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Budget Office Scenarios See Massive Federal Debt

By Kaustuv Basu | August 8, 2018

Bloomberg Government

The Congressional Budget Office describes how the federal debt would rise under three future fiscal policy scenarios; House Ways and Means Committee Chairman Kevin Brady (R-Texas) and Senate Finance Committee Orrin G. Hatch (R-Utah) welcome proposed regulations on the 20 percent pass-through deduction, as Finance's top Democrat, Ron Wyden (Ore.), pans them; and Wyden criticizes the idea of indexing capital gains to inflation.

Three CBO Scenarios

A long-term budget outlook from the CBO released Aug. 8 outlining different budget scenarios found that if laws are changed to continue some major policies in place now, including provisions in the 2017 tax law (Pub. L. No. 115-97) that are set to expire at the end of 2025, the federal debt would equal 148 percent of gross domestic product in 2038 compared with 118 percent in an earlier CBO projection. By 2048, debt would equal more than 200 percent of GDP—a probably understated figure, the CBO said.

Under a second scenario, debt would rise to 151 percent of GDP in 2028 and keep rising. In the scenario, “after 2028, tax policy is assumed to be changed so that revenues remain flat as a percentage of GDP, rather than growing over time,” the report said.

“The third scenario is like the second, except that tax policy is assumed to be changed so that revenues remain flat in relation to GDP after 2018 rather than after 2028,” the CBO said. “In that scenario, deficits would be larger still. Debt would equal 165 percent of GDP in 2038 and keep rising,” it said.

'Historic' Deduction

Rep. Brady praised the Treasury Department for its Aug. 8 release of proposed regulations on the 20 percent pass-through deduction in the 2017 tax act. “I applaud Treasury for working quickly to implement this important provision of our new pro-growth tax code,” he said.

Brady called the deduction “historic” and said the regulations would help provide certainty and flexibility to small businesses. The deduction is available to pass-throughs—entities in which income flows through to the owners, who pay the tax on their individual returns.

Sen. Hatch’s office said in a statement that he was reviewing the rules and appreciated the “steady pace” at which tax law regulations (REG-107892-18) are being released.

But the rules “confirm that the fortunate few win and Mom-and-Pop shops lose under Trump’s tax law,” a Wyden statement said. “For high fliers, the path ahead is paved in gold. Tax planners are already scouring through the nearly 200 pages of regulations in search of new ways to keep wealthy clients from paying their fair share.”

The Internal Revenue Service has scheduled an Oct. 16 public hearing on the tax code Section 199A rules.

Against Indexing

Wyden continues to speak out against indexing capital gains to inflation as the administration and some House Republicans consider the idea.

“This time around, the Trump administration is mulling whether to take administrative action—bypassing Congress—to index capital gains to inflation, which means investors would get a special break on income from playing the market. If you earn a paycheck for a living, you need not apply,” Wyden wrote in an Aug. 8 op-ed for USA Today.

Wyden said that indexing capital gains would benefit special interests “while trampling all over working Americans and their families.”

Larry Kudlow, director of the White House National Economic Council, has endorsed the idea, and Brady is exploring indexing capital gains as a possible addition to the tax 2.0 package.

What to Know in Washington: Preparing for the Senate’s Return

By Zachary Sherwood | August 10, 2018
Bloomberg Government

The Senate returns from a shortened August recess next week with plans to continue its appropriations work while chipping away at judicial nominations.

The Senate on Wednesday plans to hold a cloture vote on Marvin Quattlebaum to be a judge on the Fourth U. S. Circuit Court of Appeals. After debate and confirmation votes the chamber will then proceed to a cloture vote on Julius Richardson to be a judge on the same circuit. Both nominees are from South Carolina and were reported by the Senate Judiciary Committee in July with bipartisan support.

Look for Majority Leader Mitch McConnell (R-Ky.) to tee up the next appropriations minibus that would combine Defense and Labor-HHS-Education spending. Appropriations Chairman Richard Shelby (R-Ala.) is

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planning on using the House-passed Defense spending bill as a vehicle for the package and substitute the Senate language for Pentagon and HHS spending.

FCC Oversight: The Senate Commerce, Science, and Transportation Committee will hold a hearing on the Federal Communications Commission on Thursday. The committee has not yet released its list of witnesses. Chairman John Thune (R-S.D.) recently asked the FCC to make more unlicensed airwaves available for next-generation mobile technologies. In a June 29 letter, Thune asked the commission's chairman Ajit Pai to write rules for use of the 6 gigahertz band, which is often used for public Wi-Fi and Bluetooth connections. Apple, Google, and Microsoft have all expressed interest.

Senators also recently asked the FCC to create a database of reassigned phone numbers to reduce unsolicited robocalls. The agency in May asked for comments on how it handles robocalls.

Senators may also ask Pai about the agency's decision to block a merger between Sinclair Broadcast Group and Tribune Media. President Donald Trump has criticized that decision.

Politics & Elections

Avenatti Eyes Run: Michael Avenatti — the lawyer for Stephanie Clifford, the adult film star better known as Stormy Daniels — told the Des Moines Register that he was “exploring a run for the presidency of the United States.” The Trump critic and founding partner at the California law firm Eagan Avenatti LLP plans to address the Democratic Wing Ding fundraiser today in Clear Lake, Iowa, the newspaper said. Past speakers have included former Secretary of State Hillary Clinton, Senator Bernie Sanders, and then-Senator Barack Obama, who headlined in 2007 ahead of his key victory in the early caucus state. “I wanted to come to Iowa and listen to people and learn about some issues that are facing the citizens of Iowa and do my homework,” Avenatti told the Register in an interview yesterday. He also posed for selfies with fans at the Iowa State Fair, the paper said.

Kansas Governor Race: Kansas Secretary of State Kris Kobach said yesterday that he'll remove himself from the further counting of votes while his Republican primary battle with Gov. Jeff Colyer hangs in the balance, describing it as a “symbolic” step in response to a public demand from Colyer, the Associated Press reports. The governor publicly accused Kobach, the state's top elections official, of giving county election officials information about the handling of yet-uncounted ballots “inconsistent with Kansas law.” He demanded in a letter to Kobach that Kobach stop advising county officials and have the state's attorney general do it instead.

Movers & Shakeups

FERC Pick's History: Bernard McNamee, who Bloomberg News reports could be nominated to the Federal Energy Regulatory Commission, was an advocate for the now-rejected Energy Department proposal to bail out coal and nuclear plants. He supported Energy Secretary Rick Perry's proposal to keep certain coal and nuclear plants afloat through government bailouts, which FERC unanimously rejected in January. If McNamee were to be nominated and confirmed to a Republican seat as FERC commissioner, the White House may have an opening to push its pro-coal and nuclear policies in the commission. He has served as executive director of the Energy Department's Office of Policy since May.

Fish and Wildlife Departure: Greg Sheehan, principal deputy director of the Interior Department's Fish and Wildlife Service, is leaving the agency. Sheehan has served as the top official at the agency since June 17, 2017. “Greg Sheehan has been an incredible asset to the Interior team and was tremendous in helping Secretary Zinke expand access for hunting and fishing on over a quarter million acres of public lands across the country,” Interior said in an emailed statement, Jennifer A. Dlouhy reports.

Border Control Chief Named: Carla Provost has been named chief of the U.S. Border Patrol, U.S. Customs and Border Protection said in a statement. Provost has served as acting chief of the U.S. Border Patrol since April 2017.

Kavanaugh Draws Colleagues' Support: Former clerks of Brett Kavanaugh gushed yesterday about the Supreme Court nominee's devotion to his family, his "unfailing" niceness, and his love of sports. Such tidbits about high court candidates are important because justices don't stop being themselves simply because they put on a black robe, said Sarah Pitlyk, a former Kavanaugh clerk who is now at the conservative Thomas More Society. Pitlyk was one of four former Kavanaugh clerks who spoke at an event put on by the conservative Heritage Foundation.

What Else to Know Today

Health Lobbying: The nation's largest pharmaceutical trade group funneled more money to political and policy organizations that worked on its behalf than it did on conventional lobbyists during the 2016 election year, according to a Bloomberg Law analysis of tax disclosure forms. The Pharmaceutical Research and Manufacturers of America, the largest lobbying arm for drugmakers, gave nearly \$25 million to political and policy organizations around the 2016 election. The group gave more than \$6 million to conservative groups like the American Action Network that called for the repeal of Obamacare and more than \$1 million each to two groups that advocated for changes to state and federal health policy—changes that often mirrored PhRMA's own advocacy work.

USDA to Relocate Workers: Seven hundred employees from two agencies in the Agriculture Department will be relocated out of the District of Columbia by the end of next year. The USDA announced yesterday it will be moving its Economic Research Service and National Institute of Food and Agriculture staffs to an undetermined location by the end of 2019. The federal agency of over 100,000 employees is aiming to finalize the location by spring of 2019, according to a USDA spokesperson.

Power Plants to Receive Emergency Aid: The Federal Energy Regulatory Commission is helping the Trump administration identify "critical" coal and nuclear power plants, a key step in the White House's contentious plan to keep those facilities online in the name of national security. Anthony Pugliese, FERC's chief of staff, told an American Nuclear Society conference this week that the agency is helping the National Security Council as well as the departments of Defense and Energy determine which facilities should be deemed critical.

Tax Break Losers: Private equity and hedge funds, lobbyists, and investment bankers are among those shut out of the 2017 tax act's 20 percent deduction, above certain income thresholds, under new IRS proposed regulations. Veterinarians and skilled nursing facilities were also denied the write-off for pass-through businesses—for which income is taxed at the individual owner level—above incomes of \$207,500 for single filers and \$415,000 for joint filers. Beyond those thresholds, "specified service" businesses are excluded. Up to those amounts, and starting at incomes of \$157,500 for single filers and \$315,000 for married filers, a restriction based on wages and capital kicks in, phasing out the 20 percent deduction, created under new tax code Section 199A.

Will Blue Wave Come for Comstock?

By Zachary Sherwood | August 9, 2018
Bloomberg Government

Rep. Barbara Comstock (R) is trying to hold back the tide in northern Virginia.

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She's known as an advocate for her constituents and a relentless campaigner, but Comstock represents an area that has all the ingredients Democrats hope to exploit this year in order to flip Republican seats and retake control of the House: a wealthy, educated suburban electorate that's increasingly diverse.

"It's a marquee race in a suburban area which tends to be dominated by college-educated voters where Donald Trump has had the most difficulty becoming popular," said Whit Ayres, a GOP pollster. "Those are the kinds of districts where Republicans are going to have more of a challenge this year."

That's been highlighted in several special elections for Congress over the last 12 months, including Tuesday's vote in central Ohio. In that race, Democrat Danny O'Connor is within a percentage point of Republican Troy Balderson — despite a 5 to 1 spending advantage for GOP-allied groups in a district long dominated by Republicans — largely on the strength of turnout from parts of Columbus and its close-in suburbs. The outcome won't be settled until more than 3,000 provisional ballots are counted.

More troubling for Comstock: Trump won the Ohio district by 11 percentage points in 2016 while Democrat Hillary Clinton won Comstock's Virginia district by 10 points. Last year, Democrat Ralph Northam won Loudoun County, which has almost half the population of Comstock's district, by 20 points in the governor's race over Ed Gillespie, the former Republican National Committee chairman. The non-partisan Cook Political Report rates the race as leaning Democratic. Comstock is facing Democrat Jennifer Wexton, a former prosecutor and state senator.

Outlook for Collins Reelection: Meanwhile, the indictment of Rep. Chris Collins (R-N.Y.) doesn't give Democrats an automatic shot at flipping his upstate New York district but it likely will force the GOP to invest more to try to hold what should have been a safe seat.

Collins, an early supporter of Trump, had been heavily favored to win re-election in a November election that in other areas of the country is presenting major challenges to Republican control of Congress. Soon after the indictment on insider trading charges was announced yesterday, two independent analysts moved the race from safe or solid Republican to likely Republican, a shift that indicates it's become more competitive.

Few Limits on Lawmaker Stocks: The indictment also highlights how members of Congress face few restrictions on their investments and service on corporate boards, creating the potential for conflicts. Unlike executive branch officials, who must resign from outside positions and divest assets that could pose conflicts of interest, Congress relies on public disclosure as the main mechanism for keeping lawmakers honest. In the past, that's led to a number of scandals involving investment decisions that resulted in charges of self-enrichment and insider trading.

"There are very few restrictions on members of Congress," said Larry Noble, a former general counsel of the Federal Election Commission, who said members only have to recuse themselves from voting on legislation that specifically benefits a personal investment. "The rationale for it is that almost anything you can do will affect business. It presents real conflicts."

Agriculture News

Conservation, Payment Limits Seen as Farm Bill Sticking Points

- Conservation differences might cause issues during conference
- Senate GOP leadership wants a report done quickly

By Teaganne Finn | August 9, 2018
Bloomberg Government

Land conservation programs and farm payment limits will be among some of the biggest differences farm bill conferees will have to work out to get to a final bill, according to congressional aides from both sides of the aisle.

Senate Agriculture Committee Chairman Pat Roberts (R-Kan.) said in July lawmakers plan to begin farm bill negotiations later this month with a goal to finish the conference report before the current authorization expires Sept. 30.

“There’s a do-able middle ground on all of the big issues outside SNAP,” a Republican aide told Bloomberg Government, speaking on condition of anonymity and referring to the program previously known as food stamps. If SNAP were to be resolved, “and folks were motivated, the rest of the bill could come together pretty quickly,” the aide said.

Another issue to watch is how conferees handle an Obama-era “Waters of the U.S.” rule that determines which bodies of water fall under the Environmental Protection Agency’s jurisdiction. An amendment attached to the House measure from Rep. Jim Banks (R-Ind.) would repeal the rule.

Racing the Clock

House and Senate conferees will be racing the clock to get the farm bill enacted. The farm bill would reauthorize various commodity, trade, rural development, agricultural research, and food and nutrition programs. Under the current farm law (Public Law 113-79), program authorizations expire Sept. 30 or the end of the applicable crop year.

Getting to a final bill, though, will require navigating a big difference between the House and Senate bills on the Supplemental Nutrition Assistance Program (SNAP). The House included additional work and work-training requirements as conditions of aid that the Senate did not include and Democrats vehemently oppose.

President Donald Trump tweeted last week that the farm bill should retain “the WORK REQUIREMENTS FOR FOOD STAMPS PROVISION that the House approved” in final legislation.

‘Not Be Easy’

The House version of the farm bill (H.R. 2) would eliminate the Conservation Stewardship Program and fold elements of it into the Environmental Quality Incentives Program as stewardship contracts. It would place a cap, instead of a minimum, on the amount of total funding that must go to stewardship contracts within EQIP. Both programs support conservation practices on land used for agricultural production.

That differs from the Senate-passed version of H.R. 2, which would reauthorize CSP and EQIP and wouldn’t cut total conservation funding, Ferd Hoefner, policy director at National Sustainable Agriculture Coalition, told Bloomberg Government.

“These are all major issues that will require a good deal of negotiation to come out with a product that can garner broad support in the farm and conservation community,” said Hoefner, adding, it will “not be easy.”

Who’s a Farmer?

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“Obviously Grassley’s ‘actively engaged’ amendment will be an issue and there are of course significant differences in the conservation titles,” a Democratic aide told Bloomberg Government, speaking on condition of anonymity.

The amendment from Sen. Chuck Grassley (R-Iowa) would tighten the definition of “actively engaged” in farming to prevent payments from going to absentee farmers. In contrast to Grassley’s language restricting eligibility for farm payments, the House measure would allow more companies to be eligible for separate per-owner payment limits and expand the definition of family members to include first cousins, nieces and nephews.

Currently, a maximum of \$125,000 can be paid to each member that’s actively engaged in a farming operation, which can include those with an “active personal management” role. The Senate measure would allow only one member to qualify for payments using the management criteria.

Asked if Grassley’s absence from the roster of conferees would reduce the likelihood of his provision getting into the final report, the GOP aide said, “A little, but [it’s] still a tricky issue.”

Federal Employee News

Very Little Movement on Changes to Retirement Benefits

August 7, 2018

Fedweek

While Congress has directly addressed some pay and benefit issues for federal employees and retirees, most of the proposals made by the White House have advanced only a little or not at all.

The budget proposal in February contained a host of proposals including raising the required FERS employee contribution toward retirement, and lowering the government contribution, until the two are equal, resulting in about a 6 percent of salary increase for most; basing future annuities on a high-5 salary average rather than the current high-3 under both FERS and CSRS, and eliminating the FERS “special retirement supplement,” both to be effective for those retiring after a future unspecified date; and shaving 0.5 percentage points off COLAs for CSRS retirees and eliminating the COLA on FERS civil service annuities.

Other proposals included reducing the TSP’s G fund rate of return; adding a year to within-grade waiting periods; combining sick and annual leave into one category to be called paid time off; creating a short-term disability benefit; creating a \$1 billion fund to reward performance and to incentivize recruitment and retention for high-demand occupations; and making the government contribution toward FEHB premiums variable depending on a plan’s quality ratings.

Later documents sent to Congress in support of those proposals contained some, but not full, details that would be needed to write such proposals into law.

The House later drew up a budget blueprint seeking cuts of \$32 billion over 10 years in programs under the control of the Oversight and Government Reform Committee, which oversees federal pay and benefits. Like similar past plans, it recommended achieving those savings through steps such as increasing employee contributions toward retirement and ending the special retirement supplement, although specifics would be up to the oversight committee.

The Senate did not produce a counterpart plan, however, and at this point it is virtually certain that it will not, leaving those recommendations with little authority behind them. Even the House oversight panel has not moved to carry them out.

The congressional focus on the budget has been on writing bills needed to keep agencies funded in the fiscal year starting in October. Those bills so far contain none of the White House's proposals.