Congressional Budget Office

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Answers to Questions for the Record Following a Hearing About Transparency at CBO Conducted by the Senate Committee on the Budget

On September 13, 2018, the Senate Committee on the Budget convened a hearing at which Keith Hall, Director of the Congressional Budget Office, testified about an update on transparency at CBO.[1] *After the hearing, Chairman Enzi and Senator Crapo submitted questions for the record. This document provides CBO's answers. It is available at www.cbo.gov/publication/54499.*

Chairman Enzi

Question. In recent years, CBO's report on spending with expired or expiring authorizations has been released before final appropriations were enacted for the year. This spring I asked for an updated version of the report that reflects enactment of the fiscal year 2018 omnibus appropriations bill. Can you describe the findings of this report, which was released in July, and whether or not this represents a comprehensive look at all unauthorized spending? What programs have appeared on the list the longest? How much unauthorized spending is assumed in your most recent 10-year spending outlook?

Answer. As you requested, CBO published *Expired and Expiring Authorizations of Appropriations: Fiscal Year 2018, Revised*, to update the annual report the agency publishes each year in January.[2] The revised report takes into account funding that was provided for fiscal year 2018 in the Consolidated Appropriations Act, 2018 (Public Law 115-141), on March 23, 2018 (after this year's report was published).

Scope of the Report. As required by section 202(e)(3) of the Congressional Budget and Impoundment Control Act of 1974, the revised report identifies two types of programs and activities:

- Programs and activities funded for the current fiscal year for which authorizations of appropriations have expired, and
- All programs and activities for which the authorizations of appropriations will expire during the current fiscal year.

CBO maintains a catalog of certain expired and expiring authorizations of appropriations. That catalog is limited to nonpermanent explicit authorizations of appropriations. CBO does

1. See testimony of Keith Hall, Director, Congressional Budget Office, before the Senate Committee on the Budget, *Transparency at CBO: An Update* (September 13, 2018), www.cbo.gov/publication/54445.

2. See Congressional Budget Office, *Expired and Expiring Authorizations of Appropriations: Fiscal Year 2018, Revised* (July 2018), www.cbo.gov/publication/54126.

not track or catalog other types of authorizations (such as implicit authorizations contained in enabling statutes).

Findings of the Revised Report. In the revised report, CBO identified 1,035 explicit authorizations of appropriations that had already expired and was able to identify about $318 billion in current-year appropriations for 410 of the programs or activities with expired authorizations of appropriations. The $318 billion in relevant current-year appropriations for 2018 is slightly higher than the $310 billion CBO was able to identify for 2016—the last time appropriations were enacted before the publication of its annual report.

Other programs or activities related to the remaining 625 expired authorizations of appropriations *may* have received funding in fiscal year 2018, but such funding could not be identified in either the relevant statutory text or the accompanying legislative history for the relevant laws.

Programs That Have Been in the Report the Longest. Most of the expired authorizations of appropriations that received funding have been expired for more than 10 years; some have not been updated since the 1980s. Specifically, CBO identified the following expired authorizations of appropriations:

- 23 that expired before fiscal year 1990,
- 56 that expired between fiscal years 1990 and 1999,
- 298 that expired between fiscal years 2000 and 2009, and
- 658 that expired between fiscal years 2010 and 2017.

Information about each of those expired authorizations of appropriations is available in the supplemental data that CBO published to accompany the revised report. (The expiration dates are shown in column F of the spreadsheet.)

Relationship to the Baseline. The report, as required by statute, describes programs and activities funded for the current fiscal year for which authorizations of appropriations have expired. CBO does not make assumptions about which authorizations of appropriations will be enacted by the Congress for future fiscal years.

Most of the $318 billion in 2018 appropriations for the programs or activities with expired authorizations of appropriations was for discretionary programs. Using the conventions applied to discretionary budget authority under the terms of the Deficit Control Act and not accounting for the caps on aggregate discretionary spending through 2021, a projection of that amount over the 2018–2028 period would yield between $3 trillion and $4 trillion in baseline outlays over that 11-year period.

It is important to note, however, that CBO's catalog includes 1,562 explicit authorizations of appropriations that either have expired or are set to expire at some future point. Almost all of them will expire by the end of 2023, and the rest are set to expire over the 2024–2027 period. Hence, the overwhelming majority of discretionary appropriations—and by extension the baseline budget authority—currently lack a specific authorization beyond 2023; none of them have an explicit authorization that extends through 2028.

Question. Dr. Hall, please discuss some of the operational impacts of your transparency efforts. How has the initiative altered your staffing levels, structures, and agency budgets? How, if at all, has it changed the way the agency approaches its work?

Answer. CBO has always worked hard to be transparent, and the agency has added and shifted resources to redouble its efforts in that area. Those efforts include explaining analytical methods, releasing data, and analyzing the accuracy of the agency's estimates, among many other activities. Following the consolidation of some existing functions, seven new positions were created in the past year and a half, and the people in those positions have bolstered transparency efforts. More generally, almost everyone at CBO spends part of his or her time on such activities.

Going forward, CBO proposes to hire 20 new staff members by 2021 to bolster not just its transparency but also its responsiveness. Because the agency received its full appropriation request for 2019, it will move forward with its plans to hire 10 of those new employees at a total cost of $1 million, mainly for salary and benefits. (The additional staff members will be hired partway through fiscal year 2019, so the addition in terms of full-time-equivalent positions, or FTEs, would be 8 rather than 10.) The new staff will help CBO respond to requests for information more quickly when there is a surge in demand. They will also allow CBO to supply more information about its analysis and models without reducing the valuable services that it provides to the Congress at its current staffing level.

Question. In certain instances, CBO's transparency efforts may be constrained by data or other information the agency obtains that is considered confidential or proprietary. Can you discuss specific instances where this conflict arises? Please explain how CBO plans to navigate these conflicts in the future while still enhancing the transparency of its work.

Answer. The conflict arises, for instance, in CBO's baseline projections of revenues, which are improved by using detailed information about taxes paid by businesses and individuals. The data contain confidential information and cannot be made publicly available. Nevertheless, CBO plans to continue and expand its practice of publishing the *aggregated* data that underlie its revenue projections, a practice that policymakers and taxation researchers have indicated enhances transparency. Those data include salaries and wages; taxable interest and ordinary dividends; qualified dividends; capital gains or losses; net business income; taxable pensions, annuities, and IRA distributions; and taxable Social Security benefits.[3]

In another specific instance, CBO used confidential data from private health insurance claims and found that hospital payment rates in Medicare Advantage plans do not increase or decrease noticeably as the share of enrollees in those plans grows—a finding that has informed CBO's analysis of proposals to change the terms of competition between Medicare Advantage plans and Medicare's fee-for-service program.[4] CBO plans to continue and expand its practice of publishing sufficient details about its analyses so that researchers with access to the same data can see how the agency obtained its results.

Senator Crapo

Question. In July, CBO published a preliminary analysis based on the Butch-Lewis Act (S. 2147), as introduced by Senator Sherrod Brown (D-OH). They noted they have not completed a final, point estimate of the legislation, but that the most likely interpretation

3. See Congressional Budget Office, "Revenue Projections, by Category" (accessed September 20, 2018), www.cbo.gov/about/products/budget-economic-data#7.

4. See Jared Lane Maeda and Lyle Nelson, *An Analysis of Private-Sector Prices for Hospital Admissions*, Working Paper 2017-02 (Congressional Budget Office, April 2017), www.cbo.gov/publication/52567.

of the bill is that it would probably increase deficits by more than $100 billion over the 2019-2028 period. The estimated budgetary effects are highly uncertain because several key aspects of the legislation are broadly described, making it difficult to project how the proposal would be implemented. Since that time, Senator Brown, a co-chair of the Joint Select Committee on Multiemployer Pension Plans, has been working with CBO on modifications to the Butch-Lewis Act that would change the score. Yesterday, they advised press that CBO has finalized its estimate of their legislation and found the plan would cost just $34 billion over the 2019-2028 period. CBO has actually not finalized an estimate and would not do so without legislative text being released.

Director Hall, yesterday the press reported on a CBO score for the modified version of the Butch-Lewis Act, but I have yet to see any updated cost estimate since the preliminary analysis in July. Has CBO produced a final score of the Butch-Lewis Act, and if so, on what version of the legislation?

Answer. CBO has not completed a final point estimate of the legislation. The estimated budgetary effects are highly uncertain because several key provisions of the legislation can be interpreted in multiple ways, making it difficult to project how the proposal would be implemented. In July 2018, CBO released a preliminary analysis based on what it considered the most likely interpretation of the bill's language; in that analysis, CBO estimated that the bill would probably increase deficits by more than $100 billion over the 2019–2028 period. Under some interpretations of the bill's language as introduced, however, few plans would qualify for loans and assistance, resulting in federal costs that would be substantially less than $100 billion. Since releasing that preliminary analysis, CBO has worked with Congressional staff on variations of the proposal but has not completed a formal estimate for the introduced bill or for any of those versions.