

Testimony
Joint Hearing of the
House and Senate Fiscal Committees
Regarding the Independent Fiscal Office

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I thank the Committee for the invitation to present testimony on the creation of the Legislative Fiscal Office. I spent 10 years as an elected member of the New Zealand Parliament and some years as a member of the New Zealand Cabinet. I know and understand the power of access to good information and the frustration of the inability to access that information; so I personally applaud this initiative.

A Legislative Fiscal Office

The purpose of a legislature is to provide a forum for the contest of ideas in the form of debate. Ideally that debate should be rigorous and well-informed. But if one side of that debate controls all the important information necessary for the debate, then the contest of ideas will be diminished and the quality of the decisions reached will be inferior.

While the passing of laws by a legislature is a very important function of a democracy, an equally important function is the allocation of public funds to the purposes that are deemed worthy. In fact, it would be fair to say that the most powerful tool available to a government is the power to determine how those public monies will be expended. Therefore it was with proper

forethought that the founders of democracy in America determined that the administration can propose expenditures, but the role of approving expenditures is left to the legislature.

Given the above considerations, I find it surprising that so few legislatures have a source of independent information and advice of the implications of these expenditures and whether the information provided by the Administration fairly portrays the current fiscal position of the state. Therefore, I applaud the decision being taken by the legislature of the state of Pennsylvania to create a Legislative Fiscal Office. Pennsylvania joins four other states, Alabama, Colorado, Connecticut and Wisconsin in creating such a facility and, interestingly, these other states created their facilities between thirty-five and sixty years ago. Pennsylvania may well be creating a new trend towards better informed legislatures.

What is the Appropriate Role Model?

While four other states have somewhat similar facilities and a handful of other states have more limited facilities, I would recommend that the role model for Pennsylvania should be the Congressional Budget Office (CBO). The CBO was created by Act of Congress in 1974, but it is only in the last ten to fifteen years that the CBO has established its reputation as a highly-skilled fully-independent research facility producing first-class financial information that conforms to the highest academic standards of research and methodology.

That said, I am not suggesting that Pennsylvania endeavor as comprehensive a plan as the CBO, but I think it would serve you well to adopt some of the CBO's values. I list here the critical values, rights and practices that you should apply to the new Legislative Fiscal Office:

Rights and Values

- Full independence and a strictly non-partisan approach to its work
- The absolute right to publish its findings
- An insistence on the highest qualifications for its staff
- Having independent control over the prioritization of its work
- Reasonable and timely access to information from the administration
- Sufficient resources to produce high quality research
- A critical mass of staff to be able to produce quality work in a short time frame
- A director with the authority to choose staff with the appropriate capabilities

Legislative Fiscal Office Functions

The primary function of the legislative fiscal office is to provide high quality financial information to the legislature. However there is a real risk that this office could become bogged down in researching trivial matters. An appropriate screening process for research requests would be advisable, while still leaving the office the latitude to decline requests.

The purpose of a fiscal office is to create informed debate, so I think it would be a mistake to mandate that the findings of the fiscal office must be accepted. It is always possible for an organization to be wrong, despite the efforts made to avoid error and, in other cases, there may be a legitimate alternative view that has equal merit.

In recent months, many states have wrestled with the problem of erroneous revenue estimates. Clearly transparent and independent alternative estimates of revenues would have considerably improved those debates and may have avoided some unrealistically optimistic estimates of revenue as well as the trying remedies that ultimately had to be initiated.

Equally valuable would be advice to the legislature about how program performance should be evaluated. At a time when budgets are under extreme pressure, expending scarce resources on activities that do not produce reasonable public benefits is unacceptable. Producing such information is a difficult task, and the reports of departments need to be subject to informed challenge to minimize wasteful expenditures.

Transparency

It is not enough that the legislature have access to high quality financial information; it is important that the public have access to that information as well. While the legislature is trying to make the Administration accountable, it is the public who will keep the Legislature accountable. It should be a requirement of the Legislative Fiscal Office to maintain an appropriate website where its research can be appropriately displayed.

Over recent years, the Mercatus Center has done a lot of research on the subject of accountability and the linkage between accountability and transparency. The advent of the internet and the technology revolution has dramatically changed the nature of what qualifies as acceptable transparency. Making government data online in a readily discoverable and usable format is the new minimum standard. Making fiscal data available online is not enough, however. The data

must be made available in such a way that it facilitates third parties -- journalists, academics, watchdogs, and the public at large -- to reuse the data as they see fit.

In many cases third parties will want to use the data to offer alternative visualizations. If in a report, the Legislative Fiscal Office presents a bar chart, a journalist may want to show a different conclusion by producing a pie chart with the same underlying data, or perhaps plotting amounts on a map.

In other cases third parties will want to make their own assumptions and projections based on the data. In yet other cases, third parties may want to combine budget figures with other data, such as legislative votes or campaign finance information to see if there are any correlations.

In all of these cases, the uses of data serve the purpose of accountability, and in all of these cases the use of data is possible only if the data is made available in a raw form. The data must be provided in a form that is searchable, structured, and preferably in an open and standardized format. For example, budget numbers that were crunched in a spreadsheet can be relayed in a well written report published on the web as a PDF; but we hope that you publish the spreadsheet itself as well. There is little or no additional cost to making raw data available to the public for reuse, and I'm sure my more technically inclined colleagues at the Mercatus Center would be happy to help you think through the possibilities.

Conclusions

The creation of the Legislative Fiscal Office is a significant step in the direction of more open government. The information produced has the potential to create better informed debate leading to better decisions. At the same time, this information will create a more informed public and consequently, improved accountability across all aspects of government. The risks involved are that the new office could easily become overwhelmed by requirements to research trivia. In addition, there is the risk that government agencies will not act in the spirit of this new law and the LFO will be handicapped by the lack of timely access to the necessary information.

Appendix A: Information about the Congressional Budget Office (CBO)

The following was compiled from the Congressional Budget Office website:
<http://www.cbo.gov/aboutcbo/>

Objectives: CBO's mandate is to provide the Congress with:

- Objective, nonpartisan, and timely analyses to aid in economic and budgetary decisions on the wide array of programs covered by the federal budget and
- The information and estimates required for the Congressional budget process

Founding: CBO was founded on July 12, 1974, with the enactment of the Congressional Budget and Impoundment Control Act (P.L. 93-344). The agency began operating on February 24, 1975, with the appointment of Alice Rivlin as the first director.

Funding: The Legislative Branch Appropriations Act, 2010 (P.L. 111-68) provided the agency with \$45.2 million in FY 2009 funding.

Workload: In fiscal year 2009, CBO issued 33 studies and reports, 9 briefs, 11 *Monthly Budget Reviews*, 38 letters, 8 presentations, and 5 background papers—along with 2 other publications and numerous supplemental data. CBO also testified before the Congress 17 times on a variety of issues. In calendar year 2009, CBO completed approximately 480 federal cost estimates as well as about 420 estimates of the impact of legislation on state and local governments, including the identification of any unfunded mandates contained in such legislation, and about 420 estimates of the impact of any unfunded mandates on the private sector.

Finally, CBO provides up-to-date data on its Web site, including current budget and economic projections and information on the status of discretionary appropriations.

Appointment of the Director: The Speaker of the House of Representatives and the President pro tempore of the Senate jointly appoint the CBO Director, after considering recommendations from the two budget committees. The term of office is four years, with no limit on the number of terms a Director may serve. Either House of Congress, however, may remove the Director by resolution. At the expiration of a term of office, the person serving as Director may continue in the position until his or her successor is appointed.

Staff: CBO currently employs about 250 people. The agency is composed primarily of economists and public policy analysts. About three-quarters of its professional staff hold advanced degrees, mostly in economics or public policy.

What CBO Publishes

The documents that CBO publishes fall into two main categories:

- Cost estimates and mandate statements, for every bill when it is reported by a Congressional committee and, upon request, for bills at other stages of the legislative process.
- Publications of various types, including:
 - Reports needed for the budget process, such as *The Budget and Economic Outlook*, *An Analysis of the President's Budget*, and other annual, biannual, and semiannual reports.
 - Analytical studies, which explore economic and budgetary issues involving the federal government.
 - Briefs, which provide short analyses of policy issues.
 - The *Monthly Budget Review*, which summarizes the fiscal activity of the government during the previous month.
 - Background papers and related documents, which describe the assumptions and technical methods underlying various aspects of CBO's analyses.

Cost Estimates and Mandate Statements

The Congressional Budget and Impoundment Control Act of 1974 and the Unfunded Mandates Act of 1995 (UMRA) require CBO to produce a cost estimate and mandate statement for every bill reported by a Congressional committee. Each cost estimate provides an assessment of the range of budgetary effects of pending legislation: (1) the potential impact on spending subject to appropriation (also known as discretionary spending), (2) any impact on mandatory spending (also known as direct spending), and (3) any impact on federal revenues (incorporating estimates by the Joint Committee on Taxation for legislation that would change the federal tax code). Nearly all cost estimates also include both intergovernmental and private-sector mandate statements, which identify any federal mandates (as defined by UMRA) and estimates of the costs that those mandates would impose on state, local, or tribal governments and on private-sector entities. CBO is often asked to provide preliminary, informal estimates and statements for major proposals, sometimes at earlier stages of the legislative process and sometimes at later stages.

- [Background Information on Cost Estimates and Mandate Statements](#)
- [Recent Cost Estimates and Mandate Statements](#)
- [Search Cost Estimates and Mandate Statements](#)

Reports Needed for the Budget Process

Each year, CBO prepares reports on the budget and economic outlook over the next 10 years. The reports provide the Congress with a baseline against which to measure the effects of proposed changes in spending and tax laws. To construct its economic forecasts and projections, CBO draws from ongoing analysis of daily economic events and data, the major commercial forecasting services, consultation with economists both within and outside the federal government, and the advice of the distinguished CBO Panel of Economic Advisers.

Each year, CBO also estimates the budgetary impact of the proposals in the President's budget using the agency's own economic assumptions and estimating techniques--thus enabling the Congress to compare the Administration's spending and revenue proposals to CBO's baseline projections and to other proposals using a consistent set of economic and technical assumptions.

- Budget and Economic Outlook
- Analysis of the President's Budget

Analytical Studies

CBO performs analytical studies at the request of a Congressional Committee or Subcommittee; the Congressional leadership; or, as time permits, individual Members. The analyses, which address a broad range of topics, are published as studies and papers or as letters, or they are delivered in testimony.

- Recent Publications
- Search Publications
- Publications by Subject Area

Briefs

On long-standing issues of importance to the economy or the budget, CBO's shorter analyses of specific policy issues are published in three different series.

- Economic and Budget Issue Briefs
- Long-Range Fiscal Policy Briefs
- Revenue and Tax Policy Briefs

Monthly Budget Review

Each month, CBO issues an analysis of federal spending and revenue totals for the previous month, the current month, and the fiscal year to date. Those *Monthly Budget Reviews*, which are based on information from the Treasury Department, help to inform the Congress and the public on the monthly status of outlays, receipts, and the deficit or surplus throughout the fiscal year.

- [Monthly Budget Review](#)

Background Papers and Related Documents

CBO discloses the assumptions and technical methods underlying its work. A new series, background papers, will explain aspects of CBO's work at a technical level. Related reports that disclose CBO's track record are the periodic *CBO's Economic Forecasting Record* and *The Uncertainty of Budget Projections*.

CBO's working papers, formerly termed technical papers, constitute another series written at a technical level. Those papers, which are preliminary in nature, are circulated to a professional audience in order to further professional discussion of issues relevant to CBO's work. The views expressed in working papers are attributable to their authors and not to CBO.

- [Background Papers](#)
- [CBO's Economic Forecasting Record](#)
- [The Uncertainty of Budget Projections](#)
- [Working and Technical Papers](#)

Appendix B: Descriptions of State Legislative Fiscal Offices

Additional states have similar fiscal facilities, but the following selected offices most closely mirror what Pennsylvania is planning to establish. This information was compiled from state fiscal office websites, cited at the end of each example.

1. Alabama: Legislative Fiscal Office

- a. Staff size: Consists of 15 employees, not including members of the House of Representatives and the Senate who respond to requests for information (as listed on website).
- b. Budget size: FY 2009 Actual SGF = \$2,243,181
- c. Years in operation: 35 years, established in 1975.
- d. Goals/Outcomes: The LFO is a nonpartisan office established to provide independent, accurate and objective information to members of the Alabama House of Representatives and Alabama Senate with respect to historical, current, projected and proposed appropriations, expenditures, taxes and revenue, as well as any other information requested.
- e. Website: <http://www.lfo.state.al.us/>

2. Colorado: Legislative Council – Fiscal Notes

- a. Staff size: 9 employees working in the Fiscal Notes division of the Legislative Council.
- b. Budget size:
- c. Years in operation: 57 years, established in 1953.
- d. Goals/Outcomes: provide the members of the General Assembly with a brief statement of the estimated fiscal impact of a bill or concurrent resolution.
- e. Website: <http://www.colorado.gov/cs/Satellite/CGA-LegislativeCouncil/CLC/1200536089188>

3. **Connecticut: Office of Fiscal Analysis**

- a. Staff size: 23 full-time employees, including 19 analysts.
- b. Budget size:
- c. Years in operation:
- d. Goals/Outcomes: The Office of Fiscal Analysis is a nonpartisan professional office of the Connecticut General Assembly. Its primary function is to provide technical support to the Committee on Appropriations and the Committee on Finance, Revenue and Bonding, as well as the other committees and members of the legislature.
Statutorily defined duties of the Office include:
 - (1) reviewing department and program operating budget requests;
 - (2) analyzing and helping to establish priorities with regard to capital programs;
 - (3) checking executive revenue estimates for accuracy;
 - (4) recommending potential untapped sources of revenue;
 - (5) assisting in legislative hearings;
 - (6) assisting in the development of means by which budgeted programs can be periodically reviewed;
 - (7) preparing short analyses of the costs and long-range projections of executive programs and proposed agency regulations;
 - (8) keeping track of federal aid programs to ensure that Connecticut is taking full advantage of opportunities for assistance;
 - (9) reviewing department budgets and programs on a continuous basis;
 - (10) analyzing and preparing critiques of the Governor's proposed budget;
 - (11) studying selected executive programs during the interim;
 - (12) performing such other services in the field of finance as may be required by the Joint Committee on Legislative Management;
 - (13) preparing fiscal notes upon favorably reported bills which require expenditure of state or municipal funds or affect state or municipal revenue;
 - (14) preparing at the end of each fiscal year a compilation of all fiscal notes on legislation and agency regulations taking effect the next fiscal year.
- e. Website: <http://www.cga.ct.gov/OFA/>

4. **Wisconsin:** Legislative Fiscal Bureau

- a. Staff size: 29 employees.
- b. Budget size:
- c. Years in operation: 42 years, re-designated as Legislative Fiscal Bureau in 1968.
- d. Goals/Outcomes: The Wisconsin Legislative Fiscal Bureau is a nonpartisan service agency of the Wisconsin Legislature. The Bureau provides fiscal and program information and analyses to the Wisconsin Legislature, its committees, and individual legislators.

The Bureau also serves as staff to the Joint Committee on Finance -- a 16-member Committee, which reviews and deliberates on legislation affecting state revenues and appropriations. The primary focus of the Committee's work, and thus, that of the Bureau, in each legislative session is the state's biennial budget.

- e. Website: <http://www.legis.state.wi.us/lfb/>