

2010 PAYGO REPORT

JANUARY 13, 2011

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, which requires that OMB issue an annual PAYGO report, including a sequestration order if necessary, within 14 working days after the end of a Congressional session. This Report covers all legislation enacted during the second session of the 111th Congress since enactment of the PAYGO Act on February 12, 2010. This Report summarizes the budgetary effects of enacted PAYGO legislation, the current policy adjustments provided by the PAYGO Act, and legislation designated as an emergency under the PAYGO Act. This Report also presents the five-year and ten-year PAYGO scorecards maintained by OMB.

Because balances on both scorecards represent PAYGO savings in net, a sequestration order is not necessary.

I. PAYGO Legislation with Budgetary Effects

PAYGO legislation is authorizing legislation that affects direct spending or revenues and appropriations legislation that affects direct spending or revenues in the years beyond the budget year.¹ For a more complete description of the Statutory PAYGO Act, see http://www.whitehouse.gov/omb/paygo_description. The scorecards show that PAYGO legislation enacted since February 12, 2010, was estimated to have PAYGO budgetary effects that increase the deficit by \$4.3 billion in 2010 and \$114.5 billion in 2011, and decrease the deficit by \$55.2 billion over the 2010-2015 period and \$63.7 billion over the 2010-2020 period.² The scorecards also show that since February 12, 2010, 97 laws (96 public laws and one private law) were enacted that were determined to constitute PAYGO legislation.³

¹ Provisions in appropriations acts that affect direct spending or revenues in the years beyond the budget year are not considered to be PAYGO legislation to the extent that the resulting outyear outlay changes flow from budget authority changes that occur in the current or budget year, or if the provisions produce outlay changes netting to zero over a six-year period consisting of the current year, the budget year, and the four subsequent years. As specified in section 3 of the Statutory 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 Fund.

² Budgetary effects on the PAYGO scorecard are based on Congressional estimates if those estimates are placed in the Congressional Record according to the procedures of the PAYGO Act and cross-referenced in the enacted PAYGO legislation in question. Absent a valid Congressional cost estimate, OMB uses its own estimate for the scorecard. Of the 97 PAYGO laws on the scorecard, 44 used a Congressional cost estimate and 53 used an OMB estimate.

³ In addition to the 97 laws shown on the scorecards, 149 laws were enacted that did not affect direct spending or revenues.

Of the 97 enacted PAYGO laws, 13 have estimated PAYGO budgetary effects in excess of \$500 million over the 2010-2015 and/or 2010-2020 periods. These are:

- Hiring Incentives to Restore Employment Act, Public Law 111-147;
- Patient Protection and Affordable Care Act, Public Law 111-148;
- Health Care and Education Reconciliation Act of 2010, Public Law 111-152;
- Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, Public Law 111-192;
- Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203;
- Public Law 111-226, an act that provides education jobs and Medicaid assistance to States;⁴
- Small Business Jobs Act of 2010, Public Law 111-240;
- The Physician Payment and Therapy Relief Act of 2010, Public Law 111-286;
- Claims Resolution Act of 2010, Public Law 111-291;
- Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296;
- Medicare and Medicaid Extenders Act of 2010, Public Law 111-309;
- Omnibus Trade Act of 2010, Public Law 111-344; and
- Post-9/11 Veterans Educational Assistance Improvements Act of 2010, Public Law 111-377

In addition to these 13 laws, 21 laws were enacted that were estimated to have PAYGO budgetary effects greater than zero but less than \$500 million over the 2010-2015 or 2010-2020 period. These are:

- Social Security Disability Applicants' Access to Professional Representation Act of 2010, Public Law 111-142;
- Capitol Police Administrative Technical Correction Act of 2009/Travel Promotion Act of 2009, Public Law 111-145;
- an Act to provide that Members of Congress shall not receive a cost-of-living adjustment in pay during fiscal year 2011, Public Law 111-165;
- Haiti Economic Lift Program Act of 2010, Public Law 111-171;
- Homebuyer Assistance and Improvement Act of 2010, Public Law 111-198;

⁴ P.L. 111-226 was amended before enactment to strike its original provisions and substitute provisions that provided funding to States for education jobs and Medicaid assistance. The amendment did not change the official title, which refers to the bill's original provisions concerning reauthorization of the Federal Aviation Administration and modernization of the air traffic control system. OMB's PAYGO scorecard refers to the bill using this official title.

- a Joint Resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003 and for other purposes, Public Law 111-210;
- United States Manufacturing Enhancement Act of 2010, Public Law 111-227;
- General and Special Risk Insurance Funds Availability Act of 2010, Public Law 111-228;
- an Act making emergency supplemental appropriations for border security for fiscal year ending September 30, 2010, and for other purposes, Public Law 111-230;⁵
- Star-Spangled Banner Commemorative Coin Act, Public Law 111-232;
- Firearms Excise Tax Improvement Act of 2010, Public Law 111-237;
- Security Cooperation Act of 2010, Public Law 111-266;
- Veterans' Benefits Act of 2010, Public Law 111-275;
- Coin Modernization, Oversight, and Continuity Act of 2010, Public Law 111-302;
- Regulated Investment Company Modernization Act of 2010, Public Law 111-325;
- an Act to require the Federal Deposit Insurance Corporation to fully insure Interest on Lawyers Trust Accounts, Public Law 111-343;
- James Zadroga 9/11 Health Compensation Act of 2010, Public Law 111-347;
- Section 202 Supportive Housing for the Elderly Act of 2010, Public Law 111-372;
- Pedestrian Safety Enhancement Act of 2010, Public Law 111-373;
- an Act to clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury, Public Law 111-382; and
- Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

Finally, in addition to the laws identified above, 63 laws enacted since February 12, 2010, were estimated to have a negligible PAYGO budgetary effect. The PAYGO budgetary effect of these laws was estimated to fall below \$500,000 each year and in the aggregate from 2010 through 2020.

II. PAYGO Legislation Excluded from the Scorecard Balances

Some or all of the budgetary effects of a number of PAYGO laws enacted since February 12, 2010, are not included in the calculations for the PAYGO scorecards due to emergency

⁵ P.L. 111-230 law was the single appropriations law enacted during the second session of the 111th Congress that was determined to constitute PAYGO legislation. The law made changes to direct spending beyond the budget year by increasing immigration fees; these changes constitute PAYGO budgetary effects under section 3 of the PAYGO Act.

designations and other exclusions required by law. As noted above, the 97 PAYGO laws enacted during the second session of the 111th Congress were estimated to result in PAYGO savings of \$55.2 billion over 2010-2015 and \$63.7 billion over 2010-2020, after reflecting emergency designations, current policy adjustments, and other adjustments. Before applying these adjustments, these laws were estimated to increase the on-budget deficit by \$899.4 billion over 2010-2015 and by \$820.1 billion over 2010-2020. The budget effects that were excluded from balances on the PAYGO scorecards are discussed below.

Legislation Subject to Current Policy Adjustments

Current policy adjustments are excluded from the budgetary effects of certain legislation, as specified in sections 4(c) and 7 of the PAYGO Act. Legislation affecting Medicare physicians' payments, the estate and gift tax, the alternative minimum tax (AMT), and certain provisions of the 2001 and 2003 tax acts is subject to current policy adjustments. In addition to excluding current policy adjustments from the scorecards, any savings from the Community Living Assistance Services and Supports (CLASS) Act or amendments to the CLASS Act are excluded from the scorecards, as specified in Section 4(d) of the PAYGO Act. The following 8 laws were enacted that contain provisions subject to current policy adjustments and the CLASS Act provision:

- Temporary Extension Act of 2010, Public Law 111-144;
- Patient Protection and Affordable Care Act, Public Law 111-148;
- Continuing Extension Act of 2010, Public Law 111-157;
- Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, Public Law 111-192;
- Small Business Jobs Act of 2010, Public Law 111-240;
- The Physician Payment and Therapy Relief Act of 2010, Public Law 111-286;
- Medicare and Medicaid Extenders Act of 2010, Public Law 111-309; and
- Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312.

The total costs excluded from the scorecards due to current policy adjustments are \$436.4 billion over 2010-2015 and \$433.8 billion over 2010-2020. The total savings excluded from the scorecards through the CLASS Act provision are \$39.9 billion over 2010-2015 and \$78.6 billion over 2010-2020. As discussed in the next section, three of these laws, the Temporary Extension Act of 2010, the Continuing Extension Act of 2010, and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, also contain provisions that were designated as emergencies.

Section 7(c) of the PAYGO Act exempts from the scorecards some of the costs of providing relief from the scheduled cuts to Medicare physician payments that would have occurred under the Sustainable Growth Rate (SGR) formula. Under the PAYGO Act, the cost of extending physician payments through 2014 at December 2009 levels is excluded from the

scorecard. The Temporary Extension Act of 2010, Public Law 111-144, and the Continuing Extension Act of 2010, Public Law 111-157, extended physician payments at the December 2009 levels through March 31, 2010, and May 31, 2010, respectively. The PAYGO Act's current policy adjustment excluded these extensions from the PAYGO scorecards. The Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, Public Law 111-192, extended physician payments through November 30, 2010, at a level that was 2.2 percent above December 2009 levels. The current policy adjustment applied only to the cost of extending the December 2009 payment rates; the cost of the additional 2.2 percent was included on the scorecards. The Physician Payment and Therapy Relief Act of 2010, Public Law 111-286, and the Medicare and Medicaid Extenders Act of 2010, Public Law 111-309, extended these higher rates through December 31, 2010, and December 31, 2011, respectively, and the current policy adjustment applied only to the extension of December 2009 payment levels. All three of these bills that extended higher payment levels resulted in net savings on the PAYGO scorecards because of the combination of the current policy adjustments and other provisions in the bills that reduce direct spending.

Section 7(f) of the PAYGO Act exempts from the scorecards the costs of extending the middle class tax cuts enacted under the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) and the Jobs and Growth Tax Relief Reconciliation Act (JGTRRA), as amended. In addition, section 7(e) exempts from the scorecards the cost of extending AMT relief through 2011, and section 7(d) exempts from the scorecards the cost of extending a portion of estate and gift tax relief through 2011. The PAYGO scorecards include a current policy adjustment for the provision of the Small Business Jobs Act of 2010 that amended Section 179(b) of the Internal Revenue Code to extend and increase expensing limitations for small businesses. The scorecards also include current policy adjustments for three provisions of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312: the two-year extension of the middle-class tax cuts, the two-year extension of AMT relief, and the amount of the estate tax relief that would correspond to a two-year extension of estate and gift taxes at the tax rates, exemption amount, and related parameters in effect in 2009. The Patient Protection and Affordable Care Act, Public Law 111-148, also included a current policy adjustment for a provision affecting the adoption credit, which was originally enacted as a middle-class tax cut in EGTRRA.

Legislation Designated as an Emergency

As shown on the scorecards, five laws were enacted that contain provisions that received an emergency designation under the Statutory PAYGO Act: the Temporary Extension Act of 2010, Public Law 111-144; the Continuing Extension Act of 2010, Public Law 111-157; the Unemployment Compensation Extension Act of 2010, Public Law 111-205; an Act to extend the deadline for Social Services Block Grant expenditures of supplemental funds appropriated following disasters occurring in 2008, Public Law 111-285; and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312. The total costs excluded through emergency designations were \$570.1 billion over 2010-2015 and \$545.1 billion over 2010-2020. Although shown on the scorecards, the budgetary effects of provisions designated as emergencies are not included in the PAYGO effects shown on the scorecards, as specified by Section 4(g) of the PAYGO Act.

Emergency Offsets

Scorekeeping guidelines adopted by the Office of Management and Budget, the Congressional Budget Office, and the Congressional budget committees preclude scoring savings for the subsequent repeal of legislative provisions that were designated as emergency spending when enacted. Although the laws repealing the emergency provisions are reported on the PAYGO scorecards maintained by OMB, the savings associated with repeal are not included in the balances on the scorecards that are used to determine the need for a sequestration. Two such laws were enacted during the second session of the 111th Congress: the education jobs and Medicaid assistance to States act, Public Law 111-226, and the Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296. These adjustments excluded \$12.0 billion of savings over 2010-2015 and \$16.5 billion of savings over 2010-2020.

Total Exclusions

In total, a net of \$883.8 billion in costs over 2010-2020 were enacted by Congress but excluded from the PAYGO scorecards through current policy adjustments, emergency designations, or other adjustments. Of that amount, \$894.0 billion of costs were enacted in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-312. All other exemptions or exclusions produced a net of \$10.2 billion in uncounted savings.

III. Sequestration Order

As shown on the scorecards, the budgetary effects of PAYGO legislation enacted since enactment of the PAYGO Act did not result in a “debit” on either the five-year or the ten-year scorecard in the budget year, 2011, which means that costs for the budget year as shown on the scorecards do not exceed savings for the budget year. For this reason, a sequestration order is not necessary and is not included in this Report.

The savings shown on the scorecards for 2011 will be removed from the scorecards that are used to record the budgetary effects of PAYGO legislation enacted in the first session of the 112th Congress. The savings shown in 2012 through 2020 will remain on the scorecards and will be used in determining whether a sequestration order will be necessary at the end of future sessions of Congress.

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

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

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

		<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2010-15</u>	<u>2010-20</u>	
11	P.L. 111-161 Enacted 04-30-2010 H.R. 5147 Estimate: OMB	Airport and Airway Extension Act of 2010													
	Net PAYGO impact.....	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Five-year PAYGO scorecard.....		0	0	0	0	0								
	Ten-year PAYGO scorecard.....		0	0	0	0	0					0			
12	P.L. 111-163 Enacted 05-05-2010 S. 1963 Estimate: Congress	Caregivers and Veterans Omnibus Health Services Act of 2010													
	Net PAYGO impact.....	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Five-year PAYGO scorecard.....		0	0	0	0	0								
	Ten-year PAYGO scorecard.....		0	0	0	0	0					0			
13	P.L. 111-165 Enacted 05-14-2010 H.R. 5146 Estimate: OMB	To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2011.													
	Net PAYGO impact.....	0	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-5	-10	
	Five-year PAYGO scorecard.....		-1	-1	-1	-1	-1								
	Ten-year PAYGO scorecard.....		-1	-1	-1	-1	-1					-1			
14	P.L. 111-168 Enacted 05-24-2010 H.R. 1442 Estimate: OMB	To provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909.													
	Net PAYGO impact.....	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Five-year PAYGO scorecard.....		0	0	0	0	0								
	Ten-year PAYGO scorecard.....		0	0	0	0	0					0			
15	P.L. 111-171 Enacted 05-24-2010 H.R. 5160 Estimate: Congress	Haiti Economic Lift Program Act of 2010													
	Net PAYGO impact.....	0	60	70	78	-272	-16	562	108	-645	-111	165	-80	-1	
	Five-year PAYGO scorecard.....		-16	-16	-16	-16	-16								
	Ten-year PAYGO scorecard.....		0	0	0	0	0					0			
16	P.L. 111-175 Enacted 05-27-2010 S. 3333 Estimate: Congress	Satellite Television Extension and Localism Act of 2010													
	Net PAYGO impact.....	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Five-year PAYGO scorecard.....		0	0	0	0	0								
	Ten-year PAYGO scorecard.....		0	0	0	0	0					0			
17	P.L. 111-177 Enacted 06-08-2010 H.R. 5139 Estimate: Congress	Extending Immunities to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo Act of 2010													
	Net PAYGO impact.....	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Five-year PAYGO scorecard.....		0	0	0	0	0								
	Ten-year PAYGO scorecard.....		0	0	0	0	0					0			
18	P.L. 111-190 Enacted 06-09-2010 H.R. 5330 Estimate: Congress	To amend the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 to extend the operation of such Act, and for other purposes													
	Net PAYGO impact.....	0	0	0	0	0	0	0	0	0	0	0	0	0	
	Five-year PAYGO scorecard.....		0	0	0	0	0								
	Ten-year PAYGO scorecard.....		0	0	0	0	0					0			

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

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

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

		<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2010-15</u>	<u>2010-20</u>
96 P.L. 111-382	To clarify the National Credit Union Administration authority to make stabilization fund expenditures without borrowing from the Treasury.													
Enacted 1-4-2011	Net PAYGO impact.....	0	-25	-25	-20	-15	-11	-9	-8	-7	-6	-5	-96	-131
S. 4036														
Estimate: OMB	Five-year PAYGO scorecard.....		-19	-19	-19	-19	-19							
	Ten-year PAYGO scorecard.....		-13	-13	-13	-13	-13	-13	-13	-13	-13	-13		
97 P.L. 111-383	Ike Skelton National Defense Authorization Act for Fiscal Year 2011													
Enacted 1-7-2011	Net PAYGO impact.....	0	3,973	-3,968	-6	1	-2	4,370	141	-4,511	1	1	-2	0
H.R. 6523														
Estimate: Congress	Five-year PAYGO scorecard.....		0	0	0	0	0							
	Ten-year PAYGO scorecard.....		0	0	0	0	0	0	0	0	0	0		

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

¹Revised May 27, 2010 to reflect current policy adjustment.

²H.R. 1586 is listed with its original bill title, which does not reflect the substitute amendment to provide funding to States for education jobs and Medicaid assistance.