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WILL THE SENATE'S "PAY-AS-YOU-GO RULE" MAKE BUDGET PLANS LESS COSTLY?

Budget Conference to Decide Whether Most Planned Tax Cuts and Entitlement Increases Will Need to be Offset

By Richard Kogan

The budget plan that the Senate passed on March 28 contained an extension of a Senate rule known as the "Pay-As-You-Go" Rule (or PAYGO, for short). That rule generally requires the Senate to offset, or "pay for," the cost of any new legislation cutting taxes or increasing the cost of entitlements (see the box on page 3).

The existing PAYGO rule is scheduled to expire on April 15. As part of the budget plan it designed in mid-March, the Senate Budget Committee included a five-year extension of the existing rule *but* also included a special proviso making the extended rule largely toothless. The Senate, by voice vote on an amendment offered by Senators Russell Feingold and Lincoln Chafee, restored most of the teeth to the rule.

- Under the Committee version, the PAYGO rule would apply only *after* all of the tax cuts and spending increases reflected in the budget have become law — and deficits consequently have been increased by close to $2 trillion through 2013.

- Under the Feingold-Chafee amendment, by contrast, all tax cuts and entitlement increases, except for the $350 billion that the Senate provide allows for a fast-track tax-cut bill, would have to be "paid for."

The question now is whether the meaningful version or the toothless version will emerge from conference.

- As noted, if the toothless version of the Senate PAYGO Rule prevails in conference and all of the tax cuts and spending measures reflected in the budget are subsequently enacted, the result will be the addition over the next ten years of close to $2 trillion in deficits.

- But if the version of the PAYGO rule adopted on the Senate floor prevails in conference, all of the tax cuts outside of the "reconciliation" process and all of the entitlement increases (primarily the $400 billion set aside for a Medicare prescription drug benefit) would have to be offset. If such offsets were enacted, the impact on deficits and the debt would be much smaller.

The table above shows the costs of the Senate budget plan under the competing versions of the Senate PAYGO Rule. The Feingold-Chafee version, if agreed to in conference and adhered to, would permit legislation that adds about $1.1 trillion *less* to deficits and the national

The Senate Plan with and without the Feingold-Chafee Version of the PAYGO Rule
(Costs or savings relative to CBO's baseline; dollars in billions; cumulative totals through 2013)

	Senate-passed budget plan with toothless PAYGO Rule	Senate-passed budget plan if Feingold-Chafee is agreed to and enforced
"Reconciled" tax cuts	350	350
Other tax cuts (including health insurance)*	590	0 (must be offset)
Prescription drug benefit	400	0 (must be offset)
Other entitlement increases	15	0 (must be offset)
Increases in defense appropriations	126	126
Reductions in non-defense appropriations	-103	-103
Resulting debt service costs	347	203
Total costs	**1,725**	**576**

* This figure treats the Senate's $88 billion, ten-year reserve for improved health insurance coverage as a tax cut since it can be used for tax credits. The amount could instead be an entitlement increase.

debt through 2013 than the legislation that would be allowed under the Senate Budget Committee's version of the PAYGO rule.

The Role of 41 Senators

Under the Congressional Budget Act and under either version of the PAYGO Rule, the cost of legislation cannot exceed specified limits. These rules are enforced by a Senate point of order. If a Senator raises a point of order against legislation on the grounds that it breaches a specified limit, the legislation dies on the spot, *unless* 60 of the 100 Senators immediately vote to "waive" the point of order.

To see the difference between the toothless version of the PAYGO Rule and the Feingold-Chafee version, suppose that the dollar targets in the Senate-passed budget resolution are agreed to by Congress. Under the Feingold-Chafee version of the PAYGO rule, 41 Senators could insure, by consistently voting to uphold rather than waive the PAYGO rule, that budget deficits through 2013 do not increase by more than $576 billion. (These figures are shown in the table at the top of this page and are based on the tax and spending provisions of the Senate-passed budget.) By contrast, if the toothless version of the PAYGO rule ultimately prevails, the best that 41 Senators could do, using this rule, would be to insure that budget deficits through 2013 do not increase (relative to the CBO baseline) by more than $1.7 trillion.

What about Filibusters?

Except for "reconciliation" bills, any measure can be filibustered in the Senate — that is, debate on the measure can continue indefinitely without the Senate's voting on final passage. Some 60 Senators can bring a filibuster to halt and force a vote on final passage by voting to "invoke cloture." This means, in effect, that 41 Senators can prevent enactment of tax cuts and entitlement increases by filibustering them when such measures come up (unless the measures are included in a reconciliation bill, which cannot be filibustered). On the surface, it thus may appear that the PAYGO rule is not particularly important, since it already might take 60 Senators to move tax cuts and entitlement increases that are not part of a reconciliation bill.

The Senate Pay-As-You-Go Rule

Under the Senate PAYGO Rule, all tax cuts or entitlement increases must be "paid for" by offsetting tax increases or entitlement cuts. The type of offset does not need to match the type of cost; a tax cut can be paid for through either a tax increase or an entitlement reduction.

The PAYGO Rule requires the cost of tax or entitlement legislation to be offset in the first fiscal year, in total over the first five years, and in total over the sixth through tenth years. It can be waived if 60 Senators vote to do so. The PAYGO Rule does not apply to Social Security legislation and does not apply to the extent that the most recent budget resolution "baseline" projects surpluses outside Social Security. It will, however, be a very long time (if ever) before such surpluses return.

The Senate PAYGO Rule is scheduled to expire on April 15, 2003. The budget resolution reported by the Senate Budget Committee would have extended the rule for another five years but with a special proviso allowing *all* of the tax cuts and entitlement increases in the budget resolution to be enacted *without* being paid for. This proviso makes the rule toothless, at least for this session of Congress.

Senators Feingold and Chafee offered an amendment to the Senate budget plan cutting back the scope of the special proviso and thereby restoring most of the PAYGO Rule's teeth. Under the Feingold-Chafee amendment, only the $350 billion in tax cuts included in the Senate budget's "reconciliation directive" would be free from the PAYGO Rule and thus would not have to be paid for.* All of the remaining tax cuts included in the Senate plan and all the plan's entitlement increases *would* have to be paid for. The Senate agreed to the Feingold-Chafee amendment by voice vote.

* A "reconciliation directive" in a congressional budget resolution is a special provision that triggers a fast-track procedure for the subsequent consideration of specified tax or entitlement legislation. Tax or entitlement measures considered under this fast-track procedure cannot be filibustered. The House budget resolution and the resolution brought to the Senate floor each called for $726 billion in tax cuts through 2013 to be enacted through the "reconciliation" process, while hundreds of billions in additional tax cuts would be enacted through the normal legislative process. The Breaux amendment to the Senate budget resolution reduced the size of the "reconciled" tax cuts to $350 billion and reduced the size of the unreconciled tax cuts as well.

Yet any such conclusion that the PAYGO rule is superfluous would almost certainly be mistaken. It takes considerable time, effort, and dedication for 41 Senators to filibuster every tax cut and entitlement increase all year, voting time and again to oppose "cloture" and sustain filibusters that deny the Senate the right to vote on a wide variety of popular legislation. Moreover, Senators who filibuster one attractive-sounding tax cut after another can be branded in the media — and perhaps in attack ads at election time — as unreasonable politicians who are unwilling even to allow a fair vote on important legislation. It is far more defensible for 41 Senators to vote against overriding the Senate's own rule to maintain fiscal discipline — i.e., the PAYGO rule — than to vote to maintain continual filibusters. As a result, efforts to avert fiscally reckless legislation that makes deficits even larger are more likely to be successful if the version of the PAYGO rule that has teeth is approved.

The conclusion is clear. The Feingold-Chafee version of the Senate's PAYGO rule would be likely to make a significant contribution to enhancing fiscal discipline. The toothless version designed by the Senate Budget Committee is likely to have little or no effect.