Legislate®
Key Legislative Developments Affecting Your Human Resources US

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Senate Democrats Outline Their Vision for the Future

Senate Democrats unveiled a plan dubbed "A Better Deal." Designed to help the middle class and released shortly before the August recess, it includes proposals to raise wages, deter outsourcing of U.S. jobs, and create a national system of family and sick leave.

A Better Deal

Many provisions in the plan echo policy positions previously outlined by Democrats. Indeed, some of the proposals specifically reference legislation already introduced by Democrats in both chambers.

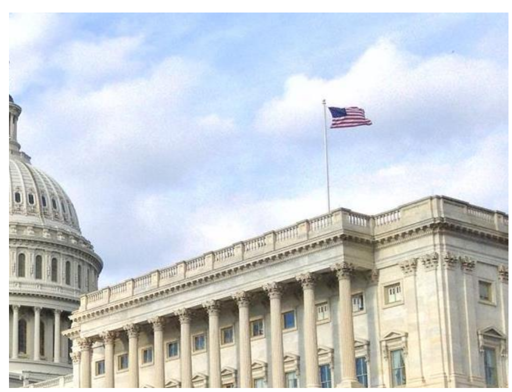
Wages: New Minimum

Increasing the federal minimum wage has been on Democrats' agenda for many years. Thus, it's no surprise to see a proposal to raise it. Specifically, the plan calls for the minimum wage to be increased to $15 an hour.

> **Comment.** Bicameral legislation – Raise the Wage Act (S. 1242 and H.R. 15) – would gradually raise the federal minimum wage from $7.25/hour to $15/hour by 2024. For additional information and background on this bicameral legislation, introduced by Sen. Bernie Sanders, I-Vt. and Rep. Bobby Scott, D-Va., this past spring, please see Sen. Sanders' press release and fact sheet, as well as our May 2, 2016 *Legislate*.

Outsourcing: U.S. vs. Non-U.S.

Republicans and Democrats grapple with how to address the outsourcing of U.S. jobs. To foster the retention and creation of jobs within the United States and to stem the loss of them, the Senate Democrats propose providing tax incentives to companies that maintain jobs or factories within the U.S., and/or bring jobs and factories back to the U.S. The plan proposes to penalize federal contractors that outsource manufacturing and call center jobs.



Revised Tax Structure

To discourage employers from sending jobs and factories overseas, the plan proposes numerous changes to the tax laws. The proposal's multifaceted approach includes the following:

- Denying current tax deductions for the costs associated with moving U.S. production and jobs outside of the U.S.
- Providing a tax credit of up to 20% of the cost of relocating production and jobs back to the U.S.
- Imposing certain penalties on companies that have outsourced American jobs by "recapturing certain tax benefits for five years prior" and by having them forfeit certain "tax incentives that helped them grow"
- Creating tax incentives for companies that relocate foreign jobs to rural and impoverished communities in the U.S.
- Requiring companies that move their headquarters overseas to pay their full U.S. tax bills (at the current 35% tax rate) on all profits they hold overseas before setting up their headquarters in a new country

Penalties for Federal Contractors

To discourage employers who are federal contractors from sending work outside the U.S., the plan takes a multifaceted approach. Specifically, federal contractors who engage in such outsourcing would:

- Be subject to a "negative preference of up to 10 percent of the cost of a contract" (which, in all likelihood, would lower their chance of being awarded a contract)
- Appear on a public "shame" list managed by DOL which, in turn, would create a "negative preference" upon seeking certain federal grants and loans. Companies would have the opportunity to be removed from the list by "relocating production" back to the U.S.
- Be required – if they "handle sensitive U.S. consumer data abroad" – to disclose the country location of facility (such as a call center) together with information about the data protection in that country

> **Comment.** The last point, which focuses on disclosure, would not bar a federal contractor from having a call center in a country with lax data protection. However, many (if not all) federal contractors already adhere to strict and comprehensive data privacy laws, rules and contractual requirements. As such, although any supplemental disclosure requirements would add an administrative burden, they are unlikely to be a heavily weighted factor as companies consider the country in which to locate a call center or whether to relocate one back to the U.S.

Family and Sick Leave

The Senate Democrats' plan proposes to create a national system of family and sick leave. It reflects current legislation sponsored by Democrats in both the House and Senate and, to some degree, emerging positions held by some Republicans. Specifically, the plan references two bills (both backed by more than 130 Democrat lawmakers) that would close a gap in safeguards for workers who take a leave of absence for reasons or purposes not protected by federal law.

Healthy Families Act

Sponsored by Sen. Patty Murray, D-Wash., and Rep. Rosa DeLauro, D-Conn., the bicameral legislation (S. 636 and H.R. 1516) would allow workers to earn up to 56 hours, or seven days, of paid leave each year to be used for a variety of reasons, including sickness, to care for a family member, or to obtain preventative care.

Paid Family and Medical Insurance Leave

Sponsored by Sen. Kirsten Gillibrand, D-N.Y., and Rep. DeLauro, D-Conn., the bicameral legislation, also known as the FAMILY Act, (S. 337 and H.R. 947) would establish a Family and Medical Leave Trust Fund within the Social Security Administration (SSA), funded by a new FICA tax equal to 0.2% of wages, and used to provide workers with a paid leave of absence to care for certain family members.

For additional information on these bills, please see our March 20 *Legislate*, as well as Sen. Murray's press release, Rep. DeLauro's press release and fact sheet and Sen. Gillibrand's press release.

Looking Ahead

Upon their return to the Hill after Labor Day weekend, lawmakers will dedicate some time and focus (with congressional hearings already scheduled) on health care reform and the need to stabilize the individual health insurance market. However, most of their energy and resources will be allocated to addressing the need to raise the debt ceiling before the Treasury exhausts its borrowing authority (currently thought to be September 29), and to appropriate funding to stave off a government shutdown on October 1 (the first day of the 2018 fiscal year).

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