



**UNRIG THE RULES**

# EXPLAINER

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## Senate PAYGO

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As the U.S. emerges from the COVID-19 pandemic, big and bold investments are crucial to successfully rebuild and recover from the public health crisis that devastated millions of families across the country. However, the Senate's pay-as-you-go (PAYGO) rule remains a big obstacle to these necessary investments. The Senate PAYGO rule is a budget enforcement mechanism that requires tax cuts and mandatory spending increases to be offset by tax increases or spending cuts elsewhere in the budget. At face value, PAYGO may seem like a reasonable tool to ensure fiscal responsibility. In practice, however, it is a needless hurdle that prevents effective policies from becoming law.

While the Senate's PAYGO rule poses a problem to much-needed investments in our communities, the annual budget resolution presents an opportunity to modify or repeal the rule and deliver relief to families struggling to recover from the COVID-19 pandemic.

### **Senate PAYGO Rule**

The Senate first created its PAYGO rule in the FY1994 budget resolution and has modified it eight times since its creation. [All but one](#) of those modifications were in an annual budget resolution. The current version of the rule allows a senator to raise a point of order against a bill or amendment that is projected to increase the deficit during the current fiscal year, the budget year, a six-year period, and an 11-year period through changes to mandatory spending or revenue.

When a senator raises a PAYGO point of order, the Senate can waive it by unanimous consent or by a motion to waive the rule, which requires 60 votes to adopt—the same as the threshold to overcome a filibuster. In effect, the rule provides an additional opportunity for senators opposed to legislation to block it with only 41 votes. While the PAYGO rule was created because of concerns for the federal deficit, it has become a tool for policymakers to obstruct legislation that can help the most burdened communities.

### **Modifying Senate PAYGO through the Budget Resolution**

While the House routinely adopts its budget enforcement rules at the beginning of each Congress through their rules package, the Senate usually creates and modifies

its PAYGO rule in annual budget resolutions. The budget resolution passes with a simple majority in both chambers.

Congress can use the budget resolution to get around a Senate PAYGO point of order by preemptively exempting legislation from the rule in the annual budget resolution. This avoids the 60-vote threshold to waive a point of order on the Senate floor. For example, Congress exempted the American Rescue Plan Act from the Senate PAYGO rule in the FY2021 budget resolution, which also allowed that bill to pass under the budget reconciliation process.

In order for Congress to make the investments necessary to recover from the COVID-19 pandemic and govern effectively, Congress can include an exemption from the Senate PAYGO rule in the next budget resolution to allow for the Build Back Better package to avoid a point of order and 60-vote threshold in the Senate. The Senate could also go further by reforming or repealing the standing Senate PAYGO rule. Doing so would allow Congress to continue to invest in communities without the procedural hurdle that so often stymies effective policymaking.

***For more on the Senate PAYGO rule, read [The Case for Repealing Congressional PAYGO](#).***