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The Potential Impact of PAYGO Rules on Tax Legislation

By Alan Cohen August 28, 2017

Republicans in the House and Senate are using or intend to use a legislative rule known as budget reconciliation to pass tax legislation with just a simple majority in the Senate.[1] However, other budget rules, known as pay-as-you-go (PAYGO) rules, still apply to reconciliation bills. These PAYGO rules require that any legislation that reduces revenues or increases spending on entitlement programs does not increase the budget deficit over certain periods of time. There are two types of PAYGO rules: statutory PAYGO[2] and Senate PAYGO.[3] Statutory PAYGO governs consideration of bills in both the House and Senate and can lead to automatic spending cuts in the future if deficit-increasing bills are passed into law. Senate PAYGO is a strong parliamentary rule that applies only to the consideration of bills in that chamber.

These rules provide opportunities for defeating or jeopardizing a reconciliation bill that is totally or partially unpaid for, creating a way to try to stop the unpaid-for tax cuts for the wealthy that President Donald Trump and his allies in Congress may attempt to enact. The threat of an automatic sequester of some mandatory spending programs that would result from statutory PAYGO could provide leverage to stop unpaid-for tax cuts before they are enacted. This is because statutory PAYGO means that a member of Congress who votes for large deficit-increasing tax cuts is also voting to eliminate completely many important spending programs, such as farm price-support programs. Senate PAYGO provides a means of killing unpaid-for tax cuts while they are being debated on the Senate floor. This issue brief explains these PAYGO rules. It also discusses how those rules might be subverted by proponents of reconciliation bills.

What is budget reconciliation?

Reconciliation is a federal budget process that can be used to make changes in revenue laws and/or mandatory spending laws with the support of a simple majority in the Senate, rather than the usual 60 votes needed to overcome a filibuster.[4] In order to use this process, lawmakers include reconciliation instructions in the annual budget resolution. The budget resolution is a concurrent resolution, which means that it must only pass the House and Senate and does not require the signature of the president. Furthermore, the budget resolution cannot be filibustered, so it only requires a simple majority in the Senate to pass.

These reconciliation instructions tell certain committees to pass legislation with a certain budgetary outcome. For example, in an attempt to repeal the Affordable Care Act, the fiscal year 2017 budget resolution included instructions for the Senate's Finance Committee and Health, Education, Labor, and Pensions Committee, as well as the House of Representatives' Energy and Commerce Committee and Ways and Means Committee, to submit legislation to reduce the deficit by $1 billion each.[5] The bills fulfilling this instruction in the Senate are exempt from the filibuster and require just a majority to pass.[6]

However, there are limits to the types of bills that can be passed under reconciliation. Changes to Social Security, for example, are explicitly prohibited from the reconciliation process.[7] Importantly, in the Senate, the Byrd rule—which is codified in the Congressional Budget Act of 1974—prohibits reconciliation from being used for provisions that do not affect the budget. Senators can raise points of order to strike these extraneous provisions from the bill.[8] The points of order can only be waived with 60 votes.[9]

Statutory PAYGO rules

Statutory PAYGO calls for the creation of a "PAYGO scorecard."[10] When new legislation is enacted, its estimated costs or savings in each of the next 10 years are entered on a scorecard. When subsequent legislation is enacted, its costs or savings are added to the scorecard.[11] At the end of each year, the Office of Management and Budget (OMB) adds together all the cost and savings entries for that year. If the net total for that year is negative—in other words, if it is deficit-increasing—then the OMB is required to implement an across-the-board sequester, or spending cut, of certain mandatory programs to make up for that cost. And while many mandatory programs are exempt from this sequester, some are not. The nonexempt programs subject to the sequester include farm price-support programs, Medicare payments to providers and prescription drug plans, Vocational Rehabilitation Basic State Grants, mineral leasing payments to states, the Social Services Block Grant, concurrent receipt accrual payments to the Military Retirement Trust Fund, and others.[12] (see Table 1)

The sequester of payments to Medicare providers and prescription drug plans is capped so that it cannot result in more than a 4 percent spending reduction. This cap effectively means that the largest amount that can be sequestered from Medicare is about $26 billion in outlays.[13] The largest amount of outlays that can be sequestered from all the other nonexempt programs is about $77 billion.[14] Thus, if a deficit on the PAYGO scorecard required a sequestration of about $103 billion or more in outlays, then all of the nonexempt programs listed in Table 1—except for Medicare—would be completely wiped out.

TABLE 1

Sequestrable base for all nonexempt mandatory programs for fiscal year 2018

Budget authority, in billions of dollars

Program	Sequestrable base
Medicare	**$637.9**
All non-Medicare programs with sequestrable base greater than or equal to $1 billion	
Funds for Strengthening Markets, Income, and Supply (Section 32), Agricultural Marketing Service	$1.2
Farm price-support programs (Commodity Credit Corporation Fund)	$13.7
Farm Security and Rural Investment programs	$3.9
Concurrent Receipt Accrual Payments to the Military Retirement Fund	$7.5
Rehabilitation services (Vocational Rehabilitation Basic State Grants)	$3.5
Western Area Power Administration, Recovery Act	$1.2
Program Management (Centers for Medicare & Medicaid Services)	$1.9
Risk adjustment program payments (Centers for Medicare & Medicaid Services)	$6.4
Social Services Block Grant	$1.7
U.S. Citizenship and Immigration Services	$4.1
U.S. Customs and Border Protection	$1.3
National Flood Insurance Fund (Administrative expenses)	$1.6
Mineral leasing and associated payments to states	$1.5
Assets Forfeiture Fund (U.S. Department of Justice)	$1.6
Crime Victims Fund (U.S. Department of Justice)	$13.5
Treasury Forfeiture Fund	$1.3
Build America Bond payments, Recovery Act	$3.9
Orderly Liquidation Fund (Federal Deposit Insurance Corporation)	$1.9
Subtotal: All non-Medicare programs with sequestrable base greater than or equal to $1 billion	**$71.7**
All non-Medicare programs with sequesterable base less than $1 billion	**$20.3**
Total: All non-Medicare programs	**$92.0**

Notes: Totals are rounded. See Endnote 14 for a discussion of why sequestrable budget authority is larger than sequestrable outlays. The reduction for Medicare is limited to 4 percent. "Non-Medicare programs with sequesterable base less than $1 billion" include some small components of Medicare not subject to a 4 percent sequestration limit.

Source: Author's calculation using data from Office of Management and Budget, OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2018 (Executive Office of the President, 2017), available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/sequestration_reports/2018_jc_sequestration_report_may2017_potus.pdf.

The threat of a sequester at the end of the year could prevent deficit-increasing legislation from passing earlier in the year. Opponents of the legislation would be sure to highlight, when the legislation was initially being debated, that a vote for unpaid-for tax cuts would also be a vote for harmful spending cuts that would eliminate many important programs. Farm price-support programs, for example, would be completely zeroed out by a sizable tax cut. Opponents of unpaid-for tax cuts would widely publicize this extremely jarring scenario to farmers, interest groups that represent farmers, and members of Congress from farming areas. Moreover, the prospect of a 100 percent sequester would be extremely alarming to providers and users of vocational rehabilitation programs and the Social Services Block Grant; to state governments receiving mineral leasing payments from the federal government; to the providers and users of each of the other programs listed in Table 1, except for Medicare; and to the members of Congress representing all these constituents. Many smaller programs not shown in Table 1 would be similarly affected.

But Congress has an escape hatch. No sequester takes place at the time legislation is enacted: It can be passed and signed into law without any immediate impediment. But later, when faced with a sequester at the end of the year, Congress could pass a bill that would remove the costs of one or more already enacted pieces of legislation from the PAYGO scorecard. Congress could also pass a bill that wiped the scorecard completely clean of the costs of all enacted legislation for the year, which is what happened after Congress passed large tax cuts in 2001.[15] But all of these so-called cleansing bills would be subject to a filibuster in the Senate, which would take 60 votes to overcome. If proponents of the deficit-increasing legislation cannot muster 60 votes, then a showdown would occur.

During the showdown, proponents of the deficit-increasing legislation would dare opponents to try to filibuster the new bill. Proponents would argue that a sequester would occur if the filibuster were successful and that opponents would be blamed for the sequester. Opponents of the bill would make it clear that they had warned about the potential sequester when the deficit-increasing legislation was initially being considered, and that they had warned that they would filibuster a bill to exempt the legislation from counting on the PAYGO scorecard. Opponents could therefore argue that the deficit-increasing legislation should be repealed in order to prevent the sequester. It is important to remember that a showdown would only occur if the threat of the sequester failed to deter the passage of the reconciliation bill when it was being initially debated.

The fact that a large sequester under statutory PAYGO would be devastating does not guarantee that it cannot happen—as seen with a different sequester enacted as part of the Budget Control Act of 2011 (BCA). The BCA sequester was supposed to be so horrible that it would force Congress to agree on a bipartisan grand bargain to reduce deficits, but many congressional Republicans praised the sequester cuts to domestic programs after they began in 2013.[16] Thus, some of the most extreme members of Congress might view a sequester under statutory PAYGO as a positive outcome.

Tax cuts, tax reform, and statutory PAYGO

Statutory PAYGO could become an issue if lawmakers try to enact tax reform via a reconciliation bill. If tax reform were deficit-neutral, no problem would occur. But if tax reform were deficit-increasing—that is to say, a tax cut—statutory PAYGO would come into play. While details are scarce on President Trump's tax plan, the nonpartisan Tax Policy Center (TPC) has analyzed a one-page summary of the plan released by the Trump administration. Even when including all potential revenue-raising provisions that were listed in the Trump campaign's tax plan but left out of the administration's summary document, the TPC estimates that the tax plan would decrease revenues by $155 billion in 2018.[17] As a result, enactment of such tax reform would cause an automatic sequester at the end of the year, which would zero out all of the nonexempt direct spending, or mandatory, programs other than Medicare. Medicare payments to providers and prescription drug plans would be cut by the maximum of 4 percent.[18] Opponents of the bill could use the threat of a huge sequester under statutory PAYGO to try to block the tax reform legislation.

A possible hurdle to using statutory PAYGO to block deficit-increasing tax cuts or tax reform is an economic forecasting tool called dynamic scoring. Dynamic scoring refers to the scoring that includes the projected impact of macroeconomic feedback from the legislative changes being made—as opposed to the traditional method of scoring, often called static scoring. This method takes into account how taxpayers might respond to changes in tax laws on a microeconomic level, but not economywide feedback. In recent years, Republicans in the House have changed the chamber's rules to require dynamic scoring for major legislation,[19] and this Congress may seek to rely on dynamic scoring in both chambers for tax legislation.

Dynamic scoring is likely to reduce the costs of tax cuts somewhat, but it would hardly eliminate those costs. When the nonpartisan TPC estimated the cost of President Trump's tax plan using a dynamic model in addition to its traditional model, it found that the revenue loss would be $125 billion in the first full year of implementation, only $29 billion less than the static revenue loss.[20] That $125 billion cost is still higher than the amount that would completely wipe out the nonexempt mandatory programs via sequester.

For statutory PAYGO, the score of tax cut legislation can be jointly signed by the House and Senate Budget Committee chairs and submitted to each of the chambers at the time the legislation is debated.[21] For tax legislation, the chairs usually use estimates prepared by the nonpartisan Joint Committee on Taxation.[22] Technically, the Budget Committee chairs do not have to use the estimates of the Joint Committee on Taxation; they can use other estimates. However, to eliminate the sequester completely, the chairs would have to claim that a tax cut such as the one proposed by President Trump produced so much revenue that the entire static revenue loss would be eliminated. Credible economic experts do not think that this result is remotely possible given the empirical evidence to date.[23] For the chairs to claim otherwise would amount to using an egregious scoring gimmick and would undermine decades-long congressional norms and practices. Moreover, the potential for use of such a gimmick could generate political fallout that could reduce support for the tax cuts in Congress.

Under the rules for statutory PAYGO, if a signed score is not submitted by the Budget Committee chairs, the OMB gets to decide the score for the legislation.[24] The OMB normally uses revenue estimates produced by the Treasury Department's Office of Tax Analysis, which has a staff of nonpolitical economists.[25] Again, to eliminate the sequester completely, the Office of Tax Analysis would have to claim that tax cuts produced so much revenue that the entire static revenue loss would be offset. And again, given the empirical evidence to date, it seems extremely unlikely that the office would make such a claim. But it is possible that the political leadership of the Treasury Department could try to override the ruling of the department's nonpolitical career professionals. This would constitute an outlandish scoring gimmick and an abuse of the process—and again, the potential for the use of such a gimmick could generate political fallout that could reduce support for the tax cuts in Congress.

Senate PAYGO rules

Senate PAYGO is another potential roadblock to enacting legislation that would increase the deficit. Under Senate PAYGO, legislation that increases the deficit over the next 6 years or 11 years—such as a deficit-increasing tax cut—is subject to a point of order that can only be waived with 60 votes.[26] If the point of order is not waived, the entire piece of legislation fails. Unlike statutory PAYGO, Senate PAYGO provides an immediate opportunity to defeat a bill while the bill is being debated on the Senate floor and before a final vote is taken.

If during the months of the calendar year prior to consideration of a piece of legislation there is a budget surplus from legislation already enacted that year, that surplus can be counted in determining whether the legislation being considered increases the deficit. For example, if legislation enacted earlier in the year had a net effect of reducing the deficit by $20 billion, then any legislation increasing the deficit by less than $20 billion would not be subject to a point of order; legislation increasing the deficit by more than $20 billion would be subject to a point of order.

But as with statutory PAYGO, Congress has an escape hatch: The budget resolution for the upcoming year could exempt certain legislation—such as unpaid-for tax cuts—from Senate PAYGO rules. This is what occurred in the congressional majority's FY 2017 budget resolution created to facilitate a bill to repeal the Affordable Care Act earlier this year.[27] Or Senate PAYGO could be completely repealed in the budget resolution. Passage of a budget resolution for the upcoming year would require only a majority vote.

Opponents of unpaid-for tax cuts could make a motion to strike a provision in the budget resolution that would exempt those tax cuts from Senate PAYGO rules, or make a motion to strike a provision that would repeal the rules entirely, and these motions could be passed by a majority vote. If three members of the current Senate majority join all 48 members of the minority, then the exemption or repeal of Senate PAYGO would be thwarted. In 2015, the Senate voted to approve a budget resolution—and the conference report on that budget resolution—that made Senate PAYGO permanent. Fifty two Republican senators voted for that budget resolution, and 51 Republican senators voted for the conference report.[28] Of those senators, 47 are still in the Senate; they are listed in Table 2. If just 3 of those 47 senators stand by the votes they cast in 2015 and are joined by all 48 Democrats, then a motion to strike the exemption or the repeal language could pass the Senate.

TABLE 2

47 senators who voted for the fiscal year 2016 budget resolution who are still senators in 2017

Lamar Alexander (R-TN)	Deb Fischer (R-NE)	Lisa Murkowski (R-AK)
John Barrasso (R-WY)	Jeff Flake (R-AZ)	David Perdue (R-GA)
Roy Blunt (R-MO)	Cory Gardner (R-CO)	Rob Portman (R-OH)
John Boozman (R-AR)	Lindsey Graham (R-SC)	Jim Risch (R-ID)
Richard Burr (R-NC)	Chuck Grassley (R-IA)	Pat Roberts (R-KS)
Shelley Moore Capito (R-WV)	Orrin Hatch (R-UT)	Mike Rounds (R-SD)
Bill Cassidy (R-LA)	Dean Heller (R-NV)	Marco Rubio (R-FL)
Thad Cochran (R-MS)	John Hoeven (R-ND)	Ben Sasse (R-NE)
Susan Collins (R-ME)	Jim Inhofe (R-OK)	Tim Scott (R-SC)
Bob Corker (R-TN)	Johnny Isakson (R-GA)	Richard Shelby (R-AL)
John Cornyn (R-TX)	Ron Johnson (R-WI)	Dan Sullivan (R-AK)
Tom Cotton (R-AR)	James Lankford (R-OK)	John Thune (R-SD)
Mike Crapo (R-ID)	Mike Lee (R-UT)	Thom Tillis (R-NC)
Steve Daines (R-MT)	John McCain (R-AZ)	Pat Toomey (R-PA)
Michael Enzi (R-WY)	Mitch McConnell (R-KY)	Roger Wicker (R-MS)
Joni Ernst (R-IA)	Jerry Moran (R-KS)	

Sources: U.S. Senate, "Roll Call Vote 114th Congress - 1st session: Vote 135," available at https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00135 (last accessed July 2017); U.S. Senate, "Roll Call Vote 114th Congress - 1st session: Vote 171," available at https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00171 (last accessed July 2017).

It is worth noting that when a senator tries to raise a point of order against a bill such as a tax cut by alleging that the bill raises the deficit over 6 and/or 11 years, the score for the legislation being considered is provided by the Senate Budget Committee chair.[29] As with statutory PAYGO, the chair might try to use the egregious gimmick of claiming that dynamic scoring showed the tax cut fully paying for itself. But just as with statutory PAYGO, the potential for the use of such a gimmick could generate political fallout that would reduce support for the tax cut in Congress.

Conclusion

The statutory PAYGO rules outlined in this piece could be used to stop large unpaid-for tax cuts, as opponents could rightfully point out that the tax cut bill could lead to automatic cuts to important programs, such as farm price-support programs. Indeed, any legislation, including tax cut legislation, that had a net cost of about $103 billion or greater in the first year would cause all nonexempt mandatory programs other than Medicare to be wiped out completely.

Senate PAYGO rules are a different roadblock that could be used to stop unpaid-for legislation, such as a tax cut, while it is being debated on the Senate floor. However, Senate PAYGO could be repealed in the budget resolution, or the unpaid-for legislation could be exempted from the PAYGO process by the budget resolution, as was done for legislation to repeal the Affordable Care Act. Thus, repeal or exemption could be accomplished with a 51-vote majority. However, voting for repeal or exemption could be difficult for some senators in the majority party, especially those who voted in 2015 to make Senate PAYGO permanent.

Of course, scoring gimmicks, which would go far beyond the dynamic scoring produced by the Joint Committee on Taxation and other credible tax analysts, could be used in an egregious manner to subvert statutory PAYGO and Senate PAYGO. But this gimmickry could generate political fallout that reduces congressional support for the tax cuts.

The bottom line is that PAYGO rules could create complications for unpaid-for tax cuts for the wealthy being enacted in a reconciliation bill. Before a bill is brought up or voted on, opponents of these tax cuts should publicize the possibility that key mandatory programs could be wiped out by a sequester. In addition, opponents should shine a bright light in advance on any attempts to neuter the Senate PAYGO point of order. In these ways, opponents can fight back against these tax cuts and hold politicians accountable if they attempt to evade the rules.

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Endnotes

1 Chuck Stanley, "Reconciliation Offers Path to Tax Reform, Trump Adviser Says," Law360, March 10, 2017, available at https://www.law360.com/articles/900617/reconciliation-offers-path-to-tax-reform-trump-adviser-says.

2 *Statutory Pay-As-You-Go Act of 2010*, Public Law 139, 111th Cong., 2d sess. (February 12, 2010), Title I, available at https://www.congress.gov/111/plaws/publ139/PLAW-111publ139.pdf.

3 *An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012*, S. Con. Res. 21, 110 Cong. 1 sess. (Government Printing Office, 2007), Section 201, available at https://www.congress.gov/110/bills/sconres21/BILLS-110sconres21enr.pdf; *An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2016 and setting forth the appropriate budgetary levels for fiscal years 2017 through 2025*, S. Con. Res. 11, 114 Cong. 1 sess. (Government Printing Office, 2015), available at https://www.congress.gov/114/bills/sconres11/BILLS-114sconres11enr.pdf.

4 Megan S. Lynch and James V. Saturno, "The Budget Reconciliation Process: Stages of Consideration" (Washington: Congressional Research Service, 2017), available at https://fas.org/sgp/crs/misc/R44058.pdf.

5 *A concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2017 and setting forth the appropriate budgetary levels for fiscal years 2018 through 2026*, S. Con. Res. 3, 115 Cong. 1 sess. (Government Printing Office, 2017), Title II, available at https://www.congress.gov/115/bills/sconres3/BILLS-115sconres3enr.pdf.

6 Lynch and Saturno, "The Budget Reconciliation Process: Stages of Consideration."

7 Ibid.

8 Bill Heniff Jr., "The Budget Reconciliation Process: The Senate's 'Byrd Rule'" (Washington: Congressional Research Service, 2016), available at https://fas.org/sgp/crs/misc/RL30862.pdf.

9 Ibid.

10 *Statutory Pay-As-You-Go Act of 2010*, Public Law 139, Title I.

11 There are actually two scorecards: one for the next 5 years and one for the next 10 years. Also, any costs or savings in the current year are added to the costs and savings for the first upcoming year.

12 Office of Management and Budget, *OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2018* (Executive Office of the President, 2017), available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/sequestration_reports/2018_jc_sequestration_report_may2017_potus.pdf.

13 Author's calculation using data from ibid. For fiscal year 2018, Medicare has a sequestrable base of $638 billion in outlays. Thus, with the 4 percent cap on reductions to Medicare payments, a sequester would generate at most about $26 billion in outlays.

14 This $77 billion in outlays includes about $69 billion in nondefense mandatory outlays and about $8 billion in defense mandatory outlays. In Table 1, the maximum total of non-Medicare sequestrable budgetary resources for FY 2018 is $92 billion. This number is larger than the $77 billion of the maximum total of non-Medicare sequestrable resources just mentioned because the $92 billion refers to budget authority and the $77 billion refers to outlays. When a sequester occurs, the budgetary resources that are reduced or eliminated are budget authority. However, under statutory PAYGO, the target for that sequester is denominated in outlays. Moreover, under statutory PAYGO, not all the outlays flowing from that sequestered budget authority count toward meeting that outlay target. More specifically, the law states that only the outlays flowing in the first two years count toward meeting the outlay target. That is why the maximum budget authority ($92 billion) is larger than the maximum outlays ($77 billion). See ibid.

15 2001 was the year of the 9/11 attack, and the scorecard was also wiped clean of the cost of legislation related to that event. See *Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act of 2002*, Public Law 117, 107th Cong., 2d sess. (January 10, 2002), Division C, Section 102, available at https://www.congress.gov/107/plaws/publ117/PLAW-107publ117.pdf.

16 Igor Volsky, "Top Conservative Praises Sequestration: It Has Been 'One Of The Good Things That Has Happened,'" ThinkProgress, October 13, 2013, available at https://thinkprogress.org/top-conservative-praises-sequestration-it-has-been-one-of-the-good-things-that-has-happened-4bb9ca68bfc9.

17 Note that this is the revenue loss before dynamic scoring is taken into account. The revenue loss after dynamic scoring is taken into account is discussed in the next three paragraphs. See TPC Staff, "The Implications of What We Know and Don't Know about President Trump's Tax Plan" (Washington: Tax Policy Center, 2017), available at http://www.taxpolicycenter.org/publications/implications-what-we-know-and-dont-know-about-president-trumps-tax-plan/full.

18 Robert Keith, "The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History" (Washington: Congressional Research Service, 2010), available at https://democrats-budget.house.gov/sites/democrats.budget.house.gov/files/documents/CRS-stat-paygo.pdf.

19 115th Congress, "Rules of the House of Representatives" (2017), available at https://rules.house.gov/sites/republicans.rules.house.gov/files/115/PDF/House-Rules-115.pdf.

20 TPC Staff, "The Implications of What We Know and Don't Know about President Trump's Tax Plan."

21 *Statutory Pay-As-You-Go Act of 2010*, Public Law 139, Title I.

22 Budget committee chairs' statements are generally expected to reflect Congressional Budget Office cost estimates. The Congressional Budget Office is required by statute to use Joint Committee on Taxation estimates for revenue legislation. See Keith, "The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History"; Bill Heniff Jr., "Baselines and Scorekeeping in the Federal Budget Process" (Washington: Congressional Research Service, 2012), available at https://www.budget.senate.gov/imo/media/doc/Baselines%20and%20Scorekeeping%20in%20the%20Federal%20Budget%20Process1.pdf.

23 IGM Forum, "Tax Reforms," available at http://www.igmchicago.org/surveys/tax-reforms (last accessed July 2017); Alexia Fernández Campbell, "37 top economists all say Trump's tax plan won't pay for itself," Vox, May 5, 2017, available at https://www.vox.com/policy-and-politics/2017/5/4/15536394/american-economists-trump-tax-plan.

24 *Statutory Pay-As-You-Go Act of 2010*, Public Law 139, Title I.

25 U.S. Department of the Treasury, "Office of Tax Analysis," available at https://www.treasury.gov/resource-center/tax-policy/Pages/Tax-Analysis-and-Research.aspx (last accessed July 2017).

26 Legislation that causes a deficit to occur over the next 6 or 11 years—when no deficit would occur in the absence of the legislation—is also subject to a 60-vote point of order. See Bill Heniff Jr., "Budget Enforcement Procedures: The Senate Pay-As-You-Go (PAYGO) Rule" (Washington: Congressional Research Service, 2015), available at https://fas.org/sgp/crs/misc/RL31943.pdf.

27 The bill to repeal the Affordable Care Act was exempted by the FY 2017 budget resolutions. See *A concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2017 and setting forth the appropriate budgetary levels for fiscal years 2018 through 2026*, S. Con. Res. 3, Section 3002.

28 Sens. Ted Cruz (R-TX) and Rand Paul (R-KY) voted against both the Senate budget resolution and the conference report on the budget resolution. Sen. David Vitter (R-LA) did not vote on the conference report. See U.S. Senate, "Roll Call Vote 114th Congress - 1st session: Vote 135," available at https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00135 (last accessed July 2017); U.S. Senate, "Roll Call Vote 114th Congress - 1st session: Vote 171," available at https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00171 (last accessed July 2017).

29 Heniff Jr., "Budget Enforcement Procedures: The Senate Pay-As-You-Go (PAYGO) Rule."