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Role of the Legislature in the Budget Process: Recent Trends and Innovations

by
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This article provides a broad historical and conceptual overview of the evolution of legislative roles in budgeting, and assesses the potential consequences of expanded roles. By analysing country budget institutions and practices, the article proposes ways to establish sound relationships between the executive and legislative branches of government.

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1. Introduction

The two most important players in the budget process are the legislature and the executive budget office. Their respective role and power in the budget process differ from country to country and are influenced by many factors, including the wider historical, constitutional and political context as well as the legal and procedural aspects of the budget process itself and internal legislative structures and processes.

The constitutional division of power between executive and legislative branches ranges from presidential systems of separation of powers, such as in the United States, where the legislature has a strong role, to Westminster parliamentary systems, where the executive generally dominates. In between are modified forms including semi-presidential systems and non-Westminster parliamentary systems.

During the 20th century, the size and complexity of government grew exponentially in OECD countries, along with a greater focus on international issues and conflict affairs. In some countries, these trends promoted greater influence by the executive in budgeting. In recent years, however, executive roles have been challenged, as legislatures in certain countries have asserted new roles and responsibilities in budgeting. This trend is driven by many different factors, including the increased political stress on fiscal policy because of fiscal constraints and changes in the composition and cohesiveness of parties and party systems. Even in the United Kingdom, the core Westminster parliamentary system, new measures were introduced in the 1990s to support the legislature's efforts to more effectively control public expenditure. The need to respond to current fiscal problems – and future fiscal risks – arising from ageing populations as well as performance management and budget reforms will continue to challenge both executive and legislative officials to adapt and strengthen their roles in the budget process. As budgeting becomes more relevant for a wider range of policy and management challenges, officials throughout government will increasingly focus on how they can influence these choices by repositioning their roles in budget formulation, execution and oversight.

Given the recent changes in this area, OECD member countries at the 2006 annual Senior Budget Officials meeting requested that the OECD secretariat conduct an in-depth study on this topic. For this purpose, a meeting was held in Paris in October 2006, with delegates from nine countries[1] representative of four different forms of government: presidential, semi-presidential, Westminster parliamentary, non-Westminster parliamentary. This article draws on the presentations and discussions at that meeting and on previous OECD work in this area (Lienert and Jung, 2004). While it provides a theoretical background, the article focuses on the practical aspects of what the two players actually do in the budget process. By analysing each country's budget institutions and practices, this article highlights policy suggestions for developing co-operation and establishing sound relationships between the two branches of government.

This article provides a broad historical and conceptual overview of the evolution of legislative roles in budgeting, and assesses the potential consequences of expanded legislative roles. The article also contains a review of the relationship between the two branches and some policy suggestions to enhance executive-legislative co-operation in budgeting. The article draws on the experiences of the nine countries that participated in the OECD meeting, highlighting the practices and procedures that are followed by the legislature and the executive during the budget formulation and execution cycle.

2. Legislatures and budgeting

2.1. The historical and institutional background

The legislative role in budgeting has evolved over centuries. In England, the ascendancy of the legislature as a political and fiscal institution was integral to the shift from a monarchy to a democracy. Other countries have had similar experience.

The independent exercise of the "power of the purse" was a primary anchor of the legislature's emerging role in the governance process. Determining the allocation of resources among competing claims was critical to establishing the legitimacy and authority of the legislature as an institution competing with the monarchy.

Over time, the legislature's authority to appropriate public funds became the foundation for public budgeting and accountability, preceding the development of budgets by the executive. The fundamental power of appropriation gave the legislature formative influence in allocating funds among competing priorities. Legislatures went beyond this *ex ante* role to assume *ex post* influence over the process of budget execution and programme administration. Agencies were typically bound to follow the levels in detailed appropriation accounts in order to spend funds during the course of the year. Legislative influence over executive agencies was further reinforced by the exercise of oversight over agencies' management and budget implementation, either directly or through independent audit offices.

The roles currently exercised by legislatures actually range widely. The major influences include broader political, legal and institutional forces beyond the control of legislatures, as well as internal legislative structures and processes that can be changed by the legislature itself.

The constitutional division of responsibilities between the executive and the legislature has a major impact on legislative-executive roles in budgeting. In presidential separation-of-powers systems, like in the United States, the legislature has a significant role in policy formulation and in budgeting, partly owing to its independent election by constituencies that are different from those of the president. Legislative powers are arguably weakest under the Westminster system, where the executive leadership is drawn from the parliament and where the legislature is politically obligated to support the government. In between are modified forms including the semi-presidential system (France, Korea), the parliamentary republic (Germany, Italy) and the non-Westminster parliamentary monarchy (Netherlands, Sweden) (Lienert, 2005, p. 1).

Party systems play a fundamental role in determining the degree of independence of the legislature *vis-à-vis* the executive. Strong, cohesive two-party systems will generally work to attenuate legislative influence. In these systems, legislatures have a working majority to support executive initiatives. Under these circumstances, there is often little incentive for the executive to bargain and little incentive for the legislature to disagree. In parliamentary systems, the majority party in the legislature can precipitate a downfall of its own government by voting against the budget or by making major amendments. The executive's influence is further strengthened if the national party selects legislative candidates, thereby ensuring that legislative members owe their allegiance more to national party leaders than to local constituencies. On the other hand, weaker two-party systems, as well as multiple-party systems, generally strengthen the role of legislatures in budgeting and in the policy process more broadly. In these systems, the executive must bargain with more independent legislative actors to ensure majority support for budgets and policy goals. Sometimes this bargaining takes place outside of formal legislative channels and institutions, such as in pre-budgetary negotiations, but should nonetheless be considered as an exercise of legislative influence over executive decisions.

The institutional structure and role of the legislature have a bearing on the legislature's ability to act. Generally speaking, bicameral legislatures may have greater possibilities for influence, particularly if one house has a political standing that is different from that of the government's majority. Thus, for instance, the upper house in Australia and in Germany has different electoral constituencies and cycles that can lead to control by parties outside of the majority government. Also, legislatures that are full-time governing bodies will tend to attract members with an interest in promoting the legislature's role, as opposed to legislatures composed of part-time members with careers outside of government. Legislative bodies whose members serve for a number of terms tend to have greater expertise and interest in participating in governing than do those where membership is considered to be temporary.

The structure of the budget will have a major bearing on the role played by the legislature in the budget process. Generally speaking, comprehensive budgets which afford maximum control to budget decision makers over allocations and levels provide the greatest opportunities for influence for political leaders, whether they are in legislative or executive branches. On the other hand, budgets with large portions deemed "uncontrollable", due to entitlements or to trust funds that are considered to be external to general budgetary debates, will tend to limit the influence of the legislature in the annual budget process. While legislatures can still bid for influence over entitlements or trust funds, they must often pursue their interests outside the annual budget process in such areas as authorising or enabling legislation.

Other factors lending themselves to legislative influence are more in the control of the legislature itself. For instance, as governing has grown more complex, legislative influence is in no small part a function of the capacity of the legislature to marshal the expertise and information necessary to monitor and supervise executive agencies. In this regard, legislatures that organise their budgetary review and oversight in specialised committees help to deconstruct large, complex budgets and divide the labour of reviewing such massive amounts of information. Specialised committees also encourage legislative officials to acquire sufficient expertise to effectively compete with and, when necessary, challenge executive officials.

2.2. Trends in legislative budgeting

The 20th century was a century in which legislatures faced new challenges in asserting their influence in budget formulation and execution. Factors like the growth of government, the increased technical complexity and expansion of bureaucracy, and the seemingly perennial presence of international conflicts all served to solidify and reinforce executive responsibilities for the budget. In some countries, the executive budget was developed to provide coherence to the modern state and accountability to national constituencies that particularistic appropriation bills simply could not do.

Legislatures themselves delegated powers to the executive, wary of their own instincts to favour particular constituency-based policies at the expense of the broader fiscal wellbeing of the country. Moreover, legislatures did not have expertise to keep up with the growing sophistication and complexity of modern budgets, particularly when compared to the detailed knowledge possessed by executive bureaucracies (Schick, 2002).

The eclipse of the legislative role in budget formulation was reflected in the limited formal roles legislatures were given in developing and approving budgets. Legislatures had little formal power to review or approve overarching budget targets or policies, nor were legislatures generally involved in approving medium-term expenditure frameworks. The authority of many legislatures to change executive proposals was limited as well. Many were only able to cut spending, while others that wished to raise spending on line items were forced to search for offsets to neutralise their effects on the budgetary bottom line. In contrast with regular laws, budgets were often not enacted into law, but rather set in motion through executive proposal or legislative resolutions.

Many legislatures had small staffs without the deep institutional knowledge necessary to effectively compete with the executive, and the executive was often loathe to share important information that had been developed in a highly privileged and somewhat secretive process. The limited time available to review government budget documents and plans only compounded the legislature's problems: for instance, the United Kingdom Treasury submits estimates only two weeks before parliament must consider them. The formal limits were offset to some extent by considerable informal consultation and bargaining, particularly in those legislatures where the executive did not enjoy a commanding and cohesive majority of its own partisans.

Even where legislatures had effective control over executive budgeting, their roles were largely defined as checks on executive plans and proposals. In an era where government has become more important in society, a primarily negative role failed to command the respect of citizens who looked to their national leaders to solve a growing menu of increasingly daunting problems. Even in strong legislatures such as the United States Congress, the power to say no fails to capture the public imagination, as government is valued more for what it can do than for what it refuses to do (Cooper, 2001). And acting as a check on executive power is all the more difficult as budgets become dominated by entitlements and tax expenditures: these have become viewed as rights which, if changed, would cause detriment to families and economies alike.

Recent years have witnessed a resurgence of legislative roles and responsibilities in budgeting. In many countries, the efforts have had broad bipartisan support for assisting the legislature in recapturing some of its influence in the budget process. The legislative resurgence was prompted by several important trends:

- First, fiscal balances are increasingly viewed as precarious, particularly over the longer term, and budget and tax policies define the capacity of any system to satisfy the political demands placed by constituencies on legislatures. Moreover, the globalisation of markets has made countries' fiscal position more precarious and consequential; losing the confidence of world credit markets has broad sweeping consequences for a country's standing at home. Legislative leaders ignore fiscal policy at their peril, for they could thus alienate themselves from the process that can prevent, mitigate or respond to threats to the country's economy and social wellbeing.

- Second, party systems in many countries have become frayed as emerging economic and demographic forces splinter previously cohesive parties into narrow blocks or factions. Many legislatures are not managed by cohesive party leaders but rather through a turbulent combination of factions and parties. In fragmented political settings, political factions succeeded in using legislative footholds to challenge executive-led fiscal policy, prompting them to champion reforms to institutionalise stronger legislative roles and capacities.
- Third, democratisation in many formerly closed systems, such as in central Europe, has spurred changes to promote legislative activity in budgeting (Wehner, 2004). Assigning new roles to the legislature is part of a broader movement toward openness and transparency in government. Accountability has become a watchword for governance reforms, as reformers dust off historic conceptualisations of legislatures as a check on unilateral and unmitigated central government power.
- Finally, the relationship between the executive and the legislature in budgeting is a competitive one in many systems. Legislatures compete with executives for influence over budget formulation and for control over executive agencies' actions. Ironically, the reforms instituted by executives to strengthen their own roles in budgeting prompted legislatures to adopt similar measures. Thus, as noted below, the adoption of top-down budgeting frameworks in executive budgeting was accepted by legislatures, which realised that failure to do so would weaken their position in the system. Similarly, the superior information on spending and performance possessed by executive budget offices has prompted legislatures to acquire and improve their own information capacities.

2.3. Recent innovations in legislative roles

Legislatures are expanding their roles and influence in budgeting in several different areas. This is not surprising given the wide variance of legislative activities in budgeting. Recent reforms can be characterised as both strengthening traditional legislative controls over executive powers and projecting new legislative roles in setting overall fiscal policy targets and government performance. Legislatures have also taken steps to equip themselves with greater capacity and information to carry out these new responsibilities. It should be noted that, while there is a trend toward expanding legislative involvement in budgeting, the reforms themselves proceed from a very low level of involvement. As noted above, legislatures have often been given limited roles in the past due to real political, constitutional and technical constraints.

The legislative reforms fall into several categories: approving *ex ante* fiscal frameworks, broadening the portion of the budget subject to legislative review, strengthening institutional budget and deliberative processes, increasing legislative budget capacity, changing appropriation structures and budget execution, and enhancing *ex post* oversight. In many cases, countries have adopted reforms across many of these categories, but some have concentrated their initiatives on only one aspect.

2.3.1. Legislative approval of ex ante *fiscal frameworks*

Perhaps the most significant change in legislative roles is the involvement in reviewing and approving overarching fiscal frameworks and targets to complement their traditional roles in enacting detailed appropriations. The evolution of stronger legislative roles parallels the development of top-down budgetary frameworks in many OECD countries (Kim and Park, 2006). As noted above, reforms which strengthened the central budget office in setting targets and frameworks for the annual budget process ultimately served to stimulate expanded legislative roles as well. Legislatures realised that, as budgetary policy shifted to macro frameworks, they would become increasingly irrelevant for resource allocation and influence in ministries if they failed to become relevant in the macro budgetary arena. Importantly, such frameworks provide guidance and constraints for subsequent appropriation actions by parliament and its committees. While the legislature gains new influence in setting and approving macro targets, its degree of freedom in enacting appropriations may be somewhat diminished as a result.

In most countries, the executive budget office produces the medium-term budget framework (MTBF), including projections for aggregate expenditure and revenue and the fiscal strategy for a certain period. The OECD 2007 survey on budget practices and procedures (OECD, 2007) shows that executive budget offices in 26 of the 30 OECD countries present medium-term fiscal policy objectives in documents prepared for the legislature. These frameworks provide the overall fiscal goals for setting annual aggregate expenditure levels and also function as a binding limit in formulating the annual budget.

Legislatures in some countries have gained a role in approving macro fiscal frameworks. The OECD 2007 survey reveals that legislatures in 9 of the 30 OECD countries first vote on the total amount of expenditure before taking separate actions on appropriations.

In Sweden, a pioneer of top-down budgeting, the State Budget Act of 1996 allows the executive to propose expenditure ceilings to parliament that become binding for the years beyond the budget year. The Swedish parliament approves an aggregate multi-year expenditure ceiling prior to approving the detailed annual budget (Lienert and Jung, 2004). Similarly, the United States Congress approves a budget resolution containing five-year macro fiscal targets and overarching ceilings for discretionary appropriations, although the appropriation ceilings are only binding for one year.

In the Netherlands, a medium-term fiscal framework is negotiated among the coalition parties and becomes the overarching guidance for subsequent legislative consideration of the budget and appropriations. Budgetary policy, including the reduction of the fiscal deficit and the national debt and caps for the level of expenditure, is a key focus of this multi-party coalition agreement, with very explicit agreed objectives for the conduct of budgetary policy for its four-year term of office (Blöndal and Kristensen, 2002).

The United Kingdom MTBF illustrates a framework developed by the executive with little legislative input. Budgets including the annually managed expenditure (AME) and departmental expenditure limit (DEL) are set for three-year periods in a spending review (SR), the British version of the MTBF. However, the SR is only done by the executive, and no formal consultation is held with the legislature before the SR is presented to parliament.

2.3.2. Broader coverage of legislative budget decisions

Countries vary in the extent of their budgetary transactions subject to legislative review. Some countries, such as the United Kingdom, have certain spending categories that are not voted by parliament, including spending for certain public authorities, the country's contribution to the European Community, and various "standby authorities". Decisions by some countries have brought a greater share of the budget into the ambit of legislative review and approval. Norms of unified or unitary budgeting have become more widely adopted, partly as an instrument of fiscal policy and partly to underscore the accountability of all sectors of the budget to legislative oversight and review. In Korea's budget reforms, the National Assembly has gained control of all public funds, whether they be programmes funded by the general fund or those funded by earmarked revenues in so-called special funds (see the chapter on Korea in Lienert and Jung, 2004). Korea has joined other countries in providing that tax expenditures be reported to the legislature as well; the OECD 2007 survey shows that half of the OECD countries that responded now include tax expenditures in budget documents presented to the legislature.

As entitlements consume larger shares of national budgets, some legislatures have sought greater control over their growth through the budget process. In the United States, for instance, expansion of new entitlements had to be offset with cuts to other entitlements or tax increases, in a process known as PAYGO. Although the formal process has expired, the constraint continues to some extent in the Senate rules of legislative procedure. Sweden has extended spending ceilings to cover existing entitlements. Should spending in these programmes exceed the ceilings due to unanticipated growth in claims, the executive is obligated to present supplemental budgets to the legislature to accommodate the increase. The Italian legislature must also approve spending overruns for existing entitlement programmes. While officials note that legislatures have little choice but to approve these requests, they do provide a "speed bump" that enables the legislature to express its own policy concerns in the process.

2.3.3. Institutional changes in the deliberative process

The legislature's capacity to influence budget decisions is a function of both its authority over executive budget recommendations and its internal processes for decision making. With regard to the scope of legislative authority, Wehner (2004) places legislatures into three categories of influence over budgeting:

- **Budget-making legislatures** have the capacity to amend or reject the budget proposals of the executive and to substitute one of their own (Sweden, United States).
- **Budget-influencing legislatures** can amend or reject executive budget proposals but lack the capacity to formulate their own independent budgets (Italy, Netherlands). The amending power is often constrained as well: many legislatures may cut but not add to executive budgets, while others may add as long as they find offsetting cuts.
- **Legislatures with little or no budget role** lack the capacity to reject or amend executive proposals in any substantive way, largely for fear of prompting the fall of the government (United Kingdom).

The varying influence of legislatures in budgeting reflects, in part, differing authority to modify executive budget proposals. According to the OECD 2007 survey, 18 of the 30 OECD countries report that their legislatures have unrestricted powers to amend the budget. Legislatures in other countries, however, can make amendments only if they do not change the overall fiscal position, while others may only decrease, not increase, proposed spending. In Japan, Sweden and the United States, the legislature has unlimited legal power to amend the budget proposal. In France and Korea, the constitution limits the scope of legislative amendments to the budget, while in the United Kingdom these limitations are contained in the parliamentary regulations. In the United States Congress, the president's budget is regarded as only a recommendation; when Congress is controlled by a different political party than the president, the executive budget is often referred to as "dead on arrival" (Blöndal, Kraan and Ruffner, 2003).

On the other hand, in countries with a parliamentary system, the tendency is to use amendments carefully because substantial amendment of the executive budget proposal is commonly considered as a vote of no confidence in the cabinet. Sixteen of the 30 OECD countries that responded to the OECD 2007 budget survey report that a legislative vote to change the executive's budget would be considered to be a vote of no confidence. In the United Kingdom, where the executive (*i.e.* HM Treasury) has dominated the budget process, parliament has never made amendments to the budget proposal since World War I, and the last attempt at amendment (which in fact failed) took place in the late 1980s. In Mexico, the Budget and Fiscal Responsibility Law specifies the rules for modifying the budget proposal; any amendment for additional expenditure must identify sources to compensate it, new revenue, or cuts in other programmes.

Legislative influence is also affected by the time available to consider requests: a legislature that has limited time to examine budget proposals is at a disadvantage. The time from budget submission to the beginning of the new fiscal year ranges from eight months in the United States to a general norm of about three months in most of the other countries. The United Kingdom proposals are presented only two weeks before parliamentary consideration, although substantial informal consultation can take place between executive and legislative leaders. As part of recent budget reforms, some legislatures have established a more regularised process with more time for legislatures to consider budget requests. Mexico, for instance, instituted changes requiring presidents to present their budgets earlier than before. Table 1 shows the timing of executive budget submissions for some countries.

Table 1. **Timetable for budget submission to the legislature**

	Start of fiscal year (A)	Deadline for submission (B)	B – A	Source
France	1 January	First Tuesday of October	About 3 months	Organic budget law (*Loi organique relative aux lois de finances*, LOLF)
Japan	1 April	During January	More than 3 months	Law (Public Finance Act)
Korea	1 January	2 October	About 3 months	Constitution
Mexico	1 January	8 September	About 4 months	Law
Netherlands	1 January	Third Tuesday of September	More than 3 months	Constitution
Sweden	1 January	No later than 20 September	More than 3 months	Law (Parliament Act)
United Kingdom	1 April	None (at the discretion of HM Treasury)	–	None
United States	1 October	First Monday in February	About 8 months	Law (Budget and Accounting Act)

The committee structure is the heart of legislative influence. Given the sheer complexity and technical details involved with modern budgets, legislatures have found it essential to divide the task of reviewing the budget into committees. The relationship between the overarching budget committee and sectoral committees is important in determining legislative budgetary outcomes. Schick (2002, p. 29) notes that some legislatures assign full responsibility to a budget committee while others disperse jurisdiction among sectoral committees. The first method makes it easy to co-ordinate and promote consistency in legislative budget action, particularly facilitating fiscal discipline. The second method helps the sectoral interests reflected in the final budget, whereas it may complicate the task of maintaining discipline.

An emerging pattern empowers sectoral committees to review relevant portions of the budget and recommend legislative action within an overall fiscal framework maintained by the budget committee (Schick, 2002, p. 29). Of the nine countries studied, all except the United Kingdom have overarching budget or finance committees, reflecting the growing role of these legislatures in considering aggregate fiscal targets and policies. In-depth discussions on the aggregate expenditure limit and revenue and major fiscal policy issues take place, and reconciliation for budget amendments are made by these committees. Reviews of specific sectors or programmes in the budget, and review of proposed appropriations, are often delegated to sectoral committees within the overall targets and principles approved by the budget or finance committees. In many countries, sectoral committees are responsible for decisions authorising programmes and for appropriations. The role played by these committees has expanded in some systems, in parallel with the growth in the proportion of spending on entitlements, which are funded automatically according to underlying laws enacted by these committees.

In Sweden, for instance, the finance committee sets the overall spending ceilings, while appropriations are handled by the other committees. The United States congressional committee system is among the most complex: a budget committee formulates the overall budget targets to guide subsequent congressional budget decisions by appropriations committees, which consider only discretionary spending, and the authorising committees, which review entitlement and revenue legislation. In Italy's legislative process, the *rapporteur*, a senior politician from the majority or coalition party, plays a unique role as a reconciler between the legislature and the executive in the budget process. He/she presents the budget to the legislature and is responsible for examining the budget bill and amendment arising through the legislative process.

2.3.4. The critical role played by informal executive-legislative relationships

Notwithstanding the potential scope of legislative authority, in fact the extent of legislative modifications to executive proposals appears to be quite modest when examining just the formal record of actions taken in response to executive proposals. For instance, in Korea, legislative amendments constituted 3.8% of the executive budget proposal, while Japan reports no legislative amendments changing budgetary allocations in recent years. Mexico, on the other hand, reports that recent legislative amendments to the president's budget constituted 26% of the total.

However, noting the extent of formal amendments is only one way to assess the impact of legislatures on budget formulation. Legislative officials often exercise informal influence over executive budgets before they are formally announced. Executive officials have incentives to anticipate and take into account potential legislative views and reactions as they develop their proposals, either through informal negotiation or through anticipatory behaviour. Indeed, the absence of amendments may reflect effective informal bargaining and negotiations between executive and legislative officials during the formulation process, where consultation effectively heads off legislative opposition.

Minority and coalition governments have the greatest incentives to negotiate a budget agreement prior to the formal release of the budget itself. In the Netherlands, which has a system with more than ten political parties in the legislature, the government negotiates in advance with the parties in its coalition to develop guidelines for the four-year period of the cabinet. Such guidance contains caps on overall spending, deficit and debt reduction targets, and other macro policy statements. In Sweden, pre-negotiation is used as an important tool for the minority government to secure the parliamentary majority required for budget approval.

Extensive informal consultation can also occur prior to the release of executive proposals in presidential separation-of-powers systems. Korea's system features both formal and informal contact before submission. The formal negotiation between the ruling party and the executive is done during the last stage of confirming the executive budget proposal. Senior officials of the budget office and policy experts of the ruling party have joint meetings for two to three days to discuss budgetary issues and finalise the budget proposal.

Strong incentives exist for governments in parliamentary systems to consult with their party colleagues in the legislature in advance of the publication of the budget. For presidential systems, there is greater potential for conflict when the presidency and the legislature are dominated by different parties, similar to a minority or coalition government in a parliamentary system. Yet, even in presidential regimes, considerable bargaining over the budget occurs between the two branches, particularly after the budget is published. As Richard Neustadt said, presidential systems are best characterised not as separation of powers but as separated institutions sharing powers (Neustadt, 1960). Each actor has powerful leverage: the legislature can refuse to approve the president's priorities while the president can veto the appropriations. Accordingly, both sides have strong incentives to engage in bargaining and negotiations to avoid a confrontation that can disrupt programmes and operations and cause public disaffection.

In cases when the president does veto appropriations, considerable disruption can occur in agency operations, as questions can be raised about whether government agencies must shut down. In 2005, the lack of adequate institutional mechanisms and legal provisions resulted in a constitutional crisis as the Mexican president vetoed the budget that had been approved by the Congress (controlled by the opposition party). When the president used his veto power, the House of Representatives did not recognise it and a constitutional controversy took place which left the government without a budget for ten months until the Supreme Court ruled that the veto was constitutional.

However, most countries have established provisional budget authority to cover instances when there are delays in legislative approval beyond the legal or conventional deadlines. These provisions provide the authority for the executive to continue to operate. In France and Korea, the provision guarantees that the executive can spend on the basis of the previous year's budget authority. Yet considerable ambiguity remains about the scope of such provisional budget authority. In the United States, on the other hand, there is no standing provisional authority to spend public funds in the absence of an appropriation signed by the president. Accordingly, Congress and the president must agree on a continuing resolution to sustain operations pending enactment of full appropriations, or the government will have to shut down. This in fact occurred during the Clinton presidency when the Republican Congress failed to enact appropriations that the Democratic president could sign. The government shut down for nearly three weeks until both sides were able to reach agreement.

2.3.5. Enhanced legislative capacity

Legislatures have often found they need help to play credible roles in budgeting. As noted earlier, the legislature can be overwhelmed by the sheer magnitude of budget documents, their technical complexity, and the years of expertise possessed by executive central budget offices. Accordingly, legislatures have chosen to invest in separate legislative offices that specialise in budgetary reviews, finding that independent units can put the legislature on a more equal footing with the executive (Anderson, 2005).

Of the nine countries that attended the OECD meeting in October 2006, six have independent offices that help the legislature with budget formulation or oversight. The roles of the offices vary. The Korean National Assembly Budget Office (NABO) has over 100 staff to help members assess executive proposals and further opportunities to strengthen legislative action. Each of Italy's two legislative chambers has a budget office that reviews the executive's estimates and assumptions for legislative officials. Sweden's legislative budget office goes beyond this to prepare its own estimates of budgetary proposals – an important tool which has reportedly emboldened legislative officials to propose more changes to budgetary proposals.

The United States Congressional Budget Office (CBO) is among the most independent budget offices in the world. Established in 1975 to support the new congressional budget process, the CBO prepares its own economic and budgetary forecasts which it uses to re-estimate the costs of the president's budget, as well as any proposal advanced by congressional officials. Moreover, the CBO plays the absolutely vital role of "scorekeeping" where individual proposals are tracked against overarching congressional budget targets and policies throughout the legislative process, thereby helping leaders monitor compliance by a decentralised and entrepreneurial legislative body. With a staff of over 200 economists and budget experts, the CBO has attained credibility among all political factions as a neutral and independent support for the Congress as an institution. Although the director of the CBO is appointed by the leadership of the Congress for a four-year term, the staff is selected without regard to political affiliation.

The House of Commons in the United Kingdom created a Scrutiny Unit as a supporting organisation for the select committees in 2002. The Scrutiny Unit, with around 18 staff[2] including lawyers, accountants, economists and statisticians, provides a wide range of financial expertise to departmental select committees. It undertakes systematic review of estimates, departmental reports, resource accounts and spending review settlements. The Scrutiny Unit also aims to improve the quality of financial scrutiny through compiling examples of best practices. The unit works with committees in pressing departments to improve the quality of the financial information they provide.

2.3.6. Changing roles in budget execution

The role of legislatures in budgeting extends from formulation to the execution of budget authority provided in appropriation acts. Legislatures intent on influencing public budgeting must retain an abiding interest not only in which programmes and priorities gain funding but also in how they are carried out by executive agencies. Armed with expertise and control over the details of programme implementation, agencies can gain significant influence in recasting the actual services delivered under programmes and activities. In influencing budget execution, legislatures must strike a balance between the goal of exercising control over agencies' operations and the desire to promote efficiency by letting managers and programme experts administer programmes in accord with professional norms and values.

A foundation of legislative control over executive agencies is the structure of appropriation accounts. The specificity of those accounts, as well as the presence of other instructions and guidance attached to appropriations, goes a long way to determining how much discretion and flexibility agencies will be able to enjoy in carrying out the budget. In addition, budgetary regimes provide varying degrees of discretion for agencies to shift or carryover funds across line items or budgetary periods.

Legislatures in several countries broadened the account structures as part of a move toward performance accountability. Korea shifted the orientation of its accounts to performance, reducing the total number of accounts from 3 500 to 800. Italy also consolidated appropriation accounts, downsizing the total accounts from 6 000 to 1 000. In a major performance budgeting reform in France, known as the LOLF, the entire orientation of appropriation accounts was shifted from the object of expenditures to programmatic units. Appropriation bills now divided into 850 chapters are reclassified into over 40 mission areas, corresponding to the major programme goals of the government. The legislature agreed to provide funds in broader accounts to encourage a shift in the focus of legislative appropriation and oversight from inputs to outcomes (Ministry of Economy, Finance and Industry, 2006).

Legislatures vary considerably in their formal control over budget execution. Most countries prohibit ministries from spending money for any purposes other than those appropriated. Japan prohibits transfers across major agencies, accounts and activities except as approved by the Diet. In the United States, agencies may not transfer funds across appropriation accounts or detailed line items above certain thresholds without gaining approval of the congressional appropriations committees. Further, the president generally may not cancel or postpone appropriations without congressional approval.

The executive in other countries has greater authority to cancel or postpone approved appropriations in the execution process under certain conditions specified in a law. The executive in France has authority to cancel up to 1.5% of appropriations by executive decree after notifying the legislature. In Italy, the executive has strong power to cancel discretionary appropriations without informing the legislature. In Sweden, the executive can decide to carry over funds from one year to the next, and can also decide to not spend funds appropriated. The Swedish budget contains contingency funds that can be released by the executive without legislative approval.

Budget reforms had varying implications for legislative authority over budget execution. As noted above, performance budgeting reforms in France provided new flexibility to agency "programme co-ordinators" who gained a single fungible appropriation for their programme, with a separate limit on personnel.

Some countries have provided agencies with greater flexibility in carrying over unspent funds at the end of the fiscal year to avoid wasteful end-year surges. In the United Kingdom, departments may carry forward unspent discretionary funds to the following fiscal year, as long as they adhere to their fixed three-year spending plan. In Korea and the Netherlands, ministries can carry 5% of a certain range of a year's management budget and 1% of a year's budget over to the following year, respectively. In Sweden, the line ministries and agencies can normally carry a part of unspent resources over to the following fiscal year, and the Ministry of Finance decides the rate for allowing carryover by taking into account the gap between the *ex ante* expenditure ceiling and the amount actually spent. In the United States, funds that are appropriated for a single year must be spent in that year, but a majority of budget authority is provided in multi-year spending accounts, giving agencies flexibility in carrying over funds from year to year.

In its recent budget reform, Korea gave its legislature new tools to monitor budget execution. The legislature must approve debt issuance and also must grant its approval for ministries to create "quasi taxes". Korea also has contingency funds built into the budget, but the executive must gain legislative approval afterward for its expenditure.

2.3.7. **Ex post** *reviews and oversight*

Legislatures sustain influence over executive ministries through oversight following the passage of budgets and appropriations. Legislatures with relatively weak *ex ante* roles in budget formulation tend to play stronger roles in *ex post* oversight. Oversight is promoted both by the production of public information by the executive on budgetary and programme outcomes and by the active use of analysis, audit and investigations by legislatures to target particular programmes and activities for review and reassessment.

In most countries, the executive is required to report information on in-year budget execution to the legislature during the fiscal year according to the budget system laws or requests from the legislature. In Mexico, the executive must inform Congress at regular intervals during the fiscal year about certain activities: transfers to states and public debt evolution every month; performance evaluation every two months; the evolution of public finances including information on revenue, expenditure and debt every quarter; and other information required by Congress. In the United Kingdom, with the adoption of the Financial Act of 1998, the Treasury has to prepare and present a pre-budget report which contains government achievements, an update of the state of the economy and public finances, and a debt management report. In Korea, the executive regularly reports updated information on budget execution to the budget committee.

Executives and legislatures in many countries have levied substantially new requirements on agencies for reporting on the performance and financial costs of government. Performance reforms in such countries as France, Korea, the United Kingdom and the United States require agencies to develop performance plans and reports that for the first time portray on a systematic and often public basis how government programmes are working to achieve outputs and outcomes. To date, performance reforms have been largely used by executive budget officials: the United Kingdom articulates performance targets for agencies to meet as part of its three-year spending plan. Korea is adopting a performance assessment instrument used by the United States central budget office – the Program Assessment Rating Tool (PART) – to centrally review programmes in the budget on a systematic basis. Many legislatures have yet to actively use this information in reviewing budgets, and some perceive it as an executive tool to control agencies and programmes to the exclusion of the legislature. However, the Public Expenditure Committee of the Dutch parliament played a dedicated role in introducing performance-based budgeting and encouraging its use in the legislature.

Information alone is rarely sufficient. Most legislators simply do not have the time nor the analytic background to digest the complex information provided in these reports. Accordingly, most legislatures provide for proactive institutions to analyse and use the information to oversee and investigate executive activities, most often through specific committees.

Most legislatures use multiple tools in overseeing executive operations and programmes. In a survey of legislative oversight in 83 countries by the Inter-Parliamentary Union in collaboration with the World Bank Institute, the following tools were used by legislatures in most countries (Pelizzo, Stapenhurst and Olson, 2004):

- questions of executive officials: 96%;
- committee hearings: 95%;
- committee of inquiry: 95%;
- hearing in plenary sitting: 90%;
- ombudsman: 72%.

The United Kingdom has one of the most developed institutional frameworks. A Public Accounts Committee has been established to hold hearings, based on reviews done by the National Audit Office. To incentivise vigorous oversight of executive ministries, the minority party chairs this committee. As mentioned above, the United Kingdom parliament has a Scrutiny Unit consisting of 18 staff to review departmental reports, financial statements and other information for select committees.

The audit office can be established either as a legislative branch or as an independent body under the executive. In either case, however, the legislature can request that the executive improve spending patterns or the misbehaviour of civil servants by using the results of audit on budget execution. Types of audit offices can be classified as shown in Table 2, according to the degree of independence and the governance structure.

Table 2. **Types of external audit office**

Type	Examples	Head of the office appointed by
Independent bodies entirely at the disposition of the legislature	• United Kingdom National Audit Office (and other Westminster countries) • United States Government Accountability Office	• The executive • Both
Parliamentary auditors with an external audit body serving them	• Swedish National Audit Office	• The legislature
Independent courts without juridical functions, partly serving the executive	• Netherlands Court of Accounts	• Both
Independent courts with juridical functions, partly serving the executive	• Italian Court of Accounts • French Court of Accounts	• The executive • The executive
Independent bodies under the executive	• Japanese Board of Audit • Korean Board of Audit and Inspection	• Both • Both

Source: Lienert and Jung, 2004, pp. 81-83.

National audit offices have come to play growing roles in legislative oversight. Regardless of the type of audit institution, these offices have expanded their roles beyond the traditional audit of government financial accounts to performance audits and value-for-money audits and reviews. These independent institutions have provided invaluable help for legislatures, owing to their reputation for credibility, their access to nearly all executive information, and the institutional knowledge and expertise they provide. Accordingly, legislatures have increasingly sought to capture these offices. In Sweden, the office was transferred from the executive to the legislature several years ago. In the United Kingdom, the audit office informs the agenda for the Public Accounts Committee. In the United States, a majority of the work done by the national audit office – the Government Accountability Office (GAO) – is done at the request of the Congress.

Legislatures have established institutional processes for following up on audit reports and the findings of other assessments. Dedicated committees have been established with the explicit function of holding hearings and issuing reports based on findings of auditors and other bodies. As noted above, Westminster systems follow the United Kingdom model with a Public Accounts Committee chaired by the minority party. Other systems, like the United States, have specific oversight committees chaired by the majority with jurisdiction to oversee the entire executive branch and with the authority to propose specific legislation to correct problems observed. In most systems, executive agencies are required to track the recommendations of auditors and provide periodic reports on how they have resolved the problems disclosed. In some systems, judicial inquiries may be triggered by audit findings of corruption or other illegal activities by public officials.

In addition to the legislature, other non-governmental institutions play an important role in this accountability and review process. A growing range of interest groups and media in many countries have become active consumers of audit reports, performance information and budgetary reports. These institutions often play an important role in public debates, and their activities can supplement and even stimulate legislative oversight of executive actions.

3. What are the consequences of expanded legislative budget roles?

Greater legislative involvement in budgeting presents important institutional challenges. Legislatures are non-centralised and collegial bodies that are both representative and policy-making institutions. As political bodies, their capacity for collective action is often stymied by a different party, ideology or constituency. Expected to be highly responsive to individual constituencies, legislatures are perennially challenged to produce simultaneously high levels of constituency responsiveness while taking responsible actions on behalf of the entire country (Meyers, 1999, p. 490). Legislative institutions and rules can help structure deliberation and voting to balance these oft-competing incentives, but the rules themselves are political settlements that can be overturned when political winds shift (Shepsle, 1986).

Most certainly, stronger legislative roles in budgeting raise questions about how their expanded roles will affect the following often conflicting budgetary goals and criteria:

- **Fiscal discipline:** Will responsiveness to political constituencies trump responsibility? This is a question about which there is much disagreement. Some research has suggested that fiscal outcomes were better in countries with weak legislative controls. This finding, although controversial, is reflected by legislatures themselves, who delegate power to the executive due to a feeble faith in their own institutional self restraint (Schick, 2002). However, others suggest that the outcomes are not that clear. For instance, research on state legislatures in the United States suggests that more powerful legislatures actually exercise greater, not less, fiscal responsibility (Joyce, 2005). Research shows that Germany's parliament succeeded in reducing deficits in recent years (Wehner, 2001).

- **Allocation:** Will legislative involvement cause budget resources to be devoted to particularistic, distributive purposes at the expense of broader national priorities? Legislatures have a well-known inclination to reward supporters and constituencies with budgetary largess. However, recent research suggests that legislatures in the United States appropriate earmarks as part of bargains to reach decisions on complex and difficult national policy choices (Evans, 2005).
- **Efficiency:** Will legislatures act to hamper administrative efficiency through "micro management" or will they provide sufficient flexibility for agency managers to manage programmes in the most efficient manner possible? Strong legislatures can and do add conditions and constraints to budget allocations and incentives; whether these constraints are perceived as serving important national goals or hampering valiant managers is often a function of different priorities and perspectives.
- **Accountability:** Will strong legislatures promote greater accountability for decisions, on what terms, and for which groups and objectives? In one sense, legislatures promote greater accountability for budget decisions, almost by definition. In checking unfettered executive power, legislatures help prevent a single-minded executive from acting with impunity. As the American *Federalist Papers* articulated, dividing governmental powers ensures that "ambition will check ambition" (Hamilton, Madison and Jay, 1788). While constituting a check on executive power, the question still remains: for which constituencies is the legislature acting, and for what purposes?

Trade-offs obviously exist among these competing objectives. A budget process with greater legislative control will enhance democratic accountability but with potentially the risk of eroding fiscal discipline or government efficiency. The mix of objectives advanced by legislative control will be dependent on such factors as the nature of the party system, the potential for collaboration and co-operation across the branches of government, the quality and capacity of legislators and their staff, and the incentive structures they face in balancing the potential tensions between constituency responsiveness and making effective national policy.

Schick (2002) also asks what consequences stronger legislative budgeting roles have for legislative powers and for executive powers. Budgeting can potentially limit what legislatures can do. The adoption of ceilings by legislatures, for instance, can restrain the distributive political inclinations of legislatures – a result that many would welcome on efficiency and fiscal discipline grounds alone. Some, however, prize the detailed legislative allocation and control achieved through appropriations as the centerpiece of legislative power and lament how overarching targets can serve to limit the leeway that legislatures traditionally enjoy.

The new foothold that legislatures gain in *ex ante* fiscal target setting appears to have a centralising effect on the internal distribution of legislative powers. Gaining a seat at the macro table requires legislatures to constrain themselves, often by adopting centralising machinery to enforce macro targets on their own disparate members and committees.

The implications of expanded legislative budgeting roles for executive-legislative relations are decidedly unclear. While advancing legislative interests and priorities, it is by no means evident that these reforms constitute a zero sum game where the legislature's gain is the executive's loss. In fact, the centralised legislative institutions that arise to engage the executive in macro target setting and enforcement arguably provide central budget offices with like-minded partners who share a priority on fiscal conservation and embody a whole-of-government perspective. Budget committees and legislative budget offices may have more in common with central budget officials than their own legislative colleagues involved with other policy arenas.

One final observation concerns the adoption of the so-called "new public management" philosophy of governance and oversight. Legislatures in several of the countries in this study embraced the performance model of legislative oversight and budget execution. In the interests of efficiency, the legislature relinquishes some of its detailed control over executive management and budgeting, in exchange for heightened accountability for performance. Legislatures have consolidated appropriations accounts, for instance, by shifting from an object of expenditure to a programmatic or even outcome orientation. Agencies gain flexibility in return for assuming accountability for the results that are promised for these activities.

While new public management strategies indeed promise greater efficiencies in government, their implications for legislative control and accountability remain untested. From a legislative control perspective alone, the trade-off may prove to be asymmetrical: agencies gain the benefits of increased discretion immediately. However, performance accountability is an exercise that is fraught with ambiguity and whose benefits become apparent only after a multi-year investment in the development of data and metrics. Even when performance outcome targets reach the appropriate level of political agreement and technical development, the link between executive officials' performance and results and outcomes is often tenuous and difficult to establish. Legislatures may be left grasping for someone to blame for performance shortfalls which are caused by various social, economic or demographic forces having little to do with the actions of executive agencies. By contrast, oversight of inputs is far more straightforward and more directly connected to legislative actions and appropriations. The suggestion is not that these reforms are not worth doing, only that they may have consequences for the power stakes of legislatures *vis-à-vis* the executive.

4. Issues to consider

The new public management movement has led some countries to establish quasi autonomous "agencies" with greater independence from the parent ministry to which they report. While such reforms can promote greater efficiency and flexibility in administration, the "agency" movement may also serve to weaken legislative control and oversight. The parent ministry has the primary relationship with parliament, and the devolution of responsibility to subsidiary agencies may complicate the ability of legislatures to hold a single minister accountable for the actions of these many agency "chief executives".

Legislatures have achieved influence that varies considerably across countries. Many constitutional, political and technical constraints exist that limit the potential roles that legislatures can play in many systems. Nonetheless, the involvement of legislatures with budgeting has grown in recent years, caused by deep-seated forces in the economy, the political system and the culture. Such a trend can be salutary for budget decision making and accountability, depending on how legislatures structure their own budgetary decision making and how the legislatures' demands for influence are addressed by executive officials. Given the growing interest of legislative officials in budgeting, it is not a question of whether legislatures will bid for greater involvement, but how and on whose terms. The question for executive budget officials is how the legislature's interest can be structured to achieve a constructive policy dialogue and process to improve budgetary decisions.

Ideally, stronger legislative involvement can strengthen the entire process, creating a win-win situation for both the executive and the legislature. In certain respects, both branches need one another. The executive provides the expertise and cohesive policy-making capacity that are essential for well-informed budget formulation and execution. The executive branch ultimately contains the officials who must implement legislative laws and priorities, so their buy-in and support are vital to achieving legislative aims. Legislatures provide value to the executive as well. They enhance accountability and help tie the executive to the diverse set of constituencies that is affected by budget decisions in a pluralistic society. While certainly noisier and less efficient, legislative involvement ultimately broadens the base of political support for budget decisions, thereby enhancing their legitimacy and sustainability.

Legislative involvement is particularly vital for formulating and sustaining budgetary reforms addressing such issues as fiscal consolidation and improving results. Legislative buy-in or ownership is essential not only to gain political support but also to sustain initiatives over a longer period of time. A statutory base is often important in providing an established basis for implementation over the longer term.

There can be no illusions: strong and independent legislatures could very well exacerbate conflict and possibly precipitate budgetary gridlock, depending on the political forces at work. However, there is a clear prospect that such developments can be managed and can lead to more optimal budgetary outcomes. To deal effectively with these developments, executives and legislatures will be equally required to both strengthen their own house and improve the potential for collaboration.

The following agenda can help:

- Reforms to the budget process can strengthen the capacity of both the executive and the legislature to shape budgetary outcomes. The following elements are involved: budgets that are comprehensive in scope, covering all significant commitments of the national government, including processes to review entitlements and tax expenditures. This also includes the development of longer-term time horizons to prompt early action to address the effects of population ageing on budgeting.
- The executive should consider promoting greater sharing of information with legislative budget officials in the interests of setting a common framework for the start of the budget process. Collaboration among technical staff serving both branches can help ensure a common foundation for the budget process across the board. Where possible and politically appropriate, the executive should consult with legislative officials prior to the budget's release as a way of encouraging earlier political agreement and identifying political fallout.
- Legislative officials should consider enhancing institutional processes to deliberate on overall budgetary targets and ensure that subsequent legislative decisions adhere to those constraints. The development of a process to set overall fiscal targets promises to strengthen the legislature's role in formulating fiscal policy as well as provide a framework to structure and discipline legislative budgetary decisions.
- To help track decisions and produce more informed decisions, legislatures should continue to improve their capacity to analyse budget proposals against a common set of assumptions. Whether it is through separate legislative budget offices or through the use of executive staff, legislative debates over budget proposals should be grounded in a process geared to produce reliable and credible estimates. Legislatures should also continue to strengthen their committee structures to enhance the capacity of members to digest and process complex budgetary information.

- Legislative officials should continue to strengthen their capacity to oversee executive performance. This can include engaging audit offices and other independent analytic resources to make assessments of programme performance and management performance. Legislatures should consider ways to improve their incentives to engage in oversight. Along these lines, the Public Accounts Committee model in the United Kingdom provides these incentives by vesting its leadership in the opposition party. While proactive investigations can be important, legislatures should also continue to support reforms requiring executive agencies to produce systematic information on performance and financial costs. Such information not only improves the management of programmes and agencies, but also provides legislatures with a more informed foundation for oversight.
- Executive and legislative officials should explore joint initiatives to improve the information and analytic foundation for budgeting. This should include promoting greater public disclosure of budget information to enable more informed and broader public participation in budget debates. It could also include supporting the strengthening of independent institutions such as audit offices and economic forecasting units to provide credible information on economic assumptions, financial management and performance that is accepted by all sides in the debate.

Notes

1. The nine countries were France, Italy, Japan, Korea, Mexico, the Netherlands, Sweden, the United Kingdom and the United States.
2. The staff has included secondees from the National Audit Office, the Audit Commission, government departments, etc.

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