

Harvard Law School
Federal Budget Policy Seminar

Briefing Paper 20

**Implementing Biennial
Budgeting for the U.S.
Congress**

Stuart Young
Drew McLelland

Final Draft
Last updated: 5-06-06

Introduction

Former Florida Senator Connie Mack likened the federal budget process to the Greek tragedy of Sisyphus—the man whom the gods sentenced to push repeatedly a stone up a hill, only to find that once he neared the top, the stone would fall back down, forcing him to start all over again.¹ Every year, Congress engages in the federal budget process that outlines the government’s spending plans for the next fiscal year. The president sends the budget to Congress. Members then haggle over the details. Cabinet members and experts come to testify before Congress. Congressmen and Senators negotiate with each other; many maneuver to “bring home the bacon” for their constituents. When the legislative and executive branches of the government are divided, the process can be quite contentious, and even when they are not, it still takes up a significant amount of legislators’ time.

The appropriations process, which is the center of the budget process, addresses a declining amount of government spending as a percentage of GDP. Permanent programs, such as Social Security, Medicare, and Medicaid, are making earmarks for “Alaskan bridges to nowhere” seem like small potatoes. Currently, mandatory spending comprises nearly two-thirds of federal spending, compared to discretionary spending, which makes up only one-third of federal spending. Most of the budgetary haggling, however, is over discretionary spending. With the continued growth in mandatory programs, it makes little sense to devote most of Congress’ time to fighting over the small stuff.

This has led many to advocate that the federal budget process be streamlined and reformed from an annual system to a biennial system. Some argue that the president should submit a federal budget proposal to Congress only once every two years. Likewise, the Congress

¹ Connie Mack, *Congress Suffering a Greek Tragedy*, Roll Call, June 26, 2000.

should engage in and pass budget-related legislation only once every two years. Some say that this would create a more efficient federal government. Others contend that this would create more problems than it would solve. In Part I this paper will explore the opportunities accompanying a switch to biennial budgeting. Part II will discuss the challenges posed by such a new system. Part III will consider the different timing choices. Part IV will analyze the experiences some states have had with two-year budgeting. And Part V will examine the biennial/triennial budgeting process used in the United Kingdom.

I. Opportunities

a. Less Legislative Time on Budgeting

Perhaps the most significant advantage for implementing a biennial Congressional budget would be the additional legislative time it would create for members of Congress. In the late 1990s, roughly 70 percent of all roll call votes in the Senate dealt with budgetary issues. Debates over the budget and the resulting substantive and procedural votes consume much of the Senate's time, in effect dominating the Senate agenda. This prevents all of Congress from addressing other legislative matters.² As an ever increasing majority of federal spending comes from entitlement programs (Social Security, Medicare, etc), it makes little sense to devote so much of Congress' time to what is a relatively smaller piece of the government outlays.³

One could also argue that at present Congress is incapable of effectively handling an annual budget process. From for the last quarter of the 20th century, Congress has met its statutory deadline for passing its annual budget resolution only five times. During the last half of

² Connie Mack, *Congress Suffering a Greek Tragedy*, Roll Call, June 26, 2000.

³ *Id.*

the 20th century, Congress depended on continuing resolutions to fund government programs and agencies while they struggled with overdue appropriations bills.⁴

The current process keeps government leaders focused on short term goals and mired in crisis management, explains former Congressman and former Director of the Office of Management and Budget, Leon Panetta.⁵ The executive branch of the government is also consumed by the time-crunch of the budgeting process. Congressional budget negotiations can continue into the autumn, which is the beginning of the new fiscal year for government agencies. While the congressional wrangling continues through the summer and into the fall, executive agencies are already busy creating budget requests for the following fiscal year. They cannot adequately estimate their future spending needs until they know what spending has been approved by Congress for the current fiscal year. The additional time would benefit both the executive and legislative branches of the government.⁶ The expression “time is money” may be cliché, but is a standard measure for productivity in the world of business. If Panetta’s perception is valid, the additional time and resources saved by planning a budget every other year would enhance the productivity of workers in the federal government.

b. Increased Oversight

According to Panetta, a biennial budget that frees up legislators’ time would give Congress more opportunities to conduct in-depth analysis and scrutiny of both existing programs and requests for future funding. Authorization committees currently spend more time authorizing new programs than scrutinizing the thousands of government programs that already exist. The off-year presents an opportunity to rectify this situation. Appropriations committees

⁴ *Id.*

⁵ The Hon. Leon Panetta, Testimony before the House of Representatives Rules Committee (March 16, 2000), at http://www.rules.house.gov/archives/rules_pane09c.htm.

⁶ *Id.*

would have more time to study more carefully current funding requests, and the OMB could better fulfill its responsibility of evaluating government programs within the executive branch.⁷ Consequently, more effective oversight can improve management of government agencies, evaluate goals and results of those agencies, and prevent waste or abuse of resources, says Dr. Martin Regalia, former Chief Economist at the U.S. Department of Commerce.⁸

Lack of sufficient oversight often results in appropriated spending going towards programs that are not authorized. In 1999, \$101 billion was appropriated for over 100 government programs whose authorization had expired. In FY 2000, that figure increased to \$120.9 billion. Effective oversight can eliminate programs and spending that are deemed to be unnecessary or re-authorize those that are working.⁹

c. Long Term Strategic Planning

Dr. Regalia also contends that biennial budgets would improve the strategic management of government agencies. As congressional leaders and executive agencies adopt a longer-term perspective on budgeting, it is possible that the programs created and funded would be better thought-out than those borne by annual budgeting.¹⁰ No respectable business would expect to operate successfully without a long range plan, our government appears blind to such well-established business practices.

Biennial budgets may reduce government shut-downs. Continuing resolutions have become the status quo. But whenever the government is divided—often the case in American politics, there is always the risk of a government shut-down if continuing resolutions are not reached during protracted negotiations. By reducing the number of negotiations for continuing

⁷ *Id.*

⁸ Dr. Martin Regalia, Former Chief Economist at the US Dept. of Commerce, Testimony Before the House of Representatives Rules Committee (March 16, 2000) at http://www.rules.house.gov/archives/rules_rega09c.htm.

⁹ *Id.*

¹⁰ *Id.*

resolutions, the government also reduces the risk of the paralysis caused by political impasses. And even for the negotiations that continue, the biennial horizon will change the rules of the game. A two year frame allows more flexibility. Compromise may be reached by giving each side what it wants now in exchange for agreeing to future cuts later in the biennium.

A biennial budget will also increase predictability and stability for state and local governments, which rely on federal funding or which go into joint ventures with the federal government.¹¹ Finally, longer-term budgets require longer-term forecasts in revenue, which are less certain. However, any significant changes in economic conditions can be addressed through supplemental spending decisions or rescissions.¹²

II. Challenges

a. Less Reliable Forecasts

One large challenge to devising a biennial budget is that almost all of the numbers are based on predictions. The budget is only as good as its underlying predictions. The change from the predicted deficit to the actual deficit per year for the period 1980 through 1998 was on average 54 billion dollars.¹³ The discrepancies occur not only because of estimation errors but also because of policy changes and economic changes.¹⁴ All three of these factors become harder to predict the farther into the future one looks.

Fifty-four billion dollars seems like a great deal, but not that much in the totality of federal spending. The prediction errors over the last eleven years have averaged 4.23% of total outlays as to predictions one year ahead, and 8.84% of total outlays for predictions two years

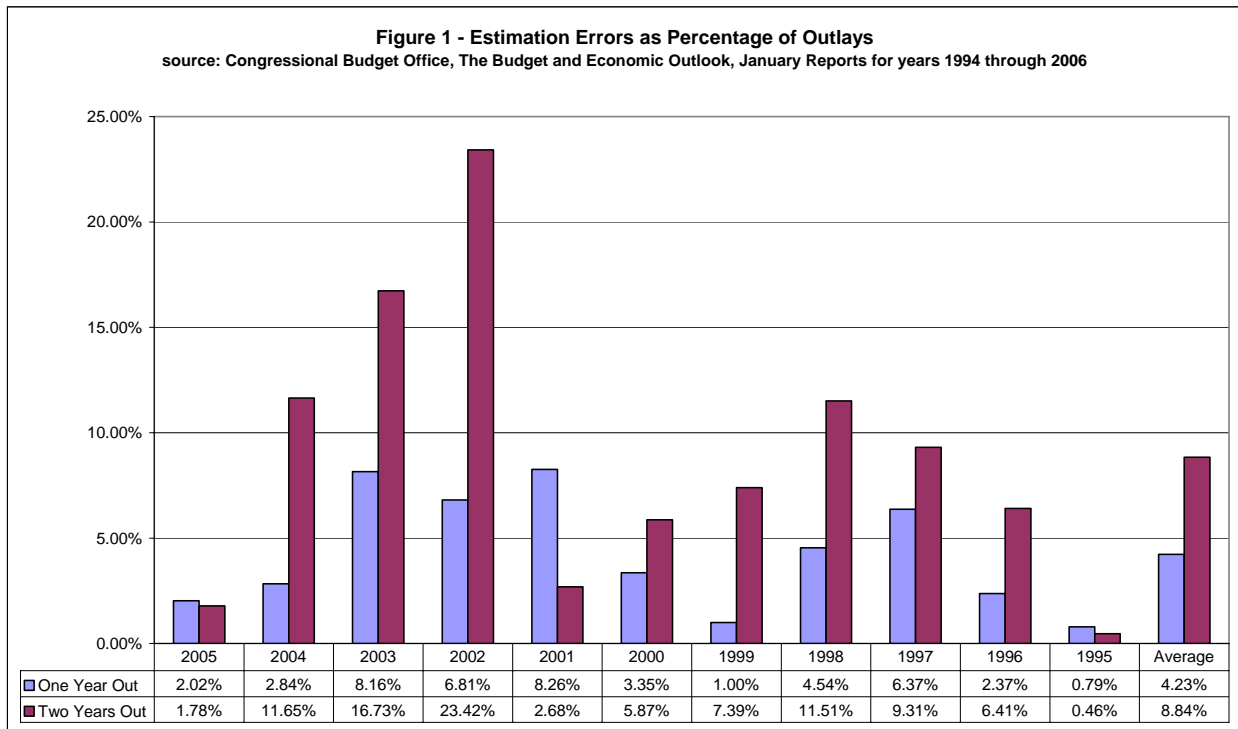
¹¹ *Id.*

¹² *Id.*

¹³ ALLEN SCHICK, FEDERAL BUDGET PROCESS 130 (2000).

¹⁴ *Id.* at 129-30.

ahead. See Figure 1, which compares the actual spending levels to the predicted spending levels one year and two years earlier. Budgeting will always have some error. Forecasting is never an exact science. Since annual budgeting already has, at best, a 4.23% error rate, the move to biennial budgeting would increase the error rate only by another 4.61 percentage points, which could be accommodated. States with biennial budgeting have managed to handle this small increase in prediction error rate.¹⁵



Some fear, however, that small prediction errors could snowball into a serious problem.

Future budgets and authorizations would rely on current, yet unreliable budget data and make incorrect assumptions, which, in turn, would lead to more pronounced inaccuracies.¹⁶ Congress

¹⁵ *Biennial Budgeting: A Tool for Improving Government Fiscal Management and Oversight*, House Comm. On Rules, 106th Cong. (2000) [hereinafter Snell Testimony] (statement of Ronald K. Snell, Director of Economic, Fiscal and Human Resources, National Conference of State Legislatures) available at http://www.rules.house.gov/archives/rules_snel09c.htm (arguing that due to incremental nature of budgeting predictions are usually good, especially among the states whose budget is mostly made up of stable expenditures such as education and corrections).

¹⁶ *Biennial Budget: Hearing Before the House Comm. On Rules*, 106th Cong. 6 (2000) [hereinafter Crippen Testimony] (testimony of Dan L. Crippen, Director, Congressional Budget Office) available at

could come back every year or half year to revise the numbers, although time in the off-budget year under the biennial model should theoretically be devoted to oversight.

One possible solution to address this problem is automatic updates. The budget totals and allocations would be revised automatically as situations change, freeing congressional resources for other tasks.¹⁷ However, if conditions change significantly enough, the actual budget would be strikingly different from one that Congress approved.¹⁸ Another device to correct prediction errors could be a range for outlays and revenues instead of a point estimate.¹⁹ The need for better predictions could motivate the executive branch and legislature to agree on baselines and economic projections before the deliberations begin, perhaps by using an external Board of Revenue Estimators.²⁰

b. Barriers to Achieving Increased Oversight and Other Benefits

Unforeseen emergencies pose one of the main obstacles to creating an effective biennial budget planning process. Circumstances can change drastically in a year, which require appropriate budget responses. World-altering events like September 11th and Hurricane Katrina or a rapidly changing economy cannot be adequately predicted and included in any budget. On the one hand, such crises demand immediate attention, regardless of when they occur.

Allowances can always be made to re-open the budget and create supplemental spending bills for such emergencies. On the other hand, reliance on supplemental spending bills would tempt politicians to add unnecessary “pork barrel” spending in any re-opened budget, supplemental spending bill, or continuing resolution. Earmarking is particularly attractive to legislators in

<http://www.cbo.gov/ftpdocs/18xx/doc1877/031000.pdf>; Charles A. Bowsher, *Biennial Budgeting: Summary of the Major Issues*, OACG-84-4 Gov't Accountability Office 4 (1984). [*hereinafter* Bowsher Letter] available at <http://www.gao.gov/docdb/lite/summary.php?rptno=OACG-84-4&accno=124036>.

¹⁷ Crippen Testimony, *supra* note 16 at 6.

¹⁸ *Id.*

¹⁹ Bowsher Letter, *supra* note 16 at 5.

²⁰ *Id.*

election years, even more so in times of budgetary surplus, and especially to those less committed to a biennial budget planning process. A custom of passing supplemental spending bills in the off-year could easily undermine a biennial budgeting process and create a de facto annual budget, which loses many of the purported benefits from the longer range planning.

A stable annual budget may be preferable to an unstable biennial budget. For expenditures outside the ordinary budget process timeline, Congress must revert to supplemental appropriations, but an annual budget would more quickly incorporate the new spending needs into the regular budget.²¹ When a new challenge arises that requires a change in policy direction, Congress often needs time to deliberate and agree on a course of action. If such a change occurs in a non-budget session or cannot be completed by the end of the budgeting year, it will be pursued in the next session but on an ad-hoc basis without established procedures.²² The de facto annual budget would then have more activity outside the normal process devoid of the normal procedural protections.

In the debate between annual and biennial budget cycles, one must acknowledge that there are potential benefits to each: an annual system is more flexible and responsive while a biennial system can save time and provide more oversight—yet the two may not be mutually exclusive. One likely solution is for Congress to cede more budgetary power to the executive branch or another subset of Congress. This solution is practical; a smaller number of political actors, whose reputation and careers are on the line, may have more success in keeping the budget responsive in the off-years without letting pork get out of control. But this may, in turn, cloud transparency and congressional oversight if the resulting system gives the entire

²¹ Crippen Testimony, *supra* note **Error! Bookmark not defined.** at 1.

²² *Id.* at 6.

appropriations less time and fewer instances to scrutinize budget requests.²³ As the executive branch takes more control over how federal tax dollars are spent, executive agencies may become less accountable to Congress.²⁴ Opponents of biennial budgeting have also claimed that Congress has a “constitutional mandate to control the expenditure of federal funds,” which won’t be possible any other way than through annual budgeting.²⁵ It is possible that the loss of control is more a perception of the legislature rather than any actual loss,²⁶ but getting the appropriations committee (and other powerful committees) to give up control to the president may be politically impossible.

Experience from state governments may yield some solutions to the problems listed above. One possibility is to allow Congressional budgetary modification in the off-year, but limit it to certain defined categories. For example, Arizona statutorily limits off-budget year activity to only technical adjustments such as revised economic forecasts, but disallows new policy initiatives.²⁷ Ohio has a similar custom. Although its arrangement is not codified in law, it follows a “gentlemen’s agreement” between the executive and legislative branches.²⁸ But if Congress’ record of unrestrained deficit spending is indicative of how it might police itself in off-year budgets, one could easily doubt its ability to implement Ohio’s self-discipline.

One journalist believes that giving Congress more time for other matters may not be such a good thing. With the current climate in Washington, additional legislative time may be used to debate controversial social issues as opposed to improving current government programs and

²³ *Biennial Budgeting-Three States Experience: Report to the Chairman, House Comm. On Rules*, 106th Cong. at 3, 6 (2000) [hereinafter Irving Testimony] (testimony of Susan J. Irving, Director for Federal Budget Issues, Strategic Issues, GAO) available at <http://www.gao.gov/new.items/d01132.pdf>. (noting that State officials in Connecticut and Ohio report that biennial budgeting has not increased legislative oversight).

²⁴ Crippen Testimony, *supra* note 16 at 2.

²⁵ See James Turpin, *An Idea Whose Time Has Come?* CORRECTIONS TODAY, Jun 2000 at 28.

²⁶ Bowsher Letter, *supra* note 16 at 3.

²⁷ See Irving Testimony, *supra* note 23 at 11.

²⁸ *Id.*

increasing legislative scrutiny of the executive branch. With more posturing, Washington could become even more divisive than it currently is.²⁹

Even additional scrutiny of government programs is no guarantee of better results. One would hope that congressmen would use their newly found time to eliminate unnecessary or ineffective government programs. Yet again, singling out certain agencies or earmarking projects (located in certain districts) for termination may be difficult in election years.³⁰ And rather than relying on objective data for making decisions, legislators may merely acquiesce to the vagaries of popularity or effective lobbying.

c. Inefficiencies

Former Congressman Dan Rostenkowski asserts that biennial budgets would aggravate the divisiveness and gridlock that already occurs in the budget process.³¹ As budget controversies become rarer, the stakes become more important.³² Partisan sides will argue more fiercely and be loathe to compromise.³³ The need to win at least some of the limited budgetary battles may be especially acute for newer members of Congress, who face a harder time being re-elected than the entrenched incumbents.³⁴

Further, in a biennial system, newer members, as well as new presidents, also face a more drawn out learning curve. The last budget cycle President Bush will go through will be his eighth experience under the annual system, but would have been only his fourth under a biennial system. The biennial process would leave less experienced budgeters with little opportunity to test new approaches or to experiment with new tactics. Of course, increased experience with

²⁹ Dan Rostenkowski, *Government folly: Two-year budgets*, USA TODAY, Mar. 28, 2000, at 17A.

³⁰ Irving Testimony, *supra* note 23 at 6.

³¹ Rostenkowski, *supra* note 29.

³² *Id.* See also Irving Testimony, *supra* note 23 at 3.

³³ Rostenkowski, *supra* note 29. *But see supra* section I.c (arguing that a longer time frame provides new negotiation strategies, which can lead to more compromises).

³⁴ *Id.*

budgets also allows politicians to gain more facility at manipulating the system to their own advantage.³⁵

A one-size-fits-all budget periodicity may lead to inefficiencies. Some budgetary items work better being revisited every year; others may require less attention. This criticism applies to either an annual or a biennial cycle. Either option, however, can be accommodated. The current annual cycle allows for multi-year appropriations, and a biennial cycle could allow for exceptions and budgeting in the off-year. Further, not all budgeting tasks need be done with the same frequency—something many proposals fail to recognize.³⁶

III. Difficulties of Timing

One key factor to making a biennial budget work is the coordination of the budget session with the election cycle. Nearly all proposals envision the budgeting year as the non-election, odd-numbered year.³⁷ The even-numbered election years would be reserved for oversight and supplemental appropriations. This set-up allows new presidents and members of Congress to start work on a new budget as soon as they take office. Their budget would go into effect in October of their second year. For example, the 2008 president-elect would immediately begin working on the budget for fiscal years 2010 and 2011 (October 2009-October 2011). That budget would be submitted to Congress in February 2009 and be signed into law around October 2009. The next year would be relatively budget-free.

Such a model would give the new administration approximately nine months to develop and pass the two year budget. This may not be enough time for the administration to include all the necessary items for two fiscal years. It may then be possible that all of the budgetary

³⁵ *Id.*

³⁶ Irving Testimony, *supra* note 23 at 7.

³⁷ Bowsher Letter, *supra* note 16 at 5-6.

deadlines and time tables would need to be extended—increasing time spent on what is supposed to be a more streamlined system. If this happened, the president might then shift the budget process to even-numbered years, taking more than a year to get acclimated to the job and prepare a biennial budget. If this were the case, the 2011 and 2012 budgets would be submitted to Congress in February 2010. Of course, this means that the new administration would have to contend with the old administration’s budget policies for two years into a four year term. Such a process could be molded through supplemental appropriations, but again, this could diminish the benefits of a streamlined process, making the process a de facto annual budget.

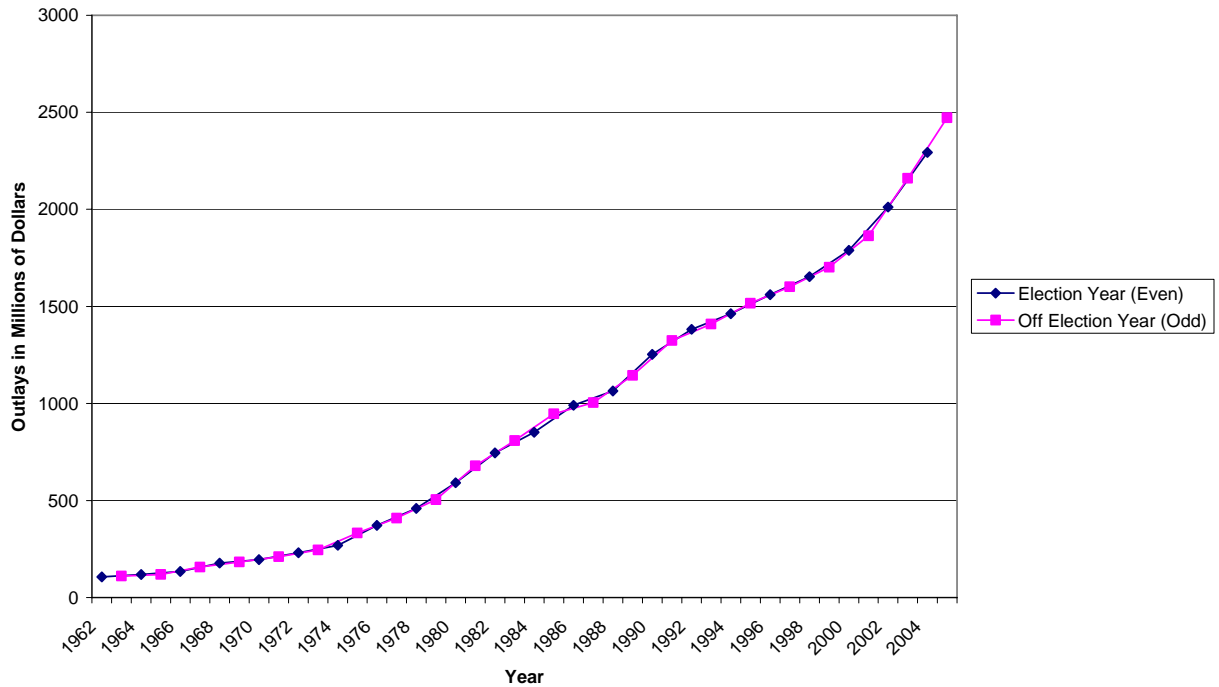
For a new administration to contend with an old administration’s policies for half of its term may appear as unfair or undemocratic. Such negative consequences are unlikely, however, for elected officials are under heavy political pressure to take immediate action to deliver on campaign promises and to assert their leadership. As Bill Frenzel, the current Co-Chairman on the Committee for a Responsible Federal Budget and former Congressman, put it, “No President and no Congress would wait more than a year after they were elected to make adjustments to budgets, spending and tax policies to reflect their priorities.”³⁸

Theoretically, the budget’s timing could also impact the level of spending. If budgeting is off limits in the election year, the political pressure to please constituents immediately before an election may result in huge earmarked supplemental appropriation, spoiling much of the increased oversight benefits from the biennial budget.³⁹ However, as Figure 2 indicates, the history of spending over the last 40 years does not show a significant difference in federal spending during election years and non-election years.

³⁸ The Hon. Bill Frenzel, Testimony Before the House Rules Committee (March 16, 2000) at http://www.rules.house.gov/archives/rules_fren09c.htm.

³⁹ See Prof. Roy Meyers, University of Maryland, Testimony Before The House Rules Committee (March 16, 2000) at http://www.rules.house.gov/archives/rules_meye09c.htm.

Figure 2 - Effects of Election Year on Spending
 source Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2007 to 2016*, 140 table F-1 (January 2006).



IV. States' Experience

Over the last century, more states have shifted their budgeting to an annual process. In 1940, 44 states followed a biennial budget.⁴⁰ Currently only 23 states use some form of a biennial budget.⁴¹ States have made the move to annual budgeting for various reasons. States have become more dependent on federal grants. Aligning the budgeting timeframe may allow easier administration of those funds. More frequent budgeting may allow quicker compliance

⁴⁰ Paula S. Kearns, *State Budget Periodicity: An Analysis of the Determinants and the Effect on State Spending*, 13 JOURNAL OF POLICY ANALYSIS AND MANAGEMENT 331, 340 (1994).

⁴¹ THE COUNCIL OF STATE GOVERNMENTS, *THE BOOK OF STATES* 327-38 tbl.7.23 (Vol. 34 2002). See also Snell Testimony, *supra* note 15. Snell notes that few states have a truly biennial budget. Three states enact a consolidated two year budget. The other 20 states enact two separate year long budgets at the same time.

with new grant requirements that affect state spending.⁴² As states have moved to annual legislative sessions, they have also moved to annual budget cycles.⁴³ Moreover, state budgets have become more complex, serving more people, and spending more money, all of which requires more time and effort on budgeting.⁴⁴

Paula Kearns has studied state budgets empirically. Using multi-variant analytical methods, she found that the frequency of legislative sessions correlates with the budget cycle.⁴⁵ Hence, states with annual legislative sessions are the most likely to use annual budgeting. She also found that the magnitude of the budget and the per capita expenditure rate were significant determinants of budgeting frequency.⁴⁶ States with larger budgets and larger per capita spending were more likely to have annual budgets. Conflicting politics between the legislative and executive branches was not a significant factor.⁴⁷

The budget period also affects state spending levels. Most conventional theories postulate that annual budgeting results in higher expenditures.⁴⁸ This belief assumes that since budgets grow incrementally, an annual budget will creep up faster than a biennial budget, and risk-averse legislatures budgeting biennially will be more cautious in appropriating funds for the second year due to increased uncertainty in the economic and revenue predictions.⁴⁹ Furthermore, legislatures (and lobbyists) have fewer opportunities to push for budget increases.⁵⁰

⁴² However, quicker response time to grants through annual budgeting seems somewhat of a dubious benefit. Many federal grant requirements will either not affect spending or give the states plenty of time to adjust their finances before the grants become effective. For example, the 2003 Medicare Prescription Drug, Improvement, and Modernization Act gave states three years before requiring them to contribute to Medicare prescription drug plans. 42 U.S.C. § 1396u-5c.

⁴³ Kearns *supra* note 40 at 335.

⁴⁴ *Id.* at 335-36.

⁴⁵ *Id.* at 337-38.

⁴⁶ *Id.* at 338.

⁴⁷ *Id.* at 340.

⁴⁸ *Id.*

⁴⁹ *Id.* at 341.

⁵⁰ *Id.* at 342.

Kearns offers a different theory concerning special interest groups. She asserts that lobbyists are more attracted to and work harder in states that have biennial budgeting because those states offer more durable spending legislation.⁵¹ Since special interest groups do not have an institutionalized relationship with the budgetary gatekeepers, they will highly value any possible financial gains in a biennial state.⁵² The increased effort of lobbyists will result in the state spending more per capita. Another theory is that biennial states will be compelled to use earmarking, debt financing, and other off-budget mechanisms to get around the biennial process.⁵³

Kearns tested the expenditures per capita as a dependent variable of budget periodicity, per capita personal income, tax price, educational level, population density, proportion of state revenues from personal income taxes, the frequency of legislative sessions, and per capita level of intergovernmental transfers to the state government.⁵⁴ The ordinary least squares analysis did not prove Kearns' theory that biennial states spend more .per capita. yielded a correlation coefficient of 0.01503 for the periodicity variable.⁵⁵ However, since per capita expenditures, budget periodicity, and intergovernmental aid all determine and influence each other's values, they can be treated as endogenous and allow three stage least squared analysis. This method showed at the .01 level of significance, that everything else being equal, biennial budgeting states have higher per capita spending levels.⁵⁶

Instead of statistical analysis, other studies proceed by surveying political actors in the states about their budgeting experiences. However, most of these surveys have returned

⁵¹ *Id.* at 344.

⁵² *Id.*

⁵³ *Id.* at 356.

⁵⁴ *Id.* at 348.

⁵⁵ *Id.* at 350. (correlation coefficient of 0.01503 for the periodicity variable).

⁵⁶ *Id.* at 352 (279 degrees of freedom).

inconclusive results. One review of the studies did not find a clear link between increased supplemental appropriations and a biennial period.⁵⁷ Other surveys of state budgeting have not yielded conclusive results as to whether biennial budgeting enables more long-term planning, increased program oversight, and more executive control.⁵⁸ One conclusive relationship, however, is that the cost of preparing budgets to the agencies was lower in biennial budgeting states.⁵⁹ All in all, the anecdotal and survey evidence shows that neither an annual nor a biennial budget will be the deus ex machina of budgetary efficiency. Rather, legislators' dedication to realizing a sound budget is more important.⁶⁰

As to timing, nearly all of the biennial states do the lion's share of budgeting in the off-election year. Wyoming appears to hold general sessions in odd-numbered years and budgetary sessions at the beginning of even-numbered years.⁶¹ The elections are held in even-numbered years.⁶² In Kentucky, which also implements biennial budgets, the governor and legislators are elected in different years. So the budgeting year coincides with an election years for the state's legislature but not for the governor. More recently, the 2004-2006 budget negotiation spilled over into the 2005 sessions, making their budget cycle more like an annual one.⁶³ The effects on and motivations of these states' atypical budget timing are unclear.

The states face, moreover, a different situation than Congress faces, and may not provide an appropriate analogy. State budgets are much smaller than the federal budget. Most states have

⁵⁷ *Biennial Budgeting: A Tool for Improving Government Fiscal Management and Oversight, House Comm. On Rules*, 106th Cong. quest. 4 (2000) (submitted questions and answers of Professor Charles Whalen, Senior Institute Economist, Institute for Industry Studies, Cornell University) available at http://www.rules.house.gov/archives/rules_whal09cqa.htm

⁵⁸ See Snell Testimony, *supra* note 15.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ <http://legisweb.state.wy.us/>

⁶² THE BOOK OF STATES, *supra* note 41 at.251-54 tbl.6.3.

⁶³ *Id.* See also <http://www.lrc.ky.gov/budget/process.htm>

some sort of balanced budget requirement.⁶⁴ State governors have broader authority than the president to lower spending levels.⁶⁵ Nearly all of the biennial states have fiscal years beginning in July as opposed to the federal fiscal year that begins in October.⁶⁶ While the states cannot print their own money, they do have more options for revenue sources such as property tax, sales tax, income tax, etc. The federal level is more likely to approve multiyear appropriations⁶⁷ Additionally, many states (and the city of Birmingham) can keep a substantial reserve, or a rainy day fund, to accommodate unexpected changes over the biennium.⁶⁸ Furthermore, some of the states are biennial in name only; budgeting for them is more of a continuous process of planning and revising.⁶⁹

V. British Experience

a. *The Biennial Cycle*

Before 1998, Britain, like the United States, also engaged in an annual budget process. In Britain, government departments negotiate directly with the Ministers in the Treasury rather than with various legislators in Parliament. Yet each year, government departments were required to submit requests for the next three years. However, these triennial plans were subject to renegotiation every year.⁷⁰ This meant that the final two years were never taken seriously and led to irresponsible spending requests from government ministers.⁷¹

⁶⁴ Kearns *supra* note 40 at 332 n.2.

⁶⁵ Irving Testimony, *supra* note 23 at 8.

⁶⁶ THE BOOK OF STATES, *supra* note 41 at 327-38 tbl.7.23.

⁶⁷ Irving Testimony, *supra* note 23 at 8-9.

⁶⁸ Andrea Jackson, *Taking the Plunge: The Conversion to Multi-year Budgeting*, GOVERNMENT FINANCE REVIEW, Aug. 2002, at 24, 27.

⁶⁹ See e.g. Irving Testimony, *supra* note 23 at 11-12 (describing Connecticut's high level of budget activity even in the off budget year).

⁷⁰ Ian Budge, Ivor Crewe, David McKay, & Ken Newton, *The New British Politics* 606-607 (2d ed. 2001).

⁷¹ Interview with Lord Turnbull of Enfield, former Treasury civil servant (March 27, 2006).

In 1998, in order to allow government departments to plan with more confidence over the medium term and to allocate resources among departments in a more strategic way, Gordon Brown, the British Chancellor of the Exchequer (the equivalent of the Treasury Secretary) introduced the first Comprehensive Spending Review.⁷² Ministers still submitted bids for three years, but the negotiations process would take place every other year. Year Three of the first Spending Review would be Year One of the subsequent Spending Review.⁷³ This year can be re-negotiated if necessary; however, in the 2004 Spending Review, the government decided not to review year three (fiscal year 2005) of the 2002 Spending Review (year one of the 2004 Spending Review), effectively implementing a triennial budget for government departments.⁷⁴ Lord Andrew Turnbull of Enfield, former Treasury official said that the biennial budget process requires ministers to make more realistic spending bids and adopt a more serious longer term perspective on spending.⁷⁵ Unspent resources from one fiscal year can be carried over to the next, making spending decisions more efficient—rather than the “use it or lose it” approach in the United States.⁷⁶ Even the Chancellor’s political opponents have not criticized the biennial system or advocated a return to the previous system. Michael Fallon, a Conservative MP and the Vice-Chairman of Parliament’s Treasury Committee, admitted that the biennial system works better than the previous system where spending reviews occurred annually.⁷⁷

Furthermore, Gordon Brown set out targets and strategic directions for government departments. The effectiveness of implementing such strategies can no doubt be debated

⁷² Robert Peston, *Brown’s Britain* 167 (2005).

⁷³ Robert Chote, Carl Emmerson, Chris Frayne, & Sarah Love, *Challenges for the 2004 Spending Review*, Institute of Fiscal Studies (2004), at http://www.ifs.org.uk/publications.php?publication_id=1798.

⁷⁴ HM Treasury, *The 2004 Spending Review*, at http://www.hm-treasury.gov.uk/spending_review/spend_sr04/spend_sr04_index.cfm

⁷⁵ Interview with Lord Turnbull of Enfield, former Treasury civil servant (March 27, 2006).

⁷⁶ Barrett Anderson, Organization for Economic Cooperation and Development, Testimony before the House Rules Committee (July 27, 2005) at

http://www.rules.house.gov/legbudg/hearings/multiyearbudg/109_lpb_multiyearbudgeting_testimony.htm.

⁷⁷ Interview with Michael Fallon, Member of Parliament (March 29, 2006).

between the Chancellor and his opponents. Some have criticized the Chancellor for creating too many targets for government departments to meet, for civil servants may cut corners in one area to meet a target in another.⁷⁸ However, both the Chancellor and the Prime Minister have time to both oversee the implementation of government programs and meet with ministers to discuss progress in their respective departments.⁷⁹ Despite the global economic down-turn and Britain's participation in the Iraq war, the Chancellor has not found it necessary to revert to an annual process.

When testifying before Congress, Barrett Anderson from the OECD outlined the potential benefits of the UK biennial budgeting system. He explained that biennial budgets in the United States can be used to reinforce spending caps and promote greater fiscal discipline. He also surveyed 40 OECD countries concerning their budgeting process and found that 28 countries have multi-year expenditure plans. He concluded that no evidence indicated that a biennial system would make the budgeting process more complex or time consuming.⁸⁰

b. Ability to Control Spending

Anecdotal evidence from Great Britain may also indicate that a biennial (or triennial) Budget process hold potential to reign in spending growth. Michael Portillo served as Chief Secretary to the Treasury (Deputy to the Chancellor of the Exchequer) from 1992-1994. The role of the Chief Secretary is to negotiate directly with the other heads of government departments over their budget requests. He recounted a negotiation he had with Michael Howard, the then Home Secretary (the British Equivalent for the Attorney General) who wanted to implement 20 new initiatives to fight crime. Portillo offered him funding for the top three

⁷⁸ Id

⁷⁹ Interview with Lord Turnbull of Enfield, former Treasury civil servant (March 27, 2006).

⁸⁰ Barrett Anderson, Organization for Economic Cooperation and Development, Testimony before the House Rules Committee (July 27, 2005) at http://www.rules.house.gov/legbudg/hearings/multiyearbudg/109_lpb_multiyearbudgeting_testimony.htm.

initiatives, provided that he would then agree to a real-term freeze for the next two years. Howard agreed. No doubt, he could save face publicly by getting funds for new programs, which then made it politically acceptable to accept a real-term cash freeze for his department.⁸¹ In America, politicians may find that it is more politically expedient to accept a cut in government spending (which could be harmful to their own political career) over a longer period of time.

Conclusion

The discussions outlined above are moot unless Congress and the president agree to implement a biennial budget process. They do, however, open new options for consideration. In May of 2000, the House of Representatives introduced an amendment to the budget process that would have converted it to a biennial system. The amendment was defeated 201-217 generally along partisan lines. 174 Democrats along with 42 Republicans defeated the amendment, while 176 Republicans and 24 Democrats supported it.⁸² Senator Pete Domenici later introduced a bill to create a biennial budget in 2005.⁸³ Congressman Richard Drier introduced a similar bill in the House,⁸⁴ but both bills are still in committee and are not scheduled to reach either chamber floor for a vote.

An effective biennial budget could streamline the budget process and free up more legislative time for legislators to handle other matters important to constituents. It could also lead to greater fiscal discipline if combined with discretionary spending caps. It is, however, no

⁸¹ Interview with Michael Portillo, Former Chief Secretary to the Treasury (January 25, 2006).

⁸² Office of the Clerk, US House of Representatives (2000), at <http://clerk.house.gov/evs/2000/roll186.xml>.

⁸³ The Library of Congress, S. 877, at <http://thomas.loc.gov/cgi-bin/bdquery/D?d109:6:/temp/~bddYwC::/bss/109search.html>.

⁸⁴ The Library of Congress, H.R. 2664, at <http://thomas.loc.gov/cgi-bin/bdquery/D?d109:3:/temp/~bddYwC::/bss/109search.html>.

panacea. The financial and productivity gains from the new process could be whittled away through irresponsible, supplemental spending bills that cater to individual interests over long range economic goals for the country. Unless Congress adheres to stricter rules or requests outside assistance from the executive branch, any biennial system can easily revert to an annual system. These stricter rules, loss of control to the executive branch, and other challenges such as less accurate predictions may make a switch to a biennial budget not worth the effort. Opponents of the biennial budget system, however, have never argued that biennial budgets would do irreparable harm to the government's finances. And since the current procedures are not effective, a biennial budget is worth a trial run.

Comparative evidence on biennial budgeting is somewhat mixed. Some U.S. states and Great Britain are effectively managing a biennial budget system, but other states have not been as successful. The reasons for this likely lie in the implementation rather than in the plan. When biennial budget states yield to political pressure, they regress to a de facto annual system. A biennial budget may result in increased per capita spending; however, past state experiences in this regard need not determine a fatal outcome for the federal government. One could argue that if Great Britain could make it work, so could America. Change of any sort is fraught with risks and pitfalls. The likely effects of biennial budgeting on the federal budget are unclear, but what is clear is that the current system needs great improvement. Congress could try a biennial system for a set period and then evaluate its effectiveness. If the new system proves to be ineffective, it could be reformed or scrapped altogether.

Empirical evidence does show that one element is paramount in all budgeting processes: politician's commitment to fiscal restraint. In the early 90's, there was a general consensus and sense of urgency among leaders of both parties that deficit spending must end, and federal

budgets must be balanced. How could the federal government expect to function in defiance of common sense and the sound money management rules that any prudent business executive or common householder would follow? That conversation, unfortunately, has disappeared from the current national scene. Holding the line on spending takes courage, discipline, accountability, and creativity, as political leaders are all called upon to do more with less. Bi-partisan leadership is needed both to raise public awareness of the problem and to create enforcement structures that restrain both the legislative and executive branches. A biennial budget system could be a stepping stone to a new vision for the federal budget and to the wise stewardship that the public deserves.

Selected Bibliography

Barrett Anderson, Organization for Economic Cooperation and Development, Testimony before the House Rules Committee (July 27, 2005).

Biennial Budget: Hearing Before the House Comm. On Rules, 106th Cong. 6 (2000) (testimony of Dan L. Crippen, Director, Congressional Budget Office) available at <http://www.cbo.gov/ftpdocs/18xx/doc1877/031000.pdf>

Biennial Budgeting-Three States Experience: Report to the Chairman, House Comm. On Rules, 106th Cong. (2000) (testimony of Susan J. Irving, Director for Federal Budget Issues, Strategic Issues, GAO) available at <http://www.gao.gov/new.items/d01132.pdf>.

Charles A. Bowsher, *Biennial Budgeting: Summary of the Major Issues*, OACG-84-4 Gov't Accountability Office 4 (1984). available at <http://www.gao.gov/docdblite/summary.php?rptno=OACG-84-4&accno=124036>.

THE COUNCIL OF STATE GOVERNMENTS, *THE BOOK OF STATES* (Vol. 34 2002).

HM Treasury, *The 2004 Spending Review*, at http://www.hm-treasury.gov.uk/spending_review/spend_sr04/spend_sr04_index.cfm.

Paula S. Kearns, *State Budget Periodicity: An Analysis of the Determinants and the Effect on State Spending*, 13 *JOURNAL OF POLICY ANALYSIS AND MANAGEMENT* 331 (1994).

Connie Mack, *Congress Suffering a Greek Tragedy*, Roll Call, June 26, 2000.

Dr. Martin Regalia, Former Chief Economist at the US Dept. of Commerce, Testimony Before the House of Representatives Rules Committee (March 16, 2000) at http://www.rules.house.gov/archives/rules_rega09c.htm.

The Hon. Leon Panetta, Testimony Before the House of Representatives Rules Committee (March 16, 2000) at http://www.rules.house.gov/archives/rules_pane09c.htm.

ALLEN SCHICK, *FEDERAL BUDGET PROCESS* (2000).

BIENNIAL BUDGETING February 1988. The Congress of the United States Congressional Budget Office. PREFACE. Should the Congress prepare a budget every two years rather than every year, as it does now? This proposed reform, known as biennial budgeting, has received increased attention in recent years. The Congressional Budget Office (CBO) prepared this paper in response to numerous inquiries about the subject. The paper is divided into four chapters. The first provides background information on the annual character of the current process and a history of proposals to convert to multiyear budgeting. Thereafter, the President shall submit a proposed two-year budget for the Department of Defense and related agencies every other year. Arizona implemented biennial budgeting over several years, beginning with a group of smaller agencies before converting the entire budget, while Connecticut converted all agencies to a biennial budget in the same year. The experiences of all three states indicate that agreement between the legislative and executive branches on how the off-year budget process will operate and leadership commitment to enforcing that agreement are key to how well a biennial budget process works. Although proponents suggest that biennial budgeting will provide an opportunity for the Congress to improve its oversight, most proposals do not specify how this will be achieved. Budgeting in the United States. In view of the increasing deficit in the early 1980s, Congress established the Balanced Budget and Emergency Deficit Control Act, commonly referred to as the Gramm-Rudman-Hollings (GRH) Act in 1985. This law aimed at a gradual reduction of the deficit in the period 1986-1990 and a balanced budget in 1991. An important problem for the departments is how to determine their request for year t , if they do not yet know how Congress will decide on the budget for year $t-1$ (which during the summer is being considered by Congress). For the HHS department, for instance, Congress has "with one exception" increased the budget each year since 1981 regardless of the President's budget proposal. Congressional Research Service. Biennial Budgeting: Issues, Options, and Congressional Actions. Proponents of biennial budget resolutions suggest that both Congress and the President would benefit by extending the binding levels to two years, adopting the broad outlines of fiscal policy only once each Congress. Subsequent budget resolutions, and budget implementing legislation, have generally adhered to these agreements. By institutionalizing this arrangement, advocates of biennial budgeting hope to duplicate its perceived success. Some opponents, and some proponents of biennial budgeting as well, argue that the lessons to be learned from successful executive-congressional summits are somewhat narrower.