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IN THIS EDITION

PAYROLL TAX/UNEMPLOYMENT INSURANCE: Congress Up Against Deadline to Extend Unemployment Insurance and Payroll Tax Cut

BUDGET: The Federal Budget on Autopilot?

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Congress Up Against Deadline to Extend Unemployment Insurance and Payroll Tax Cut

If this has a familiar ring it is because the same programs the House and Senate took to the brink in December are again set to expire. In mid-December the Senate amended the House-passed Temporary Payroll Tax Cut Continuation Act of 2011 (H.R. 3630), refusing to accept the egregious restrictions it placed as the price for extending the Unemployment Insurance (UI) program as well as the unacceptable offsets to pay for the bill. When the Senate ran out of time to identify approximately \$200 billion to offset the bill's cost it instead passed a short two-month extension of UI and the two percentage point cut in the payroll tax and blocked a reduction in Medicare reimbursement payments to physicians. The bill also extended through February 29 authorization for a number of programs not needing additional funding including Temporary Assistance for Needy Families (TANF) and Transitional Medical Assistance (TMA), a program that helps low-income families with children transition to work by allowing them to keep their Medicaid coverage for a limited period of time. (See more details in the December 16, 2011 *Human Needs Report*.)

Initially the House refused to accept the Senate short-term extension, insisting that the Senate acquiesce to their version. With no deal, it appeared that with the new year, the unemployed would lose jobless benefits and those with paychecks would lose the payroll tax holiday. But after receiving backlash from constituents and the media as soon as they went home for Christmas break, the House relented and on December 20th agreed to the Senate's short-term extension. The \$40 billion cost of this extension was almost entirely paid for by increasing the fees charged by Fannie Mae and Freddie Mac for guaranteeing loans for mortgages. The President signed the two-month extension into law (PL 112-78) on December 23.

Having lost the fight in December, early indications were that House Republicans would work for a quick resolution and the programs would be extended to the end of 2012. Those hopes seem to be fading. As in December, sticking points include how to pay for the bill and what, if any, changes to make to the UI program. Last year a maximum of 99 weeks of UI benefits were available to unemployed workers in states with high unemployment rates. The Extended Benefits program which provides the last 20 weeks in states with high and rising unemployment was not renewed in December so currently the maximum number of weeks of UI eligibility is 79. The original House bill called for slashing the number of weeks to 59. Advocates stringently opposed cutting below 79 weeks and would instead like the full 99 weeks restored. House Republicans are pushing to include in the long-term extension provisions in their original bill to limit eligibility to UI by requiring drug testing and a high school diploma or GED or enrollment in classes as conditions for receiving benefits. They are also pressing to allow states to request waivers that would surely result in fewer benefits for recipients. These provisions comprise a particularly harsh affront to unemployed workers who have become unemployed through no fault of their own. (For more information about the House UI provisions, see the National Employment Law Project report, "Sticking to Principles: Congress Should Oppose Barriers to Unemployment Insurance and Instead Provide Meaningful Reemployment Tools" at: http://www.nelp.org/page/-/UI/2012/Sticking_to_Principles_UI_Report.pdf?nocdn=1)

The cost of extending the programs in the bill to the end of 2012 is approximately \$160B. Advocates and many Democrats believe that if Republicans insist on paying for the extensions – typically unemployment insurance was considered 'emergency' spending and has not been paid for – new tax revenues ought to be in the mix. While Republicans remain uncompromisingly opposed to the Democratic proposal to increase taxes on millionaires, they did propose one offset in December that would restrict eligibility for the refundable Child Tax Credit, targeting low-income children in immigrant families. The typical taxpayer harmed by this proposal earns \$21,240 per year and would experience an 8 percent increase in their taxes owed, amounting to a loss of \$1,800 in the family's income.

If Congress does not act on a full extension or another short-term extension by February 29, the programs will expire. According to the Department of Labor nearly 1.3 million unemployed workers would lose their benefits by the end of March. It will also put in jeopardy TANF and TMA. If they do not finish their work on this bill before February 17th they will have only three days after returning from a February 20-26 recess to pass a short-term extension or year-long bill.

The Federal Budget on Autopilot?

The new federal budget cycle begins on February 13, when President Obama will release his budget proposal for the fiscal year beginning next October 1. He will adhere to the spending caps enacted in the Budget Control Act of 2011, which set maximum spending for annual defense and nondefense appropriations through FY 2021. He will not make the further cuts that the law calls for: about \$110 billion in FY 2013 divided equally between defense and nondefense programs. These extra automatic cuts were triggered when Congress failed to agree on a deficit reduction plan by the end of 2011, and are scheduled to begin in January 2013. The President will urge Congress to pass an alternative deficit reduction plan so that the automatic cuts can be avoided (for 2013 estimated by the Congressional Budget Office at 10 percent of defense and 8.5 percent of nondefense appropriations, plus additional cuts primarily affecting Medicare).

If there are any members of Congress who want to see the automatic cuts take effect, they have not come forward. The most vocal opponents have expressed concerns about the impact of the defense cuts. Senators Kyl (R-AZ) and McCain (R-AZ), as well as Rep. McKeon (R-CA) have introduced the Down Payment to Protect National Security Act (S. 2065 and H.R. 3662), legislation to replace the first year of automatic cuts with savings from reducing the federal workforce by at least 5 percent and an extension of the current federal civilian pay freeze through 2014. There is strong opposition to making deep cuts in the federal workforce, so this legislation will face steep barriers.

The President, and many Democrats in Congress, would prefer to replace the automatic cuts with a deficit reduction package that includes revenue increases. Republicans have rejected most proposals to raise revenues, so the path to avoiding the auto-cuts is not at all clear.

Next FY 2013 Budget Steps? Congress could outline alternative deficit reduction proposals in its FY 2013 Budget Resolution. But Senate Majority Leader Reid (D-NV) said on February 3 that he would not bring up a Budget Resolution on the Senate floor. The House is likely to pass its version of a FY 2013 Budget Resolution, and Senate Budget Committee Chair Kent Conrad (D-ND) wants to approve one in committee. These two versions will offer stark differences, if they are similar to last year's proposals. And neither is likely to move spending or revenue choices that the House and Senate can agree on in an election year.

Congressional budget resolutions do not put forth complete budget detail similar to the multi-volume opus coming from the Obama Administration on February 13. The Congressional resolution has one major task: it sets appropriations totals, which are then divided up among the dozen appropriations committees. But for the next decade, the annual work of the Budget Committees has been replaced by the spending caps set in the Budget Control Act. While Congress could adopt a budget resolution that called upon tax-writing committees to recommend revenue increases and/or could recommend other forms of savings from committees with jurisdiction over Medicare, Medicaid, agricultural programs, or defense, to name a few, divisions

in Congress make agreement over these options seem far-fetched. With no need to set spending limits and little chance of agreement elsewhere, that doesn't leave much room for budget action.

How the Auto-Cuts Work. The Budget Control Act requires \$1.2 trillion in deficit reduction over ten years (over and above almost a trillion dollars in appropriations cuts already set in motion through annual caps on spending). Because Congress couldn't agree on a plan, \$492 billion will be cut from defense and another \$492 billion from nondefense programs between FY 2013 and FY 2021, with the rest coming from reduced debt service. In FY 2013, there will be automatic cuts in each program that is not exempt (called "sequestration"). Appropriators have little choice about how the cuts will be applied. They could increase the funding level for programs they want to protect, so that the automatic cuts will be applied to a higher number, but since there are already caps on spending, an increase in one program area means others must be cut more deeply. For example, if Congress wanted to spare K-12 education from cuts by increasing appropriations for those programs in advance of the auto-cut, it would have to make deeper cuts in such programs as public health, medical research, or social services.

Sequestration, the automatic program-by-program cuts, only kicks in for FY 2013. After that, the caps established for each of the next 9 years will be lowered, giving Congress the chance to decide how the reductions will be applied. If Congress does not figure out an alternative to these cuts, discretionary (appropriated) spending will drop down to 5.6 percent of GDP in 2022, according to the Congressional Budget Office, a smaller proportion than in any of the past 50 years.

Although Congress and the White House do not like the automatic cuts barreling towards them, and are not planning budgets or appropriations that assume the cuts take effect, agreement on alternatives is still elusive.

Budget Rules. House Budget Committee Chair Paul Ryan (R-WI) has introduced 10 bills making changes in the ways budgets are developed. Some of the bills are starting to move through the House. H.R. 3578, which passed in the House on February 3, would change the way CBO projects spending over time. The bill would stop CBO from incorporating inflation increases into its baseline. By taking inflation into account, CBO shows how much it costs each year to maintain the same purchasing power. Preventing this adjustment to the baseline means that services will shrink each year unless Congress takes steps to increase funding. Another rules change, legislation giving the President the authority to make line item vetoes, passed the House Rules Committee on February 1 by a voice vote (it was approved by the House Budget Committee in December).