



CHAIR JODEY ARRINGTON

HOUSE BUDGET COMMITTEE

Ignoring the Importance of Offsets: *The Biden Administration Continues to* *Not Properly Implement Administrative* *PAYGO*

WASHINGTON, D.C. – Yesterday, Shalanda Young, Director of the Office of Management and Budget (OMB), [responded](#) to House Budget Committee Chairman Jodey Arrington (R-TX) and Oversight Task Force Chairman Jack Bergman's (R-MI) [letter](#) concerning the Administration's interpretation and implementation of the Fiscal Responsibility Act (FRA) of 2023's [Administrative Pay-As-You-Go \(PAYGO\) provision](#).

While the Committee appreciates Director Young's response by the deadline, the letter disregards key information and specific questions, while also outright ignoring the importance of offsetting hundreds of billions of dollars in costly rules and being strong fiscal stewards of taxpayer money. This failure of acknowledgement is beyond unsettling, and House Budget Committee Republicans remain determined to continue pressing the Administration on these vital issues.

BACKGROUND

What is Administrative PAYGO?

- In recent years, Administrations on both sides of the aisle have increasingly used executive actions to push through costly and unchecked priorities outside of Congressional authority or consultation.
- Administrative PAYGO is a budgetary measure intended to promote fiscal responsibility on behalf of the Executive Branch by requiring agencies to provide offsets for increases to direct spending above a certain threshold.



- The Bush, Obama, and Trump Administrations each supported some version of Administrative PAYGO; President Biden revoked Administrative PAYGO on his first day in office in January 2021.
- The bipartisan FRA renewed Administrative PAYGO, which:
 - Requires administrative actions that increase direct spending **by \$1 billion over 10 years or \$100 million** in any given year be paid for by offsets or other pay-fors.

ADDRESSING THE BIDEN ADMINISTRATION'S MISINTERPRETATION OF ADMINISTRATIVE PAYGO

The Biden Administration's interpretation of Administrative PAYGO turns a measure intended for fiscal responsibility into an ineffective budgetary exercise, permitting a lack of transparency and further circumvention of the Legislative Branch.

Executive Waivers:

- OMB has yet to use Administrative PAYGO, rather utilizing its waiver authority to continue spending taxpayer dollars outside of Congress's watch.
- These waivers get buried within the *Federal Register*, which hinders Congress's ability to conduct proper fiscal oversight.

Lack of Budget Neutrality:

- OMB's interpretation **contends** that Administrative PAYGO, as outlined in the FRA, "does not legally require agencies to move forward with, or ultimately implement, proposed offsets."
- This is markedly different than previous Administration's interpretation of Administrative PAYGO.

Analysis from the Committee for a Responsible Federal Budget estimates the Administration has increased ten-year deficits by **at least \$480 billion** from actions



finalized after Administrative PAYGO was supposedly in effect and has proposed several hundred billion dollars more in rules that have not yet been finalized.

WHAT DID HOUSE REPUBLICANS ASK FOR IN THE APRIL 29TH LETTER?

The House Budget Committee highlighted these concerns in our April letter to OMB, reading, in part:

- ***“OMB’s interpretation exhibits a complete and total disregard of the provision and is markedly different from previous iterations of Administrative PAYGO, which promulgated the measure’s intention of promoting budget-neutral policy.”***

Budget Committee also requested that OMB provide detailed answers to the following questions by May 29, 2024:

1. Since January 2021, how many finalized rules would qualify under the FRA’s Administrative PAYGO provision?
2. Since the FRA’s Administrative PAYGO went into effect, how many qualifying rules have received waivers?
3. What are the cost estimates for each rule that was waived?

HOW DID OMB RESPOND?

OMB only provided responses to one of Budget Committee’s three questions:

1. Since January 2021, how many finalized rules would qualify under the FRA’s Administrative PAYGO provision?
 - a. **DID NOT ADDRESS**
2. Since the FRA’s Administrative PAYGO went into effect, how many qualifying rules have received waivers?
 - a. **CONCEDED THAT FIVE WAIVERS¹ HAVE BEEN GRANTED**

¹ HHS, *Medicaid Program; Medicaid and Children’s Health Insurance Program (CHIP) Managed Care Access, Finance, and Quality*, 89 Fed. Reg. 41002, 41266 (May 10, 2024); SSA, *Final Rule, Intermediate Improvement to the Disability Adjudication Process*, 89 Fed. Reg. 27653, 27664 (Apr. 18, 2024);



3. What are the cost estimates for each rule that was waived?
 - a. **DID NOT ADDRESS**

THE BOTTOM LINE

OMB's lack of transparency to Congress and the American people underscores the need for H.R. 8195, the Strengthening Administrative PAYGO (SAP) Act:

[The SAP Act of 2024](#) addresses and corrects OMB's misinterpretation by clarifying, strengthening, and permanently extending Administrative PAYGO.

H.R. 8195 [was reported](#) by the House Budget Committee with a favorable recommendation by a vote of 16-9. The legislation has the support of a wide range of stakeholders; supporting quotes from some of them can be found [here](#).

Specifically, the legislation:

- **Includes** a requirement for the OMB Director to submit any waiver determination and an estimate of the budgetary effects of the covered action to the Budget Committees;
- **Ensures** that such covered action is budget neutral;
- **Amends** and **clarifies** the FRA's threshold of at least \$1 billion over 10 years or \$100million annually in direct spending from an exemption to a formal requirement;
- **Terminates** the original sunset date (12/31/24) in the FRA, making the provision permanent; and

HHS, Medicaid Program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes, 89 Fed. Reg. 22780, 22865 (Apr. 2, 2024);

HHS, Medicare Program; Calendar Year (CY) 2024 Home Health (HH) Prospective Payment System Rate Update, 88 Fed. Reg. 77676, 77874 (Nov. 13, 2023);

Dep't of Ed., Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program, 88 Fed. Reg. 43820, 43867 (July 10, 2023).



- **Includes** a requirement for the President’s budget request to include the number of waivers granted during the prior fiscal year and the first quarter of the current fiscal year and the number of determinations expected to be submitted.

As our nation stares down an unprecedented debt and deficit crisis, it’s important that the federal government make financially sound decisions.

House Budget Committee Republicans will continue to **Sound the Alarm** on unchecked Executive Branch spending, ensuring that Congress is not being circumvented, taxpayer dollars are protected, and the American people have a transparent perspective on how their government is being run.

MORE FROM THE HOUSE BUDGET COMMITTEE

See below for more of the House Budget Committee’s efforts on the implementation of the FRA’s Administrative PAYGO provision:

- **Read** Rep. Bergman and Chairman Arrington’s [letter](#) to OMB calling for the implementation and execution of Administrative PAYGO [HERE](#).
- **Read** Rep. Bergman and Chairman Arrington’s [letter](#) requesting supplemental information from the Government Accountability Office (GAO) on how the Biden Administration is implementing Administrative PAYGO [HERE](#).
- **Read** Chairman Arrington’s comments on GAO’s report re FRA/Administrative PAYGO implementation [HERE](#).
- **Read** a House Budget Committee explainer on Administrative PAYGO [HERE](#).
- **Read** an ICYMI sharing a [CQ News](#) story pertaining to the Committee’s work on Administrative PAYGO oversight [HERE](#).

