



October 6, 2021

Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, DC 20510

*Re: Information About CBO's Cost Estimates for Reconciliation
Legislation in the House of Representatives*

Dear Mr. Leader:

This letter responds to your request for information about the Congressional Budget Office's cost estimates for the reconciliation legislation now being considered by the House of Representatives. Thirteen House committees recommended legislation to be included in the reconciliation package. CBO has completed cost estimates for the recommendations of four of those committees. We expect to finish estimates for the recommendations of another two committees this week.

CBO has not completed estimates for the recommendations of other committees or an estimate of the entire legislative package, and it is unclear when we will do so. The legislation being considered by the House is complex, and provisions in some committees' recommendations interact with those of other committees. Moreover, the agency has had to devote substantial resources to providing technical assistance as committees continue to modify their proposals.

Reconciliation Legislation in the House

The concurrent resolution on the budget for fiscal year 2022, S. Con. Res. 14, instructed 13 House committees to recommend legislative changes

that would affect deficits over the 2022–2031 period.¹ As part of the reconciliation process, some committees of the House of Representatives approved legislation in early September; the last committee finished on September 15. The House Budget Committee combined the recommendations of the committees and on September 27, 2021, reported H.R. 5376, a bill to provide for reconciliation pursuant to title II of S. Con. Res. 14.²

CBO has not yet completed a cost estimate for H.R. 5376. The agency has not estimated how the entire package would affect direct spending, revenues, deficits, or spending that would be subject to appropriation. CBO also has not completed its analysis of all of the mandates that the bill might impose on intergovernmental or private-sector entities.

Completed Estimates

CBO has completed cost estimates for the reconciliation recommendations of 4 of the 13 committees. The agency made those cost estimates available to all parties simultaneously by posting them on its website.

- On September 17, CBO estimated that the recommendations of the House Committee on Veterans' Affairs would increase deficits by \$17.6 billion over the 2022–2031 period.³ That amount is within the limit set by the instruction that the committee received in S. Con. Res. 14. The committee's recommendations would not increase on-budget deficits after 2031 and would not impose intergovernmental or private-sector mandates.
- On September 17, CBO estimated that the recommendations of the House Committee on Oversight and Reform would increase deficits by about \$14.1 billion over the 2022–2031 period.⁴ That amount

¹ Section 2002 of S. Con. Res. 14 instructed 12 House committees to recommend legislation that would increase the deficit by no more than \$1.976 trillion and instructed the House Committee on Ways and Means to recommend legislation that would decrease the deficit by at least \$1 billion. For more information, see Megan S. Lynch, *S. Con. Res. 14: The Budget Resolution for FY 2022*, Report for Congress R46893 (Congressional Research Service, September 1, 2021), Table 2, <https://go.usa.gov/xMvXh>.

² H.R. 5376, 117th Cong. (2021).

³ See Congressional Budget Office, cost estimate for reconciliation recommendations of the House Committee on Veterans' Affairs, as ordered reported on September 13, 2021 (September 17, 2021), www.cbo.gov/publication/57478.

⁴ See Congressional Budget Office, cost estimate for reconciliation recommendations of the House Committee on Oversight and Reform, as ordered reported on September 2, 2021 (September 17, 2021) www.cbo.gov/publication/57479.

exceeds the limit set by the instruction to the committee in S. Con. Res. 14. The committee's recommendations would increase on-budget deficits after 2031 but would not impose intergovernmental or private-sector mandates.

- On September 17, CBO estimated that the recommendations of the House Committee on Homeland Security would increase deficits by \$848 million over the 2022–2031 period.⁵ That amount exceeds the limit set by the instruction to the committee in S. Con. Res. 14. The committee's recommendations would not increase on-budget deficits after 2031 and would not impose intergovernmental or private-sector mandates.
- On September 24, CBO estimated that the reconciliation recommendations of the House Committee on Small Business would increase deficits by about \$22.0 billion over the 2022–2031 period.⁶ That amount exceeds the limit set by the instruction to the committee in S. Con. Res. 14. The committee's recommendations would increase on-budget deficits after 2031 but would not impose intergovernmental or private-sector mandates.

Competing Statutory Obligations

Provisions in the Congressional Budget Act of 1974 (the Budget Act)—primarily sections 202, 308, 402, and 424—govern CBO's preparation of cost estimates.⁷ Those provisions were designed to ensure that the agency places the highest priority on supplying information about the legislation that is most likely to be considered on the floor of the Senate or House of Representatives. To fulfill its obligations under those provisions, the agency must sometimes choose between providing technical assistance in the development of legislation and producing cost estimates for existing legislation, in accordance with Congressional priorities.

⁵ See Congressional Budget Office, cost estimate for reconciliation recommendations of the House Committee on Homeland Security, as ordered reported on September 14, 2021 (September 17, 2021) www.cbo.gov/publication/57480.

⁶ See Congressional Budget Office, cost estimate for reconciliation recommendations of the House Committee on Small Business, as ordered reported on September 9, 2021 (September 24, 2021) www.cbo.gov/publication/57495.

⁷ See Congressional Budget Office, *How CBO Prepares Cost Estimates* (February 2018), www.cbo.gov/publication/53519.

CBO's primary responsibility under the Budget Act is to help the House and Senate Budget Committees with the matters under their jurisdictions.⁸ CBO has a statutory responsibility to support other Congressional committees—particularly the Appropriations, Ways and Means, and Finance Committees—and also provides support to the Congressional leadership.⁹ In recent years, the agency has spent increasingly more time providing technical assistance during the period when legislation is being drafted.¹⁰ As part of that process, CBO's analysts often provide preliminary estimates to committee staff for a broad range of legislative proposals, as Members consider different options before choosing a specific legislative path.

In addition to its mandate to support committees, CBO is required by sections 402 and 424 of the Budget Act to produce cost estimates for reported bills. Cost estimates are intended to ensure that when the House and Senate consider legislation recommended by committees, Members have information about the budgetary consequences of enacting that legislation. Section 402 provides that the agency “shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate...” a cost estimate.¹¹ Section 424 imposes a similar requirement for mandates statements.¹² The exceptions for both provisions are appropriation bills, whose budgetary effects CBO estimates for the Appropriations Committees under section 308 of the Budget Act.¹³ CBO also produces cost estimates at

⁸ For example, section 202(a) of the Budget Act, Public Law 93-344, provides that “It shall be the primary duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions...” (codified at 2 U.S.C. §602(a) (2018)).

⁹ For the language about CBO's assistance to those committees, see sec. 202(b) of the Budget Act (codified at 2 U.S.C. §602(b) (2018)).

¹⁰ Communication at the drafting stage does not undergo the same review procedures required for cost estimates. CBO recognizes that, when it is providing technical assistance, including preliminary estimates, the confidentiality of its work is critical to committee deliberations, so it keeps its preliminary estimates confidential as long as the proposals are not made public. Such confidentiality does not apply to proposals that differ only in minor details from ones that are in the public domain. Once such a proposal becomes public—as introduced legislation or through public discussion of its major elements—CBO's estimate for that proposal is available to any interested party in the Congress.

¹¹ Codified at 2 U.S.C. §653 (2018).

¹² Codified at 2 U.S.C. §658c (2018).

¹³ Codified at 2 U.S.C. §639 (2018).

other stages of the legislative process if requested to do so by a relevant committee or by the Congressional leadership.

How CBO Prioritizes Its Work

To supply information when it is most useful to the Congress, CBO must balance the competing goals of providing technical assistance when legislation is being developed and completing cost estimates for legislation that has been approved. When time is limited, in accordance with Congressional priorities, CBO must sometimes focus more on providing technical assistance than on completing cost estimates. That is currently the situation: The agency is prioritizing technical assistance to committees for reconciliation legislation that they are developing, which has delayed cost estimates for legislation that those same committees have approved.

CBO aims to provide information that is timely and thoroughly explained. The agency completes detailed cost estimates before legislation comes to a floor vote whenever doing so is practicable. But when time is limited, cost estimates may consist only of tables that list the projected effects on direct spending, revenues, and the deficit. In those cases, CBO prioritizes reporting just the budgetary effects, with little accompanying explanation, so that the Budget Committees can carry out their responsibilities and the Congress is informed of a bill's effects before a floor vote.

Timeline for Completing Cost Estimates for the House Reconciliation Legislation

It is unclear when CBO will complete a cost estimate for H.R. 5376. The agency has produced estimates for the recommendations of four committees, and it expects to produce estimates for the recommendations of another two committees this week.

In general, the time required to prepare a cost estimate varies depending on a proposal's complexity, the availability of data, and Congressional priorities. CBO completes most cost estimates within weeks of committee approval but sometimes takes longer.

H.R. 5376 is complex: The bill would create new programs and entitlements whose effects require extensive analysis to project. Its provisions would also modify existing programs that are already complicated under current law—the provisions affecting the prices of prescription drugs, for example. Some provisions of the bill would provide substantial funding increases that might affect how programs operate and how rapidly their funds are spent. Other provisions are complicated by

features designed to control when outlays would occur or when budget authority would first become available.

Furthermore, the proposals recommended by some committees interact with the proposals of other committees. For that reason, estimates for those proposals can only be completed when the various interactions have been analyzed. In addition, several of the provisions of H.R. 5376 would interact with those of H.R. 3684, the Infrastructure Investment and Jobs Act, if that legislation was adopted. Based on guidance from the House Budget Committee, CBO's estimates for reconciliation legislation reflect an assumption that H.R. 3684, as passed by the Senate, has been enacted.

CBO has continued to provide extensive technical assistance as the committees develop new proposals to modify or replace certain provisions of H.R. 5376. The agency has also assisted Congressional staff from both parties as they gather information needed to enforce the rules that govern the reconciliation process. All of those efforts have involved the CBO analysts who would have otherwise worked on completing the cost estimate for the reported version of H.R. 5376. CBO has also necessarily devoted attention to other legislation, including H.R. 5305, the Extending Government Funding and Delivering Emergency Assistance Act. While that and other work was being done, analysts who were also working on reconciliation legislation reviewed nearly 200 proposed amendments to H.R. 4350, the National Defense Authorization Act for Fiscal Year 2022.

CBO continues to work toward producing separate cost estimates for the remaining committee recommendations that would not have major interactions with the recommendations of other committees. The agency expects to complete an estimate for the recommendations of the House Committee on Science, Space, and Technology and an estimate for the recommendations of the House Committee on Financial Services this week. Those cost estimates will be made available to all parties simultaneously on CBO's website.

Honorable Mitch McConnell

Page 7

I hope this information is helpful. Please contact me if you have 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 Chuck Schumer
Majority Leader

Honorable Nancy Pelosi
Speaker, U.S. House of Representatives

Honorable Kevin McCarthy
Republican Leader, U.S. House of Representatives

Identical letter sent to the Honorable Lindsey Graham.