



BUDGETARY

HYPER-PRESIDENTIALISM

A latent tumor

Budgetary

hyper-presidentialism



SUMMARY

The arrival of Andrés Manuel López Obrador with a majority never seen in the 21st century made possible the temptation to consolidate the budgetary power that many presidents have desired. The budget is the backbone of public policies, so its execution is an indicator of a government's priorities. The fact that the representatives in the Legislative branch and the citizens, in general, do not know where and how it is spent, weakens the democratic relations between the rulers and the ruled, in addition to violating the constitutional order of the country, by granting enormous powers to the federal Executive branch.

The effective division of public powers is an essential requirement for a State to be considered democratic. The system of checks and balances was designed to prevent a single individual from concentrating the total power of the State. In Mexico, article 49 of the Constitution states that under no circumstances may two or more powers be deposited within a single person¹.

¹ Art. 49 constitucional: El Supremo Poder de la Federación se divide para su ejercicio en Legislativo, Ejecutivo y Judicial. No podrán reunirse dos o más de estos Poderes en una sola persona o corporación, ni depositarse el Legislativo en un individuo, salvo el caso de facultades extraordinarias al Ejecutivo de la Unión, conforme a lo dispuesto en el artículo 29. En ningún otro caso, salvo lo dispuesto en el segundo párrafo del artículo 131, se otorgarán facultades extraordinarias para legislar.

Despite this, from the beginning of the Morena administration, President Andrés Manuel López Obrador **began a decisive campaign of concentration of powers.**

Some examples are the creation of the Institute of Health for the Well-being (INSABI for its acronym in Spanish), a strongly centralizing policy that subtracted the interference of the federal entities in the field of public health, or the creation of the National Guard, which relegated the work of the state and municipal police. But, definitively, the bluntest attempt that the Executive branch has made to centralize powers is that which relates to budgetary control.

The most important responsibility that the Legislative branch has, as a direct representative of the people, is to approve the Expenditure Budget of The Federation (PEF for its acronym in Spanish). Although, on facts,

the Mexican Legislative branch has always been excluded from the work that by institutional design it should perform², both the creation of the Republican Austerity Law, as well as the reform of the Federal Law on Budget and Fiscal Responsibility (LFPRH for its acronym in Spanish), and the publication of the President's initiative/decreed establishing additional austerity measures in times of economic crisis; take to the extreme the interference of a branch in the functions of another, as well as the concentration of faculties that are incumbent on the Executive, but also those that, in principle, should be exclusive to the Legislative.

Although article 74, section IV³, of the federal Constitution, establishes that the Chamber of Deputies has the exclusive power to approve the PEF, in fact, the federal government historically could spend it

² Leonardo Núñez. (2017). ¿Y dónde quedó la bolita?. México: Aguilar.

³ Art. 74, fracción IV: Aprobar anualmente el Presupuesto de Egresos de la Federación, previo examen, discusión y, en su caso, modificación del Proyecto enviado por el Ejecutivo Federal, una vez aprobadas las contribuciones que, a su juicio, deben decretarse para cubrirlo. Asimismo, podrá autorizar en dicho Presupuesto las erogaciones plurianuales para aquellos proyectos de inversión en infraestructura que se determinen conforme a lo dispuesto en la ley reglamentaria; las erogaciones correspondientes deberán incluirse en los subsecuentes Presupuestos de Egresos.

in a very different way than it was budgeted for. In the so-called democratic era⁴, there has not been a single year in which government spending equals the amounts approved in the budget. On average, between 2013 and 2019, the federal executive has spent 7.67% more than what he originally contemplated, that is to say, that in that period the federal administration spent 1 trillion 905 thousand 539 million 388 thousand 319 pesos more than initially approved by the legislative. This inconsistency between budget and execution was supported by the famous figure of budgetary adjustments and was made possible thanks to the surplus revenue of the government.

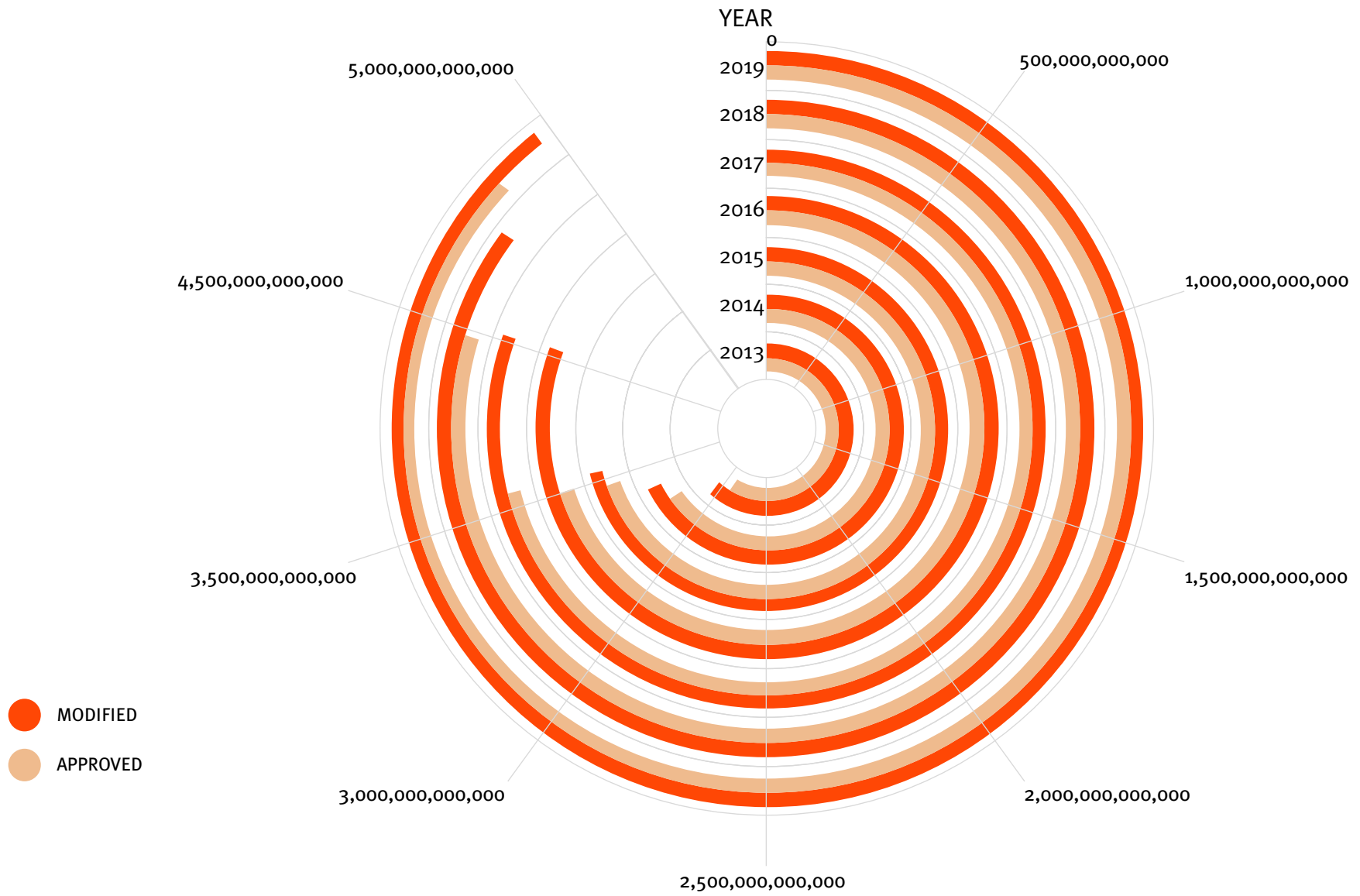
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⁴ En este trabajo “la era democrática” se refiere al periodo que va del año 2000 a la actualidad.



Image: laotraopinion.com.mx

APROVED BUDGET VS SPENDING



Source: In-house product with information from public accounts from 2013 to 2019

To get an idea of the size of the surpluses that the federal government has had, it is worth commenting that just in 2019, the year in which the least over-assignment occurred since 2015, the administration spent 80 thousand 620 million 943 One thousand 982 pesos more than what is established in the PEF. If that proportion in the expansion of spending were to be repeated in 2020, the President could have a budget equivalent to twice what was assigned in 2019 by the Ministry of the Interior, or two and a half times that assigned by the Ministry of Security and Citizen Protection, or a little more than half of what the Secretariat of wellness assigned.

But if the President of the Republic could already move resources from one place to another without asking Congress for permission, what changes with the Republican Austerity Law, the reform to the LFPRH, and with the presidential decree of April 23, 2020?

The modification to article 61 of the LFPRH empowers the President of Mexico so that the savings obtained as a result of the rationality of spending established in the Republican Austerity Law (LAR for its acronym in Spanish), can be directed, by presidential decree, to

SURPLUSES IN FEDERAL GOVERNMENT SPENDING BY YEAR (2013-2019)	
YEAR	THE NET DIFFERENCE BETWEEN APPROVED AMOUNT AND YEAR
2013	193,523,679,194
2014	91,361,250,678
2015	254,037,673,464
2016	567,006,494,420
2017	390,565,939,774
2018	328,423,406,807
2019	80,620,943,982

Source: In-house product with information from public accounts from 2013 to 2019

any site of the federal administration While the previous legislation obliged the Executive to justify to the Ministry of Finance why the budgetary reorientations would help to fulfill the National Development Plan. In this sense, the president may dictate, entirely at will, the execution of the expense. It is worth

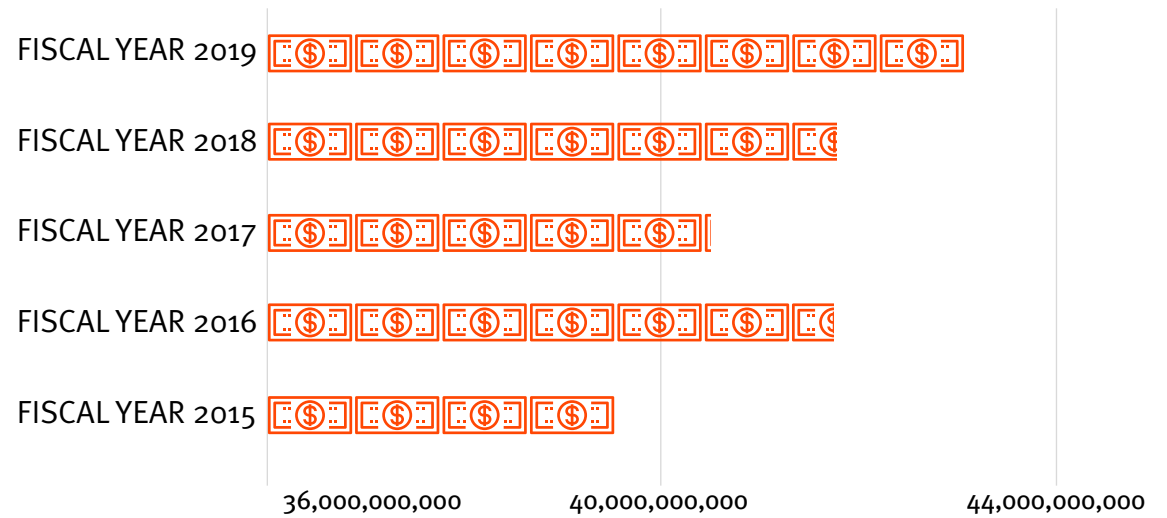
showing that, in the last audited fiscal year, ten federal agencies and non-sector entities had, jointly, sub-assignments for 48 thousand 339 million 721 thousand 254 pesos, among them the Secretariat of Health that spent 1 thousand 469 million 860 thousand 428 pesos less than the amount initially approved.

SUB-ASSIGNMENTS BY THE ADMINISTRATIVE BRANCH IN 2019				
ADMINISTRATIVE BRANCH	APPROVED	BUDGETARY SUITABILITIES		
		LIQUID EXTENSIONS	LIQUID REDUCTIONS	Net Modification
OFFICE OF THE PRESIDENT OF THE REPUBLIC	1,569,844,550	41,727,020	890,285,180	-848,558,160
GOVERNANCE	60,783,083,252	7,102,852,584	23,275,244,151	-16,172,391,567
AGRICULTURE AND RURAL DEVELOPMENT	65,434,880,164	3,757,951,317	7,046,080,126	-3,288,128,809
HEALTH	124,266,865,116	12,371,471,413	13,841,331,842	-1,469,860,428
LABOUR AND SOCIAL SECURITY	43,269,051,026	96,710,949	16,202,327,306	-16,105,616,357
SECRETARY OF AGRICULTURE, TERRITORIAL AND URBAN DEVELOPMENT	18,754,939,290	1,152,256,306	1,824,866,956	-672,610,650
THE ATTORNEY GENERAL'S OFFICE OF THE REPUBLIC (NOW FISCAL OFFICE OF THE REPUBLIC)	15,351,082,687	506,480,640	824,524,221	-318,043,580
WELLNESS	150,606,037,651	14,860,725,890	17,733,347,790	-2,872,621,900
TOURISM	8,785,888,223	46,847,085	5,892,023,437	-5,845,176,352
NON-SECTORIZED ENTITIES	9,083,025,072	205,171,549	951,885,000	-746,713,451

Source: In-house product with information from the 2019 public account

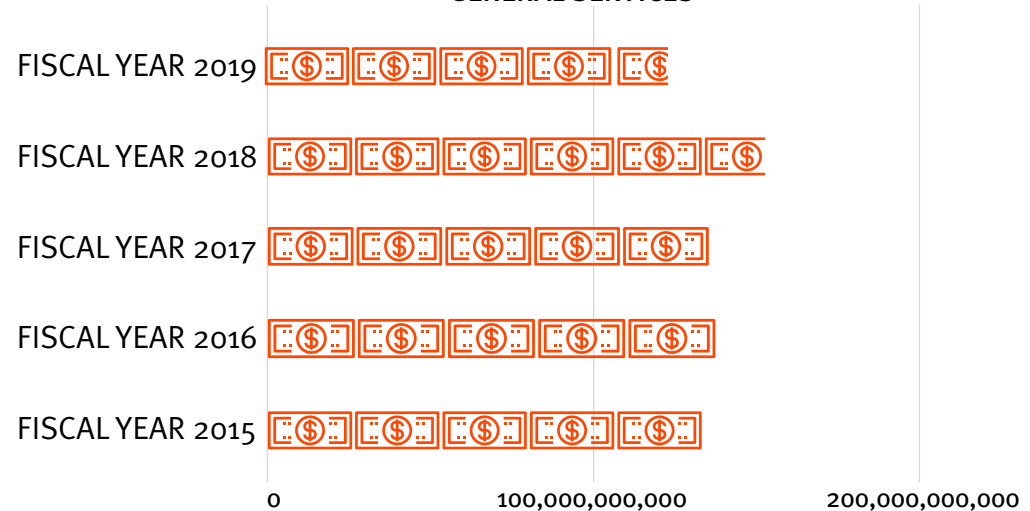
At the same time, the decree of April 23, 2020, which also became an initiative that proposes to modify article 21 of the LFPRH, mandates that due to the health contingency, “75% of the available budget for the service items will not be assigned for materials and supplies”.⁵ On average, between 2015 and 2019, the assignment of the first of these items was 136 thousand 224 million 657 thousand 212 pesos and that of the second was equivalent to 41 thousand 296 million 94 thousand 602 pesos.

MATERIALS AND SUPPLIES



Source: In-house product with information from public accounts from 2013 to 2019

GENERAL SERVICES



Source: In-house product with information from public accounts from 2013 to 2019

⁵ DOF Decree establishing the austerity measures to be observed by the dependencies and entities of the Federal Public Administration under the criteria indicated therein (APRIL 23rd, 2020). Available at: <https://tinyurl.com/y7zr22kh>

Although section VII of the decree mentions that the Secretariat of Health, the National Guard, and the Secretariats of the Navy and National Defense will be treated exceptionally, it is not clear how the resources obtained from the aforementioned sub-assignment will be distributed. In other words, in the event that the assignment by both branches keeps its trend, the President could, by these two channels alone, have 133,140 million 563,860 pesos that he could spend without consulting anyone.

There is no doubt that in extraordinary situations such as those that the country and the world are going through due to the pandemic, measures are necessary that allow governments to act quickly and effectively. This does not mean that it is tenable to govern through decrees to face the contingency, much less so for the opacity of the budget to be institutionalized, which, if the presidential initiative had been approved, would have become a permanent provision that would definitively break the order of checks and balances in the assignment of public spending at the federal level, enabling the President, now without any restrictions, to drastically modify the composition of the PEF without the need to agree to these variations with the Legislative Branch and without this being illegal.

The democratic path to modify government spending requires that the Executive Branch consult the Legislative Branch and be obliged to argue the reasons behind the possible adjustments.

The vast majority of democratic systems compel the heads of the executive to put under scrutiny not only the country's budget but also the changes that are made in the course of the assignment of public resources. Although due to the correlation of forces that benefits President López Obrador, there does not seem to be the political will to do so, Mexico has the opportunity to establish good budgetary practices that, in addition to improving efficiency in the use of resources, make the budgetary assignments transparent.



