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THE SINGLE BUDGET, SINGLE STATE FUND AND SINGLE FISCAL YEAR

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Sidney Goldmann, Chairman.

THE SINGLE BUDGET, SINGLE STATE FUND AND SINGLE FISCAL YEAR; THE PREPARATION OF THE BUDGET AS AN EXECUTIVE FUNCTION

Provisions of the present Constitution, proposed revisions of 1942 and 1944, and the "Model State Constitution"

The Constitution of New Jersey deals with state finances in four short paragraphs (Art. IV, Sec. VI, Pars. 1 to 4). The state fiscal structure is, therefore, almost entirely the product of legislation. The one constitutional provision touching on the subject of this monograph is Art. IV, Sec. VI, Par. 2:

> "No money shall be drawn from the treasury but for appropriations made by law."

The Report of the Commission on Revision of the New Jersey Constitution submitted in May 1942, recognized the deficiencies of the present Constitution. Art. VII, "Finance," of its recommended draft Constitution, provided:

> "4. All revenues of the State government from whatever source derived, including revenues of all departments, agencies and offices, except the income of the fund for the support of free schools, shall be paid into a single fund, to be known as the General State Fund, subject to appropriation for any public purpose, except that separate funds may be maintained for revenues realized from any tax levied specifically for the purpose of maintaining free public schools, for the proceeds of bond issues, earnings of self-liquidating public improvements, revenues of restricted use under or in compliance with Federal law, and revenues held in trust for retirement of the public debt, for the benefit of State or local public officers or employees or for a specific public purpose required by a private donation.
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> "5. No money shall be drawn from the State treasury but for appropriations made by law.
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> "All appropriations for the support of the State government, and for the several public purposes for which appropriations are made, shall be contained in one general appropriation bill enacted for each biennium and indicating the amounts appropriated for each fiscal period in the biennium. No other bill appropriating public money for

any purpose shall be enacted unless it shall (1) provide for some single object or purpose, (2) receive the affirmative votes of two-thirds of the membership of each house of the Legislature, and (3) together with all prior appropriations for the same fiscal period, shall not exceed the total amount of revenue available therefor."

(The mention of a "general appropriation bill for each biennium" reflects the provision for regular biennial legislative sessions recommended in Art. III ("Legislative"), Sec. I, Par. 3 of the proposed Constitution.)

In its Statement of Transmittal, the Commission had this to say about its recommended fiscal provisions:

"So long as the State's left hand is not permitted to know what its right hand is doing in a fiscal sense, the State's financial management is obviously under a severe handicap. The provision abolishing so-called dedicated funds will remedy this situation by preventing separate little treasuries for favored projects from being established, regardless of the demands of pressure groups.

"The matter of dedicated funds is related primarily to the revenue side of State government, while appropriations, also regulated by a new provision, deal with public expenditures. In order to compel careful planning of this vital matter, the Legislature is required to gather together all appropriations in a single budget appropriation bill so that the real cost of all State government will be plainly apparent."

The revised Constitution submitted to the electorate by the 168th Legislature and which was rejected at the general election held in November 1944, in substance followed the 1942 proposal. Art. VII, "Finance," Pars. 2 and 3, read:

"2. All revenues of the State Government from whatever source derived, including revenues of all departments, agencies and offices, shall be paid into a single fund to be known as the General State Fund and shall be subject to appropriations for any public purpose; but this paragraph shall not apply to moneys which may be received or held in trust, or under grant or contract for restricted use, or which must be received or held in a particular manner in order to receive a grant, or which may be payable to any county, municipality, or school district, of the State. Nothing in this paragraph shall prevent or interfere with any payment of State revenues to, or any direct or indirect collection or retention of State revenues by, any county, municipality or school district which payment, collection, or retention may be provided by law. Nothing in this paragraph shall abridge the right of the State to enter into contracts.

"3. No money shall be drawn from the State Treasury but for appropriations made by law. So far as known or can be reasonably foreseen, all needs for the support of the State Government and for all other State purposes shall be provided for in one general appropriation law covering one and the same fiscal year, except that, when change in fiscal year is made, necessary provision may be made to effect the transition. No general appropriation law or other law appropriating money for any State purpose shall be enacted if the appropriation contained therein together with all prior appropriations made for the same fiscal period shall exceed the total amount of revenue on hand and anticipated which will be available to meet such appropriations during such fiscal period, as certified by the State Comptroller."

The "Model State Constitution," prepared by the National Municipal League (Partial Revision of 1946), stresses the executive function in state budgetary procedure. It recommends that:

"Section 703. <u>The Budget</u>. Three months before the opening of the fiscal year, the governor shall submit to the Legislature a budget setting forth a complete plan of proposed expenditures and anticipated income of all departments, offices and agencies of the state for the next ensuing fiscal year. For the preparation of the budget the various departments, offices and agencies shall furnish the governor such information, in such form, as he may require. At the time of submitting the budget to the Legislature, the Governor shall introduce therein a general appropriation bill to authorize all the proposed expenditures set forth in the budget. At the same time he shall introduce in the legislature a bill or bills covering all recommendations in the budget for new or additional revenues or for borrowing by which the proposed expenditures are to be met.

"Section 704. <u>Legislative Budget Procedure.</u> No special appropriation bill shall be passed until the general appropriation bill, as introduced by the governor and amended by the legislature, shall have been enacted, unless the governor shall recommend the passage of an emergency appropriation or appropriations, which shall continue in force only until the general appropriation bill shall become effective. The legislature shall provide for one or more public hearings on the budget, either before a committee or before the entire legislature in committee of the whole. When requested by not less than one-fifth of the members of the legislature it shall be the duty of the governor to appear in person or by a designated representative before the legislature, or before a committee thereof, to answer any inquiries with respect to the budget.

"The legislature shall make no appropriation for any fiscal period in excess of the income provided for that period. The governor may strike out or reduce items in appropriation bills passed by the legislature, and the procedure in such cases shall be the same as in case of the disapproval of an entire bill by the governor.

"Section 705. Expenditure of Money. No money shall be withdrawn from the treasury except in accordance with appropriations made by law, nor shall any obligations for the payment of money be incurred except as authorized by law. No appropriation shall confer authority to incur an obligation after the termination of the fiscal period to which it relates. The governor shall have authority to reduce expenditures of state departments, offices and agencies under appropriations whenever actual revenues fall below the revenue estimates upon which the appropriations were based and through allottments or otherwise, to control the rate at which such appropriations are expended during the fiscal year, provided that the legislature may exempt specific appropriations from the exercise of this power by the governor."

The Single Fiscal Year

New Jersey's more recent experience with a single fiscal year dates from 1944. Beginning with 1923 there had been two fiscal years in state affairs - the calendar year of the Highway Department and the July 1-June 30 fiscal year of the rest of the State Government.[1]

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1. The material which follows, covering the period to 1942, is taken from "The Organization and Administration of the New Jersey State Highway Department," by Sidney Goldmann and Thomas J. Graves, 1942. Chapter IV is a definitive study of the fiscal administration of the State generally and the Department in particular.

When the Highway Department was first created in 1917 its fiscal year was the same as the other state departments and agencies - November 1 to October 31.[2] The fiscal year of the State was changed in 1918 to cover the period from July 1 to June 30,[3] and the highway fiscal year changed with it as a matter of course. But in 1922 the Legislature made the calendar year the fiscal year of the Highway Department, beginning January 1, 1923.[4] This provision was continued in the 1927 act revising the highway system, as well as in the Revised Statutes of 1937.[5] Highway officials strongly opposed any suggestion or legislation that would have made the Highway Department fiscal year conform to the general one.[6]

A full-dress rehearsal of all the arguments for and against the setting up of a single fiscal year was afforded in the course of the public hearing held March 21, 1940, on Assembly Bill No. 116, sponsored in the 1940 Legislature by Assemblyman Jacob S. Glickenhaus, who proposed a general fiscal year (July 1-June 30) for the entire State Government.[7] Highway officials argued that the change would seriously interfere with the Department's Spring highway programs, and that it would throw local government budgets and highway

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2. P. L. 1917, c. 14, s. 18

3. P. L. 1918, c. 144

4. P. L. 1922, c. 161, amending P. L. 1917, c. 14, s. 18

5. P. L. 1927, c. 319, s. 117; R.S. 27:1-11

6. See, for example, Minutes of the Abell Commission, 1929-1930, New Jersey State Library, typewritten transcript, Sept. 9, 1930, p. 48; and statements made at the Glickenhaus hearing, post, pp. 35, 39 and 41, by the then State Highway Commissioner, Highway Engineer, and General Solicitor.

7. Hearing on Assembly Bill 116, March 21, 1940; stenographic transcript, Office of the Commissioner of Taxation and Finance.

plans into confusion because counties and municipalities were also on a calendar year basis and depended on appropriations from the Highway Fund (then a separate fund) as State aid for road construction, repair and maintenance.

State Comptroller Frank J. Murray, who during his five years in office had consistently recommended to the Legislature, and especially in his annual reports, that appropriations from the State Highway Fund be put on the same fiscal year as those from the General State Fund, could see no controlling reason for not making the change. All it involved was that for the first year revenues and expenditures from the Highway Fund be appropriated for 18 instead of 12 months. Thereafter the Appropriation Bill would be for a 12-month (July 1-June 30) period. As it was, the two different fiscal years made it "impossible to make an accurate, complete, unqualified and satisfactory statement or report of the State's fiscal operations."[8]

As had previously been pointed out publicly and privately on many occasions, the Glickenhaus hearing also noted that a change to a uniform fiscal year was to be favored for two important reasons. In the first place, "it will eliminate the present confusion which now (1940) exists under two separate fiscal year set-ups within the State government, and will pave the way for a much more simplified accounting procedure, which should assure a clearer and more comprehensive picture of State finances to our legislators, our State officials, and to the public." Further, "it will pave the way toward giving the State a more effective control over the fiscal and spending activities

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8. Ibid, pp. 4-8

of its largest service unit (the Highway Department)."[9]

This change had repeatedly been advocated over a period of years by high state finance officials[10] and by various commissions and agencies that had studied the problems of the State Government.[11] Governor Charles Edison had pressed for the change.[12]

In 1940 there were 21 states whose highway departments operated on a July 1-June 30 fiscal year uniform with that of the other state agencies. These departments had found no difficulty under the arrangement in planning and carrying out their programs.[13] The entire Federal Government, including the Public Roads Bureau, operates on a July to June basis, and federal aid allotments to the several states for highway work, health, education and other activities, are not available until the beginning of the federal fiscal year.

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9. Ibid, p. 16

10. Ibid, p. 4 (State Comptroller Murray); pp. 8 and 9 (State Treasurer William H. Albright, who stated that it would "greatly facilitate work in the offices of the State Comptroller and State Treasurer"); pp. 10 and 11 (Finance Commissioner Bernard Lamb: "Much of the legislative confusion that has prevailed in New Jersey for the past five years in my opinion has resulted from misunderstanding caused by the State having different fiscal year periods. I am convinced that this legislative confusion has worked to the economic and social disadvantage of every citizen in our State."); and Finance Commissioner Lewis Compton, Report to the Governor, Oct. 1, 1941.

11. National Institute of Public Administration, Report on a Survey of the Organization and Administration of the State Government of New Jersey, 1930, p. 263; N. J. Taxpayers' Assn., platform adopted at Sixth Annual Business Meeting, Dec. 4, 1936; Glickenhaus hearing, supra, p. 33; N. J. Chamber of Commerce, Glickenhaus hearing statement, pp. 14-28. The Princeton Survey (Princeton University, School of Public and International Affairs, Report on a Survey of Administration and Expenditures of the State Government of New Jersey, 1932), pp. 42-43, stated that the existence of two fiscal years was confusing and made it difficult to obtain a reliable sum for the total State expenditures in a given fiscal year period.

12. Budget Messages, Jan. 19, 1942, p. VIII; Jan 18, 1943, p. VI

13. Glickenhaus hearing, supra, pp. 21-23

The Goldmann-Graves highway report of 1942, from which the above material is taken, strongly recommended that the Highway Department fiscal year be made uniform with that of the rest of the State Government.[14]

The proposal for a single fiscal year found wide and reasoned support in the hearings before the Joint Legislative Committee of 1942 which considered the Report of the Commission on Revision of the New Jersey Constitution (Hendrickson Commission). Speaking on Article VII, "Finance," of the revised Constitution proposed by that Commission, Spencer Miller, State Highway Commissioner, said:[15]

> "There will be minor inconveniences in making a change from the present system to any new system which may be adopted. But those inconveniences will cease when the change has been effected, and they are insignificant in comparison with the continuing inconveniences resulting from the present system. Take for example the need for the uniform fiscal year. Admittedly, there will be a period of adjustment, during which both the highway department itself and county and municipal officials responsible for administering State aid will have to become used to new ways of doing things. Is it unreasonable to assert that New Jersey could and would adjust to a system that has been found feasible in twenty-one other States of the Union? This is especially so when we reflect that under the present system the highway appropriations act is seldom passed until near the middle of the year for which it provides. With a biennial budget there would necessarily be one whole year in which there could be no doubt about what a county or municipality would have to spend. It is the conclusion of Goldmann and Graves that it would be perfectly feasible to make appropriations for State aid to counties and municipalities half a year ahead and to finance local activities during the next two full calendar years."

Others supported the same position.[15a]

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14. Op. cit., p. 167

15. Record of Proceedings before the Joint Committee of the New Jersey Legislature ...... to Ascertain the Sentiment of the People ...... for change in the New Jersey Constitution, 1942, p. 401-2.

15a. Ibid, State Comptroller Homer Zink, p. 411, and Alcoholic Beverage Commissioner, now Governor, Alfred E. Driscoll, p. 421.

In 1944 the Legislature, carrying out the program recommended by Governor Walter E. Edge in his Inaugural Message,[16] amended R.S. 27:1-11 and placed the Highway Department on the July 1-June 30 fiscal year used by the rest of the State Government.[16a] Statements current at the time were to the effect that the new arrangement would be unworkable and incapable of being carried out. Experience since then has demonstrated that a uniform fiscal year can operate successfully and without confusion, that it gives a clearer and more comprehensive picture of state finances, and that it provides a more effective control over the fiscal operations of the government, as had been contended in the course of the 1940 Glickenhaus hearing.

The Federal Government and 41 of the 48 states have a fiscal year beginning July 1. Of the remaining seven states, three begin on April 1, and one each on January 1, June 1, September 1 and October 1. There seems to be no question as to the advantage of a single fiscal year, but the periods covered should be fixed by statute rather than by constitutional provision. New Jersey, as has been the experience of other states in the past, particularly New York, may some day find it advisable to change the period of her fiscal year. A study of other state constitutions reveals that where the fiscal year date is fixed by constitutional directive, there is usually a saving clause, "unless otherwise provided by law." The 1944 proposed

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16. Journal of the Senate, 1944, p. 54. See, also, his first Budget Message, Feb. 7, 1944, p. VI.

16a. P. L. 1944, c. 159. See, also, P. L. 1945, c. 33, s. 3, which provided for a single budget, single State Fund, single appropriation act and single fiscal year.

revised constitution quoted above provided for a single fiscal year, "except that, when change in fiscal year is made, necessary provision may be made to effect the transition."

The Single State Fund

New Jersey's system of dedicated funds had for many years been a target of criticism by those interested in bringing fiscal order into state affairs. The so-called "Bright Commission" in its Report of December 9, 1925, spoke of this system as "the greatest single evil in the administration of the finances of the State." It summarized the indictments against special funds as follows:[17]

> "(1) They are largely responsible for the intricate and confusing financial reports and accounting procedure.
> "(2) They place restrictions upon the Legislature in the expenditure of State moneys.
> "(3) Many of them represent a clumsy way of doing or trying to do what the budget should do and can do--that is, the assigning of money to State activities on the basis of proved needs.
> "(4) Endowment funds are responsible for the tieing up in securities of the taxpayers' money which could be better employed.
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> "In the final analysis, the special fund system is incompatible and irreconcilable with a thorough budget system and seriously impairs the desired effectiveness of the budgetary control of expenditures."

The Commission recommended the abolition of the numerous special funds, including the State Road (later Highway) Fund.

The "Abell Commission" created by the Legislature, in its 1930 report, likewise pointed out that dedicated funds meant that the annual Budget Message "did not review the complete fiscal situation nor embrace

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17. Report of the Joint Legislative Survey Committee of New Jersey, 1925, pp. 83, 87 ff. and 98.

the entire fiscal policy," and that the Legislature, in turn, reviewed and passed on only part of the annual expenditures.[17a]

The long debated issue of a single State Fund versus dedicated funds found its reflection in the hearings before the 1942 Joint Legislative Committee which considered the report and recommended revised Constitution submitted by the Hendrickson Commission. State Highway Commissioner Miller, the first of the proponents of Article VII of the Commission draft to speak, declared:[18]

> "Report after report has declared that the present complicated system of dedicated revenues, continuing appropriations, diverse and overlapping administrative controls, together with the two fiscal years which prevail in the State Government, make it utterly impossible either to get a true picture of the financial condition of the State or to secure sound planning and responsible administration of public spending. Among the by-products of this condition have been wasting of public funds, inadequate support of essential public functions, and doubt among our citizens about the propriety and even the honesty of much of our public spending. I regret to say that some of this doubt has been directed toward the activities of the highway department in the past. This fact alone makes it important that this and all other departments of the State Government be put on the same footing as to their source of revenue, the control of their expenditures, and accountability for their actions ....
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> "The most serious objection to a dedicated revenue in the judgment of students of Government is that it tends to create a vested interest in continuing arrangements, which experience and lapse of time may prove to be contrary to the public interest. Even if there be at first a proper relation between the proceeds of a given tax and the need for expenditure for a given service, there is no reason to assume that that relationship will continue to exist. Experience demonstrates that once a dedicated fund has been set up, it is extremely difficult to deal with it on its merits. If a revenue proves to be greater than is needed, it is likely to encourage improvident expenditure for the particular function, merely because of the supposedly equitable connection between the revenue and the function. This may mean either that an inordinate tax is perpetuated or that some public services languish while others flourish in extravagance. On the other hand, the purpose

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17a. Report on Audit of the Financial Affairs of the State Government of New Jersey, p. 9.

18. Report of Proceedings before the Joint Committee, supra, pp. 401-402.

for which the fund is dedicated may not be fulfilled if revenue fails to keep pace with need."

Russell Watson, Vice-Chairman of the New Jersey State Chamber of Commerce, was equally critical of the dedicated fund system of New Jersey:[19]

"The vice of the system of dedicated funds as it has obtained in New Jersey for a long, long while is that certain revenues are dedicated to certain specific purposes, regardless of the State's resources and regardless of its needs and requirements. Under this system the State might have more money than is needed in a particular dedicated fund and yet be rather hard put to it for money for essential governmental services. No private business practices such a system, or could long survive under it. It seems to us that the sound principle is that all of the State's revenues and resources should be pooled in one fund and dedicated according to the supply and according to the need. The system of dedicated funds has created a State fiscal situation—and I think the members of the Committee will bear with us that we have tried to be at these hearings conservative in our statements—but with respect to this system of dedicated funds against which our organization has been for so long, it seems to us that the present situation as it has existed for the last few years, is nothing short of scandalous, and that is one of the strongest terms we have used.

"The Annual Report of the Comptroller for the year ended June 30, 1941, at pages 96 and 97, lists 37 dedicated funds, which at July 1, 1940, had aggregate balances of $44,000,000. I use round figures. These 37 funds had receipts during the fiscal year ended June 30, 1941, of $123,500,000; a total at the end of the year of $167,000,000, of which, during the year, were expended $129,500,000, leaving aggregate balances at June 30, 1941, of $38,000,000. These figures indicate how large a piece of the State's financial pie dedicated funds have come to be.

"An expert researcher in this subject, who recently studied the subject of dedicated funds, found that if the professional boards were separately listed and if certain revolving and certain State-Federal funds were included, which are not among these 37, the number of dedicated funds would be 58. Whether the correct number be 37 or 58, the principle and the vice are the same. The viciousness of this system is self-evident."

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19. Ibid, p. 405, and see his references to similar criticisms made in the 1932 Princeton Survey, on pp. 406-7.

Others spoke in similar vein, urging the abolition of the dedicated fund system and the adoption of the single fund proposal in the revised Constitution of 1942.[20]

The proposal was opposed by a number of speakers, among them representatives of the Highway Users Conference, Motor Fuel Industry, and freeholder boards, licensing boards, and those interested in the allocation of the gross receipts tax, second-class railroad tax and other funds dedicated to counties and municipalities.[21] The main argument was made by Frederick Petry, Jr., Vice-President of the New Jersey Highway Users Conference:[22]

> "There is good reason and established precedent for the approved governmental practice of segregating special and trusteed highway funds from the general funds. Car and truck owners in New Jersey pay local and State property taxes and all the regular levies, and then in addition pay the gasoline tax and motor vehicle fees. In the fiscal year ending in 1941 the motor fuel and motor vehicle taxes in New Jersey accounted for not quite 50 per cent of all State tax collections. In normal times well over 50 per cent of this group's driving was for essential purposes....
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> "When these taxes are levied, the State enters into a relationship with the motorist and truck owner taxpayers quite similar to the function performed by the trust department of a bank. The State undertakes to act as trustee in guaranteeing that the money will be invested in and expended only for highways. When the money is collected, like all other special and trusteed funds, it logically must be kept separate and distinct from the general funds. Whenever such special funds are diverted into the general fund the practice can only be classed with the diversion of assets from a trust fund into the general funds of a bank. Even if the general fund were operating at a deficit, which is hardly the situation developing in New Jersey, there is no justification for such diversion. Whenever a banking institution becomes involved in serious operating difficulties and faces a deficit, the responsible officials are not relieved of the legal responsibility

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20. Ibid, e.g., pp. 409, 411-12 (State Comptroller Homer Zink), 413-15, 421-22 (then A.B.C. Commissioner Alfred E. Driscoll), 423.

21. Ibid, pp. 455-70; and briefs 472-88.

22. Ibid, pp. 456-57.

of maintaining separate sets of accounts for the special funds. Even though the bank might fail completely, the integrity of trusteed funds is protected by law. And so it should always be with special highway revenues paid by a minority of the citizens.

"It is for this reason that in recent years, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Missouri, Nevada, New Hampshire, North Dakota, and South Dakota have amended their Constitutions to prohibit the diversion of highway funds. For all intents and purposes, sixteen other States, Arizona, Arkansas, Connecticut, Delaware, Iowa, Maine, Mississippi, Montana, Oklahoma, Oregon, South Carolina, Utah, Vermont, Virginia, West Virginia, and Wyoming, retain revenues from their motorists for highway purposes. Twenty-seven of our States have taken definite action to protect highway funds. Against this sound and beneficial practice, New Jersey led all other States in percentage of diversion in 1939. And in 1940 diversion in New York, New Jersey, Pennsylvania, and Ohio alone accounted for over half of the highway funds thus mishandled."

The Goldmann-Graves report on the New Jersey Highway Department, 1942, dealt particularly with the Highway Fund, described as "the largest of the many dedicated funds that turn the State's financial picture into a tortured maze of figures which only the initiate may venture to negotiate."[23] The fund was first mentioned by name in the 1931 act providing for a state budget system,[24] but the idea of a dedicated fund for highway purposes, the report points out, was then 35 years old.[25] Chapter 331 of the Laws of 1927 had dedicated certain revenues, including the two cents per gallon motor vehicle fuels tax imposed under P. L. 1927, c. 334, federal aid funds, and revenues derived from motor vehicle registrations and drivers' licenses, to state highway purposes, and was then still on the statute books. The report then went on to say:[26]

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23. Op. cit., pp. 181-190.

24. P. L. 1931, c. 142, s. 18; as amended by P. L. 1933, c. 193 and C. 451; P. L. 1935, c. 36 and P. L. 1938, c.13.

25. P. L. 1906, c. 113; and see P. L. 1912, c. 396; P. L. 1917, c. 15 and P. L. 1927, c. 331.

26. Op. cit., pp. 182-186.

"The abolition of the State Highway Fund, as well as all permanently dedicated funds, and the payment of all revenues into the general State treasury, has been urged again and again in the strongest possible terms.[28] The recommendation has been opposed with the utmost vigor and ingenuity.

"One of the rallying points of the opposition has been the argument that the Highway Fund is derived almost entirely from motor fuel taxes and motor vehicle fees originally earmarked for highway purposes. They claim that these revenues should continue to be earmarked and kept separate from all other revenues. The gasoline tax was referred to as 'sacred money' by the President of the State Freeholders' Association and the State Farm Bureau during the course of the hearings on the 1940 Glickenhaus Bill mentioned above. He spoke of the Highway Department as being 'a department unto itself,' and expressed the fear that if a single treasury were created, counties and municipalities would have to engage in 'a grand budget scramble' with other State agencies in order to get their road funds.[29]

"The State Highway Commission, answering the findings and recommendations of the Princeton Survey, recommended that motor vehicle fees and gas tax funds continue to be dedicated to highway purposes by the Legislature.[30] The American Petroleum Industries Committee has consistently and openly opposed abolition of dedicated highway funds over a period of years. It maintains that motor vehicle and motor fuel taxes are levied on the theory of benefit to the highway users, and compares these revenues to special trust funds to be spent only on highways.[31] The National Highway Users Conference has also carried on a campaign for dedicating motor fuel taxes and motor vehicle fees exclusively to highway purposes.[32]

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27. R. S. 52:22-20 (i).

28. National Institute of Public Administration Report, op. cit., pp. 15, 58 and 59; Princeton Survey report, op. cit., pp. 11, 39, 40, 44 and 46; Report of the Commissioner of Finance to the Governor, 1941 (mimeo.); N. J. State Chamber of Commerce, "State Fiscal Reform," Bulletin No. 15, 193

29. Glickenhaus hearing, supra, pp. 54-63.

30. "Statement of the State Highway Commission on the Princeton Report," Jan. 30, 1933, typed mss., Recommendation No. 7.

31. Tax Economics Bulletins, Vol. IV, No. 3, June 1939, and Vol. IV, No. 11, February, 1940.

32. "Dedication of Special Highway Revenues to Highway Purposes," published by the Conference in 1941, presents a complete brief for the dedicated fund.

"Those who champion the dedicated highway fund--highway officials, local government officials, farmers' organizations, the automobile and petroleum industries, dealers in highway materials, road contractors, and many others (in all, a very large and influential group by any standard)--concentrate their fire on the evils of what they call 'diversion.' One general treasury, they say, means that funds collected from highway users may go to other governmental purposes. This will result in all sorts of dire consequences, ranging from roads falling into disrepair and defense roads going unbuilt, to double taxation and the encouragement of higher taxes.[33] Those behind the movement to preserve the dedicated highway fund urge constitutional amendments to effectuate that end.[34]

"A few of the arguments advanced for a dedicated highway fund have some merit to them, especially in the case of a State which has not yet completed the main web of its highway system. Such are the States of the Middle West, West and South, with their wide areas, predominantly rural populations, and road systems projected at a relatively late date. New Jersey does not belong in their category.

"Most of the reasons advanced for the dedicated highway fund lack a valid basis and are without essential merit. They are strictly the arguments of special pleaders who are only too ready to disregard the fundamental realities of the whole issue.

"The Princeton Survey report put the argument against dedicated funds in perhaps its strongest form: '<u>It is not proper that any unit of government should live to itself alone. Each one is a part of a vast machine operating for the benefit of the people as a whole</u>. It is unthinkable that any agency should be allowed to spend all it can collect, while another agency, relying upon

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33. <u>Ibid</u>, pp. 3 and 8.

34. See, for example, the resolution adopted by the American Automobile Assn. at its Nov. 31, 1944 meeting at Chicago. The National Highway Users Conference lists the following 16 states as having constitutional anti-diversion amendments (as of Jan., 1945): Cal., Art. XXVI; Col., Art. X, Sec. 16; Idaho, Art. VII, Sec. 17; Iowa, Art. VII, Sec. 8; Kan., Art. XI, Secs. 5 and 10; Maine, Art. IX, Sec. 22; Mich., Art. X, Sec. 22; Minn., Art. XVI, Sec. 3; Mo., Art. IV, Sec. 44a; Nev., Art. IX, Sec. 5; N. H., Art. VIa; N. D., Art. LVI; Ore., Art. IX, Sec. 3; S. D., Art. XI, Sec. 8; Wash., Art. II, Sec. 40; W. Va., Art. VI, Sec. 52. Kentucky should be added, a proposal for such an amendment having carried there. The arguments in Kentucky, as well as in Vermont where an amendment did not carry in 1940, are much the same as those presented at the 1942 Joint Legislative Committee hearings.

specific appropriations, starves its essential services. Only by the merest accident can the needful expenditures of a department coincide with its receipts from particular fees or taxes. The single factor in determining what a department is to be allowed to spend should be the public value of its services.' The system of permanently dedicated funds may have been reasonable in some past day, but its continuance 'has become an illogical if not impossible policy.'[35]

"As long as dedicated funds continue—particularly one the size of the State Highway Fund—a unified system of expenditure control cannot be achieved. Their existence breaks the financial resources of the State into a series of self-contained compartments so that it becomes impossible for the State to 'mass its fiscal resources and direct them to points at which they are most needed.'[36]

"One recognizes, of course, the existence of the constitutional provision requiring the Legislature to specify the ways and means by which the principal and interest of State bonds are to be met.[37] In this sense, and to this extent, it is impossible to avoid a certain amount of 'dedication' of revenues. But beyond that the whole system of dedicated funds is open to attack. Such a system means that State money is held in escrow, beyond full control of the Governor and the Legislature. It means the fragmentation of the fiscal program and policy of the State.

"One naturally assumes that when motor vehicles fees and motor fuel taxes are collected from highway users, a good part of these revenues will go for highway purposes. But this does not mean that such revenues must definitely and irrevocably be dedicated to the State Highway Fund, where they will remain completely segregated from the rest of the State revenues. An appropriation for the highway needs of the State can quite readily 'be related to the revenue derived from the object that it serves, without an inflexible law permitting no other use of that revenue.'[38]

"The New Jersey Legislature has been faithful to the State Highway Fund after its own fashion. It has annually dedicated revenues from motor vehicle fees, the motor fuels tax and other sources to highway purposes, and then unhesitatingly proceeded to appropriate very large amounts of these revenues having no relation whatsoever to the highway function."

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35. Op. cit., pp. 11 and 192. Italics supplied.

36. Ibid.

37. N. J. Constitution, Art. IV, Sec. VI, Par. 4.

38. N. J. State Chamber of Commerce, "State Fiscal Reform," supra, p. 3.

The report then summarized the purposes and amounts thus appropriated for the decade 1931-40, totalling over $80,000,000. In 1941, $11,572,271 additional, or 19.5% of the total funds available to the State Highway Fund, was appropriated for non-highway purposes. The large sums appropriated for purposes considered by the Legislature and some members of the Highway Department as "related" to highway work, are also mentioned. They totalled over $12,700,000 in the 1931-40 period and almost another $1,000,000 in 1941.[39] The authors of the report conclude on this note:

> "In the face of all this one may well ask why the fiction of a dedicated State Highway Fund should be kept alive. The Legislature has by its own repeated action shown that highway needs, in the words of the Princeton Survey report, can 'no longer be determined separately, as though the function of providing highways were sacrosanct and unchangeable, regardless of the need for all other services of the State.'[40]
>
> "The Legislature has been accused of inconsistency and deception in dedicating various revenues to highway purposes and then appropriating these very funds to relief, inland waterways, State institutions and educational aid. It can escape that charge by taking the logical, constructive step of abolishing the State Highway Fund and directing that all revenues now dedicated to the fund be paid directly into the General State Fund. From this single fund the Legislature would annually appropriate such amounts as it might determine should go to each of the State agencies after a careful study of their needs and all attending factors. There can be little doubt that in the case of the Highway Department, one of these factors is bound to be the amount realized from the revenues now dedicated to the Highway Fund. The sum that will be spent annually by the State on highways will in large measure reflect the yield from highway user fees and taxes.
>
> "The past decade has made it quite clear that modern government has become too complex, its functions too numerous and varied, to allow of the continuance of a 19th century institution like the dedicated fund. The only proper and sound basis for fiscal operations today is the single general State fund.[41] The

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39. Goldmann and Graves, pp. 188-89; and see Schedules 2 and 2-A at p. 188.

40. *Op. cit.*, p. 191.

41. It has been observed that state laws require municipalities to consolidate into one fund all municipal purpose tax receipts and other revenues. The argument is that what is good for municipalities--creatures of the State--should be good for the State itself.

elimination of the State Highway Fund—in fact, the elimination wherever possible of all dedicated revenues and segregated funds—will lay the foundation for an improved administration of State fiscal affairs. Better budgeting, a more unified and effective control of expenditures, a simplified accounting procedure, and a clearer, more complete picture of State finances, will be the result.

"It is recommended that the State Highway Fund be abolished and all revenues previously dedicated to the fund be paid directly into the general treasury of the State. All receipts of the State Highway Department (as, for example, from sales of condemned property, road permit fees, collection of claims, and highway services), should likewise go into the general State fund. Finally, all unexpended and uncommitted balances of the Department should lapse into the general treasury at the close of the fiscal year."

Many of the arguments advanced in the extensive quotations just made apply with equal force to any dedicated fund.

In 1943, Governor Edison suggested the advisability of a single fund,[42] but no legislative action was taken. This fiscal reform was urged by many who appeared before the Joint Legislative Committee which sat in 1944 to draft a revised Constitution for submission to the electorate (Art. VII, Par. 2, quoted above). The arguments for and against creating one State Fund were much the same as in 1942.

Revision failed in 1944. Governor Edge at once took up the fight for fiscal reform. His Annual Message of January 9, 1945,[43] strongly urged the establishment of the single fund. His Budget Message of January 15th following was even stronger.[43a] It declared that "sound state fiscal policy and practice require that there be a uniform fiscal year (already achieved under

42. See, for example, Budget Message, Jan. 18, 1943, p. XIII.

43. Minutes of the Assembly, 1945, p. 29.

43a. Pp. XX and XXI.

P. L. 1944, c. 159), a single state fund and a single budget which requires only one general appropriation act." The existence of a $50,000,000 State Highway Fund side by side with the General State Fund had

> "resulted in unbalanced services and administrative organization, complicated accounting procedures and a confused and incomplete picture of State finances. It has also made it necessary to engage in fiscal gymnastics to keep accounts orderly as between the two funds....
>
> "Modern government has become too complex to allow the continuance of separate funds like the Highway Fund. The concept of such a separate fund connotes that the Highway Department is, in effect, a government unto itself, instead of being part of an integrated State administrative system.... As long as a separate fund of the size of the Highway Fund exists there must be a fractionalization of the fiscal program and policy of the State....
>
> "A single State Fund will make for better budgeting, a more unified and effective control of expenditures, simplified accounting procedure, and a clearer, more complete picture of State finances...."

The Legislature moved quickly on the recommendation and passed Chapter 33 of the Laws of 1945, providing for a single budget, a single General State Fund and one general Appropriation Act covering one and the same fiscal year.

The Single State Budget

Prior to the passage of P. L. 1945, c. 33, just cited, there was no single budget covering recommended appropriations to be made from state revenues to meet the costs of all State Government activities, and there was no single Appropriation Act. The situation, as must be apparent, was due to the complete fiscal independence of the State Highway Department. It still presented its own separate budget, and appropriations for its work were the subject of a separate act.

The Goldmann-Graves report gives the complete background of the situation existing in 1942—a situation which continued until 1945.[44]

"Highway moneys were not included in the so-called State budget under the 1916 act first establishing a budget system for the State.[45] The budget message that the Governor was required to send to the Legislature each year contained no reference to highway expenditures. These were budgeted exclusively by the Highway Commission, without executive check or legislative approval. The Abell Commission report of 1930 criticized the entire arrangement in recommending a complete revision of the budget making procedure. Among other things, it was proposed that all agencies and all funds of the State government be budgeted; 'highway expenditures should be included in the budget presented by the Governor to the Legislature; otherwise some $30,000,000 of the State's annual expenditures are unaccounted for in the financial plan.'[46]

"One of the direct results of the Abell Committee investigation was the enactment of P. L. 1931, c. 142, providing for a budget system directed by a State Budget Commissioner appointed by the Governor. State agencies were required to file their requests for appropriations with the State Budget Commissioner on forms to be furnished by him. He would certify and transmit these requests, with his findings, comments and recommendations thereon, together with a report of the financial condition and operations of the State (as of June 30 last preceding) prepared by the Comptroller, to the Governor on or before December 31. After examining and considering the requests for appropriations, as well as the findings and recommendations of the Budget Commissioner the Governor would formulate his budget recommendations and transmit them to the Legislature in a budget message which contained certain required information. The Legislature would then proceed to consider the budget message and finally pass the annual appropriation bill.

"The State Highway Department managed to keep itself out of this revised pattern of budget procedure. All that the 1931 act required of it was that the State Highway Commission annually submit a report of the work, operations and financial condition of the Department for the current year (projected to December 31), directly to the Governor on or before December 1. At the same

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44. Goldmann and Graves, op. cit., pp. 190-194.

45. P. L. 1916, c. 15.

46. National Institute of Public Administration report, op. cit., pp. 50 and 263.

time, the Commission was also to submit a schedule of the estimated anticipated revenues available for highway purposes during the ensuing calendar year, together with a schedule and program for which it proposed to expend such funds, drawn up according to purposes, routes and sections of routes. The Governor was to review the schedule of anticipated revenues and the program, and upon his approval the program was to become the established program for State highway work for the next calendar year, and control the administration of the funds. The Governor was required to include a synopsis of the Highway Commission's revenues, and the schedule and program that he had approved, in his budget message to the Legislature.[47]

"Under the 1931 act, therefore, neither the expenditures nor the revenues of the Highway Department were included in the State budget, and this despite the announced intent of the act, which was 'to provide for the budgeting or scheduling of all State revenues and expenditures.'[48] The Governor had about one month to analyze and approve a highway program which had involved as much as $40,000,000 in recent years. The Legislature, whose action has always been deemed an essential part of a good budget system, was by-passed entirely. All it received was the synopsis contained in the Governor's budget message.

"The Department still maintained its independent position, with its separate fiscal year, its dedicated funds, and its separate budget. It is true that the 1931 act gave the Governor some financial supervision over the Department where he had had none before, but the control was only partial.

"The Princeton Survey report called attention to some of the weaknesses of the 1931 Budget Act, particularly in the provisions relating to the Department, and recommended a single budget for all State agencies. Like other budgets, the highway budget was to be submitted to the Governor for transmission to the Legislature and be effective only when approved by that body.[49]

"The Department opposed this recommendation. Answering the Princeton Survey report, the State Highway Commission indicated that the 1931 Budget Act provisions were adequate to meet the situation; the synopsis of highway revenues and of the approved schedule and program contained in the Governor's budget message gave the Legislature the highway budget for the year.[50]

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47. P. L. 1931, c. 142, s. 18.

48. P. L. 1931, c. 142, s.1.

49. Op. cit., pp. 16, 39 and 192.

50. Statement by the State Highway Commission on the Princeton Report, supra.

"The Princeton Survey recommendations regarding budget procedure found partial reflection in several amendments to the 1931 Budget Act passed by the Legislature in 1933. The intent of the act was now declared to be 'to provide for the budgeting of all State revenues and expenditures, whether or not they involve free treasury funds or prededicated funds.' The ultimate purpose was 'to afford legislative control over the expenditure of dedicated funds as well as free treasury funds, and to provide a comprehensive budget of all State funds.'[51] The State Highway Commission was required to submit a schedule of estimated anticipated revenues available for highway purposes during the ensuing calendar year, as well as the schedule and program for which it proposed to expend such funds, to the Governor before October 15 annually. After reviewing this material, the Governor was to formulate his budget recommendations and submit them to the Legislature at the same time that he submitted the regular budget message for the other State agencies. The Legislature was then to pass a separate appropriation act, to be known as the State Highway Fund Appropriation Act.[52]....

"The immediate observation to be made is that the 1933 amendments, representing a long step forward in State budgeting, still failed to do what seemed so clearly indicated. Instead of requiring Highway Department expenditures to pass through the regular State budget, the Legislature authorized the creation of an entirely separate arrangement. It would seem that the Legislature would have seized upon the opportunity of setting up a simple, unified State budget system. Instead, it gave its blessing to one of the strongest of all divisive forces in State fiscal affairs--a separate highway budget.

"Those who have had to work with two different budgets have consistently advocated the need and advisability of a single State budget and a single appropriation act.[53] Such an arrangement is possible even with the continuance of dedicated funds, as witness the expenditures for educational purposes from railroad tax revenues, made in accordance with the general Appropriation Act. If the Legislature is to carry out its announced purpose of providing 'a comprehensive budget of all State funds'[51] it should carry to a reasoned conclusion the

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51. P. L. 1933, c. 293, s. 1, amending P. L. 1931, c. 142, s. 2, R. S. 52:22-2.

52. P. L. 1933, c. 193 and 451, amending P. L. 1931, c. 142, s. 18, R.S. 54:22-2(

53. See, for example, the statement of State Comptroller Murray at the Glickenhaus hearing (Note 8, supra) and Report of the Commissioner of Finance to the Governor, 1941.

54. Op. cit., pp. 50 and 263. See also Note 17a.

budget system started over a decade ago and improved in 1933. One budget and one appropriation bill covering all revenues and all expenditures for the same fiscal year will at last give New Jersey a basis for operations that will meet the requirements of fiscal administration in the modern State."

As noted in the report just quoted, the lack of a single state budget had been strongly criticized by two previous definitive studies of state fiscal procedure, the 1930 National Institute of Public Administration report[54] and the 1932 Princeton Survey report,[55] as well as by fiscal authorities.

Those who supported the recommendation for a single fiscal year and single state fund before the 1942 Joint Legislative Committee considering the Hendrickson Commission draft Constitution logically and inevitably championed the proposal for a single state budget and appropriation act.[56] There was similar support given before the 1944 Joint Legislative Committee.

In his Budget Message of 1945, Governor Edge called attention to the announced intention of the Legislature of 1933 in enacting Chapter 293 of the Laws of that year—"to provide for the budgeting of all State revenues and expenditures whether or not they involve free treasury funds or prededicated funds," the ultimate purpose being "to afford legislative control over the expenditure of dedicated funds as well as free funds, and to provide a comprehensive budget of all State Funds." He indicated that the 1933 legislation had not, however, resulted in a single budget because of the Highway Department situation. He called for "necessary legislation providing

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55. Op. cit., pp. 16, 39, 192.

56. Record of Proceedings....1942, op. cit., pp. 401, 406, 410, 417, 421 and 423. For a contrary view, pp. 443-45, 450.

for one budget and one general appropriations bill covering all revenues and all expenditures for a single fiscal year."[57] The result was the enactment of Chapter 33 of the Laws of 1945, so providing.

The Budget as an Executive Function

The conception of "the state budget" changed greatly in the past two decades. The term has successively meant:

> "(a) a schedule of proposed expenditures;
>
> (b) a document showing an estimate of anticipated revenues and expenditures;
>
> (c) a plan for preventing fiscal irregularities, involving estimates of revenues and expenditures by the executive, approval by the legislature, and execution by the administration; and finally,
>
> (d) a comprehensive and flexible financial plan emphasizing positive executive assistance to revenue collecting and to spending agencies in the economical management of functional activities and stressing the general, rather than merely the fiscal, control possibilities of budgeting."[58]

The same writer goes on to say that although some states have yet to advance beyond the initial stage, several have in recent years made definite forward steps. "Aside from defects in comprehensiveness, at least Alabama, Kentucky, New York and Virginia now have elements of the most advanced idea of the state budget."

New Jersey is definitely in the third group outlined above, and working in the direction of the fourth stage. Chapter 112 of the Laws of 1944, providing for the establishment, organization and functions of a State Department of Taxation and Finance, completely integrated budgeting and accounting functions in a Division headed by a director who is designated in the law as the Commissioner

57. Pp. XXI and XXII. See, also, Annual Message, Jan. 9, 1945, Minutes of the Assembly, 1945, p. 29.
58. Martin, James W., "Tax Administration and the Control of Expenditures," The Book of the States, 1945-46, Council of State Governments.

of Taxation and Finance (the head of the new Department of Taxation and Finance), himself. New Jersey had given the nation leadership in budget practices as early as 1916. Other states overtook New Jersey in this field during the 1930's. The vigorous espousal given by recent Governors to improved budgeting and accounting practices, is regaining for New Jersey the place once held by the State in progressive and constructive fiscal administration.

Executive control of the budget becomes more possible and more efficient as the administrative organization of state government becomes more coordinated, centralized and simplified. A governor who has real control over and responsibility for state administration is naturally in a better position, given the necessary constitutional or legislative authority, to prepare and carry out a true executive budget. The reorganization of state departments, boards, commissions and agencies that has been going on in the past four years, effectively instituted in the administration of Governor Walter E. Edge (1941-44), has made for more clear-cut budgeting, budget understanding and budget control. The proposal made in the Hendrickson Commission Report of 1942 (Art. IV, Sec. III, Par. 1) for nine administrative departments in the State Government, and in the 1944 proposed Constitution (Art. IV, Sec. III, Par. 1) for no more than twenty principal departments -- the departments in each case to be headed by a single executive unless otherwise provided by law -- was a natural step. The purpose was to assure an efficient, centralized administration of State Government under the Governor. This would have been reflected as of course in even better budgeting procedure and control.

While the Governor has prepared the annual budget of New Jersey for the past three decades, his authority to do so is statutory. There is no indication that New Jersey has ever considered a constitutional direction that the Governor do so. A review of other state constitutions reveals that there is little, if any, constitutional authority for what might be called a true executive budget. The Model State Constitution of the National Municipal League, whose provisions are cited at the beginning of this monograph, incorporates a constitutional provision for an executive budget. That may well be the future trend. However, reliance on legislative enactment regarding the details of budget preparation makes it possible to meet changing conditions in a manner which might not be possible if the mechanics of budget making were written into the constitution.