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In This Issue

FY 2011 Wrapped Up, Still More Bumps on the Budget Road Ahead

Even though the fiscal year (FY) 2011 budget battles are over, Congress is still deeply mired in fiscal work. News about "the budget" continues to flood the airwaves, along with breathless reporting about the impending debt ceiling crisis as federal debt levels reach their statutory limits. Incredibly large numbers are part of each new report, leaving many to wonder what's in the offing for fiscal policy in the coming months.

The FY 2012 Budget

Although President Obama released a long-term budget plan during the week of April 11, his official budget request for FY 2012 remains the one he released in February. The February budget sets out the president's policy priorities for the next fiscal year, although Congress often ignores it and only uses it as a benchmark for the legislative branch's own budget plans.

The policy highlights of Obama's FY 2012 budget are focused on a spate of high-profile spending cuts, including steep reductions to the Low Income Home Energy Assistance Program (LIHEAP) and a five-year non-security discretionary spending freeze. His overall spending levels reflected these cuts, and he called for only $3.729 trillion in spending, almost $100 billion less than what the Office of Management and Budget (OMB) predicted for FY 2011 levels (before the final continuing resolution was passed), with $456 billion going to non-defense discretionary items, a $50 billion decrease from FY 2011 estimates.

The FY 2012 budget battle became heated with the release of the House Budget Resolution, authored by House Budget Committee Chair Paul Ryan (R-WI). With a staggering $6 trillion in cuts over the next decade compared to Obama's budget, Ryan's proposal immediately grabbed headlines, most notably for its plans to turn Medicare into a voucher program and to convert Medicaid into a block grant to the states, resulting in $771 billion in cuts (over ten years) to the health care programs for low-income, elderly, and disabled Americans.

Despite all the flash surrounding its release, Ryan's proposal simply sets the top-line numbers of the budget, leaving many questions as to which non-defense discretionary programs would be subject to the $4 trillion in spending cuts (over ten years) called for in the budget resolution. The proposal sets a ceiling for spending and a floor for revenue for the next ten years. Any bills that violate either the ceiling or the floor are subject to a point of order in both houses of Congress, blocking the bill's passage (although points of order can be waived). However, since revenue and mandatory spending levels are written into law and do not have to be voted on every year, the budget resolution is most important for setting discretionary spending levels, which are then carried out through the yearly appropriations process.

Looking at the FY 2012 numbers, Ryan's budget remains substantially different from Obama's. With $3.529 trillion in total spending, Ryan cuts about $200 billion relative to Obama's 2012 budget. But the cuts are lopsidedly focused on only two areas: a handful of mandatory programs (including the Supplemental Nutrition Assistance Program (formerly Food Stamps) and higher education spending) and non-defense discretionary spending. The funding levels for these areas are slashed deeply, accounting for 88 percent of the savings in his FY 2012 budget. Everything else either sees relatively small cuts, or, in the case of Social Security and defense, sees no cuts compared to the president's budget.

Ryan's plan was adopted by the House in a 235-193 vote and has spurred a flurry of other plans. Both the House Budget Committee Democrats and the House Progressive Caucus released their own budget plans, and there are several budget resolutions being drafted in the Senate.

The President's Budget Speech

More importantly, Obama rebutted Ryan's plan by releasing his own long-term budget plan in a widely covered speech only days after Ryan unveiled his budget resolution. Obama's plan, too, has impressive sounding numbers, with the president calling for $4 trillion in deficit reduction over twelve years: $2 trillion from spending cuts, $1 trillion from tax reform, and $1 trillion from saved interest payments on the national debt.

However, Obama's plan contains few specifics. Unlike his February budget or Ryan's budget resolution, it does not include top-line numbers for FY 2012 or the following years. Since his plan was basically a speech, it represents the principles Obama wants to see enacted over the next decade. He said he wants to "keep annual domestic spending low," "find additional savings in our defense budget," "further reduce health care spending," and "reduce spending in the tax code." Additionally, there's a "debt failsafe," where, "[i]f, by 2014, our debt is not projected to fall as a share of the economy, then my plan will require us to come together and make up the additional savings with more spending cuts and more spending reductions in the tax code."

Obama did draw some stark, specific differences with the Ryan budget plan. First, Obama said any long-term budget reform required a mix of spending cuts and revenue increases; Ryan did not address revenue increases. Obama once again said he does not want to renew the upper-income Bush tax cuts, a proposal that seems to be widely supported in polls and would raise about $1 trillion. He also called for reforming the tax system, eliminating many tax loopholes, deductions, and credits.

Second, Obama drew a line in the sand on Medicare. While he called for reforms to lower costs, he strongly opposed shifting from a benefits program to an insurance program where individuals would receive vouchers to buy coverage, as proposed by Ryan.

Third, unlike Ryan's plan, Obama's would protect most low-income programs. The president argued that the country should not balance the budget on the backs of those most in need. Finally, Obama said he doesn't want to touch Social Security.

Republicans were taken aback by Obama's speech. They seemed to expect an olive branch in light of the recent compromises to complete the stop-gap spending bill for the current fiscal year. Instead, the rhetoric angered some Republicans, who immediately denounced the idea of increasing revenue to pay for deficit reduction.

Progressives seemed to be equally surprised by the speech. They wanted the president to focus on job creation instead of deficit reduction. However, within the context of a deficit reduction speech, many were pleased that the president identified key priorities to preserve.

It is clear that there are considerable differences between House Republicans and the president. About the only item there seems to be agreement on is no increase in non-security discretionary spending in the FY 2012 budget. Republicans now want Obama to specify what programs would be cut in the discretionary budget. Some congressional Republicans are even calling for Obama to release a new, official FY 2012 budget in light of his speech, but it is unlikely that he will do so.

The Debate on the Debt Ceiling and Implications for the Budget

The collision between Ryan's policy proposals and Obama's new long-term budget plan may take place as part of the debt ceiling debate. With federal borrowing rapidly approaching the $14.294 trillion debt limit, Republicans are demanding concessions in exchange for voting to raise the ceiling. According to the Treasury Department, the debt limit is likely to be exceeded by May 16. Treasury can use various maneuvers to delay default until around July 8.

There are many proposals for what Republicans may demand for raising the debt ceiling, including a balanced budget amendment or, more recently, Sessions-McCaskill-style spending caps, a proposal that was shot down multiple times in the last Congress. Obama may push for his debt failsafe as an alternative, but it isn't clear if that would be enough for Republicans who are seeking strict spending controls.

The Obama administration has said the vote on the debt ceiling should be separate from the debate on deficit reduction. Obama created a new deficit reduction panel, to be hosted by Vice President Joe Biden, that will meet on May 5 and involve House and Senate leaders. The goal of the panel will be to continue discussions about a legislative framework for long-term budget issues.

It remains unclear whether Republicans are willing to separate deficit reduction from the debt ceiling issue. Sen. Marco Rubio (R-FL), a Tea Party favorite, may have sent a strong signal when he said he would not vote for a debit ceiling increase unless it had "a plan for fundamental tax reform, an overhaul of our regulatory structure, a cut to discretionary spending, a balanced-budget amendment, and reforms to save Social Security, Medicare, and Medicaid."

Reports Detail Agency Efforts to Improve FOIA Implementation

New reports from federal agencies' chief FOIA officers reveal efforts to improve the performance of the Freedom of Information Act (FOIA) system. The reports show that many agencies have taken steps to improve their FOIA performance over the last year but that many challenges persist despite these advances.

Background

Agencies have long been required to submit annual FOIA reports quantifying each agency's performance on FOIA implementation. These reports contain data on the number of requests received and processed, the number of requests backlogged, the number of requests denied, the grounds for denial, and the cost of FOIA activities. Government and advocates then use these data to identify improvements and trouble spots, as in an OMB Watch analysis released during Sunshine Week in March.

In contrast, the chief FOIA officer reports explain the specific actions that agencies have taken to improve their FOIA performance. Agencies were directed to prepare the chief FOIA officer reports by Attorney General Eric Holder's March 2009 FOIA memorandum.

The reports focus on aspects of policy changed or emphasized by the Obama administration. For the 2011 reports, agencies were asked to describe what they have done to:

- Implement the presumption of openness;
- Efficiently respond to requests;
- Increase proactive disclosures;
- Improve the use of technology; and
- Reduce backlogs.

Agencies were also asked to spotlight a particular success story from their FOIA work.

Agencies submitted their first FOIA officer reports in March 2010. The Department of Justice (DOJ) posted a summary of the reports in July 2010.

Several agencies are currently not included on the DOJ list of 2011 reports. However, a report may be available on a non-included agency's website, as is the case with the Department of Commerce.

The Contents of the Reports

Several agencies reported updating their FOIA policies to support greater openness. For instance, the Department of Defense (DOD) is revising its guidance and expects to publish it later in 2011. The Department of Education (ED) published new FOIA regulations effective July 2010. The Department of Veterans Affairs (VA) recently issued a policy on making discretionary releases where an exemption could apply based on the likelihood of foreseeable harm.

Some agencies reported broader efforts to reform their FOIA performance. For instance, the U.S. Environmental Protection Agency (EPA) started a FOIA workgroup to review its policy. The VA is assembling a FOIA Backlog Working Group to examine its backlog.

Resourcing was a mixed story across the agencies. Some reports included information on the hiring of additional personnel. The Department of Energy (DOE) reported that "while budget is a continuing challenge, some offices have hired additional staff to process requests." The Consumer Product Safety Commission (CPSC) reviewed its staffing levels, and as a result, it hired several additional FOIA employees and contractors. Additionally, several components of the VA hired additional staff or contractors.

Other agency reports noted problems with understaffing. For instance, one component of the VA identified the need for additional staff but is unable to hire at this time due to budgetary constraints. ED suffered a reduction in staffing, which it named as a cause of the increase in the department's backlog; the department is in the process of returning to its previous staffing level. Some components of DOD reported being understaffed and have noted problems with high turnover and the burden of frequently training new staff.

Several agencies reported some success in closing their oldest requests. DOE closed five of its ten oldest pending cases, including the single oldest request, which dated back to 2000. ED closed seven of its ten oldest requests.

The reports also provided agencies an opportunity to explain the data reported in their annual reports, which vary widely in length. For instance, DOD reduced its overall backlog by 31 percent, while some DOD components reduced their backlogs by 90 percent or more. Meanwhile, the VA's backlog increased by two percent, despite receiving 42 percent fewer requests. The department noted, "We are currently unable to determine the root causes for the increase in the FOIA backlog in FY 2010." At the same time, of requests processed, the VA increased the percentage granted both in full and in part, to a combined 65 percent, up from 40 percent the prior year. In addition, the average time needed to process a request at the VA dropped from 36 days to 14. Additionally, ED credited its review process for reducing the use of Exemptions 2 and 5 by 40 and 38 percent, respectively.

Several agencies reported making use of information technology to facilitate the FOIA process. DOE established an online form for FOIA requests and began utilizing more of the capabilities of its processing software, such as electronic redaction. CPSC is systematically scanning its records into an electronic filing system and has also reviewed its processing software and will purchase the latest updates. DOD is developing a tool to automatically collect data on FOIA performance from its numerous components.

Some agencies used the reports to tout new online tools. CPSC highlighted its recently launched Consumer Product Safety Information Database at SaferProducts.gov. EPA noted that its MyPropertyInfo tool, launched in June 2010, has reduced the number of requests on specific properties prior to real estate transactions.

Regulations Do Not Hinder U.S. Job Market, Paper Finds

Regulations designed to protect consumers, workers, and the environment do not have a negative impact on the job market and, in some cases, actually spur job creation, according to new research from the Economic Policy Institute (EPI).

The EPI paper, *Regulation, Employment, and the Economy: Fears of job loss are overblown*, shows that recent criticism surrounding regulations' impact on jobs is misguided and not reflective of economic data. During the 112th Congress, lawmakers and industry lobbyists have made targeting federal rules a high priority and have frequently characterized regulations as "job killers." However, economic studies provide no evidence that regulation impedes job creation or leads to significant unemployment.

Most of the studies examining the economy-wide impacts of regulations have focused on the impact of environmental regulations. These studies "have consistently failed to find significant negative employment effects," according to the paper.

Studies examining the impacts of specific regulations on specific industries show that some regulations have a net positive effect on some industries and have cost jobs in other industries. Overall, "the preponderance of studies of various industries suggests that regulations have had a close to neutral effect or a moderately positive effect on employment levels," according to the EPI paper.

Since 2007, government data on "extended mass job layoffs" indicate that "only a very tiny fraction of such job layoffs (about 0.3 percent of the 1.5 million such layoffs each year) were attributed by employers to government regulations/intervention," the paper says. "Similarly, a study that reviewed job layoffs due to environmental regulations in previous decades found that such regulations caused much less than one percent of extended mass layoffs." By comparison, extreme weather-related events have caused more extended mass job layoffs than government regulation, according to the data.

The paper's authors, John Irons and Isaac Shapiro, also examined the effects of deregulation on the job market. "In particular, a wave of deregulation and the belief that financial markets can 'self-regulate' played a major role in the collapse of the housing bubble and the ensuing financial and economic crisis. Eight million jobs were lost in the Great Recession."

The paper also finds that under-regulation played a role in the BP Deepwater Horizon oil spill disaster and its aftermath, which, in addition to its environmental and human toll, continues to have a significant negative impact on the Gulf region's economy and job market.

The EPI paper, released April 12, is timely, as government regulation has become a hot-button issue in Washington. Lawmakers are increasingly complaining about the Obama administration's regulatory record, especially at health and environmental agencies such as the U.S. Environmental Protection Agency (EPA). Several bills have been introduced that would alter the regulatory process in order to make it more difficult for agencies to set public protection standards.

House committees have held dozens of hearings – with titles such as "Regulatory Impediments to Job Creation" and "EPA's Greenhouse Gas Regulations and Their Effect on American Jobs" – focusing on the regulatory process or individual regulations, often placing them in a jobs or economic context. Opponents of regulation rarely discuss the benefits of public protections, despite the fact that studies show that regulation can help the economy in addition to saving lives, expanding public welfare and opportunity, and preserving the environment.

The EPI paper examines those studies, including two recent reports, one by the White House Office of Management and Budget (OMB) and the other by the EPA, both of which show that the economic benefits of regulation far outweigh the costs of compliance. "[R]egulations have generally and consistently struck a reasonable balance, with their benefits to health, safety, and well-being far exceeding their costs," the paper says.

Few studies on the economics of regulations show them hurting the economy overall, and those studies that do exist can suffer from methodological shortcomings. One such study, prepared for the Small Business Administration (SBA) Office of Advocacy, says that regulations' annual cost to the economy is $1.75 trillion. However, the study is flawed for several reasons, according to the EPI paper. For example, the SBA study does not take into account the benefits of regulation, and the study's results have not yet been replicated, among other problems.

The EPI paper also finds that "debates over regulations have often relied on exaggerated estimates of the compliance costs they will produce." For instance, several studies by Resources for the Future concluded that the government's cost estimates tended to be overstated. In cases where cost estimates were found to be higher than estimates of actual compliance costs, they were at least 25 percent higher than the estimates supplied for the proposed rule, according to the EPI paper.

"Overall, the picture that emerges from this review is a positive one," the EPI paper concludes. "For decades, regulations have generally and consistently struck a reasonable balance, with their benefits to health, safety, and well-being far exceeding their costs."

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