



The Daily Dish

# The CBO and Budget Reform

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On Friday the [Environmental Protection Agency \(EPA\)](#) announced that after seeking advice from the Department of Justice (DOJ) they will not be allowed to repay damage claims filed after the 2015 Colorado mine waste spill. At least 73 damage claims have been filed totaling \$1.2 billion in damages. The EPA said that those who have filed damage claims against the EPA can appeal the DOJ's decision in federal court.

Last week the [U.S. Supreme Court](#) agreed to hear a case regarding President Obama's Clean Water Rule. The case being taken up by the Supreme Court is not a challenge to the rule itself, but rather a challenge to a decision made by the Court of Appeals of the Sixth Circuit regarding the proper court venue for challenges to the rule. In February 2016, the Court of Appeals of the Sixth Circuit decided that they have the authority to first hear challenges to the law, as opposed to lower federal district courts.

## *Eakinomics: The CBO and Budget Reform*

Former House Speaker Newt Gingrich had [harsh words](#) for the Congressional Budget Office (CBO), saying "It is a left wing, corrupt, bureaucratic defender of big government, and liberalism" and "It is impossible for the current CBO to come anywhere close to an honest, accurate score of a red tape cutting, entrepreneurially hard charging system. The current obsolete, inaccurate, and dishonest CBO bureaucracy should be replaced..." (This is not the first time that Mr. Gingrich has lashed out at the CBO; in 2011 he [described](#) it as "a reactionary socialist institution which does not believe in economic growth, does not believe in innovation and does not believe in data that it has not internally generated.")

I disagree and have three reactions to his continued diatribes. First, even in this era of devalued civil society, he should be ashamed at casually tossing around words like "corrupt" and "dishonest" without one iota of evidence.

Second, he knows that CBO's relationship with the Congress is entirely advisory in nature. There is nothing that CBO produces that Congress cannot discard, override, amend, fold, spindle, mutilate — name it. Whatever Mr. Gingrich feels CBO has done to Congress, the reality is that Congress did it to itself.

Third, none of this means that CBO's role, or the budget process itself, couldn't be improved. Probably the most basic improvement would be to the preparation of the budget itself. The Budget Act of 1974 (as amended over time) requires that the baseline — the budgetary benchmark against which subsequent changes will be measured — be prepared by extrapolating the current law over the budget window (currently 10 years). Now you might think that (a) this means that appropriations for, say, 2020 would be zero in the baseline since appropriations are enacted yearly and there is no law in place for 2020, and (b) that any program that has not been re-authorized would have zero budgetary impact since the law had expired. In both cases, you would be wrong as appropriations are extrapolated from current levels (and assumed to rise with inflation) and any program that spends \$50 million or more is assumed to continue spending money whether it is re-authorized or not. These features place a clear upward bias on spending because appropriating at last year's level plus inflation is "free," as is re-authorizing an expensive spending program.

In contrast, revenues follow current law precisely, with CBO forced to show expiring tax cuts as tax hikes. Clearly, this asymmetry tilts the budgetary playing field and is not a good benchmark. One could interpret current law strictly on both sides of the budget. Or, in the spirit of extending spending programs, any tax cut over \$50 million could be assumed to continue indefinitely. In any event, some change is needed.

A second issue is that the baseline is set in stone in March of each year, based on an economic forecast that was put together for release in January. This has the virtue that all proposed legislation is compared to the same starting point and makes it easier to compare across proposals and rank their budgetary impact appropriately. It has the disadvantage that a law being evaluated in, say, November has its budgetary impact based on a year-old economic forecast. This has a clear impact on accuracy, as no forecaster would fail to update his/her jumping off point when trying to make an accurate forecast. If Congress wanted a greater focus on accuracy, it could require that the baseline be updated more frequently, at the risk of sowing chaos when trying to compare a law passed by the House in April with one passed by the Senate in October.

A related issue regarding accuracy is the reality that “scoring” — evaluating the budgetary impact of legislation — is not a mechanical exercise. It is a judgment exercise in which CBO has the least guidance when Congress is doing something genuinely new. When Congress passed the Medicare Part D program there did not exist in nature a financial product that guarded seniors against the financial risk from their outpatient prescription drug purchases. Scoring was hardly a matter of extrapolating the past or running a spreadsheet model (although those exercises could be useful in informing CBOs judgment). CBO also has to make assumptions about how a law will be implemented; e.g., it has to anticipate that an Obama Administration would regularly simply change rules on the employer mandate, grandfather insurance policies, sign-up periods, and everything else about Obamacare.

Congress could help CBO by writing tighter laws that are more clear about what exactly will be implemented. But CBO could be clearer about the judgments it is forced to make and the implementation that it is assuming.

Given current and projected deficits and federal debt it is hard to conclude anything other than the fact that the budget process is broken. But to somehow try to pin the blame solely on the CBO doesn't pass a laugh test.