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THE BUDGET ENFORCEMENT ACT

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Implications for Children and Families

November 1995

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Prepared for
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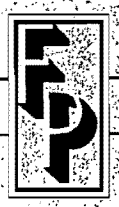

THE FINANCE PROJECT

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PREFACE

Public financing for education and an array of other children's services has become a topic of significant interest and political concern. Growing skepticism among a critical mass of American voters and taxpayers has fueled doubts about the ability of government to solve social problems and provide basic supports and services that enhance the quality of life in their communities. Voters spoke clearly in November 1994. They want more for their money. They want more and better services, but they also want balanced budgets and cuts in income and property taxes. In this time of big public deficits, they want government at all levels to operate more effectively and efficiently. They also want it to invest wisely and live within its means. On Capitol Hill on Washington, DC and in statehouses nationwide, policymakers are scrambling to respond.

Across the country, there is mounting evidence of efforts to reform and restructure education and other community supports and services in order to improve the lives and future prospects of children and their families. Critical to the success of these initiatives is the way in which they are financed. How revenues are generated and how funds are channeled to schools, human service agencies, and community development initiatives influence what programs and services are available. It determines how they are provided and who benefits from them. Financing also affects how state and local officials define investment and program priorities, and it creates incentives that guide how educators, other service providers, and community volunteers do their jobs. For these reasons, financing fundamentally affects how responsive programs and institutions are to the needs of the people and communities they are in business to serve.

In recent years, several blue ribbon commissions and national task forces have presented ambitious prescriptions for reforming and restructuring the nation's education, health, and human service systems in order to improve outcomes for children. While some have argued that public financing and related structural and administrative issues are critical to efforts to foster children's healthy development and school success, none has been framed for the specific purpose of inventively reconceptualizing public financing. Indeed, many of the most thorough and thoughtful reports have called for an overlay of new funds, but have neglected to provide cogent analyses of effective financing strategies, the costs of converting to these approaches, and the potential beneficial outcomes that might accrue from addressing financing reform as an integral aspect of program reform.

In addition, the past several years have witnessed a burgeoning of experimental efforts by mayors and city managers, governors and state agency directors, legislators and council members, program managers and school officials to make government work better and more efficiently. They have been enhanced by the work of people outside of government, including foundation executives, business and labor leaders, community organizers, and academic scholars. Some are creating new ways to raise revenues, manage schools, deliver human services, and spur community economic development. Others are designing new public governance and budgeting systems. Still others are developing and testing new approaches to more directly involve citizens in setting public priorities and maintaining

accountability for public expenditures. Taken together, these efforts suggest the nascent strands of new and improved public financing strategies.

Against this backdrop, a consortium of national foundations established The Finance Project to improve the effectiveness, efficiency, and equity of public financing for education and an array of other community supports and services for children and their families. Over a three-year period that began in January 1994, The Finance Project is conducting an ambitious agenda of policy research and development activities, as well as policymaker forums and public education. The aim is to increase knowledge and strengthen the capability of governments at all levels to implement strategies for generating and investing public resources that more closely match public priorities and more effectively support improved education and community systems.

As a part of its work, The Finance Project produces a series of working papers on salient issues related to financing for education and other children's services. Some are developed by project staff; others are the products of efforts by outside researchers and analysts. Many are works in progress that will be revised and updated as new information becomes available. They reflect the views and interpretations of the authors. By making them available to a wider audience our intent is to stimulate new thinking and induce a variety of public jurisdictions, private organizations, and individuals to examine the ideas and findings they present and use them to advance their own efforts to improve public financing strategies.

This paper, *The Budget Enforcement Act: Implications for Children and Families*, was written by Karen Baehler. It provides a brief overview of the federal budget process, examining the effect of the Budget Enforcement Act on legislative strategy and funding outcomes for children's programs. It concludes with an investigation of how these rules may interact with current proposals being debated in the 104th Congress that affect children.

Cheryl D. Hayes
Executive Director

INTRODUCTION

The federal budget deserves careful attention from anyone interested in the financing of programs for children and families. In fiscal year 1994, Congress spent at least $135 billion on 180 different programs targeted to children under 18 and their families.[1] Although total spending by states, localities, and private organizations exceeds this figure, the federal government remains the largest single funder of cash and in-kind assistance to children and families.

The purpose of this paper is to provide a glimpse into certain aspects of the federal budget process that should be of special interest to those who care about children's services. The paper focuses particularly on the newest budget process reforms--enacted into law in the Budget Enforcement Act (BEA) of 1990--in an effort to better understand the impact they have had on funding for children's programs.

The picture that emerges is of a process in which budget politics and budget rules are constantly interacting. It seems clear that the rules and procedures are not biased either in favor of or against funding for children's programs. The rules do shape executive and legislative behavior and exert some influence on the direction of spending outcomes; but they do not, alone, explain budget outcomes. They are themselves creatures of the political process. Congress writes and implements its own budget rules. When political interests are powerful enough, the rules can be changed, waived, creatively side-stepped, or employed to serve different ends. In the dance of federal budgeting, politics leads and rules follow.

Thus, in the case of the most recent budget process reforms contained in the Budget Enforcement Act of 1990 (BEA)--the subject of this paper--it appears that the new rules, on balance, were used to the advantage of children's services in the early years of implementation, when the political climate was supportive of increased funding for social programs. Beginning in fiscal year (FY) 1994, however, as national leaders focused more on deficit control, children's programs suffered along with other areas of federal spending under the very same rules. At the time of this writing, it appears that the BEA rules may be one of the tools that the current Congress uses to achieve very deep and lasting cuts in many federal programs, including those that serve children and families.

The paper begins with a brief overview of the federal budget process and a description of recent changes in budget process rules. The second section looks at each of the rules contained in the BEA to determine what, if any, effect it has on legislative strategy and funding outcomes for children's programs. The third section looks at how the BEA rules may interact with current proposals being debated in the 104th Congress that affect children. The final section offers a menu of items for further discussion among advocates of children's services.

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[1] This figure is based on The Finance Project's database and probably understates the total. For a comparison of various estimates of spending for children's programs, see Gold and Ellwood (1994).

BACKGROUND

The current set of rules governing federal budgeting is highly complex, the result of an accelerating process of accretion. Prior to a decade ago, major budget process reforms were few and far between. The basic structure of presidential budgeting was laid down in 1921, and congressional budgeting in 1974. Both still remain. Starting in 1985, however, Congress began to experiment with a series of new mechanisms for exerting discipline over spending and the federal deficit. Given this recent history, it is reasonable to expect that Congress will continue to experiment, to layer on new rules and revise old ones. Thus, the BEA rules which this paper examines must be viewed simply as the latest phase in the evolution of federal budgeting.

The Federal Budget Process in Brief[2]

Although Congress holds the constitutional power of the purse, the President kicks off the annual budget cycle with the submission of his budget to Congress in early February. The President's budget contains recommendations for spending for all federal agencies, as well as recommendations for policy changes and, in some cases, budget process reforms. This budget is the final product of an elaborate set of negotiations within the executive branch--between separate federal agencies and their host departments, as well as between the agencies and departments and the President's central budgeting headquarters, the Office of Management and Budget (OMB).

Depending on party relationships between the executive and legislative branches and a variety of other considerations, Congress may or may not consider the President's budget request to be the starting point for its work.[3] Either way, Congress actually produces several "budgets" of its own--that is, legislative vehicles in which government-wide spending is added up and the big picture comes into view--over the course of a normal budget cycle.

The first congressional product is the budget resolution, a broad outline of spending, revenue, and deficit targets for the coming fiscal year and the following four years.[4] This blueprint, produced by the House and Senate Budget Committees from information provided by other committees, includes rough allocations of spending for various governmental

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[2] This summary is drawn from Schick (1995), which is the best available primer on the federal budget process.

[3] In only two of the last 15 years have the Presidency, House of Representatives, and Senate all been controlled by the same party. This fact has been a source of increased contentiousness in the budgeting process since the Reagan Administration. Many of President Reagan's budget requests were labeled "dead on arrival" to describe the Democratic Congress' unwillingness to use Reagan's numbers as a benchmark. The friction caused by divided government also has contributed to the rise of what Allen Schick calls "improvisational budgeting," examples of which include the high-level executive-legislative budget summits of the late 1980s and early 1990s, and the Clinton Administration's decision to abandon its original FY 96 budget proposal, released in February of 1995, and introduce a radically different substitute in June. (The latter story is still unfolding.)

[4] The FY1996 joint budget resolution (passed in 1995) covers seven years, rather than the customary five.

functions and to various committees. The budget resolution is not a line-item document and does not recommend specific funding levels for specific programs. The budget process carefully protects the jurisdiction of the spending committees over these programmatic allocations. The resolution does, however, contain various assumptions about general levels of spending for programs--assumptions that may or may not influence decisions made by the appropriations and other spending committees. Although the Budget Resolution does not have the force of law itself, Congress has developed procedures for enforcing the budget aggregates and allocation levels set forth in the resolution.[5] April 15 is the official deadline for adopting the budget resolution in both chambers. It is often missed.

While the budget resolution coordinates and frames budget policy, actual spending decisions are made elsewhere. Each chamber of Congress has two main spending committees involved with children's programs, the Appropriations Committee for discretionary spending and the Finance Committee (in the Senate) or Ways and Means Committee (in the House) for mandatory spending. Some mandatory spending for children is also controlled by various authorizing committees.

The distinction between discretionary and mandatory spending is critical to understanding the federal budget as it affects children's services. The term "discretionary" refers to funds controlled by the annual appropriations process. This includes most of the regular operating funds for the federal agencies, as well as funds for the thousands of large and small programs that have no binding legal obligations to their beneficiaries. The term "mandatory" refers to funds that the federal government is legally obligated to spend, regardless of other budget considerations. This includes entitlement funds, like Social Security and Aid to Families with Dependent Children (AFDC), to which eligible recipients have a legal right regardless of other claims on budgetary resources, as well as interest payments on the national debt. Outlays for these programs are determined not by annual appropriations activity, but by legislation that establishes eligibility criteria and payment formulas. Payments under these programs are sometimes described as automatic or direct.[6]

The 13 subcommittees of the Appropriations Committees spend the summer writing 13 separate appropriations bills that determine funding for a vast array of discretionary programs in virtually every federal agency. These bills always originate in the House. The "discretionary" label suggests that the Appropriations Committees have complete discretion over their funding levels, which is true in theory. As a rule, however, appropriators have tended to exercise their discretion within the bounds of what is known as "incrementalism"--

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[5] The revenue and spending aggregates defined in the budget resolution are enforced through the "point of order" procedure, which allows Members of Congress to halt House or Senate consideration of certain measures by raising objections. For example, points of order in the House and Senate prohibit consideration of legislation that exceeds spending allocations made under the budget resolution. Points of order may be waived in the Senate by a three-fifths vote in most cases, and in the House by adoption of special rules devised by the House Rules Committee. See Davis (1994).

[6] The BEA uses the term "direct spending." In this paper, the terms "direct" and "mandatory" are used interchangably.

i.e., the assumption that most programs will receive modest increases in funding each year, in current dollars. This assumption lends predictability to the appropriations process. Over time, of course, it leads to steady growth in spending; therefore it relies upon the availability of an annual discretionary "increment" to be allocated.

In the past, most of the negotiating and politicking in appropriations occurred around the issue of *how much more* each department would get each year. When a program's annual increase falls below the level needed to keep pace with inflation or below the president's budget request level, then the appropriation may be classified as a "cut." Real cuts, in current dollars, have been uncommon over the years, but increasing political pressure to reduce deficits and balance the budget is changing that. In the current climate of austerity, the assumption that everyone can get more each year has eroded. For discretionary children's programs, almost all of the annual negotiating occurs within the confines of a single Appropriations Subcommittee, known as Labor/HHS (Health and Human Services). Thus, the fate of these programs depends heavily upon the size of the increment (or negative increment) allocated to that subcommittee.

Although the federal government is home to thousands of discretionary programs, the Appropriations Committees today control only about one-third of total federal spending (compared to two-thirds in 1965). The remaining federal dollars are spent "directly" and without limit, according to the criteria and formulas set forth in each mandatory program's authorizing legislation. Although the Appropriations Committees must authorize these monies to be spent, the appropriators have no control over the level of spending. For example, the level of federal spending for welfare payments in any given year will be determined by the number of eligible recipients who apply, the benefit levels set by the states, and state matching rates, not by the give and take of appropriation politics.

Congress's second opportunity to produce an omnibus package of spending and revenue changes comes in the reconciliation process. But unlike the budget resolution, reconciliation is both elective[7] and enormously powerful.[8] Reconciliation refers to the process of passing legislation to change mandatory spending levels and/or revenue levels in order to bring total federal spending in line with the targets established in the budget resolution. As noted above, entitlement spending is not controlled by the regular appropriations process. To raise or lower entitlement spending, changes must be made to the authorizing legislation in order to alter eligibility requirements or benefits levels. Reconciliation bills typically combine large numbers of these changes in a single omnibus bill (along with other legislative changes).

Reconciliation bills operate under special rules in each chamber that limit either debate or amendment activity. Thus, historically, omnibus budget reconciliation acts (OBRA) have served as effective vehicles for rushing major policy initiatives through Congress. OBRA

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[7] Reconciliation is not required and does not occur every year.

[8] Note that the reconciliation process begins with the budget resolution, which may contain reconciliation instructions to committees to report, by a date certain, legislation that changes spending or reduces the deficit by a specified amount.

1981, for example, allowed the Reagan Administration to impel the congressional authorizing committees to enact the largest block grant consolidation program in recent history.[9] The current leadership in Congress included sweeping welfare reform legislation as part of its OBRA 1995 proposal (for FY 1996).[10]

Passage of the appropriations acts completes the major work needed to keep the government functioning for another year.[11] Once the new fiscal year starts, Congress may also pass supplemental appropriations bills to finance unanticipated needs. The budget cycle formally comes to a close 15 days after the end of the congressional session (anytime from October to December) when OMB issues its final sequestration report in accord with the requirements of the Budget Enforcement Act (BEA). This report assesses congressional compliance with the BEA rules (explained below) for the current fiscal year. If the rules are violated, OMB is required by law to order automatic cuts, known as sequesters, in the appropriate spending accounts.

Recent Budget Process Reforms and Current Rules

Most of the key elements of the budget process described above were established in 1974 in the Congressional Budget and Impoundment Control Act. The history of major budget process changes before and after that time share an important common theme: Virtually all of them have been driven either by large budget deficits or the perceived need to establish tighter control of spending. For example, the Budget and Accounting Act of 1921, which established a coordinated budget for executive agencies, was passed in the wake of a 25-fold increase in the federal debt following World War I. Likewise, the 1974 law, which took a major step toward coordinating the disparate components of the congressional budget process, was motivated in part by concern over the large deficits produced by the Vietnam War and the rapid growth of entitlements in the late 1960s and early 1970s.

Even with the extensive changes of 1974, however, Congress and the President were unable to prevent the federal deficit from reaching historic highs in the 1980s and 1990s. In just six years, from 1979 to 1985, the federal deficit ballooned from 1.7 percent of GNP to 5.4 percent. After declining steadily through the last half of the 1980s, it began to climb again in the 1990s, peaking at 4.9 percent of GNP in 1992.[12] The inability of Congress and the President to control the federal deficit has come to symbolize the weakness of government in general and has contributed to an erosion of public confidence in the nation's leaders.[13]

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[9] Hayes (1995).

[10] At the time of this writing, the reconciliation process for FY 1996 was underway but Congress and the White House were far from agreement on what the reconciliation bill should look like. The President was threatening a veto.

[11] The revenue and entitlement side of the federal budget operates on automatic pilot. No congressional action is needed unless proposals are introduced to change tax or mandatory spending policy.

[12] From the Budget of the United States Government FY96, Historical Tables, Table 1.3.

[13] As Allen Schick (1990) writes, "It is no exaggeration to state that the capacity to govern depends on the capacity to budget."

Between 1985 and 1990, Congress crafted a series of budget process reforms to respond to the growing pressure for deficit reduction. First was the 1985 Balanced Budget and Emergency Deficit Control Act (also known as the Gramm-Rudman-Hollings Act, or GRH). GRH set fixed limits on the size of the deficit, to be enforced through across-the-board sequestration of budget resources. "Sequestration" refers to the permanent cancellation of budgetary resources by presidental order. Under GRH, sequestration orders were triggered when the projected budget deficit exceeded its limit. GRH sequesters applied uniformly to all accounts covered by the process and to all programs and projects within accounts.[14]

The fixed deficit limits were to decline in each year covered by GRH, dropping to zero--a balanced budget--in FY 1991. In 1987, Congress revised and extended the GRH targets and enforcement mechanisms through FY 1993.

By the end of the 1980s, it was clear that the GRH process would not produce a balanced budget by FY 1991.[15] Inter-branch and inter-party conflict over the problem climaxed at a last-ditch budget summit convened by President Bush and the Democratic congressional leadership in October of 1990. The product of that summit was a two-year budget agreement that included almost $500 billion in spending cuts for the period FY 1991-95, as well as a new round of budget process reforms. The summit's results were incorporated into the Omnibus Budget Reconciliation Act of 1990 (OBRA 90). Title XIII of that law, known as the Budget Enforcement Act (BEA), contains the budget reform provisions. OBRA 1993 revised and extended the provisions of the BEA through FY 1998. As of this writing, the amended BEA rules control the congressional budget process. For this reason, it is worth taking a closer look at them.

Although the Budget Enforcement Act builds upon the mechanisms set forth in GRH, it represents a very different approach to deficit warfare. Daniel Franklin describes the goal of the BEA as deficit *control*, in contrast to the deficit *reduction* sought by GRH.[16] In moving from GRH to BEA, Congress diminished its accountability for increases in the deficit generated either by: (1) outside forces, such as a recession which expands participation in entitlement welfare programs and reduces tax revenues; or (2) provisions in existing law, such as automatic cost-of-living adjustments to entitlements. As Rudolph Penner, former

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[14] In practice, GRH sequestration only applied to the roughly one-third of the federal budget consisting of discretionary spending. Most entitlement spending was either exempted from sequestration or treated under special rules, such as the one that limited Medicare sequestration to 2 percent of outlays for the year. For more on sequestration, see Schick, Keith and Davis (1991), Chapter 5.

[15] According to some experts, GRH failed because it was too restrictive. GRH was supposed to create incentives for real spending cuts. Instead, the nightmare of possible across-the-board sequestration motivated politicians to use "smoke-and-mirror" budget-cutting devices that included "unrealistic economic assumptions, accounting gimmicks, and one-shot savings, such as loan asset sales and the shifting of pay dates." Penner and Abramson, quoted in Davidson and Oleszek (1990). Also see Penner (1992). Allen Schick (1990, p. 205) summed it up: "At present, GRH brings only modest deficit relief while exacting a high price in budgetary integrity."

[16] Franklin (1993).

director of the Congressional Budget Office (CBO), put it, "The new rules focus on controlling what Congress can control: its policy actions."[17] One might add: its *new* policy actions.

The BEA exerts this control through the following rules. These rules are enforced through a modified version of the GRH sequestration mechanism, as well as through points of order in the House and Senate.

Discretionary Spending Caps

The BEA sets limits on the amount of money that can be appropriated and paid out each year for discretionary programs falling under the jurisdiction of the Appropriations Committees. The statutory caps in the 1990 law applied to each of five fiscal years (1991, 92, 93, 94, and 95). New caps were established in OBRA 1993 for FY 1996-98. See Table 1 for the FY 1991-98 caps. Spending above the caps triggers across-the-board sequestration of discretionary accounts, or, in the case of fire walls (described below), sequestration within the offending discretionary category.

TABLE 1. A Comparison of Caps on Total Discretionary Spending
(in billions of dollars)

Statutory Caps

	FY1991	FY1992	FY1993	FY1994	FY1995	FY1996	FY1997	FY1998
BA	491.7	503.4	511.5	510.8	517.7	519.1	528.1	530.6
OL	514.4	524.9	534.0	534.8	540.8	547.3	547.3	547.9

Adjusted Caps Reported in OMB Preview Report

	FY1991	FY1992	FY1993	FY1994	FY1995	FY1996*	FY1997*	FY1998*
BA	537.1	536.6	535.7	525.1	519.5	521.7	534.9	541.6
OL	551.6	545.7	550.4	547.6	547.1	551.7	553.4	556.5

BA = Budget Authority; OL = Outlays
* Note that the concurrent budget resolution for FY 1996 proposes lower caps for fiscal years 1996-1998.
Sources: Dauster (1991, 1993) and Preview Report, Budget of the United States Government, FY 1996.

Cap Adjustments

OMB may adjust the caps to account for changes in inflation estimates, changes in concepts and definitions,[18] changes in credit subsidy costs resulting from interest rate changes, and

[17] Penner (1992). On the subject of the BEA as a significant change in our approach to the deficit, also see Collender (1991).

emergency appropriations.[19] Table 1 illustrates the large adjustments made in 1991-94. The single largest component of these adjustments was the cost of the Gulf War in 1991 and 1992. In 1993, the largest adjustment was in the category of credit reestimates, IRS, debt forgiveness, and IMF.

Fire Walls Between Appropriations Categories

The BEA of 1990 divided all appropriated spending into three categories--defense, domestic, and international--for FY 1991-93. Each category had its own spending cap. The BEA prohibited transfers of budget authority or outlays across these categories. Spending above a categorical cap would automatically trigger sequestration of all discretionary accounts in that category.

The so-called "fire walls" between appropriation categories expired in fiscal year 1994 and were not extended in OBRA 1993. Thus, appropriations for FY 1994-98 are limited by a single discretionary spending cap. The FY 1996 concurrent budget resolution calls for restoring the fire walls.

Pay-As-You-Go (PAYGO) Provisions for Mandatory Spending.

The BEA requires that the total of all legislation affecting mandatory programs and revenues be deficit neutral. In other words, legislative activity to expand an entitlement or cut taxes must be offset either by cuts in other areas of mandatory spending or increased revenue. Violations of the PAYGO rules trigger a sequester across eligible mandatory spending accounts (the BEA uses the term "direct spending accounts"). Note that a large number of direct spending accounts are either protected from sequestration or treated with special rules.

The term "pay-as-you-go" is somewhat misleading. It suggests that each piece of legislation that increases mandatory spending must identify its own offsets. In fact, however, the PAYGO process formally applies only to the net effect of all relevant legislation for a given year.[20]

PAYGO Timeframes

Although sequestration is applied annually, the PAYGO scorecard covers a period of five years.[21] At the end of each congressional session, all of the legislation covered by PAYGO is tallied and compared against the five-year estimates of PAYGO accounts. If the net amount is negative in any one year (for example, if cuts in taxes exceed cuts in entitlement spending

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[18] Examples include legislation passed by Appropriations Committees that affects mandatory accounts and changes in the way loan subsidies are calculated.

[19] An example is supplemental appropriations to assist areas struck by natural disasters.

[20] In practice, particular bills to increase entitlement spending or cut taxes often are expected to identify their own spending or revenue offsets. Many committees enforce their own internal pay-as-you-go norms for legislation under their jurisdiction.

[21] The Senate, as of 1994, requires a 10-year scorecard enforced through a point of order during the consideration of the relevant legislation, rather than through end-of-session sequestration. See Keith and Davis (1995).

for the year), non-exempt PAYGO accounts must be sequestered unless savings from a previous year are available as an offset. If the net amount is positive (thereby reducing the deficit), no sequester is required and the amount of the effective "surplus" becomes available to offset PAYGO deficiencies in the following fiscal year. Thus, the deficit effects of legislation passed in 1995 would be tracked through FY 2000 and counted against each year's PAYGO tally.

PAYGO Provisions for Revenue Measures

Note that the phenomenon known as "tax expenditures" (..."those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption or deduction from gross income or which provide a special credit, a preferential rate of tax or a deferral of tax liability")[22] also fall under the PAYGO rules. Thus, new legislation expected to reduce revenue by lowering tax rates or expanding tax expenditures is included on the PAYGO scorecard. Like many mandatory spending programs, tax expenditures enjoy protection from sequestration. In other words, a breach of the PAYGO rules does not trigger a cancellation of tax benefits to increase revenues.[23]

Scorekeeping

The BEA names OMB as the official scorekeeper for sequestration. Only OMB's end-of-session report on levels of expected discretionary and direct spending for the current fiscal year carries authority to trigger an end-of-session sequester. Likewise, within-session sequesters caused by excessive supplemental appropriations for the fiscal year in progress are triggered only by OMB's within-session report.[24]

Nonetheless, legislators almost always rely on estimates by the Congressional Budget Office (CBO) as they consider the effects of individual pieces of legislation on overall spending targets, compliance with discretionary spending caps, and the status of the PAYGO scorecard. OMB's official position as scorer overstates its influence. The media and interested observers generally accord greater respect to CBO's assumptions and projections.

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[22] From the Congressional Budget and Impoundment Act of 1974, quoted in Ladd (1994).

[23] Robert Reischauer has proposed such a rule (Joyce 1992).

[24] The choice of which agency's reports should control sequestration is more than just an academic exercise, because of numerous differences in "scorekeeping" practices between OMB and CBO. These differences derive from differences in assumptions about future economic growth rates, inflation rates, and interest rates, as well as differences in "technical" assumptions such as future failures of banks and thrifts, estimates of future use of medical services, and estimates of the effects of proposed and enacted legislation on revenue and spending. Although scorekeeping to monitor compliance with discretionary spending caps is relatively straightforward, OMB and CBO may disagree about the rate at which agencies will spend authorized resources and other factors that affect aggregate figures. For this reason, the BEA provides for special outlay allowances--essentially margins of error--"to ensure that minor scoring differences between OMB and CBO will not trigger a sequester." Shick, Keith and Davis (1991), p. 95. Note that scorekeeping to monitor PAYGO compliance is a particularly complicated matter which involves estimating the effect of legislation on patterns of mandatory spending and tax-induced behavior over periods of five and ten years.

Where BEA is Silent

Automatic growth in mandatory spending triggers no response under the BEA rules. Growth, if it is the result of economic fluctuations or previous legislation (like entitlement benefits indexed to inflation), can continue indefinitely, no matter how large the deficit becomes. As one former congressional staff person explained, those who crafted the BEA legislation made an explicit decision to allow the mandatory programs to follow their own "natural" growth path.

The basic structure of the congressional budget process reinforces the automatic nature of mandatory spending and provides little incentive for controlling entitlements. As noted above, reconciliation--the chief tool of Congress for reining in entitlements--is an elective procedure. There is no guarantee that Congress will enact reconciliation each year, and there are no sanctions for inaction. By contrast, as budget expert Alan Lopatin has put it, the annual appropriations process is a "must-do...Even in the event of veto threats and continuing resolutions, no one doubts the eventual enactment of annual appropriations."[25] This fact means that the budget process itself all but guarantees that discretionary cuts will be enacted annually and routinely, whereas cuts in mandatory spending require special effort and multi-committee initiatives outside the standardized routine.

It is important to note that various efforts have been made over the years to control the growth of "backdoor" mandatory spending, including efforts under GRH to sequester entitlements. For the most part, these have not made discernible progress.

Deficit Targets

In addition to the rules and procedures described above, the 1990 law established adjustable maximum deficit targets for FY 1991-95 to be enforced through sequestration. Because these targets were adjustable, unlike the GRH targets, they allowed ample room for automatic growth in the deficit and posed little threat of sequestration. Congress cancelled them in 1993.

IMPLICATIONS FOR CHILDREN AND FAMILIES

What do all of these rules and procedures mean for federal funding of children's services? This section explores several ways of approaching that question.

Framework

Experts seem to agree that the budget rules and procedures described in the previous section have caused significant changes in the behavior of budget process participants in both the executive and legislative branches. The discipline of the discretionary caps and pay-as-you-go rules have made scorekeeping a critical step in the legislative process. Program advocates and legislators can no longer ignore the resource implications of their proposals, and they must expend considerable effort to devise financing schemes for new public policy ventures. As intended, the current rules have functioned, in some cases, as formidable obstacles to the

[25] Personal correspondence.

passage of legislation that increases spending. At the same time, as with all rules, these also have invited fancy footwork and creative efforts at circumvention.

In terms of outcomes, the picture is far less clear. Do the current budget rules and procedures produce an overall advantage or disadvantage for children's programs in the competition for federal resources? Evidence to answer this question is elusive. One can compare funding levels for children's programs pre- and post-BEA, but this approach is fraught with problems. For example, at a technical level, no single database exists that can provide information about historical funding patterns for the full set of approximately 200 programs that serve this population.[26]

In lieu of comprehensive aggregate figures for federal spending on children, Table 2 provides a rough-and-ready comparison of funding patterns for a dozen representative programs (six discretionary and six mandatory) during a four-year period covered by the Gramm-Rudman-Hollings (GRH) budget rules (1987-90) and a four-year period covered by the Budget Enforcement Act (BEA) budget rules (1991-94). The programs were selected based on their relatively large size and the availability of data for the years of interest.[27] The data in Table 2 show an overall increased rate of growth for these programs during the later period compared to the earlier period. These results must be interpreted with great care. A different set of 12 programs might yield very different patterns.

TABLE 2. Funding for Selected Children and Family Programs Under GRH and BEA
(in billions of dollars of obligations)

1987	1990	% Change 1987-1990	1991	1994	% Change 1991-1994
$31.472	$36.407	16%	$44.002	$55.792	27%

Source: The Finance Project database and the Catalog of Federal Domestic Assistance for 1988, 1991 and 1992.

More serious than the technical problem, however, is the analytical problem of disaggregating procedural bias from other factors influencing trends in funding for children and families. Put differently, to what extent can budget process rules take credit or blame for the outcomes presented in Table 2?

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[26] The Finance Project is in the process of constructing such a database.

[27] The programs included in Table 2 are: Head Start; Chapter 1 Grants to Local Educational Agencies; Special Education Grants to States; Maternal and Child Health Block Grants; Child Welfare Services Grants to States (Title IV-B); Special Supplemental Food Program for Women, Infants and Children (WIC); the children's portion of Old Age, Survivors, and Disability Insurance (OASDI or Social Security); the children's portion of Supplemental Security Income (SSI); Aid to Families with Dependent Children (AFDC); Foster Care Subsidies (Title IV-E); National School Lunch Program; and School Breakfast Program.

According to most of the budget experts consulted for this paper, the answer is: not much. Budgetary outcomes are usually best explained by political conditions. Politics determine the hundreds of separate decisions--about new authorizing legislation and reauthorizations, budget resolution program assumptions, appropriations, changes in mandatory spending, and tax cuts and increases, to name a few--that each year shape patterns of federal spending for children. Politics also determines how carefully budget process rules are to be enforced and when and how the rules are to be changed. As CBO Principal Analyst Philip Joyce put it, "People have a tendency to want to blame budget procedures for budget outcomes that they don't like. However, procedures, to the extent that they influence budget outcomes at all, probably do so in line with the politics present when they were established. Thus, better to question the political motives of those who crafted the BEA than to look for some disembodied procedural bias after the fact."[28]

Following Joyce's suggestion, we find that the two factors that best explain the findings in Table 2 are deficit politics and program politics. By 1990, according to Daniel Franklin, four years of the GRH process had eroded policymakers' faith in deficit reduction.[29] Members of Congress were running out of tricks for producing relatively painless (or entirely bogus) cuts, and the deficit was not going away. The recession that began in August of 1990 meant that, under the GRH rules, Congress would have had to cut fully $200 billion from the deficit to avoid a sequester. Enacting the combination of deep cuts and tax increases needed to comply with the law looked like political suicide. In addition, the effect of such deep cuts on an economy already on the decline would have been unacceptable. Thus, all involved lost their stomach for budget balancing and shifted their sights to a more attainable goal--spending targets as embodied in the 1990 BEA.

Those who crafted the BEA chose to tolerate a higher deficit in 1991 rather than face the horror of $200 billion in cuts. Under these political circumstances, and with an ailing economy driving up entitlement costs, we might expect the growth rate for many programs, including children's programs, to accelerate after 1990--just as the figures in Table 2 suggest it did.

At the same time that political leaders were developing a higher tolerance for large deficits in 1990, consensus was growing around the need to satisfy some of the pent-up demand for social spending created during the Reagan years. With the election of George Bush in 1988, and the end of the Cold War the following year, talk of a "peace dividend" built up steam. This is the second explanation for Table 2: the shift in program politics toward demand for domestic and social spending.

Together, these forces produced in 1990 a five-year budget plan with relatively generous growth in domestic discretionary spending (loose caps) in the first three years to satisfy the demand for reinvestment in human resources, and delayed pain (tighter caps) in the last two years.

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[28] Personal correspondence.

[29] See Franklin (1993), Chapters 3 and 5.

Closer examination of the individual components of the BEA provisions confirms the thesis that, in budgeting, politics lead and rules follow. The provision-by-provision analysis of BEA presented below illustrates how a single rule can work in favor of a particular program or group of programs under one set of political conditions, but have a vastly different effect when the political climate changes.

Program politics also help to explain the extreme variability in the components that make up Table 2. In the earlier period covered by that Table--1987-90, for example--Special Education funding grew less than 4%, compared to 67% for Foster Care subsidies. In the later period, 1991-94, Child Welfare Services grew 7%, compared to 110% for children under SSI.

Clearly, one cannot generalize categorically about a unitary effect of budget rules on a large and diffuse category of programs like children's services. Different rules affect different programs differently, and the final spending outcomes are hard to predict. The brief survey of budget rule effects presented below is by no means complete, but it offers a glimpse of how politics and rules interact in the case of budgeting for children's programs.

Discretionary Caps

Caps have proven to be a popular tool for spending control. First established in 1990, they were extended in 1993, and both the President and Congress have proposed another extension in 1995.[30] Two factors determine the overall effect of the caps on the world of discretionary programs: the cap level and the interpretation of the cap as a ceiling or a floor. Both factors, of course, are determined by politics.

As mentioned earlier, the original caps specified in the BEA of 1990 allowed for substantial growth in domestic discretionary spending above the current services baseline[31] in the first three years covered by the budget plan, and then clamped down tighter in the final two years--delaying the pain of deficit control into the future. Since 1994, the caps have been set well below the current services baseline, a fact which allows program advocates to claim that their programs have been cut at the same time that the programs are receiving more in current dollars.

The Department of Health and Human Services (HHS) offers an illustration of these trends. In FY 1991, HHS received an 11 percent increase in current dollars over the previous year as a result of the 1990 budget summit. It received only a one percent increase (well below inflation) in FY 1995. The 1995 budget resolution would further widen the gap between the caps and the baseline over the next seven years.

At the same time that the levels of the caps have been falling, the attitude of Congress toward the caps also seems to have been changing. In the early years of the BEA, the caps

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[30] The concurrent budget resolution passed in 1995 establishes caps on defense and non-defense discretionary spending for FY 1996-98, and a single cap on all discretionary spending for FY 1999-2002. These caps are expected to be included in the 1995 reconciliation bill, which, if passed, would make them legally binding.

[31] The baseline estimates the amount of future funding needed to maintain services at current levels in the face of inflation. CBO constructs the baseline, which usually covers a five-year period.

were treated as "floors" on spending. Appropriators assumed that they would spend every dollar available up to the capped limit, and the President assumed that emergencies could be funded through cap adjustments that simply added to the deficit. Now the caps are treated more like real ceilings. In 1994, for example, the Senate Budget Resolution for FY 1995 contained an amendment to hold discretionary spending at $26 billion below the statutory cap levels over five years. The final conference resolution cut this figure to $13 billion, but the precedent of spending below the caps was set. In 1995, emergency funds needed for earthquake relief and aid to Oklahoma City following the bombing of a federal office building were not treated as emergency adjustments to the caps. They were expected to fit within the caps and, ultimately, were paid for with rescissions of $16 billion in funding for the current fiscal year.

The tightening of the caps and the widening gap between the cap levels and the funding needed to keep up with inflation intensify competition among all claimants to discretionary federal resources. Budget experts in the Department of Education and the Department of Health and Human Services indicated that the spending limits have the effect of giving more power to presidential priorities within the executive branch budgeting process. With tight caps and a near freeze on spending, there simply is not room for anything other than priority programs to increase. In the Clinton Administration, this fact has worked to the advantage of programs serving young children specifically--a handful of education programs, Head Start, and child care--in the President's budget request. Programs like Community Services and Low-Income Heating and Energy Assistance (LIHEAP) that serve families and some individuals without children took the biggest hit.

However, the President's priorities do not necessarily survive congressional action. They can, in fact, become targets of opposition. The President's 1994 proposal to expand Head Start by cutting LIHEAP, for example, was soundly defeated in the appropriations process. As noted in the overview of the federal budget process, the principle of incrementalism governs the appropriations process. Just because caps are tight and the increment available for distribution is small does not mean that appropriators are willing to cut far below current funding levels in existing, established programs (particularly programs whose constituencies are vocal and well organized) in order to pay for large increases in the President's favored programs. The more radical proposals under way in the current Congress will test the principle of appropriations incrementalism severely.

In the competition among domestic discretionary programs, the tighter caps also seem to have placed more emphasis on the rates at which programs spend their budget authority--known as the outlay rates.[32] The BEA specifies caps for both budget authority and outlays. The Budget Committees focus mostly on outlay levels for purposes of deficit control. Thus,

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[32] Appropriations bills provide each account with budget authority, that is, authority to enter into obligations
for payment. Budget authority provided in a one-year appropriation must be fully obligated by the end of that year. However, all of the cash need not be spent in that year. In many cases, agencies or programs take several years to spend out a single year's budget authority figure. The rate at which the money is spent is the outlay rate.

programs with slower spendout rates--programs whose outlays lag further behind their budget authority--may in some cases be favored by appropriators seeking to hold down outlays in the coming fiscal year. For various reasons, among children's programs, elementary and secondary school programs have a slower outlay rate (averaging roughly 12 percent of budget authority spent in the first year) than school loan programs. HHS has the fastest outlay rate among the departments with which it competes directly for appropriations (the Departments of Labor, Education, and HHS fall under the same Appropriations Subcommittee)--a fact which has put it at a disadvantage in some past negotiations. However, one staff person at the House Appropriations Committee stated that as the future outlay caps grow tighter and tighter, Members of Congress are becoming less interested in delaying outlays to future years.

Fire Walls

Some observers have suspected that the BEA contains a systematic bias within the category of discretionary spending. If so, the mechanism at work is likely to be the so-called "fire walls" between the categories of domestic, international, and defense appropriations. The term "fire wall" refers to the separate spending limits established in BEA 1990 for each of the three categories of appropriations. The law prohibited any transfer of budget authority or outlays across categories. The walls were erected in 1990 to cover the first three years of implementation of the BEA, and they were allowed to expire in FY 1994. The 1995 budget resolution restores them through FY 1998.

Experts do not agree on who won and who lost under the original fire walls. According to Daniel Franklin (1993), Senator Byrd, the powerful Chairman of the Senate Appropriations Committee, championed the walls in order to protect domestic appropriations from encroachment by an expansionist defense establishment. A quick glance at the caps shows that they did allow more growth in domestic spending than in defense (Table 4). Franklin points out that, compared against the current services baseline, defense suffered a cut of $180 billion, the domestic category increased its authority by $20 billion, and the international category held steady.

TABLE 3. Discretionary Spending Caps
(budget authority in billions of dollars)

Fiscal Year	Domestic	Defense	International
1991	$182.9	$288.9	$20.1
1992	200.0	291.4	22.2
1993	207.4	291.5	22.9

Source: Schick (1992, p. 26). Includes OMB adjustments.

Although some summit participants may have supported fire walls in order to protect domestic spending, experts have argued that the walls actually had the opposite effect.[33] With the collapse of the Soviet Union and the end of the Cold War, many Democrats in the 101st Congress eagerly anticipated a "peace dividend" in the form of large defense budget cutbacks that could be reallocated to domestic priorities. Although some reallocation was accomplished through the BEA caps, many Democrats felt that more guns would have turned into butter in the absence of the 1990 budget agreement and the fire walls. According to this argument, the actual cuts in defense should not have been measured against the current services baseline (which did not take into account expected reductions in force due to the changing world situation), but rather against a significantly lower, post-Cold War baseline. Against the reduced baseline, the levels of defense spending specified in the BEA actually would look relatively generous.

The battle over the fairness of the separate caps produced several efforts on the part of Democratic Memebers of Congress in 1991 and 1992 to pass legislation that would undermine the fire walls and create a larger peace dividend. All such efforts failed.[34] However, Congress did manage to breach the walls in several cases by charging defense for various domestic activities and inserting domestic spending into defense appropriations.

In the end, the data suggest that the BEA walls allowed domestic discretionary spending to recoup some of the losses suffered during the Reagan Administration. Figure 1 illustrates the effect of the BEA fire-wall caps on domestic and defense discretionary spending in the context of the 30-year trends in these spending categories and compared to recent experience without the caps. Clearly, the defense budget experienced real and sustained losses throughout the period 1985-95, while the domestic discretionary budget rebounded modestly.

The proposed fire walls for FY 1996-98 are intended to protect defense. These fire walls would create only two, not three, categories--defense and nondefense discretionary spending--thus leaving domestic programs to compete against international programs for a shrinking pot.

Pay-As-You-Go (PAYGO)

This rule creates a real and effective obstacle to new legislation that expands entitlements, according to almost everyone consulted for this paper. Although the official PAYGO tally does not occur until the end of a legislative session, committees keep a close eye on the running tallies and take seriously the need to pay for any proposed increases as they go.

Here again, however, the effect of the rule on budgetary outcomes is impossible to predict without an understanding of political conditions. At times like 1993, when tax increases are expected and accepted, the PAYGO rule leaves room for new activity. The 1993 reconciliation bill included three important increases in entitlement spending for children and families: (1) a major expansion of the Earned Income Tax Credit (EITC) for working, low-

[33] Franklin (1993), p. 103 and Schick (1992), p. 25.

[34] Doyle and McCafferty (1993).

income families (considered a means-tested entitlement by CBO);[35] (2) creation of a new Medicaid-related entitlement to provide states with free vaccines; and (3) creation of a new entitlement to fund family preservation and support services. All of these spending increases were paid for with the OBRA 1993 increase in marginal tax rates at the upper end of the income scale ("the millionaires' tax").

When new revenue is not available, cuts in other direct spending programs may be used to finance expansions in currently favored programs. The Agriculture Committees in recent years, for example, have cut farm price supports to expand the Food Stamp program.

Although the PAYGO rules leave some room for congressional action on mandatory spending, on the whole they appear to favor old programs over new ones, and to accord greater respect to past legislative actions than to current ones. Allen Schick has described this conditions as "end-stage legislative paralysis."[36] The effect is most pronounced on the PAYGO side of the budget, where only new legislation to increase spending has to be offset. Increased spending caused by the activities of previous Congresses, like the cost-of-living adjustments written into law, is no one's responsibility under BEA and does not have to be balanced.

PAYGO and Tax Expenditures

The pay-as-you-go rules also apply to the major child and family programs classified as tax expenditures. These include the dependent care tax credit, exclusion of employer-provided child care, child health insurance tax credit, and deductibility of medical expenses. As with mandatory spending, these programs can continue to grow automatically--forfeiting potential revenues and contributing to the growth of the deficit--without triggering action by Congress. They can also be expanded if offsets are found.

One striking feature of the tax expenditure programs is their concentration of benefits among the middle class--who have more to gain from tax credits and deductions--rather than low-income groups.

Democratic Congresses traditionally have operated under the assumption that the pain of direct spending cuts to reduce the deficit should be spread as evenly as possible--if not progressively--across income groups. In other words, the poor should not shoulder more than their share of the burden. One former Ways and Means Committee member stated that the easiest way to restore funds to the poor, through much of the 1980s and 1990s, was through expansions of the Earned Income Tax Credit for low-income working families. Because EITC benefits are tied to work and not to single motherhood, the program was more popular with Republicans than welfare. Although the EITC is not classified by Congress as a tax expenditure because part of it is refundable (thus operating more like a mandatory spending program), it functions at least in part as a tax expenditure. The EITC falls under the PAYGO rules and, therefore, is easy to expand when offsetting revenue increases or direct

[35] The cost of the EITC is expected to more than double in three years, rising from $11 billion in 1994 to $23 billion in 1997, then level off. See CBO (Feb., 1995).
[36] Schick (1992), p. 27.

spending cuts are available. In the current Congress, by contrast, the EITC is being viewed as a soucre of savings--a budget-cutting target--rather than as a place to shore up the safety net.

PAYGO Timetables

The use of the five- and ten-year PAYGO scorecards has, in a few cases, encouraged legislators to design programs that are "back-loaded"--with more spending occurring in the later years of the scorecard. According to Allen Schick, however, "Thus far there has been little evasion of BEA rules through deferral of spending increases to the sixth year (the 11th year in the case of the Senate)."[37]

PAYGO Exemptions

When the PAYGO scorecard shows a net increase in the deficit due to new legislation afffecting direct spending and revenue, the President must order a sequester of pay-as-you-go accounts. By law, most direct spending is exempt from sequestration, and some accounts enjoy special rules that limit the size of their sequesters. Out of a total of $807.6 billion in direct spending in FY 1996, only $28.8 billion (less than 4 percent) is subject to sequestration.[38]

The list of exempt programs was negotiated under GRH and has continued largely intact. During the mid-1980s, inclusion on the list apparently offered double protection. Not only did it shield a program from any possible sequestration, it also signalled to Congress that the program should not be cut during reconciliation.

Only direct spending programs enjoy such protection. The discretionary side of the budget does not maintain any list of protected programs.

The Discretionary/Direct Spending Split

Of all the BEA's provisions, the decision to treat discretionary spending differently from direct spending may have the most far-reaching effects on policymaking strategy and behavior.[39] However, even here, the effect on the composition of federal spending is split two ways.

First, in an environment in which deficit control and reduction are pursued seriously, the separation of discretionary and direct spending may be thought to protect discretionary spending. This is because automatic increases in mandatory spending are a major contributor to the growth of the deficit, but they are very hard to control. Members of Congress traditionally have demonstrated a strong aversion to cutting entitlements, leaving discretionary spending as the only possible target for deficit reduction. Thus, we find that much of the deficit control achieved thus far during the 1990s has come from discretionary cuts, particularly cuts in defense spending.

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[37] Personal correspondence.

[38] Preview Report, Budget of the United States Government FY 1996, p. 206.

[39] Note that the discretionary/direct split was also a key feature of the GRH law.

At the same time that it protects discretionary spending from being used to offset automatic growth in entitlements and other mandatory spending, the BEA's separation of funding types seems to contain an inherent bias against discretionary program expansion. Not only is discretionary spending capped, it is also restricted from enjoying the benefits of occasional tax increases. To take a simple hypothetical example, under the BEA rules, Congress could, if it wanted, pay for legislation to expand eligibility for federal Foster Care Subsidies (a direct spending program) with tax increases. It cannot, however, use tax increases to increase appropriations for federal Child Welfare Services (a discretionary program) above the overall cap limits without taking the enormous additional step of passing legislation to raise the cap on discretionary spending. Regardless of whether taxes are being raised or lowered or held the same, if discretionary spending is at the capped limit, increases in a discretionary program's appropriation will require appropriations cuts elsewhere. Adjustments in the discretionary caps are allowed only for emergency purposes, understood rather narrowly. This state of affairs seems to assume that new expansions in entitlements represent more vital national objectives, and more worthy uses of new revenues, than any possible increases in appropriated programs above the caps.

The net effect of these dueling forces on children's programs is hard to identify. As noted earlier, federal support for children is a highly fragmented, far-flung enterprise. Thus, it is hard to know whether children's program advocates should be rooting for rules that favor discretionary spending or rules that favor mandatory spending. Of the roughly 180 children's and family programs in The Finance Project's database, only 18 are classified as mandatory according to the BEA definitions (see Appendix A for a list of mandatory children's programs).[40] However, these 18 programs are the largest spenders, generating outlays in FY 1994 totalling a minimum of $75 billion, compared to a total of less than $60 billion for the 160 or so discretionary programs.[41] Thus, although the majority of children's programs fall under the discretionary spending caps, the majority of spending is controlled on the PAYGO side of the BEA scorecard.

Table 4 disaggregates the dozen programs from Table 2 into discretionary and mandatory categories. It shows the surprising result that discretionary spending grew more than mandatory spending in both the GRH and BEA time periods. Here, as with Table 2, it is important to be cautious in interpreting these findings. A different group of programs might exhibit entirely different funding patterns over the same periods.[42]

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[40] For a list of all federal budget accounts considered mandatory for purposes of BEA scoring, see Dauster (1991), pp. 413-418.

[41] Some of the programs listed on the mandatory side are actually split between classifications. In the case of benefits programs, for example, the cost of the benefits themselves is counted as mandatory spending, but the cost of administering the programs is considered a discretionary expenditure.

[42] In particular, the inclusion of Medicaid in the mandatory program category would likely affect the growth rates considerably. Medicaid is not included here because we were unable to obtain figures for the portion of Medicaid that goes to children and families (as opposed to the elderly in nursing homes, disabled individuals, etc.).

TABLE 4. Growth in Selected Children's Programs 1987-90 and 1991-94

	Growth 1987-90	Growth 1991-94
DISCRETIONARY	27%	32%
Head Start		
Maternal and Child Health Block		
Special Nutritional Supplement for Women, Infants and Children		
Special Education		
Compensating Education		
Child Welfare Services		
MANDATORY	12%	25%
Old Age, Survivors, and Disability Insurance		
Supplemental Security Income		
Aid to Families with Dependent Children		
Foster Care		
School Lunch		
School Breakfast		

Sources: The Finance Project database and the Catalog of Federal Domestic Assistance

Program Classification

Despite the overall better showing for discretionary programs in Table 4, the application of different rules to discretionary and direct spending is generally thought to place a high premium on making the direct spending list. Those who crafted the BEA attempted to discourage efforts to reclassify old discretionary programs as new mandatory programs in order to gain a better position in the competition for funds. They did this through the so-called "Fingerprint Rule," which requires that legislation be scored according to the committee that initiated it. Thus, appropriators who managed to pass a bill making Head Start an entitlement and then increasing its funding--to take an obvious example--would still have to fit the increase under the discretionary caps. Likewise, efforts by an authorizing committee to increase spending for an appropriated program would have to find PAYGO offsets to cover the increase. Not surprisingly, efforts in the Senate to reclassify Head Start and Pell Grants as mandatory programs have failed

In contrast, efforts to alter the classification of the Food Stamp program met with success in 1990. For most of its life, the Food Stamp program was treated as a quasi-entitlement. It participated in the annual appropriations process and was subject, at least officially, to the discretion of the Appropriations Committees. Language added to the authorizing legislation in the 1970s required that, in the case that insufficient appropriations were provided to meet all needs, states would be instructed to reduce benefits across the board. In practice, however, such benefit reductions were never required, because Congress

always approved supplemental appropriations to cover shortfalls. Thus, Food Stamp appropriations had unofficial mandatory status. In 1990, under the sponsorship of Representative Leon Panetta, then-Chairman of the House Budget Committee, the Food Stamp program's unofficial mandatory status was made official. The program was added to the BEA's list of PAYGO-controlled accounts and to the list of programs exempt from PAYGO sequestration. This counted as a major victory.

The status accorded to the direct spending category has contributed to the increase in power of the tax-writing committees (which also control much of the mandatory spending), particularly in the social welfare area. That power expresses itself most clearly in the reconciliation process. Take OBRA 1993, for example, and the two new children's programs that it authorized: Family Preservation and grants to states for vaccines. Although the objectives of the Family Preservation program could have been met by increasing funding for the existing Child Welfare Services Program (a discretionary program), a former Ways and Means Committee staff member stated that it was easier for the committee to create an entirely new entitlement program, and pay for it under the planned tax increases, than to try to fit the new request under the appropriations caps. As written, the new entitlement included large increases in funding in the second and third years of the program, probably far larger than would have been available through annual appropriations. Only a tax-writing committee has the power and flexibility to pursue such a strategy.

It is important not to overstate the force of these classifications, however, because they can always be circumvented to accomplish the aims of Congress. The Clinton Administration in 1993 sought to expand direct student loans, a mandatory spending program whose administrative costs (a small portion of the total) are counted as discretionary spending. Then-Chairman of the Senate Appropriations Committee Robert Byrd objected to the increase in discretionary funds that would accompany this expansion and the cuts in other areas of appropriations needed to accommodate the increase. In the end, OMB wrote a provision into the law that recategorized the federal administrative costs of the direct student loan program ($2.5 billion) as mandatory spending for five years, thus bypassing the appropriations process. The legislation passed.

Where BEA is Silent

Perhaps the clearest and most consistent trend in the composition of federal spending over the past 30 years has been the shift from discretionary to mandatory spending, illustrated in Figures 2 and 3. In 1965, two-thirds of federal spending occurred through discretionary accounts. Today, that figure is one-third.

The vast majority of the growth in mandatory spending occurs automatically, without intervention from Congress. CBO identifies four separate forces driving automatic growth in these accounts.[43] They are (1) growth in case loads, (2) automatic benefit increases from cost-of-living-adjustments and other indexing, (3) rising costs per participant in Medicaid and Medicare due to growing use of medical services, and (4) growth in average Social Security

[43] CBO (Feb., 1995).

benefits due to increased earnings prior to retirement. According to CBO projections, these forces will cause spending for the health care entitlement programs--Medicare and Medicaid--to grow automatically at an annual rate of 10.3 percent between 1996 and 2000 (7 points above expected inflation). Other entitlements are expected to grow about 4.9 percent annually (1.5 points above inflation). In contrast, the growth rate of discretionary spending is likely to remain well below the 3.4 percent needed to keep pace with inflation.

The BEA contains no provisions for controlling automatic growth in mandatory spending. Thus, while the BEA is by no means causing the shift in the composition of spending, it is accommodating it. As automatic increases in mandatory spending continue to consume ever larger portions of the federal treasury, the remainder of the federal budget gets squeezed tighter. This problem, and the BEA's inability to deal with it, has fueled efforts by some Republicans in the 104th Congress to reinstate fixed deficit targets to enforce discipline across all categories of spending.

The practical implications of this phenomenon for children's programs can be seen in a brief comparison of two federal programs serving abused and neglected children: Child Welfare Services (a discretionary program) and the Federal Foster Care Subsidy (a direct spending program). Between 1982 and 1994, the discretionary child welfare program grew 89 percent in current dollars, while the mandatory foster care program grew almost 600 percent. In 1982, the foster care program was roughly twice the size of the child welfare program. In 1994, it was almost nine times as large.

The explanation for these divergent patterns is the power of automatic growth in open-ended entitlement funding. While Child Welfare Services is a creature of the annual appropriations process, the Foster Care Subsidy is a guaranteed entitlement whose growth is limited only by the eligibility requirements and payment formulas contained in the legislation and by the states' ability to maximize their claims for reimbursement. If given the choice, many Members of Congress probably would not choose to fund foster care at nine times the rate of child welfare services. But the automatic nature of entitlement funding does not give them much choice.

The 104th Congress has proposed to abolish open-ended entitlement status for both the AFDC and Medicaid programs and to make deep cuts in the growth rate of Medicare. These changes, if adopted, could begin to slow the shift toward mandatory spending.

Maintenance vs. Prevention

The way current programs are structured, most prevention services tend to fall under the category of discretionary spending, while mandatory/entitlement programs tend to fund what might be called "maintenance" activity--income supports, medical care, maintenance of children in foster care, etc. This fact reflects a clear disadvantage for prevention services: They must operate under spending caps, while many maintenance programs can expand without limit to serve all eligible beneficiaries.

Although the current budget rules did not create the prevention/discretionary--maintenance/mandatory distinction, they contain what might be called a bias against prevention funding by barring legislators from paying for prevention with the savings

generated from reduced reliance on maintenance programs. This functions in two ways. First, if prevention is funded through discretionary programs, the discretionary/direct spending split prohibits any commerce between the two categories. Second, and more important, even if prevention is funded on the PAYGO side, reductions in mandatory spending that occur naturally (without legislative cuts)--as the result of prevention efforts, for example--cannot be used to finance expansions elsewhere in the mandatory spending programs. As the above section notes, only new legislation to increase or cut mandatory spending directly counts on the PAYGO scorecard. Savings from successful prevention efforts do not count.

This means that investments in preventive health care cannot be offset by anticipated reductions in Medicaid and Medicare utilization; investments in welfare-to-work programs cannot be offset by anticipated savings in AFDC costs; and investments in family preservation services cannot be offset by anticipated reductions in foster care reimbursements. In contrast, any new legislation with the potential for increasing mandatory spending is carefully scrutinized for possible PAYGO effects.

Former House Budget Committee staff member Shirley Ruhe (1995) describes an excellent example of this perverse problem. During the last reauthorization of the child nutrition programs, participants generally embraced a plan to merge the school lunch and school breakfast programs to increase administrative efficiencies. However, because this move was expected to increase demand for school breakfasts to catch up with the current demand for school lunches, the plan was scored as a PAYGO cost, which threatened its political survival. In the end, the merger of the two programs was accomplished through administrative action rather than legislative action, thus avoiding the need for PAYGO offsets. One wonders whether, if the program merger would have been expected to *reduce* rather than increase participation in one of the feeding programs, the plan would have received credit for the reduction and been scored as a PAYGO *savings*. If there was any uncertainty about the effect on mandatory spending, the answer is: probably not.

A note of caution about the scoring of prevention is warranted. Unfortunately, prevention programs tend to overstate their potential for savings. Even expensive demonstration programs often produce disappointing results.[44] Prevention is notoriously hard to measure; its benefits are difficult to predict. So long as this is true, Congress probably will resist efforts to allow new budget rules that offset preventive spending with prospective future savings that may never be realized. However, as evaluation science advances and policy analysts develop new and better ways of estimating the costs and benefits of prevention, the issue of scoring for prevention should be given careful attention.

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[44] In the welfare-to-work demonstrations of the 1980s, even programs that produced statistically significant increases in employment and earnings for clients were unable to generate more than modest net welfare savings. See the evaluations of the welfare-to-work demonstrations of the 1980s.

WHAT LIES AHEAD?

The election of the 104th Congress brought changes in both deficit politics and program politics. The implications for federal programs serving children and families are stark.

To begin with, austerity politics have resurfaced. Although President Clinton's first two budgets made significant headway against the deficit, for the most part the war against government debt seemed to be de-escalating during the first half of the 1990s.[45] In contrast, the 104th Congress seems to be taking deficit reduction (indeed, deficit elimination) very seriously, and President Clinton is following their lead. The President made the unusual step of revising his original budget request in June of 1995 to bring it more closely in line with the growing consensus for deeper cuts and a balanced budget. The 1995 congressional budget resolution balances the budget in seven years; the President's revised budget balances it in ten.

In addition, the leaders of the 104th Congress have clearly rejected the early Clinton Administration approach to deficit reduction which combined spending cuts and tax increases. All of the deficit reduction achieved by this Congress is likely to come in the form of spending reductions, and the prospect of tax *cuts* will make those reductions even deeper.[46]

Leadership priorities in 1995 also have made a U-turn back in the direction of the Reagan policy of severe social spending cuts and real defense increases, as illustrated below.

Finally, although Congress has not changed the budget laws yet, proposals have been made for a variety of budget process changes, mentioned below, which are designed to help accomplish the political goals of cutting social spending and protecting defense.

Although one cannot predict with confidence what these forces will produce, it is important to examine some of the key Republican reform proposals as they relate to children and families.

Elimination of Open-Ended Entitlements

The House welfare reform bill, H.R. 4, proposes a series of block grants that would alter the entitlement status of the AFDC, Foster Care, and some child nutrition programs.[47] In the cases of AFDC and Foster Care, the current individual entitlement would become an entitlement to states. In other words, these programs would lose their open-ended funding status, but continue to be counted on the PAYGO scorecard. The current child care entitlement for families at risk of welfare would lose its mandatory status and move to the discretionary side of the BEA rules. Proposals to block grant Food Stamps and Medicaid are

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[45] President Clinton's initial FY 1996 budget contained very little deficit reduction. As of this writing, he has released a revision of that plan that moves toward a balanced budget by the year 2005.

[46] The 1995 budget resolution includes provisions to accommodate tax reduction legislation if the budget is balanced by 2002.

[47] For more on the issue of block grants and entitlements, see Hayes (1995).

being developed. Republican House Ways and Means staff informed me that these programs would probably be maintained as entitlements to states, in order to avoid political conflict.[48]

The BEA's bias against discretionary spending, discussed above, raises the stakes dramatically in transactions like these. Loss of open-ended funding and/or entitlement status has huge consequences under the existing budget rules. Capping an open-ended entitlement such as AFDC eliminates entirely the opportunity for *automatic* growth in federal funding to states under this program--by far the largest source of additional funding.

The BEA rules also would make it far more difficult to provide for expanded benefits under a reformed AFDC program (a la the Republican proposals) during times of economic downturn. If the program lands on the discretionary side of the wall, the chances of occasional, counter-cyclical expansions are slim (because of the fierce competition for scarce appropriations dollars). Prospects are slightly better on the PAYGO scorecard, where offsets may be available to finance cyclical expansions in benefits.

The OBRA 1990 reforms are conducive to a provision like that in H.R. 4 for a federal "rainy day fund" that would loan money to states to help cover higher social welfare costs during recessions. The credit reforms contained in OBRA 1990 require that only the subsidy costs of loans be scored as outlays. Under the old system, loan principal was counted as expenditure at the time of lending; repayment was counted as offsetting revenue when it was received. The new rules make direct lending cheaper in the short term.[49]

Cutting Fat and Bone

The 1995 budget resolution seeks deeper cuts in federal spending than have been seen in many decades. On the discretionary side, the resolution specifies caps that fall well below the current services baseline, and below the President's proposed caps, as indicated in Table 5.

TABLE 5. Discretionary Spending Targets
(outlays in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002
Congress	548	534	524	518	516	520	516	515
President	550	542	545	543	546	555	561	568
CBO Baseline	548	552	553	557	575	595		

Sources: 1995 Congressional Budget Resolution Conference Report, the President's revised 1996 Budget, and CBO (April 1995).

As noted earlier, the vast majority of discretionary children's programs fall within a single Appropriations Subcommittee (known as Labor/HHS) with FY 1996 allocation $10

[48] At the time of writing, the AFDC and Medicaid proposals were included in some versions of the proposed FY 1996 reconciliation bill, but their fate was not determined.
[49] The 1995 budget resolution also contains changes in the treatment of loans.

billion below the FY 1995 level.

Although the budget resolution concentrates the pain of deficit reduction in the discretionary accounts, it also makes deep cuts in Medicare and Medicaid, as shown in Table 6.

TABLE 6. Mandatory Spending Targets
(outlays in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002
Congress	747	796	837	874	924	976	1023	1078
President	751	800	860	906	962	1018	1076	1135
CBO Baseline	843	897	961	1025	1098	1176		

Sources: 1995 Congressional Budget Resolution Conference Report, the President's revised 1996 Budget, and CBO (April 1995)

The aggregates in the budget resolution and the President's revised request have a similar effect on the gap between mandatory and discretionary spending, shrinking the ratio of discretionary to mandatory spending from 0.73 to between 0.48 and 0.50, as shown in Table 7.

TABLE 7. Ratios of Discretionary to Mandatory Spending
(outlays in billions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002
Congress	.73	.67	.63	.59	.56	.53	.50	.48
President	.73	.68	.63	.60	.57	.54	.52	.50
CBO Baseline	.65	.61	.57	.54	.52	.51		

Sources: 1995 Congressional Budget Resolution Conference Report, the President's Revised 1996 Budget, and CBO (April 1995)

Rebuilding Defense

Most of the savings under the proposed congressional caps come from the non-defense category. Over the seven years covered by the budget resolution, defense spending would increase by 3 percent, while non-defense spending would shrink almost 10 percent.

Double Jeopardy

Amendments attached to both the House welfare reform bill and House tax cut bill authorized a change in the BEA rules to allow discretionary spending cuts to offset tax cuts. If this reform becomes law, not only will discretionary spending be cut off from potential

increases tied to revenue hikes, it will be targeted to pay for tax cuts. Such a change violates both the letter and the spirit of the BEA "fingerprint rule", which seeks to prevent committee members from raiding the accounts of other committees to pay for their projects.

New Fire Walls

The budget resolution includes a restoration of fire walls between categories of discretionary spending. Whereas the fire walls of 1991-93 may have provided some protection to domestic discretionary spending, the fire walls of 1996-2000 would most likely protect the increases in defense spending proposed by the House and Senate, at the expense of non-defense priorities. The new fire walls would create only two categories of discretionary spending, defense and non-defense, thus combining the original categories of domestic and international spending.

A Return to Gramm-Rudman-Hollings

Presidential candidate and Senator Phil Gramm has expressed interest in a revival of the fixed deficit targets found in the Gramm-Rudman-Hollings Acts of 1985 and 1987. The purpose of such targets would be to move beyond the deficit control provided by the BEA to a more serious attempt at deficit reduction and elimination. The effect of such a change is very hard to predict. If the deficit hawks prevail this year and pass spending legislation that conforms to the proposed targets, the need for another GRH may fade.

SUMMARY AND CONCLUSION

The federal budget and the rules that shape its process are products of politics. During the 1990s, the politics behind federal budgeting have undergone several important changes. The higher tolerance for deficit spending that characterized the early years of the decade has given way to an embrace of austerity. In the case of the new Republican Congress, the goal of eliminating the deficit and balancing the budget is part of a larger mission to shrink the non-defense sectors of the federal government, particularly the social welfare enterprise. In the case of the Clinton Administration, the goal is to reduce the deficit during the remainder of the decade, while maintaining essential social services and making some new strategic investments in programs for people. One of the key tools used to lower the deficit in earlier years--tax increases--is no longer on the table, and some politicians would like to see spending cuts deep enough to finance tax cuts.

Experience suggests that the altered political environment eventually will produce changes in budget process rules. The 1995 budget resolution signals the intention of Congress to retool some of the BEA procedures to suit its new agenda. Relevant changes include dramatic lowering of the caps on discretionary spending, construction of fire walls between defense and nondefense discretionary spending, and provisions to accommodate scoring for a tax cut. Other proposals seek to breach the wall between discretionary and PAYGO spending to pay for tax cuts with cuts in appropriations and to restore fixed deficit targets to rein in automatic growth in mandatory spending.

Despite a ten-year pattern of passing budget process reforms in nearly every session of Congress, certain long-term budget trends have proven remarkably stable. These include the steady growth in mandatory spending and the shrinking of the ratio between discretionary and mandatory spending. The assumption that incremental increases for appropriations should at least keep up with inflation is fast disappearing. In the current fiscal environment, there is only one sure growth path for children's programs--natural increases in entitlements--and even this phenomenon is being challenged.

The current budget rules and procedures have not had a significant effect on the federal deficit or the composition of federal spending. However, they have, by all accounts, significantly affected the way that Congress and the Administration do their budgeting business. Among other things, they have: raised the premium on entitlement/direct spending status; established CBO scorekeeping as an essential element of the legislative process on a bill-by-bill basis; further increased the power of the tax-writing committees, which also control much of mandatory social spending; and increased the power of old, established programs and policies relative to new ones.

Clearly, the federal budget process is of critical interest to those who follow children's programs. The analysis presented in this paper, however, suggests that advocates of children's causes should focus their efforts on influencing budget and program politics, rather than trying to rewrite budget process rules.

In particular, efforts might be made to investigate new and better ways of gaining access to the federal budget process at all points in its journey through the executive and legislative branches. Traditionally, interest groups have asserted themselves most effectively with executive agencies, authorizing committees, and the appropriations committees. Other possible avenues of influence should be explored, too, including OMB in its role as keeper of the President's program priorities in the executive budget process; CBO as the powerful scorer of entitlement costs and savings; and the Budget Committees (and the committees that feed information to the Budget Committees), which develop the program assumptions behind the budget resolution and set the initial committee funding allocations--key decisions that affect the fate of children's programs.

In addition, more research and analysis is needed to explore some of the interactions between budget rules and politics described throughout this paper. These include:

- The effect of the growing gap between discretionary and mandatory spending on funding for prevention vs. maintenance services.
- Development of more reliable tools for measuring the effects of prevention. Analysis is needed of possible scoring rules that would responsibly take into consideration potential entitlement savings from prevention.
- The role of tax expenditures in national priorities for children and families. What does their privileged treatment under the BEA mean for policy?
- The effect of the BEA rules on current proposals for block granting programs. More analysis is needed to fully understand the implications of capped vs. open-ended entitlements.

- The possibilities for pursuing additional loan and credit options where grants will no longer be available. To what extent do budget rules facilitate this strategy?
- Prospects for shaping tax cuts to help children and families. If cuts in social welfare assistance are going to be used to finance tax cuts, pressure may be brought to bear to make the child allowances refundable, so as to put some resources back in the hands of those who are being hit hardest.

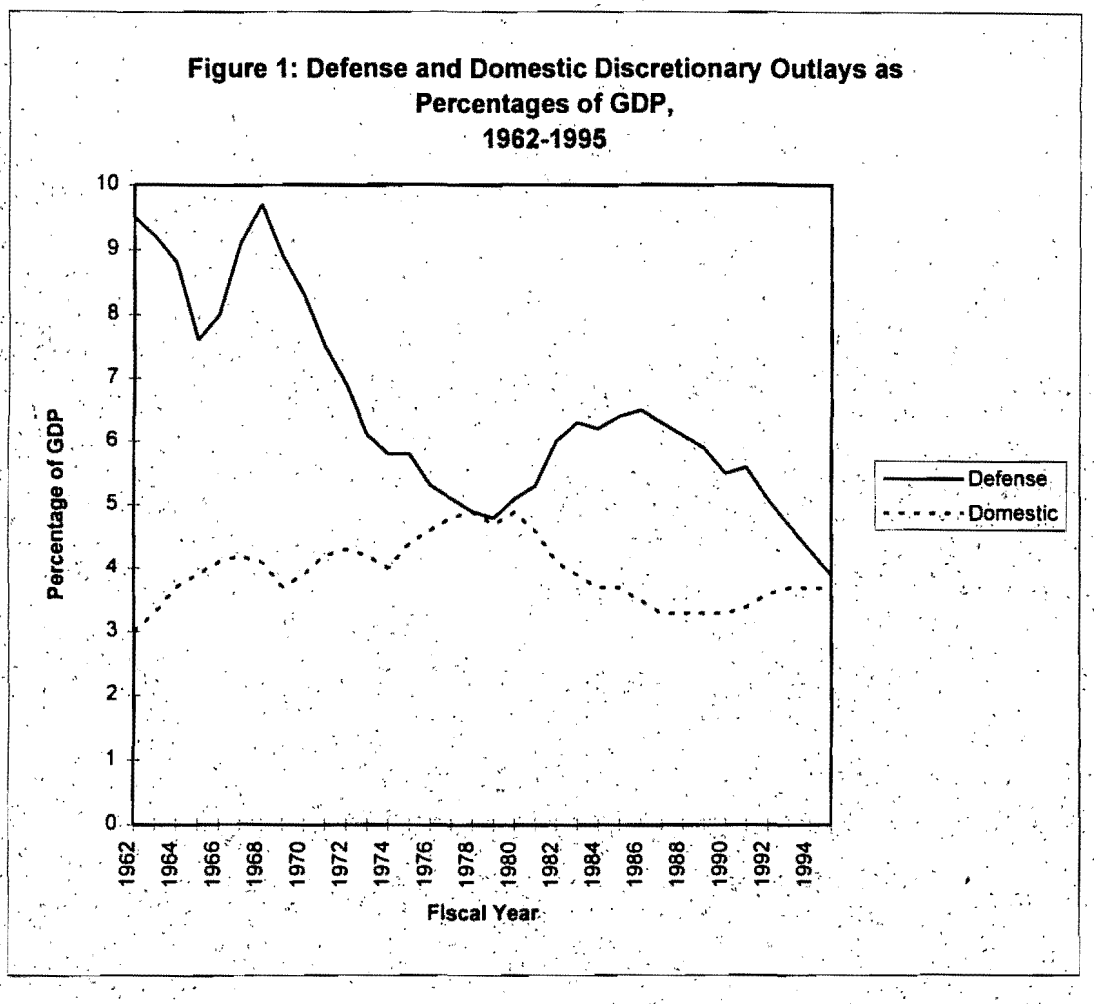


Figure 1: Defense and Domestic Discretionary Outlays as Percentages of GDP, 1962-1995
Percentage of GDP
10
9
8
7
6
5
4
3
2
1
0
1962
1964
1966
1968
1970
1972
1974
1976
1978
1980
1982
1984
1986
1988
1990
1992
1994
Fiscal Year
Defense
Domestic

Figure 2: Discretionary and Mandatory Outlays as a Percentage of GDP, 1962-1995

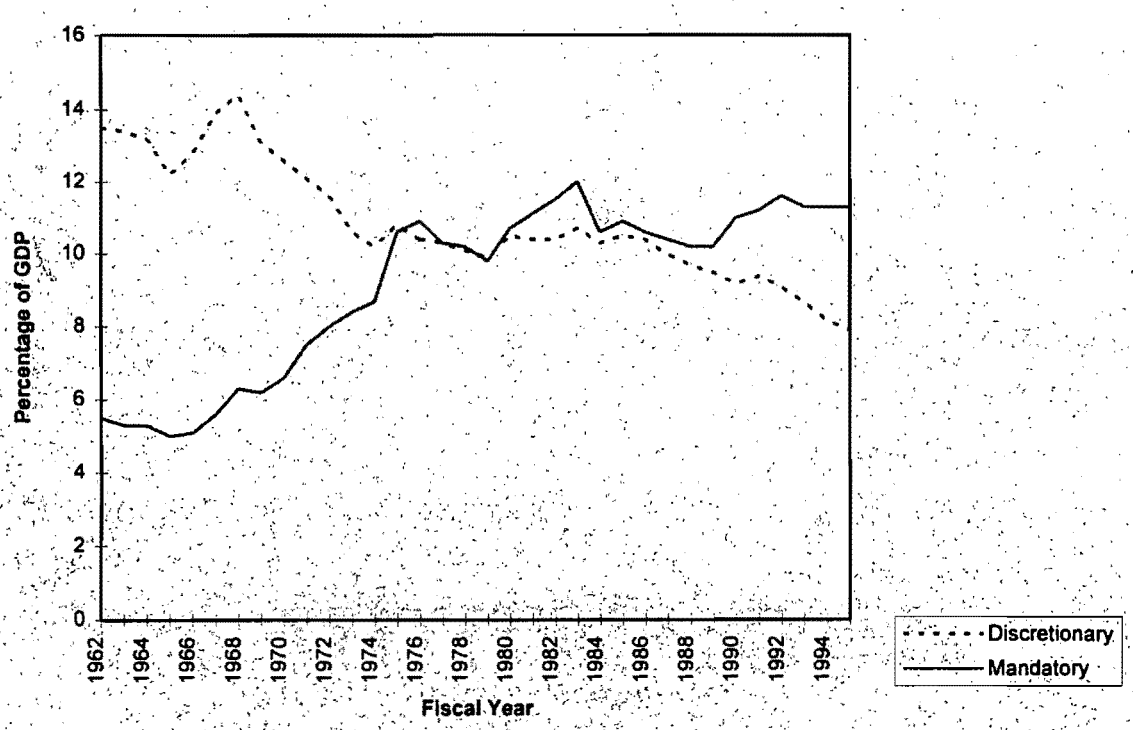
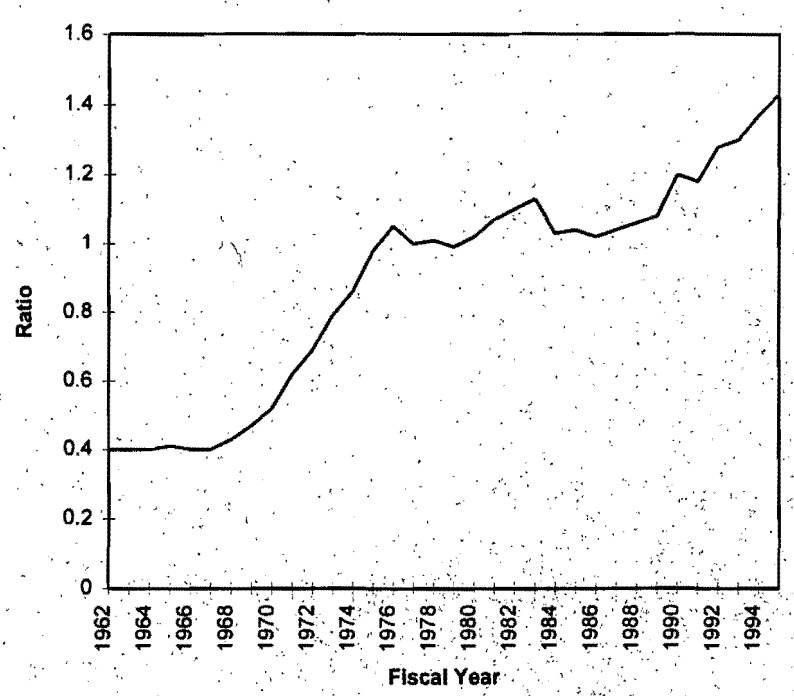


Figure 3: Ratio of Mandatory to Discretionary Spending, 1962-1995



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APPENDIX A: Mandatory Children's Programs

School Breakfast and Lunch Programs
Special Milk Program for Children
Child and Adult Care Food Program
Summer Food Service Program for Children
Family Preservation and Support Services
Foster Care Subsidies
Adoption Assistance
Independent Living
Supplemental Security Income (disabled children)
Old Age, Survivors, and Disability Insurance (Social Security payments for the children of deceased and disabled parents)
Medicare (children with end-stage renal disease)
Medicaid
Food Stamps
AFDC
JOBS
Child Care for Families at Risk of Welfare
Child Support Enforcement

APPENDIX B: Experts Consulted

Lee Cowen
House Budget Committee

Edward (Sandy) Davis
Congressional Research Service

Lynn Gallagher
House Agriculture Committee

Ron Haskins
Ways and Means Committee

Philip Joyce
Congressional Budget Office

Maureen Lane
Office of the Assistant Secretary for Management and Budget
U.S. Department of Health and Human Services

Alan Lopatin
Ledge Counsel, Inc.

Wendell Primus
Assistant Secretary for Planning and Evaluation
U.S. Department of Health and Human Serivices

Isabelle Sawhill
The Urban Institute

Sam Schellenberger
Office of the Assistant Secretary for Management and Budget
U.S. Department of Health and Human Services

Allen Schick
School of Public Affairs
University of Maryland at College Park

Barry White
Education Division, OMB

THE FINANCE PROJECT

The Finance Project is a national initiative to improve the effectiveness, efficiency, and equity of public financing for education and other children's services. With leadership and support from a consortium of private foundations, The Finance Project was established as an independent nonprofit organization, located in Washington, DC. Over a three-year period that began in January 1994, the project is undertaking an ambitious array of policy research and development activities, as well as policymaker forums and public education activities.

Specific activities are aimed at increasing knowledge and strengthening the nation's capability to implement promising strategies for generating public resources and improving public investments in children and their families, including:

- examining the ways in which governments at all levels finance public education and other supports and services for children (age 0-18) and their families;
- identifying and highlighting structural and regulatory barriers that impede the effectiveness of programs, institutions, and services, as well as other public investments, aimed at creating and sustaining the conditions and opportunities for children's successful growth and development;
- outlining the nature and characteristics of financing strategies and related structural and administrative arrangements that are important to support improvements in education and other children's services;
- identifying promising approaches for implementing these financing strategies at the federal, state and local levels and assessing their costs, benefits, and feasibility;
- highlighting the necessary steps and cost requirements of converting to new financing strategies; and
- strengthening intellectual, technical, and political capability to initiate major long-term reform and restructuring of public financing systems, as well as interim steps to overcome inefficiencies and inequities within current systems.

The Finance Project is expected to extend the work of many other organizations and blue-ribbon groups that have presented bold agendas for improving supports and services for children and families. It is creating the vision for a more rational approach to generating and investing public resources in education and other children's services. It is also developing policy options and tools to actively foster positive change through broad-based systemic reform, as well as more incremental steps to improve current financing systems.

RESOURCES AVAILABLE FROM THE FINANCE PROJECT'S WORKING PAPERS SERIES

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