To declare that the federal budgetary process is in utter shambles based principally on an analysis of a six-year interval during a single presidential administration, as Professor Irene Rubin does in the preceding article, is unfair to history and misleading. Drawing on significant budgetary experience as a U.S. Senate staff member, the author of this essay argues that (1) the contributions of emergency appropriations and earmarks to the federal budgetary imbalance are overstated, (2) the goal of perpetual budgetary balance is unsound policy, and (3) budgets—inevitably the result of a political process—are artifacts reflecting societal priorities at a given point in time.

The current congressional fiscal decision-making process has evolved from its birth in 1974 with the enactment of the Congressional Budget and Impoundment Control Act. But economic and public finance historians will observe that the central question of how to allocate limited resources in a national budget has confronted this country ever since its founding. A critical factor that ensured the failure of the Articles of Confederation was the lack of power to raise money by taxation or to regulate commerce along uniform lines. What followed was the Constitution’s commerce clause, which authorized Congress to “regulate commerce… among the several states.” The directness and simplicity of that clause has lent itself to more than one interpretation, resulting in conflicts and varying legal decisions that have characterized an evolving and growing country over the decades.

Similarly, interpretations of the more recent congressional budget process are subject to wide variations and debate. Furthermore, to focus on an extremely narrow time period in order to evaluate a highly political process is to reject the broader historical context in which that process must operate.

The fundamental question that will always confront government at all levels is what resources and expenditures are needed to provide for the common good of its citizens. That question was there at the beginning of the Republic, and it was there when the Congressional Budget Act was passed in 1974.

This brief response cannot address all the issues raised in Professor Rubin’s essay—time does not permit. Neither can it provide a fair evaluation of the 1974 act’s influence on Congress during the last 33 years. What it can do, however, is provide a brief commentary from one who was fortunate to have observed, advised, and at times participated, either directly or indirectly, in the congressional budget process over this period. It risks the appropriate criticism that as a participant in the process, I may be overly defensive.
Although I believe that Professor Rubin has unfairly critiqued the process by focusing on recent headline-grabbing, media-hyped faults and failures, I agree that changes to the process—some enacted and some by rule only—have not always enhanced the decision-making process or provided legislators with transparent tools to make fiscally wise decisions. I also agree that changes to current practice that might benefit both the public and the legislative process should be considered. However, I do not believe that “budget process reform” alone will ever overcome the broader challenges of changing, sometimes inconsistent executive and legislative leadership, operating within a pluralistic political system that ebbs and flows with public opinion and an evolving, increasingly integrated global economic system. In short, the budget process is a continuum in the evolution of our democratic system, even from those early days in Philadelphia.

**A Political Process—The Budget Process**

**On Deficits and Surpluses**

I disagree with Rubin’s suggestion that balance is or always should be a normative tenet of the budget process and that revenues should always equal or exceed expenditures at the federal level. At the same time, I strongly support balancing revenues and expenditures, particularly over the business cycle, but this is a political decision, and others have and will disagree. Particularly in times of war or recession, a current-year balance need not be a fixed objective, nor would it necessarily be a wise course for the national economy. Both conditions existed during the time frame of Rubin’s analysis. I further argue that Rubin is wrong to suggest that the framers of the Congressional Budget Act set balance as an outcome to be derived from the process, either in its origin or its intent.

The 1974 Congressional Budget Act was neutral on this question. It simply put in place a process—an accounting tool—that, for the first time, would allow decision makers to debate, construct, implement, and enforce their spending and tax decisions. The fiscal blueprint that Congress would adopt through this accounting tool would ultimately be a political product, and it would reflect a majority decision on spending and revenues, with a resulting surplus, deficit, or balanced budget. The process also established a procedure for confronting legislators when they chose to violate their own blueprint. Violators are defined here as those who would vote to waive the Budget Act’s enforcement provisions in order to consider legislation outside the adopted fiscal blueprint. Violators, in principle, could be observed and recorded by their constituents and held accountable in the next election.

In the late 1970s, the political norm changed. Increasing fiscal deficits ushered in a new Republican administration under President Ronald Reagan that placed deficit reduction as both a political and an economic objective to be achieved by restraining spending, followed by reduced taxes. Furthermore, the first major application of the budget reconciliation tool in 1981 allowed for the goals and policy assumptions of the budget blueprint to be considered more directly and expeditiously.

But with deficits continuing to grow throughout the early 1980s (both in nominal terms and as a share of the national economy), the first significant change to the congressional budget process legislatively altered the Budget Act from a stance of neutrality to one of a specific policy objective: balanced budgets. The Balanced Budget and Emergency Deficit Control Act of 1985 (known as the Gramm-Rudman-Hollings Act) put in place a complex set of procedures that set deficit targets into statutory law by forcing annually adopted budget blueprints to achieve the specified current-year and out-year targets. Again, the political norm changed.

Balance was to be achieved within five years—by 1991. But the process could not guarantee the outcome specified. This was a result of many factors, not the least of which was the disconnect between fixed deficit targets established under one set of economic projections that proved to be—as projections always are—out of sync with the economy’s actual performance. Furthermore, the “sword of Damocles” that was poised to reduce spending programs across the board (sequester) for failing to achieve the set deficit targets also proved politically unpalatable. This was particularly apparent when it came time to apply the Gramm-Rudman-Hollings sequester procedures in 1987 (two years after the law’s enactment) with a $36 billion ordered sequester—$20 billion in national defense spending authority (5.6 percent) and $16 billion in nondefense spending (7.6 percent).

Unwillingness to accept these automatic reductions on the part of both Congress and the administration prompted an ad hoc budget summit in the fall of...
1987 following a major downturn in the stock market, and a new Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 moved the goalpost of balance back to 1993.

By 1990, however, facing another politically insurmountable sequester that would have reduced defense spending 11 percent and nondefense spending 16 percent in order to achieve a deficit target of $100 billion that year, the goal of achieving balance remained, but the mechanistic Gramm-Rudman-Hollings procedures were an acknowledged failure. A new approach was taken. Two major concepts of the Gramm-Rudman-Hollings experience survived and were incorporated into the Budget Enforcement Act of 1990. They remain central to today’s congressional budget process and are the basis for both Rubin’s criticism and support of the budget process.

The two procedures are (1) spending caps to control annual discretionary appropriations, and (2) “pay-as-you-go” (pay-go) rules to control entitlement spending and revenue measures. The fixing of a specific deficit or surplus target was abandoned in favor of controlling that which was more directly achievable through actual legislative action. Those procedures were extended and strengthened in the Balanced Budget Act of 1997 and, bolstered by an exploding economy, translated into four consecutive years of a balanced federal budget beginning in 1998, the only time this occurred during the 20th century.

Rubin argues that when the Budget Enforcement Act’s authorization ended in September 2002 and was not renewed, the budget process defaulted back to the 1974 act. In practice, however, only major change resulting from the failure to extend the act was the loss of the never realistically triggered statutory discretionary or pay-go sequester procedures. Congress retained the discretionary spending caps, enforceable with a supermajority point of order (in the U.S. Senate) in follow-on budget resolutions (or adopted by rule or legislation), even during the three years in which a budget resolution conference agreement was not reached following the expiration of the act.

Rubin correctly points out that after the Budget Enforcement Act expired, the House and Senate failed to reach a conference agreement on a fiscal blueprint. However, the suggestion that this was a result of not extending the act is highly questionable. What she does not mention is that only once in the history of the Budget Act has the House or Senate ever failed to adopt a budget resolution in their individual chambers—the election year of 2002, the year the Budget Enforcement Act expired. A politically sensitive Democratic Senate did not even consider the budget blueprint reported from its own budget committee that year, highlighting the highly charged political consequences of considering a budget blueprint in that chamber.

The failure of Congress to reach agreement in the other two post–Budget Enforcement Act years was a direct result of a fairly evenly divided U.S. Senate that could not reach agreement on the extension of a stringent pay-go rule to apply in the Senate. The proposed rule change would have made it a requirement that any tax reduction—even if it were built into the budget resolution’s assumptions—would still need to be offset by other tax increases or equal entitlement reductions. Conservative GOP members saw this rule change as a threat to the extension of expiring tax provisions adopted in 2001.

The most recent failure to adopt a conference agreement on a budget resolution in 2006 resulted from the inability of the House leadership to reach a consensus with moderate House Republican members on the level of discretionary spending for social welfare programs. This, combined with an administration that was unwilling to compromise with the congressional budget negotiators, resulted in the ultimate delay of appropriations in the election year, and a continuing funding resolution carried over into the 110th Congress.

The new Democratic Congress, bolstered by midterm election victories and unbound by a reticent administration concerned about the level of spending for nondefense domestic programs, quickly resolved the sticking point by increasing social welfare spending $6.4 billion over the president’s initial request while reducing “regular” defense spending to $4.0 billion below his request.

Finally, even with these shortfalls, the Senate has maintained a pay-as-you-go point of order, even before the expiration of the statutory Budget Enforcement Act procedures, and has continued the procedure to this date. The Senate supermajority point of order against entitlement spending or revenue reductions has evolved in various forms over the last 15 years, driven in part by the swing from deficits to surpluses following the successful 1997 Balanced Budget Act. Only recently in the new 110th Congress has the House of Representatives instituted a pay-go point of order in that chamber that can be waived with a simple majority vote.

An Estimating Process—The Budget Process

On Estimates and Prognostications

One disturbing analytical observation in Professor Rubin’s essay has to do with the tax reductions enacted in 2001. Her cited source—the partisan
One of the least understood and difficult aspects of any budget process, as was apparent in the failure of Gramm-Rudman-Hollings, is the analytical challenge of estimating the future and establishing ex ante what spending or revenues would have been absent any change in policy.

Based on the most recent analysis of the nonpartisan Congressional Budget Office, legislated tax reductions contributed less than $920 billion or 25 percent to the swing from surplus to deficit during this period. Legislated spending increases accounted for $1.3 trillion or 35 percent of the swing from surplus estimates to deficit estimates. The biggest culprit, however, in the swing from surplus to deficit over this five-year period was simply the unknown “economic and technical” changes of $1.4 trillion, or 38 percent. Accepting future estimates beyond 2006, the analysis indicates that spending increases will contribute the single largest share of the move from surplus to deficit.

Rubin falls into the trap of analyzing broad aggregate budget numbers, leaving the reader with the impression that any changes in those numbers from year to year are the result of actions taken by Congress. If that were true, federal budgeting would be significantly more transparent. Even this current Congressional Budget Office analysis may be questionable given the complexities of separating the impact of economic changes from interactive legislative changes. But it seems defensible to argue that the domestic economy of today is fundamentally different from that of 1974, when the Budget Act was adopted. Furthermore, with an increasingly interconnected, global economy, events outside the control of the legislative process—for example, monetary policy in Asia or even a drought in the wheat-growing areas of Australia—can affect the domestic U.S. economy in ways that automatically change federal budget estimates.

A critical dilemma for budget prognosticators is the need to produce credible multiyear projections to inform decision makers. The dilemma for decision makers is to evaluate substantive spending and tax policies over a multiyear period, recognizing the limitations of any multiyear budget projection.

**Discretionary Spending Caps and Earmarks**

One appropriate criticism of the budget process is that it may have established rules that provide a biased starting point for the consideration of policy options for entitlement spending programs while also biasing policy proposals against revenue-reduction policies. The Balanced Budget Act established rules for extending entitlement spending programs in baseline projections.
even when the program’s authorization has expired, while the laws governing tax collections are assumed to expire in the baseline when their authorization expires. For example, the simple extension this year of an expiring $5.0 billion entitlement health insurance program for children will be built into the baseline for eternity and will only become a budgetary concern if the authorized amount is increased more than the annual $5 billion assumed current level. However, the extension of a $5 billion synthetic or biomass fuel tax credit program that expires in the tax code this year will need to be offset by cutting other entitlement programs or raising an equivalent amount of tax revenues if it is to be extended even at its current rate.

The overall impact of these procedures, necessary in part to define the starting point for any budget deliberations, has been to shift attention away from the more difficult and politically sensitive entitlement spending debate (54 percent of annual total spending) and to focus on the annual discretionary appropriations process. Additionally, with emergency designations for discretionary national security spending (see next section) removing that portion of the budget from oversight, the remaining 18 percent of all federal spending—nondefense discretionary spending—has become the executive and legislative branch’s focus for fiscal restraint.

Nondefense discretionary spending has been controlled since the 1990 Budget Enforcement Act through the use of annual spending caps, which were statutory until 2002 and subsequently enforceable by congressional rulemaking powers or through the adoption of a budget resolution. In general, measured by the rate of growth in spending in the various categories of the budget, spending caps have restrained domestic spending. Most recently, spending actually declined 1.2 percent in this category between 2006 and 2007.

But that restraint has also helped to create the issues that Rubin believes exemplify an unraveling of the process: continuing resolutions, gimmicks, contracting, reprogramming, and earmarks. If balance is the norm to be achieved, as Rubin argues, then restraining spending is one approach that, when successful, stakeholders in the process will push to maximize their share of the dwindling resource. I believe the growth of earmarks—within a constrained total spending limit—is the direct result of having established unrealistic or, more importantly, unfair limits when juxtaposed against the growth of entitlements, defense spending, and tax expenditures.

Accounting for Disasters and Uncertainties
Rubin says the loss of fiscal discipline has manifested itself in the growth of emergency spending supplements. The application of the emergency designa-

tion to avoid having spending count against the discretionary spending caps was an outgrowth of the 1990 Budget Enforcement Act, coincident with the beginning of Operation Desert Storm that year. Even during the period that Rubin defines as “unraveling,” a procedure has remained in Congress to allow for the removal of the emergency designation should it be questioned. In the Senate, if three-fifths agree that the provision meets the criteria of “sudden,” “urgent,” “unforeseen,” “unpredictable,” or “not permanent,” then, except for defense spending, the emergency designation provision can be struck from the bill, and then the entire bill would likely violate its allocation, making it subject to a bill killing point of order.

The adoption of stringent domestic spending caps over this period may have exacerbated and increased the use of emergency supplemental spending bills. Nonetheless, excluding spending as defined for Operations Desert Storm and Desert Shield, immediate spending in the aftermath of the 9/11 attacks, the devastating 2005 hurricane season, and the current global war on terrorism (Iraq/Afghanistan), annual emergency spending has averaged less than $6.5 billion—0.2 percent of total spending—since 1991, when the emergency designation became available for budget purposes. The majority of this spending was for agricultural disasters and homeland security.

Presidents and Congresses have wrestled with how to plan and budget for emergencies. Government insurance programs for floods, tornadoes, earthquakes, crop disasters, and now terrorism have been crafted to insure against risk and avoid ad hoc annual emergency appropriations, but they have only served as minor stopgaps for additional funding when the emergency hits.

The issue that Rubin has identified has more to do with funding the current global war on terrorism and the sums of money devoted to this foreign and national security policy decision. This is an issue, but it should not be the basis for concluding that the entire budget process has unraveled.

A Concluding Thought on the Process
The point of this brief review has been to argue that the process has not “unraveled” but rather has evolved. It has evolved in ways that continue to allow for the enforcement of a budget blueprint should the political will be there to do so. A country that is divided politically, reflected in an evenly divided U.S. Congress, will find it difficult to reach consensus on many controversial political and economic matters. The last two budget resolutions adopted in the U.S. Senate were adopted by a mere two-vote margin. A change in vote of just one senator would have produced a tie that
would have been broken by the vice president. A budget process that ultimately must be built on consensus is bound to suffer from the broader divisions and differences that exist outside the halls of Congress, but the process is only emblematic of that conflict, not its cause.

I agree that the budget process has evolved into a system that is understood only by a few insiders. But the federal budget is complex, made so by tax and spending legislation designed for a modern, complex global economy. Hence, just estimating federal spending and revenue under current law is challenging, let alone estimating the effects of proposed legislative changes to them. Rules and procedures do exist for enforcing unauthorized spending programs (earmarks), sometimes questionable emergency spending (disasters), and violations to discretionary spending caps and pay-go entitlement and tax programs. Those rules, however, are not self-executing. If the political will is not there to enforce the norms that Professor Rubin believes exist today—balance, inclusiveness, transparency, and predictability—then no process can be successful.

I am not as negative as Professor Rubin. Elections have consequences. A dynamic, ever-changing economy buttressed by a free, democratic government will ensure changes to the process that will ultimately strengthen the norms that Rubin advances—no different from the changes that have transpired since the country’s formation in Philadelphia in 1776.