

Legislate[®]

Key Legislative Developments Affecting Your Human Resources

Volume 5 | Issue 36 | September 5, 2014

With Congress Due Back Next Week, You'll be Hearing These Terms

Congress is due to return from its August recess Monday, September 8, and its chief priority will be funding the federal government for FY 2015 — which starts October 1. This week's edition of *Legislate* provides a glossary of frequently used legislative terms — from “baseline” to “mark up” to “up-or-down vote” — that you can expect to hear as the funding debate gets underway.

Baseline

A baseline is a minimum or starting point used for comparisons. In preparing estimates of the budgetary impact of federal legislation, the Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) use a revenue and spending baseline. The baseline is an estimate of the federal revenues that will be collected over the next 10 years — and federal spending over the same period — assuming that present law remains unchanged during the period. The budgetary impact of legislation is equal to the difference between baseline revenue and spending and anticipated revenue and spending under that legislation.

Cloture

Cloture is a procedural rule in the Senate that limits the duration of debates on a bill, conference report, amendment, motion, nomination, or other matter to 30 hours, and thereafter allows an up-or-down vote on the measure. If cloture is approved by the Senate — a 60 vote threshold for most business, but under recent Senate precedent, only a majority of senators present and voting for most presidential nominations — then a bill, nomination, or other matter cannot be filibustered.

Policy Baseline

Sometimes policymakers refer to a “policy baseline” as opposed to a present law baseline. A policy baseline incorporates revenue and spending provisions that will lapse unless they are legislatively extended. This occurred, for example, during the debate over extending the Bush era tax cuts in early 2013, which had expired at the end of 2012. Under a policy baseline, a bill that kept the tax cuts for most but not all taxpayers would raise revenue. By contrast, under a present law baseline, any extension of the tax cuts would lose revenue.

Jurisdiction over ERISA

There are four committees with legislative jurisdiction over ERISA — the Senate Health, Education, Labor, and Pensions (HELP) Committee, the House Education and Workforce Committee, the Senate Finance Committee, and the House Ways and Means Committee. The first two committees have jurisdiction over the labor code aspects of ERISA, while the latter two are the tax-writing committees with jurisdiction over the tax code.

Committee

The House of Representatives (House) and the Senate have a number of permanent — or standing — committees, each with its own clearly specified purpose. Members of Congress are assigned by their own party to specific committees. Some committees have oversight responsibilities, while others have authority to consider proposed legislation (legislative jurisdiction), and many perform both functions. Joint committees include members of both houses of Congress, usually established with limited jurisdiction. Special select committees are established by the Senate for a limited time and purpose. Select and joint committees generally handle oversight or housekeeping responsibilities. The Senate's Special Committee on Aging is an example of a committee with oversight responsibility — over matters involving aging such as retirement saving — but no legislative jurisdiction.

Continuing Resolution

Federal law contemplates a specific process for funding the federal government, which begins each year with the president proposing a budget in early February for the federal fiscal year beginning October 1. The next step is for the House and Senate to pass a budget resolution in early spring. That resolution, however, does not actually fund the federal government for the upcoming fiscal year. Instead, it will specify the top-line numbers that the appropriations committees in the House and the Senate will use when passing bills for funding the various federal agencies and programs. In the final step, about a dozen appropriations bills must be passed by both chambers to actually fund the federal government. If regular appropriations bills that fund the government for a full fiscal year are not in place by October 1, Congress can pass a continuing resolution or CR to continue the pre-existing appropriations at the same levels as the previous fiscal year (or with modifications) for a set amount of time or until regular appropriations bills are passed, whichever comes first.

Congressional Budget Office

The CBO is a nonpartisan government agency that advises Congress on federal budgets and economic issues. Its chief responsibility is to help the House and Senate budget committees with matters under their jurisdiction, but it also supports other congressional committees and leadership. To do so, CBO: produces budget projections and economic forecasts; analyzes the president's budget; provides cost estimates of bills approved by congressional committees; analyzes the cost of proposed federal mandates on state and local governments and the private sector; and provides budget and appropriations committees scorekeeping reports of spending and revenue for enacted legislation. While CBO is responsible for preparing estimates of the impact that federal legislation will have on spending and revenue, estimates that involve tax revenue are handled by a different agency — the JCT.

Government Accountability Office

The Government Accountability Office (GAO) is an independent, nonpartisan agency that works for Congress and investigates how the federal government spends taxpayer dollars. Its goal is to support Congress in its oversight

responsibilities. GAO's work is done at the request of congressional committees or subcommittees, or is mandated by federal laws or committee reports.

Floor

The floor refers to the House or the Senate. When a bill is considered on the floor of either chamber, it is ready for consideration by the full chamber — generally after it has been reported by one or more committees. Under certain circumstances, however, a bill may be brought to the floor directly.

Joint Committee on Taxation

The JCT is a nonpartisan committee that advises Congress on tax law. JCT assists the tax-writing committees and members of Congress in developing and analyzing legislative proposals, prepares the official revenue estimates and legislative history for tax legislation, and investigates various aspects of the federal tax system.

Majority/Minority

The majority in the House or in the Senate refers to the political party with the most members in that chamber. The minority in the House or in the Senate refers to the political party with the least number of members in that chamber.

Mark-Up

A mark-up session is a meeting by a committee of jurisdiction to consider a bill — typically after committee hearings on the subject matter of the bill have taken place. The committee will debate the bill, consider any amendments, and then hold a vote on whether to accept or reject the changes. The committee can vote to report the bill, with or without amendment, to the chamber in which it sits or table the bill, which means no further action on it will occur. If the committee votes to report a bill, then a committee report will be prepared explaining the purpose and scope of the bill and any amendments made to it. The bill is then ready for further consideration by the chamber in which the committee sits. The mark-up process can take place at either the subcommittee level or the full committee level, or both.

Offset

An offset is a provision in a bill that raises revenue or reduces spending — and is typically included in a bill with tax cuts or spending provisions so that the bill is budget neutral.

Revenue Raisers

Offsets are sometimes referred to as “revenue raisers” if the particular provision would increase federal revenue.

Ranking Member

Each committee is comprised of members from both political parties, although generally there are more members from the majority party on each committee and a member from the majority will typically serve as chair of the committee. The ranking member of a committee typically refers to the most senior member from the minority party on that committee. Some Senate committees refer to the ranking minority member as vice chairman.

Suspension of the Rules

Legislation in the House is typically passed by a simple majority vote. There are special rules that allow the House to consider and dispose of noncontroversial legislation expeditiously — referred to as a suspension of the rules. The motion to suspend the rules requires a two-thirds vote of the Members present and voting.

Up-or-Down Vote

An up-or-down vote—also referred to as a “clean” vote or a vote on the merits — is a vote on the substance of a bill itself. It is in contrast to a vote on a procedural motion such as a cloture motion.

Authors

Drew Crouch, JD, LLM
Nancy Vary, JD

Produced by the Knowledge Resource Center of Buck Consultants at Xerox

The Knowledge Resource Center is responsible for national multi-practice compliance consulting, analysis and publications, government relations, research, surveys, training, and knowledge management. For more information, please contact your account executive or email fyi@xerox.com.

You are welcome to distribute *Legislate*® publications in their entirety. To manage your subscriptions, or to sign up to receive our mailings, visit our [Subscription Center](#).

This publication is for information only and does not constitute legal advice; consult with legal, tax and other advisors before applying this information to your specific situation.