

Executive Budgeting in the States: Evaluating a Reform

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Abstract:

We examine executive budgeting in the states, providing historical context and three case studies that trace the development and financial impact of increased gubernatorial powers over the budget. Given the dynamics and complexity of power arrangements in the states, the impact of the governor's budgetary powers is best examined through cases as opposed to cross-sectional fifty-state studies. The cases examined here demonstrate that many other factors besides executive budget powers influence the quality of budgeting and financial management and that it matters who the governor is, what his or her policies are, and how willing he or she is to use those powers to improve budgeting and finance. Of the three cases of strong executive budgeting examined, two of them have been very poorly managed over time. Strengthening the governor's powers alone is not likely to solve many states' financial problems.

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Intro

The colonial experience in the United States left the new country with a profound mistrust of the strong executives. Legislatures were granted budgetary powers, and executives were intentionally weak. This pattern began to change around the time of the Civil War, as a perception emerged that stronger executive control could temper the excesses of legislative bodies. At first, the reform thrust was to arm the governors with strong veto powers, so that legislatures proposed, but executives disposed; but in the early 1900s, a second approach was utilized, so called “executive budgeting,” which reversed the pattern, so that executives proposed, and legislatures disposed. “Executive budgeting” means that the chief executive and his or her budget agency gathers spending proposals from the departments and programs, reviews them, trims them back, possibly adding some expenditures or revenue he or she prefers, and then presents that combined proposal to the legislature. Executive budgeting was adopted in hopes of better budgeting, more open and accountable budgets, more balanced budgets, and budgets better able to weather economic downturns. Did it work, and is the solution to state fiscal problems to give more budgeting power to the governors?

To address these questions, we begin with a brief description of when and why executive budgeting was adopted, selectively survey findings from comparative state research on gubernatorial powers and budgeting, and then present case studies of three states which were early adopters of strong executive budgeting powers: Illinois, New York, and Maryland. Even though strong budget powers seems to facilitate good budgeting when a governor is determined to improve the quality and transparency of the budget choices, we found little evidence that strong gubernatorial budget powers have resulted in good fiscal management over time. Some

governors do not use the powers they have for any of a variety of reasons; some use those powers to make bad decisions; and some legislatures have been responsible for responsible budgeting.

Shifts in Gubernatorial Budgetary Powers

The first phase of the shift of budgetary power to the executives began with the Civil War in the granting of item veto powers to the Governor.

The Confederacy included an item veto in its constitution. This item veto was never exercised, but after the Civil War, two southern states quickly adopted it: Georgia in 1865, and Texas in 1866. Many other states followed suit, and by 1925, all but 11 states had adopted some form of item veto. Even a stalwart Union state such as Pennsylvania adopted the particularly strong form called the reduction veto, in which the governor could reduce an appropriation rather than have to take or leave a legislative budget in the aggregate. Adopted in 1885; it was used extensively between 1901 and 1924. Since appropriations were often passed at the end of the session, after which the legislature went home, Pennsylvania's governor could reduce appropriations as he saw fit without fear of being overridden.

The item veto was expected to eliminate frivolous appropriations and earmarking, which would reduce expenditures and help keep taxes down. Some budget reformers opposed strong item vetoes, arguing that they reversed the appropriate relationship between the governor and the legislature—the legislature had the initiative, the governor could only say no. The item veto could also encourage legislative irresponsibility, forcing the governor to make all the cuts.

Alternatively, item vetoes could be used by the governor to harm opponents and help allies in the legislature.

The reformers proposed an alternative, one that would shift discretion and control to the governor. They argued for a particularly strong form of executive budgeting, one rejected by the voters of New York in 1915 (though later adopted in 1927) and adopted by Maryland in 1916. In this form, agency budget requests are examined and adjusted by the governor in advance before consideration by the legislature, and legislature can reduce but not increase proposed amounts. Later adoptions of the executive budget reform left more room for legislative discretion.

Regardless of how much budgetary power they had, governors continued to ask for more, in part to deal with bouts of fiscal stress. In Illinois, when the governor interpreted his veto to include the ability to reduce items in appropriations, not merely veto them, the state supreme court said no. This occurred just before the change to executive budget proposal reform in the states, suggesting that a failure of veto power facilitated the adoption of the executive budget.

Gubernatorial demands for greater power were supported with rationales supplied by experts in public administration--a newly minted occupation. Among the most notable proponents were Frederick Cleveland of the Bureau of Municipal Research, in New York City. Cleveland became the staff director of the Taft Commission which recommended executive budgeting for the federal government (Meyers and Rubin, 2011). He later dominated the Maryland executive budgeting reform, winning a dispute with his former partner William Allen, who wanted more legislative and public participation in budgeting than did Cleveland.

Adoption of executive budgeting was more complicated in many other states. For example, the progressive Governor Hiram Johnson set in motion a movement that eventually led

California to give governors a weaker form of executive budgeting power in 1922. But this state was one of the many non-Eastern states that also implemented direct democracy approaches such as the initiative and referendum. In California, widespread concern that the economic elite already had too much control over state government limited the extent to which centralization of budgetary powers in the governor's office would be acceptable.

The main predicted benefit of giving the governor the power to propose budgets was that states would realize more prudent budgetary outcomes. Instead of a diverse and conflictual legislature, one man would be in charge.¹ Concentrating power would enable rapid decision-making in times of crisis, ending reliance on legislatures that were said to be stuffed with the corrupt and compromised. Identifying clearly who was responsible for budgetary outcomes would enhance accountability because the public could easily blame him if the budget got out of control, and then hold him and his party to account through elections. The governor would have a very strong incentive to be prudent. Supporting that incentive would be a dramatically increased administrative capacity stemming from creation of the chief executive's budget agency.² Scientific methods would improve the government's abilities to forecast, analyze, allocate, and execute. Executive budgeting was thus justified along two related lines, one that featured the accountability of the governor to citizens, and the other that emphasized the governor's administrative competence.

Some contemporary budgeting experts have supported the idea that centralization in the executive is a prerequisite for good budgetary decision making. They have argued that

¹ Governors were all men at the time. Not until 1925 did any state have a woman governor, and not until 1975 was a woman elected governor absent a husband preceding her as governor.

² We don't cover modern-day state budget agencies in this paper, but see Thurmaier and Willoughby, 2001.

legislators are excessively focused on local benefits and too tied to organized interests, and that legislators logroll to push spending up. Only governors represent statewide constituencies; giving them proposal power (aka “agenda-setter” power) and veto power will limit legislative demands, particularly when supported by constitutional rules requiring balance. The other side of the argument is that governors also have constituencies, and may be tied to particular interest groups, and not necessarily represent the public at large. The requirement for budget balance has often resulted in misleading bookkeeping rather than better budgeting. Executive budgeting theory also asserts that budget transparency is guaranteed by putting one person in charge, but this is an age when budgets have become extraordinarily complicated. That a state has a powerful governor does not empower citizens to understand, for example, if a state has provided funds in the budget for its OPEB liabilities.

Further, state governments’ responsibilities have expanded greatly in comparison to what they were at the time when executive budgeting was adopted. In the early 1900s, budgets were almost entirely discretionary and thus subject to gubernatorial proposal and veto powers. In recent times, the majority of spending is considered mandatory--it takes legislation to change the path of spending. Even in strong executive budgeting states, governors cannot realistically control this spending simply by requesting less and imposing those levels on legislatures. Instead, they must propose complicated changes to, for example, maintenance-of-effort and equity formulas for elementary and secondary education or to Medicaid service options and reimbursement policies. The simple logic of executive budgeting reforms does not address the reality that legislators may or may not concur with such proposals.

State Executive Budgeting After a Century: A Selective Review of 50-State Research

To date, there have been no definitive studies of the effects of executive budgeting. Problems of measurement and shortcomings in available data and underspecified models have limited the usefulness of this research, but some of these partial and often flawed studies have been suggestive.

Sharkansky (1968) produced a widely cited quantitative study of state budgeting. As part of the great interest at the time in budgetary incrementalism, he measured the extent of agency acquisitiveness--whether agencies asked for and received large budget increases--and sought to identify the factors that might explain acquisitiveness. He found that gubernatorial support for agencies' ambitious requests helped to predict legislatively-approved levels--the flip side of the executive budgeting argument that strong governors are needed to control excessive spending. Though Sharkansky used independent variables such as the gubernatorial veto power and exposure to term limits, his approach was later criticized for omitted variable bias.

The more important observation here, however, is about his data, which consisted of budget requests and enactments for 592 agencies over periods of two to three years, drawn from 19 states. The states were chosen because the requests of the agencies were published; in stronger executive budgeting states, the agency requests go to the executive budget office, not the legislature and not the public. Thus the independent variable of interest to us was constrained, the study did not consider the range of more and less potent governors with respect to the budget, but only those states where executive budgeting was relatively weak. It is difficult to know how to draw a conclusion from a study with this kind of sample. This early quantitative

study thus provides a warning about how data availability may color the findings of quantitative research on state budget processes.

During the period when Sharkansky was working and in the decade after it, there were significant changes in the capacities of many state governments. Many legislatures “professionalized,” thus expanding their influence (Rosenthal, 1990, 1998, 2004; Abney and Lauth, 1998). Governors in many states also acted more professionally than their predecessors, becoming more active in changing policy (Sabato, 1983; Beyle, 1992, others). In light of these changes, Thompson (1987) partially replicated Sharkansky’s study. However, he restricted his analysis to only unified partisan governments, another methodological choice that compromises interpretation of results.

Choosing a meaningful sample that includes the relevant variation presents one challenge to quantitative studies. A second, and equally important problem is measuring gubernatorial budget power in a meaningful way. A popular approach has been to construct an index from information that is readily available. For example, a 2003 study by Barrilleaux and Berkman of the effect of gubernatorial powers on budget outcomes constructed an index out of seven measures drawn from the *The Book of the States* published by the Council of State Governments (CSG) and from *Budget Processes in the States* published by NASBO. Unfortunately, the Barrilleaux and Berkman index has the appearance of being composed of data whose main virtue was availability rather than being clearly related to a theory of institutional budgeting power. For example, two of the seven measures used to construct the index are: whether agency requests go directly to the legislature or must be reviewed by the governor, and whether revenue estimates can be revised or not. The first is certainly central to the question of gubernatorial power, but the

second is arguably of tangential relevance at best. Another component of their index is a dichotomous measure of “budget making power” from *The Book of the States*, in which the Governor either has “full responsibility” or “shares responsibility.” However, the footnotes to the table that reports this variable show that the dichotomous categorization hides a tremendous amount of variance in gubernatorial powers.³

Measurement of budgetary outcomes has been equally problematic. For example, Barrilleaux and Berkman relied on a simplistic categorization of policy outcomes--one that has unfortunately been widely used in political science studies of state policy-making--in which they classify policies as either redistributive or developmental using highly-aggregated Census sectoral categories. For example, redistributive includes all welfare, pensions, health and hospitals, while developmental includes all transportation, education, police and corrections. We think the authors’ conclusion that strong governors promote state economic health (and indirectly, state government finances) more successfully by emphasizing so-called developmental expenditures over so-called redistributive ones is very simplistic--the macrolevel categorization of budget outcomes likely hides significant microlevel variance within sectoral categories.

Returning to the issue of how to measure gubernatorial powers, Beyle produced the leading work, drawing from the aforementioned CSG and NASBO data as well as from the National Conference of State Legislatures (NCSL) data and other sources. While his work has been pathbreaking, it highlights the measurement problems. For one thing, his measures of executive budget power have changed over the years, making it impossible to track changes in

³ Table 4.4: <http://knowledgecenter.csg.org/drupal/content/book-states-2010-chapter-4-state-executive-branch>

the degree of power; moreover, his measures are not fine grained enough to portray changes. In 1994, he refined his measures, combining a measure of legislative budget power with his indicators of executive budget power, which understandably made the many governors look less powerful. Clearly, this was an improvement, but it underscores that the measurement of executive budget power is multidimensional, and that key studies have not included many of the most important dimensions. Table 1 shows how Beyle's specific measure of gubernatorial budgetary powers changed over time.

Table 1: Beyle's Changing Measures of Gubernatorial Budgetary Powers

1960:

- 5 = Governor has the responsibility for preparing the budget and shares it only with persons appointed by him;
- 4 = Governor has the responsibility but shares it either with a civil service appointee or an appointee of someone other than himself;
- 3 = Governor shares power with a committee selected by himself, but from a restricted list;
- 2 = Governor shares authority with another official whom he does not appoint, the elected state auditor;
- 1 = Governor prepares budget only as a member of a group, usually of other elected state officials or members of the legislature.

1968; 1980:

- 5 = Governor has full responsibility;
- 4 = Governor shares responsibility with a civil service appointee or with person appointed by someone else;
- 3 = Governor shares responsibility with legislature;
- 2 = Governor shares responsibility with another popularly elected official;
- 1 = Governor shares responsibility with several others with independent sources of strength

1988:

- 5 = Governor has full responsibility;
- 4 = Governor shares responsibility with civil servants or other person appointed by someone else;
- 3 = Governor shares responsibility with legislature;
- 2 = Governor shares responsibility with other elected officials;
- 1 = Governor shares responsibility with several others with independent sources of strength

1994 (Summer); 1998; 2001:

- 5 = Governor has full responsibility; legislature may not increase executive budget;
- 4 = Governor has full responsibility; legislature can increase by special majority vote or subject it to item veto;
- 3 = Governor has full responsibility; legislature has unlimited power to change executive budget;
- 2 = Governor shares responsibility; legislature has unlimited power to change executive budget;
- 1 = Governor shares responsibility with other elected official(s), and legislature has unlimited power to change executive budget

It is difficult to capture all the relevant factors in one index for the purpose of quantitative comparisons. The measures included in NASBO's Table 9, Gubernatorial Budget Authority and Responsibility, includes six columns of data in which gubernatorial authority is shown to include not only proposal power, but also, among others, spending unanticipated funds and reducing funds without legislative approval. There are also seven pages of supporting notes. (This table is replicated below as Appendix 1.) It seems likely that these different features interact in ways that do not fit well with the simpler continuum in Beyle's index.

Rather than deal with this real world complexity, recent quantitative studies instead tend to emphasize what theory identifies as the most important gubernatorial powers: proposal and veto. For example, Breunig and Koski (2009) studied the magnitudes of annual changes in budget accounts, though from the punctuated equilibrium perspective rather than the older incremental one. They found that strong governor states experience more "punctuations"--that is, non-incremental changes. They theorize that strong gubernatorial power prevents change; after pent-up demand for change builds, it is eventually released by electoral turnover and subsequent major changes to the status quo budget. Note, though, that this is a non-directional model in terms of macrobudgetary outcomes, so it does not necessarily support the executive budgeting ideal in which an accountable, powerful governor promotes prudence.

The electoral connection has received extensive attention from other academics, with some findings inconsistent with the hopes of executive budgeting advocates. Governors, apparently more so than most elected officials, are politically exposed to macroeconomic events not primarily under their control, particularly recessions and resulting unemployment. Simplistic retrospective voters, upset with these conditions, have a record of punishing governors (Hansen,

1999). Recessions lead to state revenue declines, necessitating spending cuts that are more easily made by strong governors, but also exposing them to blame from those who bear the brunt of cuts. Strong governors also bear the implicit responsibility for proposing taxes, adding another potential count to potential indictments from retrospective voters. Those exposures are not guaranteed, though. Kone and Winters (1993) find that more visible tax increases, such as for the sales tax, expose governors to more electoral risk on average--but that there is substantial dispersion around this effect, implying that some “governors manage to bind themselves together, survive, and even prosper at the polls, even though they are ‘taxers’ (p. 36).”

Among the most interesting research on the risk of gubernatorial budgetary leadership is work by Rudolph (2003), who looked at how the control of state executive and legislative branches affects the extent to which voters assign responsibility for fiscal conditions to these incumbents. Based on a 1991 Washington Post/ABC poll that asked respondents to rate the fiscal condition of their states, and then to identify whether the governor was more responsible for that condition than was the legislature (whether split or not), the strongest finding was the public assigned governors with strong budgetary powers much more responsibility (31% more) than weak governors (pp. 204-6). When governors had low power, the state legislature was assigned greater responsibility by a large margin. Again, though, the question of how to rate gubernatorial powers arises, for this study broke gubernatorial budgetary power into three categories--high, medium, and low, with three states (MD, NY, and WV) in the high category and eight in the low category (CO, KY, LA, MS, NM, NC, SC, TX), meaning that three-quarters of the states were in the middle. If one concludes that this approach is justified, there is still the lingering question of whether respondents’ appraisals of state fiscal conditions were positively

correlated with “objective” indicators such as general fund balances. Extensive evidence exists that many citizens are ignorant or misinformed about such conditions, often because they respond to cues related to their partisan stances.

Alt and Lowery (1994, 1998, 2000) have produced sophisticated quantitative research that addresses related issues, particularly the complicated connection between partisanship and state budgetary outcomes. Unified governments have an easier time putting the preferred policies of the controlling party into place and in responding to recessions, and more successfully meet prohibitions on carryover of deficits from one year to another in those states that have such rules. But budgetary accountability to voters is highly conditional on voters’ expectations of what different parties stand for and how those stances compare to budget outcomes. Republican governors are punished by voters if the budget increases, and Democrat governors are punished for cuts.

As impressive as this research is, its drawback for our purpose is that Alt and Lowery used no measure of the variance in governors’ institutional powers. So just as earlier quantitative studies ignored part of the picture--strong governor states in the case of Sharkansky and divided governments in the case of Thompson--in these more recent articles partisanship and a very limited conception of budgetary rules (availability of carryover balances) were emphasized. The big difference between the powers of the governor of Maryland and the governor of Texas, for example, didn’t factor in.

The burdens of data collection and the challenges of statistical inference inevitably require quantitative researchers to make difficult choices. The N of near 50 is simply not large enough to identify all effects of possible interest, particularly given the high likelihood of

interactions. Some of the resulting methodological choices have reduced our ability to reach conclusions about the effects of gubernatorial budgetary powers.

For a more complete understanding of gubernatorial budgetary powers, focusing on its various features as they interact with each other and with the legislative powers over time, it is necessary to draw as well on case studies (see Stonecash, 1991). Case studies can also portray the importance of norms, routine behaviors, and political cultures that are not captured in quantitative measures of formal powers. They can better describe the interaction of formal and informal powers, and how governors and legislatures use or fail to use the powers they have.⁴

The best sources of such case studies are two edited books from Clynch and Lauth (1991; 2006). With chapters written by budgeting scholars with strong local knowledge, these cases studies provide many examples of how gubernatorial and legislative budgeting powers and behaviors have changed over time. The unavoidable conclusion from reading these essays is that the diversity of state practices cannot be summarized with law-like statements about the impact of formal budgetary powers.

The executive budget movement changed how state governments make policy and manage their finances. Beyle's surveys of gubernatorial power show that almost all governors classify these authorities among their most powerful tools. And some governors have been granted more budgetary power than other governors--in selected cases, much more power. Yet the impacts of these powers appear to matter only under certain conditions, and not always in the expected direction.

⁴ For this reason, surveys of perceptions about gubernatorial powers, such as Abney and Lauth, 1998, may be useful correctives to the formal measures reported in the standard reference sources. On the other hand, it may not be easy to obtain a reliable survey along these lines.

Experiences with Strong Executive Budgets in Three States

In this section of the paper, we focus on three states that adopted most or all of the executive budgeting model at the beginning of the reform era: Illinois, New York, and Maryland. Our intent is to apply something approaching an acid test to the assertions of advocates of strong executive budgeting. If budgetary outcomes in these three states do not meet the model's expectations, then the model deserves doubt.

Of these three states, Maryland came closest to the reformers' ideals, not only giving the governor power to propose the budget, but allowing the legislature only the power to reduce the governor's operating budget (though the legislature has more flexibility in dealing with the capital budget). Note that this model was biased toward low expenditures, not merely toward budget balance. The expectation was that the governor would be more fiscally responsible than the legislature.

We use a limited set of outcomes that approximates the goals of many, if not all, the reformers who urged adoption of executive budgets: an ability to keep costs and taxes down, provide efficient services with little waste, limit the amount of debt, keep the budget balanced, and provide transparent and accountable government and finances. We ask how the budgetary powers of the governors have been used, and with what financial outcomes.

If one glances just at current events in these states, strong budgetary powers seems to work in managing fiscal problems. In Illinois, Governor Quinn insisted on a tax increase this past year and managed to force it through a very reluctant legislature, in a state that badly needed additional revenue. The legislature and governor together revamped and drastically reduced pension benefits for new employees, and made moderate reforms to Medicaid. Although the

governor's proposals for reducing health care costs for employees have not yet been passed, the size of the state workforce has continued to decline. In New York, with the governor's support, taxes were increased, pension funding was spread out over more years, and employees were required to pay more for their pensions. Medicaid was capped and reformed, with more changes underway. Maryland also passed a tax increase in 2007; this year the governor proposed and the legislature passed a pension reform and changes to its drug program for employees and retirees.

A closer look reveals that many of the financial problems these states addressed resulted not just from the Great Recession, but were structural deficits--ones that were at least partially created by or at least not prevented by strong governors. These structural deficits resulted from expansions of services and benefits and tax reductions during years of rapid revenue growth. Sometimes programs were adopted or expanded without a defined revenue source, or a revenue source was identified that was not sufficient to cover the program or its expansion. Structural deficits were often covered up for years by internal and external borrowing; in Illinois and to a lesser extent Maryland, by underfunding of state pensions, and in New York, by borrowing from the pension funds. Misleading accounting practices often resulted in claims of balance where it did not exist.

Illinois

The Illinois constitution of 1818 created a Council of Revision, comprised of the governor and the supreme court justices, that could reject legislation by a majority, and return it to the house of origin with a list of concerns. In 1848, the veto power was granted exclusively to the governor (Debel, 1917). This power proved ineffective: many pieces of important legislation that had

been vetoed by the governor were then passed over his objections. In the 1870 constitution, the veto was strengthened, requiring a 2/3 majority to override. Constitutional amendments in 1884 and 1904 gave the governor an item veto, allowing the governor to veto parts of a bill. The use of vetoes paralleled the increasing expenditures of the state, and was justified on the grounds of economy. Expenditures increased enormously anyway. In light of the apparent ineffectiveness of the veto, and especially after the supreme court decided against reduction vetoes in 1915, a number of reformers considered the governor's ability to propose expenditures as a better way to control them than enhancing the governor's veto after the legislature had taken some inappropriate or overly expensive action (Debel, 1917).

Governor Frank Lowden (1861-1943) was a Republican governor from 1917 to 1921. He was a progressive reformer, whose goals were not limited to saving money, although the prevention of departmental overspending and tax reduction were part of his agenda. He saw industrialization as creating new centers of power in businesses and banks, and a new role for government in protecting the public weal and providing a balance against these new powers. For example, he proposed state supervision of the banking industry, and got it passed despite industry opposition. To do this, government needed to be active and coordinated, and the governor needed flexibility and the right tools. He proposed a reorganization of state government, including the formation of cabinet government and executive budgeting. His proposals were accepted by the legislature in 1917. Lowden was able to reduce the rate of taxation, which helped institutionalize his reforms.

The governor's budget powers in Illinois, while extreme, are not complete. The legislature can raise the governor's budget or cut it, but if the legislature adds to the governor's

budget, the governor can reduce or eliminate the extra spending. He can reduce the legislatively passed budget, but cannot increase it, so the legislators' threat to cut his proposal gives them power to force negotiations with the governor.

The constitution of 1970 gave the governor both an item reduction veto for budgets and an amendatory veto for substantive legislation. The governor thus has a regular veto, a line item veto, a reduction veto, and an amendatory veto. He/she can veto a legislatively passed bill, and rewrite it more to his/her liking, and resubmit the bill to the legislature for its consideration. The legislature can approve the amended legislation by a simple majority, or reject it by a 3/5 vote; if it takes no action, the measure dies. The governor cannot, however, merely rewrite the legislation without resubmitting it to the legislature, thus he/she does not have the last word.

The scope of the governor's power in using this amendatory veto is not clear. Though intended to be used for substantive legislation, the amendatory veto has been used in legislation with financial implications. Notably, it was not used to reduce spending or improve efficiency, but to increase spending. Former governor Rod Blagojevich, "added to a bill funding Chicago area mass transit a provision requiring mass transit districts statewide to offer free rides to their district residents age 65 or older. The governor threatened to veto mass transit funding if the legislators did not approve his amendment. Legislators accepted the changes so that Chicago mass transit -- which had threatened a "doomsday" of drastic route cuts and layoffs -- would not be endangered." A number of observers felt that Blagojevich was abusing the amendatory veto, using it more broadly than it was intended to be used.

The budget in the state has been chronically late, often starting the year without a budget. The relationship between Governor Blagojevich and the house speaker, Michael Madigan, both

Democrats, was dysfunctional, but even after Blagojevich was forced from office, the situation did not improve. His successor, Governor Quinn, vetoed the legislatively approved budget in 2009, because it had a 9.2 billion deficit. Trying to balance a budget so seriously out of balance complicates cooperation, particularly because Republicans have generally rejected calls for tax increases, demanding unrealistically deep cuts instead. Ultimately a tax increase was necessary and passed, but it failed to solve the whole problem.

The budgeting powers of the governor were greatly enhanced in 2010 after several years of intense fiscal crisis and mounting deficits and unpaid bills. The legislature granted the governor emergency budgeting powers over the implementation of the fy 2011 budget, including a pool of money to add back or move from one purpose to another to repair the worst of the damage from budget cuts.

In 2011, for the fiscal year 2012, the reverse occurred, with the appropriations committees setting priorities and making deep cuts in the governor's proposed budget. This represents a dramatic departure from prior practice--not only the legislative leadership, but the members actually used the budget power they have. The state senate objected to some of the cuts, and added back some 300 million dollars, attaching it to the construction bill, setting up a conflict with the house, derailing the bill. The governor, whom a key legislator had described as irrelevant to the budget consideration this year, threatened to stop all summer construction if the legislature did not grant him the power to spend the money from a reserved account, permission which must be forthcoming each year, and which is normally part of the capital construction bill. He called them back for a one day special session, during which they unanimously gave him the required permission, and omitted the Senate's add on. The drama thus continues, but the overall

story for the year is that the governor presented a budget which the legislature found too generous and seriously cut back, efforts which the governor was not empowered to undo. He threatened and considered vetoing the budget, but in the end, he approved it a day before the beginning of the fiscal year.

Illinois could be a poster child for bad budgeting and chronic fiscal crisis, despite the strong executive budgeting powers. General fund deficits have been common and chronic. Much of this has thus been self imposed, rather than caused by economic ups and downs, though the latter has exacerbated existing structural imbalances. In 1985, a year-end balance of nearly 500 million dollars triggered tax reductions and the governor planned a major infrastructure improvement program; within two years, the governor was calling for a billion dollar tax increase (Rubin, King, Wagner, and Dran, in Clynch and Lauth, 1991). The year-end cash balance reported in 1985 did not reflect the actual financial picture of the state, as it included many dollars of one-time revenues. Although the state claimed positive cash balances from 1955 to 1985, using a modified accrual approach, the balances were generally negative from 1975 to 1985. The picture looks similar for more recent data reported in the 2009 comprehensive annual financial report. The state ran a deficit each year from 2002 to 2009. Note that deficits occurred in non recession years as well as years affected by national recessions; these are thus structural deficits.

Part of Illinois's financial problem is that rather than modernizing the tax structure, it continued to run structural deficits, financing them through borrowing, both in the bond market and through underfunding of the pensions (with no advance funding of health benefits for retirees). Illinois has borrowed for annual spending such as pension payments, issuing a very

large (10 billion dollars) pension obligation bond in 2003; it has borrowed from the pension funds in terms of underfunding its annual contribution, and it has borrowed from vendors, in the form of delayed payments for services rendered. The delaying of bill paying has continued through the present governor and legislature.

Not only has the state borrowed to balance the budget, but it also stretched out bond maturities from 25 to 30 years. In response to the administration's debt policies, the legislature passed a borrowing reform act, which limited bonds to 25 year maturities, required level rather than ascending payments of principal, and forbade stretching bond maturities when refunding (Bunch, 2010). In this instance it was the legislature which took the fiscally responsible path.

Illinois' net debt placed it 6th in the nation in 2002, before the sale of pension obligation bonds in 2003. The sale of those bonds pushed it up the rankings to 3rd, with the level of debt, relatively speaking dropping to 5th in the nation in 2008. For comparison, New York ranked first in 2002, dropping only to second place, and staying there through 2008. Maryland does not rank in the top ten for highest debt at any of the years under consideration (Government Commission, 2010.)

The strategy of borrowing was dramatically illustrated in the pattern of underfunding the pensions. By 2011, the pensions were funded at about 45 percent of full actuarial value, where 80 percent is considered appropriate and reasonably safe. The major sources of underfunding were the decline in the stock market and hence the value of pension investments, and state's failure to put in its required share of contributions. Increases in pension benefits represented a considerably smaller percentage of the gap. Over the years, several efforts were made to improve this situation. In 1994, legislation was passed requiring the state to put in extra money,

over and above the normal required annual contribution, to make up for past underpayments, but this law was structured in a bizarre manner, with only very small increments for a number of years, and then a relatively rapid increase in later years. When those later years came, the amounts seemed so huge they were unaffordable, putting pressure on the state to reduce pensions. Pension reforms were adopted, drastically curtailing pension benefits for new employees, and further efforts, so far unsuccessful, are being made to curtail benefits of existing employees going forward. Whether this can be done legally is still in question.

Illinois created, but barely funded, a rainy day fund in 2000 and modified it in 2004, but it was utterly incapable of helping the state through a recession. When looking at a combination of year-end balances and budget stabilization funds, in 2006, before the recession hit, Illinois had 3.6 percent of the budget as contingency, with nothing in the budget stabilization fund. Only a handful of states had less, (including notably, Wisconsin, Arkansas, Maine, Michigan, and Mississippi).

Illinois has been a low spending state, relatively speaking. It has been steadily reducing its staffing levels, from 72,000 in 1980, to 55,000 in 2008. Despite Republican charges, it did not get into financial trouble by massive spending or high levels of staffing or particularly high pension benefits. Its pension funding problem resulted from prior underfunding, and failure to fund a rainy day fund for the pensions to compensate for market drops. Its main problems have been in the area of taxation, rather than spending. In addition to an unreformed sales tax base, the state has granted numerous and expensive tax breaks which have exacerbated the revenue problem. The number and expense increased dramatically during the 1980s; there was a second spurt in the early 2000s. As for the overall costs to the state of tax expenditures, including both

business and individual tax breaks, in 2007, the comptroller estimated the cost at \$7.185 billion. There were 230 distinct tax expenditures, 182 related to taxes, and the remaining to fees and licenses.

In sum although the governor wields a powerful item veto in Illinois and has power to present the budget to the legislature, and despite the fact that some governors have used this veto power extensively, Illinois's budget has been structurally imbalanced for years, and the governor, through his budget proposals, has been a major actor in maintaining that problem. Only in 2011 did the state reluctantly pass a temporary income tax increase and a spending cap, which did not completely erase the structural gap. Many problems including the huge unfunded pension and OPEB liabilities, remain unaddressed, and the tax base remains narrow.

New York

It took New York State longer to develop and adopt an executive budget than it did Illinois. In 1913, the state created a State Board of Estimate, charging it with formulating a rudimentary budget and preparing appropriation bills. The board consisted of the governor, lieutenant governor, president pro tem of the Senate, speaker of the assembly, chairpersons of the Senate Finance Committee and the Assembly Ways and Means committee, comptroller and attorney general. A Department of Efficiency and Economy was to examine methods of operation and annual budget requests. Presumably this structure assured negotiations, and whatever proposals the board came up with would pass the legislature, having already been approved by leadership of both houses. Both the board of estimate and department of efficiency and economy were abolished on the eve of a constitutional convention in 1915; it recommended an executive budget

that would have given exclusive power to propose the budget to the governor and reduced legislative powers. That constitution was defeated by the public.

A new board of estimate was created in 1921, this time consisting of the governor, comptroller, and chairpersons of the Senate Finance Committee and the Assembly Ways and Means Committee. It too was responsible for presenting a budget plan to the legislature, but the legislature was free to continue to prepare bills in the way it had always done.

Although the constitutional convention recommendations for an executive budget put forth in 1915 were rejected by the public, by 1928, all the components of it had been adopted in discrete amendments. As in Illinois, those amendments not only created the executive government, but also reorganized government and gave the governor much more control.

“Those amendments created a robust Governor, who now had a four year term of office, was in charge of all state agencies, and exercised extensive control over the budget process” (Buckley, 2005, p. 25).

The governor in New York has a strong line-item veto and also an amendatory veto. The legislature retained the right to add to the governor’s proposals, but only if each addition appears separately, which the governor can then veto. A two-thirds majority of the legislature is necessary to override. However, the legislature can reduce the governor’s budget, in which case the governor can do nothing about it. This power can be an incentive to force the governor to bargain over his budget proposal. The legislature can also refuse to pass the budget on time, an additional incentive for the governor to negotiate with the legislature.

These negotiations are generally successful from the legislature’s perspective. The legislature bargains with the governor to increase expenditures, or redirect expenditures from one

priority to another, or argues for a given tax policy. If the two branches cannot agree, then the legislature may actually strike or reduce items in the governor's proposal, and the governor can do nothing about such reductions (Ward, 2010).

Part of the pressure on the governor to negotiate comes from the legislature's refusal to pass the budget on time. The budget in New York has been routinely late. In 2010, Gov Paterson used his emergency power to insert parts of his budget proposal into week-by-week extensions of spending authority, forcing up or down votes on his proposals--the legislature is not allowed to amend these emergency extenders. In these emergency bills, Governor Paterson included major cuts to health care, which the legislature had to pass or shut down the government. Many of these cuts were agreed to in advance in mostly closed door negotiations between the governor and the legislature. The legislators were able to deflect blame for these cuts on the governor, claiming they had to vote for them or shut down the government. The process underscored the governor's budget power. When the legislature tried to restore some of the governor's cuts and add some other expenditures, Paterson vetoed them.

Lacking formal power to cut the budget during the year, historically governors have used implied powers rather than formal powers to impound when necessary. The legislature became wary of such withholding and responded by legislating minimum expenditures for particular items of appropriation. In this situation, the courts decided the governor had to spend the money or veto it. Informally, however, the legislature has generally allowed the governor to make reductions within state agency operations (Ward). The court siding with the legislature on impoundment powers was unusual. More typically, when the legislature has tried to get around the governor's budget power, the courts have sided with the governor. In 1939, when the

legislature tried to appropriate in lump sum amounts, “a New York court said that the "whole spirit" of the state constitution providing for an item veto was "against lump sum appropriations and in favor of appropriations showing the items of expenditure.”⁵ In 2004, the court struck down a legislative attempt to amend the governor’s budget. In that court case, *Silver v. Pataki*, the court determined that the governor could change non appropriation language in an appropriation bill, as long as his changes were related to the appropriation. In response to this judgment, the legislature proposed a constitutional amendment that would have curtailed the governor’s budget power. That amendment was defeated by the voters in 2005.

The New York State legislature has been considered among the most dysfunctional in the nation. As in Illinois, rank and file members have relatively little say in legislation, or over the budget. The governor and the leaders of both houses together make most of the important decisions. According to an insider account from a senate backbencher, these three men sort through the various political on the budget and come to decisions with little public debate (Lachman, 2006). One goal of executive budget reforms was to make it clearer who was responsible for what, but given that New York’s budget has often been determined behind closed doors in negotiations between the governor and the leadership, the goal of transparency has not been met (Bifulco and Duncombe, 2010).

New York has experienced structural deficits for years, made worse by cyclical downturns in the economy, to which the state’s revenue sources are particularly vulnerable. According to one author, “For decades, regardless of the strength of the economy, recurring revenues have been insufficient to sustain ongoing spending” (O’Cleireacain, 2010).

⁵ *People v. Tremaine*, 21 N.E.2d 891, 893-94 (N.Y. 1939) cited Fisher, 1996.

New York State's fiscal problems stem from expansion during periods of economic growth which became unsustainable when the economy declined, but there were many other causes as well, some of which were either sponsored by or approved by the governor, as were the techniques for obscuring the size of the deficits.

The budget gaps that occur each year as a result of this mismatch between revenues and expenditures have traditionally been closed by one time revenue, internal and external borrowing, delaying of payments into the following year, pushing up revenues from following years to the present one, and other manipulations. These temporary solutions often made the next year's budget even harder to balance. Since only the governor's proposal must be balanced, and only for the general fund, it has been especially tempting to transfer money from other funds into the general fund to create "balance." This shifting of funds from other accounts to the general fund was initially done one at a time, but then the budget office was given blanket permission to sweep from any sources, specifying only the totals, and not the sources or how much they were depleted, making it impossible to see if the funds were actually not needed. These broad sweeps have been used since fy 2008, and in 2011 amounted to half a billion dollars.

In addition to these sweeps, regular expenditures have sometimes been offloaded to other funds that have special purposes. The size of the revenue sweeps has been swamped by the size of the expenditure offloads. From 2000 to 2009, the sweeps took about 3.7 billion from dedicated funds and transferred them to the general funds; more than 17 billion dollars were offloaded to the health care reform act funds alone (DiNapoli, 2010). All this transferring out of expenses and in of revenue has obscured the actual size of the deficit from year to year.

Brecher, Horton, and Meade concluded in 1994 that the state's budget gap closing tactics, including tax increases without tax reform, borrowing long term for operating gaps, and using one time revenue to balance the budget, did more harm than good. What was missing was political leadership--and given the strong budgetary powers of the governor, this conclusion merits attention.

While New York's budget is highly sensitive to economic downturns, the state's budget difficulties also reflect a series of political and policy choices during the boom years that made the trough years much worse. For example, after New York's pension investments boomed in the late 1990s, in 2000, the legislature passed and the governor signed a pension bill that eliminated the employee portion of the contribution for employees with more than ten years of service. This and other generous changes added to the impact of the stock market downturn that soon followed (McMahon, 2005).

To maintain the impression of full funding for the pension plans, New York has made required payments into the funds, but then borrowed back from them. In 2004 and 2005, the state borrowed \$655 million from the pension fund; in 2010, it still owed more than \$400 million, and was planning another round for 1.5 to 2 billion dollars over three years. The state was planning to pay back the money with interest beginning in 2013 and for the following nine years. Apparently state officials hoped that the market would have recovered by then, and its required contribution would be less, so that it could absorb the interest payment. Such a loan to the state is like an investment the pension fund would make in stocks, except that the expected rate of return is lower than the long run average for the pensions. The original plan presented in the governor's budget would have authorized 9 billion dollars for state and local governments to

borrow from the pension over six years; the legislature pared down the proposal to six billion dollars over three years. In the governor's budget proposal there was a discussion only of the benefits, and not of the long term costs (Hakim, 2010; Doulis, 2010).

In 2001, New York's Citizens Budget Commission gave the state an F for quality of budgeting, followed by a D in 2002, and another F in 2003. In 2005, the Pew foundation gave the state a B-; after praising some of the state's improvements in financial management, Pew described the state's budgeting in the following terms:

And then there's the budget. The process is indisputably broken, and discussions of reform have so far been unproductive. This serves only to exacerbate the seriousness of the projected \$6 billion gap between state revenues and expenditures and all but dictates the repeated use of one-time revenue gimmicks each year to pay current bills.

The 2005 budget was signed four-and-a-half months after the fiscal year began, in a sea of vituperative battles between the legislative and executive branches. In the summer of 2003, the legislature overrode 120 of Governor George Pataki's vetoes. Last year, even after the budget finally passed, Pataki vetoed 195 line items. The legislature failed by one vote in the General Assembly to override them. (Governing, February 2005, p. 75)

In 2008, Pew gave New York the same B- grade for finance, noting that it had finally passed a budget on time, but that the changes in process were more cosmetic than real; the center also noted the ongoing structural deficit.

In short, despite the powerful governor, the budgets have not been transparent, the state has experienced structural deficits, and fiscal gimmicks of one sort or another have been the norm, especially budget sweeps, offloading, and borrowing. Benefits have been increased or tax rates reduced without regard to offsetting revenues or spending reductions. Pensions have been sweetened despite rising costs. Written in 2003, the Citizens' Budget Commission argued that the state had a structural imbalance that had been developing for decades. A study at the Rockefeller institute in 2010 concluded,

Over the last decade, state policymakers have increasingly resorted to “fiscal manipulations” to balance the state’s revenues and operating expenditures, according to the Office of the State Comptroller. Such manipulations include sweeps of non-General Fund accounts to produce more cash, off-loading of expenditures to other funds, and “temporary” loans from funds that were established to assure that certain revenues would go to pre-determined purposes. “This ‘deficit shuffle’ reduces budget transparency, creates funding instability for critical State programs and allows the State to avoid making the difficult decisions needed to effectively align spending with available revenue,” according to a report by the comptroller’s office. Some \$6.4 billion in the 2009-10 budget resulted from sweeps of dedicated funds, temporary loans, use of debt rather than pay-as-you-go capital financing, and other “gimmicks,” the report found. (Ward, 2010, p.20).

When Governor Andrew Cuomo took office the picture changed, with some real reforms to bring spending and revenues back in line. In 2011, he established a Medicaid redesign team, and forwarded their recommendations to the legislature, which accepted 73 of 79 of the proposals. The team was still working on longer term proposals. The team claims one year savings of 2.2 billion, and two year savings of 3.3 billion of the state share. Further it claims that it has introduced structural changes that will bend the curve of Medicaid expenditures. The features include spending caps geared to medical inflation and “super powers” to ensure that the cap is observed. Other changes include getting out of fee for service business, emphasizing managed care. Also included was a reform of the state’s medical malpractice laws, establishing a medical indemnity fund and lowering hospital premiums.

Governor Cuomo has bargained successfully with a major union for important givebacks, including a three year wage freeze, furloughs, and increased employee share of health care premiums. Lower earning employees would increase their insurance contribution from 10 to 12 percent of the premium; higher paid employees will increase their share from 25 to 31 percent (Hakim 2011). Savings were estimated at 1.6 billion over five years.

In conclusion, a New York governor with a clear agenda to push through reforms to improve the state's finances can succeed, especially when the unions and the legislature understand the severity of the state's fiscal problems. It just hasn't happened very often over the years. It is not only the governor's budget powers that matter, but who the governor is, his degree of popularity, his relationship with the legislature, and his policy agenda. It also matters how the legislature uses the powers it has.

Maryland

Maryland's fiscal condition is considerably better than that of Illinois and New York, but the reason may not be due exclusively to well-done executive budgeting. The state has been fiscally conservative for many years prior to and after the adoption of the executive budget reforms. In a response to a near repudiation of debt in the 1840s, a constitutional provision was passed in 1851, stipulating that any debt issued must include a non-revocable tax source. The governor was granted a veto in 1867, and an item veto in 1891.

Maryland is among the states that grants the governor broad powers to cut during the year. He may cut up to 25 percent in many appropriations, but only with the approval of state's Board of Public Works, which includes the governor, the comptroller who is elected statewide, and the treasurer, who is appointed by the General Assembly. The governor thus does not exercise this power by him or herself: this power to cut during the budget year was broadly used during the recent recession. To the extent that these cuts have improved the state's fiscal condition, the governor cannot take exclusive credit for them.

Prompted by a deficit after a period of spending growth, in 1916 Maryland's constitution was amended to create the first state level executive budget, and the strongest one. The aim of

reformers was to ensure fiscal restraint and to make sure the budget was balanced. The legislature could reduce but not increase the governor's budget proposals (Meyers and Pilkerton, 2003).

In fact, the legislature was not as radically disempowered as it appeared, in part because of the original amendment, and in part because of practices that were added later. Since the goal was to reduce expenditures and balance the budget, and the legislature cannot change the governor's budget except to reduce it or eliminate items, the governor does not have veto power over the legislative appropriations for the operating budget. If the legislature chooses to reduce an item, or to condition how an agency may spend the funds, the governor can neither add the item back nor ignore legislative directions on how the money may be spent. Legislators' threats to cut the governor's budget are thus a real source of power in negotiations with the Governor about what will go into the budget.

Legislators may also initiate spending appropriations if they include a source of revenues. This feature was intended to allow the legislature to include items that the governor omitted as long as budgetary balance was maintained. Legislators may add to the capital budget proposal and the governor may veto their capital budget proposals. And legislators sometimes redirect funds to their preferred purposes by using "fencing" language, though such directives are sometimes disputed or ignored by the governor.

Most critical however, has been a development clarifying what the legislature may propose and whether the governor is free to ignore policies which he dislikes or disapproves that are part of the constitution or statutes. In a law case that was brewing for several years in the 1970s, (*Maryland Action for Foster Children v. the State*, decided January 7, 1977) the court

ruled for the governor. The legislature had earlier passed, and the governor signed, a policy to make payments for foster care comparable between two state programs, but when it came time to put the policy into effect, the governor did not include the cost of the policy in his budget, making it in effect a dead letter. In 1978, a constitutional amendment allowed the legislature to initiate laws mandating spending, that is, setting policy, without identifying funding sources. The governor may veto such bills, but if he does not, he or she must fund these programs in the executive budget, bypassing the appropriations process (Friedman, 2006).

The legislative adaptation to extremely strong gubernatorial budgetary power has thus been to rely heavily on dedicating funds and on mandates. As a consequence, the governor enjoys much less budgetary flexibility than was assumed by early proponents of executive budgeting. This also reduces transparency of the budget. The public debate focuses almost exclusively on the general fund, which constitutes less than half of the state's spending. The proliferation of other funds has allowed significant transfers from these funds into the general fund to fill gaps during recessions. While that complicated fund structure may give the state needed flexibility to respond to revenue downturns, the policy impacts of complicated fund transfers are confusing to the public.

In 1982, the legislature established a spending affordability committee, with the task of constraining state spending increases so that they do not outrun the growth of the economy. While governors are not bound by the affordability committee's guidelines, and indeed do sometimes violate them, generally the governors have abided by this spending constraint.

Overall, Maryland's financial management quality has been above average, according to the grading of the states by the Pew Foundation, but that has not prevented the state from

incurring structural imbalances from tax reductions and increases in spending. Although the governor has the power to veto policy bills that imply future costs, the governor often does not do so. One of the most expensive laws initiated by the legislature that the governor did not veto was passed in 2002, the Thornton Bridge to Excellence Act. Preceding this was an income tax reduction not offset by spending reductions, a tax cut that was supported by Governor Parris Glendening. The resulting structural imbalance was years later reduced by a significant tax increase, but then exacerbated by the recent recession.

Maryland has avoided excessive borrowing, staying under its debt limits, but has not been immune to other budget gimmicks. A recent example is Governor O'Malley's proposal to auction off future tax breaks to insurance companies in order to finance current investments in expanding high-tech businesses. Functionally equivalent to borrowing, but at a significantly higher cost, this approach was attractive to the Governor and General Assembly because borrowing for more traditional capital expenditures was projected to reach the state's policy ceiling for debt. This ceiling was reached because Maryland has coped with the recession in part by increasing its borrowing, in order to finance capital projects that earlier would have financed through current revenues (so-called PAYGO capital). While the failure to count this borrowing-equivalent against the ceiling was winked at by all involved, the magnitude of the Governor's proposal was small, and it was reduced somewhat in response to skeptical questions from Republican legislators (Davis, 2011).

Another budget gimmick giving the illusion of balance has been pension underfunding. Pension funding in 2009 was only at 65 percent of full actuarial funding. The decline in the funding ratio began over a decade ago, the result of several factors. Investment returns were

lower than average, leading to plausible charges of corruption and ineptness in pension fund management. In 2006, there was an expansion of benefits, retroactive to 1998, when the last expansion of benefits occurred. This policy was soon punished by the crash in asset values, but just as significant for the focus of this paper was the state's use of the so-called "corridor funding" method for determining the state's annual pension contribution. It allowed the state to not contribute the entire amount it would otherwise owe to the retirement system. The state's contribution rates were frozen at FY2000 levels as long as the funded status of the pensions was between 90% and 110%--the "corridor." If the funding status fell below 90%, the state only had to increase its annual contribution by 1/5th of the shortfall each year, which allowed the underfunding to accelerate. The corridor method was created "when former Gov. Parris Glendening wrote a fiscal 2003 budget that didn't fully fund the state's pension contributions. The General Assembly, legally barred from adding to the governor's budget, created the formula to help plug the difference" (Peterson, 2010)

In 2011, following Governor O'Malley's lead and the report of a state commission, the legislature cut back pension benefits. However, some of the savings were diverted for the short-term to help cover a deficit in the state's general fund (Poinski, 2011). Additional cuts are likely over coming years. The state will also need to face its large OPEB liabilities, which have been funded on a pay as you go basis. After years of inaction in the face of GASB rules, in 2011 the state reformed its drug benefit program, significantly reducing its health insurance obligations for retirees. The General Assembly also set a 2012 budget goal of reducing the structural deficit by a third, and both the Governor's budget request and the enacted budget met that goal.

Conclusion

While there are certainly many opportunities for conducting more research on the impact of strong executive budgetary powers, we are confident in concluding on the basis of the three cases studied that the strongest and earliest forms of executive budgeting have not been sufficient to produce good budgetary outcomes. At the same time, the comparative quantitative research has produced little evidence that demonstrates the effects projected by the early proponents of executive budgeting. While this null finding in part is due to the methodologies used in these studies, it is more likely the result of the institutional complexity of state budgeting. Giving the governor more formal power does not guarantee that it will be used, and used well. Nor does it preclude adaptations to these powers by other state politicians.

Of our focus states, all three have run structural deficits, and have been slow to reduce them. Indeed, at times strong gubernatorial power has been counterproductive: the fiscal condition of Illinois may well be the worst in the nation, and several recent governors have been convicted of corruption. Some governors have not been brave enough or willing enough to exercise leadership to increase taxes. The result has been that expenditures have outrun revenues over the long term, leading to expensive tactics of delay, including late bill paying and failing to make annually required contributions into pensions, resulting in overwhelming pension obligations. Governors have often initiated such imprudent policies, and the legislatures have generally gone along.

In reality, the roles of the legislatures and the governors have not been the stereotypical ones. The legislatures have not been the sole engines of increased spending with the governors guarding the public fisc. Governors have proposed and supported both spending increases and

tax reductions, and not vetoed expensive new legislative proposals, and legislatures have engaged in budget cutting and staffing reductions. Sometimes, as in Maryland, the overall fiscal targets stemmed from the legislature, rather than the governor.

A related conclusion is that these states have not had fully transparent budgeting. Executive budgeting was supposed to pin the responsibility for budgeting outcomes squarely on the governor, making budgeting more transparent. But structural gaps filled with one-time revenues, interfund transfers, and offloading of expenditures further obscured understanding of what were already complicated budgets. Perhaps more importantly, the imbalances of formal power created a situation in which legislatures would use whatever powers they had to force compromises with governors. This helped move the budget process into closed door negotiations, out of public view. When this happens, the governor's proposal doesn't reflect only his view of what should be done, but is the result of negotiations between the governor and the legislature. How often his will predominates or how many wins the legislature gets is unknowable, blurring the responsibility for the budget between the governor and legislature.

This result flows from the reality that if you minimize the ability of the legislature to have different priorities than the governor, to add different programs or make different decisions out in the open, then you ultimately force the legislature to have its influence earlier in the process. This has produced the end run used in Maryland, where the legislature initiates new mandatory programs which the governor must then find a way to fund in the next fiscal year, often through the mechanism of special fund dedications that reduces budget transparency and flexibility.

The case studies cover a long time period. Within these time periods, some governors have been able to use their budget powers to make necessary financial adjustments. Whether this

was done depended on the personality of the governor, the strength of his or her electoral base, his or her control of the legislature, both formal and informal, and his or her policy agenda. There are variations from one governor to the next in how they used the budget powers they were granted.

And while we have looked at these three states together, and there are some similarities across them, they are not identical to each other. It is also quite easy to identify numerous ways in which these three states appear to be similar to other states that did not have such strong governors. At other times, our three focus states appear to be outliers--and sometimes in the opposite of the predicted direction: Illinois's string of corrupt governors is peculiarly outstanding, for example.

Over and above the governor's willingness to use his budget powers to improve the state's fiscal condition, the governor's formal budget power is only part of the picture. To understand what happens over time, one needs to also look at informal power, and the dynamics of legislative and gubernatorial budget powers over time. While more research is needed to clinch the idea, it seems that if formal budgetary power becomes too one sided, some dysfunctional counter measures begin to be used, which may push up spending, and make budgeting less transparent and accountable. If this turns out to be the case, then adding to the governor's formal budget powers is not likely to bring about the reformers' goals.

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Appendix 1: Table 9 with notes from *Budget Processes in the States* is copied on the following pages

**Table 9
Gubernatorial Budget Authority and Responsibility**

State	Give Agencies Funding Level Request Targets	Agency Requests Published in Executive Budget	Reorganize Departments without Leg. Approval	Spend Unanticipated Funds without Leg. Approval	Reduce Enacted Budget without Leg. Approval	Restrictions on Budget Reductions without Leg. Approval
Alabama*	-	X	-	X	X	X
Alaska	X	-	X	-	-	-
Arizona*	X	-	X	-	-	-
Arkansas	X	X	X	-	X	X
California*	-	X	X	X	-	-
Colorado*	X	-	-	-	X	-
Connecticut*	-	X	-	X	X	X
Delaware*	X	X	-	-	-	X
Florida*	-	X	-	X	X	X
Georgia*	X	X	X	X	X	X
Hawaii*	X	X	-	X	X	-
Idaho*	X	-	X	X	X	-
Illinois*	X	-	X	-	X	-
Indiana*	X	X	X	X	X	X
Iowa*	X	X	-	-	-	X
Kansas	X	X	-	-	-	-
Kentucky	X	X	X	X	X	-
Louisiana*	X	-	-	-	-	-
Maine*	X	-	-	X	X	X
Maryland*	X	-	X	X	X	X
Massachusetts*	X	-	X	-	X	X
Michigan*	X	X	X	X	-	X
Minnesota*	X	X	X	-	X	X
Mississippi*	X	-	-	X	X	X
Missouri*	-	X	X	-	X	-
Montana*	X	-	X	X	X	X
Nebraska	-	X	-	-	-	X
Nevada*	-	X	X	-	X	X
New Hampshire*	X	-	-	X	-	X
New Jersey*	X	X	-	X	X	X
New Mexico*	X	-	-	X	X	-
New York	X	-	-	X	X	X
North Carolina*	X	-	X	X	X	-
North Dakota*	X	X	-	X	X	X
Ohio*	-	-	-	X	X	-
Oklahoma*	X	-	X	-	X	-
Oregon*	X	X	-	-	X	X
Pennsylvania*	X	-	X	X	X	X
Rhode Island*	X	-	X	-	-	-
South Carolina*	X	X	-	-	X	X
South Dakota	-	X	X	-	X	-
Tennessee	X	-	X	-	-	X
Texas*	X	-	-	X	X	X
Utah*	X	-	-	X	X	-
Vermont*	X	-	X	X	X	X
Virginia*	X	-	-	X	X	X
Washington*	-	-	-	X	X	X
West Virginia*	X	X	-	X	X	X
Wisconsin*	X	X	X	X	X	X
Wyoming*	-	X	-	X	X	X
TOTAL	39	25	24	30	38	32

* See Notes to Table 9

Notes to Table 9

Alabama	There is language in the annual appropriation bills allowing agencies the ability to spend unanticipated federal funds. There is no authority, however, to allow the expenditure of unanticipated court settlements. The Governor has the ability to reduce the enacted budget without legislative approval if revenues are not anticipated to be sufficient to fund the enacted budget. This process is called "proration."
Arizona	Unless otherwise restricted by statute, the Governor has the authority to reorganize agencies that have directors the Governor has appointed. Expenditures of unanticipated federal funds are only allowable in cases where the legislature doesn't have appropriation authority over the federal fund source. Certain funds designated in statute as non-appropriated are discretionary.
California	Only approved agency requests are published in the budget. The governor has limited authority to reorganize departments. Certain situations require legislative approval. Legislative approval is not required to spend unanticipated funds; however, notification to the legislature is required to expend amounts over \$400,000.
Colorado	Court settlements and federal funds, unless specified as subject to legislative appropriation, can be spent by the executive without legislative approval. Colorado agency requests are the executive budget. Legislative appropriations provide the spending authority cap. There is no requirement to spend up to the cap, however, if large reversions are witnessed it is unlikely that funding will remain at previously appropriated levels.
Connecticut	By law, budgets may be reduced by a maximum of one percent without legislative approval.
Delaware	The Director of the Office of Management and Budget by statute has the authority to control the rate of agency expenditures and in times of revenue downturn this authority has been used to ensure the state ends the year without a deficit. However, there is no explicit power granted within statute to unilaterally amend the enacted operating budget.
Florida	All agency heads are required by law to develop budget requests based upon their independent judgments of agency needs. The budget requests, however, should reflect the long-range financial outlook adopted by the joint legislation budget commission or specifically explain any variance from the long range outlook that may be contained in the budget request. The Governor and/or legislature may ask agencies to submit additional budgets according to established targets. The Governor's Office of Planning and Budgeting may approve minor reorganizations (bureau level and below) without legislative approval. The Legislative Budget Commission for the executive branch is authorized to resolve deficits under 1.5 percent of the fiscal year appropriation. Deficits over the 1.5 percent amount shall be resolved by the legislature. Any reduction to the final approved budget requires Legislature approval.

Notes to Table 9

Georgia	The Governor, during the first six months of a fiscal year in which the current revenue estimate on which appropriations are based is expected to exceed actual revenues, is authorized to require state agencies to reserve such appropriations as specified by the government for budget reductions to be recommended to the General Assembly at its next session.
Hawaii	The Governor can reorganize departments if consistent with general or specific law. Unanticipated federal and trust funds, and certain special and revolving funds may be expended without legislative authorization, as provided by law.
Idaho	The Governor's authority to reduce budgets is temporary. The State Board of Examiners (Governor, Attorney General, and Secretary of State) has permanent appropriation reduction authority. Reorganize Department without Legislative approval- the budget office has the authority to approve spending of unanticipated funds if certain criteria are met.
Illinois	The Governor can reduce reserves in the enacted budget without legislative approval.
Indiana	May spend unanticipated federal funds without legislative approval, for instance. May only reduce budgets to protect from a deficit situation.
Iowa	The Governor can only reduce appropriations by an across-the-board reduction, only when the current budget is out of balance, and only to bring the budget into balance.
Louisiana	The current (Fiscal 2007-2008) preamble to the budget states in part: In the event that "...revenues should be less than the amount appropriated, the appropriation shall be reduced accordingly. To the extent that such funds were included in the budget on a matching basis with state funds, a corresponding decrease in the state matching funds may be made. Any federal funds which are classified as disaster or emergency may be expended prior to approval of a BA-7 by the Joint Legislative Committee on the Budget upon the secretary's certifying to the Governor that any delay would be detrimental to the state. The Joint Legislative Committee on the Budget shall be notified in writing of such declaration and shall meet to consider such action, but if it is found by the committee that such funds were not needed for an emergency expenditure, such approval may be withdrawn and any balance remaining shall not be expended." See Louisiana Revised Statutes Title 39:75.

Notes to Table 9

Maine	<p>If the Governor submits budget legislation that differs from the request submitted by the Judicial Department, or by the Legislative Council for the Office of Program Evaluation and Government Accountability (OPEGA), the Governor shall simultaneously submit a report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and judiciary matters, or to the Legislative Council and OPEGA, explaining why the Governor's budget legislation differs from the budget submissions. Increases in Other Special Revenue funds accounts, internal service fund accounts and enterprise funds, except the State Lottery Fund and the Dirigo Health Enterprise Fund, may occur if failure to approve would have a detrimental impact on current programs, and as long as the funds are expended in accordance with the statutes that establish the accounts and for no other purpose. The expenditure of unanticipated federal funds may be authorized for a period not to exceed 12 calendar months unless such federal funds are approved by the Legislature. Whenever it appears to the Commissioner of Administrative and Financial Services that the anticipated income and other available funds of the State will not be sufficient to meet the expenditures authorized by the Legislature, the Governor may temporarily curtail allotments equitably so that expenditures will not exceed the anticipated income and other available funds. No allotment may be terminated. Any curtailment of allotments must, insofar as practicable, be made consistent with the intent of the Legislature in authorizing these expenditures.</p>
Maryland	<p>May increase special fund, federal fund, and higher education appropriations without legislative approval. With the approval of the Board of Public Works, the Governor may reduce by not more than 25 percent any appropriation that the Governor considers unnecessary. The Governor may not, however, reduce an appropriation to the legislative or judicial branches of government; for the payment of principal and interest on state debt; the funding for public schools (K-12); or the salary of a public officer during the term of office.</p>
Massachusetts	<p>Article 87 of the Constitution allows for the Governor to submit a reorganization bill which becomes law within 60 days unless rejected by the Legislature. Statute allows the Governor to reduce executive branch appropriations in the event of a revenue shortfall. Cannot apply to local aid appropriations.</p>
Michigan	<p>The Executive Budget is published. Agency requests are published to the extent that the requests are included in the Executive Budget. The Governor has Executive Order reorganization authority not subject to legislative review. However, the Governor's Executive Order reorganization may be forestalled if disapproved by both houses of the legislature within 60 days of issuance. Unanticipated funds may be expended up to a pre-established spending level only if stipulated in the appropriations bill. There are both constitutional and statutory restrictions on executive branch authority to make budget reductions, involving approval by both House and Senate Appropriations Committees.</p>

Notes to Table 9

Minnesota	All agency heads are directed by budget guidelines to develop realistic agency budget plans within base level targets. The Executive Budget includes all agency requests submitted by non-executive branch entities, but only those requests that have been approved as Governor's recommendations for Executive Branch agencies. In statute, the commissioner of administration has authority to transfer personnel, power or duties from one state agency that has been in existence for at least one year to improve efficiency and avoid duplication. The transfer must have prior appeal of the governor. The commissioner of administration shall no later than January 15 of each year submit to the legislature a bill making all statutory changes required by the reorganization order. The Commission of Finance, with the approval of the Governor, is authorized to reduce the enacted budget without legislative approval in accordance with M.S.16A.152 Subd.4. The authority to reduce enacted budget allotments without legislative authority is restricted to preventing a budget deficit.
Mississippi	No legislative approval is required for budget reductions. Statutory restriction is up to 5 percent of general fund and non-exempt special fund agencies as selected by state fiscal officer; cuts exceeding 5 percent must be across-the-board.
Missouri	The Governor may effect reorganizations by executive order which must be submitted within 30 days of the start of session. The reorganizations stand unless they are rejected by the legislature within 60 days of the issuance of the executive order. Agencies may spend unanticipated funds without further legislative approval if the appropriation authority is sufficient, or is estimated (designated by an "E" after the amount.) The budget office, with the approval of the Commissioner of Administration, may increase estimated appropriations. The Governor may withhold appropriations when actual revenues are below the forecast. The Governor may also control the rate of spending through allotments.
Montana	By statute, only Judicial Branch requests are published in the Executive Budget.
Nevada	Only the Legislature can approve reductions in K-12 spending.
New Hampshire	Budget reductions require the approval of Fiscal Committee.
New Jersey	Certain unanticipated federal funds can be spent, subject to the approval of the Director of the Division of Budget and Accounting. Only the legislature can de-appropriate funds for executive agencies, but the Governor can limit an enacted budget without legislative approval through lapsing unspent funds. In addition, the Governor has statutory authority to impound funds, as long as no legislative goals are ignored.
New Mexico	Unanticipated federal funds may be expended without legislative approval. Budgets supported by non-general fund sources may be reduced without legislative approval if such revenues do not materialize.
North Carolina	The Governor may spend unanticipated funds up to 3 percent of the certified budget without legislative approval. The Governor may reduce the enacted budget without legislative approval through an Executive Order in cases of a revenue shortfall or natural disaster.

Notes to Table 9

North Dakota	The Emergency Commission (comprised of the Governor, Secretary of State, chairman of the House and Senate Appropriations Committees, and majority leaders in the House and Senate) can authorize spending of unanticipated federal funds and special funds without legislative approval. If revenues fall below forecast, the governor can administratively reduce spending from the fund. Reductions must be across the board.
Ohio	Ohio law permits the spending of unanticipated funds without legislative approval. However, the authority to spend these funds must generally be approved by the State Controlling Board whose voting members are also members of the General Assembly.
Oklahoma	Governor can reorganize departments without legislative approval, but this would require agreement of agency governing boards and/or CEO.
Oregon	The Department of Administrative Services has the authority to reduce budgets in the case of revenue shortfalls. Restrictions depend on the level of the appropriation. An entire appropriation cannot be eliminated without legislative approval. Some appropriations are at the program level, while others are at the agency level.
Pennsylvania	Agency budget requests are provided to the General Assembly's appropriations committee staffs at the time the Governor's budget is submitted in February; the request amounts are not printed in the budget. The Governor may reorganize within agencies only. The Governor may spend federal funds without legislative approval for natural disasters, civil disobedience, or in an emergency to avoid substantial human suffering. The Governor may reduce budgets selectively; he or she must provide the General Assembly with a 10 day notice of reduction to grants and subsidies.
Rhode Island	Upon the transfer of a department or agency to another department or agency, the Governor is authorized by means of Executive Order to transfer or allocate, in whole or in part, the appropriations and full-time equivalent personnel limits affected thereby.
South Carolina	The Budget and Control Board can authorize an across-the-board agency reduction when there is a revenue shortfall. When in session, the General Assembly has five statewide session days to take action to prevent the reduction.
Texas	Notification of unanticipated funds, such as federal funds and court settlements, must be made by the recipient state agency to the Legislative Budget Board (LBB). However, there is no requirement for explicit approval by the LBB. The Governor must reduce the entire line item, which may include funding for multiple programs. The Governor may only veto riders which make appropriations, not those which direct the use of appropriated amounts.
Utah	While the Governor may reduce the enacted budget without legislative approval, there is no statutory authority supporting this act.
Vermont	If executive order reorganization contravenes current law, it becomes law unless disapproved by the legislature within 90 days. Reductions based on revenue shortfalls of greater than 1 percent require legislative approval.

Notes to Table 9

Virginia	The Governor can spend unanticipated non-General Funds (fees and federal funds) without legislative approval. The Governor cannot reduce appropriations without legislative approval, but can withhold allotments. Budget reductions without legislative approval are limited to a maximum reduction of not more than a cumulative 15 percent.
Washington	The Governor can authorize agency expenditures of unanticipated federal and private/local revenues without legislative appropriation as long as the funds are dedicated to a specific purpose consistent with legislative intent. Legislative staff review these requests prior to executive approval. The Governor can only reduce legislatively-authorized spending levels in a case where there is a projected cash deficit in a specific account. These reductions must be made across-the-board in appropriations from the account.
West Virginia	<p>Appropriated Special Revenue accounts and Federal Fund accounts may be increased by the Governor as authorized by the West Virginia code. Special Revenue: W.Va. Code §11B-2-18 authorized the Governor to increase the spending authority for accounts which are funded "from collections" (Special Revenue) provided the amount actually collected exceeds the amount authorized for expenditure by the Legislature.</p> <p>The spending officer must submit a plan of expenditure showing the purpose for which the funds are to be expended and a justification statement showing the reasons why the additional expenditure is necessary and desirable. If the Governor approves the plan of expenditure and justification statement and is satisfied the expenditure is required to defray the additional cost of the service or activity of the spending unit, the Governor may authorize the use of the additional funds. If the Governor intends to authorize the additional spending, notification of the intent is provided to the President of the Senate, the Speaker of the House, and the Chairmen of the Senate and House Finance Committees providing them a three week opportunity for review and concurrence. If there are any questions or issues regarding the need for additional spending authority, all parties work together to reach a mutual agreement on the issue. If the agreement is to proceed with the authorization, notices of such authorization are sent to the State Auditor, the State Treasurer, and the Legislative Auditor. Federal Revenue: W.Va. Code §4-11-5 authorized the Governor to increase the spending authority for federal accounts. If additional Federal Funds become available to the spending unit while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in the budget approved by the Legislature, the Governor may authorize, in writing, the expenditure of such funds in the same manner as Special Revenue Funds described above. However, the Governor may not authorize expenditure of such funds received for the creation of a new program or for a significant alteration of an existing program. A mere new source of funding of federal moneys for a program that has been approved by legislation is not considered a new program or a significant alteration of an existing program, and the Governor may authorize the expenditure of such funds. The Governor submits to the Legislative Auditor two copies of a statement describing the proposed expenditure of such funds in the same manner as it would be described in the state budget and explain why the availability of such Federal Funds and why the necessity of their expenditure could not have been anticipated in time for such expenditures to have been approved as part of the adopted budget. If the funds are available from non-appropriated revenue, sources, the Governor can authorize spending by budget expenditure schedule amendment. §11B-2-20. Reduction of appropriations powers of Governor; Revenue Shortfall Reserve Fund and permissible expenditures there from: (a) Notwithstanding any provision of this section, the Governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article. The Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature from the Revenue Shortfall Fund established in this section. §11B-2-21.</p>