The Job Creation and Tax Cuts Act

Summary of Changes Made from the American Jobs and Closing Tax Loopholes Act
September 16, 2010

**NOTE: This document reflects modifications and additions made to the substitute amendment to the American Jobs and Closing Tax Loopholes Act, H.R. 4213, introduced on June 23, 2010. Provisions not listed below remain unchanged. All scores in this document are preliminary and subject to change.*

Addition of Reduction in Corporate Rate for Qualified Timber Gain -- Under current law, gains on timber sales are eligible for capital gains tax treatment. This bill provides an extension of a provision included in the Farm Bill of 2008 that created an alternative maximum tax rate of 15 percent for gains on qualified timber harvest by a C corporation. Qualified timber gains are gains from the sale or exchange of timber held for at least 15 years. *This addition is estimated to cost $254 million over ten years.*

Addition of Trade Adjustment Assistance Extension -- The American Recovery and Reinvestment Act of 2009 (ARRA) expanded and reformed all Trade Adjustment Assistance (TAA) programs, including the TAA for Workers, Firms, Farmers and Communities programs. The bill authorizes a one-year extension of those programs and will sunset after December 31, 2011. *This provision is estimated to cost $1 billion over ten years.*

Addition of Customs User Fees Extension – Congress first established customs user fees in 1986 to offset inspection costs that were previously funded solely by general taxpayer revenue. The bill extends all customs user fees to offset the cost of the bill. The merchandise processing fee is extended to December 31, 2019 and the COBRA fees are extended to September 30, 2019. *This provision is estimated to raise $2.56 billion over ten years.*

Modification to Build America Bonds -- The June 23, 2010 version of the American Jobs and Closing Tax Loopholes Act extended Build America Bonds through 2012. This bill extends the program through 2011. *This change reduces the cost of the package by $1.3 billion over ten years.*

Modification to the Oil Spill Liability Trust Fund Solvency – To ensure the continued solvency of the Oil Spill Liability Trust Fund, the June 23, 2010 version of the American Jobs and Closing Tax Loopholes Act would have increased the amount that oil companies are required to pay into the fund from 8 cents per barrel to 49 cents per barrel. This bill increases the Oil Spill Liability Trust Fund Excise by 29 additional cents to 78 cents per barrel. *This change is estimated to raise $12.7 billion over ten years.*

Modification of Effective Dates of Corporate Loophole Closers – The corporate loophole closers contained in the June 23, 2010 version of the package applied, in general, to transactions occurring after date of enactment. The effective dates of the corporate loophole closers contained in this bill generally apply to transactions occurring after December 31, 2010. The transition rule contained in the "boot-within-gain limitation" corporate loophole was also modified in this bill. *These changes are estimated to cost $149 million over ten years.*

Modification to the TANF Jobs and Emergency Fund – The Temporary Assistance for Needy Families (TANF) program was created in the 1996 welfare reform law and was reauthorized through FY2010 by the Deficit Reduction Act. The June 23, 2010 version of the American Jobs and Closing Tax Loopholes Act included $2.5 billion to extend the fund through FY 2011. This bill changes the funding level to provide $1.5 billion to extend the fund through FY 2011. *This change is estimated to decrease the cost of the bill by $1 billion.*

Addition of TANF Block Grant – The TANF block grant funds a wide range of benefits and services for low-income families with children. TANF was created in the 1996 welfare reform law and was reauthorized through FY 2010 by the Deficit Reduction Act. The funding level for TANF block grant is $16.5 billion per year which expires on September 30, 2010. The TANF block grant is a part of the CBO baseline, so if TANF is extended prior to the expiration date there is no score for the extension. *This addition has no revenue effect.*

Addition of TANF Supplemental Grants – TANF provides supplemental grants to 17 states that met historical criteria of low federal grants for welfare per poor person and/or high population growth. The supplemental grants expire on September 30, 2010. The bill extends the grants through FY2011. *This addition is estimated to cost $319 million for FY 2011.*

Addition of TANF "Regular" Contingency Fund – The "regular" Contingency Fund has been included in TANF since the program's 1996 inception. The fund received a one-time $2 billion appropriation. The "regular" Fund was designed as a resource to states; states' ability to access is based on recession-related triggers. Until recently, very few states accessed this fund. The "regular" Fund ran out of money in December 2009, and no further funding is available from it. The bill maintains the fund at $293 million for FY 2011 which is already included CBO's baseline. *This change to the contingency fund raises $319 million for FY 2011.*

Addition of a National Study of Child Welfare – This provision would provide funds to continue the longitudinal random sample study of children who are at risk for child abuse and neglect or are determined to have been abused or neglected. The funds for the study expire on September 30, 2010. The cost of continuing the study is $6 million per year**.** *This addition is estimated to cost $6 million for FY2011.*

Addition of the Child Support Enforcement (CSE) – Incentive Funds -- This provision was included in the Recovery Act and allows CSE-Incentive Payments received by the states and reinvested in the child support program to be used to draw down federal matching funds. These CSE-Incentive fund dollars pay for program activities like collections and the establishment of paternity. The CSE-incentive funds expire on September 30, 2010. This provision is estimated to cost $500 million per year. *This addition is estimated to cost $500 million for FY2011*

Addition of Unemployment Insurance Overpayment Reform – The bill includes a multi-prong effort to improve the accuracy of the unemployment insurance program by penalizing fraudulent overpayments, reducing data errors, and increasing the recovery of overpayments. The bill includes the following overpayment policies:

- **Allow Investment of Recovered Funds in Program Integrity:** Permit states to direct up to five percent of the overpayments they recover to fund program integrity efforts. Currently, states are required to redeposit recovered funds in their federal unemployment insurance trust fund to pay more unemployment insurance claims. This proposal would allow them to direct a portion of recovered overpayments into a special state fund for program integrity activities.
- **Improve Start-Date Data Collection:** Employers would be required to report the start date of new employees to the National Directory of New Hires (NDNH). This will enable states to determine if a beneficiary collecting unemployment has started a new job in a different state.
- **Impose Penalty on Fraudulent Recipients:** States would be required to impose a penalty of at least 15% on recipients of fraudulent overpayments. Previously, claimants who fraudulently received unemployment insurance benefits were to repay the money without penalty. The penalties collected would be used for additional program integrity activities.
- **Give Employers an Incentive to Prevent Overpayments:** Currently, if UI benefits turn out to be overpayments, the employer will not face a higher tax penalty – even if the overpayment is the employers fault. This proposal would not allow employers to get this benefit; states would not be allowed to repay benefit charges to an employer when employers allow the overpayment.
- **Recover More Funds Via Tax Refunds:** The Federal government would have expanded authority to collect overpayments through the Treasury Offset Program (TOP).

The bill also includes the following system improvements in ways unrelated to overpayments:

- **Improve Existing "Work-Sharing" Program:** Clarifies the requirement for the existing short-term compensation ("work-sharing") program, a program which utilizes the unemployment insurance system in order to prevent layoffs.
- **Clarify Interation with Child Support Enforcement:** Clarifies the scope of the Department of Labor's authority to share information with regard to the child support enforcement intercept of unemployment compensation.
- **Streamline Federal-State Extended Benefits Program:** Simplifies the documentation necessary for beneficiaries to show that they are searching for work.

The addition of unemployment insurance overpayment reform is estimated to raise $2.4 billion over ten years.

Removal of Provisions Signed into Law:

- **First-Time Homebuyer Credit** – Signed into law on July 2, 2010 as part of H.R. 5623, the Homebuyer Assistance and Improvement Act of 2010.

- **Pension Funding Relief** – Signed into law on June 25, 2010 as part of H.R. 3962, the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010.

- **Rules To Prevent Splitting Foreign Tax Credits From Income –** Signed into law on August 10, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

- **Denial of Foreign Tax Credit with Respect to Foreign Income Not Subject to United States Taxation by Reason of Covered Asset Acquisitions –** Signed into law on August 10, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

- **Separate Application of Foreign Tax Credit Limitation to Items Resourced Under Tax Treaties –** Signed into law on August 10, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

- **Limitation on the Use of Section 956 for Foreign Tax Credit Planning (i.e., the "hopscotch" rule) –** Signed into law on August 10, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

- **Special Rule with Respect to Certain Redemptions by Foreign Subsidiaries** – Signed into law on August 10, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

- **Modification of Affiliation Rules for Purposes of Rules Allocating Interest Expense –** Signed into law on August 10, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

- **Repeal of 80/20 Rules –** Signed into law on August 10, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

- **Elimination of Advance Refundability of Earned Income Tax Credit –** The June 23, 2010 version of the American Jobs and Closing Tax Loopholes Act included a provision to repeal the option to request an advanced payment of the Earned Income Tax Credit (EITC). This provision was signed into law on August 10, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

- **FMAP Extension –** Signed into law on August 5^{th}, 2010 as part of H.R. 1586, The FAA Air Transportation Modernization and Safety Improvement Act.

- **Medicaid Average Manufacturer Price (AMP) –** Signed into law on August 5^{th}, 2010 as part of H.R. 1586, the FAA Air Transportation Modernization and Safety Improvement Act.

Removal of Employment Tax Treatment of Professional Service Businesses – The bill removes a provision contained in the June 23, 2010 version of the American Jobs and Closing Tax Loopholes Act that would have closed a loophole in the tax code that allows some service professionals to avoid Medicare and Social Security taxes by routing their self-employment income through S-corporations or other pass-through organizations. *The removal of this provision costs $9.1 billion over ten years.*

Removal of Small Business Lending Fund Program -- The bill removes a provision in the June 23, 2010 version of the American Jobs and Closing Tax Loopholes Act. This provision is now included in the Small Business Jobs Act of 2010. *The removal of this provision reduces the cost of the bill by $505 million.*

Removal of Source Rules on Guarantees – The bill removes a provision in the June 23, 2010 version of the American Jobs and Closing Tax Loopholes Act. This provision is now included in the Small Business Jobs Act of 2010. *The removal of this provision costs $2.0 billion over ten years.*

Removal of Limitation on Penalty for Failure to Disclose Reportable Transactions Based on Resulting Tax Benefits – The bill removes a provision in the June 23, 2010 version of the package. This provision is now included in the Small Business Jobs Act of 2010. *The removal of this provision costs $176 million over ten years.*

Removal of Report on Tax Shelter Penalties and Certain Other Enforcement Actions – The bill removes a provision in the June 23, 2010 version of the package. This provision is now included in the Small Business Jobs Act of 2010. *The removal of this provision has no revenue effect.*

Technical Correction to Pension Funding Legislation – The bill provides technical changes to the Pension Funding Relief Act signed into law on June 25, 2010. The principal purpose of these changes is to make the provisions that were enacted clearer and more administrable. This will allow companies access to the important relief without having to wait for administrative guidance. These technical changes do not represent any change in policy from the funding relief provisions as originally enacted. In addition, the bill reflects the intent of the statute as enacted by clarifying that the extra relief for charities is available only for national charities that have many local chapters and provide services with respect to children. *This addition has no revenue effect.*