

MEMORANDUM

October 13, 2017

To: The Honorable Peter A. DeFazio,
Ranking Member of the House Committee on Transportation and Infrastructure.

From: Megan S. Lynch, Specialist on Congress and the Legislative Process, mlynch@crs.loc.gov,
7-7853

Subject: **H.R. 2997 and Statutory PAYGO**

This memorandum responds to your request for information related to Statutory PAYGO and H.R. 2997, the 21st Century Aviation Innovation, Reform, and Reauthorization Act (also referred to as the 21st Century AIRR Act), as posted on the House Rules Committee website. Specifically, you wanted to know the implications of the Statutory PAYGO Act if H.R. 2997 were to be enacted.

Relevant Information on Statutory PAYGO

In February 2010, the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139) was enacted establishing a budget enforcement mechanism commonly referred to as "Statutory PAYGO." Statutory PAYGO is generally intended to discourage enactment of legislation that is projected to increase the on-budget deficit over five and ten years.

To enforce Statutory PAYGO, the Office of Management and Budget (OMB) is required to record the budgetary effects of newly enacted revenue and direct spending legislation on two separate scorecards: one that covers a five-year period and one that covers a ten-year period. The five-year scorecard requires that the total cumulative budgetary effects of a PAYGO measure over the five-fiscal-year period be averaged, and that the average be entered for each of the five years on the scorecard. Likewise, the ten-year scorecard requires that the total cumulative budgetary effects of a PAYGO measure over the ten-fiscal-year period be averaged, and that the average be entered for each of the ten years on the scorecard. These are "rolling" scorecards, meaning that the cumulative effect of any residual savings or debits from previous years' scorecards is included in the current year calculation.

Either Congress or OMB may determine the budgetary effect of a specific piece of legislation. Congress has the authority to determine the budgetary effects of a measure only if it follows the legislative procedures specified in the act. If Congress does not follow these procedures, OMB must determine the budgetary effects of the measure, and the law states that OMB shall do this using the same economic and technical assumptions as used in the most recent budget submitted by the President.

Statutory PAYGO is enforced on an annual basis. OMB is required to issue an annual PAYGO report not later than 14 days (excluding weekends and holidays) after Congress adjourns to end a session. The annual report will note whether a debit has been recorded for the current budget year. If no such debit is found, no action occurs. If a debit is found, however, the President must issue a sequestration order, which

automatically implements across-the-board cuts to non-exempt direct spending programs to compensate for the amount of the debit. If a debit exists on both the five-year and the ten-year scorecards, then the sequestration order must fully offset the larger of the two debits.

Some direct spending programs and activities are exempt from sequestration, such as Social Security and Tier I Railroad Retirement benefits, federal employee retirement and disability programs, veterans' programs, net interest, refundable income tax credits, Medicaid, Temporary Assistance for Needy Families, and unemployment compensation. Medicare is limited to a 4% cut. To see a list of non-exempt direct spending programs that would likely be affected by sequestration under Statutory PAYGO, see the OMB report to Congress on the Joint Committee sequester for FY2018.¹

Relevant Information on H.R. 2997

H.R. 2997, the 21st Century Aviation Innovation, Reform, and Reauthorization Act (also referred to as the 21st Century AIRR Act), was introduced by Rep. Bill Shuster, and on June 22, 2017, it was referred to the House Committee on Transportation and Infrastructure. On June 27, 2017, it was ordered to be reported from the Committee by a vote of 32 to 25.² In July of 2017, a version of the legislation was posted on the House Rules Committee website with what the Rules Committee described as “modifications.” The House Rules Committee published a summary of these changes.³

On September 25, the Congressional Budget Office (CBO) released a cost estimate for H.R. 2997 as posted on the website of the House Rules Committee on July 11, 2017.⁴ Table 4 of the cost estimate relates to Statutory PAYGO. Below is information included in the table as it appears on page 18 of the estimate.

Table I. CBO Estimate of PAYGO Effects of H.R. 2997, as posted on the Rules Committee Website, Net Increase in the Deficit
By Fiscal Year, In Millions of Dollars

2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017-2022	2017-2027
0	0	0	9	9,535	12,673	13,920	14,801	15,372	15,856	16,351	22,216	98,517

Source: Congressional Budget Office, September 25, 2017.

H.R. 2997 and Statutory PAYGO

If H.R. 2997 were enacted in the version that appears on the House Rules Committee website (as referenced above), and the applicable budgetary effects recorded on the PAYGO scorecard were consistent with the cost estimate provided by the CBO (referenced above), then the amounts recorded on the PAYGO scorecard would likely be recorded as shown below. This calculation takes into account the required scoring rules associated with the scorecards as specified in law. Specifically, it takes into account (1) the “look back” rule which requires that the budgetary effects for the current year of a PAYGO

¹ https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/sequestration_reports/2018_jc_sequestration_report_may2017_potus.pdf. For more information on sequestration, see CRS Report R42972, *Sequestration as a Budget Enforcement Process: Frequently Asked Questions*, by Megan S. Lynch. For more information on Statutory PAYGO, see CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr..

² While the bill was ordered reported on June 27, 2017, the bill was not reported until September 6, 2017.

³ <https://rules.house.gov/sites/republicans.rules.house.gov/files/115/PDF/HR2997FAA/SummaryofChanges.pdf>.

⁴ <https://www.cbo.gov/publication/53130>.

measure enacted during a session be added to the budgetary effects for the budget year, as well as (2) the requirement for averaging. The five-year scorecard requires that the total cumulative budgetary effects of a PAYGO measure over the five-fiscal-year period (with the budgetary effects for the current year added to the effects for the budget year) be averaged, and entered for each of the five years on the scorecard. Likewise, the ten-year scorecard requires that the total cumulative budgetary effects of a PAYGO measure over the ten-fiscal-year period (with the budgetary effects for the current year added to the effects for the budget year) be averaged, and entered for each of the ten years on the scorecard.

Table 2. Five and Ten-Year Averages Reflecting the Deficit Increases Estimated by CBO
By Fiscal Year, In Millions of Dollars

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Five-year average	0	4,443	4,443	4,443	4,443	4,443					
Ten-Year average		9,852	9,852	9,852	9,852	9,852	9,852	9,852	9,852	9,852	9,852

Source: Totals from Congressional Budget Office.

The most recent PAYGO scorecard on the White House website references a date of August 4.⁵ The scorecard reflects the budgetary effects of other legislation enacted during 2017. In addition, it includes any residual savings or debits from previous years' scorecards. If the numbers described above were added to those levels as they appear in the most recently published PAYGO scorecard, the scorecard would likely appear as shown in **Figure 3**.

If H.R. 2997 were enacted in the version that appears on the House Rules Committee website (as referenced above), and the applicable budgetary effects recorded on the PAYGO scorecard were consistent with the cost estimate provided by the CBO (referenced above), and no additional legislation was recorded on the PAYGO scorecard, and no legislation was enacted to prevent a sequester from occurring, then under the law a sequester would be triggered which would require across-the-board cuts to non-exempt mandatory spending programs to make up for the amount of the debit. As mentioned above, if a debit exists on both the five-year and the ten-year scorecards, then the sequestration order must fully offset the larger of the two debits. For each fiscal year below, the larger of the two debits appears in the final row.

⁵ https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/paygo/scorecard_8-4-17.pdf.

Table 3. Potential Statutory PAYGO Scorecard Following Enactment of H.R. 2997, as posted on the Rules Committee Website

By Fiscal Year, In Millions of Dollars

PAYGO Scorecards	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017-22	2017-27
Five-Year PAYGO Scorecard													
Balances from Previous Sessions of Congress		-3,579	-3,604	-2,978	478	0							
Budgetary Effects for 115th Congress, First Session		327	327	327	327	327							
Budgetary Effects of H.R. 2997		4,443	4,443	4,443	4,443	4,443						22,215	
Total		1,191	1,166	1,792	5,248	4,770							
10-Year PAYGO Scorecard													
Balances from Previous Sessions of Congress		-14,468	-14,468	-14,468	-8,097	-7,387	-6,252	-6,259	-4,738	980	0		
Budgetary Effects for 115th Congress, First Session		369	369	369	369	369	369	369	369	369	369		
Budgetary Effects of H.R. 2997		9,852	9,852	9,852	9,852	9,852	9,852	9,852	9,852	9,852	9,852		98,520
Total		-4,247	-4,247	-4,247	2,124	2,834	3,969	3,962	5,483	11,201	10,221		
PAYGO Sequestration Effects of H.R. 2997		1,191	1,166	1,792	5,248	4,770	3,969	3,962	5,483	11,201	10,221	14,167	49,003

Source: Statutory PAYGO Scorecard, August 4, 2017, Congressional Budget Office, September 25, 2017.