THE DISMAL LEDGER:
ENCOUNTERS BETWEEN PARLIAMENTARY PROCEDURE, DYSFUNCTION,
AND FORMULATION OF THE FEDERAL BUDGET

by
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Abstract
This thesis surveys parliamentary dysfunction in the United States Senate within the curation of the federal budget. Often, research surrounding the federal budget comes in quantitative methods, seeking measurable impacts on fiscal policy. Quantitative methods are used within this work to explore the role procedural interpretation, political economy, and intergovernmental lobbying has on parliamentary procedure in the United States Senate. This thesis finds that procedural misinterpretation, political economy, and intergovernmental lobbying does have an impact on the role the federal budget plays in parliamentary procedure in the Senate.

The federal budget reaches into nearly every aspect of American government, acting as a critical vehicle of the social contract. As such, the federal budget can act as a carrier of influence, lobbying, and dysfunction into all branches of government and the federalist system.

Thesis Reader: Douglas Harris

Thesis Reader: Jacob Straus
Debts

To the scholars and practitioners found within this work, this thesis is not possible without their hidden sacrifice and toil. The work cited within spans centuries— from Montesquieu’s insights on the nature of separation of powers to contemporary reflections on intergovernmental relations and the formulation of policy. Moments in their life were spared to produce these works. I may not know of the content of these lost moments, but I know the fruit of their work. It colors the world this thesis occupies.

To The Johns Hopkins University, an immutable institution to which I do not deserve to be associated with. I am forever grateful for their generosity of admission, the license to explore any idea, and the enormous expanse of resources available to me that I wrapped myself in while studying and writing as a student.

To the incredible professors and lecturers at The Johns Hopkins Government Program. Dr. Doug Harris helped to inspire this topic, Dr. Alexander Rosenthal challenged me, and Dr. Dorothea Wolfson made the final success of compilation possible. My professors along this journey, spanning courses outside of this thesis topic, provided me with a firm foundation on which to explore critical issues impacting government. I will take all of them with me wherever I go.

To my soul mate, Sarai. Your love, patience, and compassion change any environment you are in. Thankfully, it has changed me too. I keep you in mind every day, and I keep you in heart every moment. I see your support and generosity in every page of this thesis. I love you endlessly.
“I lament the deplorable Condition of my Country, which seems to be under such a Fatality that the People can agree upon nothing. When they seem to agree, they are so unsteady, that it is but for a Moment.”

- John Adams to Benjamin Rush, 18 April 1790 -

To John Adams.

The effort continues in our moment.
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Introduction

As unceremonious as it may be, the curation of the federal budget is perhaps the most important effort undertaken by lawmakers. Its contents not only provide substance to the Constitutionally prescribed roles of institutions in our government, but the federal budget is also the epicenter of our social contract, philosophical traditions, and political contraction. To explore the federal budget’s conception is to examine our constitutional system and our political ecosystem.

The American public largely holds a contemptuous view of budgetary matters.¹ The dense thicket of inaccessible taxonomy, overlapping agency jurisdictions, contradictory fiscal philosophies, and acrimonious political relations insulates the federal budget process from serious public meditation. What’s more, the impact of curating the federal budget on parliamentary procedure is even more estranged from the public’s attention- a political mechanism that has institutional consequences. The federal budget is a large enterprise that has an impact beyond the basic funding of government functions: The federal budget seeds expectations of government services, reflects what our government values, generates economic conditions and is the meeting point between political ambition and institutional purgatives. In effect, the federal budget is how the American people interact with the federal government.

The maintenance of the federal budget manifests itself in good stewardship of institutional mechanisms and political relations. Parliamentary procedure in the United States Senate rests on intrinsic properties endowed from the Constitution, compounded with normative expectations of good behavior and honest brokering. Parliamentary procedure is often the first victim of political combat. While not at the forefront of many voters’ minds, parliamentary procedure are the gears in which public policy aspirations turn. Procedure is just as important as politics.

This thesis examines the nexus between parliamentary procedure in the United States Senate and the formulation of the federal budget. Though parliamentary procedure surrounding the formulation of the federal budget has evolved since the inception of the Senate, the prevailing order established in The Congressional Budget and Impoundment Control Act of 1974 will be the point of departure. Offered as a solution to budgetary impairment caused by the expansion of federal government and the swelling of Executive Branch capacity, *The Congressional Budget and Impoundment Control Act of 1974* is the broad structure that facilitates the passage of the federal budget.

Institutional breakdown in the American system is largely assigned blame on the systemic anatomy of the institutions themselves, rather than the political actors that inhabit the institutions. This thesis defines parliamentary dysfunction and digs deeper than the indiscriminate brushstrokes that dominates contemporary political discourse. In all, the content found within the following chapters adulterates the conversation to the actual source of dysfunction in the American system: Political actors.
Congress operates on four forms of legislative measures: bills, joint resolutions, concurrent resolutions and resolutions of one house. A bill or joint resolution are used to pass laws, and concurrent resolutions or simple resolutions (resolution of one house) are used to regulate Congressional affairs, as Figure 1 demonstrates.\(^2\)

**Figure 1: Forms of Legislative Business**

<table>
<thead>
<tr>
<th>Form of Business</th>
<th>Designation (^a)</th>
<th>Origin</th>
<th>Deadline for Action (^b)</th>
<th>Requirements for Approval</th>
<th>Product or Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bill</td>
<td>S. H.R.</td>
<td>Introduced by Member of chamber</td>
<td>Final adjournment of a Congress</td>
<td>Both chambers and President</td>
<td>Law (statute)</td>
</tr>
<tr>
<td>Joint Resolution (except to amend Constitution)</td>
<td>S.J.Res. H.J.Res.</td>
<td>Submitted by Member of chamber</td>
<td>Final adjournment of a Congress</td>
<td>Both chambers and President</td>
<td>Law (statute)</td>
</tr>
<tr>
<td>Joint Resolution (to amend Constitution)</td>
<td>S.J.Res. H.J.Res.</td>
<td>Submitted by Member of chamber</td>
<td>Final adjournment of a Congress(^c)</td>
<td>Both chambers (by two-thirds’ vote)(^c)</td>
<td>Constitutional amendment</td>
</tr>
<tr>
<td>Concurrent Resolution</td>
<td>S.Con.Res. H.Con.Res.</td>
<td>Submitted by Member of chamber</td>
<td>Final adjournment of a Congress</td>
<td>Both chambers</td>
<td>Regulation of Congress as a whole</td>
</tr>
<tr>
<td>Resolution (&quot;simple resolution&quot;)</td>
<td>S.Res. H.Res.</td>
<td>Submitted by Member of chamber</td>
<td>Final adjournment of a Congress</td>
<td>Chamber of origin</td>
<td>Regulation of chamber of origin</td>
</tr>
</tbody>
</table>

**Source:** Congressional Research Service\(^3\)

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\(^2\) The Constitution also prescribes the United States Senate two additional characteristics to complete action on: nominations and treaties transmitted from the President.

Since 1974, congressional consideration and action on the federal budget is carried out through the formulation and passage of a concurrent resolution. The concurrent resolution on the budget establishes congressional priorities on fiscal policy and sets a framework for consideration of other budget-related measures. As Figure 1 demonstrates concurrent resolutions carry designations of S.Con.Res (origination of the Senate) and H.Con.Res (origination of the House). The budget resolution covers the pending budget year and four fiscal years subsequent. Overall spending levels established in the budget resolution that are transmitted to the relevant committees are enforced through points of order. Critically, the reconciliation process can be unlocked through the passage of a budget resolution.

In the event the House and Senate do not agree upon a budget resolution, and the Appropriations Committees receiving no allocation of spending, so-called “deeming resolutions” can act in a budget resolutions place. This alternative legislative tool “deems” enforceable budget levels for the pending fiscal year. While mechanisms like a deeming resolution have no formal definition, they can inform budget action though declaring budgetary levels and enforcement through points of order.

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5 Ibid., pp.15.
6 Hudiburg, pp.3.
7 Saturno, pp.15.
8 Saturno describes points of order as, “Points of order are prohibitions against certain types of legislation or congressional actions. These prohibitions are enforced when a Member raises a point of order against legislation that is alleged to violate these rules when it is considered by the House or Senate. Points of order are not self-enforcing. A point of order must be raised by a Member on the floor of the chamber before the presiding officer can rule on its application, and thus for its enforcement.” See: Saturno, James, *Points of Order in the Congressional Budget Process*. [Library of Congress public edition]. [Washington, D.C.]: Congressional Research Service, 2015.
10 Ibid., pp.7.
resolutions have been established via various legislative vehicles, though Congress has used simple resolutions to invoke them.\textsuperscript{11}

Regular appropriations acts consist of 12 annual measures that must be considered by the House and the Senate. These appropriation acts enact discretionary spending whose authorship redounds to the House and Senate Appropriations Committees. If the Congress does not complete passage of all 12 appropriation measures, the remaining unfinished measures are folded into an omnibus measure.\textsuperscript{12} Omnibus measures typically begin their utility near the later stages of the legislation process.\textsuperscript{13} Outstanding budgetary differences often induce the use of omnibus measures, which can be enacted in the form of a continuing resolution, making them a convenient vehicle for compromise.\textsuperscript{14} During FY1986-FY2016, 22 different omnibus measures covered 170 regular appropriations acts.\textsuperscript{15} Omnibus measures have been found to increase in usage during periods of gridlock and have been a productive vehicle for major enactments.\textsuperscript{16}

\begin{itemize}
\item \textsuperscript{11} Saturno, James, \textit{Introduction to the Federal Budget Process}. Pp.18.
\item \textsuperscript{14} Ibid., pp.13.
\end{itemize}
The Anatomy of the Congressional Budget and Impoundment Control Act of 1974

Fundamentally, congressional solvency within the budget process is enumerated within the Constitution, in Article I, Section 8. Formal coordination of the congressional budget process was nonexistent prior to the creation of the Congressional Budget Act of 1974. The Congressional Budget Act of 1974 remedied the largely informal spending and revenue measures by formulating a concurrent resolution, a measure that provided coherence to fiscal policy. Successful passage of a concurrent resolution does not require the signature of the President, and the concurrent resolution itself does not carry weight of law.

Section 300 of the Congressional Budget Act of 1974 establishes a timetable for Congress to respond to coordinate legislative activities. As prescribed, the budget process timetable begins the first Monday of February and concludes by the start of the fiscal year, October 1st. The President initiates the budgetary process by submitting the Executive budget proposal to Congress, prompting the Congressional Budget Office (CBO) to curate an economic and budget outlook report to Budget Committees. Most

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17 “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . .” contours the role the congressional role played in the operation of the federal government. This legislative duty is at the center of the Constitution’s separation of powers prerogative. Executive power is checked by Congress control over the power of the purse and the federal courts have respected the Congressional sovereignty over this power by never forcing Congress to appropriate funds. See: Stith, Kate. "Appropriations Clause." National Constitution Center, accessed July 28, 2022, https://constitutioncenter.org/interactive-constitution/interpretation/article-i/clauses/756.
19 Ibid., pp.15.
21 Ibid., pp.1.
22 Ibid., pp.1.
consequential to the contents of the CBO report offered to Budget Committees is the estimation of the impact on revenue from the President’s budget proposal.\textsuperscript{23}

Informed of the budgetary impacts by the CBO, Congress is tasked with adopting a concurrent resolution by April 15\textsuperscript{24} to set forth a budgetary framework that informs budgetary legislation. Congress rarely honors the prescribed April 15\textsuperscript{th} deadline.\textsuperscript{25} The contents of the budget resolution, which conventionally spanned four concurrent fiscal years,\textsuperscript{26} finds its guidance in Section 301(a) of the Congressional Budget Act. According to Section 301(a), the budget resolution must:

1. Set aggregate levels of budget authority, outlays, surplus or deficit, and the level of public debt.
2. Set aggregate levels of federal revenues, and the amount federal revenues can be augmented through legislative action;
3. Set new budget authority and amounts for every budget category; and
4. Set off-budget Social Security revenues and outlays.

The significance of setting this fiscal context in the aggregate allows committees to exercise jurisdiction over major federal programs.\textsuperscript{27}

\textsuperscript{23}Saturno, pp.10.
\textsuperscript{26}Saturno, pp. 15.
\textsuperscript{27}Saturno, pp. 15.
Figure 2: Early Stages of Annual Congressional Budget Formulation:

- **Mon Feb:** President Submits budget
- **Feb 15th:** CBO submits budget outlook report to budget committees
- **April 1st:** Senate Budget Committee reports budget resolution
- **April 15th:** Action on budget resolution completed

Figure 2 captures the steady progression of the formulation of the federal budget. The most significant action of the Congressional Budget Act timetable is within the first six weeks of its initiation in February. This critical early stage of the budget process defines the appropriations to come, and possible budgetary revisions that could impact revenues and outlays.

Congress may elect to grant itself the option to revise spending, revenue and debt levels through future legislative action by accessing Section 310 authority in the Congressional Budget Act. This process, commonly and formally known as reconciliation, ‘reconciles’ the discrepancy between existing law and shifting fiscal

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28 Final budgetary actions conclude with House Appropriations Committee reporting last regular appropriations bills by June 10th and House action on appropriation bills and reconciliation by June 30th.
priorities. Committees are instructed to develop and report changes in outlays for a full vote. Critically, if a reconciliation directive is not responded to in the time prescribed in the budget resolution, the reconciliation bill does not lose its status.

While revisions to the Budget Control Act of 1974 have ranged from marginal to strictly procedural, the most significant reform came in 2011. The Budget Control Act of 2011 provided three critical amendments to the annual budget process:

1. Established legal limits on discretionary and nondiscretionary spending for FY2012-FY2021;
2. Imposed required reductions in discretionary spending if deficit reduction agreement produced by a Budget Control Act committee is not adopted; and
3. Imposed automatic annual reductions in mandatory spending if deficit reduction agreement is not adopted.

Congress is incentivized to adhere to the budgetary limits established through law by the threat of sequestration. Enforcement of statutory budget requirements, with the threat of mass reductions to nonexempt programs, is designed to compel members of congress to compromise on budgetary matters and honor established budgetary procedure. The Budget Control Act of 2011 sought the return of the 1990s fiscal orthodox of decreased

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31 Ibid., pp.4.
32 Ibid., pp.4-5.
spending, rising government revenues, and a growing economy.\textsuperscript{35} This period of the 1990s saw the reduction of federal deficits and the register of a budget surplus to end the decade.\textsuperscript{36}

Deficit reduction through equal mandatory cuts in defense and nondefense budget authority, otherwise known as the “parity principle,” had its conceptual origins in the \textit{Balanced Budget and Emergency Deficit Control Act of 1985}.\textsuperscript{37} Through caps on discretionary spending and combating improper program benefit payments, the \textit{Budget Control Act of 2011} was designed to reduce the federal deficit by $1.2 trillion to $1.5 trillion over FY2012-FY2021.\textsuperscript{38} Real spending did decline over FY2012-FY2019 as a result of the provisions installed in the \textit{Budget Control Act of 2011}, but real outlays were higher than average during this period.\textsuperscript{39}

The recent expiration of spending caps in the \textit{Budget Control Act of 2011} has run concurrently with massive outlay increases (31.2\% of GDP in FY2020 from 20.7\% in FY2019) as a consequence of the COVID-19 response.\textsuperscript{40} Congress has not addressed the expiration of discretionary spending limits that existed through the \textit{Budget Control Act of 2011}, which would be established through legislation.

\textit{The Dismal Ledger}

\textsuperscript{35} Ibid., pp. 12.  
\textsuperscript{36} Ibid., pp. 12.  
\textsuperscript{40} Ibid., pp.4.
This thesis will move the academic conversation to a more substantive approach, offering substantive answers. The failure to complete the federal budget process within the prescribed timelines has been a measure institutional failure for some, but the blame is poorly assigned. Enough time has passed, along with electoral cycles, to capture some of the profound impacts that politics has on the budgetary process. The constraints of institutionally prescribed procedure have been so effective that lawmakers work within the support and framework of their respective parties, impairing the value of procedural innovations like The Congressional Budget and Impoundment Control Act of 1974.

Fundamental questions are raised within this thesis: Power, accountability, delegation, and the public interest. As this thesis shows, throughout time, curation of the federal budget was impacted not only by these core concepts but the contemporary political influences that stimulated these concepts. The 1970s brought forward a public concentration on the role of taxes and fairness in a hostile economic environment, the 1980s saw a new wave of federalism that promised a more competent form of government relations, the 1990s exploded with political acrimony and the 2000s struggled to provide meaning to the decades that preceded it.

In the three succeeding chapters, the scholars found within are well situated to share the burden of these dynamics, though some frameworks are troubled by some manifestations within the data. While valuable, the frameworks are often outdated, too dependent on procedural legitimacy, and presumptuous of intentions. A successful reform of the budget process must harbor earnest faculties motivated by an expansive trust in the layered dynamics negatively impacting the United States Senate.
The first chapter, *A Path Forward*, focuses on the inception and evolution of the reconciliation process. Once considered a viable mechanism to reduce federal deficits, reconciliation became a tool for lawmakers to wield in pursuit of their own policies, regardless of original intent. The reconciliation process prescribed in The Congressional Budget and Impoundment Control Act of 1974 was left without legislative guardians and used as a product of parliamentary dysfunction.

This chapter uses case studies to explore the impact of the reconciliation process on parliamentary procedure in the United States Senate. *Omnibus Reconciliation Act of 1981* and the *Personal Responsibility and Work Opportunity Act of 1996* are examined to measure the impact of reconciliation on the federal budget process. Noting that the formulation of these bills was propelled party leadership and Executive deference in pursuit of creating new political orthodoxies, the quantitative results show that reconciliation has changed how the federal budget is formulated.

Though occurring at different points in political time, the *Omnibus Reconciliation Act of 1981* and the *Personal Responsibility and Work Opportunity Act of 1996* are useful case studies to show a Congressional turn away from the sanctity of parliamentary process toward a refuge to party politics as an answer to constraints. The ambiguity of The Congressional Budget and Impoundment Control Act of 1974, authored by lawmakers who would eventually operate its mechanisms, allowed parties to become the drivers of institutional mechanisms.

The second chapter, *The Political Economy of Tomorrow*, focuses on the fiscal and political ideas that members of the Senate bring to the formulation of the budget process. The inspiration for the underlying political economies changed with the
economic circumstances which preceded their orthodoxy, and the political momentum that swept them into the United States Senate was potent. Economic and fiscal agreements between American society and the federal government were breaking down, and political partisans reached into the public's discontent to attempt to force systemic changes.

This chapter also employs case studies to show that lawmakers' political economy has an impact on parliamentary procedure in the United States Senate. The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985 and the Balanced Budget Act of 1997 are explored in a qualitative method to measure the impact of deficit spending on the federal budget. The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985 and the Balanced Budget Act of 1997 represent two attempts to overturn the inherited fiscal paradigm, rent with ambitious political projects at reimagining the federal government. Intensified partisan dynamics, compounded with macroeconomic trends, rendered these projects largely as failures.

Identifying the political economy of deficit spending as a method of measuring parliamentary dysfunction is useful in examining simple fiscal vehicles as a totem for easy political answers. Reducing deficit spending was largely a consensus position within the political ecosystem, and still is to this day, but deficit spending has been the result of major policy pushes by both Republicans and Democrats, though for differing purposes.

The third and final chapter, The Public Weal, explores the impact of intergovernmental lobbying on the formulation of the federal budget. Often an overlooked and understated aspect of federal activity, intergovernmental lobbying is a fundamental relationship of the American project that is prescribed within its federalist
nature. Though state budgets are also impacted by the fiscal role the federal government plays, the federal budget, and the parliamentary process that enables the federal budget, shoulders the burden of constitutional constraints at the state level.

The third chapter also employs the use of two case studies, CARES Act and the American Rescue Plan, motivated by a qualitative methodology to inform the academic conversation surrounding parliamentary dysfunction. Data from the National Governors Association is used to show how potent lobbying efforts are between the Senate and the organized interest group, often leading to successful fiscal outcomes for the states themselves. As a consequence, the federal budget absorbs much of the fiscal ambitions of the states, regardless of party affiliation. The parliamentary procedure enabling the formulation of the federal budget has to account for unexpected inputs, becoming a load-bearing mechanism.

Intergovernmental lobbying is a powerful channel of influence on the federal budget. Voters often do not consider the role their vote for local officials plays as a pathway to the curation of the federal budget, but it remains a dominant specter of unexpected parliamentary outcomes. A feedback loop exists from state fiscal constitutions and the capacity of the federal government.

This thesis takes a Hamiltonian approach to the role of the federal government. Uncertainty helped to inspire the federal government's imaginative capacity, and the same issue prevails to this day. As Hamilton noted in Federalist 23:

These powers ought to exist without limitation, BECAUSE IT IS IMPOSSIBLE TO FORESEE OR DEFINE THE EXTENT AND VARIETY OF NATIONAL EXIGENCIES, OR THE CORRESPONDENT EXTENT AND VARIETY OF THE MEANS WHICH MAY BE NECESSARY TO SATISFY THEM. The
circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils which are appointed to preside over the common defense.\textsuperscript{41}

Though not popular in contemporary political rhetoric, the actions of lawmakers from both parties affirm the capacity of the federal government. Grand political ambitions to use the federal budget to correct market failures, reduce the size of the federal government, or delegate authority must first have its virtue paid in a federal government endowed with the capacity to carry out such actions. The federal government is an indispensable function of the American political project, and its design is compelled to draw on the needs of the people while, “that government ought to be clothed with all the powers requisite to complete execution of its trust.”\textsuperscript{42}

Finally, this thesis employs a policy-evaluative approach to how the curation of the federal budget impacts parliamentary procedure in the United States Senate. Answers to policy failures seek to find themselves within the warmth of a prescriptive line in a functional mechanism, but the political ecosystem often fails the institutions that it inhabits. Theories are evaluated and lessons are learned.

The federal budget is the battleground of many core ideas of American government and the partisan paralysis that festers within its chambers. This thesis shows the evolution of this dynamic and how the partisan paralysis has continued to choke the parliamentary prerogative of the United States Senate. Expansion of the federal government has grown with the ambitions of its partisan inhabitants, and the federal


\textsuperscript{42} Ibid.
budget is the vehicle for this trend. The role of curating the federal budget and its impact on parliamentary procedure in the United States Senate is a fundamental and persistent issue of the American government.
A Path Forward: Reconciliation, Procedural Interpretation, and the Formulation of the Federal Budget

Introduction

The budget reconciliation process has been a majoritarian mechanism for Congress to alter the course of government programs, policies and procedures. Born of a power dispute between the Legislative Branch and the Executive Branch, budget reconciliation is a component of the Congressional Budget Act of 1974, a framework designed to recapture Congressional budgetary imperatives from Executive encroachment. The eternal Constitutional confrontation between the Legislative Branch and Executive Branch has placed considerable pressures on parliamentary procedures within the Senate, and this is the foreground in which the intellectual design of reconciliation takes place. The reconciliation process is not a cause of parliamentary dysfunction, rather it may be a product of it. Has the reconciliation process impacted budgetary operations since the enactment of the Congressional Budget Act of 1974? This work will attempt to examine the ways that budgetary reconciliation has altered the internal workings of Congress and the policies and programs that Congress maintains.

Budgetary reconciliation is perhaps the most important process that the voting public is unfamiliar with. While the reach of budgetary reconciliation is limited by rules set forth in the Congressional Budget Act of 1974 and subsequent agreements, the scope


of omnibus legislation has been considerable. Some of the most consequential legislative measures enacted since 1980 have been through the budget reconciliation process.\textsuperscript{45} Often used with the intention to close budget deficits, budget reconciliation has lived various lives and has changed throughout time. It has not been used without political controversy.

This thesis will explore how the budget process is not only a product of parliamentary dysfunction in the Senate, but a source of legislative breakdown in an age of increasing political polarization. The budget process is now the centerpiece of all legislative action in the Senate, a fertile continuum for the dispensing of folkways of the Senate. This chapter will focus on the budget reconciliation process and how this budgetary innovation will induce Senate procedure to innovate away from Article 1 guidance. Political polarization, an asymmetric balance of power in favor of the Executive Branch and broken folkways have made legislative action in the Senate unproductive and has induced the Senate to accumulate as much power over the committee process as possible. This thesis will contribute to existing literature by identifying the ways in which institutional traditions in the Senate and political polarization has produced a budget process that is forcing the Senate to reform out of its own folkways, despite rhetorical claims of preserving Senate traditions.

This chapter will first establish itself in the literature surrounding how budget reconciliation came to be and its impact on Senate operations. The methodology section

will describe how and why the three variables chosen are important to understanding the
dynamics of budget reconciliation. Following the methodology section, the two case
studies explored, the *Omnibus Reconciliation Act of 1981* and the *Personal Responsibility
and Work Opportunity Act of 1996*, will provide sufficient substance to how budget
reconciliation has evolved through time. Finally, the conclusion will show that budget
reconciliation has become an important majoritarian tool for legislative passage.
Literature Review: Processes and Consequence of Budget Reconciliation

The dangers of concentrated power in a central figure were widely experienced throughout Europe for centuries.\textsuperscript{46} Critical for maintaining a stay against the abuse of power was the “arrangement of things”\textsuperscript{47} in government that would distribute power through the three components of government: judicial, legislative, and executive. The distribution of powers between all three branches of government (most critically in the legislative and executive branches) would serve as a check on the encroachments of overreach and the growth of despotism.

The failure to empower the executive branch from “restraining the encroachments of the legislative body” would result in a despotic regime controlled by the legislature.\textsuperscript{48} The psychology and representative nature of the legislative branch allow for this possibility.\textsuperscript{49} Legislative interest in the power of the executive, other than the commission of its basic constitutional obligations to present laws, is “examining in what manner its law has been executed.”\textsuperscript{50} The executive branch can formally check legislative power.

\textsuperscript{46} England in the era of Montesquieu possessed characteristics peculiar to existing regimes in Europe. Despite the establishment of a monarchy, the English constitution was purposeful in its orientation for political liberty. The establishment of political liberty is set forth though the distribution of three powers. This prevents the abuse of power. See Montesquieu, Charles de Secondat, \textit{The Spirit of Laws}. Edinburgh: Printed by T. Ruddiman, 1793. Chapter XII.1.


\textsuperscript{48} Montesquieu, XI.6.

\textsuperscript{49} In Federalist No.71, Hamilton frames this dynamic: “The representatives of the people, in a popular assembly, seem sometimes to fancy that they are the people themselves, and betray strong symptoms of impatience and disgust at the least sign of opposition from any other quarter; as if the exercise of its rights, by either the executive or judiciary, were a breach of their privilege and an outrage to their dignity. They often appear disposed to exert an imperious control over the other departments; and as they commonly have the people on their side, they always act with such momentum as to make it very difficult for the other members of the government to maintain the balance of the Constitution.” See Hamilton, Alexander. 1788. Federalist No.71.

\textsuperscript{50} Montesquieu, XI.6.
through its employment of the conditional veto, and the legislative branch establishes the public business through the passage of laws.

Beyond the formal exercise of separate powers, Montesquieu describes how every government is imbued with a “nature” and a “principle.” The nature of government, or its institutional arrangement, defines a government’s structure. The principle of government is defined by passions. A republican form of government can only be durable if political virtue operates as the principal passion. What’s more, the customs and manners of a state are important to the clear and earnest pursuit of laws. Established customs and manners have a resemblance to laws, which emanate from a “general spirit,” and the upturning of these customs and manners is dangerous to institutions. Any legislative action that would force a change in customs and manners by a legislator would constitute the introduction of tyranny. Laws are instituted to “regulate the actions of the subject,” whereas manners “regulate the actions of the man.”

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51 Montesquieu, III.
52 Hamilton notes the importance of political virtue and the establishment of institutional restraints in Federalist No. 75: “But a man raised from the station of a private citizen to the rank of chief magistrate, possessed of a moderate or slender fortune, and looking forward to a period not very remote when he may probably be obliged to return to the station from which he was taken, might sometimes be under temptations to sacrifice his duty to his interest, which it would require superlative virtue to withstand. An avaricious man might be tempted to betray the interests of the state to the acquisition of wealth” and in Federalist No. 78: “There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.”
53 Montesquieu, XIX.12.
54 Montesquieu, XIX.12.
55 Montesquieu, XIX.14.
56 Montesquieu, XIX.16.
The institutional arrangement of the United States government maintains core Montesquieuian principles, but time and circumstance has shifted the gravitational power from the Legislative Branch to the Executive Branch. Critically, the 20th century proved to be a decisive era for the Executive Branch. Great political and economic upheavals like the Great Depression and consecutive world wars centered the Executive Branch into domestic policy making, displacing the initiative of Congress.\(^{57}\) This was not the early institutional arrangement between Congress and the White House.\(^{58}\) The diffuse manner of Congress, a bicameral body consisting of 535 individuals, is out maneuvered by the coordination of a unitary actor.\(^{59}\)

Shifting the prerogative of “policy innovation” to the Executive proved to be complimentary to the presidents’ resources. The establishment of institutions like the Executive Office of the President, White House staff, and private sector associations created a large pool of resources and capacity for the president to draw upon.\(^{60}\) Born in the Roosevelt administration, many of the institutional capacity employed by the president was made habitual by the remaining office holders of the 20th century. For example, the creation of the Bureau of the Budget was used to develop legislative ideas.\(^{61}\) The Bureau of the Budget, and its successor institution Office of Management and Budget, became the machinery for domestic agenda setting and policy innovation, with the accommodation of the Congress.\(^{62}\)

\(^{58}\) Ibid., p.189-90
\(^{59}\) Ibid., p.184.
\(^{60}\) Ibid., p.184.
\(^{61}\) Ibid., p.190.
\(^{62}\) Ibid., p.191.
As Constitutionally constructed, the Congress and White House operate as a principal-agent dynamic, roles that invite disputes and conflict. The principal-agent dynamic assumes an asymmetry between principal and agent, and this dynamic plays out in Constitutional systems. Presidents have refused to execute a law passed by Congress. During the Nixon administration, funds appropriated by Congress thought to be unnecessary by the president, were impounded by the White House. Congress would remedy this by creating the *1974 Congressional Budget and Impoundment Control Act*. Impoundment was not unusual in Nixon’s case, the Executive had been impounding Congressionally appropriate funds selectively since the Jefferson administration.

The power of the purse is and has remained the most potent power of the Congress. Congress not only appropriates funds to inaugurate, maintain or expand programs and agencies, but Congress has the authority to review these programs and agencies. If Congress is dissatisfied with the performance of a federal agency or program, the denial or reduction of appropriations could be levied. The White House has used its institutional capacity to set the domestic agenda through the federal budget process. Growing Executive control over the budget process induced Congress to create centralized budget measures of its own, like the congressional budget resolution, and inaugurate the Congressional Budget Office, a institutional balance against the Office of Management and Budget.

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63 Ibid., pp.192.  
64 Ibid., pp.195.  
65 Ibid., pp.195.  
66 Ibid., pp.197.  
67 Ibid., pp.200.  
By the early 1970s, congressional control over the budget was in question. The budgetary process had become so decentralized in Congress that a proper understanding of total budgetary spending was unknown to much of Congressional members.\textsuperscript{69} To impose order in an unorderly body, Congress formed the Joint Study Committee on Budget Control in 1972. This body would provide recommendations for Congress to enact that would impose control and order over the budget process. Reconciliation was born during this process.

Initially, reconciliation was not considered to be important to the new budget structure created by the committee’s recommendations,\textsuperscript{70} rather the goal of imposing a new budget process was to control deficit spending and to reclaim Congresses primary role in government spending. Reconciliation was not a featured component of the Budget Act debate. There is no mention of debate limitations on budget reconciliation within the Joint Study Committee’s final report.\textsuperscript{71} The limits on debate for budget reconciliation bills, so far as the record reflects, was entered into the Congressional conscience when Senator Byrd pronounced on the Senate floor that the House Rules Committee enacted a procedural change to limit debate in the Budget Act.\textsuperscript{72} New procedures set forth in the Budget Act were to ensure that spending packages were crafted in a timely manner and that existing parliamentary procedures were not to be disturbed.\textsuperscript{73}

\textsuperscript{69} Jacobi and VanDam, pp.292.  
\textsuperscript{70} Ibid., pp.294.  
\textsuperscript{71} Ibid., pp.296.  
\textsuperscript{72} Ibid., pp.296.  
\textsuperscript{73} Jacobi and VanDam, pp.296.
The anatomy of the reconciliation process is set out in the annual budget resolution passed by Congress. As Figure 1 shows, the budget resolution instructs all relevant House and Senate committees to construct proposals that accommodate mandated spending limits. Once the budget reconciliation legislation has been constructed, the legislation proceeds under expedited procedures. In the Senate, this means a 20-hour limit on debate, which exempts the legislation from the filibuster.

**Figure 1: The Stages of Budget Reconciliation Process**

Since it is unnecessary to invoke cloture for the passage of a reconciliation bill, other limitations outside of traditional Senate procedure apply. Content restrictions were placed on reconciliation bills through the application of the Byrd Rule. This rule

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75 Reynolds, 1069.

76 Reynolds, 1069.

precludes eligibility for any provisions that are not directly budget related. In addition, amendments cannot be added to a reconciliation bill that exceed the scope of what was instructed by committee. Offered amendments cannot increase the deficit beyond years that committees authorize and any increase in spending is to be offset. The logic of committees, as engines of the legislature, has been acknowledged in the budget reconciliation process by limiting Senators capacity to alter or change what they authorize.

Tonja Jacobi and Jeff VanDam contend that the implications of a debate limit on budget reconciliation bills was not entirely understood at conception. Senate lawmaking is an alchemy of normative expectations, procedural creativity and democratic discipline. But Senate tradition, especially in the form of deliberation, has an accommodative attitude in the Senate for the minority. The Senate passed through multiple budget cycles without meaningfully exploring the implications of budget reconciliation on spending. This is indication that reconciliation’s creators, believing reconciliation to be an enforcement mechanism with traits that favor timely action, did not anticipate the partisan appetite for majoritarian use. The Reagan administration used reconciliation to pass a large and far-reaching spending measure, opening up the use of reconciliation as an majority form of legislating. Overtime, budget reconciliation would be collectively understood as a majoritarian method of legislating, purposefully used to deflect the reach

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79 Saturno, 85.
80 Saturno, 85.
81 Jacobi and VanDam, 299.
of the filibuster. Since the new logic of reconciliation has been integrated into Congressional lawmaking, this budgetary process has been used to pass through partisan bills that would otherwise be subject to the filibuster.

The Senate is asserting its majoritarian ambitions. The U.S. Constitution does not set out guidelines for debate, nor prescribes requirements for supermajorities or even establishes a filibuster in the Senate. What veto exists over the passage of legislation by a simple majority through reconciliation resides in the judgment of the Senate Parliamentarian. Rulings on rules questions by the Parliamentarian are independent, but the Parliamentarian does serve at the pleasure of the majority. To Jacobi and VanDam, reconciliation is an expression of parliamentary dysfunction in the Senate, and at the core of that dysfunction is the continued use of the filibuster.

Molly Reynolds identifies the debate limits on reconciliation as a majoritarian exception. Majoritarian exceptions are implemented by statutory legislation that must be processed through regular order. Reynolds identifies two species of majoritarian exceptions: oversight and delegation. Congress may seek to force legislative review of presidential action that is immune from conventional debate rules. These exceptions can designate legislation that is immune from filibuster in the form of an approval resolution or disapproval resolution. This method can impose acute costs in return for collective

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82 Jacobi and VanDam, 315.
83 Jacobi and VanDam, 315.
84 Jacobi and VanDam, 336.
85 Jacobi and VanDam, 336.
87 Reynolds, 237.
88 Reynolds, 238.
89 Reynolds, 239.
benefits. This process has been extended to the budget process, but Congress has only intermittently completed budget resolutions since 2000.\textsuperscript{90}

Committees in Congress have historically been considered the engines of legislature.\textsuperscript{91} Lance LeLoup identified the Reagan administrations centralization of the budgetary process away from a variety of committees to the Budgetary Committee and White House.\textsuperscript{92} The first major partisan use of the reconciliation process for FY 1982 highlighted the confounding nature of reconciliations purpose. The Reagan administration sought to save $37 billion in outlays in FY 1982 and used reconciliation at the start of the budget process to mandate cuts across multiple spending programs.\textsuperscript{93} When committees received instructions on how to craft cuts to their spending priorities, the instructions themselves gave no room for committee discretion.\textsuperscript{94}

LeLoup recaps an important aspect of the reconciliation process: The centralization of legislative power into the hands of Congressional leadership and the White House. This concentration of budgetary authority in the partisan hands of a few runs counter to the purpose of reforming the budgetary process. Reagan sought an early policy victory in his first term and Republicans in Congress were eager to oblige him.\textsuperscript{95} Reagan achieved a significant majority of the cuts he was seeking in the budget

\textsuperscript{90} Reynolds, 240.
\textsuperscript{93} Leloup, 328.
\textsuperscript{94} Leloup, 329.
reconciliation bill, some 90% by LeLoup’s estimation, but economic forces changed
dynamics on the Hill. Economic conditions deteriorated and the deficit grew. To
counter the growing deficit, another goal of the reconciliation process, the Reagan
administration requested another $13 billion be cut from domestic spending. This offer
from the White House received significant pushback from Congress.

According to John Burke, Congress reasserted its budgetary prerogative when
offered an unacceptable offer from the Executive. Though rather than allow the relevant
committees to operate on their own designs, congressional leadership established their
control over the Budget Committee. Congressional assertion over the budgetary
process was taking place within a polarized Congress, with the House Budget Committee
Chairman Jim Jones (D-OK) claiming that “both political parties are in a state of
paralysis, and nothing even the semblance of consensus existed.” Maintaining the
power over the budget within congressional leadership could provide Congress
infrastructure to compete with the lone leader of the Executive Branch. Decentralization
throughout Congress within committees was an inefficient model prior to the significant
reorganization of the Executive Branch in the 20th century, and it is even more efficient
with the rise of political polarization. Congressional leadership was deferential to the
White House even when asserting its Constitutional prerogatives, but the muscle
memory existed for Congress to move away from the president. The budgetary

96 LeLoup, 326.
97 Burke, 721.
98 Burke, 721.
99 Burke, 721.
100 Burke, 722.
101 Burke, 722.
102 Burke, 721.
reconciliation process gave Congress leverage in the face of profound Executive Branch pressure.

Examining power dynamics between the Legislative Branch and the Executive Branch may seem somewhat estranged from the processes acute to budgetary reconciliation, but understanding these dynamics provides insight into why the budget process is so challenged. Serious political changes had been percolating within American political culture since the mid-20th century and the Reagan administration brought significant procedural designs into the Executive Branch.

The “New Federalism” that the Reagan administration sought to use to displace concentrated authority in the Federal government required enormous structural reach. Designs to abolish federal programs that provided significant block grants to state and city governments\textsuperscript{103} required a legislative process whose reach was vast and that could tolerate voting dissent. Omnibus legislation was a vehicle for such action. Justification for dissembling block grants were varied, but one such justification was that these programs were not valid functions of the Federal government.\textsuperscript{104} Such philosophical stricture contaminated any decentralized committee process and required legislative party leadership and Executive Branch heavy-handedness in implementing a program of decentralization. Budget reconciliation would be the vehicle to apply significant top-down pressure on a process that is too undefined to resist such approaches.


\textsuperscript{104} Caraley et al, 49.
The original intent of budget reconciliation was one of deficit reduction enforcement and timeliness, but the implementation of budget reconciliation proved that neglect was the general approach to budgetary reform. An absence of strategic understanding about how budget reconciliation would move Congress closer to its Constitutional purpose only replicated the problems that brought Congress to budget reform in the first instance. Exploring the disconnect between the original intent of budget reconciliation, through budget reform, and the way budget reconciliation is used today touches upon many variables.
Methodology

Identifying common characteristics in case studies, given this topic, will be the driving motivation behind the methodology of this chapter. Setting the political context of the *Omnibus Reconciliation Bill of 1981* and the *Personal Responsibility and Work Opportunity Act of 1996* will help to sort important variables that will help us determine the philosophical impetus behind budget reconciliation at two major moments of lawmaking. Seeking to understand if the budget reconciliation process has changed, or perhaps remained true to its early innovations, will help to reveal larger trends about the budget process.

We will examine three key components to the *Omnibus Reconciliation Bill of 1981* and the *Personal Responsibility and Work Opportunity Act of 1996*: The crafting of the packages experienced

- (V1). Deference paid to the White House by Senate party leadership; the reconciliation measures were
- (V2). Driven by Congressional party leadership; and the subsequent vote in the Senate was
- (V3). Definitively partisan. Measuring these variables will take mining particular Congressional models for Legislative Branch-Executive Branch interaction, exploration of party leadership dominated legislation and contrasting final passage party votes.

Setting definitions for these variables is important. Establishing how Congressional leadership controls the legislative process in the Senate and why this is
important not only provides important political context but also explains why Congressional overtures to the White House during this process is critical for the passage of budget reconciliation bills. Mid-20th century changes to Senate culture and rules precipitated significant change in Senate power dynamics. Sinclair notes that the exercise of the immense individual power that each Senator possess has historically been moderated by norms.105 The election of activist senators in the 1960s and 1970s, the concentration of political interest groups in Washington D.C., and the proliferation of media changed Senate incentives.106 Senators began to apply their privilege of extended debate and filibusters on an increased basis.107

The first variable, congressional deference to White House budgetary prerogatives, has important overlaps with the congressional leadership variable. Forming legislation outside of committee, in the hands of party leadership, has made Executive Branch influence more profound than what Article 1 provisions seemingly allowed for. Sinclair also notes that summits between congressional leadership and the White House performed an important negotiating vehicle for passing high-states legislation.108 Congress has historically allowed the White House to be dominate in their role of requesting funding for federal programs, and the involvement of congressional leadership helps to fill gaps in individual congressional interests and Executive Branch interests.109

106 Sinclair, 138.
107 Sinclair, 139.
108 Sinclair, 160.
109 In “Explaining Legislative Leadership Influence: Simple Collective Action or Conditional Explanations?” Christopher Z. Mooney posits that lawmaker’s failure to reach personal goals increase the influence of congressional leadership (p.562). There are multiple incentives that members of Congress respond to, including collective action variables, but the delegation of power can take place at the individual level to party leadership.
Legislative products require Executive Branch consent, but the preponderance of power that the Executive Branch has in policy outcomes incentivizes Congress to be compliant with White House budget requests.\textsuperscript{110} Examining this variable, Congressional deference to White House budget initiatives, will track how budget reconciliation bills accommodate parliamentary dysfunction.

The second variable, legislation driven by Congressional party leadership, establishes the evolution from regular order in the Senate. Committees lost their institutional coherence. Because of internal reforms and increasing partisanship, Congressional leadership became directly involved in the legislative process.\textsuperscript{111} Many committee-reported bills did not carry enough support to enjoy passage on the floor, and compromises between committee leaders is often too complex for the committees to overcome.\textsuperscript{112} Party leaders often filled this role that could not be executed by committee leaders. This is the framework that the party leadership variable will be understood.

The final variable, partisan voting, will simply be measured by the disparity in party voting for the \textit{Omnibus Reconciliation Bill of 1981} and the \textit{Personal Responsibility and Work Opportunity Act of 1996}. Each vote should take into account the variables of Congressional leadership and congressional deference to the White House.

\textsuperscript{110} The modern fiscal constitution places the President at the center of the budget process. Initiating the budget process provides the President with significant influence over how the budget is conceptualized. The expansion of the administrative state has also given the President a professionalized resource to access critical information about policy outcomes, the budgetary process, and revenue allocation, providing a significant advantage over Congress. See: Krishnakumar, Anita S. “Reconciliation and the Fiscal Constitution: The Anatomy of the 1995-96 Budget ‘Train Wreck.’” \textit{St. John's University School of Law}, 1998. 610.

\textsuperscript{111} Sinclair, 148.

\textsuperscript{112} Sinclair, 149.
The 1980 election brought a Republican majority in the United States Senate for the first time in 26 years. The “New Federalism” that characterized Reagan momentum in Congress expressed itself with expeditious legislative action and the expansion of power within administrative agencies. Claiming a broad mandate\(^{113}\), the Reagan administration began a blitz to shrink the size of government through the reconciliation process.

The success of the first 100 days of the Reagan administration was to be determined by robust and quick action on the federal budget. In November 1980, Representative David A. Stockman composed a memorandum for President-elect Reagan that proposed declaring an economic emergency.\(^{114}\) Imposing such a condition was hypothesized to induce Congress to take quick action on President Reagan’s broad budget agenda of cutting federal spending.\(^{115}\) Rather than declaring an economic emergency, other tools were born to compel Congress. Reagan’s economic advisors openly considered vetoing increases to the Federal debt limit if the budget package proposed was not approved.\(^{116}\) Reagan’s economic team drew strategic conclusions about Carter’s use

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\(^{115}\) Ibid.

\(^{116}\) Ibid.
of the reconciliation process in 1980 for broad budget cuts and the political benefits of
shielding legislators from votes on individual program cuts.

The sudden rush by the Reagan administration for significant budget cuts startled
many in Congress. The proposed declaration of an economic emergency was replaced
with a deep sense of urgency. Summer of 1981 brought significant urgency to the budget
process. Now director of the Office of Management and Budget, David Stockman
induced Congress to initiate the reconciliation process at the start of the budget process.
Representative Richard Bolling (D-MO), the chairman of the House Rules Committee,
claimed this tactic amounted to “totalitarian rule over Congress.”

Chairman Bolling claimed this all or nothing approach coupled with abusing spending targets would
centralize budgetary power in the Executive.

What resulted was the largest cuts in federal spending to that point in United
States history. The magnitude of the Omnibus Budget Reconciliation Act of 1981 was
directed at New Deal and Great Society programs that defined post-war society in the
United States. The reconciliation process amended nearly 300 authorizations, lowering

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outlays in 266 budget accounts.\textsuperscript{121} The budget action not only targeted hundreds of federal programs, but it consolidated grants for social programs into block grants, authorizing states to set spending priorities.\textsuperscript{122} Budget outlays were cut by $35.2 billion and federal budget authority was reduced by $53.2 billion.\textsuperscript{123} The \textit{Omnibus Budget Reconciliation Act of 1981} also shifted the reconciliation process from congressional committees to the floors of the House and Senate.\textsuperscript{124}

Reconciliation gave solvency to the \textit{Budget and Control Act of 1974}. The legitimate use of reconciliation would be a positive enforcement tool for budget action; if misused, reconciliation denies congressional committees input over spending cuts.\textsuperscript{125} So massive were the cuts and completed in such a condensed period of time that lawmakers who voted in favor of \textit{Omnibus Budget Reconciliation Act of 1981} did not understand the scope of the budget action, but that time would tell the its contents.\textsuperscript{126} Members of other committees were feeling a powershift toward the budget committees. Senator Bob Dole (R-KS), chairman of the Finance Committee commented, “I don’t want to be chairman of a subcommittee.”\textsuperscript{127}

\textbf{V1. Congressional Deference to the White House}

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\textsuperscript{121} Ellwood, pp.52.
\textsuperscript{123} Ellwood, pp.53.
\textsuperscript{126} Tolchin, 1981.
\end{flushright}
The 97th Congress was eager to accommodate Reagan’s plans. Committees in Congress were primary targets of ideological shift to carry out Reagan’s policy priorities. The Senate Budget Committee became the epicenter of conservative ambition. After redistributing conservatives to the Senate Budget Committee, procedural activity began through the budget process. The 25th Director of the Office of Management and Budget (OMB), David Stockman, and sympathetic members of Congress used the “elastic clause, to move reconciliation to the beginning of the budget process.” The Reagan administrations first budget product was the intellectual conception of OMB.

Within the first seven weeks of the Reagan administration, the White House sent Congress budget revisions for FY1982 and subsequent years, forcing Republicans in Congress to consider a multiyear tax-cutting plan. Within days of the White House request, the Senate passed a resolution with instructions for committees to target relevant budget cuts. Budget reconciliation savings were targeted at entitlements and discretionary programs. In all, congressional committees created legislation that would cut spending in some 250 federal programs. Despite House Democrats efforts to dilute

128 Tolchin, 1981.
130 David Stockman enjoyed a unique position throughout the Reagan administrations first legislative blitz. Stockman served in the House of Representatives from Michigan’s 4th District, providing a background of budget experience for the White House to draw on. His ascent to director of OMB showed intellectual foresight by the Reagan administration to use the budget process to reshape the course of federal government and implement Reagan’s New Federalism policies.
131 LeLoup and Hancock.
133 Hartman, 389.
134 Hartman, 389.
135 Hartman, 390.
White House efforts, the Administration’s plan was passed through Congress nearly whole.\textsuperscript{136}

\textit{V2. Involvement of Party Leadership}

The budget reconciliation process was not sensitive to orderly legislative enactment. The Senate Budget Committee was the shepherd for passage. Momentum behind the Reagan budget plan began during the transition between the Carter and Reagan administrations and given structural weight when Stockman was chosen as Budget director. Howard Baker, the new majority leader in the Senate, was an eager enforcer of Reagan’s legislative agenda. Most important to the prospects of a Reagan budget reconciliation bill was the ideological shift on the Senate Budget Committee. The ascension of Howard Baker in the Senate and the positive endorsement of the Reagan economic program by the public empowered an ideological shift on the Senate Budget Committee to the right.\textsuperscript{137}

Such a receptive audience in the Senate allowed Stockman to innovate with the Budget procedure. The Reagan budget revisions submitted in March 1981 contained a useful shift in the budget reconciliation process: Moving reconciliation to the start of the budget process.\textsuperscript{138} Stockman also advantaged precedent established during the Carter administration that allowed for cuts in a broad set of spending programs.\textsuperscript{139} During this entire process, Republican leadership in the Senate acted as a pathway for the Reagan

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\textsuperscript{136} LeLoup.
\textsuperscript{137} LeLoup and Hancock show that there was not public support for the Reagan administrations cuts to domestic programs after these programs had been cut. The public’s interest in change, expressed in the Reagan landslide victory and an unfamiliar Republican majority in the Senate, allowed the Reagan administration to claim a political mandate to enact their economic program.
\textsuperscript{138} LeLoup and Hancock, 33.
\textsuperscript{139} LeLoup and Hancock, 33.
\end{flushright}
administration. Movement on the most important committee in the Senate, the Budget committee, was facilitated by Republican leadership.

The result of these procedural innovations was the largest peacetime cut in domestic programs in United States history up to that point. Working with House Democrats on the budget reconciliation package was necessary for passage, and Republican party leaders were enthusiastic to support Reagan’s new economic agenda. This presidential agenda, sweeping and national in scope, placed significant pressure on Republican leaders in the Senate to comply with White House demands. Such significant legislation, packed in an omnibus bill, would not only achieve policy goals but would require significant party cohesion.

V3. Partisan Support for Passage

Creating such a substantial legislative package that touches on so many domestic spending programs not only required top-down party leadership, but a unified Republican caucus in the Senate and the House. Figure 2 demonstrates Republican support in the Senate for the *Omnibus Budget Reconciliation Act of 1981* was complete:

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Figure 2: Party Votes on the Omnibus Reconciliation Act of 1981 in US Senate (97th Congress):

<table>
<thead>
<tr>
<th></th>
<th>Republican</th>
<th>Democrats</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yea</td>
<td>52</td>
<td>28</td>
<td>80</td>
</tr>
<tr>
<td>Nay</td>
<td>0</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>No Vote</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: Congress and the Reagan Budgets: An Assessment\(^{141}\)

Republican support in the Senate was the bulk of momentum for the budget reconciliation bill. Ideological differentiation in the Democratic caucus was an opportunity for Republicans to increase their support to clear 2/3\(^{rd}\) majority in the Senate. The conservative boll weevils, Senate Democrats representing Southern states, fifteen in total, were unanimous in their support for the budget reconciliation bill.\(^{142}\) Conservative unanimity in the Senate propelled spending cuts forward.

\(^{141}\) LeLoup and Hancock.
A Contract with America: H.R.3734 Personal Responsibility and Work

Opportunity Reconciliation Act of 1996 (Public Law 104-193)

During his initial campaign for President in the early 1990s, William Clinton claimed that he would end the system of welfare that existed in the United States. By the mid-1990s, welfare reform had become the dominate issue in domestic politics. Framed in terms of moral decay, Congressional Republicans sought to use the budget process, especially budget reconciliation, to rewrite the fiscal constitution and restore American fiscal solvency.

The mid-1990s became a fever pitch of recycled budgetary threats and apocalyptic prognostications. Budget negotiations were losing their traction in early 1996 and some politicians and economic officials were claiming that failure to compromise would result in economic collapse.143 What’s more, Congressional Republicans were threatening to refuse to raise the legal debt limit on $4.9 trillion of national debt.144 In the year previous, Congressional Republicans capitalized on their election victory by opening public discussion about the future course of the federal budget. Public interest was intense: The first event in Ohio drew an overflow crowd of 850 people.145

Budget negotiations had been paralyzed for nine months entering 1996. Federal agencies had not yet submitted their budgets because of the stalled negotiations.146


The \textit{Personal Responsibility and Work Opportunity Reconciliation Act of 1996} was the transformational welfare reform that the Contact with America had set out to achieve. Provisions of the \textit{Personal Responsibility and Work Opportunity Reconciliation Act of 1996} reformed Aid to Families with Dependent Children (AFDC), Food Stamps, Supplemental Security Income (SSI), child support enforcement, and child nutrition.\footnote{Burke, Vee, Joe Richardson, Carmen Solomon-Fears, Karen Spar, and Joyce Viallet. 1996. “New Welfare Law: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996: 96-687.” \textit{Congressional Research Service: Report}, November 1. \url{https://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,shib&db=tsh&AN=18334494&site=ehost-live&scope=site.}} In all, this Act was designed to reduce federal spending by $54 billion over FY1997-FY2002.\footnote{Ibid. Some 44% of the savings generated from restricting federal benefit eligibility came from restrictions on noncitizens; 43% of savings were generated from revisions in Food Stamp law.} The eligibility criteria designed in the \textit{Personal Responsibility and Work Opportunity Reconciliation Act of 1996} was oriented on the basis of legal status. For instance, the Act restricted legal immigrants from Food Stamps unless they had served in the military, or they have been employed for 10 years.\footnote{Ibid., pp. CRS-3.}
aliens from nonfederally funded programs, unless explicitly allowed by state the respective legislatures.\textsuperscript{152}

The enactment of \textit{Personal Responsibility and Work Opportunity Reconciliation Act of 1996} also honored President Clinton’s claim to “end welfare as we know it.”\textsuperscript{153} Political rancor had become the prevailing challenge of the reconciliation process, keeping the 54 Republicans in the Senate fixated on maintaining unity.\textsuperscript{154} But the political benefits of a single vote on a mass reordering of federal programs was understood in this charged political environment.\textsuperscript{155}

The \textit{Personal Responsibility and Work Opportunity Reconciliation Act of 1996} energized the federalism conversation at the national level by instituting a block grant program, forcing recipient states to make difficult choices that impacted both low-income families and middle-income families.\textsuperscript{156} By 1996, public denouncement of any procedural malformities through the reconciliation process was overcome by the hard partisan politics of balancing the budget and retrenching the welfare state.

\textsuperscript{152} Ibid., pp. CRS-3.
V1. Congressional Deference to the White House

The 104th Congress brought Republican control of both chambers for the first time since 1954. This new Republican majority was built on a political platform that was hostile to the federal government and to the sitting president. Open hostility, which was often expressed in claiming as much distance from the sitting Democratic president as possible, narrowed Republican’s philosophy on approaching budgetary policy with the White House. A new formal medium had manifested in the form of budget summits, but Republican’s precluded any notion of bringing in the White House or Congressional Democrats on budget formulations.157

Republicans in Congress sought to reform the welfare system in the United States by terminating 170 federal programs, eliminating multiple federal departments and convert federal entitlements into black grants that would be operated by the states.158 In total, the budget reconciliation bill sought by Congressional Republicans totaled $894 billion, a sum far more ambitious than Reagan administrations 1981 budget package of $130 billion.159 Such a considerable devolution of the federal government required the participation of state governors, which Republican leadership in Congress sought.

157 Budget summits began in the 1980s and continued through the early 1990s, often because of serious economic challenge, as what took place in the fall of 1987 between Reagan administration officials and congressional leadership during the stock mark crash. Summits in this context are represented by party leaders in Congress and administration officials in the White House. Congressional leaders participated because committee leaders are not trusted to act on the interest of their respective party as a whole. See: Sinclair, B. (2017). Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress. Sage CQ Press.
159 Krishna, 600.
Republican leadership, led by House Speaker Gingrich, collaborated with the Republican Governors Association in curating the new budget resolution. Republicans excluded Democrats in both chambers and viewed the White House as a subject of Republican tactics.\textsuperscript{160} To force the White House to accept the scope of the reconciliation bill, House Republicans sought to withhold extending the debt limit in return for White House support for passage.\textsuperscript{161}

V2. Involvement of Party Leadership

The intellectual grist of the \textit{Personal Responsibility and Work Opportunity Act of 1996} was driven by Republican leadership in Congress, especially in the House. When the bill passed its chamber of origination, the Republican held Senate took up the measure. The initial House budget reconciliation bill contained no concessions to House Democrats or the White House. The ideological content of the House budget reconciliation bill was so significant that the Byrd Rule was invoked to rule out 46 provisions within the bill.\textsuperscript{162} Reconciliation conferees dismissed Senate concerns about the contents of the budget reconciliation bill and issued a conference report that passed the House and the Senate, with a partisan vote in the Senate 52-47. Passage of this conference report came after the important fiscal deadline of October 1st, precipitating a confrontation over government funding and the debt limit.


\textsuperscript{161} Under this iteration of the “Gephardt Rule,” in operation from 1980-2010, the rule was suspended or repealed 11 times, including 1994-1997. Often during this period, the public debt limit was not a serious threat to federal obligations. This rule compelled 20 House joint resolutions that increased the debt limit, avoiding a separate direct vote on the matter. See: Congressional Research Service. 2019. \textit{Debt Limit Legislation: The House “Gephardt Rule”}. Congressional Research Service.

\textsuperscript{162} Krishnakumar, 605.
In the meantime, Congress fell behind on passing the thirteen appropriations bills that fund the operation of the federal government. A government shutdown was induced when President Clinton refused to sign a continuing resolution that contained provisions that would have increased Medicare premiums and restricted the Treasury Department's capacity to manage the debt obligations.\textsuperscript{163} Republican leadership was leveraging procedural measures to force the White House to commit to welfare reform and balancing the budget.

Negotiations between the President and Speaker Gingrich, the Republican leading the effort on behalf of his caucus, were persistent and volatile.\textsuperscript{164} Clinton’s longtime support for welfare reform became the center of the political universe. The final substantive version of the reconciliation package was accepted by the White House after multiple failed attempts at welfare reform.\textsuperscript{165} Republican leadership in the Senate was involved through this process, especially since Senator Dole was seeking the presidency, but the momentum behind the Republican position was centered in the House with Speaker Gingrich.

\textsuperscript{163} Krishnakumar, 607.
\textsuperscript{164} The funding measure that ended the 21-day government shutdown signed on January 6\textsuperscript{th} by President Clinton was the product of a series of negotiations between Clinton and Gingrich that in some instances lapsed into obscene hostility. Gingrich was facing a sharp decline in public support for the government shutdown while the White House was experiencing an up-tick in public support. Compounding this, moderates in the House were threatening to support Democrats in funding the government. In the twilight of December, Gingrich was pulsed by this reality. On December 30\textsuperscript{th}, Gingrich interrupted a telephone call between Dole and Clinton and called Clinton a “liar” (with more colorful language bracketing the charge) after the President requested another face-to-face meeting. See: Gillon, Steven M. The Pact: Bill Clinton, Newt Gingrich, and the Rivalry That Defined a Generation. Oxford: Oxford University Press, 2008. 168-169.
V3. Partisan Support for Passage

The Senate vote on the passage of *Personal Responsibility and Work Opportunity Act* was decidedly partisan.\(^\text{166}\)

<table>
<thead>
<tr>
<th></th>
<th>Republican</th>
<th>Democrats</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Yea</strong></td>
<td>53</td>
<td>25</td>
<td>78</td>
</tr>
<tr>
<td><strong>Nay</strong></td>
<td>0</td>
<td>21</td>
<td>21</td>
</tr>
<tr>
<td><strong>No Vote</strong></td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

*Source: govtrack*\(^\text{167}\)

Republicans in the Senate showed unanimity in passing the *Personal Responsibility and Work Opportunity Act*, while Democrats carried 100% of the nay votes. The total “yeas” cleared the 60-vote threshold.

\(^{166}\) Tracy Sulkin and Carly Schmitt offer an important definition about agenda polarization in an ideologically differentiated Congressional environment. *Partisan Polarization and Legislators’ Agendas* finds that Republicans are more active than their Democratic counterparts on budgetary matters. Issue ownership, that is issues that the major parties are associated with, is attendant in agendas. Though Sulkin and Schmitt do not find increased agenda polarization between 101\(^{st}\) and 110\(^{th}\) Congress, they do find that ideological differentiation has existed in agendas consistently throughout this period. More liberal and conservative members of Congress prioritized different issues than their moderate copartisans. See: Sulkin, Tracy, and Carly Schmitt. “Partisan Polarization and Legislators’ Agendas.” *Polity* 46, no. 3 (2014): 430–48. [http://www.jstor.org/stable/24540220](http://www.jstor.org/stable/24540220).

**Conclusion**

In both case studies, different variables predominated in differing contexts. The first variable (V1), the reconciliation bills driven by party leadership, were present in both cases. The second variable (V2), Congressional difference to the White House, was challenged by institutional interests in the passage of the Omnibus Reconciliation Act of 1981 and in the crafting of the Personal Responsibility and Work Opportunity Act of 1996. The final variable (V3), partisan voting, was present in both case studies. To recap:

**Figure 4: Case Study Comparison**

<table>
<thead>
<tr>
<th></th>
<th>V1</th>
<th>V2</th>
<th>V3</th>
</tr>
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<tbody>
<tr>
<td>OBRA</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>PRWOA</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The partisan environment in both cases were important drivers of action for each reconciliation package. Creation of the *Omnibus Reconciliation Act of 1981* took place during the initial months of Reagan’s first term, capitalizing on initial electoral momentum. While some members of the Senate did dissent from the original contents of the package, passage was assured on an ideologically partisan vote. Passage of the *Personal Responsibility and Work Opportunity Act of 1996* took place after Clinton had been entrenched in the White House within his first term. While Congress and the White House were held by different parties, a partisan vote still predominated.

The budget reconciliation process reaches into the power centers of both major branches of government. While the Senate is interested in meeting its basic budget obligations by working with the White House on budget priorities, mechanisms like the
Byrd Rule allow the Senate to control the budget reconciliation process over other actors like the House and the White House. Budget reconciliation in its early years was focused on its reach into the federal government for significant change. The filibuster had not yet become a serious motivating factor.

Future research should focus on budget reconciliation instructions given to committees in both chambers and how these instructions strip committees of their institutional power. This chapter considers the larger parliamentarian implications of budget reconciliation and how this dynamic interacts with the Legislative Branch and Executive Branch, but the budget reconciliation processes impression on committee independence is an important feature of budget reconciliation.
The Political Economy of Tomorrow: Deficit Spending and its Impact on Parliamentary Procedure in the U.S. Senate

Introduction

Congress’ relationship with macroeconomic theory has evolved over time, and the budgetary biproduct has been the accumulation of deficits. The post-war economic dividend created a fiscal consensus in Congress and stewardship of the economy was achieved through the Federal budget.\textsuperscript{168} This consensus was destroyed by the economic aftershocks of aggressive fiscal stimulus through tax policy and a political intolerance for hard budgetary compromises. Budgetary deficits would become grist for political campaigns, a primordial medium for improvised economic theories from midnight partisans and another vehicle for parliamentary dysfunction.

Has the political economy of deficit spending impacted budgetary procedure? This chapter will explore the qualities of budgetary mechanisms under the pressures of motivated fiscal deficits within Congress. The public interacts with the political economy of deficit spending through political language used during campaigns but have little exposure to the parliamentary processes that are impacted by these actions. Often policymakers are overcome by economic circumstance, shifting political winds, and institutional confrontation between the Legislative and Executive Branch to honor the

\textsuperscript{168} Characterizing post-war fiscal philosophies in the United States as an embraced consensus is a comparative judgement. Gardner Ackley, a member of the Council of Economic Advisors in the Kennedy Administration then Chairman in the Johnson Administration, described the practiced economics of the 1960s as the “new economics” and a revolution that had its origins in Keynes work. By the time Kennedy was inaugurated Keynes theory had accumulated theoretical innovations from succeeding economic theorists and the result was termed neo-Keynesian. Acceptance of governments role in stabilizing prices and minimizing unemployment had been so widely accepted by theorists and policymakers at the time, Milton Freedman claimed, “we are all Keynesians now.”
budgetary procedure prescribed in the *Congressional Budget Act of 1974*. Significant political paradigm shifts like the establishment of the Great Society set forth economic and political forces that reverberate beyond their political returns.

Exploring parliamentary dysfunction through the political economy of deficit spending provides important yields to understanding the nexus of institutional prerogative, partisan motivations, and the Hippocratic stewardship of macroeconomic outcomes. Existing literature on this topic is focused on economic theory and partisan interests, rather than the parliamentary processes that are impacted by the choices made by policymakers in this environment. This chapter will contribute to the existing literature by exploring the breakdowns of Senate procedure induced by these economic theories, showing that parliamentary functions in the Senate have been orphaned by the economic attitudes of policymakers.

This chapter will establish itself in the literature surrounding the political economy of deficit spending. The methodology section will then describe how and why the three variables chosen are important to understanding the parliamentary dysfunction produced through deficit spending. Following the methodology section, two case studies, the *The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act*

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of 1985 and the Balanced Budget Act of 1997, substantiate the shortcomings of deficit reduction overtime and its impact on parliamentary procedure. Finally, the conclusion will show that the political economy of deficit spending has produced parliamentary dysfunction.
Literature Review: Sources of Fiscal Theories on Accumulating Federal Deficits

Theories of fiscal exercise are vast, evolving, and contentious. The role of the state in the fiscal constitution elicits strong reactions from all parts of the political spectrum, largely because perceptions of the federal governments’ actions can be important to individual outcomes. Economic conditions can implicate popular views of fiscal intervention or abstinence by the federal government, but personalities also play an important role in driving fiscal policy. The expression of fiscal philosophy often manifests in the budget the Congress formulates annually.

During the 20th century, economic conditions foisted on the United States generated consensus among policymakers in Congress. The federal budget was understood as a tool to stabilize the economy. Economic conditions were of such priority for the United States after the Second World War, and the success of stimulating aggregate demand through fiscal action was so important, that a Keynesian consensus predominated in Congress. A responsive budget, which Allen Schick calls a flexible budget policy, offered Congress the tools to react to changing economic conditions and use the force of federal fiscal policy to improve the economic outlook. But crisis intervened in the 1970s. The OPEC crisis and rising prices disrupted the stable post-war political economy. A change in economic outlook for Americans brought fiscal philosophy into the forefront of the political debate. Fiscal patience, steady stewardship, and long-term philosophical investments in Congress were displaced by a fierce urgency

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172 Ibid, pp. 51.
to lower prices and stabilize the United States energy position. Schick makes broad philosophical claims about the trajectory of fiscal policy in the Congress. The steady economic arrangement between legislatures and the public was being eroded by uncontrollable economic disruptions.

A negative feedback loop began to manifest between the budget and the real economy. Budgetary actions would inflame stagflation, and the economy would force Congress to change budgetary course. This economic weakness induced larger deficits. Previous federal fiscal commitments were outpaced by rapidly changing economic conditions. Fiscal fragmentation in the 1960s and 1970s gave way to the fiscal dominance of growing deficits married with tax cuts. These so called “supply-siders” believed that the economic gains of tax cuts would finance the inevitable deficits that may follow.

In presidential politics, fiscal expansionism has been of serious political concern. In the post-War era, presidential platforms of both parties included promises of fiscal rectitude. The breakup of Democratic dominance in Congress, in the wake of serious economic ills, brought divided government in the 1980s. Committees in the House, namely the House Appropriations Committee, enjoyed considerable power over the direction that spending took in Congress. In the era of the Budget Act of 1974, which transferred authority for spending limits from the House Appropriations Committee to the budget committees, fractured political power would take a more severe turn.

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173 Ibid., pp.58.
174 Ibid., pp. 71.
Members of the budget committees no longer protected the fiscal capacity of the Treasury; they became distributors of the Treasury’s fiscal capacity.\textsuperscript{176} McCubbins claims that in this legislative environment, members of Congress will pursue idiosyncratic benefits from these committees with the dual benefit of partisan advancement.\textsuperscript{177} Leadership in each political party held more say over the functions of committees in Congress. While in the majority, each party had no qualms about increasing spending: Democrats favored increasing the deficit for domestic programs, Republicans favored increasing the deficit for defense programs.\textsuperscript{178} McCubbins emphasizes a partisan hijacking of budgetary conditions to accelerate policy goals. The Schick model confronts economic outcomes without McCubbins claims of deep, cynical partisan capture of the budget process.

But divided government is not definitive of systematic deficits. In the 1990s, the Federal government was bitterly divided. The end of the decade brought a balanced budget. This political condition of divided government has largely predominated since the 1980s. As a result, Federal budgets often reflect incremental spending increases and imperceptible tax cuts.\textsuperscript{179} Therefore, a divided government does not produce a coherent fiscal strategy, rather it creates “fiscal confusion.”\textsuperscript{180} The post-1974 budget process means that a serious of uncoordinated spending bills induces Federal waste and neglects long-term fiscal deficits, like that of the Social Security system.\textsuperscript{181} In Republican

\textsuperscript{176} Ibid., pp. 93.
\textsuperscript{177} Ibid., pp. 94.
\textsuperscript{178} Ibid., pp. 99.
\textsuperscript{180} Ibid., pp. 13.
\textsuperscript{181} Ibid., pp. 13.
majorities in the Reagan era, tax-cut induced deficits would precipitate a confrontation between outlays and revenues. The subsequent accumulation of debt would force future Liberal governments to limit domestic spending to service the growing debt. So-called “tax smoothing” would be employed by Republican governments to arrest the platform ambitions of Liberals, effectively weaponizing the growing Republican-induced deficit. The philosophical argument surrounding meeting fiscal obligations shifts in this environment. Spending cuts must be achieved by lowering taxes.

Alesina moves claims of partisan budgetary ambitions to the level of the state. Policymakers would use their stations in Congress to achieve ends that would last beyond their vulnerable prospects for reelection. Complimentary of McCubbins partisanship claims, Alesina provides a coherence to the long-term fiscal aims of Republicans in Congress. Short-term Republican policy goals can be achieved through fiscal actions like tax-cuts, and the long-term philosophical goals of slaying the Levithan would be a generous by-product.

The first major bill that achieved this new tax paradigm was the Economic Recovery Tax Act of 1981 (ERTA). This policy achievement shifted the Republican party from that of a paladin of fiscal stewardship to a party of tax cuts. To Monica Prasad, the individual tax rate cuts achieved in the ERTA are the foundation of neoliberal policy

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184 Ibid., pp.14.

185 Ibid., pp.5.

in the United States, as the rates have been institutionalized since then.\textsuperscript{187} Prasad shows a surge in political interest with tax rates was fueled not by the pernicious presence of business, rather the popular support in cutting taxes as a remedy to unemployment and inflation.\textsuperscript{188} Deficits would materialize as a consequence.

Inflation of the magnitude inflicted on the United States throughout the 1970s, coupled with a progressive tax system, pushed wage-earners into higher income brackets. This was known as “bracket creep.”\textsuperscript{189} This tax condition created mass political constituencies in the United States to form around tax reform. Republican members of Congress, principally Representative Jack Kemp, formulated a theory that tax cuts would raise revenues. This attractive prescription was brought into the Reagan presidential campaign and sold as a political win for Republicans.\textsuperscript{190} A binary political paradigm was formed around the two parties: Republicans were the party of lower taxes; Democrats were the party of deficits and inflation.\textsuperscript{191} Prior to the Reagan campaign adopting this positive policy of tax cuts, the campaign had been running on stories of so-called “welfare queens.” These stories often invoked images that were often deemed racists and derogatory.\textsuperscript{192}

This new version of Reagan, a sunny, optimistic shepherd of good fiscal tidings, claimed that this new tax program was a “new way to balance the budget.”\textsuperscript{193} The raging economic impairments of the era, inflation and unemployment, were given a policy

\begin{footnotesize}
\begin{enumerate}
\item Ibid., pp.352.
\item Ibid., pp.353.
\item Ibid., pp.354.
\item Ibid., pp.355.
\item Ibid., pp.356.
\item Ibid., pp.361.
\item Ibid., pp.362.
\end{enumerate}
\end{footnotesize}
response from Republicans that placed them in the center of the most important issue of the time. Tax cuts would be the only answer Reagan offered to the issue.194

The literature on the sources and roles that deficits play in the Federal budget is broad and situated within some persistent institutional theories as well as some ideological artifacts from another age. The fundamental fact is that deficits exist, and people are responsible for them. Reasons for their existence may vary depending upon the policy practitioner, but the impact on parliamentary procedure is significant.

194 Ibid., pp.364.
**Methodology**

Exploring the philosophical impetus behind policymakers’ motivation is an important point in establishing sources of interest but expanding the aperture to consider political context offers an expanded degree of possibilities. We will examine *The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985* and *Balanced Budget Act of 1997*. Establishing an understanding of the budgetary effects of political economy will help to bridge the divide between parliamentary procedure and economic choices.

We will examine three key variables of *The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985* and *Balanced Budget Act of 1997*: In both packages, the

- (V1). Congressional expectations of deficit reduction compared to actual deficit reduction over time were divergent; The
- (V2). Duration of time between successful budget passage; and
- (V3). Partisan voting patterns.

How we define these variables will be critical to grasping the potency of these variables on parliamentary procedure. Claims of Congressional impotence and institutional disparity often leave out other meta factors like the political economy of policy makers.¹⁹⁵ Policy decisions made in the decades preceding the passage of *The

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¹⁹⁵ The earliest notions of political economy can be found in the *Wealth of Nations*. Lionel Robbins, in his introduction of *Political Economy: Past and Present*, conceives of political economy as “assumptions of policy and the results flowing from them.” Further, Robbins explains, “It should be clear then that Political Economy in this sense involves all the modes of analysis and explicit or implicit judgements of values which are usually involved when economists discuss assessments of benefits and the reverse or
Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985

and Balanced Budget Act of 1997 had profound structural consequences for the designers of these bills. Significant institutional momentum had been building up overtime, and the politics of bigness had reached a critical mass. Some camps advocated building upon this institutional momentum, while other looked to halt it. For both camps, they needed the institutional power and momentum to accomplish their policy goals.

The first variable, Congressional expectations of deficit reduction compared to actual deficit reduction over time were divergent, is a policy makers statement of fiscal values. Politicians are quite competent at distancing themselves from quantitative metrics that would render judgement on their own performance, but in the case of the deficit, politicians attach themselves to measurable fiscal goals. Reducing outlays in the federal financial management system requires a change in authority to incur such obligations. For the electorally sensitive, making policy decisions about the economic state of the future is a perilous process. After the fiscal year has concluded, the Treasury Department reports on the size of the deficit. The budget will naturally react to economic developments that are unforeseen to the policymaker, so deficit targets will be

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196 The Keynesian Revolution expanded the size of public expenditures in all advanced economies from 1960-1980. Governments on average grew from 27.8% to 42% of GDP. The establishment of new social programs became new permanent social programs, existing social programs were expanded and economic shocks like the oil crisis inspired the expansion of government. See: Schuknecht, Ludger, *Public Spending and the Role of the State: History, Performance, Risk and Remedies*. Cambridge: Cambridge University Press, 2021. 25-26.


imprecise.\textsuperscript{200} Future changes in policy can also impact deficits. We must consider these dynamics when exploring how policy makers crafted \textit{The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985} and \textit{Balanced Budget Act of 1997}.

The second variable, duration of time between successful budget passage, is important to gauging policy makers intensity, direction, and institutional obligations. Not only is timeliness a quality onto itself in budgeting, but the mechanisms embedded within \textit{The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985} and \textit{Balanced Budget Act of 1997} offer insights into the sincerity of policy makers commitments to the established budgetary process set out in the \textit{Budget Reform Act of 1974}. Variable two interacts with variable one in diverse ways, but we will be focused on the interaction between timely passage and the honoring of budgetary procedure.

Variable three, partisan voting patterns, is a proxy for the dominate political economy philosophies of the era. We must consider how policymakers declare their own philosophies, which is reflective of the political constituencies that brought them to power. Indeed, these political economies may be fertile ground for confrontation, but the voting blocs in the Senate for \textit{The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985} and \textit{Balanced Budget Act of 1997} will reveal a philosophical consensus.

\textsuperscript{200} Ibid., 11.
1985 saw the third consecutive year of a $200 billion federal deficit. Reducing this chronic deficit would require painful action by Congress, actions that Congress did not support and could not look to the White House for leadership. In fact, the Reagan administration insisted that the defense budget not suffer any burden of spending reductions.\textsuperscript{201} Members of Congress were concerned that Reagan’s defense program was undergoing a shift in public support after disclosures of waste and inefficiency, and their constituents were confronting them about rising deficits.\textsuperscript{202} Congress would have to confront deficits on its own.

Broader economic conditions were still on Congress’ mind. The alternative to not passing \textit{The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985} Senator Phil Gramm (R-TX) claimed, was a lower standard of living for future generations, a raise in unemployment and paralyzing interest rates.\textsuperscript{203} Officials in the Reagan Administration like director of the Office of Management and Budget David

\begin{flushright}
201 Though the United States was not in open conflict with the Soviet Union, the defense budget had wartime like surges in spending and investments. Between 1980 and 1985, defense spending doubled from $142.6 billion to $286.8 billion. The Navy increased its fleet to 525 ships, up from 479; the Army purchased thousands of Abrams tanks; the nuclear triad underwent modernization and significant investments went into stealth technology. But this nearly $1 trillion dollar infusion into defense spending brought questions about qualitative return on investment. In October 1985, Rudolph Penner, head of the Congressional Budget Office, provided testimony to the House Armed Services Committee and claimed that the United States military only incurred modest improvements, and that the cost of procurement had increased substantially. For instance, the cost of Abrams tanks rose 151%. See: Brenner, Eliot. “Expert: Hard to Tell If $1 Trillion Well Spent.” UPI, October 8, 1985. https://www.upi.com/Archives/1985/10/08/Expert-Hard-to-tell-if-1-trillion-well-spent/7752497592000/.

202 Havens, pp.9.

\end{flushright}
Stockman believed that achieving deficit reduction through spending cuts was politically intolerable because the administration had eliminated Federal spending that had already been politically possible. In 1984, the Congressional Budget Office projected Federal deficits would reach to $325 billion by 1989.

Early negotiations for the conceptual agreement of The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985 was spurred on by the Treasury Department. The Treasury faced a debt ceiling upset in November 1985 and requested a raise of the debt ceiling to $2 trillion from $1.8 trillion to cover accumulated deficits. Economists were speaking in unison about the negative impact of the federal deficit on economic growth. The Treasury Department demanded that raising the debt ceiling be accompanied by legislative action to eliminate future deficits.

Initially passing the Senate on October 10, 1985 (then onto a conference committee), the The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985 had serious challenges in Congress to compete with. Deficits from FY1986-FY1991 would progressively be reduced to zero. Provisions in the bill would allow the president to delay action on cutting the federal deficit for 30 days when a recession has manifested. What’s more, the indiscriminate nature of program cuts

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205 Ibid.
208 Ibid.
made for ineffectual interpretations. Discretionary actions targeted for cutbacks lacked
definition as to the treatment that could be applied to such programs, and this ambiguity
could complicate the federal governments legal obligations in satisfying contracts.  

*The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985* also promoted the Comptroller General to determine the amount and percentage of reduction based on a joint OMB/CBO report. The president is then responsible for issuing a sequestration order. Critically, other procedural changes were enacted through this law. *The Gramm–Rudman–Hollings Balanced Budget and Emergency Deficit Control Act of 1985* instituted a single binding budget resolution, required reconciliation, and binding subcommittee allocations. The Senate Budget Committee was also given more sovereignty. Upon receipt of the Presidential sequestration order, the Senate Budget Committee is responsible for responding to the sequestration order by receiving estimations and views from other Senate committees and formulating an alternate congressional budget resolution. A procedure mimicking the effect of the budget reconciliation process would produce an alternative to a sequestration order.

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212 Ibid.


214 Ibid., p.9.

215 Ibid., p.9.
V1. Congressional Projections of Future Deficits versus Actual Deficits

The steady accumulation of deficits coupled with growth in outlays stimulated domestic consternation about funding expenditures. In the leadup to Reagan’s reelection campaign, a New York Times/CBS News poll found that 72% of respondents were unwilling to pay higher taxes to fund the growing deficits.\(^2^{16}\) Reagan’s commitment to refrain from raising taxes placed enormous pressure on Senate Republicans to shoulder the deficit burden on their own.

Projecting deficits is made more difficult by the unpredictable nature of changes in the real economy. Institutional disagreements about deficit projections are abundant. Variations in deficit projections between the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) were to be averaged and the result was to be projected out five years.\(^2^{17}\) Figure 1 shows the projected reduction in the federal deficit that Gramm-Rudman-Hollings would provide:

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\(^{217}\) Havens, pp. 9.
The 1985 Gramm-Rudman-Hollings bill prescribed aggressive fiscal controls and optimistic revenue projections to validate its deficit projections. Strict fiscal limitations had to be included to impose fiscal discipline and reform the budget process. The critical mechanism of enforcement was sequestration. If the deficit was $10 billion dollars over the budget target prescribed in Gramm-Rudman-Hollings, automatic proportional cuts would be enacted to defense and discretionary domestic spending. Congressional comprise to guarantee passage of Gramm-Rudman-Hollings left out some three-fifths of spending was exempt from sequestration.\(^\text{219}\)


\(^{219}\) Morgan, pp. 110.
In reality, deficit accumulation after the passage of Gramm-Rudman-Hollings still measured negative.

**Figure 2: Actual Budget Deficit 1979-1991 In Millions of Dollars Annually**

![Graph showing actual budget deficit from 1979 to 1991.](image)

**Source:** U.S. Office of Management and Budget

Figure two shows that on average, the federal deficit averaged nearly 4% of GDP from 1985-1991. In fact, the total accumulation of debt during this period was $2 trillion dollars. The hardline approach to the deficit failed.

Harmony between Republicans in the Senate and the Reagan White House on the constitution of Gramm-Rudman-Hollings was troubled by the complicated nature of balancing the budget. Congress punt on sequestration enforcement by empowering the Comptroller General of the General Accounting Office (GAO) to order the President to enforce specific cuts to the budget to remain compliant with Gramm-Rudman-Hollings.

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deficit targets. Reforms to Gramm-Rudman-Hollings would follow, but the deficit would continue to persist.

V2. Duration of time between successful budget passage

Timing was an existential consideration in reducing the federal deficit. Political tolerance had already passed on tacking federal deficits, and the tax cuts enacted in Economic Recovery Tax Act of 1981 (ERTA) shifted the deficit reduction inertia onto the top of the fiscal agenda during Reagan’s second term. Figure 3 shows the Gramm-Rudman-Hollings timeline gravitated between August and October, when compliance with deficit targets must be demonstrated.

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221 Congress chose the comptroller general because of the position’s requirement for appointment and confirmation. This officer of the government would be responsive to the data and assumptions found in the OMB/CBO reports and advise the Congress and President. Reagan was not a supporter of this design. When Representative Mark Synar (D-OK) brought a suit in federal court against the legality of sequestration, the Reagan Justice Department joined. The federal court ruled against the sequestration process as it was designed by Gramm-Rudman-Hollings and the Supreme Court would eventually concur in Bowsher v. Synar. See: Morgan, Iwan W. The Age of Deficits: Presidents and Unbalanced Budgets from Jimmy Carter to George W. Bush. Lawrence: University Press of Kansas, 2009. Pp. 111.

Congress is expected to pass bills funding the government by the start of the new fiscal year, October 1st. Reforms enacted in Gramm-Rudman-Hollings prescribe fiscal targets, along with enforcement measures, that incentivize Congress to work within an agreed framework, coherent with the 1974 Congressional Budget Act. Budgetary success post-Gramm-Rudman-Hollings suffered from delinquency:

Source: Congressional Research Service²²³

Figure 4 demonstrates that 1985 saw the abrupt disruption of the partial success of passing appropriations measures by the start of the new fiscal year. The mid-1980s saw the intentional use of omnibus appropriations acts to fund government functions. By 1982, the Government Accounting Office understood the continuing resolution to be temporary appropriations acts, a stop-gap measure to be used when the budget process broke down either within Congress, or between Congress and the Executive. Congress used the continuing resolution first in the 1950s as a parliamentary experiment. Continuing resolutions were employed in the mid-1980s out of necessity.
During FY1986-FY2016, the House passed more regular appropriations than the Senate. The budgetary timeline was thrust into a new era of dysfunction. Budgetary revisions enacted in Gramm-Rudman-Hollings helped to govern conflict within the Congress, and between Congress and the Executive, but they did not eliminate conflict. Deliberate sabotage through sequestration compliance measures brought the court system into the process, inviting questions about the sincerity of Congressional members role as honest brokers.

V3. Partisan voting patterns

The 99th Congress, running from 1985-1987, was a divided government. The House was held by Democrats and the Senate held a Republican majority. This Congress was tasked with facing a serious budgetary shortfall and deficits of Congress’ own

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making. The tight balance of power in the Senate would force the institution to face its distributed power shortcomings, while making claims to finally fight the deficit beast.

Gramm-Rudman-Hollings passed as a joint resolution the Senate in a 63-37 vote on 12th December 1985. It was signed into law the following day by President Reagan. Gramm-Rudman-Hollings was a bipartisan Act that was passed on a bipartisan margin in the United States Senate.

The 1990s brought a new decade of aggressive attempts by the Congress at Federal deficit reduction. Republicans and Democrats were still deficit elimination coreligionists, and the mid-1990s were a period of public amenity between the parties about the issue. In practice, this amenity was quickly overcome by partisanship and institutional warfare. The result was the Balanced Budget Act of 1997, the spending component of a reconciliation package that was unusual for its process.

The early 1990s saw a raise in government revenues via tax increases, a reluctant method for the incumbent Republican administration. The Federal budget deficit was still meaningful by the mid-1990s. Republican’s seeking a Congressional majority in 1994 offered a Contract with America that included an aggressive push to eliminate the Federal deficit and balance the budget. Wildly popular and reform oriented, the Contract with America forced President Clinton to commit to a track that would balance the budget by 2002. The resulting 104th Congress attempted passage of a balanced budget amendment, which failed to gather enough votes for passage. The parameters of deficit reduction in the 104th Congress had become more modest than its predecessors. FY 1998-2002 would

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attempt to accomplish $235 billion in deficit reduction made through tax cuts and spending cuts. While cuts in spending were an important development in the long-running attempt at deficit reduction, 70 percent of these cuts were to be phased in FY 2002 & 2002.\textsuperscript{231}

\textbf{V1. Congressional Projections of Future Deficits versus Actual Deficits}

\textit{The Balanced Budget Act of 1997} was designed to accomplish the safety-net needs of the population along with their desire to reduce deficits. The White House, though practically committed to deficit reduction, sought to couple particular spending cuts with expansions in existing entitlements and the inauguration of new entitlements. Changes to Medicare saw the majority of mandatory spending cuts, while discretionary spending was to be cut by $90 billion over five years.\textsuperscript{232} A new block grant was created to service states for children’s health insurance, food stamps, and welfare-to-work programs.

\textit{The Balanced Budget Act of 1997} found balance in discretionary and mandatory spending cuts that was not successfully found in previous attempts to address spending. This is quite remarkable considering the partisan dynamics that were playing out at the time.\textsuperscript{233} But significant gains were made for both parties: Republicans achieved cuts in capital gains tax rates and expanding tax exemptions for estate gifts through the Taxpayer Relief Act. Though Clinton insisted on a two-track reconciliation scheme to limit the

\textsuperscript{231} Ibid., pp. 275-276.
\textsuperscript{232} Ippolito, pp. 278.
distributional effects of Republican tax cuts, Republicans still achieved important philosophical goals. Figure 7 shows that deficits were projected to be eliminated by FY 2001.

Figure 6: CBO Budget Projections 1997-2008

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<tr>
<td><strong>In Billions of Dollars</strong></td>
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<tr>
<td>Outlays(a)</td>
<td>1.601</td>
<td>1.670</td>
<td>1.731</td>
<td>1.762</td>
<td>1.833</td>
<td>1.860</td>
<td>1.954</td>
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<td>2.133</td>
<td>2.199</td>
<td>2.297</td>
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<td>-2</td>
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<td>54</td>
<td>71</td>
<td>75</td>
<td>115</td>
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<tr>
<td>On-budget Deficit (-) or Surplus</td>
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<td>-105</td>
<td>-115</td>
<td>-125</td>
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<td>-69</td>
<td>-94</td>
<td>-87</td>
<td>-95</td>
<td>-64</td>
<td>-60</td>
<td>-80</td>
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|                  |      |      |      |      |      |      |      |      |      |      |      |      |
| **As a Percentage of Gross Domestic Product** |      |      |      |      |      |      |      |      |      |      |      |      |
| Revenues         | 19.8 | 19.9 | 19.8 | 19.6 | 19.4 | 19.4 | 19.3 | 19.3 | 19.3 | 19.3 | 19.3 | 19.3 |
| Outlays\(a\)     | 20.1 | 20.0 | 19.8 | 19.6 | 19.3 | 18.7 | 18.6 | 18.6 | 18.7 | 18.4 | 18.3 | 18.3 |
| Deficit (+) or Surplus | -0.3 | -0.1 | b    | b    | 0.1  | 0.7  | 0.5  | 0.7  | 0.7  | 1.0  | 1.0  | 1.0  |
| **Memorandum:**  |      |      |      |      |      |      |      |      |      |      |      |      |
| On-budget Deficit (-) or Surplus | -1.3 | -1.3 | -1.3 | -1.4 | -1.2 | -0.7 | -0.9 | -0.8 | -0.8 | -0.5 | -0.5 | -0.5 |
| Debt Held by the Public | 47.3 | 45.3 | 43.6 | 42.0 | 40.2 | 37.9 | 35.6 | 33.6 | 31.5 | 29.3 | 27.0 | 24.8 |

**Source:** Congressional Budget Office

These ambitious goals for eliminating the Federal deficit were achieved. Though its not readily apparent, the Balanced Budget Act of 1997 was not the the sole reason for this budget surplus. The end of the Cold War brought what came to be known as the

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\(^{234}\) Ippolito, pp. 277.
“peace dividend.” This brought a reduction in resource commitments to defense spending, an expanding economy, and low interest rates. As Figure 8 proffers, this environment, paired with the spending parameters set out in the Omnibus Reconciliation Act of 1993, surged government revenues.

Figure 7: Actual Federal Budget Deficit 1995-2008

![Graph showing the federal budget deficit from 1995 to 2008.]

Source: U.S. Office of Management and Budget

V2. Duration of time between successful budget passage

As Figure 9 shows, 1997 was the most recent year in which Congress met their own expectations of passing appropriations bills to fund the government. Changes in parliamentary procedure and shifts in outlay expectations have not served the budgetary

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238 Alesina, pp. 6.
process well. Significant economic events outside of Congress’ control imperil expectations of members to anticipate what future fiscal cycles could expect. The effects of budget goals are intentionally delayed, the parameters of the bills are designed in a vague manner, and parliamentary revisions often contradict established procedure. What can be guaranteed are measures like changes in capital gains taxes will manifest.

Figure 8: Percentage of stand-alone appropriations bills enacted on or before Oct 1st

Source: Pew Research Center

V3. Partisan voting patterns

H.R. 2015, the Balanced Budget Act of 1997, passed the Senate on a 85-15 roll call vote. This bill had significant bipartisan support for passage.

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Conclusion

Deficit reduction has long been a pastime of Congress, and each instance cannot be taken in isolation. Changes in outlay expectation for a five-year period has implications for fiscal years beyond this period of time, and more important to budget outcomes are economic conditions that impose consequences on revenue expectations. Gramm-Rudman-Hollings and the Balanced Budget Act of 1997 were different versions of the same goal, occurring at different points of a fiscal era in the United States. Overtime the nervous system of the goal changed, but the bone structure stayed the same.

Figure 9: Case Study Comparison

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<tr>
<td>BBA97</td>
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<td>Yes</td>
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V1. Projections of Federal budget deficits could be described as failures in both case studies. Optimistic revenue expectations are reliant on abstract political economies of ideas rather than a definitive grasp of economic forces and how they interact with the Federal budget. Projections, no matter the author, will always fall within a range of possibilities that can and will be overcome by events.

V2. Failure to fund the government by the date prescribed is the institutional norm in Congress. Any significant efforts at change, which can be guaranteed to take place through electoral offers of reform, disrupts an already challenged parliamentary process. Congress is unwilling to make difficult choices when those choices are created by their own momentum. Incremental efforts at Federal deficit reduction every five years makes it more so.
Federal deficit reduction has bipartisan support in the Senate, and the Congress at large, because the average voter supports it. Whether through tax cuts or entitlement surges, Republicans and Democrats have an impulse to spend. The public carries the sensibility of reasonable fiscal balance. The public’s perception of the economy and where government funds itself is not growing with the changes in our economy.

Congress has often used five-year increments as a timeline to achieve fiscal priorities, much like a planned economy. These approaches are more accommodative to political cycles than they are economic cycles. The political economy that members of the Senate bring into the parliamentary process delays an already difficult Federal budget process. No amount of planning, short of some targeted spending cuts, can tame the economic forces beyond Congress’ control. A democratic process through representation will always have significant economic lag time.

Further research should focus on Congress’ power of delegation and how these dynamics seed expectations that Federal deficits will be funded by policies like low-interest rates through the Federal Reserve. The expanse of government has its blessing in Congressional appropriations, and this is an implicit acknowledgement of Congress’ shortcomings. Monetary policy is critical to how Congress funds government, and Congress understands it cannot run monetary policy with any reasonable sense of responsible response time to economic developments. This dynamic provides sanctuary for lawmakers from difficult policy decisions like raising interest rates, but it also leaves Congress dependent on independent institutions to participate in its political projects.
The Public Weal: Fiscal Federalism, Intergovernmental Relations and Interactions with the Federal Budget

Introduction

Attachment to local administration, and local political ecosystems, promised a new kind of governance, one that helped to define the "splendor of the national government," as Hamilton wrote.243 By design, state governments would be a component of a "compound government," with each government controlling each other while controlling itself.244 The curation of the Federal budget is a familial effort, one in which intergovernmental relations are shaped and federal budget procedure impacted.

Hamilton may not have been capable of anticipating the Byrd rule, but he gifted us with the intellectual foreground in which the federal budget procedure occupies. This chapter will explore intergovernmental relations and its interaction with the making of the federal budget.

How has intergovernmental relations impacted the curation of the federal budget? This research question is unusual in the cannon of research surrounding parliamentary procedure, but it is a necessary exploration of foundational issues of the American system: federalism, fiscal federalism, the federal budget, and advocacy. This chapter will focus on the formulation of the CARES Act and the American Rescue Plan. Support from the National Governors Association for passage was important to both of these bills.

244 Ibid., p.131.
This chapter finds that intergovernmental relations do impact the curation of the federal budget, and as a consequence parliamentary procedure in the Senate, though in marginal ways. Lobbying from the National Governors Association largely locks in parliamentary functions in the Senate through institutional privileges and economic uncertainty. Critically, intergovernmental lobbying invites larger questions about voter access to the curation of the federal budget and how the Senate operates in its pursuit of democratic access.

This chapter is an important component of considering the federal budget as a space for institutional capacity and as a vehicle for dysfunction. The United States federalist system was created so associations between states and the federal government could exist, enhancing the efficacy of policy outcomes, but this is not an intuitive assumption when voters consider strategies at the ballot box.

This chapter will establish itself in the literature surrounding intergovernmental lobbying’s impact in Washington. The methodology section will then describe how and why the three variables chosen are important to understanding the parliamentary dysfunction produced through intergovernmental lobbying. Following the methodology section, two case studies, the *CARES Act* and the *American Rescue Plan*, substantiate the impact intergovernmental lobbying plays on the federal budget and parliamentary procedure in the Senate. Finally, the conclusion will show that intergovernmental lobbying is an intrinsic component of the federalist system and parliamentary dysfunction is a natural byproduct of this relationship.
Literature Review: Sources of Legitimacy and Consternation in Intergovernmental Relations

The practice of federalism may be more generous than its theoretical nature, and the literature surrounding its role between federal-state relations is just as generous. We can find the philosophical ambience of federalism in the struggle for establishing state capacity during the Articles of Confederation, the exploration of intergovernmental relations in an era of expanding national government, and the role of intergovernmental lobbying during a time of declared war on the legitimacy of federal actions.

No greater treatment on the American inheritance exists than the Federalist Papers. Defining the limits of national power and multiple sources of sovereignty occupied Hamilton’s contributions to The Federalist Papers. The multiplicity of interests found in a propertied society, and the most fertile ground for conflict lays in the unequal distribution of property. Distinct interests form around such properties, and government can become the keeper of divisions. Within government, power to amplify, or reward, a particular set of interest is inherent. Parties that would occupy government proceedings must be both “judges and parties at the same time,” carefully entrusted with a skeptical mode of government to operate in the public interest. To Hamilton, the

245 “Why has government been instituted at all?” Hamilton asks. “Because the passions of men will not conform to the dictates of reason and justice, without constraint.” Further, Hamilton posits, “Justice is the end of government. It is the end of civil society.” This is the milieu in which American patronage understands itself. Such foundational ideas cannot be separated from how the political process conducts itself. See: Karmis, D., and W Norman. Theories of Federalism: A Reader. New York: Palgrave Macmillan US, 2016. P. 120 & 132.
246 Karmis, p.112.
247 Ibid., p.112.
“regulation of these various and interfering interests from the principal task of modern legislation.”

The ever-expanding sphere of a republic, which the American system was mechanized to accomplish creating new Americans through representation and suffrage, enhances the volume of local interests and prejudices. Could the “public weal,” as Hamilton intones, be properly served at the national perspective when local interests and factions would tempt corruption and intrigue? Such diversity of local interests would prevent a national effort to subvert the representation of local public interests.

A national government is not a threat to state governments, rather the federal government is a creation of state governments. The provisioning of public credit, in the service of generating an economic platform for the wider American economy, was not possible under the Article of Confederation. National resolutions passed under such a system had no enforcement beyond the action of good faith. As such, factions among states would form, allegiances of temporary meaning and interest, acting in an offensive or defensive capacity, without regard to the general interest of the population. Not only did a federalist system exist to be inclusive of republican values and democratic reproduction, a federalist system existed to harmonize interests of the local with the general interests of the national. The “common centre,” as Hamilton described it, would find its faction in the economic imperative of the whole, rather than the lesser sovereignty of a weak promise of temporary interests.

248 Ibid., p.112.
249 Ibid., p.114.
250 Ibid., p.116.
251 Ibid., p.118.
252 Ibid., p.119.
Absent a unanimous public consciousness, which Hamilton claims as impossible
given the diversity of interests in our society, deliberations are necessary. If deliberations
are to be had within local assemblies, where they tyranny of distance can produce
inefficient outcomes and poor policy execution, the general interests of the public would
not be reflected in government policy. Assemblies must receive the pressure of the public
they are constituted to represent, impelling the assembly to come to a “harmonious
resolution on important points.”253 State governments are necessary to carry out practical
governance, as such an array of local interests cannot be “particularized” within a
national framework without losing the efficacy the authority to do so might provide.254

The fiscal role states play in the national system is limited by constraints defined
in state constitutions, despite the inherent role that state governments play in the vast
economic system that America fosters. States are required to balance their budgets. How
these state budgets are balanced is less about revenue and outlay expectations, rather state
budgeting often relies on “bookkeeping gimmicks” to fulfill balanced budget
requirements.255

David Super points out that state governments have no provision for deficit
functions like the federal government enjoys.256 What’s more, the economic station of
states enjoys no prerogative in carrying out a defined role in the national economy.257

Such definition, presumably, would come in the authorship of the Constitution or an

253 Ibid., p.121.
254 Ibid., p.123.
Budgetary Interactions.” Chapter. In Fiscal Challenges: An Interdisciplinary Approach to Budget Policy,
256 Ibid., p.367.
257 Ibid., p.367.
explicit act from Congress. Regulatory authority, as a function of a larger national economy, would undermine the benefits that a federalist system provides. States responsiveness to economic conditions are limited by budgetary constraints defined within their state budgets, but they are not constrained from acting in the diverse interest within the state itself. And these interests may be as varied as the number of states themselves.

Super notes that state governments suffer from an information deficit. State budgeting suffers from a lack of sophisticated analysis, which is provided by dedicated budgetary agencies. Congress enjoys the Congressional Budget Office (CBO), while the Executive Branch employs the Office of Management and Budget (OMB) to curate data to inform federal budget requests. State legislatures are faced with shorter budgeting timelines and a reliance on a single source for its budget data: the governor’s budget office. State budgets, therefore, are sculpted by the goals of its governor, facilitated by the information advantage that the governor employs over the state legislator.

What’s more, state budgets are far more constrained by procedural mechanisms than their federal counterparts. Limitations on budgetary actions at the state level does have an analogue in Congress, but only at the state level are budgetary rules judicially

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258 Ibid., p.370.
259 It’s important to recall that the Office of Management and Budget enjoys its existence in the *Budget and Accounting Act of 1921*, evolving from The Bureau of the Budget. The Congressional Budget Office derives its authorization from the *Congressional Budget and Impoundment Control Act of 1974*. The time disparity between the inauguration of each agency is perhaps illustrative of the politics that underwrite such activity, but the simple fact is that both agencies exist because Congress designed them to exist. Congress confers legitimacy onto these agencies, providing them the mandate and resources to operate. As this thesis has naturally explored, the Office of Management and Budget and the Congressional Budget Office have engaged in asymmetric confrontations over authorities, resources, data, and enforcement mechanisms. Congress is the propulsive source of American government.
260 Super, p.370.
This highlights the depth of sovereignty over the budget process in the federal government: lawmakers are responsible for budgetary inputs and must take near complete authorship over the procedures that define its passage. This reflection, though somewhat disputed by events in the 1980s, gives color to the power of parliamentary procedure at the federal level.

Finally, Super notes that direct democracy has a meaningful impact on state budget formulation. The fiscal constitutions of states are often changed directly by voters via initiative and referendum processes. These voting initiatives are often encumbered by hard partisan goals, allergic to compromise that would meet the sensibilities of state budgetary constraints. State lawmakers can mobilize the public to generate support, or legitimacy, for fiscal actions that reward a narrow interest.

Interactions between state governments and the federal government are profound acts of federalist faith, and hidden consequence. American political tradition would place cynical expectations on the outcomes of intergovernmental interactions. This space where state and federal government interact cedes ground to improvisation within the prescribed safeguards of the federalist system. But other dynamic issues have intruded on this

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261 Ibid., p.370.
262 Recall Bowsher v. Synar, in which the Supreme Court ruled against sequestration as prescribed in Gramm-Rudman-Hollings.
263 The role of institutions in public life was the central debate during the ratification process. State governments and the federal government would be separate institutions with separate and specific outlooks. Federalists sought a government that would be limited in its functions but operate without limit within those functions. The interests of the state would be varied and subject to developments outside the control of the state, geopolitics for instance, and the federal government would need the capacity to operate within this uncertain environment. While the federal government could not extend its capacity to remedy defects or ailments in state laws, the federal government would have the capacity to muster the resources of the state to meet the public interest, or public weal, as Hamilton would advocate. See: Edling, Max M. A Revolution In Favor of Government: Origins of the U.S. Constitution and the Making of the American State. Oxford: Oxford University Press, 2003.
264 Super, p.370.
265 Ibid., p.370.
process. When governments operate within defined organizations, they look to form new norms, and new functions in which to secure their own interests.

Governors associating within groups become organized interests.\textsuperscript{266} An organized interest constituted of governor’s perspectives, policy preferences and institutional entrepreneurialism focuses on the most important relationship states have by design: That of the federal government. Often, the organized interest will be reduced to the most determinative aspect of their association. Governors understand that their states fiscal fortunes is a key context to economic solvency and to their own political fortunes.

The federalist terms on which the governor/national government relationship is designed has no prescribed theory or operation on which to exist. Some may reflect that such an association is a natural growth of the federalist ideal, one in which mutual effort is operating within the broad definitions of the American system; others would claim that governors acting as lobbyists is an effort for states to extract as much benefit from the federal government as possible.\textsuperscript{267} The federal government is constituted to reflect the interests of state governments. In its original conception, United States Senators were elected by their state legislatures.\textsuperscript{268} The local was ever present in the national.

Since this era, much has changed. Senators are no longer beneficiaries of their state legislatures, a forged interest forever in debt to local perspectives. Jensen claims that the move to this era has exposed weaknesses in the federalist system. Governors have been forced to operate in an environment absent of the structure in the early era of

\textsuperscript{267} Ibid., p.2.
\textsuperscript{268} Ibid., p.2.
American constitutional government, and thus are acting to protect their own interests in new ways.\(^{269}\)

Governors have unique advantages when operating as interest groups: they cannot develop political financial ties to members of Congress, they do not have to rely on popular mobilization to apply pressure for a desired policy outcome, and governors enjoy inside access to lawmakers within Congress.\(^ {270}\) Clearly defined rules of association, coupled with unique access that conventional lobbying groups do not enjoy, provides elected officials the comfort of legitimacy and institutional delegation. The financial dividend offered to states in this dynamic is significant.

For Haider, intergovernmental lobbying is not a new phenomenon. Abundant evidence exists that proves the American system of government is built upon close human associations at multiple levels of government.\(^ {271}\) Prior to the establishment of dedicated interest associations, the activities of bureaucratic connection between the federal government and local governments established productive lines of communication that were exploited for policy purposes.\(^ {272}\) A harmonious temper between the national government and local governments was the natural federalist order. Interactions between states and the federal government was unavoidable by design, and by good stewardship of the public interest.\(^ {273}\)

\(^{269}\) Ibid., p.3.
\(^{270}\) Ibid., p.3.
\(^{272}\) Ibid., p.46.
\(^{273}\) Ibid., p.46.
The intensification of relations between the federal government and local governments was the product of crisis. The Great Depression shattered people’s expectations of government capacity, and demand for a active and robust government presence was growing within the voting public. Roosevelt's voting constituency were dominated by urban centers, organized labor and major city mayors. Polarized state governments, operating in opposition to what the New Deal offered, were impediments to the enactment of New Deal policies. Roosevelt cultivated political and administrative links to these mayors and other groups to carry out his policies.

Gains were made under this arrangement. Federal agencies, like the Federal Department of Housing and Urban Development (HUD), were created to meet the housing needs of urban dwellers. Eventually HUDs constituency grew, effectively diluting the potency of local mayoral groups, who were also plagued by divergent interests. As the federal government grew, political consternation grew with it. Changes in presidential administrations shifted the relevance of mayor’s associations and governors’ associations. Under the Johnson administration, Great Society programs proceeded in Congress without the counsel of the governor’s association. The Nixon

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274 Interestingly, we often look back on this era as one in which the mobilization of the state was a strong prescriptive tonic for severe economic contraction. This is personified in the election of Franklin Roosevelt. The vigor promised in a New Deal seemed to put the nation back on its historical trajectory of unlimited prosperity and just outcomes. In Roosevelt's Oglethorpe University Address given May 22, 1932, uncertainty about the policies he pursued abounded: “The country needs and, unless I mistake its temper, the country demands bold, persistent experimentation. It is common sense to take a method and try it: If it fails, admit it frankly and try another. But above all, try something. The millions who are in want will not stand by silently forever while the things to satisfy their needs are within easy reach.” See: Roosevelt, Franklin. “Oglethorpe University Address: The New Deal.” Transcript of speech delivered at Oglethorpe University, May 23, 1932. URL: https://publicpolicy.pepperdine.edu/academics/research/faculty-research/new-deal/roosevelt-speeches/fr052232.htm

275 Haider, p.1.
276 Ibid., p.1.
277 Ibid., p.8.
278 Ibid., p.8.
279 Ibid., p.26
administration promised a “New Federalism” that would shift political power away from major urban areas.\textsuperscript{280} Throughout this period, shifting patterns in living concentrations and income redistribution flattened interests between states, and helped to nationalize politics.\textsuperscript{281}

Policy complexity in the 20\textsuperscript{th} century helped to mobilize the national government and create new dependencies for state governments. To Cammisa, during the 20\textsuperscript{th} century state governments had become important components of the federal government.\textsuperscript{282} The largesse of federal grants necessitated a constituency among states, and the federal government needed local state capacity to execute federal policies.\textsuperscript{283} This new federal-state dynamic did not come at the expense of federalism; rather, it was fostered with the consent of the states.\textsuperscript{284}

Cammisa compliments Haider’s work with a progression: Roosevelt established federal-city connections, Johnson developed grants to states, Nixon decentralized the administration of such grants, and Carter began to decrease grants to states, a precursor to what eventually became Reagans “New Federalism.”\textsuperscript{285}

Critically, the importance of government lobbying become manifest when the federal grant system expanded under the Nixon administration.\textsuperscript{286} The Nixon administration, populated by former governors, saw government lobbies are more

\textsuperscript{280} Ibid., p.9.
\textsuperscript{281} Ibid., p.24.
\textsuperscript{283} Ibid., p.2.
\textsuperscript{284} Ibid., p.3.
\textsuperscript{285} Ibid., p.5.
\textsuperscript{286} Ibid., p.3.
legitimate than their lobbying counterparts. Natural access to the federal government provided more legitimacy to government lobbying groups.\textsuperscript{287} By the start of the Reagan administration, state governments achieved a new role for the federal government. Reagan sought to decentralize the administration of federal programs to the states themselves, leaving out subnational groups like major cities. The federal government could shape the concentration of power within states.

\textsuperscript{287} Ibid., p.3.
Methodology

Placing the role of states in allocating federal monies is an important point of orientation for this work. We will explore the role that the National Governors Association played in the endorsement and passage of the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* (2020) and the *American Rescue Plan* (2021). The passage of the *Cares Act* and the *American Rescue Plan* represents a serious exercise in fiscal disbursement within an uncertain economic environment, with the targets of the largess largely focused on States and local governments.

We will examine three key variables of the passage of *Coronavirus Aid, Relief, and Economic Security Act* and the *American Rescue Plan*: In both packages, the

- (V1). National Governors Association supported its contents and passage.
- (V2). Passage of the bills received bipartisan support; and
- (V3). The subsequent budget deadline was met.

While the *Coronavirus Aid, Relief, and Economic Security Act* and the *American Rescue Plan* are not recurring Congressional obligations to fund the federal government, these two packages offer unique conceits into federal-state relations, fiscal federalism and the impact of intergovernmental relations on the curation of the federal budget. Exceptional circumstances like the development of a pandemic is suited for exploring the formulation of the federal budget because: (1). extraordinary fiscal powers are exercised; (2) the efficacy of these fiscal expenditures is determined by the exercise of its component parts; and (3). unintended budgetary consequences. State governments prohibiting entire human behaviors like common economic exchange not only required
the invocation of unique state powers, but it required the fiscal support of the federal
government to be viable public health policy.

The first variable, National Governors Association support of *Coronavirus Aid, *Relief, and Economic Security Act and the *American Rescue Plan* contents and passage, is an important measure of intergovernmental lobbying because of the organization’s collective nature. States are at their most potent when acting as a consensus, an important prerequisite for successful outcome acting as an interest group. Absent keen insights into the fiscal functions of 50 States and associated territories, the Congress will be responsive to the information provided by the highest officer of elected State governments. The National Governors Association’s public comments will work as a proxy for intergovernmental relations inputs into the Federal fiscal allocation process.

While CARES and American Rescue Act funding was enacted two years ago, in some respects the impact of such fiscal infusion is still unfolding. There is no parallel of uncertainty to hit the States in United States history, nor is there a parallel for Federal intervention in State operations outside of wartime measures. No definitive record of the National Governors Association’s lobbying effort exists, though that would presume a degree of successful premeditation by governors to impact Federal fiscal improvisation in time of crisis. The public health standard required to combat the spread of Covid-19 at the onset of the pandemic within the United States had no established guidelines, and public heath messaging from government institutions was often unclear and contradictory. As a result, States sought substantial fiscal assistance from the federal government, with as little cost sharing or eligibility requirements as possible. The CARES Act and American Rescue Act would accommodate States requests, and
intergovernmental relations subsequent of this fiscal disbursement was often oriented by reducing States obligations to meet specific criteria.

The second variable, bipartisan support for passage within the Senate, is an important measure of consensus within the Senate about the role the National Governors Association plays in formulating *Coronavirus Aid, Relief, and Economic Security Act* and the *American Rescue Plan* packages. Fundamentally, the federalist system of government is not curated to confront partisan differences, rather it exists, in this context, to facilitate more efficient policy outcomes. A bipartisan vote in the Senate will show an institutional awareness of this intergovernmental dynamic.

The final variable, successful passage of subsequent federal budget by the deadline prescribed in the *The Congressional Budget and Impoundment Control Act of 1974*, is a useful measure of the impact intergovernmental relations has on the formulation of the federal budget. The *Coronavirus Aid, Relief, and Economic Security Act* and the *American Rescue Plan* created novel fiscal vehicles to fund public health measures, and over time, the funding reached policy jurisdictions that had an indirect association with funding public health measures. As the pandemic unfolded, a momentum was generated by States to seek out more funding for State government functions, impacting preexisting federal programs. Passing subsequent federal budget obligations will be a measure of responsiveness to intergovernmental relations.
H.R.748 The CARES Act (Public Law 116-136)

The most uncertain economic moment of our time was met with the largest fiscal rescue package in history.\footnote{Amounting to 10\% of the United States gross domestic product and more than half of the $3.5 trillion the federal government was scheduled to collect in 2020, the CARES Act was the largest rescue package in American history. See: Kambhampati, Sandhya. 2020. “The coronavirus stimulus package versus the Recovery Act.” \textit{Los Angeles Times}, Mar 26, 2020. https://www.latimes.com/politics/story/2020-03-26/coronavirus-stimulus-package-versus-recovery-act} An unprecedented amount of appropriations was generated in 2020 to promote behavior restrictions across the United States and shore up the revenue short-falls of businesses. Figure 1 shows the critical component of the CARES Act that impacted the fiscal conditions of states was the Coronavirus Relief Fund. $150 billion in dedicated funds, the Coronavirus Relief Fund was a monumental shift in relief funding to states:
Relief funds of this magnitude must be dictated by public interest constraints and stable program definitions. Permissible uses of Coronavirus Relief Funds at passage of the CARES Act fell along the following definitions: (1) Public health expenses incurred directly related to the Covid-19 pandemic; (2) Public health expenses not accounted for

Source: National Academy of Public Administration

Definitions of public interest should be reduced to policy impact on public welfare. Policy “should aim at the collective welfare generally (i.e. adopt the universalistic-utilitarian standard), rather than furthering the interests of this or that group or pursuing some non-utilitarian goal” as Felix Oppenheim explained. This definition in action can generate greater questions of public interest. For example, “some may feel that considerations of justice should supersede those of collective welfare.” See: Oppenheim, Felix E. “Self-Interest and Public Interest.” Political Theory 3, no. 3 (1975): 259–76. http://www.jstor.org/stable/191109. P.274.


290 Definitions of public interest should be reduced to policy impact on public welfare. Policy “should aim at the collective welfare generally (i.e. adopt the universalistic-utilitarian standard), rather than furthering the interests of this or that group or pursuing some non-utilitarian goal” as Felix Oppenheim explained. This definition in action can generate greater questions of public interest. For example, “some may feel that considerations of justice should supersede those of collective welfare.” See: Oppenheim, Felix E. “Self-Interest and Public Interest.” Political Theory 3, no. 3 (1975): 259–76. http://www.jstor.org/stable/191109. P.274.
in local budgets as of March 2020; and (3) Incurred between March 2020 through December 2020.

V1. National Governors Association Support for Passage

Though Congress’ approach to creating a relief package occurred in improvised stages, as Figure 2 shows, direct funding for states occurred in the latter stages of the initial response:

**Figure 2: Phases of Covid Relief 2020**

In a letter dated March 20, 2020, the National Governors Association urged the leaders of each party in their respective chambers to pass a third supplemental relief bill containing $150 billion in dedicated relief funds for states with “maximum flexibility.” Such an infusion of funds would provide support for unemployment claims, supplemental education expenses, childcare and housing needs. Critically, the National Governors Association understood the fiscal flexibility required for state governments to meet public

293 Ibid.
needs it a moment of maximum uncertainty. The National Governors Association also called for the suspension of public comments on rulemaking processes for federal agencies, claiming that intergovernmental consultation would be the most optimal exchange of policymaking.\textsuperscript{294}

March 2020 saw the coordination of state governments focused on shaping federal policy in Congress and the Executive Branch. The only limit on National Governors Association requests were what support could be gathered in Congress, which amounted to historic levels of appropriations. Intergovernmental lobbying at the point of legislative conception was critical to the National Governors Association, and the monopoly of influence at the federal agency level was just as important to the National Governors Association. Not only did the National Governors Association endorse passage of CARES Act, but they also sought to define its implementation at the federal level.

\textbf{V2. Bipartisan Support for Passage}

The 116\textsuperscript{th} Congress, running from 2019-2021, was a divided government. In the House of Representatives, Democrats held 54\% of the voting share while Republicans held 52\% of the voting share in the Senate. The Executive was a Republican administration. Cooperation between the White House and the Senate during the 116\textsuperscript{th} Congress fielded various outcomes, but cooperation on the CARES Act was evident.

The CARES Act passed the Senate 96-0 March 25, 2020. Unprecedented in its fiscal scope, the CARES Act was also unprecedented in its bipartisan support. Senate Majority Leader, Mitch McConnell (R-KY), claimed the CARES Act was “largely” the creation of the Republican majority, with some input from elected Democrats.

V3. Successful Passage of Subsequent Federal Budget

Fiscal year 2021, running from October 1\textsuperscript{st} 2020 through September 30\textsuperscript{th} 2021, faced a fraught deadline. As summer 2020 unfolded, requests for more pandemic relief funding (and other public reform requests) complicated FY21 appropriations packages. Ultimately, a continuing resolution was passed by September 30\textsuperscript{th}, potentially averting a shutdown. The president did sign the stopgap spending bill, though nearly an hour into October 1\textsuperscript{st}, generating a momentary government funding shortfall.

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Weeks after passage of the CARES Act, calls for more relief funding were sent to the Congress. In a letter to Congressional leaders dated April 21st, 2020, the National Governors Association requested an additional $500 billion in relief funding for state and local government to replace lost revenue. Calls for such substantial funding were large because state and local appropriations under the CARES Act did not meet states requests. The summer of 2020, after passage of the CARES Act, Republicans in Congress were still resistant to granting such substantial sums to state and local governments.

The election of Joe Biden brought new promises of funding for state and local governments. After successive failures to bring more federal resources to bear, the American Rescue Plan was designed to be the first fiscal installment of a multistage approach that would remake the social contract in America. Interest in the contents of the American Rescue Plan was intense. Federal funding would target explicit public health measures such as the development and procurement of Covid-19 vaccines, but the majority of the appropriations would target services that were impacted by the pandemic itself. This included government services. In total, as Figure 4 demonstrates, the American Rescue Plan would provide $350 billion in relief funding for state and local governments.

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Concerns about revenue shortfalls at the state level waned through the summer of 2020. By the inauguration of the Biden administration in 2021, states were experiencing record surpluses. Given this general economic backdrop, ruckus public support for...
state and local relief funds in the American Rescue Plan by the National Governors Association was more muted. The National Governors Association did not leverage its public presence to lobby Congressional leaders for the passage of the American Rescue Plan, rather the National Governors Association pressed its primary constituency for its passage: The President.

The National Governors Association used the Winter 2021 meeting of the National Governors Association to lend support to state and local provisions within the American Rescue Plan. During the meeting, President Biden echoed language of common usage in the National Governors Association:

(And) my administration will be there every step of the way with you because when people in this country need help, they’re not Democrats or Republicans; they’re all Americans… And I think the whole spirit of this governors’ conference and our administration is changing the attitude a little bit about how we deal with one another — at least I hope so.303

Subsequent of the passage of the American Rescue Plan, the National Governors Association began issuing guidance to states on the fund’s permissiveness and federal agency affiliation. The National Governors Association become an important organizing point for maximizing states access to funds allocated in the American Rescue Plan, after offering muted support to the president.

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V2. Bipartisan Support for Passage

The 117th Congress, running from 2021-2022, was a unified government. In the House of Representatives, Democrats held 51% of the voting share while Democrats and Republicans held 50% of the voting share in the Senate. The American Rescue Plan, a Senate-amended budget reconciliation product, passed the Senate along party lines 50-49, March 6th 2021.

V3. Successful Passage of Subsequent Federal Budget

Fiscal year 2022, running from October 1st 2021 through September 30th 2022, catalyzed a return to combative budgeting. Republican concerns over the size of the debt limit304 forced Congress to enact successive continuing resolutions throughout 2021. Only by March 2022, after three continuing resolutions to fund the government had sustained FY22, did Congress pass a $1.5 trillion omnibus spending package.305


Lawmakers have enacted a total of 128 continuing resolutions over the past 25 fiscal years.

**Source:** Peter G. Peterson Foundation

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Conclusion

Stifled by uncontrollable dynamics like a pandemic and the hostile incentives of politics, the federal budget is the first victim of politics. Intergovernmental lobbying is well positioned in a federalist system by design, but over time, other concerns can overtake its lobbying role. The CARES Act and the American Rescue Plan served two fiscal purposes at two different points in time, with the American Rescue Plan often claiming to finish what the CARES Act started. In both cases, intergovernmental lobbying was critical.

Figure 5: Case Study Comparison

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V1. Lobbying from the National Governors Association was important for federal relief in both case studies not only for political support, but also for the efficacy of the appropriations. The National Governors Association leveraged the uncertainty of the onset of the pandemic to use its bipartisan structure as a force to support passage of CARES Act. This changed with the American Rescue Plan. Fiscal fortunes improved for state governments, and local government services were expanding their goals for federal funds.

V2. The unprecedented bipartisan vote for an unprecedented fiscal relief package made the CARES Act unique. The vote for the CARES Act could be an implicit measure of fear coursing through the federal government, yet still state and local funding in the
CARES Act was below the amount requested by the National Governors Association. The partisan passage of the American Rescue Plan was a vote for another manor of relief. The National Governors Association did receive $350 billion in additional relief, meeting the $500 billion in total funding states requested throughout the pandemic.

\textit{V3.} The failure of Congress to pass federal appropriations within the prescribed timeline is generally a failure that persists beyond the pandemic. Funding government by passing continuing resolutions has become a feature of the federal budget process, though this process has only become more fraught with the introduction macroeconomic externalities. Under these conditions, the lawmakers will seek certainty and political victories. Continuing resolutions allow lawmakers to stabilize appropriations, and in the instance of a change in power in government, deny the majority party implementing policy priorities.

The federal government is still contending with the impact of the pandemic. The challenge of measuring intergovernmental lobbying during the crisis is the absence of authoritative information. By March 2020, the National Governors Association became the critical group for the federal government to consult on the formulation of policy. What’s more, the influence of the National Governors Association did not end at the point of policy conception. Federal agencies looked to the National Governors Association to carry out relief policies. The impact of this on the federal budget is still developing. Rulemaking for relief funds is changing in real time, impacting annual federal appropriations to states.
Future research should rest on the benefit of time. Federal budget cycles in the next five years will reveal how much $500 billion in unexpected relief spending will change the nature of the formulation of the federal budget.
Conclusion

The federal budget process is ill. Institutional guidelines have given way to partisan posturing, and parliamentary procedure has become the first victim of this succession. The preceding three chapters has shown that three important dynamics have impacted the formulation of the federal budget, and as a consequence, impaired the function of parliamentary procedure in the United States Senate.

The first chapter, employing voting data and budgetary timelines, shows that interpretations of procedural mechanisms, when left to lawmakers operating in an increasingly polarized political environment, will leverage ambiguity for preferred policy outcomes, ultimately committing fratricide to the parliamentary process. Reconciliation was offered as a path toward cleansing the federal budget of extraneous fiscal activity in an uncertain and evolving economic environment, yet its cannibalization resulted in the fractionalization of the budget process.

The second chapter contains important elements that interfere with the basic functions of the federal budget process. Intellectual inspiration in a troubled economic context was often conceived in the political promise of significant electoral turns, a faulty premise to formulate sound policy outcomes. Solutions offered by members of the Senate to reduce the federal deficit were better offered in electoral strategy meetings rather than as an honest broker of Senate budget functions. Missing federal deficit targets cannot entirely be laid at the feet of lawmakers, but the critical economic assumptions within the deficit targets are sympathetic to the incumbent party’s electoral sensibilities. Fiscal ideals taken to the United States Senate since the manifestation of the Great Stagflation
are still with the United States Senate today, though the budgetary results have not been as promised.

The third chapter affirms the role of federalism in curating the federal budget and its impact on meeting budgetary timelines. While intergovernmental lobbying of the CARES Act and the American Rescue Plan were important to their creation and implementation, the impact of this budgetary activity on the federal budget proper are yet to be seen. Recent evidence has shown that state revenues soared during the pandemic, challenging the fiscal assumptions of the crisis. The implementation of continuing resolutions as the mechanism for funding government relies upon the palliative response to parliamentary troubles, coupled with backdoor political wins by denying the incumbent party fiscal policy wins.

Res Publica in Perspective

The institutional capacity of the federal government remains strong. Hamilton’s insights about maintaining sufficient institutional capacity to meet the uncertainties ahead has proven to be the critical enabler of critical budgetary reforms. The very implementation of The Congressional Budget and Impoundment Control Act of 1974 and its attendant revisions has shown that the United States Senate is institutionally empowered to meet the needs of its lawmakers. The major throughput in nearly every circumstance was the increasing partisan nature of the budget’s formulation. Ideological clashes during the formulation of the budget often reflected the larger political detritus occurring outside of the United States Senate, and voting patterns often moved with the hard politics of its respective era. Partisans became more and more imbued to their party
leaders in the Senate, and those party leaders turned to their presidential ally for budgetary direction.

The partisan nature certainly changed during the initial weeks of the pandemic. The bipartisan National Governors Association put forward a unified voice in its request for relief funds. Though, this bipartisan approach by state governors has been a trend for decades. Federal support of state fiscal conditions has been growing overtime:

**Figure 1: State and Local Government Receipts and Expenditures as Percentage of GDP 1930-2010**

![Graph showing state and local government receipts and expenditures as percentage of GDP from 1930 to 2010](Source: U.S. Bureau of Economic Analysis and calculations by author)

**Source:** Tax Foundation

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Governors, when relating to the federal government, often view themselves as an institutional component of American government, seeking to improve their states fiscal circumstances and achieve policy goals by using the federal budget to fund programs that state revenues would not allow. This, in turn, has changed budgetary expectations within the United States Senate. Cycles of unexpected economic contraction will be met with expectations of fiscal relief from the federal government, changing annual appropriations to states on the backend. This dynamic will only be intensified by partisan calls for austerity and retracting the federal government’s role as fiscal benefactor. The federal budget process will be where this battle takes place.

Passing only a limited number of appropriations bills at the initial stages of the budget process appears to serve two major purposes: 1. Allow some critical government functions to continue, and 2. Unlock the reconciliation process. Major policy advances have often come in the form of reconciliation bills, making the current federal budget process a majority-driven process. Reliance on the concurrent budget resolution to operate the budget process has reduced the original minority role in the Congress and empowered majorities to create and pass bills on partisan lines. Differences between parties are no longer as important as ideological differentiation within parties. Majorities in Congress, most particularly within the Senate, are forced to account for polarization within their own parties, which empowers party leaders to act in contravention to the committee process that should structure federal budgeting.
And this is a critical issue within the Senate: divergence between parties and polarization within parties. Changes in power within the Senate usually brought significant changes to the partisan makeup of the Senate Budget Committee.\footnote{The substantial movement in partisan differences on the Senate Budget Committee began in the 1990s. In the early 2000s, Republican appointments to the committee were of a harder disposition to the right than their Democratic counterparts were to the left. Deliberation on proposed budget resolutions within the Senate Budget Committee also suffered by the early 1990s. Party-line votes on amendments during budget markup rose to significantly by 1993 and continued through the mid-2000s. See: Bafumi, Joseph. “The Senate Budget Committee: The Impact of Polarization on Institutional Design.” \textit{PS: Political Science and Politics} 45, no. 1 (2012): 161–67. http://www.jstor.org/stable/41412746.} The Senate Budget Committee is, and should be, ground zero for fiscal agenda setting in the Congress. Agenda setting from the committee process is made potent through the requirement of reauthorizing and reappropriating federal programs, influencing the decision-making process, and informing the political agenda.\footnote{Sinclair, Barbara. “The Role of Committees in Agenda Setting in the U. S. Congress.” \textit{Legislative Studies Quarterly} 11, no. 1 (1986): 35–45. \url{https://doi.org/10.2307/439907}. P.37.}

Solutions to this must be as dynamic as the issue itself. A simple inclusion or reduction of parliamentary process will not cure the United States Senate of its delinquency in enacting the federal budget as prescribed. Rather, since the Senate is now centralized in partisan leadership and deference to the Executive Branch, political reforms are necessary. The institutional endowment given by the Constitution, and upheld by the federalist arrangement, will accept success or failure by lawmakers. The political parties are failing to respond to institutional responsibilities.

_Gerrymandering_ The role of gerrymandering in American politics is a well observed phenomenon.\(^{313}\) Primary elections have tended to elicit the narrowest of partisan views, cultivating a competition of purity and belligerence. Under these circumstances, hard political incentives are followed when the candidate transitions to lawmaker. Political operations at the state level have focused on ensuring victory at the congressional level by manipulating the size and scope of districts. This can produce marginal political results, but the result is the intensification of politics at the national level.\(^{314}\)

Taking authorship away from the political parties and into the hands of an independent body would change political incentives. Candidates would no longer take the passions of the primary to the general election, then onto the business of governing, unlocking a spectrum of human possibilities for candidates for each party. What’s more,


the corrosive nature of gerrymandering is so well known that perceptions of unfair elections spoil voters’ participation in elections. Gerrymandering reform could upturn perceptions, introduce better candidates, solicit more voting participation, and induce better policy outcomes. The federal budget should be a receiving ground for the res publica, not hard partisan combat.

Committee Reform in the Senate As has been demonstrated, increasing polarization in Congress has been met by lawmakers by concentrating power in the hands of party leaders. Consensus building among a chosen few is much easier than consensus building among an ideologically diverse coalition of lawmakers. Breaking up this committee dynamic can result in a constitutionally ordered approach to the federal budget, backed by institutional positions rather than party positions. Budgeting from a diverse set of institutional positions within Congress would induce lawmaking by institutional interest and procedure, not by party expediency.

Suggestions to reform the budget process itself are valid, but do not fall within the purpose of Senate procedural outcomes. Federal budgeting in the past has shown critical shortcomings dictated by the expansion of the federal government, the nationalization of politics, and the intensification of political polarization. These dynamics are not just historical markers that can be explored for analytical purposes, they are ever-growing dynamics that leave marks on governance. Thus, the federal government is operating in an uncertain environment where change can be unexpected and the answers to such change may not readily present themselves.

Reforming the political process itself by targeting party activity elicits more challenges. Participation in party politics is the democratization of our system of
government. Limiting party influence in government or in the electoral process in the
name of procedural sanctity could impair the potency of the democratic process.
Phenomenon like gerrymandering is not exclusive to the United States, nor are the effects
of its incentives entirely eliminated through outright abolition. The proposed independent
bodies endowed with authorship over districts will likely become yet another
battleground for party politics, producing still partisan outcomes, albeit on a moderated
scale.

The passage of large bipartisan economic works can act as a critical incentive for
combating tardiness in the federal budget process. In August 2021, the Senate passed the
Infrastructure Investment and Jobs Act (IIJA) as a substitute amendment to H.R. 3684,
eventually signed into law by President Biden in November 2021 (P.L. 117-58).
Providing $550 billion in new infrastructure spending over 5 years, this economic
package is subject to the appropriations process. Congressional dispute over federal
spending in early 2022 led to billions of dollars in new infrastructure commitments laying
in stasis.\textsuperscript{315} The uncertainty of following up a major economic initiative with legacy
Congressional disputes impacts the efficacy of the original federal program. What’s
more, a federal initiative like infrastructure investments opens the federal budget process
to the political economy of its members and the critical role of intergovernmental

\textsuperscript{315} Duncan, Ian and Romm. Tony. 2022. “Infrastructure Programs on hold until Congress passes budget to
fund them.” \textit{The Washington Post}, Jan 29\textsuperscript{th}, 2022.
https://www.washingtonpost.com/transportation/2022/01/29/infrastructure-climate-goals-delay/
relations. A program of such popularity,\textsuperscript{316} scope, and intergovernmental coordination could induce Congress to regularly appropriate funds.

There has been a significant rise in discretionary spending since the Budget Control Act of 2011 faced no credible attempt at reauthorizing its attendant spending limits.\textsuperscript{317} As Figure 2 shows, both defense and nondefense spending is rising, though discretionary spending is rebounding to pre-Budget Control Act of 2011 levels:

\textbf{Figure 2: Trends in Discretionary Spending 2000-2020}

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\caption{Trends in Discretionary Spending 2000-2020}
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\textbf{Source: Congressional Budget Office}\textsuperscript{318}


\textsuperscript{317} Discretionary spending limits prescribed in the BCA11 expired FY2021.

We may be quick to note that the aggressive return to an increase in outlays is in anticipation of the expiration of the Budget Control Act, however as we have noted, Congress and the President have altered the discretionary spending limits nearly every fiscal year that the Budget Control Act has been in effect. Increased discretionary spending could become a welcome development for both parties in Congress.

The trade orientation of the United States has always been a consideration of the federal government, but free trade itself became a visible public component of the 2016 election cycle. The first major change in trade winds came with the 89-10 Senate passage of *H.R.5430 United States-Mexico-Canada Agreement Implementation Act* (P.L. No116-113) (USMCA), which mostly updated NAFTA provisions related to intellectual property and digital trade. A convergence between parties about the nature of United States trade experience the previous 30 years had begun to manifest at this moment. Greater focus on government roles in facilitating the fair exchange of goods across borders moved party members to consider how far the government should go in creating a new economy. Liminal indications of the creation of a new political economy were showing itself in the Senate.

The coronavirus pandemic brought even greater attention to the role of the federal government in investment, procurement, and protection. Severe shortages of critical

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319 While the Trump campaign did not offer a coherent trade platform during the 2017 election cycle, the President’s 2017 Trade Policy Agenda offered a policy that aggressively asserted American sovereignty over its trade matters and mustered the perceived bipartisan mandate to change the direction of American trade policy.

320 Not only was digital trade and intellectual property modernization a focus of USMCA, increasing the content requirement for market access in manufactured vehicles was increased. USMCA boosted the content requirement of North American originated steel and aluminum from 62.5% to 75% and a wage requirement that 40%-45% of auto content be manufactured by workers paid at least $16 an hour. See: Villarreal, M. Angeles, and Ian F. Fergusson. U.S.-Mexico-Canada (USMCA) Trade Agreement. [Library of Congress public edition]. [Washington, D.C.]: Congressional Research Service, 2019.
medical goods inspired much fear in Congress, inducing calls to “bring supply chains home” to prevent the sudden disruption of supply by natural disaster or via intervention from a foe. A common taxonomy around supply chains was adopted by both parties: the United States needed to “re-shore” or “friend-shore” supply chains to prevent trade abuses and leverage American economic security.

In August 2022, President Biden signed into law *H. R. 4346 The CHIPS and Science Act of 2022*, a $280 billion federal investment to boost research and development and subsidize the establishment of semiconductor fabrication plants on United States soil. Critical semiconductor shortages, spurring supply chain constraints, compelled the Senate passed the CHIPS and Science Act by a vote of 64-33. Adopting such sweeping industrial policy signals the emergence of a new political economy.

Subsidizing of such scope and target not only produces some measurable economic targets, it creates new political constituencies. Firms may expect a considerable federal interest in where an international firm intends to set up new manufacturing, state

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321 The introduction of bills focused on the federal role of industrial policy and boosting productivity has increased through recent Congresses. Between the 111th Congress and 115th Congress, members introduced an average of 18 of such bills. The 116th Congress saw the introduction of 36 such bills and the 117th Congress has seen the introduction of 41 such bills. H.R. 7178 (116th): CHIPS for America Act, the predecessor to H.R. 4346, enjoyed 29 cosponsors- 15 Democratic and 14 Republican. See: govtrack https://www.govtrack.us/congress/bills/subjects/industrial_policy_and_productivity/5926#current_status [?]=1&congress=__ALL__

322 Other actions have been taken by the federal government to accommodate industry for federal subsidies. H.R.6256 - Uyghur Forced Labor Prevention Act establishes a rebuttable presumption that U.S. entities sourcing inputs, goods, or other wares from China’s Xinjiang Uyghur Autonomous Region has been produced through forced labor, a violation of Section 307 of the Tariff Act of 1930. While the predicate for this bill may find itself in established law, Xinjiang is a critical source of inputs for renewable energy. Some 40% of global polysilicon production, a critical input for the manufacture of solar panels, is centered in Xinjiang. In all, China produces 82% of global polysilicon production; the United States saw its global share of polysilicon production fall from 35% in 2010 to 5% in 2020. Rules enforcement can be used to induce domestic manufacturing and content sourcing in supply chains. See: Swanson, Ana and Buckley, Chris. 2021. “Chinese Solar Companies Tied to Use of Forced Labor.” *The New York Times*, Jan 28th 2021. https://www.nytimes.com/2021/01/08/business/economy/china-solar-companies-forced-labor-xinjiang.html
governments can lobby members of Congress to increase incentives for domestic manufacturing, and political fortunes can change with the infusion of jobs. Industrial policy may induce Congress to maintain stable budgetary production.

Inputs matter. Outcomes are only as good as the quality of the input. No amount of procedural reform in the current political environment will dispel the malformed budgetary and procedural outcomes that reign now. Political reforms, that is to say the quality of partisanship, must predate any functional changes to procedure in the United States Senate.

The Dismal Ledger

As Hamilton prescribed, the federal government is a potent and robust centralization of operations. This is evidenced by the changes made in the federal budget process overtime: Whenever a consensus was born in Congress for change, the institution accommodated lawmakers designs. After major budgetary paradigms had been changed, Congress accommodated alterations to budgetary procedure and committee functions. The United States Senate as an institution has the Constitutional power and competency to operate as well as its inhabitants wish. The Senate as an institution is not frail, the political parties occupying the Senate are frail.

The procedural consequences of this have been serious. Partisan conflict has resulted in delays in the passage of full appropriations, and the federal budget itself has been held hostage to achieve political gains. The importance of the federal budget to the very existence of federal activity and the achievement of ideological gains is well understood. Procedural innovations like the Byrd Rule were creations to offer corrections
to partisan excesses, and aspects of the Byrd Rule survive to this day. The survival of the Byrd Rule depends on the credibly of the Senate parliamentarian, who must maintain the support of member of the Senate. Intense polarization has shown that institutional procedure is the first victim and institutional roles like the Senate parliamentarian could become the final sacrifice in the name of partisan achievement. The maintenance of these roles and rules emanates from lawmakers, but their very existence is rooted in the institutional capacity of the Senate itself.

Multiple pathways to the federal budget exist for voters in the United States. Voters can influence the creation of the federal budget through voting in Congressional elections, state elections, and through the proliferation of ideas. As a consequence, impurities and latencies will manifest in the budgeting process and in parliamentary procedure. This will always be a policymaking reality in a robust and responsive democracy.

Institutional tolerance for such impurities and latencies certainly reflects the Hamiltonian principle for significant capacity, but the persistence of parliamentary dysfunction can render institutions impotent in the eyes of the public. Significant political reforms offered in this thesis may appear to be fleeting and out of reach in many states, but the pace of change can move as fast as disabling events. The federal budget can not only act as a forum for parliamentary dysfunction in the Senate, but it can also act as a vehicle for dysfunction throughout government branches and institutions. Institutional tolerance for political failures is generous, but the ledger of inaction has its limits.
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