



**CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE**

September 5, 2007

**H.R. 2102  
Free Flow of Information Act of 2007**

*As ordered reported by the House Committee on the Judiciary on August 2, 2007*

CBO estimates that implementing H.R. 2102 would have no significant effect on the federal budget. H.R. 2102 would exempt journalists from being compelled to produce documents, provide testimony, and identify confidential informants unless a court finds that one of the following exceptions applies:

- The party seeking information has exhausted all reasonable alternative sources;
- In criminal investigations or prosecutions, there are reasonable grounds to believe a crime has occurred, and the testimony or document sought is critical to the investigation, prosecution, or defense;
- In all other matters, the information sought is critical to the completion of the matter;
- If the testimony or document sought could reveal or lead to the discovery of the identity of a source of information, the disclosure of such source is necessary to prevent an act of terrorism, prevent imminent death or significant bodily harm, or identify a person that has exposed a trade secret, certain health information, or nonpublic personal information;
- The public interest in compelling disclosure of the information or document involved outweighs the public interest in gathering or disseminating news information.

The bill also would limit the content of subpoenaed testimony or documents. Additionally, under the bill, communication service providers (i.e., telecommunications carriers and Internet service providers) could not be compelled to provide testimony or documents relating to a reporter's phone, email, and computer use, unless one of the above exceptions applies.

Under current law, requests to subpoena journalists on matters related to federal cases typically originate within the Department of Justice (DOJ). Federal prosecutors can request a subpoena of a journalist from a court after an internal review by DOJ. Information from DOJ indicates that very few subpoena requests seeking confidential source information are approved each year and that the bill would not substantially change the number of such requests. The bill might increase federal attorneys' litigation duties, but CBO estimates that any increase in federal spending would be insignificant. In addition, based on information from the Administrative Office of the United States Courts, CBO expects that the bill would not appreciably increase the courts' workloads. Therefore, CBO estimates that implementing H.R. 2102 would have no significant budgetary impact.

H.R. 2102 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The staff contact for this estimate is Leigh Angres. The estimate was approved by Theresa A. Gullo, Chief, State and Local Government Cost Estimates Unit, Budget Analysis Division.