



June 22, 2021

Honorable Rosa L. DeLauro
Chairwoman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Re: Providing Formal Cost Estimates Before Full Committee Markup

Dear Madam Chairwoman:

This letter responds to interest expressed by the House Committee on Appropriations concerning the costs and benefits of allowing lawmakers to request and receive formal cost estimates from the Congressional Budget Office for legislation in advance of committee markups.¹

Under that proposal, CBO would provide Members with budgetary information earlier in the process than it does now by boosting its volume of formal cost estimates. To accomplish that, CBO would require substantial increases in staffing and funding and, in order to increase production of formal cost estimates, might need to provide fewer preliminary estimates and less technical assistance during the development of legislation. Considering a range of possible scenarios for implementing the proposal, CBO estimates that its added costs might range from \$8 million to \$84 million a year.

The proposal also would affect entities other than CBO: Under current law, the staff of the Joint Committee on Taxation (JCT) provides estimates for changes to tax law, and executive branch agencies supply CBO with information and data to support the agency's cost analyses.

1. See U.S. House of Representatives, Legislative Branch Appropriations Bill, 2021 (H.R. 7611), House Report 116-447 (July 2020), p. 24, <https://go.usa.gov/x6Nax> (PDF 1 MB).

CBO's Current Responsibilities

The Congressional Budget Act of 1974, which established CBO, directs the agency to estimate the budgetary effects of legislation that has been approved by full authorizing committees in the House or Senate.² Those formal cost estimates describe the likely effects of legislation on federal outlays, revenues, or both, relative to current law. As required by the Unfunded Mandates Reform Act of 1995, estimates include a statement concerning intergovernmental and private-sector mandates. The Budget Act also requires CBO to assist the House and Senate Budget and Appropriations Committees, the House Ways and Means Committee, and the Senate Finance Committee. CBO meets that requirement in part by providing estimates, data, technical assistance, or other information to the committees as they consider legislation.

The time required to prepare a formal estimate varies depending on a proposal's complexity, the availability of data, and the timetable for legislative action. CBO completes most formal cost estimates within weeks of committee approval. In some cases, an estimate can be transmitted the same day a bill is reported, but for particularly complex legislation, the period can extend to several months or even longer. Although most estimates are just a page or two, complex estimates can be much lengthier. Upon request from the Congress, CBO also occasionally provides dynamic analyses—assessments of changes in spending and revenues that would be caused by changes in the nation's economic output (also called budgetary feedback)—for bills that would significantly affect the federal budget.

CBO's budget analysts also provide technical assistance and preliminary estimates to Congressional staff and Members to help them craft legislative proposals at other stages. That assistance varies by proposal and requester and can consist of providing specific point estimates, offering a sense of the magnitude or direction of direct budgetary effects (that is, effects on mandatory spending, revenues, or both), or simply answering "yes" or "no" to whether a bill would have direct budgetary effects.

CBO's Assessment of the Proposal

The cost to implement the proposed change in CBO's responsibilities would depend on how often and under what circumstances Members would request formal cost estimates. CBO has no clear basis for predicting the

2. For more on CBO's cost estimates, see Congressional Budget Office, "Cost Estimates Search," www.cbo.gov/cost-estimates.

volume of requests. Therefore, to assess the feasibility, costs, and benefits of allowing lawmakers to request and receive formal cost estimates for bills before committee markup, CBO considered two approaches to the proposal:

- A narrow approach, in which the Chair or Ranking Member of any committee or subcommittee could request a formal cost estimate for a bill that is scheduled for committee markup; and
- A broad approach, in which any Member could request a formal cost estimate for any introduced bill.

CBO identified those two approaches to consider a range of implications for the agency and its resources. Under either approach, CBO expects, both its workload and its need for funding and other resources would increase considerably. The estimates in this letter reflect an assumption that all staff would be in place at the beginning of the fiscal year.

JCT probably would require more staff and funding as well, although that question is not examined here.

To assess the likely increase in workload under each approach—and the consequences for the Congress and the agency—CBO started with a tabulation of data from the 116th Congress. Between January 3, 2019, and January 3, 2021, legislators introduced 14,148 bills. Of that total, 1,259 (or 9 percent) received formal cost estimates from CBO, of which 1,068 were for bills that were ordered reported; 1,095 (or 8 percent) were considered on the floor of the House or Senate; and 333 (or 2 percent) were signed into law.

CBO's current staff numbers around 265 full-time-equivalent positions (FTEs). About 95 analysts and managers prepare cost estimates and about 5 editorial, legal, and administrative staff members assist with editing, production, and transmittal. CBO's fiscal year 2021 budget totals \$57 million.

Narrow Approach. CBO anticipates that under the narrow approach, once a bill was scheduled for committee markup, the agency would transmit a formal cost estimate in response to a request from a subcommittee's or committee's Chair or Ranking Member. A second estimate would be transmitted if the bill was ordered reported, and the two estimates could differ if the bill was amended during markup.

JCT would continue to provide estimates for provisions involving the tax code. It already transmits estimates before markup to the House Ways and Means Committee and the Senate Finance Committee.

Upon request, CBO now occasionally transmits formal estimates ahead of markup, but under the narrow approach, the volume would increase because more bills are scheduled for markup than are ultimately reported and because many bills are amended during markup. In many instances, the bulk of CBO's analytical work would shift to estimates transmitted before rather than after markup.

Also upon request, CBO provides extensive information, including preliminary estimates and tables, for a small number of bills before markup. Under this proposal, much more of the analytical work would have to be done before markup. Assembling the information can be time-consuming, and adding a requirement for another formal estimate earlier in the legislative process could result in committees' having to delay markups until cost estimates were available. CBO anticipates that if every Chair or Ranking Member requested an estimate for every bill before committee markup, the volume of formal cost estimates would roughly double. If CBO was asked to complete estimates before every subcommittee and committee markup, the number of requests would be even greater.

Potential Benefits. Formal cost estimates detail how legislation would affect major components of the federal budget and include an assessment of whether legislation would impose a federal mandate. Estimates also outline CBO's analytical methods and sources of information.

In particular, access to cost estimates for introduced bills ahead of markup would offer lawmakers information earlier in the legislative process, providing details that Members could use to help refine legislation to meet specific policy or budgetary goals. If Members received two estimates for a bill—as considered by a committee and again as reported—they could compare the effects of each.

Feasibility, Anticipated Costs, and Drawbacks. CBO anticipates that the implications of the narrow approach would be significant: CBO's workload and costs would increase and new time pressures would arise. The legislative process also could be affected.

Under the narrow approach, CBO assumes that it would be required to prepare formal cost estimates for all bills that receive committee consideration, or about 1,700 in a two-year Congress. In the

116th Congress, CBO transmitted cost estimates for about 1,100 bills that were ordered reported (the rest, roughly 200, were for bills at other stages in the legislative process). Based on a sample of committee actions in the 116th Congress, CBO expects that approximately 570 bills, or about one-third of the total, would be ordered reported by a committee and contain an amendment to the version CBO first analyzed. CBO thus would transmit at least two formal cost estimates for bills amended during markup, increasing the volume to about 2,500 per Congress—about twice the number CBO prepared for the 116th Congress.

CBO estimates that it would need a staffing increase of about 40 FTEs to complete the additional estimates. To cover the costs of such an increase, CBO's budget would need to rise to \$65 million—about \$8 million (or 13 percent) more than its current funding of \$57 million. CBO also would need additional office space, at a cost not included in the estimate.

Even with more resources, CBO might not be able to respond to all additional requests in a timely fashion. Floor action on bills tends to be spread out over time, which provides CBO with some flexibility to shift its workflow and allocate resources to accommodate unpredictable periods of higher demand from the Congress. But Congressional and committee schedules typically concentrate committee markups over short periods, and a single committee can mark up dozens of bills at a time. That would limit CBO's ability to adjust and could make it difficult to meet the new statutory requirement without an even larger increase in resources.

In addition, under the proposal, subcommittee and committee Chairs would need to set legislative agendas and provide bill language earlier than they do now to allow CBO time to complete formal estimates before markup. To ensure that all Members have equal access, the estimates would need to identify a specific, publicly identifiable legislative proposal and, as is currently the case, they would need to be posted on CBO's website.

Broad Approach. The narrow approach described above is based on an assumption that procedural rules would govern who could request formal estimates and the point in the legislative process that CBO would be required to produce them. To the extent that rules governing either factor were looser or nonexistent, CBO expects that both the number of estimates and the agency's costs would be greater.

More than 14,000 bills were introduced in the 116th Congress. If CBO transmitted formal cost estimates for a similar number of bills for a future

Congress, a major internal reorganization, a large increase in staff, and significantly more resources would be necessary. However, CBO has no clear basis for projecting how often Members would request cost estimates for introduced bills, regardless of whether any new procedural constraints limited their ability to do so.

CBO expects that, as is the case now, the schedule for a single estimate could range from days to months, depending on Congressional priorities, the complexity of the legislation, and analytical requirements. JCT's work would increase as well.

Potential Benefits. As with the narrow approach, fulfilling requests that come from any Member in advance of markup would increase the amount of information available before a vote.

Feasibility, Anticipated Costs, and Drawbacks. Under the broad approach, CBO would need to hire additional managerial, analytical, legal, administrative, and technical staff. In addition, an organizational restructuring would be required for CBO to manage the substantial new workload.

For its part, depending on the resources provided, the Congress might need to accept unfulfilled requests or accommodate substantial delays in CBO's work, or both. The Congress would need to consider whether it would be worthwhile for CBO to devote additional resources to producing estimates for bills that might never be considered on the floor. Expanding the pool of bills that receive formal cost estimates also could increase both the number of estimates that require dynamic analyses and the work required to produce them.

Under the broad approach, the volume of cost estimates would be significantly greater than the 9 percent of bills introduced in the 116th Congress that received formal cost estimates. CBO examined three scenarios to illustrate a potential range: Under a Scenario 1, requests would number about 3,500, or about 25 percent of introduced bills. Scenario 2 would see requests for 7,000 bills, or about 50 percent of the total. Scenario 3 would have requests for about 14,000 bills.

Similar to its assumptions for the narrow approach, CBO expects that for each scenario, about 1,070 bills would be ordered to be reported by full committees. CBO estimates that about 570 would be amended during markup and would require at least two formal cost estimates (one before

and one after markup). The amount of work to complete those estimates would depend on the bills.

On that basis, CBO arrived at the following effects for a two-session Congress:

- Scenario 1: CBO would complete 4,200 cost estimates—more than three times its current cost-estimating workload, requiring about 95 additional FTEs and an annual budget of \$75 million, a funding increase of \$18 million (the current budget is \$57 million).
- Scenario 2: CBO would complete 7,700 cost estimates—more than six times the current cost-estimating workload, requiring about 210 additional FTEs and an increase of \$40 million in the agency’s annual budget.
- Scenario 3: CBO would complete 14,700 cost estimates—almost 12 times the number transmitted for the 116th Congress, requiring 435 additional FTEs and an increase of \$84 million in the agency’s annual budget.

As is the case for the narrow approach, under each scenario, CBO would also need additional office space, at a cost not included in the estimates above.

CBO now works with Congressional committees and leadership to prioritize its work on formal cost estimates for bills that have been (or are expected to be) ordered reported. Under the broad approach, the agency would need to complete significantly more of those estimates, and at different stages in the legislative process. Even if CBO received substantial additional funding, it would need to develop a new method, in consultation with Congressional committees and leadership, for prioritizing its work. If bills that were ordered reported continued to receive the highest priority, it might be less feasible to provide budgetary information early in the legislative process.

Alternatively, CBO could prioritize estimates by the date of a request or committee action, regardless of a bill’s status in the legislative process. The drawback is that a chronological approach would shift resources—CBO’s and presumably those of JCT and the executive branch agencies—away from bills that the Congress is most likely to consider.

Furthermore, legislation with committee support benefits from vetting and review by committee staff that generally leads to clearer, more precise language, which is essential for CBO to estimate the budgetary effects of a

Honorable Rosa L. DeLauro

Page 8

proposal with some degree of certainty. The language of a bill in its early stages can be so imprecise that developing a cost estimate can be especially difficult and time-consuming.

The Budget Act requires executive branch agencies to provide CBO with the data and information it needs to prepare cost estimates. Under the proposal, those agencies would need to supply information earlier in the legislative process—and for more bills. This discussion focuses on the costs to CBO, but the additional burden of significantly increasing the number of estimates would affect other parts of the federal government. The greater demands placed on those agencies could result in delays or in a reduction in the quality of their data.

Ann E. Futrell and Stephen Rabent prepared this letter. I hope this information is helpful to you. Please let me know if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip L. Swagel", with a long, sweeping flourish extending to the right.

Phillip L. Swagel
Director

cc: Honorable Kay Granger
Ranking Member

Honorable John Yarmuth
Chairman, Committee on the Budget

Honorable Jason Smith
Ranking Member, Committee on the Budget