

# **CBO TESTIMONY**

**Statement of  
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Director**

## **Issues in Reinstating a Statutory Pay-As-You-Go Requirement**

**before the  
Committee on the Budget  
U.S. House of Representatives**

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Chairman Spratt, Congressman Ryan, and Members of the Committee, thank you for the opportunity to testify on the pay-as-you-go (PAYGO) requirement under the Budget Enforcement Act of 1990 (BEA) and on the issues associated with its possible reinstatement.<sup>1</sup>

The principal enforcement procedures set in place by the BEA—the annual limits on discretionary spending and the PAYGO requirement for new mandatory spending and revenue laws—expired at the end of fiscal year 2002. Those procedures governed federal budgeting for more than a decade and contributed to the improvement in the fiscal balance during the 1990s. The lessons of that experience may be helpful in considering whether the statutory PAYGO requirement should be reinstated.

My testimony makes the following general points:

- The BEA's PAYGO requirement, as well as the law's discretionary spending limits, helped to enforce multiyear fiscal goals and prevent fiscal deterioration. When the budgetary situation and policy priorities changed, however, the PAYGO requirement and discretionary spending caps were often superseded or ignored. PAYGO rules probably influence fiscal outcomes, but that influence may be stronger in some circumstances than others.
- Although PAYGO may help to prevent a deterioration in the fiscal picture, it only applies to new policy changes rather than the effects of existing policy. Consequently, PAYGO by itself does not address the nation's long-term fiscal imbalance, which is driven mostly by growth in the cost of health care.
- Any PAYGO system requires a set of scoring rules, concepts, and baseline requirements. One key question is whether a statutory PAYGO requirement should apply to both mandatory spending and revenue legislation. If the primary objective of a PAYGO requirement is to avoid deterioration in the fiscal outlook, no differential treatment between mandatory spending and revenue changes would seem to be warranted. Including changes in revenue legislation within the PAYGO requirement, however, might impede other policy objectives.
- A related issue involves the treatment of expiring spending and revenue provisions. Some observers have expressed concerns that the current differences in rules governing expiring spending programs and taxes make it easier to extend spending programs than to renew expiring tax provisions. The existing approach generally ensures that the cost of extending a temporary policy past its initial expiration manifests itself either when the policy is initially adopted or when it is extended. That objective is crucial to the integrity of the process but can be achieved in a variety of ways.

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1. Title XIII of Public Law (P.L.) 101-508, 104 Stat. 1388-573.

- Both the House and the Senate already have nonstatutory PAYGO rules in place. Those rules generally are enforced against individual bills or amendments as they are considered. A different approach to PAYGO could provide a mechanism for enforcing overall budget totals at the end of the Congressional session. A statutory PAYGO requirement could establish additional enforcement mechanisms, like sequestration, that cannot be embodied in House or Senate rules.

## Overview of the Budget Enforcement Act

The Budget Enforcement Act of 1990 was built on an existing framework of budget enforcement procedures put in place by the Balanced Budget and Emergency Deficit Control Act of 1985 (initially known as Gramm-Rudman-Hollings).<sup>2</sup> The Deficit Control Act established a schedule of fixed, declining deficit targets leading to a target of zero in 1991. It also created the procedure of sequestration to automatically cut spending for many federal programs if the deficit for a fiscal year was estimated to exceed the target level.

Although deficits declined somewhat in the late 1980s, they failed to meet the statutory targets—in some years by substantial margins.<sup>3</sup> The Deficit Control Act's fixed deficit targets, even when revised, turned out to be unrealistic in light of worsening economic conditions and other factors.

In the fall of 1990, lawmakers enacted the Budget Enforcement Act largely as an amendment to the Deficit Control Act. The BEA was part of a multiyear agreement to reduce deficits that was embodied in the Omnibus Budget Reconciliation Act of 1990. The BEA represented a different philosophy of deficit control. With the BEA, lawmakers enacted rules that would constrain increases in the deficit resulting from new legislation but would allow for the budgetary effects of economic and technical factors outside of their immediate control.

The BEA established a budget enforcement framework that divided the budget into two parts. Discretionary spending, which is controlled by annual appropriation acts, would be subject to aggregate limits on budget authority and outlays. New laws affecting mandatory spending and revenues would be covered by a PAYGO procedure to prevent those laws from increasing the deficit. A breach of the discretionary spending caps would lead to reductions only in discretionary programs, and a breach of the PAYGO control would trigger cuts only in certain mandatory programs.

Originally set to expire at the end of fiscal year 1995, the discretionary spending limits and PAYGO requirement were amended and extended twice, in 1993 and

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2. P.L. 99-177, 99 Stat. 1037.

3. See Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2004–2013* (January 2003), Appendix A, Table A-1, p. 111.

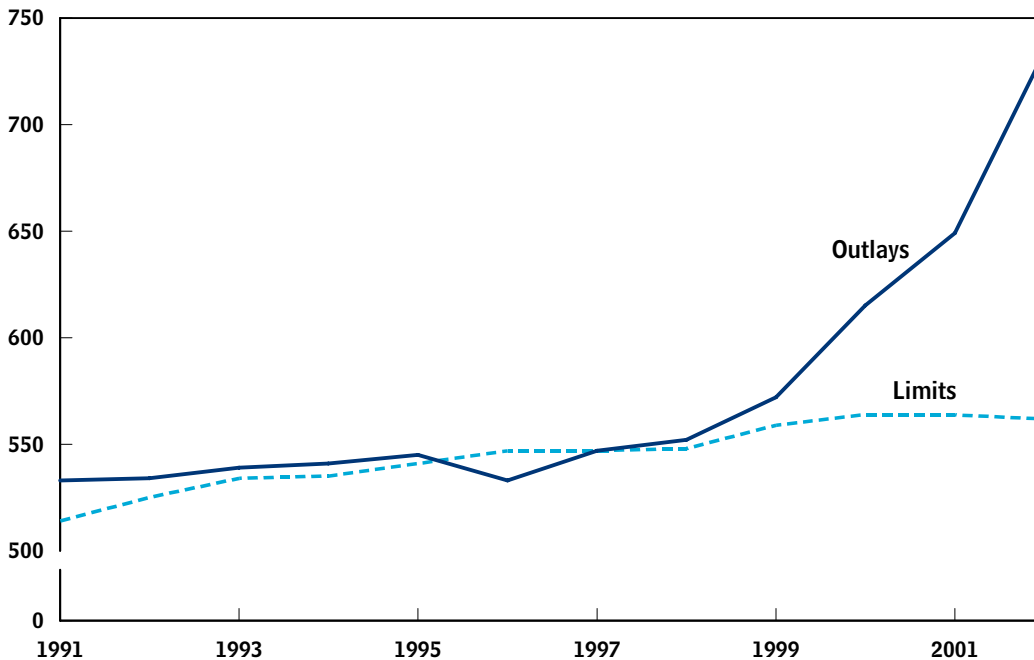
**Figure 1.**

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## **Actual Discretionary Outlays Compared with Spending Limits as the Legislation Was Originally Enacted**

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(Billions of dollars)



Source: Congressional Budget Office.

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again in 1997, as a part of two subsequent multiyear budget agreements. In each extension, the basic framework of the BEA was continued without substantive changes.

The nation's fiscal outlook improved significantly during most of the 12-year period that the BEA procedures were in place. Deficits declined steadily after 1992, and beginning in 1998, surpluses were recorded each year through 2001. Although most of the improvement in the fiscal picture over that period probably was not the direct result of the BEA framework, that framework did contribute to the improvement, if only by discouraging the adoption of policies that would have worsened the fiscal outlook. As surpluses began to emerge in the unified budget, the effectiveness of the BEA procedures eroded. From 1999 to 2002, annual appropriations exceeded the discretionary caps on new budget authority and outlays set in 1997 (see Figure 1). Over the same period, new laws affecting direct spending and revenues were enacted with significant costs but without offsetting savings (see Table 1). Despite those trends, surpluses continued to accumulate because of a surge in tax revenues. In 2001, however, the economy slowed significantly. The budgetary impact of that slowdown and the effects of enacted legislation brought back a deficit in 2002, just as the BEA procedures were set to expire.

**Table 1.**

## Estimated Effect on the Deficit or Surplus of Selected Major Direct Spending and Revenue Legislation Enacted Before the Expiration of the Statutory Pay-As-You-Go Requirement

(Billions of dollars)

	1999	2000	2001	2002	2003	2004	2005	2006
Taxpayer Refund and Relief Act of 1999 Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999	0	-5.2	-1.0	-34.5	-52.8	-61.6		
Ticket to Work and Work Incentives Improvement Act of 1999	0	0.1	-2.9	-8.1	-2.4	-2.2		
Agricultural Risk Protection Act of 2000	-5.5	-2.2	-1.6	-1.6	-1.7	-1.8		
Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001		0	*	-0.4	-6.2	-6.6	-7.1	
Consolidated Appropriations Act, 2001 <sup>a</sup>		0	-4.6	-8.7	-5.4	-4.2	-4.1	
Economic Growth and Tax Relief Reconciliation Act of 2001			-73.8	-37.6	-90.3	-107.4	-107.1	-134.9
Air Transportation Safety and System Stabilization Act			-3.7	-2.8	-3.9	-2.4	-0.8	0
Investor and Capital Markets Fee Relief Act				-1.3	-1.8	-2.0	-2.2	-2.3
Job Creation and Worker Assistance Act of 2002				-50.9	-42.9	-29.1	-3.6	16.1
Farm Security and Rural Investment Act of 2002				-1.6	-8.4	-9.9	-10.2	-9.9

Source: Congressional Budget Office.

Notes: SCHIP = State Children's Health Insurance Program; \* = between -\$500 million and zero.

Scoring for direct spending and revenue legislation is shown for the current year and the five years thereafter (or through 2006, when the PAYGO requirement was scheduled to expire).

Negative numbers indicate an increase in the deficit or a reduction in the surplus. Positive numbers indicate a decrease in the deficit or an increase in the surplus.

- a. The Consolidated Appropriations Act enacted by reference provisions of nine bills, including the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 and the Community Renewal and Tax Relief Act of 2000.

## Enforcing the PAYGO Requirement Through Sequestration

The PAYGO requirement generally stipulated that new mandatory spending or revenue laws enacted through fiscal year 2002 be “budget neutral” (that is, they must not increase the deficit or reduce the surplus).<sup>4</sup> The Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) recorded the five-year budgetary effects of mandatory spending and revenue laws on a rolling PAYGO scorecard. At the end of a Congressional session, OMB totaled the budgetary effects of laws enacted to date for each year covered by the PAYGO scorecard. If new mandatory spending or revenue laws enacted during that session (when combined with any existing balances for the year already recorded on the PAYGO scorecard) caused an increase in the deficit or decrease in the surplus for the current year, a PAYGO sequestration—an automatic reduction in mandatory spending carried out by Presidential order—was required to offset the increase in the deficit or decrease in the surplus for that year. However, most mandatory spending was exempt by law from a PAYGO sequestration, and during the 12 years that the PAYGO requirement was in effect, a sequestration of mandatory spending was never ordered.

The statutory PAYGO requirement established by the Budget Enforcement Act differs from the House and Senate PAYGO rules now in effect. The statutory PAYGO requirement was enforced by sequestration after legislation was enacted instead of by a point of order while legislation is being considered.<sup>5</sup> Under the current House and Senate rules, each chamber is prohibited from considering revenue or direct spending legislation that increases a deficit (or reduces a surplus) over 6-year and 11-year periods, respectively, beginning with the current fiscal year. The statutory PAYGO requirement also adopted a multiyear approach to enforcement, but it used a rolling five-year scorecard.

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4. Section 252 of the Deficit Control Act (the PAYGO requirement) did not expire at the end of 2002. Rather, it states explicitly that laws enacted after fiscal year 2002 shall not be subject to the PAYGO requirement. For laws enacted through fiscal year 2002, the PAYGO enforcement mechanism—a sequestration for covered mandatory programs—remained in effect through fiscal year 2006. However, legislation enacted in December 2002 eliminated the possibility of a sequestration of mandatory spending for those later years. See an act to reduce preexisting PAYGO balances, and for other purposes, P.L. 107-312, 116 Stat. 2456.
  5. The House’s PAYGO rule was adopted on January 5, 2007, as part of H. Res. 6. The current form of the Senate’s PAYGO rule was adopted in May 2007 as part of the fiscal year 2008 budget resolution (section 201 of S. Con. Res. 21). The Senate’s PAYGO rule originated in a budget resolution in 1993 and was modified and extended by subsequent budget resolutions and one Senate resolution.

## Evaluating the PAYGO Requirement

Through the mid-1990s, the BEA appeared to contribute to the improvement in the fiscal outlook. Between 1991 and 1997, most new revenue and mandatory spending laws that were enacted were consistent with the PAYGO requirement to be budget neutral; end-of-session balances on the PAYGO scorecard consistently showed zero or net reductions in the deficit.

In 1997, lawmakers extended both the discretionary spending limits and the PAYGO provisions of the BEA as part of an agreement to eliminate the deficit by 2002. That goal was unexpectedly reached in the very next year, as the government recorded its first surplus in nearly 30 years. In that new fiscal landscape, with projections showing mounting surpluses for the coming decade, the BEA's restraints came under significant pressure. Lawmakers subsequently enacted legislation to increase mandatory spending or reduce revenues but used legislative directives to waive the PAYGO requirement. For 2001 and later years, lawmakers eliminated more than \$700 billion in positive balances—that is, amounts that would have triggered a PAYGO sequestration—from the scorecard (see Table 2). Most of that amount stemmed from the estimated decline in revenues attributed to the Economic Growth and Tax Relief Reconciliation Act of 2001. By contrast, during the earlier years of the BEA, the balances on the scorecard were zero or negative, and lawmakers statutorily removed negative balances so that those savings could not be used to offset the costs of new mandatory spending or revenue legislation.

Evaluating the effectiveness of the sequestration mechanism in enforcing the PAYGO requirement is complex. Even though sequestration of mandatory programs was never ordered under the PAYGO requirement, the enforcement mechanism was not necessarily ineffective, because the threat of sequestration may, at various times, have served as a deterrent to legislation that would have violated the PAYGO requirement. In other years, lawmakers enacted such legislation but took steps to prevent sequestration. Those situations may have reflected a lack of consensus among lawmakers regarding the importance of fiscal discipline when budget surpluses were projected and when lawmakers pursued other priorities (including the war on terrorism).

In the end, rules such as the PAYGO requirement probably exert an influence, and possibly an important one, on budgetary outcomes. However, part of that influence may be more apparent than real, in that any set of rules may engender efforts to design policy changes in a manner that meets only the strict letter of the requirement. In addition, any set of rules tends to become less effective (or perhaps not effective at all) when the underlying objective no longer has support among policymakers.



**Table 2.**

## **Balances Eliminated by Law from the Pay-As-You-Go Scorecard**

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Total, 1997- 2006
Eliminated Balance	-9	-3	0	-3	90	65	127	150	142	144	701

Source: Congressional Budget Office using data from the Office of Management and Budget's final sequestration reports for fiscal years 1991 to 2003.

Note: Positive numbers indicate an increase in the deficit or a reduction in the surplus; that is, eliminating positive balances removed the need for a PAYGO sequestration. Negative numbers indicate a decrease in the deficit or an increase in the surplus; that is, eliminating such balances made them unavailable to be used as an offset to additional mandatory spending or revenue reductions.

## **PAYGO Does Not Address Underlying Fiscal Imbalance**

Even if PAYGO rules were fully effective in achieving their objective—offsetting the budgetary impact of policy changes—they would succeed only in preventing further deterioration of the long-term fiscal imbalance that exists under current policies. The nation faces a substantial long-term budget challenge even if no further policies were adopted that would expand future budget deficits, and PAYGO rules do not address that underlying fiscal problem.

In particular, the nation's long-term fiscal balance will be determined primarily by the future rate of health care cost growth.<sup>6</sup> Over the past four decades, Medicare's and Medicaid's costs per beneficiary have increased about 2.5 percentage points faster per year than has per capita gross domestic product (GDP).<sup>7</sup> Under a simple extrapolation in which those costs continued growing at the same rate over the next four decades, federal spending on those two programs alone would rise from 4.5 percent of GDP today to about 20 percent by 2050 (see Figure 2); that amount would represent roughly the same share of the economy as the entire federal budget does today. If, instead, those costs grew at the same rate as income—a scenario that illustrates the pure effect of demographic changes on the two programs—then the change in spending by 2050 would be much smaller. Indeed, that change

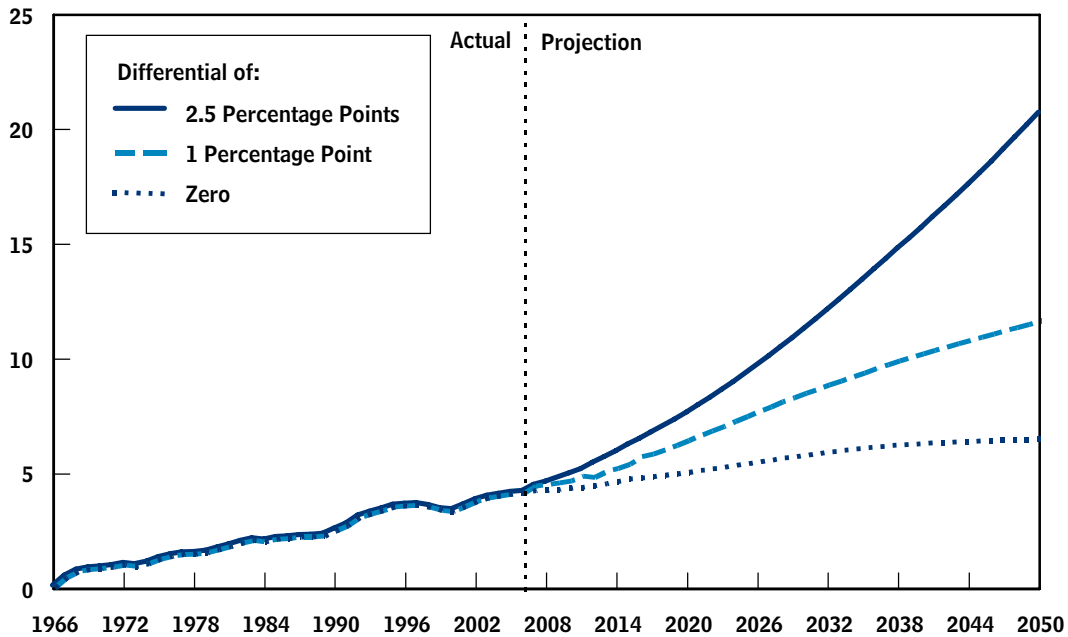
6. See the statement of Peter R. Orszag, Director, Congressional Budget Office, *Health Care and the Budget: Issues and Challenges for Reform*, before the Senate Budget Committee (June 21, 2007). See also Congressional Budget Office, *The Outlook for Social Security* (June 2004), *The Long-Term Budget Outlook* (December 2005), and *Updated Long-Term Projections for Social Security* (June 2006).

7. See Congressional Budget Office, *The Long-Term Budget Outlook*, pp. 6–7 and 31–32.

**Figure 2.**

## Total Federal Spending for Medicare and Medicaid Under Assumptions About the Health Cost Growth Differential

(Percentage of gross domestic product)



Source: Congressional Budget Office.

Note: The health cost growth differential refers to the number of percentage points by which the growth of annual health care spending per beneficiary is assumed to exceed the growth of nominal gross domestic product per capita, after an adjustment for the growth and aging of the Medicare and Medicaid populations.

would be substantially smaller than the difference between the two scenarios. Thus, the rate at which health care costs grow relative to income is the most important determinant of the long-term fiscal balance; it exerts a significantly larger influence on the budget over the long term than other commonly cited factors, such as the aging of the population.

Controlling those federal costs over the long term will be very difficult without addressing the underlying forces that are also causing private costs for health care to rise. A variety of evidence, however, suggests that opportunities exist to constrain health care costs both in the public programs and in the rest of the health care system without adverse health consequences. Capturing those opportunities to reduce costs without harming health outcomes involves many challenges, including the time that may be necessary to generate significant savings—but even if reforms take time to generate savings, acting sooner rather than later can ultimately make a substantial difference. Those crucial fiscal issues are not directly

addressed by PAYGO rules. Indeed, many steps that hold the potential to reduce spending over the long term—such as investments in comparative effectiveness research on “what works and what doesn’t” in health care—typically involve short-term costs that would have to be offset under existing PAYGO rules.

## **Issues in Reinstating a Statutory PAYGO Requirement**

Both the House and the Senate already have nonstatutory PAYGO rules in place. Reinstating a statutory PAYGO requirement might provide a more permanent structure and would make possible enforcement mechanisms, like sequestration, that cannot be established by House and Senate rules. However, it would involve significant complexity because the Congress would have to balance the need for flexibility with the desire to make the threat of sequestration as meaningful as possible. A statutory PAYGO requirement, as opposed to a nonstatutory PAYGO rule, could also provide some measure of additional authority to the executive branch. The Congress has a strong interest in defining that authority as specifically as possible. In addition to those considerations, any PAYGO system requires a set of scoring rules, concepts, and baseline requirements. One important purpose of those implementation rules is to ensure consistency between PAYGO scoring and the underlying budget baseline.

### **Scoring Rules, Concepts, and Baseline Requirements**

In enacting the BEA, the Congress established a set of cost estimation rules, concepts, and baseline requirements so that PAYGO and other budgetary processes would work consistently and predictably. The rules established in 1990 are in large measure still followed, although their underlying statutory bases have expired. Issues surrounding the baseline and scoring rules arise from time to time, and those could be revisited if a statutory PAYGO requirement was adopted.

**Scope and Application of a PAYGO Requirement.** In recent years, lawmakers have debated whether the PAYGO requirement, in either a statutory or rules-based form, should apply to both spending and revenue legislation or to spending legislation alone. If the primary objective of the PAYGO requirement is to keep the fiscal outlook from deteriorating because of policy changes, no differential treatment would seem to be warranted for a policy change that increased mandatory spending relative to one that decreased revenues. Policy changes that increase mandatory spending by \$1 or that reduce revenues by \$1 and that are not offset by policy changes elsewhere in the budget both increase the budget deficit by \$1. (In either case, scoring that ignores macroeconomic feedback effects may give an incomplete picture of the overall impact on the budget. In most cases, however, such macroeconomic feedback effects tend to be modest and difficult to estimate.) In addition, exempting all revenue changes from a PAYGO requirement while continuing to apply such a requirement to all mandatory spending changes would create substantial incentives to shift policy changes toward increased tax expendi-

tures, even in cases in which they would be less effective than increased direct spending.

Including changes in revenue legislation within PAYGO, however, might impede other policy objectives. For example, proponents of extending previously enacted tax provisions that are scheduled to expire note that including such extensions within PAYGO requirements might make the extensions more difficult to enact.

A related issue involves the treatment of expiring spending and revenue provisions under the budget baseline used for PAYGO purposes. A fundamental principle for the integrity of the budget process is that, when a particular policy or program has a set expiration date, its long-term cost should be scored either at the time of enactment or when it is extended beyond the expiration date. Current scoring rules are intended to produce that outcome, though they treat taxes and spending programs differently. For most revenue legislation, expiring provisions of law are not scored or included in baseline projections beyond the year in which the provisions expire.<sup>8</sup> If those provisions are subsequently extended, the estimated costs are scored and captured at that time. On the spending side, most expiring mandatory programs that exceed \$50 million are assumed to continue, both in the initial scoring and in the baseline budget projections.<sup>9</sup> The cost of such “temporary” programs, including the extension past their official expiration, shows up at the time of initial enactment and is then subsequently included in the baseline. In both cases, current and future costs are captured, either at the time of initial enactment or when the program is extended.<sup>10</sup> By contrast, scoring expiring provisions as entailing no budgetary cost after their expiration, but then assuming their extension in the baseline, would cause the costs of extending those provisions to “disappear” from the process—which would substantially undermine its integrity. The principle that costs of extending temporary provisions should be recorded at some point in the process is an important one, though it can be achieved in a variety of ways.

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8. Expiring excise taxes that are dedicated to a trust fund are assumed to continue in the initial scoring and in the baseline projections. See section 257 of the Deficit Control Act (2 U.S.C. 907) as amended by title X of the Balanced Budget Act of 1997, P.L. 105-333, 111 Stat. 251, 677-712.

9. *Ibid.* All programs established on or before August 5, 1997, with outlays that exceed \$50 million are assumed to continue in the scoring and the baseline projections. The scoring and baseline treatment of programs established after that date is determined by consultation with the Budget Committees.

10. When the budget window rolls forward every calendar year, the fundamental principle may no longer hold. In particular, consider a 10-year budget window. As that window rolls forward into the 11th year, the costs of extending a temporary mandatory program in that year are generally incorporated into the baseline even though they may not have been offset when the program was originally enacted.

Another issue involves emergencies. The BEA excluded from PAYGO calculations any spending or revenue legislation declared to be an emergency requirement by the President and the Congress.<sup>11</sup> However it is fashioned, an emergency safety-valve procedure of some type that allows additional resources to be provided for unexpected contingencies would probably be essential to allow the government to address unanticipated and pressing needs. Too much flexibility, however, could reduce the effectiveness of a PAYGO requirement.

**Scope of Sequestration.** The BEA set out special procedures for sequestration should discretionary caps or PAYGO limits be exceeded, including which federal programs were not subject to sequestration in each case.<sup>12</sup> Reinstatement of a statutory PAYGO requirement would require lawmakers to review sequestration procedures and update the list of exempt mandatory programs to take into account legislation enacted after the Balanced Budget Act of 1997.<sup>13</sup> Moreover, the Congress may want to review in general the nature and size of exempt mandatory programs. Under the expired PAYGO process, if a sequestration was triggered, the total amount of spending available to cut, because of specific exemptions and special rules, was quite limited. The bulk of any sequestration reductions would have fallen on a relatively small pool of mandatory spending. For fiscal year 2003, CBO estimated that less than \$65 billion in mandatory outlays would have been subject to a PAYGO sequestration, an amount that was less than 5 percent of total mandatory outlays for the year.

### **Options for Structuring PAYGO Requirements**

One striking way in which the current House PAYGO rule differs from the prior statutory PAYGO requirement is its application to each separate House bill rather than to a broader collection of legislative proposals. The House's PAYGO rule applies on a bill-by-bill basis, without reference to action on other bills affecting direct spending or revenues. Consequently, it does not allow savings from prior bills to cover the costs of a pending bill.

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11. The emergency designation under the BEA applied to both the discretionary spending limits and the PAYGO requirement. The use of the emergency exclusion, especially for discretionary appropriations after 1998, led lawmakers and others to question whether much emergency spending was for true emergencies or was simply a way to appropriate more funds without having to find offsets.
  12. Programs that were exempt from sequestration include Social Security and other retirement benefits, Medicaid, Temporary Assistance for Needy Families, veterans programs, power marketing administrations, most insurance programs, and the refundable portion of the earned income tax credit. See section 255 of the Deficit Control Act (2 U.S.C. 905). Similarly, most Medicare spending was not subject to sequestration because of a special rule. See section 256(d) of the Deficit Control Act (2 U.S.C. 906(d)).
  13. One shortcoming of the BEA was that it did not address the treatment of new programs. Each time the BEA was extended, the Congress had to consider updating the exemptions and exclusions. Lawmakers might consider creating a framework for how to treat new programs.

In that regard, the House and Senate PAYGO rules differ. Enforcement of the Senate's rule relies on the monitoring of a PAYGO scorecard maintained by the Senate Budget Committee. The rule prohibits the consideration of legislation that would increase the deficit when taken individually and when taken together with legislation enacted since the beginning of the year.<sup>14</sup> That approach effectively allows the Senate to "bank" savings against future spending legislation.

The PAYGO requirement as enacted in the BEA adopted a third approach. It assessed the net effect of all direct spending and revenue legislation enacted during a session in determining whether sequestration would occur. The budgetary impact of each measure was recorded by the director of OMB on a rolling multiyear PAYGO scorecard. Direct spending or revenue legislation that achieved savings, therefore, could offset the impact of other legislation that entailed costs. Because sequestration could not practically be implemented on a bill-by-bill basis, such an approach is inherent to that enforcement mechanism; it is not essential, however, for enforcement based on parliamentary points of order.

Unlike Congressional rules, the statutory PAYGO requirement provided a measure of authority to the executive branch by assigning responsibility to OMB to calculate the year-end deficit increase or decrease for sequestration purposes. That approach accorded with the constitutional restrictions on legislative branch organizations articulated by the Supreme Court in *Bowsher v. Synar*.<sup>15</sup> In reinstating a statutory PAYGO requirement, lawmakers might reconsider the timelines, roles, and responsibilities of the Budget Committees, CBO, and OMB in order to retain as much responsibility for the process as possible. For example, for purposes of a statutory PAYGO requirement, the Congress could require OMB to use the Budget Committees' estimates of the cost of legislation, as long as the estimates were embedded in the enacted legislation.<sup>16</sup>

With the expiration of caps on categories of discretionary spending in the BEA, budget resolutions have been the primary method of controlling discretionary spending. Legislation establishing and extending discretionary caps under the BEA with its PAYGO requirement provided a comprehensive structure for a form

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14. Beginning in May 2007, estimates used to enforce the Senate's PAYGO rule are made relative to the baseline used for the most recent budget resolution. See section 201(a)(5) of S. Con. Res. 21. In prior years, such estimates were made relative to the baseline adjusted for any changes or direct spending assumed by the budget resolution. Thus, assumed legislation was excluded from enforcement under the Senate's prior PAYGO rule.

15. In *Bowsher*, the Supreme Court held that having the Comptroller General, an official accountable to the Congress, trigger sequestrations was unconstitutional because it impermissibly reserved in the Congress control over the execution of the laws. 478 U.S. 714, 726 (1986).

16. The Budget Committees determine all estimates used to enforce Congressional budget procedures. To assist the Budget Committees, CBO analyzes the spending or revenue effects of specific legislative proposals. For proposals that would amend the Internal Revenue Code, CBO is required by law to use estimates provided by the Joint Committee on Taxation.

of fiscally responsible budgeting. But, even within such a comprehensive structure, which captured any medium-term effects on the budget, the long-term effects were sometimes different. Revisiting the issue of a statutory PAYGO requirement might provide an opportunity to consider rules governing long-term budgetary effects.<sup>17</sup>

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17. For instance, the Senate PAYGO rule is buttressed by another rule in the fiscal year 2008 budget resolution (section 203 of S. Con. Res. 21) that prohibits the consideration of legislation increasing the deficit by more than \$5 billion in any of the four 10-year periods covering fiscal years 2018 to 2057.