

THE CONGRESSIONAL BUDGET OFFICE (CBO) DATA SHARING ACT

SUMMARY

The CBO Data Sharing Act is a bipartisan bill to strengthen CBO's responsiveness to Congress' needs for cost estimates and reports. The bill would help CBO gather information more quickly in order for the agency to assist Members and committees in their work on budgetary issues, appropriation bills, authorizing bills providing new funding or tax expenditures, and provide Congress with information on spending, revenues, and receipts. Members and committees often rely on CBO for this information. CBO's ability to provide timely cost estimates and reports is essential to aiding Congress in its work for the American people.

CBO works collaboratively with executive agencies to get access to data. CBO obtains data in a variety of ways, ranging from informal discussions and email to formal legal agreements involving third-party hosting companies. When receiving data is delayed, it is usually because executive agency employees want to ensure sensitive data is protected. The bill amends the Congressional Budget and Impoundment Control Act of 1974 (Budget Act) to strengthen and protect CBO's data access authority and related obligations to protect sensitive data sets. This in turn provides CBO with the timely access to information it needs to complete its work for Congress. Ultimately, this will make Congress more efficient and ensures that Members and committees get the information they request from CBO in a timely manner.

HOW THE CBO DATA SHARING ACT AMENDS THE BUDGET ACT

- The bill strikes the parenthetical in section 201(d) "(other than material the disclosure of which would be a violation of law)."
 - In current section 201(d), the parenthetical "(other than material the disclosure of which would be a violation of law)" raises confusion and undermines CBO's ability to access legally protected information.
 - CBO has faced delays in accessing protected data across the executive branch. While CBO generally obtains the needed data, unless a law specifically denies access, these delays often include CBO explaining to agencies its data access authority.
 - The bill would strengthen and protect CBO's ability to continue receiving sensitive data in the future.
- The bill inserts with "(with or without written agreement)."
 - CBO currently has more than 20 active data-use agreements with other federal agencies. The time spent negotiating and renewing these agreements varies widely and is unpredictable, taking from a couple weeks to over a year. This uncertainty can limit CBO's ability to respond quickly to the Congress' needs. With the additional clarity the bill would provide, those negotiations should proceed more quickly.
 - In one case, CBO has three agreements with the same agency, two for different sets of information and a third agreement that governs the transmission of the data. All three of these agreements need to be regularly renewed and involve data critical to CBO's ability to study social security programs. One of these agreements has been

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under review by the agency for over a year. CBO would still enter into agreements when needed but could reduce their number and related delays.

- The bill inserts the following: *“provided that the Director maintains the level of confidentiality required by law of the department, agency, establishment, or regulatory agency or commission from which it is obtained in accordance with section 203(e).”*
 - This addition inserts a cross-reference to the confidentiality protections of section 203(e) of the Budget Act to reassure agencies on CBO’s confidentiality duty. Under section 203(e), CBO must ensure the same level of confidentiality as the agency from which CBO obtains the data and CBO employees are subject to the same statutory penalties for unauthorized use or disclosure.
 - These confidentiality protections make it easier for agencies to lawfully disclose confidential business information and other types of data. CBO often needs to ensure that agencies holding confidential business information and other protected data are aware that a release to CBO does not constitute a prohibited release to the public.
- The bill adds the following language to the end of section 201(d): *“No provision of law enacted after the date of the enactment of the Congressional Budget Office Data Sharing Act shall be construed to supersede, limit, or otherwise modify the authority of the Director to obtain any material under this subsection unless such provision specifically provides, by specific reference to this paragraph, that such authority is to be superseded, limited or otherwise modified.”*
 - Since section 201(d) of the Budget Act was enacted, laws enacted after the Budget Act have had the unintentional effect of diminishing CBO’s access to data. The bill would help prevent inadvertent changes to CBO’s data access authority.
 - For example, in response to a Congressional request, CBO published a report in April 2023 on proposals to modify or eliminate a limitation on Medicaid payments known as the institutions for mental diseases (IMD) exclusion. For this report, CBO sought data that would identify facilities that meet the criteria for IMDs, needing the information for statistical analyses. However, the executive branch agency denied CBO’s request, citing to the parenthetical in 2 U.S.C. § 601(d) – “(other than material the disclosure of which would be a violation of law)” – and a change to the Public Health Service Act in 2000 that limited access to the necessary information. As a result, CBO was unable to examine spending at the IMDs and relied in part on less detailed, publicly available information and tabulations of the data provided by the executive branch agency.
 - This change would help to avoid recurring issues of this kind in the future.
- The bill provides transparency by requiring CBO to submit a report to the House and Senate Budget Committees listing any request for information pursuant to a written agreement, under section 201(d) of the Budget Act, and any challenges CBO faced accessing such data within one year of enactment of the bill.
 - CBO would also continue to work closely with the Budget and Appropriations Committees on its data needs and transparency efforts.