

OFFICE OF MANAGEMENT AND BUDGET

Notice; 2020 Statutory Pay-As-You-Go Act Annual Report

AGENCY: Office of Management and Budget (OMB).

ACTION: Notice.

SUMMARY: This report is being published as required by the Statutory Pay-As-You-Go (PAYGO) Act of 2010. The Act requires that OMB issue an annual report and a sequestration order, if necessary.

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SUPPLEMENTARY INFORMATION: This report can be found at <https://www.whitehouse.gov/omb/paygo/>.

Authority: 2 U.S.C. 934

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This Report is being published pursuant to section 5 of the Statutory Pay-As-You-Go (PAYGO) Act of 2010, Public Law 111-139, 124 Stat. 8, 2 U.S.C. § 934, which requires that OMB issue an annual PAYGO report, including a sequestration order if necessary, no later than 14 working days after the end of a congressional session.

This Report describes the budgetary effects of all PAYGO legislation enacted during the second session of the 116th Congress and presents the 5-year and 10-year PAYGO scorecards maintained by OMB.¹ Because neither the 5-year nor 10-year scorecard shows a debit for the budget year, which for purposes of this Report is fiscal year 2021,² a sequestration order under subsection 5(b) of the PAYGO Act, 2 U.S.C § 934(b) is not required.

The budget year balance on each of the PAYGO scorecards is zero because the Consolidated Appropriations Act, 2021 (P.L. 116-260) directed changes to the balances of the scorecards. P.L. 116-260 removed all balances included on the scorecards at the end of the second session of the 116th Congress. The change directed by P.L. 116-260 is discussed in more detail in section IV of this report.

During the second session of the 116th Congress, five laws with PAYGO effects were enacted with emergency requirements under section 4(g) of the PAYGO Act, 2 U.S.C. 933(g). Seven laws had estimated budgetary effects on direct

¹ This report and scorecards encompass laws enacted between January 3, 2020 at noon and January 3, 2021 at 11:58am (P.L. 116-106 through P.L. 116-284).

² References to years on the PAYGO scorecards are to fiscal years.

spending and/or revenues that were excluded from the calculations of the PAYGO scorecards due to provisions excluding all or part of the law from section 4(d) of the PAYGO Act, 2 U.S.C. 933(d).

I. PAYGO Legislation with Budgetary Effects

PAYGO legislation is authorizing legislation that affects direct spending or revenues, and appropriations legislation that affects direct spending in the years after the budget year or affects revenues in any year.³ For a more complete description of the Statutory PAYGO Act, see Chapter 8, "Budget Concepts," of the *Analytical Perspectives* volume of the 2021 President's Budget, found on the website of the U.S. Government Printing Office (<https://www.govinfo.gov/content/pkg/BUDGET-2021-PER/pdf/BUDGET-2021-PER.pdf>).

The PAYGO Act's requirement of deficit neutrality is based on two cumulative scorecards that tally the cumulative budgetary effects of PAYGO legislation as averaged over rolling 5- and 10- year periods starting with the budget year. The 5-year and 10-year PAYGO scorecards for each congressional session begin with the balances of costs or savings carried over from previous sessions and then tally the costs or savings of PAYGO laws enacted in the most recent session.

³ Provisions in appropriations acts that affect direct spending in the years after the budget year (also known as "outyears") or affect revenues in any year are considered to be budgetary effects for the purposes of the PAYGO scorecards except if the provisions produce outlay changes that net to zero over the current year, budget year, and the four subsequent years. As specified in section 3 of the PAYGO Act, off-budget effects are not counted as budgetary effects. Off-budget effects refer to effects on the Social Security trust funds (Old-Age and Survivors Insurance and Disability Insurance) and the Postal Service.

The 5-year PAYGO scorecard for the second session of the 116th Congress began with balances of costs of \$1,028 million in 2021 and \$514 million per year in 2022 through 2024. Added to those balances were the budgetary effects of PAYGO legislation enacted during the second session of the 116th Congress.⁴ Section 1401(d) of P.L. 116-260 eliminated those balances, resetting each year of the scorecards to zero at the end of the second session of the 116th Congress. Therefore, each year of the completed 5-year scorecard for the session is zero.

The 10-year PAYGO scorecard for the second session of the 116th Congress began with balances of costs of \$1,314 million in 2021 and \$657 million per year in 2022 through 2029. Added to those balances were the budgetary effects of PAYGO legislation enacted during the second session of the 116th Congress. Section 1401(d) of P.L. 116-260 eliminated those balances, resetting each year of the scorecards to zero at the end of the second session of the 116th Congress. Therefore, each year of the completed 10-year scorecard for the session is zero.

In the second session of the 116th Congress, 43 laws were enacted that were determined to constitute PAYGO legislation. Of the 43 enacted PAYGO laws, 16 laws were estimated to have PAYGO budgetary effects (costs or savings) in excess of \$500,000 over one or both of the 5-year or 10-year PAYGO windows. These were:

⁴ As provided in section 4(d) of the PAYGO Act, 2 U.S.C. § 933(d), budgetary effects on the PAYGO scorecards are based on congressional estimates for bills including a reference to a congressional estimate in the Congressional Record, and for which such a reference is indeed present in the Record. Absent such a congressional cost estimate, OMB is required to use its own estimate for the scorecard. Twelve of the bills enacted during this session had such a congressional estimate and therefore OMB was required to provide an estimate for the remaining PAYGO laws enacted during the session.⁵ Joint Committee reductions for 2021 were calculated and ordered in a separate report and are not affected by this determination. See:

- United States-Mexico-Canada Agreement Implementation Act, P.L. 116-113;
- To make technical corrections to the Guam World War II Loyalty Recognition Act, P.L. 116-132;
- Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136;
- Paycheck Protection Program and Health Care Enhancement Act, P.L. 116-139;
- Student Veteran Coronavirus Response Act of 2020, P.L. 116-140;
- To extend the authority for commitments for the paycheck protection program and separate amounts authorized for other loans under section 7(a) of the Small Business Act, and for other purposes, P.L. 116-147;
- Emergency Aid for Returning Americans Affected by Coronavirus Act, P.L. 116-148;
- Great American Outdoors Act, P.L. 116-152;
- Ryan Kules and Paul Benne Specially Adaptive Housing Improvement Act of 2019, P.L. 116-154;
- Safeguarding America's First Responders Act of 2020, P.L. 116-157;
- Extension of the Caribbean Basin Economic Recovery Act, P.L. 116-164;
- To amend the Klamath Basin Water Supply Enhancement Act of 2000 to make certain technical corrections, P.L. 116-191;
- To authorize the President to posthumously award the Medal of Honor to Alwyn C. Cashe for acts of valor during

Operation Iraqi Freedom, P.L. 116-210;

- National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments Act of 2020, P.L. 116-259;
- Consolidated Appropriations Act, 2021, P.L. 116-260; and
- National Defense Authorization Act for Fiscal Year 2021, P.L. 116-283.

In addition to the laws identified above, 27 laws enacted in this session were estimated to have negligible budgetary effects on the PAYGO scorecards—costs or savings of less than \$500,000 over both the 5-year and 10-year PAYGO windows.

II. Budgetary Effects Excluded from the Scorecard Balances

A. Legislation Designated as Emergency Requirements

As shown on the scorecards, four laws were enacted in the second session of the 116th Congress with an emergency designation under the Statutory PAYGO Act, and that had PAYGO effects:

- Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136;
- Paycheck Protection Program and Health Care Enhancement Act, P.L. 116-139;
- Student Veteran Coronavirus Response Act of 2020, P.L. 116-140; and
- Emergency Aid for Returning Americans Affected by Coronavirus Act, P.L. 116-148.

The effects of the provisions in these laws that are designated as emergency requirements appear on the scorecard, but are subtracted before computing the scorecard totals.

One additional law included an emergency designation under the Statutory PAYGO Act, but OMB estimated that the designated portions of the law did not have any PAYGO effects:

- Paycheck Protection Program Flexibility Act of 2020, P.L. 116-142.

B. Statutory Provisions Excluding Legislation from the Scorecards

Seven laws enacted in the second session of the 116th Congress had estimated budgetary effects on direct spending and revenues that were excluded from the calculations for the PAYGO scorecards due to provisions in law excluding all or part of the law from section 4(d) of the PAYGO Act.

Four laws were excluded entirely from the scorecards:

- Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, P.L. 116-123;
- Families First Coronavirus Response Act, P.L. 116-127;
- Continuing Appropriations Act, 2021 and Other Extensions Act, P.L. 116-159; and
- Further Continuing Appropriations Act, 2021 and Other Extensions Act, P.L. 116-215.

In addition, budgetary effects in three laws were excluded by provisions excluding certain portions of those laws from

the scorecards:

- United States-Mexico-Canada Agreement Implementation Act, P.L. 116-113;
- Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136; and
- Consolidated Appropriations Act, 2021, P.L. 116-260.

III. PAYGO Scorecards

STATUTORY PAY-AS-YOU-GO SCORECARDS

(In millions of dollars; negative amounts portray decreases in deficits)

| | 2021 | 2022 | 2023 | 2024 | 2025 | | | | | |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Second Session of the 116 th Congress | 3,391 | 3,391 | 3,391 | 3,391 | 3,391 | | | | | |
| Balances from Previous Sessions | 1,028 | 514 | 514 | 514 | 0 | | | | | |
| Elimination of balances pursuant to Sec. 1401(d) of P.L. 116-260 | -4,419 | -3,905 | -3,905 | -3,905 | -3,391 | | | | | |
| 5-year PAYGO Scorecard | 0 | 0 | 0 | 0 | 0 | | | | | |
| | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 |
| Second Session of the 116 th Congress | 3,333 | 3,333 | 3,333 | 3,333 | 3,333 | 3,333 | 3,333 | 3,333 | 3,333 | 3,333 |
| Balances from Previous Sessions | 1,314 | 657 | 657 | 657 | 657 | 657 | 657 | 657 | 657 | 0 |
| Elimination of balances pursuant to Sec. 1401(d) of P.L. 116-260 | -4,647 | -3,990 | -3,990 | -3,990 | -3,990 | -3,990 | -3,990 | -3,990 | -3,990 | -3,333 |
| 10-year PAYGO Scorecard | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

IV. Legislative Revisions to the PAYGO Scorecards

Section 1401(d) of P.L. 116-260, the Consolidated Appropriations Act, 2021, states, “Effective on the date of the adjournment of the second session of the 116th Congress, and for the purposes of the annual report issued pursuant to section 5 of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 934) after such adjournment and for determining whether a sequestration order is necessary under such section, the balances on the PAYGO scorecards established pursuant to paragraphs (4) and (5) of section 4(d) of such Act shall be zero.” Accordingly, these scorecards show the removal of the balances on the scorecards from laws enacted prior to and during the second session of the 116th Congress.

The beginning totals for 2022 through 2030 on the scorecards that are used to record the budgetary effects of PAYGO legislation enacted in the first session of the 117th Congress will be zero in each year.

V. Sequestration Order

As shown on the scorecards, the budgetary effects of PAYGO legislation enacted in the second session of the 116th Congress, combined with section 1401(d) of P.L. 116-260, resulted in no costs on either the 5-year or the 10-year scorecard in the budget year, which is 2021 for the purposes of this Report. Because the costs for the budget year, as shown on the scorecards, were set to zero for the budget year, there is no “debit” on either scorecard under section 3 of the PAYGO Act, 2 U.S.C. § 932, and a sequestration order is not required.⁵

⁵ Joint Committee reductions for 2021 were calculated and ordered in a separate report and are not affected by this determination. See: https://www.whitehouse.gov/wp-content/uploads/2020/02/JC-sequestration_report_FY21_2-10-20.pdf

STATUTORY ESTIMATES OF PAY-AS-YOU-GO LEGISLATION *

(in millions of dollars; positive amounts portray increases in deficits and negative amounts portray decreases in deficits)

* Uses congressional estimates referenced in enacted legislation or OMB estimates if there are no references to the congressional estimates.

| | | <u>2020</u> | <u>2021</u> | <u>2022</u> | <u>2023</u> | <u>2024</u> | <u>2025</u> | <u>2026</u> | <u>2027</u> | <u>2028</u> | <u>2029</u> | <u>2030</u> | <u>2020-25</u> | <u>2020-30</u> |
|-------------------|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|----------------|----------------|
| 43 P.L. 116-283 | William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 | | | | | | | | | | | | | |
| Enacted: 1/1/2021 | Net PAYGO impact..... | 0 | 0 | 812 | 771 | 796 | 822 | 847 | 868 | 886 | 899 | 907 | 3,201 | 7,608 |
| H.R. 6395 | | | | | | | | | | | | | | |
| Estimate: OMB | Five-year PAYGO scorecard..... | | 640 | 640 | 640 | 640 | 640 | | | | | | | |
| | Ten-year PAYGO scorecard..... | | 761 | 761 | 761 | 761 | 761 | 761 | 761 | 761 | 761 | 761 | | |

Note: Components may not sum to totals due to rounding.

- 1/ P.L. 116-260, Consolidated Appropriations Act, 2021, includes a provision that states, "Effective on the date of the adjournment of the second session of the 116th Congress, and for the purposes of the annual report issued pursuant to section 5 of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 934) after such adjournment and for determining whether a sequestration order is necessary under such section, the balances on the PAYGO scorecards established pursuant to paragraphs (4) and (5) of section 4(d) of such Act shall be zero." Accordingly, these scorecards show the removal of the balances on the scorecards from laws enacted prior to and during the second session of the 116th Congress.
- 2/ Reflects actuals as of March 27, 2020, then 2021 Budget economic and technical assumptions consistent with the requirements in section 4(d)(3) of the PAYGO Act.
- 3/ Per section 23008, excludes any budgetary effects of Division B.
- 4/ Per section 308, excludes any budgetary effects of Division B.
- 5/ The impact to the on-budget deficit and emergency requirements totals for this bill have been revised since originally published to correct rounding.
- 6/ Per section 1401(d), excludes PAYGO budgetary effects of Divisions N through FF.