Shutdown Showdowns

Congress isn't alone in failing to pass a budget; state legislatures have faced similar impasses.

BY TODD HAGGERTY

The most common reasons for budget stalemates are dollars and deadlines.

Failure to to enact a budget, at all levels of government, can have wide-ranging consequences, as the October debacle in Washington, D.C., illustrated. Congress' paralysis triggered a 16-day federal government shutdown, resulting in hundreds of thousands of furloughs, closures, program suspensions, market jitters and an estimated $24 billion hit to the economy.

Timely budgets are the foundation for any government's future decisions; without them, governments have no legal authority to spend. Still, passing a budget can be an overwhelming challenge in times of fiscal and political stress, and state legislatures are not immune. Many state governments have faced shutdowns over the years, and several have passed measures to remedy the problem.

In the event of a budget lapse, state action usually consists of passing a temporary appropriations bill or provisions to ensure government operations continue. If lawmakers are at an impasse and cannot pass a temporary budget by the start of a new fiscal year, however, state governments may experience an automatic shutdown. Most often, this involves furloughing state employees deemed "nonessential" to maintaining the public's safety and health, in addition to closing a variety of state operations, such as state parks, departments of motor vehicles and highway construction projects.

Essential state employees, usually those involved with departments and agencies that directly deal with critical human services, safety and property protection, tend to be exempted from mandated furloughs.

The Problem

Not surprisingly, state government shutdowns and the inconveniences they bring are not welcomed by the public and lower people's opinion of state government. So why do budget stale-

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Costs Hard to Count

Various consequences are associated with late budgets and state government shutdowns. Extending the regular legislative session or calling a special session increases operational costs. Furloughing state employees results in lost wages, which decreases their income and spending that, in turn, lowers their state income and sales taxes. Furloughed workers may also choose to sue the state because of lost compensation.

Without the details contained in appropriation bills, state agencies and local governments, including school districts, are unable to set their own budgets. This limits their ability to plan, hire and honor their contracts, adding to the overall costs of government operations.

Consistently failing to pass a budget on time can lower a state's credit rating, which may increase the interest rates they obtain on loans, resulting in higher costs for the state. Former New York Comptroller H. Carl McCall says a history of late budgets in New York contributed to the state's poor credit ratings. A 1997 study by the New York comptroller's office found that a credit upgrade of one rating would have saved the state an estimated $158 million.

On top of the measurable, direct expenses caused by shutdowns, states may also end up paying indeterminable costs in terms of decline in public confidence in elected officials and damage to the state's image. Just look at Congress.

mates and shutdowns occur in the first place? There are a number of variables, but the most common are dollars and deadlines. Extreme (either way) fiscal conditions and specific legislative rules and procedures are most often the culprits.

As lawmakers crafted their fiscal year 2010 budgets, weak tax revenues contributed to a combined state budget gap in excess of $145 billion. This lack of money added to the difficulty lawmakers in Arizona, California, Connecticut, Illinois, Michigan, Mississippi, North Carolina, Ohio and Pennsylvania had finalizing their budgets before the start of the new fiscal year. Of these, only Michigan's impasse, however, resulted in a partial government shutdown. The other states were able to avoid closures because they passed temporary budgets or had provisions that ensured continuous government operation.

On the flip side, exceptionally healthy state finances can also intensify the battles over budget priorities. During the late 1990s,

prolonged debate over what to do with unexpected surpluses resulted in more than the usual late budgets.

Legislative rules also play a role. States without limits on the length of their legislative sessions are particularly prone to budgetary tardiness. In 1991, for example, eight of the 11 states with late budgets had no limits on session length, as did five of the eight states with late budgets in FY 2004.

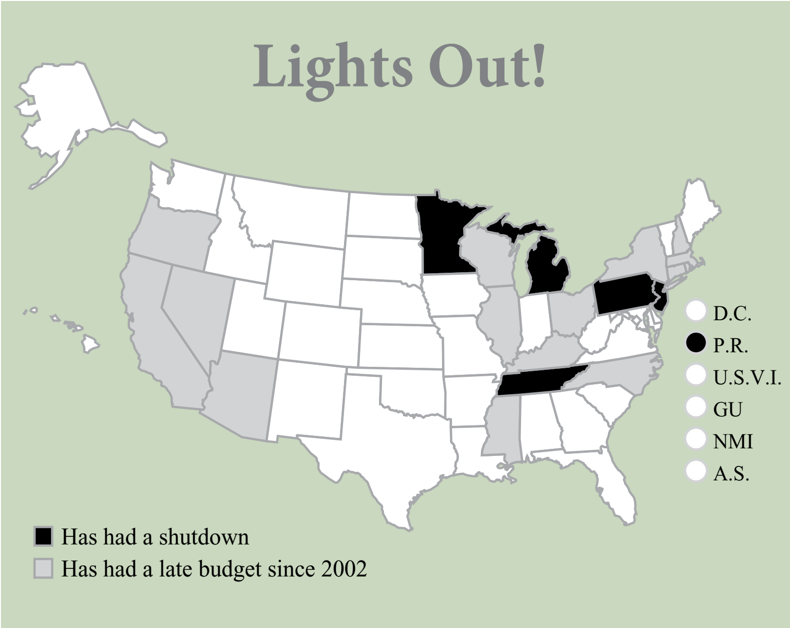
Other factors include whether late budgeting has been common in the state's history, if nonfiscal issues are allowed in the budget bill, and how much time is allocated for deliberation. All these variables have caused late state budgets and partial government shutdowns.

New York's fiscal year begins on April 1, the earliest of any state, and is often cited as being culpable for the state's frequent late budgets. The fiscal year begins on July 1 in 46 states and the territories of Guam, the Northern Mariana Islands and Puerto Rico; it starts Sept. 1 in Texas and Oct. 1 in Alabama, Michigan, the District of Columbia, Samoa and the U.S. Virgin Islands.

Lessons Learned?

Since 2002, more than 20 states and territories have started a fiscal year without a finalized budget; in at least five of the states and in Puerto Rico, the lack of a budget resulted in a government shutdown.

Minnesotans experienced the most recent partial state government shutdown. For 20 days in 2011, 19,000 state workers were temporarily laid off. The shutdown closed state parks and two state-owned race tracks during the busy July tourist season, suspended driving exams and shuttered the state lottery. The Minnesota Office of Management and Budget estimated the state lost $49.7 million in revenues and spent nearly $10 million preparing



for and recovering from the shutdown.

Michigan has faced two partial shutdowns, in 2007 and 2009. In 2007 it lasted only four hours—from midnight until 4 a.m. on Oct. 1, when the governor and legislators reached a temporary funding deal. But even four hours can have an impact. Campers had to pack up and leave state parks the night before. Fewer state police patrolled the highways. Highway rest stops were barricaded, drawbridges closed and traffic cameras turned off. And some 35,000 workers (66 percent of the state workforce) lost four hours of pay. In 2009, Michigan again technically shut down for two hours as lawmakers worked on a temporary spending plan, although there was no interruption of state services.

New Jersey, after avoiding shutdowns despite missing budget deadlines in three of the previous five years, finally succumbed to a partial shutdown in 2006. Some 45,000 nonessential employees were placed on unpaid leave for eight days until the governor signed the budget bill. One of the more dramatic results of the shutdown was the three-day closing of Atlantic City's casinos—the first time since they opened in 1978—since casino inspectors, required by law to be present in casinos, were among the furloughed state workers. Officials reported those three days cost the state almost $4 million in lost gambling tax revenue.

And in Pennsylvania, a one-day furlough of nearly 24,000 state employees in FY 2008 may have saved the state an estimated $3.5 million in lost wages but cost the state an unknown amount in lower income and sales taxes.

Avoiding a Shutdown

To avoid late budgets and potential shutdowns, a number of states have adopted measures encouraging timely passage of their budgets. Lawmakers in Maryland and West Virginia, for example, risk having other legislation pushed aside if the budget is not passed by the deadline. Other states increase the votes required to pass the budget if the original deadline is missed. In Illinois, if lawmakers don't make the June 1 deadline, the necessary votes in each house increase from a simple majority to a three-fifths majority. If Maine's budget is not passed by April 1, the Legislature must pass it as an emergency act, requiring a two-thirds majority. Nebraska similarly requires approval by two-thirds of the Legislature for any budget enacted after the March 31 deadline.

Lawmakers in a few states can pay a personal price for tardy budgets. Washington lawmakers can be charged with a criminal misdemeanor for failing to pass the budget 30 days before the start of a new biennium. Although the Legislature has been late four times since the provision was enacted in 1959, the penalty has never been applied.

In California, New York and Guam, legislators' pay can be suspended when the budget is overdue. This was most recently put to the test in California in 2011. After the state controller calculated that the new budget was not balanced, he docked legislators' pay, even though they passed a budget on time. Ultimately, a trial judge ruled the controller's decision was "an unwarranted intrusion into the Legislature's budget deliberations," but an appeal is pending.

Despite these incentives to pass state budgets on time, fiscal conditions are much more likely to influence the process than are punitive measure on lawmakers.

Considering the complexity, magnitude and sheer number of state budgets, it's notable that late ones—and especially state government shutdowns—are rare. State lawmakers, routinely faced with difficult revenue and spending decisions, pass budgets on time more often than not.