



UNDERSTANDING
Administrative
PAYGO

Background

Signed into law on June 3, 2023, **the Fiscal Responsibility Act (P.L. 118-5) (FRA)** includes an **Administrative Pay-As-You-Go (PAYGO)**^[1] provision that was previously on the books during the Trump Administration by Executive Order (EO) until President Biden revoked it on his first day in office.^[2]

The FRA restored Administrative PAYGO **requiring offsets for the cost of administrative actions** that increase direct spending by at least or more than \$1 billion over 10 years or by \$100 million annual threshold.

In roughly three years, the Biden Administration has spent **more than \$1.5 trillion through executive actions** in a clear circumvention of Congress. These include but are not limited to:

- **\$330 billion** for the student loan bailout;
- **\$300 billion** for increasing the Thrifty Food Plan^[3];
- **\$260 billion** on the new Income Drive Repayment (IDR) plan; and
- **At least \$250 billion** on multiple actions to dramatically expand Medicaid, including for illegal immigrants and higher income Americans.



The Government Accountability Office (GAO) recently released a report detailing how the Office of Management and Budget (OMB) is implementing Administrative PAYGO.

House Budget Committee Oversight Task Force

[1] This is not to be confused with the House Cut As-You-Go rule, which requires legislation increasing net direct spending over five years or ten years to be offset (formerly the House Pay-As-You-Go rule in Democratic majorities) or the Statutory Pay-As-You-Go Act of 2010; both provisions are separate things.

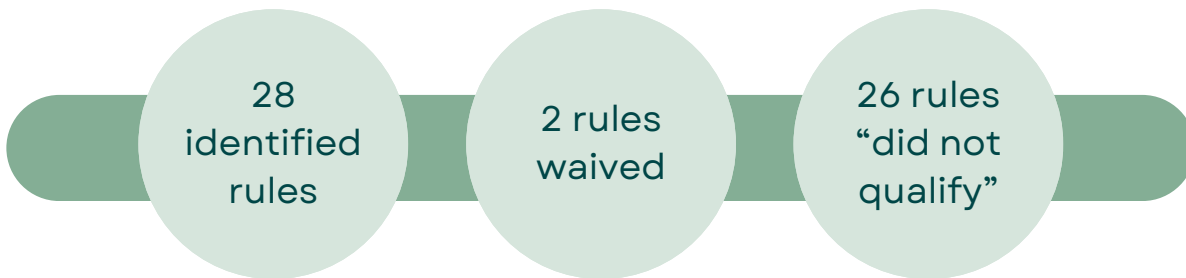
[2] In October 2019, President Trump issued an EO implementing Administrative PAYGO, which required discretionary administrative actions taken by Executive Branch agencies that increase mandatory spending to be offset with spending cuts; the Biden Administration revoked this EO on January 20, 2021.

[3] The Thrifty Food Plan is used by the Department of Agriculture to calculate benefit levels for SNAP.

What GAO Found

GAO’s report identified 28 rules that were finalized between the FRA’s enactment on June 3, 2023, through November 3, 2023. OMB “**waived the requirements of Administrative PAYGO for two rules**” and told GAO that the **remaining 26 did not qualify within the Administrative PAYGO threshold**; the two rules that did qualify are as follows:

1. IDR Student Loans^[4]
2. Annual Medicare Home Health Prospective Payment rule^[5]



Additionally, GAO’s report noted that OMB’s interpretation of the FRA “**does not legally require agencies to move forward with, or ultimately implement, proposed offsets.**” This is **very different** than OMB’s interpretation of the 2019 EO, which referred to Administrative PAYGO as a “budget neutrality requirement... affecting net mandatory spending;” if something is ‘budget neutral’ it has no negative fiscal impact on the national budget.

Administrative PAYGO “does not legally require agencies to move forward with, or ultimately implement, proposed offsets.” - Office of Management and Budget

House Budget Republicans believe the Biden Administration and OMB’s current interpretation **fundamentally defeats the purpose of** Administrative PAYGO, turning a measure intended for fiscal responsibility into a **lackluster budgetary exercise**.

[4] The Congressional Budget Office (CBO) estimates this to be approximately \$260 billion.

[5] No estimate currently available.

What House Republicans are Doing



On January 5, 2024, the House Budget Committee and its Oversight Task Force made a formal request to GAO for additional information pertaining to the implementation of FRA's Administrative PAYGO, including:

- How many rules would qualify under the current Administrative PAYGO provision since President Biden took office; and
- Any estimates detailing OMB's projections for the 28 economically significant or major rules since the FRA was enacted.



Additionally, House Budget Committee Republicans requested CBO to score the rules GAO identified as *economically significant* or *major* for greater transparency on this issue.



The Committee is also continuing to explore legislative solutions strengthening Administrative PAYGO to ensure this important congressional fiscal restraint tool cannot be ignored by the Executive Branch.