billion.	No	Yes
2001	106/2	Consolidated Appropriations Act for FY2001: prohibited scoring the direct spending and revenue changes made in the act under the discretionary spending limits, but required them to be scored on the PAYGO scorecard. Also, set the balance on the scorecard for FY2001 to zero, thereby removing the combined FY1999-FY2000 costs of \$10.542 billion from the scorecard.	Yes	No
2002	107/1	Defense Appropriations Act for FY2002: removed costs of \$75.271 billion for the current year (FY2001) and \$55.008 billion for the budget year (FY2002) from the scorecard.	Yes	No
2003	107/2	Act to Reduce Preexisting PAYGO Balances: removed a total of \$559.693 billion in costs from the FY2002-FY2006 balances on the scorecard.	Yes	Yes

Source: Prepared by the Congressional Research Service using information provided in the OMB director's final sequestration reports for FY1992-FY2003.

In the remaining three cases, directed scorekeeping resulted in the removal from the PAYGO scorecard of costs that would have led to a \$10.5 billion sequester for FY2001, a \$130.279 billion sequester for FY2002, and sequesters in excess of \$100 billion from FY2003 through FY2006. In the first two of these cases, the legislative vehicles were annual appropriations acts considered toward the very end of the session (the Consolidated Appropriations Act for FY2001 and the Defense Appropriations Act for FY2002); in the final instance, the legislative vehicle was a free-standing law devoted solely to this purpose.

The seven measures containing directed scorekeeping provisions did not make adjustments in the FY1991-FY1993 balances on the PAYGO scorecard. For FY1994-FY2000, the net effect of the adjustments each year was to remove savings balances from the scorecard or to not count savings provisions in legislation. These net effects ranged from \$13.991 billion (for FY1999) to \$140.221 billion (for FY1998). The cumulative effect of all provisions to remove or not count savings through FY2006 was \$628.980 billion.

For FY2001-FY2006, the net effect of the adjustments each year was to remove cost balances from the scorecard or to not count cost provisions in legislation. These net effects ranged from \$9.214 billion (for FY2002) to \$150.790 billion (for FY2004). The cumulative effect of all provisions to remove or not count costs through FY2006 was \$731.527 billion.

In the net, the cumulative effect of all directed scorekeeping provisions through FY2006 was to remove or not count costs of \$102.547 billion.

Circumstances surrounding the cases in which costs were removed from the PAYGO scorecard are discussed by fiscal year in more detail below.

**Table 5. Text of Major Statutory Provisions Intervening
in the Operation of the PAYGO Process**

Statutory Provision	Text of Provision
Omnibus Budget Reconciliation Act of 1993 P.L. 103-66 (August 10, 1993) Section 14003(c); 107 Stat. 685	Sec. 14003. Enforcing Pay-As-You-Go. (c) Upon enactment of this Act, the director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment in this Act of direct spending and receipts legislation for that year.
Omnibus Consolidated Appropriations Act for FY 1997 P.L. 104-208 (September 30, 1996) Division A, Section 4001; 110 Stat. 3009-500	Sec. 4001. Adjustment of PAYGO Balances. For purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, on the calendar day after the Director of the Office of Management and Budget issues the final sequestration report for fiscal year 1997, the Director and the Director of the Congressional Budget Office shall change the balances (as computed pursuant to section 252(b) of that Act) of direct spending and receipts legislation— (1) for fiscal year 1997 to zero if such balance for the fiscal year is not an increase in the deficit.
Balanced Budget Act of 1997 P.L. 105-33 (August 5, 1997) Section 10213; 111 Stat. 712	Sec. 10213. Reduction of Preexisting Balances and Exclusion of Effects of This Act From PAYGO Scorecard. Upon the enactment of this Act, the Director of the Office of Management and Budget shall— (1) reduce any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero; and (2) not make any estimates of changes in direct spending outlays and receipts under subsection (d) of that section for any fiscal year resulting from the enactment of this Act or of the Taxpayer Relief Act of 1997.

Statutory Provision	Text of Provision
<p>Consolidated Appropriations Act for FY2000 P.L. 106-113 (November 29, 1999) Division B, Section 1001(a)-(c); 113 Stat. 1536-1537</p>	<p>Sec. 1001. Paygo Adjustments.</p> <p>(a) Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report No. 105-217, legislation enacted in this division by reference in the paragraphs after paragraph 4 of subsection 1000(a) that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, but shall be subject to subsection (b).</p> <p>(b) The Director of the Office of Management and Budget shall not make any estimates of changes in direct spending outlays and receipts under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 for any fiscal year resulting from enactment of the legislation referenced in the paragraphs after paragraph 4 of subsection 1000(a) of this division.</p> <p>(c) On January 3, 2000, the Director of the Office of Management and Budget shall change any balances of direct spending and receipts legislation for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero.</p>
<p>Consolidated Appropriations Act for FY2001 P.L. 106-554 (December 21, 2000) Section 2; 114 Stat. 2763-2764</p>	<p>Sec. 2. (a) Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, legislation enacted in section 505 of the Department of Transportation and Related Agencies Appropriations Act, 2001, section 312 of the Legislative Branch Appropriations Act, 2001, titles X and XI of H.R. 5548 (106th Congress) as enacted by H.R. 4942 (106th Congress), division B of H.R. 5666 (106th Congress) as enacted by this Act, and sections 1(a)(5) through 1(a)(9) of this Act that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.</p> <p>(b) In preparing the final sequestration report required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2001, in addition to the information required by that section, the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal year 2001 under section 252 of that Act to zero.</p>
<p>Defense Appropriations Act for FY2002 P.L. 107-117 (January 10, 2002) Division C, Section 102; 115 Stat. 2342</p>	<p>Sec. 102. Pay-As-You-Go Adjustment.</p> <p>In preparing the final sequestration report for fiscal year 2002 required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(f)(3)), the Director of the Office of Management and Budget shall change any balance of direct spending and receipts legislation for fiscal years 2001 and 2002 under section 252 of that Act to zero.</p>

Statutory Provision	Text of Provision
To Reduce Preexisting PAYGO Balances, and for Other Purposes P.L. 107-312 (December 2, 2002) Section 1; 116 Stat. 2456	Sec. 1. Reduction of Preexisting PAYGO Balances. Upon the enactment of this Act, the Director of the Office of Management and Budget shall reduce any balances of direct spending and receipts legislation for all fiscal years under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero.

Source: Prepared by the Congressional Research Service using information obtained from the Legislative Information System.

**Table 6. Adjustments to PAYGO Balances Through Statutory Intervention
(Directed Scorekeeping): FY1994-FY2006**

(amounts in \$ billions)

Fiscal Year												
1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Savings Removed or Not Counted												
Omnibus Budget Reconciliation Act of 1993												
-46.8	-82.7	-100.6	-128.9	-145.8	—	—	—	—	—	—	—	—
Omnibus Consolidated Appropriations Act for FY1997												
—	—	—	-6.3	—	—	—	—	—	—	—	—	—
Balanced Budget Act of 1997												
—	—	—	-1.1	+5.6	-14.0	-22.1	-23.2	-60.1	—	—	—	—
Consolidated Appropriations Act for FY2000												
—	—	—	—	—	—	-3.1	—	—	—	—	—	—
Total, Savings Removed or Not Counted												
-46.8	-82.7	-100.6	-136.3	-140.2	-14.0	-25.1	-23.26	-60.1	—	—	—	—
Costs Removed or Not Counted												
Consolidated Appropriations Act for FY2000												
—	—	—	—	—	+0.1	+1.6	+9.6	+12.0	+4.0	+3.9	—	—
Consolidated Appropriations Act for FY2001												
—	—	—	—	—	—	0	+10.5	—	—	—	—	—
Defense Appropriations Act for FY2002												
—	—	—	—	—	—	—	+75.3	+55.0	—	—	—	—
Act to Reduce Preexisting PAYGO Balances												
—	—	—	—	—	—	—	—	+2.3	+125.1	+146.9	+141.6	+143.7

Fiscal Year												
1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total, Costs Removed or Not Counted												
—	—	—	—	—	+0.1	+1.6	+95.3	+69.3	+129.1	+150.8	+141.6	+143.7
Net Impact of Savings Removed or Not Counted (-) and Costs Removed or Not Counted (+)												
-46.8	-82.7	-100.6	-136.3	-140.2	-14.0	-23.5	+72.2	+9.2	+129.1	+150.8	+141.6	+143.7

Source: Prepared by the Congressional Research using information provided in the OMB director's final sequestration reports for FY1992-FY2003. These reports subsequently were printed as House documents (except for FY1996, FY2002, and FY2003), as follows:

- FY1992—January 13, 1992, H.Doc. 102-181 (January 28, 1992);
- FY1993—October 23, 1992, H.Doc. 103-27 (January 21, 1993);
- FY1994—December 10, 1993, H.Doc. 103-201 (January 26, 1994);
- FY1995—December 16, 1994, H.Doc. 104-16 (January 4, 1995);
- FY1997—November 15, 1996, H.Doc. 105-30 (February 4, 1997);
- FY1998—November 24, 1997, H.Doc. 105-188 (February 3, 1998);
- FY1999—December 10, 1998, H.Doc. 105-356 (December 19, 1998);
- FY2000—January 25, 2000, H.Doc. 106-182 (January 31, 2000); and
- FY2001—January 16, 2001, H.Doc. 107-31 (January 30, 2001).

Note: Negative amounts (-) equal savings; positive amounts (+) equal costs.

FY2000

On November 29, 1999, the Consolidated Appropriations Act for FY2000 was enacted into law as P.L. 106-113. In addition to prohibiting the scoring of direct spending and revenue changes made in the act under the discretionary spending limits, Section 1001 (in Division B) of the act also prohibited the scoring of these changes on the PAYGO scorecard. This prevented costs of \$1.552 billion for FY2000 (and costs of \$15.193 billion for FY2000-FY2004) from being added to the PAYGO scorecard. However, even if the \$1.552 billion for FY2000 had been added to the PAYGO scorecard, it would not have triggered a PAYGO sequester for that year because a savings balance of \$1.462 billion would have remained.

Section 1001 of the act also instructed the OMB director to change any balances on the scorecard to zero on January 3, 2000. This action removed from the scorecard the FY2000 savings of \$3.072 billion and costs for FY1999 and FY2001-FY2004 of \$15.820 billion (from the Consolidated Appropriations Act and other measures) that could have triggered PAYGO sequesters in those years if not offset or otherwise prevented.

FY2001

At the end of the 2000 session, Congress and the President wrapped up business by enacting the Consolidated Appropriations Act for FY2001. The measure, which became P.L. 106-554 on December 21, 2000, enacted regular appropriations as well as significant direct spending and revenue legislation by cross-reference. Section 2 of the act prohibited scoring the direct spending and revenue changes made in the act under the discretionary spending limits, but did require them to be scored on the PAYGO scorecard. This resulted in costs of \$7.170 billion for FY2001 (and costs of \$49.463 billion for FY2001-FY2005) being added to the PAYGO scorecard.

Further, Section 2 of the act instructed the OMB director to change the balance on the scorecard for FY2001 to zero in the course of preparing the final sequestration report for that year. This action removed the net combined FY2000-FY2001 cost of \$10.542 billion from the scorecard, thereby preventing a PAYGO sequester. Costs on the PAYGO scorecard for FY2002-FY2005 amounting to \$74.527 billion, which would have triggered PAYGO sequesters for those years if not subsequently offset or otherwise prevented, were not affected.

FY2002

One of the last of the regular appropriations acts for FY2002 to be considered during the 2001 session, the Defense Appropriations Act, became the legislative vehicle for preventing a PAYGO sequester that year. The bill was signed into law on January 10, 2002, as P.L. 107-117.

Section 102 (in Division C) of the act prevented a PAYGO sequester for FY2002 by requiring the OMB director to set the balances on the PAYGO scorecard for FY2001 and FY2002 to zero. According to the OMB director's final sequestration report, the combined balance for FY2001-FY2002 on the scorecard before the required adjustment was \$130.279 billion in costs.

In its earlier sequestration update report, OMB had noted maximum savings achievable from a PAYGO sequester for FY2002 of \$33.3 billion. Consequently, had a full PAYGO sequester (including a 4% cut in Medicare) been implemented, there still would have been a balance on the

scorecard of nearly \$100 billion. The remaining PAYGO balances for FY2003-FY2006, ranging from \$110 billion to \$135 billion a year, were not affected by the required adjustment.

FY2003 and Subsequent Years

On January 23, 2002, shortly after the second session of the 107th Congress began, OMB indicated in the preview sequestration report for FY2003 that the balance for that fiscal year on the PAYGO scorecard was \$110.694 billion. The balance for FY2002, which was to be combined with the FY2003 balance to determine whether a sequester for FY2003 would be required, previously had been reduced to zero. The balances for the remaining years on the scorecard, FY2004-FY2006, were \$130 billion, \$131 billion, and \$135 billion, respectively.

As discussed earlier, although the House and Senate did not reach agreement in 2002 on a budget resolution for FY2003, it was clear that neither house intended to pursue policies that would eliminate the FY2003 balance on the PAYGO scorecard through revenue increases and direct spending reductions. Rather, it was expected that Congress and the President would agree to use procedural means for preventing a PAYGO sequester from occurring, as had been done in recent years.

During the session, Congress and the President enacted legislation that added net costs to the PAYGO scorecard for FY2002 and increased the existing net costs for FY2003. In the update sequestration report for FY2003, OMB indicated that the combined balance had increased to \$125.6 billion (\$2.2 billion for FY2002 and \$123.4 billion for FY2003). According to OMB estimates, only \$31.1 billion could be cut under a PAYGO sequester because most direct spending was exempt from sequestration; consequently, a violation of more than \$90 billion would have remained even if a full PAYGO sequester had occurred.

The PAYGO measure with the largest budgetary impact enacted during the 2002 session was an economic stimulus measure, the Job Creation and Worker Assistance Act (P.L. 107-147), signed into law on March 9, 2002. OMB estimated the net cost of the act as \$46.538 billion for FY2002, \$36.878 billion for FY2003, and \$88.723 billion over the five-year period covering FY2002-FY2006. (As indicated previously, Section 502 of the act designated these amounts as emergency requirements, thereby preventing them from being added to the scorecard.)

The House and Senate, in order to prevent a PAYGO sequester for FY2003 from occurring after the end of the session, passed H.R. 5708 (entitled "To Reduce Preexisting PAYGO Balances, and Other Purposes"). In addition to eliminating the threat of a sequester for FY2003 by reducing the PAYGO balances for FY2002 and FY2003 to zero, it also eliminated the sequester threat for FY2004-FY2006 by setting those balances at zero as well. President George W. Bush signed the bill into law on December 2, 2002, as P.L. 107-312.

The House passed the bill on November 14 by a vote of 366-19. During House consideration of the bill, the PAYGO balance reductions for FY2004-2006 engendered some controversy. A motion to recommit with instructions that would have made reductions in the PAYGO balances for FY2004-FY2006 contingent upon the submission by the President of a balanced budget (on an on-budget basis), offered by Representative Dennis Moore, a Democratic member of the House Budget Committee, was rejected by a vote of 187-201. The Senate passed H.R. 5708 the next day without amendment by unanimous consent.

In his final sequestration report for FY2003, issued on December 6, 2002, the OMB director indicated that the combined balance for legislation enacted through September 30, 2002, was \$127.386 billion, reflecting a \$2.320 billion balance for FY2002 and a \$125.066 billion balance for FY2003. Balances over the full period, covering FY2002-FY2006, amounted to \$559.693 billion. As required by P.L. 107-312, the OMB director set the final balances for all fiscal years on the PAYGO scorecard to zero.

Unsuccessful Efforts to Intervene in the PAYGO Process

In addition to the successful efforts to intervene in the PAYGO process discussed above, there were several unsuccessful ones involving instructions to the OMB director to reset PAYGO balances or not to score direct spending and revenue changes. The discussion below provides several examples.

In the 105th Congress, the House considered the Taxpayer Relief Act of 1998 (H.R. 4579), its principal vehicle for implementing large revenue reductions. As passed by the House on September 26, 1998, the measure instructed the OMB director “not to make any estimates of changes in receipts” on the PAYGO scorecard due to the enactment of the bill (see Section 607). Had the measure been enacted into law, the tax cuts would have taken effect without triggering a PAYGO sequester for FY1999.

One obstacle to this approach is that any legislation directly or indirectly changing the budget process is prohibited by Section 306 of the 1974 Congressional Budget Act unless it was reported by the House or Senate Budget Committee, as appropriate (or unless the committee was discharged from further consideration). In the case of H.R. 4579, therefore, the House needed to waive the prohibition so that it could consider the bill; the House did so by adopting a special rule, H.Res. 552, that waived all points of order against its consideration.

During the first session of the 106th Congress, a similar directed scorekeeping provision was included by the House in Section 1801 of the Taxpayer Relief Act of 1999 (H.R. 2488), but was dropped in the Senate due to difficulties in securing the 60 votes needed to obtain a waiver of Section 306. President Clinton vetoed the measure on September 23, 1999, in part because the absence of the directed scorekeeping provision would have led to a sequester.

Toward the end of the 106th Congress, the congressional leadership attempted to use a House-passed bill amending the Small Business Investment Act, H.R. 2614, as a vehicle for wide-ranging issues, including significant revenue reductions. Under the conference agreement on H.R. 2614, the bill would have enacted five other measures by cross-reference, including H.R. 5542, the Taxpayer Relief Act of 2000 (as introduced on October 25, 2000). Section 731(a) of H.R. 5542 would have prevented a PAYGO sequester for FY2001 by instructing the OMB director to reset the PAYGO balance for that year to zero when preparing the final sequestration report. Final congressional action on the measure faltered at the end of October 2000.

Major PAYGO Legislation

During the 12 calendar years that the PAYGO process operated, from 1991 through 2002, the OMB director issued separate cost estimates on nearly 600 direct spending and revenue measures. In addition, hundreds of other direct spending and revenue measures—each with an impact of less

than \$500 thousand—were identified by the OMB director, but separate cost estimates were not prepared for them.

Of these hundreds of PAYGO measures, 65 may be considered to be “major” PAYGO legislation on the basis that the OMB director determined that they had an impact of \$100 million or more in at least one of the first five fiscal years scored (including the current year, the budget year, and the first three outyears).

Table 7 shows the net budgetary impact of the 65 major PAYGO measures on a calendar year basis for 1991-2002. For each calendar year, the balances reflect the 5-year impact of all PAYGO measures enacted during that year.

Table 7. Five-Year Balances of 65 Major PAYGO Measures Enacted by Calendar Year (CY1991-CY2002)
(amounts in \$ billions)

Calendar Year	Congress/ Session	Current Year	Budget Year	Outyear 1	Outyear 2	Outyear 3	Five-Year Total Balance ^a
1991	102/1	0.000	-1.131	-1.191	-0.511	-1.043	-3.876
1992	102/2	2.885	-0.699	0.361	0.508	-0.993	2.062
1993	103/1	-46.752	-81.860	-100.765	-129.430	-146.315	-505.122
1994	103/2	-0.476	-1.034	0.224	0.066	1.163	-0.057
1995	104/1	0.187	0.974	1.243	1.633	— ^b	4.037 ^b
1996	104/2	-2.010	-7.109	-4.748	-6.596	-8.269	-28.732
1997	105/1	-1.106	9.100	-7.600	-13.600	-13.900	-27.106
1998	105/2	-0.119	-0.764	-2.884	-0.856	-0.258	-4.881
1999	106/1	0.000	1.439	10.384	12.112	5.131	29.066
2000	106/2	0.040	10.279	15.922	18.334	19.165	63.740
2001	107/1	77.596	43.115	93.667	110.483	109.859	434.720
2002	107/2	48.856	51.251	46.104	8.050	-11.680	142.582

Source: Prepared by the Congressional Research Service using information provided in the OMB director’s final sequestration reports for FY1992-FY2003.

- a. The PAYGO balances in this table reflect emergency requirements in two acts (the Air Transportation Safety and System Stabilization Act, P.L. 107-42, and the Job Creation and Worker Assistance Act, P.L. 107-147); they do not reflect the costs and savings removed from the scorecard pursuant to directed scorekeeping provisions.
- b. The sequestration report for FY1996, which covered PAYGO legislation enacted in calendar year 1995, only provided balances for four fiscal years.

These balances, unlike the final determinations presented in the preceding tables, do not reflect the impact of PAYGO legislation enacted in prior years or the removal of costs or savings from the scorecard due to directed scorekeeping provisions. Further, net costs of \$96.723 billion over five years designated as emergency requirements (in the Job Creation and Worker Assistance Act and the Air Transportation Safety and System Stabilization Act) are counted in the table. Other PAYGO spending containing emergency requirements is not counted in the table because the necessary information was not provided in the OMB director’s final sequestration reports.

During the first eight calendar years, 1991-1998, the 5-year total balances either were negative amounts (in six instances) or positive amounts less than \$5 billion (in two instances). The total balances ranged from a low of -\$505.122 billion (for 1993) to a high of \$4.037 billion (for 1995).

In the remaining four calendar years, 1999-2002, the 5-year total balances all were positive amounts. They ranged from \$29.066 billion (for 1999) to \$434.720 billion (for 2001).

Nearly three-quarters (48) of the 65 major PAYGO measures had a 5-year total balance of less than \$5 billion, amounting to an average annual impact of less than \$1 billion. The remaining 17 PAYGO measures, each with a 5-year total balance greater than \$5 billion, are shown in **Table 6**. (The OMB director scored two measures, the Balanced Budget Act of 1997 and the Taxpayer Relief Act of 1997, as a single entry.)

As indicated in **Table 8**, five measures had five-year total balances that were negative, ranging from -\$5.254 billion for the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY1998 to -\$504.763 billion for the Omnibus Budget Reconciliation Act of 1993. The other dozen measures all had positive 5-year total balances, ranging from \$5.192 billion for the Agricultural Risk Protection Act of 2000 to \$403.378 billion for the Economic Growth and Tax Relief Reconciliation Act of 2001.

With regard to the 17 major PAYGO measures identified in **Table 6**, the five acts with negative 5-year total balances were enacted before or during the 1998 session. On the other hand, the 12 acts with positive 5-year total balances were enacted during or after the 1999 session.

Table 9 provides detailed information on the 65 major PAYGO measures.

**Table 8. Five-Year Total Balances of 17 Major PAYGO Measures,
Ranked in Ascending Order**
(amounts in \$ billion)

Title (and Public Law Number)	Calendar Year Enacted	Congress/ Session	Five-Year Total Balance ^a
Acts With Negative Balances (Savings)			
Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66)	1993	103/1	-504.763
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)	1996	104/2	-31.349
Balanced Budget Act of 1997 (P.L. 105-33) and Taxpayer Relief Act of 1997 (P.L. 105-34) ^b	1997	105/1	-24.700
Omnibus Consolidated and Emergency Supplemental Appropriations Act, FY1998 (P.L. 105-277)	1998	105/2	-5.254
Acts With Positive Balances (Costs)			
Agricultural Risk Protection Act of 2000 (P.L. 106-224)	2000	106/2	+5.192
Crop Year 2001 Agricultural Economic Assistance Act (P.L. 107-25)	2001	107/1	+5.500
Investor and Capital Markets Fee Relief Act (P.L. 107-123)	2001	107/1	+8.005
Trade Act (P.L. 107-210)	2002	107/2	+8.051
National Defense Authorization Act for Fiscal Year 2001 (P.L. 106-398)	2000	106/2	+12.858
Consolidated Appropriations Act for FY2000 (P.L. 106-113)	1999	106/1	+13.905
Air Transportation Safety and System Stabilization Act (P.L. 107-42) ^c	2001	107/1	+14.130
Ticket to Work and Work Incentives Improvement Act (P.L. 106-170)	1999	106/1	+15.277
Consolidated Appropriations Act for FY2001 (P.L. 106-554)	2000	106/2	+38.226
Farm Security and Rural Investment Act of 2002 (P.L. 107-171)	2002	107/2	+45.021
Job Creation and Worker Assistance Act (P.L. 107-147) ^d	2002	107/2	+88.723
Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16)	2001	107/1	+403.378

Source: Prepared by the Congressional Research Service using information provided in the OMB director's final sequestration reports for FY1992-FY2003.

- a. The PAYGO balances in this table reflect emergency requirements in two acts (the Air Transportation Safety and System Stabilization Act, P.L. 107-42, and the Job Creation and Worker Assistance Act, P.L. 107-147); they do not reflect the costs and savings removed from the scorecard pursuant to directed scorekeeping provisions.
- b. The OMB director scored these two measures, the Balanced Budget Act of 1997 and the Taxpayer Relief Act of 1997, as a single entry.
- c. This act included costs over five years of \$8.000 billion designated as an emergency requirement and \$6.130 billion not designated as an emergency requirement.
- d. All of the costs of this measure were designated as an emergency requirement.

Table 9. Major PAYGO Legislation Enacted in Calendar Years 1991-2002

(amounts in \$ billions)

Public Law Number	Title	Savings (-) or Cost (+) Impact on PAYGO Scorecard by Fiscal Year					
		Current Year	Budget Year	Outyear 1	Outyear 2	Outyear 3	Five-Year Total
Calendar Year 1991							
P.L. 102-164	Emergency Unemployment Compensation Act of 1991 ^a	0	-0.053	-0.421	-0.406	-0.427	-1.307
P.L. 102-227	Tax Extension Act of 1991	0	-0.566	-0.244	-0.005	-0.514	-1.329
P.L. 102-240	Intermodal Surface Transportation Infrastructure Act of 1991	0	-0.123	-0.326	0	-0.002	-0.451
P.L. 102-242	Federal Deposit Insurance Improvement Act of 1991	0	-0.389	-0.200	-0.100	-0.100	-0.789
Calendar Year 1992							
P.L. 102-244	Emergency Unemployment Compensation Extension	+2.500	-0.270	-0.100	+0.600	+0.100	+2.830
P.L. 102-318	Unemployment Compensation Amendments of 1992	+0.593	-0.902	+0.479	-0.053	-1.098	-0.981
P.L. 102-325	Higher Education Amendments of 1992	-0.208	-0.163	-0.118	-0.039	+0.005	-0.523
P.L. 102-351	Prohibition on Reducing Food Stamp Benefits in FY1993	0	+0.386	0	0	0	+0.386
P.L. 102-371	Civil Liberties Act Amendments	0	+0.250	+0.100	0	0	+0.350
Calendar Year 1993							
P.L. 103-66	Omnibus Budget Reconciliation Act of 1993	-46.752	-82.713	-100.554	-128.898	-145.846	-504.763
P.L. 103-130	Phase Out of the Department of Agriculture Programs for Wool and Mohair	0	0	-0.047	-0.103	-0.183	-0.333
P.L. 103-152	Unemployment Compensation Amendments of 1993	0	+0.853	-0.164	-0.429	-0.286	-0.026
Calendar Year 1994							
P.L. 103-233	Multifamily Housing Property Disposition Reform Act of 1994	-0.476	0	0	0	0	-0.476
P.L. 103-354	Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994	0	-0.166	+0.019	+0.007	-0.031	-0.171

Public Law Number	Title	Savings (-) or Cost (+) Impact on PAYGO Scorecard by Fiscal Year					
		Current Year	Budget Year	Outyear 1	Outyear 2	Outyear 3	Five-Year Total
P.L. 103-465	The Uruguay Round Agreements Act of 1994	0	-0.868	+0.205	+0.059	+1.194	+0.590
Calendar Year 1995							
P.L. 104-7	Self-Employed Health Insurance Act	+0.147	+0.074	-0.157	-0.167	—	-0.103
P.L. 104-18	Medicare SELECT Policies	+0.040	+0.900	+1.400	+1.800	—	+4.140
Calendar Year 1996							
P.L. 104-106	National Defense Authorization Act for FY1996	+0.315	+0.609	+0.852	+0.405	+0.383	+2.564
P.L. 104-121	Contract with America Advancement Act	-0.026	-0.212	-0.379	-0.440	-0.531	-1.588
P.L. 104-127	Federal Agricultural Improvement and Reform Act of 1996	-1.941	-3.746	+2.202	+1.952	+2.052	+0.519
P.L. 104-188	Small Business Job Protection Act of 1996	-0.255	+0.126	+0.588	-0.070	-0.134	+0.255
P.L. 104-191	Health Insurance Portability and Accountability Act of 1996	-0.010	+0.191	+0.612	+0.379	-0.052	+1.120
P.L. 104-193	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	-0.018	-3.932	-8.625	-8.824	-9.950	-31.349
P.L. 104-286	Central Utah Project Completion Act Amendments	-0.075	-0.145	+0.002	+0.002	-0.037	-0.253
Calendar Year 1997							
P.L. 105-2	Airport and Airway Trust Fund Tax Reinstatement Act of 1997	-2.406	0	0	0	0	-2.406
P.L. 105-33 (and P.L. 105-34)	Balanced Budget Act of 1997 (and Taxpayer Relief Act of 1997) ^b	+1.300	+9.100	-7.600	-13.600	-13.900	-24.700
Calendar Year 1998							
P.L. 105-178	Transportation Equity Act for the 21 st Century	-0.421	-0.306	-0.093	-0.091	-0.275	-1.186
P.L. 105-186	Agriculture Research, Extension, and Education Reform Act of 1998	0	-0.107	-0.136	-0.063	-0.045	-0.351
P.L. 105-200	Child Support Performance and Incentive Act of 1998	-0.036	-0.048	-0.091	-0.121	-0.181	-0.477

		Savings (-) or Cost (+) Impact on PAYGO Scorecard by Fiscal Year					
Public Law Number	Title	Current Year	Budget Year	Outyear 1	Outyear 2	Outyear 3	Five-Year Total
P.L. 105-208	Internal Revenue Service Restructuring and Reform Act of 1998	+0.338	+0.082	-0.033	+0.543	+1.018	+1.948
P.L. 105-244	Higher Education Amendments of 1998	0	-0.635	+0.349	+0.382	+0.343	+0.439
P.L. 105-277	Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY1998	0	+0.250	-2.880	-1.506	-1.118	-5.254
Calendar Year 1999							
P.L. 106-65	National Defense Authorization Act for FY2000	0	-0.018	+0.112	+0.087	+0.036	+0.217
P.L. 106-102	Gramm-Leach-Bliley Act to Enhance Competition in the Financial Services Industry	0	-0.015	-0.106	-0.106	-0.106	-0.333
P.L. 106-113	Consolidated Appropriations Act for FY2000	0	+1.552	+5.504	+4.581	+2.268	+13.905
P.L. 106-170	Ticket to Work and Work Incentives Improvement Act	0	-0.080	+4.874	+7.550	+2.933	+15.277
Calendar Year 2000							
P.L. 106-200	Trade and Development Act of 2000	+0.040	+0.477	+0.588	+0.636	+0.671	+2.412
P.L. 106-224	Agricultural Risk Protection Act of 2000	0	+0.739	+1.408	+1.480	+1.565	+5.192
P.L. 106-249	Griffith Project Prepayment and Conveyance Act	0	-0.103	+0.009	+0.009	+0.009	-0.076
P.L. 106-311	Increase in H-1B Visa Petition Fees	0	-0.074	-0.127	-0.068	+0.159	-0.110
P.L. 106-313	American Competitiveness in the Twenty-first Century	0	-0.113	-0.066	-0.036	+0.128	-0.087
P.L. 106-386	Victims of Trafficking and Violence Protection Act	0	+0.404	+0.026	+0.008	+0.014	+0.452
P.L. 106-393	Secure Rural Schools and Community Self-Determination Act of 2000	0	+0.021	+0.242	+0.258	+0.251	+0.772
P.L. 106-398	National Defense Authorization Act for Fiscal Year 2001	0	+0.428	+0.853	+5.694	+5.883	+12.858
P.L. 106-419	Veterans Benefits and Health Care Improvement Act of 2000	0	+0.219	+0.260	-0.077	-0.045	+0.357
P.L. 106-519	FSC Repeal and Extraterritorial Income Exclusion Act	0	+0.330	+0.355	+0.380	+0.405	+1.470
P.L. 106-554	Consolidated Appropriations Act for FY2001	0	+7.170	+11.510	+9.551	+9.995	+38.226
P.L. 106-573	Installment Tax Correction Act	0	+0.781	+0.864	+0.499	+0.130	+2.274

Public Law Number	Title	Savings (-) or Cost (+) Impact on PAYGO Scorecard by Fiscal Year					
		Current Year	Budget Year	Outyear 1	Outyear 2	Outyear 3	Five-Year Total
Calendar Year 2001							
P.L. 107-16	Economic Growth and Tax Relief Reconciliation Act of 2001	+69.501	+35.691	+86.399	+105.457	+106.330	+403.378
P.L. 107-25	Crop Year 2001 Agricultural Economic Assistance Act	+5.500	0	0	0	0	+5.500
P.L. 107-42	Air Transportation Safety and System Stabilization Act ^c	+2.595	+5.235	+4.500	+1.800	0	+14.130
P.L. 107-56	Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT)	0	+0.117	+0.024	+0.021	+0.017	+0.179
P.L. 107-90	Railroad Retirement and Survivor's Improvement Act of 2001	0	+0.195	+0.448	+0.623	+0.682	+1.948
P.L. 107-103	Veterans' Education and Benefits Expansion Act of 2001	0	+0.201	+0.504	+0.606	+0.650	+1.961
P.L. 107-107	National Defense Authorization Act for 2002	0	+0.086	-0.234	-0.208	-0.253	-0.609
P.L. 107-123	Investor and Capital Markets Fee Relief Act	0	+1.455	+1.947	+2.174	+2.429	+8.005
P.L. 107-134	Victims of Terrorism Relief Act of 2001	0	+0.135	+0.079	+0.010	+0.004	+0.228
Calendar Year 2002							
P.L. 107-139	Student Loan Interest Rate Amendments	-0.180	+0.345	+0.875	+1.005	+0.995	+3.040
P.L. 107-147	Job Creation and Worker Assistance Act ^d	+46.538	+36.878	+29.022	-3.001	-20.714	+88.723
P.L. 107-171	Farm Security and Rural Investment Act of 2002	+2.384	+10.195	+11.453	+11.065	+9.924	+45.021
P.L. 107-195	Spectrum Auction Reform Act	0	+2.150	+3.150	-3.900	-3.850	-2.450
P.L. 107-210	Trade Act	+0.114	+1.521	+1.589	+2.867	+1.960	+8.051
P.L. 107-229	Continuing Appropriations Act	0	+0.162	+0.015	+0.014	+0.005	+0.197

Source: Prepared by the Congressional Research Service using information provided in the OMB director's final sequestration reports for FY1992-FY2003. These reports subsequently were printed as House documents (except for FY1996, FY2002, and FY2003), as follows:

- FY1992—January 13, 1992, H.Doc. 102-181 (January 28, 1992);
- FY1993—October 23, 1992, H.Doc. 103-27 (January 21, 1993);
- FY1994—December 10, 1993, H.Doc. 103-201 (January 26, 1994);

FY1995—December 16, 1994, H.Doc. 104-16 (January 4, 1995);

FY1997—November 15, 1996, H.Doc. 105-30 (February 4, 1997);

FY1998—November 24, 1997, H.Doc. 105-188 (February 3, 1998);

FY1999—December 10, 1998, H.Doc. 105-356 (December 19, 1998);

FY2000—January 25, 2000, H.Doc. 106-182 (January 31, 2000); and

FY2001—January 16, 2001, H.Doc. 107-31 (January 30, 2001).

- a. The PAYGO estimate for P.L. 102-164 also included a PAYGO estimate for P.L. 102-182, Termination of Application of Title IV of the Trade Act to Czechoslovakia & Hungary.
- b. The OMB director issued a single, combined estimate on the budgetary impact of P.L. 105-33 and P.L. 105-34 (see OMB's Mid-Session Review of the Budget for FY1998, September 5, 1997, pages 32-34).
- c. This act included costs over five years of \$8.000 billion designated as an emergency requirement and \$6.130 billion not designated as an emergency requirement.
- d. All of the costs of this measure were designated as an emergency requirement.

Proposals to Restore the Statutory PAYGO Process

Proposals have been made from time to time to restore the statutory PAYGO requirement, but disagreements have centered principally on whether it should apply to both direct spending and revenue legislation (as originally framed) or only to direct spending legislation (as proposed mainly by some Republicans).

In the 108th Congress, President George W. Bush submitted draft legislation to Congress, the Spending Control Act of 2004, that would have restored the discretionary spending limits and the PAYGO process for direct spending legislation only. The House Budget Committee reported a bill, H.R. 3973 (H.Rept. 108-442; March 19, 2004), reflecting the President's proposal; a comparable measure, H.R. 4663, was considered in the House on June 25, 2004, but failed to pass by a vote of 146-268.

In the 110th Congress, interest was renewed in restoring a comprehensive PAYGO requirement.²⁷ Section 508 (Sense of Congress Regarding Extension of the Statutory Pay-As-You-Go Rule) of the FY2008 budget resolution, S.Con.Res. 21, stated: "It is the sense of Congress that in order to reduce the deficit Congress should extend PAYGO consistent with provisions of the Budget Enforcement Act of 1990." A similar provision was included, as Section 515, in the FY2009 budget resolution (S.Con.Res. 70).

On June 9, 2009, President Obama announced that he would submit a PAYGO proposal to Congress, the Statutory Pay-As-You-Go Act of 2009, that would restore a process applying to both direct spending and revenue legislation.²⁸ House Majority Leader Steny Hoyer introduced the proposal on June 17 as H.R. 2920; the proposal did not include discretionary spending limits. On June 25, the House Budget Committee held a hearing on the proposal, receiving testimony from OMB Director Peter Orszag, among others.²⁹

On July 22, 2009, the House considered and passed H.R. 2920. Prior to action on the bill, the House considered and agreed to (by a vote of 243-182) a special rule, H.Res. 665, providing for the bill's consideration. A modified substitute amendment was incorporated into the bill automatically under a "self-executing" provision in the rule, and a substitute amendment offered by Representative Paul Ryan, the ranking minority Member of the House Budget Committee, was defeated, by a vote of 196-234.³⁰ Following the defeat, by a vote of 196-234, of a motion to recommit with instructions offered by Representative Ryan, the House passed the bill, by a vote of 265-166.³¹

²⁷ The House Budget Committee held a hearing on the matter, "Perspectives on Renewing Statutory PAYGO," on July 25, 2007.

²⁸ The legislative text of the proposal, along with a section-by-section summary and related documentation, is provided on the OMB website at http://www.whitehouse.gov/omb/news_060909_paygo/.

²⁹ The hearing testimony is accessible on the Budget Committee's website at <http://budget.house.gov/hearings.aspx#06182009>.

³⁰ The substitute amendment made in order under H.Res. 665 was printed in Part A (pp. 3-18) of the report of the House Rules Committee (H.Rept. 111-217, July 21, 2009); the modification to the substitute amendment was printed in Part B (p. 18) and the Ryan-submitted amendment was printed in Part C (pp. 18-26). The three amendments were summarized on pp. 2 and 3 of the report.

³¹ *CQ Today*, "Pay-as-You-Go Plan Passes House," by David Clarke, July 22, 2009.

Section 421 of the budget resolution for FY2010 (S.Con.Res. 13) set forth a procedure, applicable only in the House, effectively exempting from the House PAYGO rule and other budget enforcement procedures the costs of legislation in four policy areas: (1) payments to physicians under Medicare (“Doc Fix”), (2) middle class tax reform, (3) reform of the alternative minimum tax (AMT), and (4) reform of the estate and gift tax. In each case, a limitation on the amount of costs subject to exemption was specified in Section 421.³²

Pursuant to this procedure, the House considered H.R. 3961 (the Medicare Physician Payment Reform Act of 2009) on November 19, 2009, passing the bill by a vote of 243-183. Under the terms of the special rule governing consideration of the bill, H.Res. 903, the text of the Statutory Pay-As-You-Go Act of 2009, as passed earlier by the House, was added to the engrossed version of H.R. 3961, as Division B.

Toward the end of the 2009 session, the House appended the text of H.R. 2920 to another measure under a similar procedure. Pursuant to Section 5 of a special rule, H.Res. 976, providing for the consideration of H.R. 3326, the Defense Appropriations Act for FY2010, and other measures, the text of the Statutory Pay-As-You-Go Act of 2009 was added to H.R. 2847 in an exchange of amendments with the Senate.³³ The text of the “Jobs for Main Street Act, 2010” was incorporated into H.R. 2847 as a substitute, and the statutory PAYGO act was appended thereto.

Prospects for consideration in the Senate of H.R. 2920 or another bill reinstating the statutory PAYGO process are uncertain at this time.³⁴ On December 22, 2009, the Senate entered into a unanimous consent agreement providing for the consideration of H.J.Res. 45, a long-term increase in the debt limit, on January 20, 2010. Several of the amendments made in order under the agreement pertain to budget enforcement issues, including an amendment to be offered by Senate Majority Leader Harry Reid on “pay go.”³⁵ All of the amendments are subject to a 60-vote threshold for passage.

³² The limitations under Section 421 were modified by Section 2 of H.Res. 665, the rule providing for the consideration of H.R. 2920, the Statutory Pay-As-You-Go Act of 2009, as they applied to the “Doc Fix” and “AMT” exemptions.

³³ H.R. 2847 originated as one of the regular appropriations acts for FY2010, but pursuant to the special rule was used as a “shell” for other legislation; the regular appropriations in the original bill were provided instead in another bill, the Consolidated Appropriations Act, 2010 (P.L. 111-117).

³⁴ BNA’s *Daily Report for Executives*, “Conrad Reiterates His Opposition to House Pay-As-You-Go Bill; Floor Action Seen July 22,” by Jonathan Nicholson, July 22, 2009, 138 DER G-3; and *CongressNow*, “House PAYGO Bill Faces Steep Senate Climb,” by Geof Koss, July 22, 2009.

³⁵ See the remarks of Senator Reid in the *Congressional Record* (daily ed.) of Dec. 22, 2009, p. S13747.

Appendix A. Section 252 of the 1985 Balanced Budget Act, As Amended (2 U.S.C. 902)

SEC. 252. ENFORCING PAY-AS-YOU-GO.

(a) Purpose.—The purpose of this section is to assure that any legislation enacted before October 1, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

(b) Sequestration.—

(1) Timing.—Not later than 15 calendar days after the date Congress adjourns to end a session and on the same day as a sequestration (if any) under section 251 or 253, there shall be a sequestration to offset the amount of any net deficit increase caused by all direct spending and receipts legislation enacted before October 1, 2002, as calculated under paragraph (2).

(2) Calculation of Deficit Increase.—OMB shall calculate the amount of deficit increase or decrease by adding—

(A) all OMB estimates for the budget year of direct spending and receipts legislation transmitted under subsection (d);

(B) the estimated amount of savings in direct spending programs applicable to budget year 1 resulting from the prior year's sequestration under this section or section 253, if any, as published in OMB's final sequestration report for that prior year; and

(C) any net deficit increase or decrease in the current year resulting from all OMB estimates for the current year of direct spending and receipts legislation transmitted under subsection (d) that were not reflected in the final OMB sequestration report for the current year.

(c) Eliminating a Deficit Increase.—(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

(A) First.—All reductions in automatic spending increases specified in section 256(a) shall be made.

(B) Second.—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed and direct student loans) and 256(c) (foster care and adoption assistance) shall be made.

(C) Third.—(i) If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1) 2; except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other

direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

(ii) For purposes of determining reductions under clause (i), outlay reductions (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

(2) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

(d) Estimates.—

(1) CBO Estimates.—As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of that legislation.

(2) OMB Estimates.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

(A) the CBO estimate of that legislation;

(B) an OMB estimate of that legislation using current economic and technical assumptions; and

(C) an explanation of any difference between the 2 estimates.

(3) Significant Differences.—If during the preparation of the report under paragraph (2) OMB determines that there is a significant difference between the OMB and CBO estimates, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation, to the extent practicable, shall include written communication to such committees that affords such committees the opportunity to comment before the issuance of that report.

(4) Scope of Estimates.—The estimates under this section shall include the amount of change in outlays or receipts for the current year (if applicable), the budget year, and each outyear excluding any amounts resulting from—

(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates; and

(B) emergency provisions as designated under subsection (e).

(5) Scorekeeping Guidelines.—OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

(A) determine common scorekeeping guidelines; and

(B) in conformance with such guidelines, prepare estimates under this section.

(e) Emergency Legislation.—If a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d). This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.

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