

HIMSS GOVERNMENT RELATIONS FACT SHEET ON PAY-AS-YOU-GO OR “PAYGO”

ISSUE SUMMARY

The Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344; 88 Stat. 297-339) established the congressional budget process under which the U.S. House of Representatives and Senate develop an overall budgetary plan in the form of an annual budget resolution. The policies established each year in the budget resolution regarding revenues, discretionary spending (controlled in annual appropriations acts), direct spending (controlled in substantive law) and the debt limit are enforced largely through such means as points of order (for example, against legislation that would cause spending to exceed the total limits established in the budget resolution or applicable committee spending allocations) and reconciliation procedures.

One mechanism used in the past to reduce budget deficits and move towards budget surpluses is called pay-as-you-go or "PAYGO." This is a requirement where legislation that will increase entitlement (non-discretionary) spending or reduce revenues must be offset by cuts in other entitlement spending or by tax increases to ensure the deficit does not rise. The statutory PAYGO rules expired after 2002; however, the Senate created modified PAYGO rules through the fiscal year (FY) 2004 budget resolution. The issue focuses principally on whether tax-cut legislation, even though it may worsen the deficit, should be exempted from a deficit-neutral PAYGO requirement.

Historically, federal tax revenue held around 18 percent of gross domestic product (GDP) since 1962. However, Social Security, Medicare and Medicaid alone are projected to exceed 18 percent of GDP by 2040, despite various changes in marginal tax rates.

The Senate's current PAYGO rule is not self-enforcing. Any one senator can offer a point of order against any offending spending. If a point of order is offered, it can be waived with 60 votes, in which case there is no additional enforcement such as sequestration, which imposes automatic across-the-board entitlement cuts to pay for any new entitlement spending or tax cuts Congress does not offset. However, House and Senate Democratic leaders have pledged to reinstate stricter PAYGO rules early in the 110th Congress. House Democratic leaders are proposing internal PAYGO requirements prohibiting the consideration of legislation that would result in a net increase to the deficit or reduction to a future surplus. The rules package, [H. RES. 6, Adopting the Rules of the House of Representatives for the One Hundred Tenth Congress](#), allows for a 10-year PAYGO window, which will provide authorizers and tax writers with considerable breathing room when finding offsets for new mandatory spending increases and revenue reductions.

For example, Ways & Means Chairman Rangel (D-NY) may be forced to stretch offsets over several years if he introduces legislation calling for a permanent fix to the alternative minimum tax (AMT). The Congressional Budget Office (CBO) estimates reforming the AMT will cut federal revenues by a projected \$513 billion over the FY 2007 – 2016 period. In addition, extending popular tax breaks such as the research credit and the state sales tax deduction will cost the federal government an estimated \$349 billion over the next 10 years.

The House began debate on the rules resolution for the 110th Congress on Jan. 4, with a final vote expected on Jan. 5.

PROS AND CONS

Those who advocate the broadest coverage of the rule point to the need to reduce the deficit, which has climbed to record levels. In order to grapple effectively with deficit-reduction challenges, they argue, the House and Senate must ensure their budget enforcement tools encompass the entire budget and no portion of it escapes discipline.

Further, advocates of a broadened approach cite the effectiveness of the Senate's PAYGO rule as well as the statutory PAYGO requirement, during the early and mid-1990s, before budget surpluses emerged. During this period, these two enforcement mechanisms applied to both revenue and direct spending legislation.

CBO noted, "Between 1991 and 1997, most new revenue and mandatory spending laws that were enacted were consistent with the PAYGO requirement to be deficit neutral." This deficit neutrality combined with spending restraint on discretionary programs and a strong economy to produce a budget surplus by 1998.

Congressional adherence to PAYGO began to decline once the goal of a balanced budget was achieved. But the main departure from PAYGO, before it was allowed to expire in 2002, occurred because of the enactment of large tax cuts in 2001. CBO has reported of the more than \$700 billion in PAYGO violations Congress simply wiped off the official scorecard before PAYGO expired in 2002, "most of that amount stemmed from the estimated drop in revenues attributed to the Economic Growth and Tax Relief Reconciliation Act of 2001." Moreover, PAYGO was not as effective in protecting the surplus as it was in controlling the deficit.

HISTORY

The original PAYGO provisions – a statute first adopted as part of the 1990 Budget Enforcement Act and later renewed in 1993 and 1997, as well as a Senate-only PAYGO rule – required new mandatory spending and tax cuts be paid for so the deficit was not increased. The Grand Old Party (GOP) opposed extending the statute, letting it expire in 2002, and has weakened the Senate-only rule – primarily because those provisions presented an obstacle to President Bush's deficit-financed tax cuts.

In FY 2004, President Bush proposed to reinstate the PAYGO rules, with some very big differences. Rather than PAYGO rules that apply to entitlement spending and revenue reductions (tax cuts), the president wants to apply the PAYGO rules only to increases in entitlement spending or refundable tax credits. Any legislation that reduces revenue through tax cuts (other than refundable tax credits) does not have to be offset. Additionally, under the usual PAYGO rules, the offset for increases in spending or reductions in revenue can come either from reducing other program spending or by increasing revenue through tax changes. Under the president's proposal, increases in entitlement spending could only be offset by program cuts, not through savings on the tax side.

Under the president's proposal, legislators could not expand a program like prescription drug benefits under Medicare, for instance, and pay for it by eliminating a corporate tax loophole — rather, it would have to be paid for by cutting something from the entitlement side.

In FY 2005, Senator Kent Conrad (D-ND) offered a PAYGO amendment to a Senate reconciliation bill that was not adopted. The amendment was cosponsored by Senators Russ Feingold (D-WI) and Bill Nelson (D-FL). The PAYGO amendment failed to pass by only **one vote**, with Senator Jon Corzine (D-NJ), a supporter of PAYGO, absent from voting.

The Senate has modified the rule several times for different reasons, including establishing and extending an expiration date, expanding the rule's application to curtail potential evasion, allowing on-budget surpluses to be "used" to cover revenue reductions and direct spending increases, and providing for

exemptions to the rule. Proposals to modify the Senate's PAYGO rule or to establish a PAYGO rule in the House raise several issues, including the appropriate coverage of the rule and the provision for exemptions, and the period for which the rule should be in effect, among others.

The House rejected a proposal to establish a PAYGO rule of its own (in the form of an amendment offered by Representative John Spratt) during consideration of the budget resolution, H.Con.Res. 95. Both proposals would have subjected revenue and direct spending legislation to PAYGO requirements, but without exempting any initiatives assumed in the budget resolution, effective through Sept. 30, 2010 (Feingold) or Dec. 31, 2015 (Spratt).

CONCLUSION

HIMSS Advocacy and Public Policy Committees and Task Forces are watching this issue very closely. The potential impact of new PAYGO rules on healthcare information technology funding and healthcare programs and policy are unknown at this time.

Therefore, please share this Fact Sheet with your colleagues and feel free to e-mail your questions and comments to HIMSS Vice President of Government Relations Dave Roberts at droboterts@himss.org.

Sources:

Congressional Budget Office, The Budget and Economic Outlook: Fiscal Years 2004 - 2013, Appendix A, The Expiration of Budget Enforcement Procedures: Issues and Options, p.114.

Congressional Research Service, PAYGO Rules for Budget Enforcement in the House and Senate. May 2005.