The Politics of
Public Budgeting

SEVENTH EDITION

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Rubin The Politics of Public Budgeting SEVENTH EDITION SAGE CQPRESS

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Getting and Spending, Borrowing and Balancing

SEVENTH EDITION

Irene S. Rubin

CQ

Useful Websites

NASBO, the National Association of State Budget Officials, periodically updates a handy report on state budget processes, called **Budget Processes in the States** (for 2008, www.nasbo.org/sites/default/files/BP_2008.pdf).

The **National Conference of State Legislatures** has much useful information on legislative budget process, including contested power between the governor and legislature (www.ncsl.org).

The Congressional Research Service (CRS) has a number of publications that describe the federal budget process, available at open CRS. A nice summary is **"The Congressional Budget Process: A Brief Overview,"** by James V. Saturno, 2011 (http://assets.opencrs.com/rpts/RS20095_20110303.pdf).

4. The Dynamics of Changing Budget Processes

> We developed during the 1990s a series of budget process rules that helped us bring to heel these deficits, diminishing every year and moving the budget so into surplus. . . .[T]wo of the rules that we adopted were of signal success. One was a rule called PAYGO. . . The other was a rule called discretionary spending caps.
>
> —John Spratt, former representative, *Congressional Record*, 2004

Budget processes are not cast in concrete—they change. It is worth examining such changes for at least five reasons:

1. Monitoring process changes makes it easier to see the how process influences outcomes. What features of budget process have what kinds of effects on outcomes? Does better budgeting result from shifting more power to the executive? Do budgets become more balanced? Is budgeting based more on analysis and prioritization rather than politics? Do budget rules, like PAYGO or spending caps, make a difference?
2. Budget actors sometimes change the decision-making process to enhance their own power over policy outcomes or to build in biases toward their preferred policy outcomes. Changes in budget process sometimes capture political actors in the middle of increasing or losing power, so the observer can examine that which is normally accomplished behind the scenes.

3. Examining changing budget processes provides a way of analyzing some broader issues of governance, such as what stimulates an increase or decrease in openness or accountability, or determining the effects of divided government, when one or both houses of the legislature are dominated by a different political party from the executive.
4. Budget processes may change if they fail to work. They may not be able to deal with the level of partisanship or conflict over priorities that sometimes characterize government. Budget processes may be geared to cutting and saving money in a time of urgent fiscal problems and intense social need or they may still be adapted to revenue growth after that growth has disappeared. At the extreme, budget processes may collapse into ad hoc decision making either because they fail to adapt to changed circumstances or because the rules have become too constraining and actors cannot agree on new ones. When budget processes unravel, they often reflect broader political and economic problems.
5. Analyzing process changes makes it possible to see a chain of events, a set of causes and consequences followed by further changes. An increase in executive power (and abuse of that power) generates blowback from the legislature; an imbalance of power concentrated in the executive leads to late budgets and informal negotiations behind closed doors, which in turn leads to efforts to reform the process.

To analyze changes in budget process one has to look not only at the formal processes, but also at the informal ones. Formal processes may be supplemented or supplanted by informal ones. For example, the formal process might include a fine division of responsibilities among legislative committees and between the executive and legislative branches, but actual budget negotiations may be restricted to representatives from the chief executive and the leadership in each house of the legislature, bypassing legislative committees completely. Though the committees seem to be doing their jobs, they may be taking their cues from summit agreements in which they had no part. This informal negotiation process occurs at certain times at all levels of government. When and why does an informal, less visible process take over, and when does it subside or yield to the more formal and visible one?

One answer is that more and tighter rules encourage evasions and informal adaptations. Divided government contributes to the need for informal and secret negotiations because the executive and legislative branches, controlled by opposite parties, use the formal process to thwart each other's priorities. Third, actual power may be highly one-sided, leaving one or more parties to the process with a limited scope of decision making. The minority side sometimes holds the budget hostage to force behind-the-scenes negotiations rather than follow the formal process that disempowers them (see the minicase on New York on page 100). Finally, if the formal process produces outcomes that are generally disliked or

embarrassing, participants may switch to a less visible process from which it is easier to distance themselves, generating the "who, me?" defense.

When informal processes take hold, secrecy may increase (few people know how decisions are made; selected stakeholders may have disproportionate access) and the information content of the budget may deteriorate, as definitions erode, categories blur, and outcomes (such as the size of the deficit or the implications of borrowing) are obscured. Democratic participation, openness, and accountability may diminish.

Overview

One of the key elements of budget process that has changed over time is the relative balance of budget power between the executive and the legislature. Colonial history left a legacy of distrust of the executive branch, associated as it was with the king and his appointees; budgeting was initially located in the legislative branch. Over the years, however, there has been a major shift toward more executive responsibility and more centralized budget processes to facilitate financial control and allow a more explicitly policy-oriented budget review process. The practice of departments' submitting budget requests directly to legislative committees, with limited executive review, gradually has yielded to a process in which the chief executive is responsible not only for assembling agency requests before handing them to the legislature, but also for reviewing and trimming back those requests. As part of this change, executive budget offices were created, grew in professional staff, and became more politically sensitive and policy oriented. Over time legislatures have granted more power to chief executives to formulate and execute the budget, enhancing the policy-making power of the executive.

Sometimes the shift to centralized executive budget making was the work of reformers through constitutional amendments, but sometimes the legislature delegated authority to the executive. Though one might expect legislatures to hold tightly to budget control as an important source of institutional as well as personal and political power, they have not uniformly done so. Two factors stand out as reasons for legislative delegation of budget authority to the executive branch. If the legislature and the executive are of the same party and have similar policy goals, the legislature has been more willing to delegate budget power to the chief executive. Alternatively, if there was some sense of crisis and simultaneously a demonstration that the legislature was not able to organize itself to deal with the problem, the legislature was more likely to shift budget-making power to the executive branch.

When the budget power was constitutionally vested in the executive, it became difficult or even impossible to share that power formally with the legislative branch. If legislatures felt too disempowered, they resorted to more informal means to exert some control. When budget power was legislatively delegated to the executive, there was more possibility that the legislative branch could take back some budget power if the executive abused it or used it to thwart legislative will.

Minicase: New York State—Powerful Governor, Weak Legislature, Informal Budgeting

When the formal rules of budgeting do not seem fair to all the actors—when power is highly imbalanced—the formal rules may still frame the process, but informal negotiations may take over. This has been the case in New York State where the state constitution grants the governor broad authority over the budget and gives the legislature little independent budget power. To underscore the one-sidedness of the executive's budget powers, a court decision granted broad power to the governor to include policy in his budget.[1]

Left with nearly no power to shape the budget, the legislature routinely held up its passage to force the governor to negotiate. The behind-closed-doors aspect of the negotiations has challenged democratic process. New York State's politics and budgeting have been described as "three men in a room."[2]

The state's comptroller called for reform, citing routinely late budgets, lack of sufficient communication among the key actors, and lack of agreement on revenue numbers.[3] Having a super powerful governor with respect to the budget had clearly not led to a satisfactory budget process.

There was no independent estimate of the amount of revenue that would be available. No two actors accepted the same projections for revenues or deficits. The governor and legislature discussed the proposed budget without numbers. The actual numbers were determined in negotiations between the governor and legislative leaders, not by professional staff or legislative committees. Besides being routinely late, budgets were based on political tradeoffs rather than technical estimates.[4]

After years of failed efforts, in 2004 both the New York Senate and Assembly passed a reform bill that would shift some budget power to the legislature. The governor vetoed the measure.[5] The legislature did not try to override the veto, but neither did it give up the battle. In 2005, the reforms were placed on the ballot as a proposed constitutional amendment, but the voters rejected it. Governor Pataki called the measure the most dangerous initiative he had ever seen in his time in government.[6]

In 2007, a set of budget process reforms was actually passed, but it did not deal with the issue of the governor putting substantive legislation in budget bills. The changes ended lump-sum appropriations, forcing the governor to explain in detail how each appropriation would be spent. The reforms increased the size of the rainy-day fund and mandated that the legislatively approved budget be balanced. Before this reform, only the governor's proposal had to be balanced. The process changes of 2007 set up the state comptroller as the arbiter of how much revenue there would be. The result is more transparent budgeting, less shadow-boxing in public, and avoiding trying to budget without numbers. However, the governor can still legally dominate the budget and overrule legislative intent.

In 2012, the governor repeated multiple times in his budget proposal that he had the authority to move money between accounts without going back to the legislature for permission to change the approved budget, if the purpose was to improve efficiency. This assumption of additional power, no matter how benign sounding, exacerbated the fear of the legislature that the governor would take all budget authority, not merely the lion's share. Further, the governor "included a clause that would allow him to give out some contracts without the customary review of the state comptroller. And he added another provision that some budget experts fear could expand his authority to borrow money for construction projects."[7] The final budget agreement granted the governor the power he asked for but limited it to exactly what he said he wanted to do: merge technical functions between agencies and programs for efficiency. The governor got an expansion of authority, but probably not as broadly as he initially envisioned.

The New York case demonstrates that if the governor's budget power is constitutionally based, it can be difficult if not impossible for the legislative branch to stop further aggregation of power in the governor's hands. The court was on the governor's side in interpreting the constitution. The press and the public did not believe that the legislature would be fiscally responsible if granted more budget power. The extreme imbalance resulted in informal negotiations and loss of transparency that in turn generated pressure to make the process more open. A symbolic discussion, without agreed-on revenue assumptions, created pressure for a process based on credible and widely disseminated revenue projections. Regardless of these pressures, however, a change in the formal distribution of budget power has been difficult to achieve.

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1. The decision found that the main budget power the legislature has in New York is the power to hold up the budget. Michael Cooper, "Budget Is Job of Governor, Judges Rule," *New York Times*, December 17, 2004.
2. Seymour Lachman and Albert Polner, *Three Men in a Room: The Inside Story of One of the Country's Most Secretive and Misruled Statehouses by a Former New York State Senator* (New York: The New Press, 2006).
3. Alan Hevesi, *Fiscal Reform for New York State*, 2006, www.osc.state.ny.us/reports/budget/fiscalreform.pdf.
4. Editorial, "A Hocus-Pocus Budget," *New York Times*, January 21, 2004.
5. Opinion, "State Budget Reform: Hand It up Now, Albany," *Ithaca Journal*, October 6, 2004, www.theithacajournal.com/news/stories/20041006/opinion/1362658.html.

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6. Michael Cooper, "Bid to Change Budget Process Is Rejected," *New York Times*, November 9, 2005.
7. Thomas Kaplan, "Cuomo's Efforts to Expand Authority Raise Alarm in Albany," *New York Times*, February 17, 2012, www.nytimes.com/2012/02/18/nyregion/cuomos-efforts-to-expand-authority-raise-alarm-in-albany.html?pagewanted=all.

The extremely powerful governor in New York was the result of a constitutional provision urged by reformers in the early 1900s, a provision that was difficult to change. By contrast, legislative delegations of budget power to the executive have not always been successful or permanent. Sometimes delegated policy-making power has been used for purposes explicitly forbidden by the legislature or used to bypass legislative approval. Legislators have sometimes responded by trying to strengthen their own ability to perform the functions they had formerly delegated to the executive, increasing budget staff, improving their capacity to review budget proposals, and enhancing their capacity to evaluate executive branch performance.

When the legislature and the executive share somewhat equal powers, tumultuous budget battles can result if different parties control the two branches, leading to vetoes, late budgets, and sometimes failure to pass a budget at all—the so-called train wreck. The cost of creating order in such volatile situations may be more extended negotiations between the executive and the legislative leadership and more (judicious, one hopes) use of distributive politics—pork. Ironically pork is generally considered bad and blamed on legislators, but it may be generated by executives trying to pass a negotiated budget in a two-party democracy where power is evenly divided. Executives may include the pork projects of particular legislators in their budget proposals (or in supplemental appropriations) in an effort to win legislative support for the whole package or for other, unrelated legislation. However, the cost and visibility of pork may undermine trust in government, generating new waves of budget process reform.

Federal Budget Process Changes

The federal budget process has undergone major formal change several times. These changes were precipitated by financial crisis, tax reductions, increasing costs, and rising deficits. Budget power shifted to the executive branch in 1921; the legislative branch later reclaimed some of that power in 1974. Budgetary decision making was centralized or decentralized in an effort to cut spending or increase it to deal with existing problems. There have been changes in rules to strengthen the norms of balance. Those rules have sometimes been too stringent, generating evasions; at times, the budget process has been ill matched to the problems it had to deal with, in which case it was ignored, and deteriorated into ad hoc decision making.

Robert Reischauer, the former director of the Congressional Budget Office, once described the federal budget process as so complex that only a handful of people in Washington fully understood it.

In 1921 the executive budget process was adopted; in 1974 the Congressional Budget Reform Act was passed, limiting some of the president's budgetary discretion and enhancing Congress's ability to check executive branch revenue projections and economic assumptions; in 1985 the Gramm-Rudman-Hollings act was passed in an effort to curtail the deficit. After several iterations, that act was replaced by the Budget Enforcement Act (BEA) in 1990 in a further effort to help strengthen the norms of balance. Balance was achieved in 1998, after which the budget process gradually unraveled. Deficits returned after 9/11 and the Bush tax cuts and were exacerbated by economic downturns during the Bush years and then in the Obama administration. In 2011, the Budget Control Act was passed in an effort to cut spending and reduce the deficit.

In addition to these formal, structural changes, there have been many informal adaptations. After passage of the 1974 Congressional Budget Reform Act, the more equal budgetary power of Congress and the president during the 1980s and 1990s, compounded by government frequently divided between the parties, encouraged budget negotiations between Congress and the president. These summit agreements led to more centralization of control in the executive Office of Management and Budget and the congressional leadership to reach and carry out agreements.

The Creation of the Executive Budget at the National Level

At the national level, the 1921 Budget and Accounting Act created the executive budget and the Budget Bureau in the executive branch. This major change in budget processes illustrates both (1) the competition between branches of government for power over budgeting and (2) the role of environmental shocks and emergencies, which fostered increases in expenditures and debt, generating problems that were addressed through budget process reform.

A major stimulus for the 1921 reform was the increase in spending that occurred from 1899 to 1912, in part because of a more activist government. Federal spending during the last third of the nineteenth century was $200 million to $400 million a year. From 1899 to 1912 the level jumped to $500 million to $700 million a year.[1] The full proposal for reform in budgeting at the national level included not just presidential review of agency requests but also a line-item veto for the president and restrictions on the powers of the Congress to change amounts the president proposed. Presumably the president would control expenditures and reduce waste using these tools. President William Howard Taft supported the executive budget proposal, but Congress did not initially approve of the idea.

The pressure on Congress to give up some of its traditional power in the interest of economy was reduced by budgetary surpluses in 1911 and 1912.[2] The Democrats in Congress preferred to strengthen Congress and let it do the job of controlling expenditures. World War I intervened, reducing the salience of the issue in the short run but raising expenditures and deficits to such a point that congressional opposition to the presidential budget proposal was reduced. Something needed to be done, and this reform promised lower taxes, lower spending, and elimination of deficits.

Congress reformed itself in 1920, before the shift to the presidential budget. The House of Representatives consolidated appropriations into a single committee in 1920. As a result of the congressional reorganization and centralization, some of the pressure for shifting budget power to the executive budget was reduced, and the eventual shift was not as extreme as the reformers originally envisioned. The president got the Bureau of the Budget, which was transferred to the Executive Office of the President in 1939, and responsibility for preparing and presenting the budget, but Congress did not give the president a line-item veto and retained for itself its powers to accept, reject, or alter the president's proposed budget.

Entitlements and Congressional Fragmentation, from the 1930s to the 1970s

During the Great Depression of the 1930s, in response to massive unemployment and resulting poverty, a new kind of program was initiated, which gave money to

individuals who satisfied criteria the programs established. Called *entitlements*, these programs bypassed the appropriations committees and were scrutinized only by the authorizing committees of Congress. Considerable spending power was shifted to authorizing committees, which often favored additional spending, and control over spending was divided up among a greater number of committees, fragmenting the budget process and making coordination more problematic. In addition, World War II caused staggering spending increases during the 1940s. Congress responded with several unsuccessful efforts at reform.

From 1966 to 1973 several environmental changes took place that strained the budget process and gave additional impetus to congressional reform.[3] First were the costs of the Vietnam War. Rather than curtail domestic expenditures to help pay for the war and risk exacerbating domestic conflicts, the government ran bigger deficits. There was pressure to reduce both overall spending and the size of the deficits. At the same time, there were major policy splits between Congress and the president over the conduct of the war and over domestic spending. President Nixon impounded (withheld) billions of dollars of domestic spending that Congress had approved. Mistrusting the president and fearing the loss of policy control over spending, Congress increased its budgetary role and strengthened its capacity to examine and determine budget policies.

Congress Takes Back Some Budget Control, 1974

The two pressures—to reduce spending and control deficits and to take back some of the budget discretion that Congress had granted the president—combined to produce the 1974 Congressional Budget and Impoundment Control Act. The act moderately increased centralization and coordination, but equally important, it provided a professional staff of budgeters to help Congress check the analysis that underlies the president's budget proposal. It also revised the procedures that allowed the president to withhold funds that Congress had approved.

Congress centralized budgeting only to a limited extent, however. To the existing authorizing, taxing, and appropriations committees, the 1974 act added budget committees, whose responsibility was to come up with overall estimates of revenues and targets for spending in broad areas. Their plan was called "the budget resolution" and needed to be approved by both houses of Congress (but not the president). The other congressional committees were generally supposed to stay within the guidelines the budget resolution established. The new arrangement provided for some coordination between revenue and expenditure committees and some fiscal policy formation; at the same time it did not greatly threaten the existing division of power.

Congress's reorganization of the budget process was also intended as a way to take back some budget initiative from the president who, in the eyes of some, had abused the discretion he had been granted. The budget committees could accept presidential policies or, relying on the new Congressional Budget Office, could differ with the president on projections concerning the economy, the anticipated deficit, and the inflation rate. Congress could make its own fiscal policy. The new budget process also curtailed the president's ability simply to withhold spending that Congress had approved but that did not accord with presidential policy preferences. Congress was given the opportunity to object to proposed deferrals of spending, and it had to act positively to give assent to rescissions (permanent withdrawal of legislative appropriations), or they would not take effect.

Though Congress tried to enhance its own power to devise and implement fiscal policy, most of the distribution of power within Congress was left as it was to ensure that threatened appropriations, tax, and authorizing committee members did not quash the whole proposal for change. The compromises resulted in budget committees that had little real power or influence. Their ability to act as a brake on spending was limited.

Deficit Controls 1986, 1990

Despite the new congressional budget process established in 1974, deficits continued to rise, taking an upturn at the end of the Jimmy Carter administration and then growing even more rapidly throughout the Ronald Reagan administration. Slow growth of the economy and the effects of rapidly growing entitlement programs contributed to the mounting deficits, but tax reductions, military buildups, and overestimates of economic growth also contributed.

Because many of the causes of deficits were seen as difficult to control or politically off-limits, there was renewed focus on changing the budget process instead of tackling the deficit sources directly. Supporters of a strong executive proposed stronger presidential vetoes; proponents of smaller government argued for a constitutional amendment that would take discretion away from public officials of both branches by requiring a balanced budget and revenue limitations. Advocates of congressional power suggested further reforms of the legislative budget process. What finally passed was a peculiar compromise that did not change the balance of power much between the Congress and the executive branch but markedly limited the discretion of both branches if they could not meet guidelines on the reduction of the deficit.

The compromise legislation, mentioned earlier and named Gramm-Rudman-Hollings after its sponsors, called for setting deficit reduction targets each year, with the goal of eliminating the deficit in five years. Failure to achieve the annual target for deficit reduction triggered an automatic, across-the-board cut (with

some exemptions for entitlements). In theory, the across-the-board cuts would be so obnoxious to all parties that they would choose to achieve the deficit reduction targets on time, so that the automatic feature of the cuts would not be invoked. What actually occurred, however, was that the rules were bent and most of the cuts were never made. Gramm-Rudman-Hollings was modified several times before it was finally replaced by the Budget Enforcement Act in 1990.

Gramm-Rudman-Hollings was not particularly successful. It may have had some marginal effect in reducing the rate of growth, but the deficits continued to grow. Both Congress and the president began "gaming" Gramm-Rudman requirements, to reduce the apparent size of the deficit just before the calculation would be made on whether to invoke Gramm-Rudman cuts (called *sequesters*) to get down to the mandated deficit levels. Gimmicks included overoptimistic estimates of growth in the economy, pushing back spending from one fiscal year to the previous one, and keeping new spending off-budget. Gramm-Rudman's one-year focus encouraged quick-hit, temporary revenue raisers that would do nothing to help balance the budget in future years.

Many legislators were reluctant to give up Gramm-Rudman because the symbolism was bad—it would look as if they were giving up on deficit reduction. Hence they decided to overhaul the legislation, trying to close the loopholes that had appeared and eliminate some of its worst features. In fall 1990, a new plan for deficit reduction was passed, with a number of features.[4] First, the Social Security surplus was taken out of the deficit calculations, so that the true size of the deficit problem would be clear. Second, the legislation included a "pay-as-you-go" (PAYGO) requirement, meaning that proposed increases in mandatory expenditures had to be balanced by compensating increases in revenues or decreases in spending for other entitlements, and proposed reductions in revenues had to be balanced by decreases in expenditures or an increase in some other revenue source. Third, the agreement set separate spending caps for defense, domestic, and foreign discretionary spending, in an effort to keep spending down.

The legislation addressed several problems that arose during Gramm-Rudman days. Congress had cut the defense budget but had used much of the savings on domestic spending increases; the new process prohibited such transfers. Each area of the budget had to come in at or under ceiling, and savings in one area could not be transferred to other areas. Those constraints made it easier to achieve savings to reduce the deficit.

Another problem of Gramm-Rudman had been that the target had to be reached only briefly; there were no sanctions if the deficit estimates increased later in the year. By contrast, the new Budget Enforcement Act added a feature called *look back*, a check on conformity with the new limits later in the year. If any of the three caps was breached (defense, domestic, or international), then automatic, across-the-board cuts would be invoked in the area that breached the limits.

Sequestration, or automatic cuts, would also be invoked if pay-as-you-go provisions of the mandated portion of the budget were violated. If such breaches occurred late in the year, the legislation provided that the amount of the breach would be subtracted from the next year's ceiling.

An additional problem with Gramm-Rudman was its one-year time span, which encouraged temporary revenue increases that did not solve the problem for future years. The Budget Enforcement Act included a five-year resolution that discouraged that kind of action.

The new budget process was less rigid than the previous one because it provided exemptions for emergencies and built in flexibility related to changes in the economy. The rigid deficit targets were gone, but the mechanisms to help achieve balance were strengthened. The new process was easier to live with and hence more likely to be observed. The process was still laden with constraints, as Gramm-Rudman-Hollings was, and its separate spending ceilings for different areas of the budget explicitly determined which programs would have to compete with which other programs.[5]

Evaluations of the Budget Enforcement Act suggest that it worked better than Gramm-Rudman-Hollings. One scholar observed, "A complete reckoning of what has happened since the rules were devised in 1990 would show that Congress has achieved substantial deficit reduction by increasing revenue and cutting direct spending under existing law while also offsetting any deficit increases resulting from new legislation."[6]

Budgeting after 1998: Ad Hoc Decision Making

By 1998, after years of effort, the national government achieved budgetary balance and was looking at surpluses over the next few years. But the budget process was geared for the elimination of deficits, not for allocation of surpluses. The level of discipline inherent in the Budget Enforcement Act was difficult, if not impossible, to maintain after balance was achieved. Legislators no longer adhered to the spending caps in the BEA and ignored rules requiring offsetting revenue decreases with increases elsewhere or with spending cuts. They ignored some provisions of the budget process and worked around others. Writing in 2002, budget scholar Allen Schick described the evasion of the spending caps:

> The arrival of a surplus a few years ago triggered a spending frenzy that vitiated the discretionary spending caps established by the 1990 Budget Enforcement Act and made a mockery of the BEA requirement that increased spending be offset by cuts in other spending or by revenue increases. In 2000 and 2001, discretionary spending soared more than $200 billion above the legal limits on annual appropriations. The caps expire at the end of 2002—which will at least enable politicians to be more honest about what they are doing. They no longer have to pretend that the census and other ongoing operations of government are national emergencies.[7]

When the BEA formally expired in 2002, it was not renewed. But the result was not more openness or integrity in the budget process. The process became less predictable, less open, and more ad hoc. Deficits swelled. The Budget Enforcement Act of 1990 had been layered on top of the 1974 Congressional Budget and Impoundment Control Act. With the expiration of the BEA in 2002, the budget process was still guided by the 1974 act. That process depended on Congress's ability to pass a budget resolution, balancing revenues and expenditures, either adopting the president's assumptions and totals or substituting its own. Once agreed on the totals and roughly how they should be spent, Congress was to divide up the totals among various committees and subcommittees according to the plan. The two-step process helped coordinate the work of the committees, maintain control of budget totals, and put Congress's policy imprint on the budget. After 2002, however, the provisions of the 1974 act were often ignored or bypassed.

As former Congressional Budget Office staffer Phil Joyce observed, there was insufficient consensus to come up with congressional targets and adhere to them. The lack of agreement meant that the budget process was operating without a notional budget constraint. As a result, Joyce claimed, "No one knows how much is enough—or too much—spending. And nobody knows—or everybody knows, but nobody agrees—when the deficit is too large or the surplus too small."[8] The congressional budget process could have retreated back to the 1921 executive budgeting process, but the executive budget proposal was not balanced either, and so could not operate well as an informal budget constraint.

Perhaps not surprisingly in this environment, for fiscal years 1999, 2003, 2005, 2007, 2011, and 2012 Congress failed to pass a budget resolution, the central feature of the 1974 act.[9] Even in the years when there was a resolution, the resolution was usually late, and the process was not always predictable or open to scrutiny. For fiscal year 2004, Congress passed a budget resolution, but House and Senate appropriators decided not to give spending targets to the appropriations subcommittees, at least not in public. The targets would be fluid until the subcommittees had done their work and crafted their portions of the appropriations for 2004. The consequence of not making spending targets public was to obscure the impact of President George W. Bush's tax cuts, which ought logically to have translated into programmatic spending cuts. Had Congress implemented its budget resolution in the normal fashion, it might have roused considerable opposition to the president's policies by showing the cuts made necessary by the tax reductions. Such a result could have jeopardized the chances of passing budget legislation. By obscuring the appropriations subcommittee ceilings, legislative supporters of the Bush policies made the tax cuts look as if they had no consequences.

The result was damaging to the budget process. Appropriators indicated that they would allocate as they went along, rather than set targets in advance, but other participants, including staffers, were not sure how that would work or if that would be the final process. Some observers wondered how a subcommittee could operate without a limit of some sort. They argued that the budget numbers didn't add up, which was a good reason not to allocate totals to the subcommittees, but that at the end of the legislative process, the Senate, according to its rules, had to conform to the budget resolution; that meant that appropriators would likely get caught at the end if they didn't work with some sort of limits built into the budget resolution.[10] It seemed likely, then, that spending targets of some sort would have to be in operation, even if they were informal and kept from public view or operated after budget appropriations had been crafted rather than before.

For 2005, Congress was not able to pass a budget resolution to guide the committees' work. The issue was disagreement on budget process, namely the lack of offsetting spending reductions to compensate for the Bush tax reductions. Moderate Republicans in the Senate refused to go along with a process that legitimated this budgetary imbalance, insisting on reinstating the PAYGO provisions of the Budget Enforcement Act. Enormous pressure was brought on these holdouts to concede and vote for the budget resolution, but they did not yield. Appropriations in the Senate proceeded without a budget blueprint. The result was a kind of first-come-first-served approach to budgeting. Spending items with the highest visibility in an election year would be approved, while more routine but equally important priorities would be left on the cutting-room floor:

> Without the budget resolution and its cap on fiscal 2005 discretionary spending at $821.4 billion, Stevens' panel [Sen. Ted Stevens, R-Alaska] would be limited to $814 billion [the limit in the previous year's concurrent budget resolution] in total spending but with no budgetary points of order on the floor capping funds for each individual spending bill. That would lead to a situation where funds could be increased on the floor until reaching that $814 billion limit, meaning some spending bills could be left out of the process.
>
> Without a budget, Stevens said, they would "pray and connive to work something out," but election-year politics would necessitate amendments increasing spending on fiscal 2005 Defense and Homeland Security Appropriations bills on the floor and "there won't be any money left for anything else."
>
> "My problems are just enormous without a budget," Stevens said. "Just enormous."[11]

In the end, it was the House's cap of $821 billion, which mirrored the president's proposal, that framed the final agreement on appropriations. Appropriators had to come down to that total. The various subcommittees that prepare the appropriations bills agreed to an across-the-board cut in their recommendations to bring in the total near the president's proposal. "In the end, Congress kept the total defense and non-defense discretionary appropriations below the $822 billion spending limit set by President Bush by cuts to several programs originally scheduled for more funding and by a 0.8% across-the-board nondefense, non–homeland security programs reduction."[12]

The appropriations process did proceed without a detailed blueprint, but it did not proceed smoothly. Only four appropriations bills had passed by the beginning of fiscal year 2005, so Congress had to pass an omnibus appropriations bill to fund the remaining agencies. This legislation was put together hastily and was huge (3,000 pages), tempting legislators to stick in a variety of pet programs, projects, or policies in the certainty that other legislators would be denied sufficient time to read the legislation and oppose provisions of which they disapproved. Some such provisions were caught, but an unknown number survived in the "must-pass" legislation. Legislators described the result as chaotic.

Unable to come up with its own budget proposal, Congress relied on the president's proposal, but that was not a useful source of fiscal discipline because it was unbalanced. The executive budget was highly dependent on emergency supplemental appropriations, which did not require a revenue offset. In particular, the Defense Department was systematically underfunded during the budget process, with the idea that it would be funded separately, after the budget was approved, by a supplemental appropriation that would simply add to the deficit.

In the absence of formally agreed-upon budget resolutions, Congress has often had to resort to *deeming* resolutions, the choice of some figure for a ceiling and using that number in lieu of a formally approved budget resolution (see the minicase "Deeming Resolutions and Ad Hoc Budgeting" below for a description of how this informal adaptation works).

To complicate matters further, the wars in Iraq and in Afghanistan were largely funded through supplemental appropriations, even though substantial parts of the need were known in advance, to the frustration of some members of Congress. Not having any idea of how much money would be required for defense during the year made it nearly impossible to budget for the remaining items or to judge how large a tax reduction would be possible; no one knew how much money would be left over after defense was accounted for.

For fiscal year 2007, the House and the Senate passed different budget resolutions, which they never aligned with each other. Only two of the appropriations bills passed,

Minicase: Deeming Resolutions and Ad Hoc Budgeting

When both Houses of Congress cannot agree on a budget resolution, or during the interim prior to agreement on a late budget resolution, legislative committees need some notion of a ceiling within which to work. Each house is likely to deem or adopt a figure and treat it as if it were the ceiling in a resolution. There is no legal basis or technical definition of the word *deem*, or any prescribed form or sets of information it must contain. Sometimes deeming resolutions have been simple one-house, single-issue resolutions, or have been incorporated in rules for considering some piece of budget legislation; sometimes they have been provisions in laws on related matters. It has been an ad hoc process, invented to get around the lack of agreement on resolutions, changing with need each year.

What figure each house deems as its overall ceiling or committee allocation is highly variable. Sometimes the prior year's resolution is used. If one house has passed a new budget resolution, it may deem that resolution as if it were binding, even though the other house has not agreed to its totals. For 2013, the totals agreed to in the Budget Control Act of 2011 were deemed by the Senate and treated as if they were a budget resolution.

Deeming a constraint makes it enforceable in that house, but deeming resolutions may not contain all the information that a normal budget resolution would have, leaving some deliberations uncontrolled. Moreover, when the House and Senate have deemed different figures to guide their deliberations, there is likely to be more conflict and disagreement over appropriations legislation that must pass both Houses of Congress.

For 2011, the Senate did not pass a deeming resolution granting a given sum to the appropriations committee, although the budget committee had passed one; instead, needing to proceed with allocations, the appropriations committee set spending limits for subcommittees, known as subcommittee spending guidance. While undoubtedly useful, such informal procedures had no enforcement mechanism.

In short, some years, both Houses passed a budget resolution, as the Congressional Budget Act of 1974 required; some years the resolution was late and a deeming resolution was put into effect for the duration; some years there was only the deeming resolution; and in some years, there was no deeming resolution in at least one house, but a still more informal procedure within the appropriations committee. The deeming resolutions were passed in different ways, and had different content in each year, and the source of the notional limits also varied from year to year. Deeming thus illustrates the concept of ad hoc budgeting.

Source: Megan Suzanne Lynch, Congressional Research Service report for Congress, *The "Deeming Resolution": A Budget Enforcement Tool*, May 2, 2012, www.fas.org/sgp/crs/misc/RL31443.pdf.

Defense and Homeland Security; the remaining portions of the budget were funded by a series of continuing resolutions for the entire rest of the year. For 2008 and 2009, Congress did better, passing the budget resolutions for both years. Congress passed the appropriations bills for fiscal year 2008 but decided to hold the budget legislation for fiscal year 2009 until after the new president had been inaugurated. There was no budget resolution in 2011 or 2012.

In sum, since 1998 the budget process has fallen into disarray and become increasingly improvisational, or ad hoc.[13] Allen Schick has argued that when the budget process produces outcomes that are disliked, such as big deficits, decision makers distance themselves from the process, procrastinate on accomplishing key tasks, and sometimes encounter policy stalemates. Despite intense conflicts, they still have to produce a budget, so they resort to inventing new ways of getting the budget passed each year. Large deficits contribute to this deterioration of process and evasion of the rules, but deficits are also the result of the lack of agreed-on process. Without such a process to help manage deep conflicts, time and energy are consumed on policy disputes, leaving participants with no time or inclination to fix the process itself. The breakdown of budget processes is often accompanied by instability in policy and ad hoc scoring rules that make it nearly impossible to compare spending from year to year. Schick was describing the 1980s, but with respect to budget improvisation he might as easily have been describing the period after 1998. For illustrations of how ad hoc budgeting is reflected in unstable and confusing budget rules, see the following minicase on ad hoc scoring rules.

Budget scholar Allen Schick has contended that the cause of the breakdown of budget processes in the 1980s was a mismatch between a budget process geared for a rapidly growing economy and growing revenues, and the reality of a slow-growing economy generating inadequate revenues. The budget process was unable to adjust in a timely manner. This structural imbalance led to deficits and from there to a deterioration of routines and the generation of ad hoc budget processes. Since 1998 a somewhat different sequence has occurred, though some of the same elements have reappeared. The budget process was geared to reducing or eliminating deficits and was unable to adapt quickly to a period of budgetary balance, creating enormous pressure to ignore the difficult choices inherent in the established budget process. While the economy slowed a bit, the major revenue problem was due to policy choices to reduce taxes. Politicians had a specific agenda, in this case to reduce the tax burden on the wealthy, and were determined to carry it out regardless of the deficits and disruption of budget processes that resulted. Controversy about those policies led to stalemates and generated adaptations to get around the roadblocks, including omnibus appropriations bills that could not possibly have been read by

Minicase: Ad Hoc Scoring Rules

Ad hoc budgeting is often accompanied by instability of rules. Decision makers create new rules as they go along, not only rules for how to make budgetary decisions, but also the rules for counting how much is being spent, estimating the size of the deficit, and figuring the size of revenue increases or decreases. Without stability in these rules, it is impossible to compare from year to year or from committee to committee or between the houses of the legislative branch. Once rules are up for grabs, the temptation is overwhelming to change them for short-term political gains, changing back again if additional political gains can be obtained that way. The result is chaotic not only for the budgetary decision makers, but also for the press and the public, who find it increasingly difficult to know the impact of current policymaking.

The George W. Bush administration allowed deficits to grow as a result of its policy on reducing taxes. Reducing the tax burden was a political priority, but the consequent growth of deficits was something of an embarrassment. The administration distanced itself from the results of its policies in a number of ways, one of which was to change the "scoring rules" that help measure the cost of legislation. On measuring the costs of tax cuts, the administration first argued that its cuts would be temporary, so that under the scoring rules, the Office of Management and Budget would only have to count a few years of the consequences, even though the financial impact increased after the end of that period. Then, a couple of years later, the administration argued that the tax cuts should be treated as permanent, so that their extension would not be scored as having any increased costs. The administration sought to dodge the implications of the tax cuts first in one way, and then it serpentined back to dodge the implications the other way.[1]

It was not only the executive branch that engaged in creative scoring and rule changes to make deficits look smaller, or vanish, to justify the policy of tax cuts. House Republicans adopted what has been termed *dynamic scoring* as a way of measuring the impact of revenue cuts. Dynamic scoring tries to take into consideration the increase in economic activity, and hence the increase in federal revenue, that would result from any tax cut. The problem is that no one knows how big that effect might be, and the temptation is to inflate the estimated effect sufficiently to cancel out the apparent negative effects of a tax cut on revenue receipts. The Congressional Budget Office did not adopt dynamic scoring, and neither did the Senate, meaning that budget estimates are likely to differ between committees and between the two houses of Congress.

The administration's eagerness to change the rules to make the consequences of its policies disappear continued into President Bush's second term, when the administration proposed not counting the borrowing that would be required to set up private accounts for Social Security. Since those who pay into Social Security are in fact paying for the benefits of those who are currently receiving Social Security, setting up private investment accounts for young payers—diverting their contributions into their own private accounts—would require the government to borrow to pay benefits to current retirees—vastly expanding the deficit. Determined to adopt the privatization plan, the administration sought to make the borrowing disappear through new scoring rules.[2]

Ad hoc budgeting and rule making favor short-term partisan and political gains over long-term collective and institutional interests, and they erode the quality of information available to participants and the public. They also foster public cynicism that corrodes the trust necessary for democratic governance.

1. Robert Greenstein and Joel Friedman, "Budget Rule Change Would Make the Cost of Extending the Tax Cuts Disappear," Center for Budget and Policy Priorities, February 27, 2004, www.cbpp.org/2-27-04bud4.htm.
2. Jason Furman, William G. Gale, and Peter R. Orszag, "Should the Budget Rules Be Changed So That Large-Scale Borrowing to Fund Individual Accounts Is Left out of the Budget?" Center for Budget and Policy Priorities, December 13, 2004, www.cbpp.org/12-13-04socsec2.htm.

those who voted for them. The desire to hide the negative consequences of those policies led to increased dependence on supplemental appropriations and favored the use of omnibus appropriations that would obscure cuts by burying them in 3,000 pages of legislation. It also led to misleading and gimmicky accounting rules.

Recent Changes in Congressional Budget Process

The budget deficits of the Bush administration resulted from tax cuts, an economic decline in response to the attacks of 9/11, and two wars. President Obama had his own deep recession to deal with, while continuing the wars in Iraq and Afghanistan. Deficits not only continued, they rose precipitously. One reaction was to try to change the budget process.

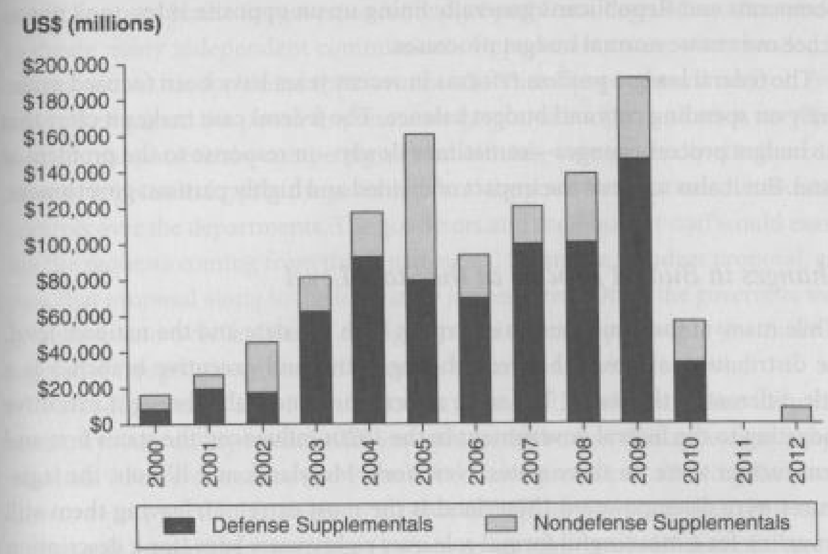
As discussed earlier, Congress had included a pay-as-you-go (PAYGO for short) provision in the Budget Enforcement Act of 1990. It was in effect from 1990 to 2002. This provision was credited with helping to achieve balance in 1998. PAYGO was supposed to ensure that the federal government did not either cut taxes or increase entitlements without finding a way to offset the revenue losses or spending increases. The government was prohibited from making the deficit worse, although exceptions were to be made for emergencies. The PAYGO provision was to be enforced by a nearly across-the-board cut (sequestration) in a select group of mandatory (entitlement) programs if Congress failed to comply with the law. This threat was sufficiently strong that during the 1990s, it was not necessary to invoke sequestration; compliance was high until the budget was in balance. The Senate maintained some kind of PAYGO rule (the exact nature of the rule varied) after the demise of the Budget Enforcement Act; the House later adopted a PAYGO rule. In 2010, the rule was formalized into a law. During his campaign, President Obama had pledged to end the practice of using unfunded emergency supplemental appropriations to pay for the wars in Iraq and Afghanistan. Not only did the practice obscure the costs of the wars and give the Defense Department a blank check, but because the emergency supplementals were not offset by increased revenue or decreased spending, they added directly to the deficit. In 2010, the war supplemental dropped from about $100 billion to about $33 billion, and in 2011, the administration funded the wars through the regular appropriation process, without an emergency supplemental. (See Figure 4.1 for the proportion of emergency supplemental attributable to funding the wars.) Nevertheless, the debt continued its long rise, resulting from war spending, tax breaks, antirecession spending, and bailouts while the economy suffered a deep recession.

In 2011, Republicans forced a long-term deal to reduce spending as their condition for voting for a debt limit increase. Embodied in the Budget Control Act, the deal included caps for discretionary spending to last through 2021, with separate spending limits for security and nonsecurity spending for the first couple of years. In addition, the legislation set up a joint legislative committee to reduce the deficit by $1.2 to $1.5 trillion by 2021; if it failed to do so, then automatic cuts would occur, split evenly between defense and nondefense, and including both discretionary and so-called direct spending (entitlements and debt). The committee failed to agree on savings, and hence the automatic cuts are law. Social Security and Medicaid would be exempt, as would some other programs for low-income people, and Medicare cuts would be limited to no more than 2 percent.

The caps under the Budget Control Act were deemed, that is, taken in lieu of a congressional budget resolution that was the core of the 1974 congressional budget process. The Budget Control Act specified that the law was intended to be the congressional budget for 2012 and 2013. The 1974 act was thus superseded by the Budget Control Act, at least for two years.

Several factors—the creation of a joint supercommittee that bypassed congressional committees and traditional rules of consideration of legislation, the

FIGURE 4.1 Emergency Supplemental Appropriations, Defense and Nondefense, 2000–2012



Source: Congressional Budget Office, Supplemental budget authority, http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/66xx/doc6630/suppapprops.pdf.

establishment of ten-year spending caps and automatic across-the-board spending reductions, and the substitution of the Budget Control Act for the congressional budget resolutions required by the 1974 congressional budget act—all suggest ongoing budget process chaos on the one hand, and a reduction in the role of Congress in the budget process over the next few years, in the name of deficit reduction. The cuts will appear automatic, untouched by human hands, and thus avoid the blame that might normally accrue to legislators cutting programs.

In January of 2013, the across-the-board cuts were scheduled to begin, and at the same time, the Bush tax cuts from 2001 and 2003 and the Obama tax reductions of 2010 were set to expire. If no action was taken, tax increases would affect nearly all taxpayers, at the same time that broad spending cuts—including defense—were implemented, with potentially major effects on slowing down the economic recovery from the deep recession. The president and Congress negotiated painfully and slowly up until the last moment, and a day beyond, before coming up with an agreement. The cuts were deferred for two months, and the tax cuts were generally extended for the middle class, while the very wealthy would have to pay more taxes. Thus some decisions were delayed, while others were made. This prolonged, intense, and closely watched conflict, with Democrats and Republicans generally lining up on opposite sides, took precedence over more normal budget processes.

The federal budget process reforms in recent years have been focused exclusively on spending cuts and budget balance. The federal case makes it clear that the budget process changes—sometimes slowly—in response to the problem at hand. But it also suggests the impact of divided and highly partisan government.

Changes in Budget Process at the State Level

While many of the same themes emerge at both the state and the national level, the distribution of power between the legislative and executive branches is a little different in the states. The same reform movement that brought executive budgeting to the federal government in the 1920s influenced the states first and went further there. In three states, New York, Maryland, and Illinois, the legislatures were disempowered (Maryland is the most extreme), leaving them still struggling for a meaningful formal role over eighty years later (for a description of Maryland's disempowerment of the legislature, see the minicase "Maryland's Legislative Budget Power," on page 120). The remaining states balked at implementing the reforms in such a strict way. In five states, Arizona, Colorado, New Mexico, Oklahoma, and Texas, the legislature develops the state budget independently of the governor.[14] Most states lie between the extremes of executive or legislative dominance: the governor may propose a budget, but the legislature may change the governor's budget or ignore it. Overall, governors have more authority over state budgets than the legislatures do.

History of State Budget Process

After an initial period of strong legislatures in the 1700s, state legislatures declined in public trust and responsibility. They tended not to be representative of voters, and they were often too big and overly responsive to interest group and constituency demands. These flaws sometimes led to structural characteristics imposed to limit their influence, including short sessions, constitutional constraints on what they could do, and early awards of line-item veto power to governors.

To compensate for legislative weakness, governors were strengthened in budget dealings with the legislature, but the executive branch, reflecting that same early distrust of state government, remained highly fragmented. Many key state officials were elected rather than appointed by governors, so these officials had their own power bases and were not under a governor's control. Governors and their lieutenant governors might be rivals rather than teammates, and the elected controller might be out to blame the governor for budget problems. Legislatures also tended to create many independent commissions. Departments were often headed by commissions that appointed their own heads. Thus the governors' control, even when they gained the power to present an executive budget, was often very limited. In many states, the competing elected officials were gradually eliminated in favor of appointees loyal to the governors, and the governors instituted accounting controls over the departments. The governors and their budget staff would examine the requests coming from the departments, formulate a budget proposal, and pass that proposal along to the legislature for response. Often the governors were granted a veto over legislative changes to their budget proposals (for more on legislative budget power, see the minicase featuring Maryland below).

Forty-four states and Puerto Rico have given the governor line-item veto authority—the ability to eliminate any item in the budget that appears as a separate line.[15] Forty-one states and Puerto Rico have provisions allowing the governor to reject particular items in a piece of legislation, such as a sentence, a paragraph, or part of a sentence (known as an *item veto*). Of those forty-one, fifteen allow a veto of selected words, and four allow the veto to change the meaning of the words.[16] These veto powers are much more powerful than those of the president of the United States. Presidents have often expressed veto envy.

Although the governors generally dominate the state budget process, the capacity of state legislatures to review the governor's budget and question the assumptions underlying it has improved since the 1960s. In the 1960s, as a result of the Supreme Court's one-man, one-vote decision, the redrawing of electoral districts, and the election of more representative legislatures, state legislatures began to reform and prepare themselves for a more active policy role. The budget was a key focus of that increased capacity. Many legislatures increased the length of their sessions, changed from meeting every two years to every year, and added staff with expertise on fiscal and budgetary matters to advise them (see the minicase on South Carolina, below, for an example of a legislatively dominated budget process). These staff members do many of the same things for legislatures that the Congressional Budget Office does for Congress at the national level. They empower the legislature to question the assumptions in the executive budget and to formulate its own alternatives without jeopardizing budget balance.

In the standard model of executive budgeting, the governor's office gives budget advice to the agencies, then collects proposals from the agencies, cuts them

Minicase: Maryland's Legislative Budget Power

Maryland has gone the farthest in disempowering its legislature and empowering the governor with respect to the budget. Because of fear that the legislature would spend money irresponsibly, the legislature was permitted only to reduce, not increase, the governor's budget proposal. This restriction has been in place since 1916 and is embodied in the constitution, which makes it very difficult to change. There have been several recent legislative efforts to put before the voters a constitutional amendment to let the legislature add to the governor's budget, but they have been defeated. Unable to add to the governor's budget proposal, the legislature has worked out some other means of making its influence felt. These techniques have not always been efficient or accountable and sometimes have triggered counterresponses from the governor.

The legislature has used its limited powers to cut out some items the governor wanted, and the governor has retaliated by adding those items back in a supplemental appropriation. But to get legislative approval of that supplemental appropriation and to build support for other, unrelated policy initiatives, the governor added the pet projects that key legislators wished to include. As long as their projects for constituents can be obtained in this way, legislators may be content to leave the process as it is; that may be part of the reason why it has been so difficult to pass reform legislation. The negotiation of which items will be included in the supplemental tends to be a backroom affair, not open to the public.

Second, because the legislature cannot add to the governor's proposal, legislators often pass expensive programs with budget implications for future years instead. In the 1970s, the legislature passed a law requiring the payments of one program to match the costs of a second program, a law signed by the governor, but without funding. A court ruled that the governor could not be forced under the constitution to fund such a law. The legislature responded with a constitutional amendment to require the governor to fund programs that were legally passed. This provision was approved by the public and amended the constitution, providing a limited channel for the legislature to address needs not given high priority by the governor. When the direct budgetary path was blocked, the legislature chose the path of substantive legislation with budgetary implications. With the mandated expenditure approach, program decisions are divorced from budgetary implications, so legislators can pass more expensive programs than the state can afford.

Third, the legislature can add or expand programs if it can pass legislation establishing dedicated revenue specifically to pay for them. This ability leads to an excessive number of accounts and reduced flexibility. Revenue dedication means that revenue sources are tied to particular expenditures and can be spent for nothing else. When revenue is divided into many small pieces, each of which is necessarily connected to a particular program, there is insufficient flexibility in the budget to adapt to new situations.

The fourth adaptation is that the legislature has compensated for its relative powerlessness by micromanaging the agencies, a role that is inappropriate and inefficient.[2]

1. Roy T. Meyers and Thomas S. Pilkerton, "How Can Maryland's Budget Process Be Improved?" Maryland Institute for Policy Analysis and Research (MIPAR), University of Maryland, Baltimore County (UMBC), September 2003, http://userpages.umbc.edu/meyers/improveMD.pdf; also available at www.umbc.edu/mipar.
2. Roy Meyers's testimony to the House Appropriations Committee, Maryland General Assembly, March 9, 2004.

Minicase: South Carolina's Legislatively Dominated Budget Process

South Carolina is one of the few states that has a legislature-dominated budget process and still has a structure with many independently elected executive officials whom the governor does not control. Although the governor prepares a budget proposal and has a general veto and line-item veto power, he or she is still weak compared to the legislature. For one thing, the legislature has often overridden the governor's vetoes. Second, a joint legislative-executive budget and control board (created in 1950) controls much of budgeting and financial management, instead of the executive alone, as occurs in other states. The governor has only occasionally controlled a majority on the board, and so can thus present a budget, but cannot necessarily influence what happens to it after that.

The governor's budget powers are gradually growing—the governor received the authority to present a budget only in 1993. Governor Mark Sanford ran for a second term on a platform of reorganizing state government, to reduce the number of elected officials in the executive branch and eliminate the state Budget and Control Board. He was not able to do so. With Republican majorities in both houses of the legislature and a Republican governor, Nikki Haley, giving high priority to these reforms, there has been more willingness in the legislature to give the governor more power over the budget and its implementation. In 2011 and 2012, several major legislative proposals were put forward to eliminate the joint executive and legislative Budget and Control Board and give many of its

(Continued)

(Continued)

powers to the governor. However, the bills did not pass. South Carolina's budget process is changing, but not very quickly.

Sources: Luther F. Carter and Richard D. Young, "The Governor: Powers, Practices, Roles and the South Carolina Experience," South Carolina Governance Project,University of South Carolina, 2000, www.ipspr.sc.edu/ grs/SCCEP/Articles/governor.htm; Fred Barnes, "Mark Sanford vs. the Good Old Boy Party; Can South Carolina's Government Be Brought into the 21st Century?" *Weekly Standard*, August 6, 2007, www.weeklystandard.com/Content/Public/Articles/000/000/013/ 931dxyvm.asp?pg=2; Eric K. Ward, "House Axes Budget and Control Board in New Restructuring Plan," May 3, 2012, The Nerve Center, thenerve.org; Eric K. Ward, "Politics Threatens to Derail Restructuring," The Nerve Center, April 25, 2012, thenerve.org; Deanna Adcox, "S.C. Senators Approve Restructuring Bill," *Post and Courier*, February 17, 2012, *www.postandcourier.com/article/20120216/PC1603/302169998*; Seanna Adcox, "House: Haley Shares in Blame for Bill's Demise," *The Charlotte Observer*, July 7, 2012, www.charlotteobserver.com/2012/07/07/3368412/house-haley-shares-in-blame-for.html.

back, and forwards the whole budget proposal to the legislature for its consideration. In that model, the governor's policies form the framework for consideration of the budget. Most of the states have some form of executive budget, but most of them do not actually carry out the budget process in the way prescribed by the model. In reality many state agencies submit their proposals to the legislature at the same time as, or before, they submit them to the governor's budget office. For example, in Florida, each agency submits its proposal directly to the legislature and to the governor. The governor (or his budget office) examines the requests and forwards his or her recommendations to the legislature. The legislature thus sees the agency requests before it receives the governor's recommendations. This submission process enhances the legislature's budget power. On the other hand, it may leave the legislature mired in details of agency operations because the executive budget office has not sifted through the requests before the legislative branch receives them.

In 1983 the legislatures in forty-one states received budget proposals from the agencies before the governor's office had put the budget proposal together. By 1988 that number had risen to forty-three, but by 1997 only thirty-two states reported that the legislature received the proposals from executive agencies before the governor prepared the proposal. In 1983 three state legislatures received agency budgets only through the governor; by 1997 eight did.[17] Thus there was more willingness on the part of the state legislatures to work with the

governor's proposal. Most legislatures have the right, and now the ability, to second-guess the governor's proposal if they want to. They may not feel the same need to do the budget themselves if they can exert influence over the executive's budget proposal or reject or amend parts of it.

In states where there was a strong executive budget and a weak legislature, the legislature has gained power in budgeting in recent years; in those states where the legislature was strong and the governor weak, the governor's position has been strengthened. The state of Florida offers an example in which power over budgeting has gone back and forth between the legislature and executive, favoring the executive in recent years (see the minicase on Florida below).

Throughout the 1970s and 1980s, the general direction of changes in budget processes in the country was clear: legislatures were becoming better organized, with more professional staff, and were taking a larger role in budgeting. That change led some to question whether governors overall were losing budgetary power. For the present, however, it seems that gubernatorial dominance of budgeting is safe. It is difficult to change constitutional provisions; it is even difficult to pass reform legislation if it threatens the governor's powers because the governor has to sign the bill. The governors retain many important formal powers, such as very strong vetoes. Governors on average have not lost power with respect to the legislatures, but when government is divided—that is, when the legislature is controlled by one party and the executive branch by the other—legislators scrutinize the governor's budget proposal with an eye to policies with which they disagree. When the legislature and the governor are of the same party, they are likely to have a similar philosophy and similar policy goals, so legislators are more inclined to go along with the governor's proposals. One recent study argues that the governor gains more power from times of unity in government than he or she loses in times of divided government.[18] It is not so much that governors have lost power in recent years as that the legislatures have gained power. One way that legislatures can gain power without the governor's losing it is that each may care about a different area of the budget. Also, as the Florida case suggests, when the legislature cedes control to the executive over budget formulation, its role changes, increasing its power over budget implementation and program evaluation; as it gives up micromanagement of the executive through line-item budgetary controls, its scrutiny of agency plans and performance measures increases.

One fundamental difference between the state and the national level is that at the state level the budget process, or parts of it, is often embodied in the constitution, rather than in laws, making it especially rigid and difficult to change. This feature of some state budget processes has resulted in the growth of many

Minicase: The Executive and the Legislature in Florida's Budgeting

Changes in the balance of budgeting power between the legislature and the governor in Florida illustrate several themes. If governors and the legislature are of the same political party, the legislature is more likely to delegate budget power to the governor. When governors use that power to publicly threaten legislative district projects, legislators may protect those projects by making them less visible. And third, delegation of budget power to the governor may be accompanied by safeguards, so that the executive cannot ride roughshod over legislative prerogatives and policies.

Years ago, Florida's budget process was legislatively dominated. Governor Bob Graham, elected in 1978, expanded his role in budget preparation by implementing a program budget and creating an office of planning and budgeting in the executive office of the governor. Program budgets grant the agencies broader discretion over spending and give the governor more policy control. The legislature reacted negatively to the program budget format and the enhancement of executive budget-making power. In 1983 it began mandating the format and content of the budget in considerable detail and requiring the governor's staff and the legislative staff jointly to develop the budget instructions sent to the agencies. Most important, the new law directed the agencies to "submit their independent judgment of their needs to the legislature," so the governor could not change the agencies' requests before the legislature saw them. The legislature also strengthened its budgetary oversight role, extensively reviewing budget changes initiated by the executive during the year.[1] One observer summarized, "The balance of power in state budgeting in Florida is only slightly less legislatively controlled than in Texas, where a joint legislative council creates the budget."[2]

The governor's powers were strengthened vis-à-vis the legislature in recent years because the governor and majorities of both houses of the legislature have been of the same party (Republican). As a result, the legislature generally has been willing to go along with the governor's priorities, including his demands for more budgetary power. Nevertheless, it retained some budgetary power for itself, redefining its role.[3]

When Governor Jeb Bush was elected in 1998, he made it clear that he would not tolerate a system in which the legislature ignored the governor's budget proposals.[4] He insisted that all projects, including legislators' projects for their districts, go through appropriate review process in the agencies. In 1999 Bush declared that in the budget for 2000, "all items, including member projects, must fall within the statewide budget policy priorities as set by the agencies. And they must be within the established spending limits for the agencies and programs affected. Furthermore, member projects may only be funded with non-recurring dollars and those projects will be evaluated for their effectiveness in the next budget cycle."[5] If legislators added projects to the agencies' requests later in the legislative process, the governor vetoed them. Governor Bush vetoed many more projects in legislators' districts than had his predecessors, using the item veto against Republicans as well as Democrats.[6] He threatened to veto any appropriations that did not contain the projects or programs he supported.

Legislators protested the 550 vetoes of Bush's first year and then responded with various strategies to make the items they put in the budget less visible as a way to avoid the governor's veto pen.[7] In 1999 and 2000, Bush vetoed about $313 million in legislative projects; in 2001, the figure was $290 million. Then in 2002 the amount dropped to $107 million, and in 2003 to a mere $33 million. It is not clear if legislators were hiding their projects better, were more selective in what they proposed so they passed gubernatorial muster, or the governor was backing away from using the veto against his allies in the legislature. Interestingly, however, in 2004 the governor returned to using the veto heavily, vetoing $349 million in legislative projects.[8]

In 2000 the Jeb Bush administration proposed a number of modifications to the budgeting system, which the legislature approved. Some of the changes were similar to those Graham sought earlier without success, such as a performance orientation embedded in a program budget. Along with the program budget, the legislature granted the executive branch more budget flexibility to move funds around. Most important, the legislature "removed the requirement that agencies submit preliminary Legislative Budget Requests, and thus limited opportunities for legislative intervention in framing departmental submissions."[9] With this provision, the governor could (finally) shape the agencies' budget requests.

At the same time that these reforms gave reality to executive budgeting in Florida, the legislature retained enough power to maintain its influence and some policy control. The new budget law increased the ability of agency heads to move money around from similar accounts, but only if in doing so they did not create any future obligations for spending or violate the intent and policy of the legislature. The new law required agencies to draw up plans and submit budgets that meshed with those plans, but it also required that the plans be submitted to the legislature for approval well in advance of the legislative session. The new law required agencies to come up with, and report on, performance measures but also to present those measures to the legislature for approval. By changing a few words in the older budget process law, the writers of the new law made sure that if key legislators felt that the governor was overstepping bounds, they could intervene to stop the offending spending. Furthermore, the reforms created the Legislative Budget Com-

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mission, consisting of fourteen members of both houses, including the chairs of the appropriations committees.

The Legislative Budget Commission is empowered to review agency spending plans and approve or disapprove of midyear changes to the approved budget. "In addition, the Chair and Vice Chair of the Commission, on behalf of the Legislature, may object to any agency action that exceeds the authority delegated to the executive or judicial branches, or is contrary to legislative policy and intent, regardless of whether that action is subject to legislative consultation or Commission approval."[10] Thus the legislature retained for itself the authority and capacity to make decisions, enforce its policy preferences, and question the governor's policy proposals should the need arise.[11]

Despite the much-enhanced budgeting powers of the governor and same-party domination of the executive and legislative branches, the legislature in Florida remains strong and somewhat independent of the governor. It maintains its own staff to make revenue projections based on monitoring the economy; it monitors budget implementation; it reviews programs; and it can and does reject some of the governor's policy proposals.

1. Gloria Grizzle, "Florida: Miles to Go and Promises to Keep," in *Governors, Legislators, and Budgets*, ed. Edward Clynch and Thomas P. Lauth (Westport, Conn.: Greenwood Press, 1991), 98ff.
2. Karen Stanford, personal communication, March 18, 1999.
3. See Robert B. Bradley, "Florida: Ebb and Flow in Executive Legislative Relations," in *Budgeting in the States: Institutions, Processes, and Politics*, ed. Ed Clynch and Tom Lauth (Westport, Conn.: Praeger, 2006), chap. 8.
4. Richard S. Conley and Richard K. Scher, "'I Did It My Way': Governor Jeb Bush and the Line Item Veto in Florida (with Apologies to Frank Sinatra)" (paper prepared for The Citadel Symposium on Southern Politics, Charleston, S.C., March 7–8, 2002).
5. Quoted in Fishkind and Associates, "Florida's New Budget Process," August 31, 1999 (Hank Fishkind, 90.7 FM,WMFE News), www.fishkind.com/radio/fnbspot.html.
6. Conley and Scher, "'I Did It MyWay.'"
7. Ibid.
8. Jackie Hallifax, "Bush Trims $349 Million out of State Budget," *Naples Daily News*, May 29, 2004.
9. R. B. Bradley, "Budgeting in Florida" (paper presented at the Association for Budgeting and Financial Management meetings, Chicago, October 7–9, 2004).
10. Legislative Budget Commission, statement of purpose, www.leg.state.fl.us/data/committees/joint/jlbc/LBCProcede.PDF.
11. Ibid.

informal rules that allow change and adaptation to occur. These informal rules may last a long time and they may differ considerably from the formal rules. By themselves, then, the formal rules may not be good indicators of process, and they may obscure the ongoing process of adaptation. The formal rules have to be viewed together with the set of informal rules they breed.

Changes in Budget Process at the Local Level

Budget processes at the local level are different from those at the state or national level. The differences affect not only budget processes in general, but also the direction and manner of budget process evolution. It is not only that local governments are much smaller, more numerous, and less partisan; they have a completely different structure. Most important, local governments are not independent but subordinate to the states. In many key ways they do not determine their own budget processes. As a result there is continuing tension between the states and their local governments on the degree of local autonomy over the budget process. There is some tension as well between the legislative and executive branches, but this manifests itself mostly in adoption and abandonment of council-manager and strong mayor forms of city government. While the former tension is constant and nearly universal, the latter occurs at intervals in some cities.

The states grant limited and often ambiguous autonomy to local governments through home rule laws or regulate the local governments directly through statutes, often called *municipal budget laws*. Although cities do not have constitutions, the state may grant them a charter that outlines what they may do and how they may do it. These charters typically include the form of government, including the powers of the mayor and council, and may embody detailed rules about the budget process. They can be changed in much the same way that constitutions can be changed, by a massive campaign and vote of the citizenry, and hence charter changes, while they do occur, are infrequent. Changes in the form of government also change the budget process, giving more budgetary power to the legislative body, to the mayor, or, in some instances, to a commission.

State Control over Local Budget Process

In the 1800s, states controlled the finances of cities through legislation. Sometimes legislatures passed laws specific to individual cities, and sometimes the laws applied to a whole class of cities. Mayors would negotiate with the legislature for exemptions from tax limits, or permission to borrow above a mandated limit, or permission to provide a particular service. Although there are still some remnants of the process of special legislation for each city, states gradually adopted a pattern of legislating for classes of cities or for all the cities and villages in the state. The local budgeting laws in many states are of this latter type.

States may control local budget process in greater or lesser detail. In some states, the laws specify nearly all aspects of the local budget process, including the forms on which budget requests are to be made, the accounts that may be used, the kind and amount of contingency funds, and the ability to transfer revenue between funds. In other states, the laws are less restrictive and may only require submission of a balanced budget, a public hearing, and an independent audit at the end of the fiscal year. State governments specify which taxes or fees local governments may use and they may limit the amount of revenue that local governments may collect or mandate the provision of particular services. The states may pass tax exemptions that apply to local governments, and they may or may not replace revenue that is lost in this way. When they limit taxation and mandate service levels, states may preempt local priorities, which is to say, local budgeting.

To the extent that states have mandated budget processes in the localities, several major questions arise. The first deals with persistence: Are the rules so rigid and long term that they prevent local governments from adapting to new situations? The second question deals with the neutrality of the rules, their orientation toward improved financial management or toward specific policy outcomes. The third deals with the extent to which states have encouraged or hindered democratic participation in the budget process or have overridden local priorities.

Persistence. States have generally responded to problems of the cities, but the statutes they have passed have tended to be rigid, often across-the-board, and enduring well past the time when the problems were resolved. Some states have provided a set of minimum standards for city budget processes, which cities can adjust and modernize; in other states, budget rules have locked cities into clumsy processes designed for another time and another set of problems. In the latter cases the result has been a need to continually finesse the state regulations or ask for exemptions or changes to a system that has become too complex, as one system of rules was laid over another.

Many states have included in their municipal budget laws a line-item approach to budget formats. At the time when it was coming into use in the early 1900s, line-item budgeting was a major reform and a considerable improvement over the way budgeting had been done. Before line-item budgeting, it was common to

budget by naming particular expenses and how much they cost. A municipal budget might include an item for the police stables that read, "Horses and stables, $50,000." The reader would have no idea of the number of horses, the size of the barn, the number of employees, the quality or quantity of the feed, or the health of the horses. There was no way to tell if this was a successful operation at reasonable cost. When line-items were introduced, the purpose was to put each component of expense on a single budget line, so it would be visible and comparable to the price of such items available elsewhere. The costs for a stable might be broken out into thirty pounds of feed at $30, five stable workers paid $5 a week each, and $10 for repairs to the roof. The idea was to make it known if the city was overpaying for supplies, personnel, or capital infrastructure.

The state budget laws typically required cities to include in the budget the expenditures in the last year or two, the current year's expected expenses, and the projection for the next year. The goal here was to make sure that the line items did not grow too quickly or without reasons. In the early 1900s, just after the major expansion of municipal programs in the Progressive Era (roughly 1895–1910) and the inflation caused by the expense of World War I, keeping costs down was a major consideration. State requirements for local budget processes were designed to deal with those cost increases.

The emphasis on cost controls became exaggerated during the Great Depression of the 1930s. State rules for local budget making often broke revenues into small, earmarked portions, with tax caps for each function. The idea was that savings from one function should not be used to increase spending somewhere else, and revenue that came in over expectations could not be spent without formal rebudgeting and approval. The rigidity of this model led many cities to put expenditures where there was money, transferring costs into funds that had unspent totals, because it was illegal to transfer revenues out of those funds. In other words, the system was so inflexible that it was often gamed. Where such rules still apply, cities still game them in the same fashion.

Out-of-date rules concerning municipal budgeting have persisted nearly unchanged in many states. An example from Arizona suggests how long some of the state requirements last and the effort it takes to budget efficiently despite the regulations:

> Maricopa County in Arizona, the county in which Phoenix is located, ran into fiscal difficulties, and in getting out of them, became aware of how outdated the state laws were that controlled local budgeting and finance. These outmoded regulations held back improvements. The state law was passed in 1912 when Arizona became a state. The county found it could not

legally pay bills by wire, even though that would help the cash flow, because warrants had to be approved individually by the board. Once the expenditures were determined for the year, that total could not be exceeded, even if more revenues were available during the year. And totals for departments could not legally be shifted around at the end of the year without declaring an emergency. The accounting system was required to be cash based. However, exceptions were granted on an individual basis. The result was that staff had to fight the system continuously to do a good job of budgeting and financial management.[19]

In 1997, the law in Arizona was changed to allow local councils to make transfers between funds if the money was available and the purpose appropriate, without declaring an emergency. State laws regulating local budgeting do change, but slowly and with much effort.

Lack of Neutrality. States tend to be vulnerable to interest groups and lobbyists. They have been periodically pressed by businesses and homeowners to lighten the burden of taxation. Some states responded to this pressure, especially during the Great Depression, by creating budget processes in cities that were biased toward reduction of property taxes and away from service delivery. Some states created constitutional constraints on local revenues or spending, and others modified their budget laws to reflect the demands of these organized interests. Some states remained focused on the quality of financial management and avoidance of fiscal distress in their cities, but others, responding to antitax groups, structured local budget processes to keep taxes down and to keep the scope of government narrow. They created boards and commissions that could override local priorities and budget requests so as to keep expenditures down. For example, Indiana's old budget process, established in the early 1920s, emphasized holding taxes down. To do that it empowered the State Board of Tax Commissioners to respond to citizen petitions. Any ten taxpayers could petition the tax commissioners on budgetary matters. The system was slanted to favor taxpayers who wanted lower taxes, even when the majority of residents in a community were willing to have higher taxes and more projects and services.[20]

During the Great Depression, when communities were in desperate need of more funds to help the impoverished citizenry, the state relented and allowed some increases in taxation.

The flexibility and responsiveness of the Indiana system may have helped keep the basic structure intact. After all these years, there is still a county board of tax adjustment; it still reviews local budgets and can reduce levies. However, of the seven members of the board, four are citizens, and three are officials of

the county, the largest city, and the school district, or their designees. That membership still gives citizens a majority but does give government representatives a voice on the board. The county councils can vote to eliminate the tax adjustment boards, and most have done so. Ten or more taxpayers can still raise a formal objection to the tax rates, tax levy, or budget, and the local government is bound to hear their petition and respond in writing. The request and the reply become part of a review by the state, which makes the final decision. Local officials can appeal the decision of the local boards to the state, which can increase the levy or tax rate if it wishes. Local officials can file an appeal to the state department of local government finance if they cannot operate within the statutory tax limits or have experienced substantial growth.[21] City officials must give their tentative budget to the county first, get county board nonbinding recommendations, make whatever changes they are going to make, and pass the budget, at which time it goes to the state level Department of Local Government Finance, which has final say over budget, tax rates, and tax levies.[22] Indiana's mandated budget process is exceptional in its bias toward lower taxes, but even the Indiana system has gradually accommodated to the needs of local governments and the preferences of local voters, in addition to responding to the desires of organized antitax groups.

Democratic Controls. Nearly all the states require some level of direct citizen input into the local government budget process. Requirements include public hearings, which are often specified in great detail in terms of when they must occur, their scope, who must be present, and how long before budget adoption they must occur. Such rules have been in place for many years and demonstrate a desire to foster and preserve democratic responsiveness at the local level. However, at least in part because of the states' vulnerability to interest groups, they have often mandated that local governments do certain things, such as increase police pensions or spending for public schools.[23] The states also sometimes tell the local governments that particular classes of taxpayers should get a particular tax break. When the states do not reimburse the local governments for costs they impose, the local governments are stuck: Either they have to cut back spending on some other service or project, or they have to increase revenue, often a difficult or even impossible task when the local governments are operating under state or local tax caps. Such unfunded mandates override local priorities. Unfunded mandates alter the budget process by telling the local governments in effect: Do this first; subtract the cost from your available revenues, and then you can use the rest according to your own priorities. If used extensively, such mandates can erode local democracy by narrowing the decisions local governments and their citizens are allowed to make.

Local government officials and the local citizens more broadly have been frustrated by unfunded state mandates. Citizens fear that their property taxes will go up to cover the new costs. When they have had the opportunity, opponents have put measures on the ballot to curtail unfunded mandates, sometimes resulting in constitutional amendments. In response to intense pressure, legislatures have sometimes passed measures to limit unfunded mandates and allow local governments to opt out of programs or avoid complying with rules if the state does not provide the funding. The effectiveness of such measures is questionable, however; it seems too easy for legislators to evade laws prohibiting unfunded mandates (see the minicase, "Florida and Unfunded Mandates," on page 133).

The experience of states with unfunded mandates legislation has varied. In Massachusetts, an unfunded mandates' provision was included in legislation sharply limiting property taxes. Under new, tight revenue constraints, local governments would be unable to absorb increases in spending mandated by the state, so a provision was included in a measure called "Proposition 2½" stating that if the state passed a mandate without fully funding it, then compliance with the mandate would be optional. To make the law workable, the state set up a local mandates office in the Office of the State Auditor, which would, on petition from a local jurisdiction affected by a mandate, investigate how much that mandate would cost. The local government could use the local mandates office's assessment as evidence in its petition to be exempted from the law. The office would try to figure out the aggregate costs and advise the legislature how to proceed and whether to fund the mandate for all jurisdictions. The law was passed in 1980, and since then the local mandates office has several times declared that the legislature had indeed passed an unfunded mandate and recommended funding from the state. Despite the law and occasionally successful challenges to the legislature, local governments in Massachusetts are still burdened by unfunded mandates. First, the expensive mandates that preceded the 1980 law are not affected and remain in place. Second, the legislature has found a way of getting around the prohibition.

> For example, Lexington and Newton prevailed in an unfunded-mandate lawsuit against the state, successfully defeating a statutory amendment that expanded the local obligation to provide private school transportation. The state responded, however, by passing a second statute conditioning all state reimbursements for pre-1981 mandates on local acceptance of the challenged amendment. When the new statute was challenged by the same municipalities, the Supreme Judicial Court found that there was no violation of the prohibition. The court explained that there is . . . nothing to prevent the Legislature from forcing the acceptance of [the private school transportation amendment] upon reluctant cities and towns by providing benefits it has no obligation to provide.[24]

Minicase: Florida and Unfunded Mandates

In 1990 Florida citizens approved a highly popular constitutional amendment to prevent the state government from mandating expenditures by, or reducing revenues of, the local governments. There were three exceptions: (1) if the legislature stated that the public interest required the legislation, (2) if the mandate were necessary to fulfill a law or a requirement of the federal government, or (3) if the cost were negligible. To enact a mandate that didn't fit into one of these exemptions would require a two-thirds vote of both houses of the legislature. Otherwise the local governments were free to ignore the mandate.

The legislature nevertheless continued to pass mandates, many of them unfunded. The legislature could grant a tax break to some particular group, and as long as the tax break was passed by two-thirds of each house the resulting reduction in revenue at the local level was legal under the constitution. There were also a number of mandates whose individual financial impact was less than the minimum, but which became expensive when added up. Nonrecurring losses, such as those due to tax holidays, were also legal under the constitutional ban on unfunded mandates. Anything to do with criminal justice was automatically exempted, so that legislation directing local police to arrest people for graffiti, for example, did not come under the limits of the law. Equally important, because the legislature did not stop trying to pass unfunded mandates, the cities and counties had to fight back after a law was passed that imposed large burdens on them.

The constitutional provision has been useful in that when the counties took the state to court over legislation shifting responsibility for juvenile justice to them, the court agreed that the shift was an unfunded mandate and illegal under the constitution. However, using the constitutional provision effectively has been an uphill battle for local officials. One official in a Florida county explained,

> Cost shifting and unfunded mandates mean that the state of Florida says that you will pay for a program. Whether it's something we like or don't like, they tell us we have to pay for it. Now we have a constitutional amendment that says that they can't do that without a two-thirds vote in the [Florida] Legislature. Sometimes, we've been successful because they didn't get the two-thirds vote, but they also have this loophole about health, safety and welfare. So, they put something in the legislation about health, safety or welfare—then they can do it without the two-thirds vote. . . .[1]

1. Douglas C. Lyons (interviewer), "Face to Face: A Conversation with Karen Marcus," *South Florida Sun-Sentinel*, October 29, 2004, www.sun-sentinel .com/news/opinion/sfl-facekarenmarcus,0,1790581.story?coll=sfla-opinion-utility. The *Sun Sentinel* keeps older articles in its archives, http://pqasb.pqarchiver .com/sun_sentinel/search.html.

States sometimes promise and then fail to pay for mandates, especially when the states are experiencing fiscal stress. Even when a state does pay for its mandates, the results may still distort local decision making. In Massachusetts, the professional development mandate passed by the state requires all schools to establish a training program for education-related employees within the public school system. The funding for the program comes from the local school budget; it can be supplemented by grants from the state, but those grants are conditioned on the locality's maintaining the level of public school spending of the prior year. Any municipality that reduces funding for public education from the previous fiscal year becomes ineligible for state funds for professional development.[25] The result is strong pressure to maintain school funding even if some other pressing need presents itself.

In short, the states have had considerable influence on the budget process at the local level, but that influence has sometimes resulted in rigid, biased, and undemocratic outcomes. Overall, these negative consequences have abated in recent years, but unfunded mandates from the state are still a burdensome problem for local governments and are a bone of contention between the states and local governments, even when laws and constitutional amendments forbid them.

Forms of Government

Within the limits of state laws, cities have chosen different legal forms, which entail particular budget roles and processes. In the early days of municipal budgeting, after the Civil War, many cities adopted boards of estimate; later, in the early 1900s, there was a major move toward executive budgeting, concentrating power in the hands of the chief executive. Throughout the 1900s, at intervals, a number of cities, perhaps especially middle-sized ones, adopted the council-manager form of budgeting. Although many cities have adopted one of these forms and stuck with it for decades, there has been some shifting among forms, and hence between budget processes, in individual cities. There has also been some informal adaptation within forms.

Municipal budgets originated as a spending control mechanism during the period of major spending growth after the Civil War. Early budgets were estimates of how much tax revenue would be required, based on detailed accounts of receipts and expenditures for preceding years. Officials submitted detailed requests. Typically, the head of the finance department, the controller, the auditor, or the mayor would receive and cut back these requests, or in smaller cities the departments would forward their requests directly to the council or its budget committee. To control nonapproved spending during the year, some cities adopted annual appropriations, fixing expenditures for the year.

The 1870s and 1880s were years of sharp economic and governmental contraction for most cities. Budgeting focused on keeping government small and inactive. Beginning in 1873 in New York City, a form of budgeting appeared in which budget estimates from the departments went to a board of estimate, variously composed, but generally consisting of the mayor, controller, president of the board of aldermen, and others. It is difficult to get a board of independently elected officials to agree to the same projects, and that slows down spending.

The extent to which the boards of estimates were viewed as a way of curtailing tax levies is underscored by a description of how the Board of Estimates actually worked in New York City. In the early days of the board, aldermen would add to the recommended amounts. From 1873 to 1888 they added on average about $500,000 annually. But they were constantly overruled by the Board of Estimates. Over time, the aldermen added less and less. "Responding to consistent pressure for economy in government, particularly from middle-class groups experiencing the brunt of taxation, the Board of Estimates ignored the proposed increases of the council and continued to reduce the level of public expenditures."[26] By 1898, the charter granted the council some formal budget authority, but only to decrease the estimates. If the mayor vetoed any reductions made by the council, a five-sixths majority was required to overturn. There was to be no reconsideration by the Board of Estimates after council action.[27]

From about 1895 to about 1920, the focus of budgeting shifted from keeping government small and unintrusive to combining activism with efficiency and accountability. The result was a major push for a single executive responsible for the budget—the so-called strong mayor form of government. Executive budget reform reflected the Progressive Era sense of government as a necessary counterbalance to business and a major provider of services, but at the same time it reflected the perceived need to control government and provide accountability. The single-executive reforms also reflected the notion of government moving on a plan, of change in an agreed on direction, rather than the random expenditures of a council and a pork-driven budget. At that time, under this form of government, councils were sometimes radically disempowered.

The council-manager form began to gain popularity after World War I. In the council-manager form of government, the council was reduced in size and elected at large to reduce the influence of neighborhoods, ethnic groups, and political machines. This new council was given more budgeting authority, but it operated by hiring a professional manager who was responsible, either directly or through an appointee, for collecting and sifting the budget requests from the departments before forwarding them to the council for approval. This council-manager form was intended to be less political and more management oriented