

## **The Middle Class Tax Relief and Job Creation Act of 2012**

The conference report extends the payroll tax cut through the end of the year – putting a full \$1,000 in the pockets of the typical American family over the course of 2012, ensures seniors have access to their doctors, and provides as much as 99 weeks of Unemployment Insurance (UI) benefits, depending on the state. The conference report specifically helps unemployed folks in the hardest-hit states. It preserves Americans' access to health care and does not include a single cut to Medicare beneficiaries.

The conference report guarantees: up to 89 or 99 weeks of UI through May, depending on the state; up to 79 weeks through August; and up to 73 weeks through December. It ensures the economically hardest-hit areas get the help families need to cover their bills and exceeds the President's UI proposal, giving more support to the states and communities in the greatest need and helping to prevent layoffs.

### **Title I—Extension of Payroll Tax Reduction**

**Sec. 1001 - Extension of Payroll Tax Reduction.** This provision puts a full \$1,000 in the pockets of the typical American family over the course of 2012. Under current law, the employee-side Social Security tax equals 6.2 percent of the first \$110,100 of wages and the self-employment equals 12.4 percent of such self-employment income. In December 2010, Congress reduced these tax rates by two percentage points during 2011. This meant that employees paid only 4.2 percent on wages and self-employed individuals paid only 10.4 percent on self-employment income. The recently enacted Temporary Payroll Tax Cut Continuation Act of 2011 extended this holiday through February 2012. It capped the amount of compensation eligible for the holiday at \$18,350 so that high-income workers were not able to claim the tax cut on all of their taxable wages, while other workers were not. This cap is not necessary if the payroll tax holiday is extended through the entire year. The Conference Agreement extends the payroll tax holiday through the end of 2012 and repeals the \$18,350 cap. *The estimated cost of this provision is \$93.219 billion over eleven years.*

### **Title II—Unemployment Benefit Continuation and Program Improvement**

#### **Subtitle A – Reforms of Unemployment Compensation to Promote Work and Job Creation**

**Sec. 2101 - Consistent Job Search Requirements.** This provision requires an unemployment insurance beneficiary to be able to work, available to work and actively seeking work.

**Sec. 2102 - State Flexibility to Promote the Reemployment of Unemployed Workers.** This provision sets forth that the Secretary of Labor may enter into agreements with up to ten states for Demonstration Projects which are designed to assist and expedite the reemployment of the long-term unemployed. The waivers are restricted to only two uses for wage subsidies or for dispersments to employers up to the individuals benefit amount. The employer must pay wages above the individuals benefit amount. States are required to submit an application to the Secretary of Labor generally describing the Demonstration Project and its duration. All demonstration projects must be completed within three years. This program is voluntary

**Sec. 2103 - Improving Program Integrity by Better Recovery of Overpayments.** This provision changes statutory language from “may” to “shall” in the collection of state and federal overpayments. This helps save valuable UI dollars by directing states to collect overpayments. It also maintains the hardship exemptions in states.

**Sec. 2104 - Data Exchange Standardization for Improved Interoperability.** This provision outlines the need for consistent and widely-accepted reporting standards and outlines how a data exchange system will be developed and what reporting standards will be required.

**Sec. 2105 - Drug Testing of Applicants.** Consistent with current law that eligibility for benefits be based on the “fact or cause” of unemployment, this provision sets forth that states may enact legislation to require an applicant to submit to and pass a drug test for the unlawful use of controlled substances only under the following conditions: 1) the individual has been terminated from their most recent employment because of the unlawful use of controlled substances, or 2) the individual’s only suitable work involves employment in an occupation, as determined by regulations issued by the Secretary of Labor, that regularly conducts drug testing. This provision is consistent with the Federal law requirement that eligibility be based on the “fact or cause” of unemployment, since the only circumstances under which drug testing would be permitted are related to the “fact or cause” or unemployment.

#### **Subtitle B—Provisions Relating To Extended Benefits**

**Sec. 2122 - Extension and Modification of Emergency Employment Compensation Program and Sec. 2123 Temporary Extension of Extended Benefit Provisions.** These provisions reauthorize the Unemployment Insurance program and provide benefits up to 99 weeks, ensuring the economically hardest-hit areas get the help families need. These two provisions modify the current level for eligibility for extended benefits to track economic forecasts, which predict unemployment will be lower at the end of the year. The authorization of the Emergency Unemployment Compensation (EUC) program is extended through January 2, 2013 at:

- Up to 89 or 99 weeks through May, depending on the state.
- Up to 79 weeks through August.
- Up to 73 weeks through December.

*The estimated cost of this provision is \$30 billion.*

**Sec. 2124 - Additional Extended Unemployment Benefits Under The Railroad Unemployment Insurance Act.** This provision provides that funds appropriated, under either of two different sections of The Railroad Unemployment Insurance Act, shall be available to cover the cost of additional extended unemployment benefits, and provides \$500,000 for administrative expenses associated with the payment of the additional UI benefits.

#### **Subtitle C—Improving Reemployment Strategies under the Emergency Unemployment Compensation Program**

**Sec. 2141 - Improved Work Search for the Long-Term Unemployed.** This provision requires an unemployment insurance beneficiary to be able to work, available to work and actively seeking work. It further and conforms all federal benefits (EUC and Extended Benefits) to the same standard for work search.

**Sec. 2142 - Reemployment Services and Reemployment and Eligibility Assessment Activities.** This provision is the same as proposed in the President's Jobs Act. Reassessing unemployment eligibility for the long term unemployed can prevent needless overpayments and ensures that people receive the benefits they have earned. Reassessment also presents an opportunity to tailor reemployment services to individuals and to get people back to work more quickly. This provision provides participation requirements for reemployment services to UI beneficiaries. Additionally, it appropriates funding and discusses the distribution among the states. *The estimated cost of this provision is \$446 million.*

**Sec. 2143 - Promoting Program Integrity through Better Recovery of Overpayments.** This provision changes statutory language from "may" to "shall" in the collection of federal overpayments. This helps save valuable UI dollars by directing states to collect overpayments. It also maintains the hardship exemptions in states.

**Sec. 2144 - Restore State Flexibility to Improve Unemployment Program Solvency.** This provision reinstates the non-reduction rule and allows eligible states, with pending modifications of state unemployment benefits, to remain eligible for federal EUC funds through the end of the fiscal year.

#### **Subtitle D—Short-Time Compensation Program**

**Sec. 2161 - Treatment of Short-Time Compensation Programs.** Also known as work-sharing, this provision gives employers and employees an alternative to layoffs by reducing hours across the board. It stops layoffs before they happen. The provision is nearly identical to the Reed proposal, S. 1333, setting forth a standardized definition of short-time compensation programs to allow employers to reduce the workweek of their employees in lieu of layoffs.

**Sec. 2162 - Temporary Financing of Short-Time Compensation Payments in States with Programs in Law.** This provision allows states with approved short-time compensation programs to receive federal financing for 100 percent of short-time compensation benefits paid to workers. This financing program is available for up to three years. States with existing short-time compensation programs automatically receive 100 percent financing for two years and are eligible for a third year once their program is approved.

**Sec. 2163 - Temporary Financing of Short-Time Compensation Agreements.** This provision allows states without short-time compensation programs to take advantage of a federal program that would provide employers with access to short-time compensation and states with federal financing for 50 percent of short-time compensation benefits. This financing is available for two years and the state is eligible for an additional year if the state subsequently adopts an approved program.

**Sec. 2164 - Grants for Short-Time Compensation Programs.** This provision provides grants to eligible states for implementation of improved administration and larger grants for promotion and program enrollment efforts. *The estimated cost of this provision is \$490 million.*

**Sec. 2165 - Assistance and Guidance in Implementing Programs.** This provision requires the Secretary of Labor to develop model legislative language for use by states in developing, enacting, and implementing short-time compensation programs.

**Sec. 2166 - Reports.** This provision requires the Secretary of Labor to submit to Congress a report on the implementation of work sharing including a description of best practices, analysis of challenges to state enactment and implementation, and a survey of employers.

### **Subtitle E—Self-Employment Assistance**

**Sec. 2181 - State Administration of Self-Employment Assistance Programs.** This provision authorizes states to create Self-Employment Assistance programs available to the long-term unemployed, encouraging states to help unemployed workers while they are establishing businesses. Under current law the Self Employment Assistance (SEA) program focuses on the reemployment of UC beneficiaries.

**Sec. 2182 - Grants For Self-Employment Assistance Programs.** This provision provides grants, for one year, to states authorized to conduct self-employment assistance programs. *The estimated cost of this provision is \$30 million.*

**Sec. 2183 - Assistance and Guidance in Implementing Self-Employment Assistance Programs.** This provision requires the Department of Labor to establish model language for states that participate in self-employment assistance programs. The Department of Labor must also provide technical assistance to grantee states and establish reporting requirements.

## **Title III—Medicare and Other Health Provisions**

### **Subtitle A - Medicare Extensions**

**Sec. 3001 - Extension of MMA section 508 reclassifications.** Under current law, hospital geographic reclassifications authorized under section 508 of the Medicare Modernization Act expired on December 1, 2011. This provision extends these reclassifications through March 31, 2012. *The estimated cost of this provision is \$100 million over eleven years.*

**Sec. 3002 – Extension of Outpatient Hold-Harmless Payments.** Under current law, the outpatient hold harmless provision expires on February 29, 2012. This provision extends the outpatient hold harmless provision through December 31, 2012, except for sole community hospitals with more than 100 beds. *The estimated cost of this provision is \$100 million over eleven years.*

**Sec. 3003 - Physician Payment Update.** This provision guarantees seniors have continued access to their doctors by fixing the Sustainable Growth Rate (SGR) through the end of the year. Medicare physician payment rates are scheduled to be reduced by 27.4 percent on March 1, 2012. This provision would avoid that reduction and extend current Medicare payment rates through December 31, 2012. *The estimated cost of this provision is \$17.3 billion over eleven years.*

**Sec. 3004 - Work Geographic Adjustment.** Under current law, the Medicare fee schedule is adjusted geographically for three factors to reflect differences in the cost of resources needed to produce physician services: physician work, practice expense, and medical malpractice insurance. This provision extends the existing 1.0 floor on the “physician work” index through December 31, 2012. *The estimated cost of this provision is \$400 million over eleven years.*

**Sec. 3005 - Payment for Outpatient Therapy Services.** Current law places annual per beneficiary payment limits for all outpatient therapy services provided by non-hospital providers, but includes an exceptions process for cases in which the provision of additional therapy services is determined to be medically necessary. This provision extends the exception process through December 31, 2012. The provision also extends the cap to services received in hospital outpatient departments only through December 31, 2012. *The estimated cost of this provision is \$700 million over eleven years.*

**Sec. 3006 - Payment for Technical Component of Certain Physician Pathology Services.** This provision extends the ability of independent laboratories to receive direct payments for the technical component for certain pathology services through June 30, 2012. *The estimated cost of the provision is \$100 million over eleven years.*

**Sec. 3007 - Ambulance Add-Ons Payments.** This provision extends the add-on payment for ground and air ambulance services, including in super rural areas, through December 31, 2012. *The estimated cost of this provision is \$100 million over eleven years.*

### **Subtitle B - Other Health Provisions**

**Sec. 3101 - Qualifying Individual Program.** The Qualifying Individual (QI) program allows Medicaid to pay the Medicare Part B premiums for low-income Medicare beneficiaries with incomes between 120 percent and 135 percent of poverty. Under current law, QI expires February 29, 2012. This provision extends the QI program until December 31, 2012. *The estimated cost of this provision is \$600 million over eleven years.*

**Sec. 3102 - Transitional Medical Assistance.** Transitional Medical Assistance (TMA) allows low-income families to maintain their Medicaid coverage as they transition into employment and increase their earnings. Under current law, TMA expires February 29, 2012. This provision extends TMA until December 31, 2012. *The estimated cost of this provision is \$1.1 billion over eleven years.*

### **Subtitle C - Health Offsets**

**Sec. 3201 - Reduction of Bad Debt Treated as an Allowable Cost.** Medicare reimburses providers for beneficiaries' unpaid coinsurance and deductible amounts after reasonable collection efforts. Medicare reimburses providers between 70 and 100 percent of beneficiary bad debt. This provision phases down bad debt reimbursement for all providers to 65 percent. Providers currently reimbursed 100 percent of their bad debt would have a three-year transition of 88 percent, 76 percent and then 65 percent. Providers reimbursed 70 percent of their bad debt would be reduced to 65 percent. *This provision is estimated to generate \$6.9 billion in savings over the next eleven years.*

**Sec. 3202 - Rebase Medicare Clinical Laboratory Payment Rates.** Medicare pays for clinical laboratory services under carrier-specific fee schedules subject to national payment limits. Most lab services receive the national payment. This provision resets clinical lab payment rates by two percent in 2013. *This provision is estimated to generate \$2.4 billion in savings over the next eleven years.*

**Sec. 3203 - Rebasing State DSH Allotments for Fiscal Year 2021.** Disproportionate Share Hospital (DSH) payments provide additional help to those hospitals that serve a disproportionate number of low-income patients. The Affordable Care Act (ACA) reduced DSH payments, starting in 2014. This provision extends the DSH payment reductions from the ACA for one additional year. *This provision is estimated to generate \$4.1 billion in savings over the next eleven years.*

**Sec. 3204 - Technical Correction Relating to the Disaster Recovery FMAP Provision.** The ACA included a provision known as the 'disaster-recovery FMAP' designed to help states adjust to drastic changes in FMAP following a statewide disaster. Once triggered, the policy would provide assistance for as many as seven years following the disaster, as long as the state continued to experience an FMAP drop of more than three percentage points. This provision makes a technical correction. *This provision is estimated to generate \$2.5 billion in savings over the next eleven years.*

**Sec. 3205 - Prevention and Public Health Fund.** The ACA established a Prevention and Public Health Trust Fund to help shift the focus of the health care system to prevention rather than treatment. Authorizations to the fund increase from \$500 million in 2010 to \$2 billion in 2015 and each year thereafter. This provision reduces the trust fund by \$5 billion over ten years. *This provision is estimated to generate \$5 billion in savings over the next eleven years.*

## **Title IV – TANF Extension**

**Sec. 4001-4005 - Reauthorization of TANF Program.** This provision reauthorizes the Temporary Assistance for Needy Families (TANF) program through the end of the fiscal year, maintaining a critical lifeline for families in dire circumstances. It also creates a data standardization process to simplify reporting requirements, prevents use of TANF assistance at certain establishments and makes technical legislative corrections. *This provision has no revenue effect.*

## **Title V – Federal Employees Retirement**

**Sec. 5001 - Federal Employee Pensions.** Most federal civilian employees who started their federal service after 1986 are participants in the Federal Employees Retirement System (FERS), under which they make a contribution toward a retirement annuity. The employee contribution rate is currently 0.8 percent of pay. Employee contributions and benefits for special occupational groups and Members of Congress are higher. Separate but comparable retirement systems exist for Foreign Service and CIA employees. The Conference Agreement provides that contributions would increase by 2.3 percentage points only for employees joining the federal service after December 31, 2012 with less than five years of service as of the end of 2012. Corresponding increases in employee contributions would be made for employees in the CIA and Foreign Service pension systems. No change would be made to pension benefits. The conference agreement does not affect current federal workers' pension contributions or benefits. Members of Congress and congressional employees entering service after December 31, 2012 with less than 5 years of creditable civilian service would have their contributions and benefits determined at the same rate as other new federal employees. *This provision is estimated to raise \$15 billion over the next eleven years.*

## **Title VI - Public Safety Communications and Electromagnetic Spectrum Auctions**

**Sec. 6101-6703 - Spectrum Auction.** This provision grants the FCC the authority to hold voluntary incentive auctions, allocates necessary spectrum for a nationwide interoperable broadband network for first responders, provides \$7 billion for public safety broadband network build out, and provides up to \$1.75 billion for relocation costs for broadcasters. *This provision is estimated to raise \$15 billion over the next eleven years.*

## **Title VII – Miscellaneous Provisions**

**Sec. 7001 - Repeal of certain timing shifts of corporate estimated tax payments.** Under current law, companies are generally required to pay corporate estimated taxes according to a regular schedule set by statute. For companies with assets of \$1 billion or more, that general payment schedule has occasionally been modified to shift the timing for payment of certain such installments. Typically, these provisions have increased covered corporations' estimated tax payments that are due in the fourth quarter of particular years by a certain percentage, while decreasing those corporations' payments by a corresponding amount in the first quarter of the following years. Under the Conference Agreement, a series of these recently enacted timing shifts would be repealed, restoring the regular payment schedule that applied prior to their enactment. *This provision has no revenue effect.*

**Sec. 7002 – Repeal of Requirement Relating to Time for Remitting Certain Merchandise Processing Fees.** Under current law, importers are required to pay certain merchandise processing fees authorized under the Consolidated Omnibus Budget Reconciliation Act of 1985 after the merchandise has been entered into the United States. For merchandise entered on or after October 1, 2012, and before November 12, 2012, those fees must be paid not later than September 25, 2012. Under the Conference Agreement, this provision repeals the prepayment of these fees. *This provision has no revenue effect.*

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