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S. 3816, Creating American Jobs and Ending Offshoring Act

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Summary

U.S. workers have faced the most serious financial challenges since the Great Depression. Employers have slashed jobs at an alarming rate, particularly in the manufacturing sector, with millions of jobs lost over the course of the recession. That is why Senate Democrats have made a manufacturing-based jobs bill a top priority. This legislation will provide tax cuts for companies that create American jobs and create disincentives to moving American jobs overseas.

Specifically, the *Creating American Jobs and Ending Offshoring Act (S. 3816)* would:

- Provide a payroll tax cut for companies that return jobs to the United States from overseas; and
- End tax loopholes that encourage the off-shoring of jobs.

The Senate is expected to consider this legislation the week of September 27, 2010.

Major Provisions

This summary is drawn from an analysis prepared by the Majority Leader's office.

Incentive to Create American Jobs

Create Payroll Tax Holiday for Companies that Return Jobs to the United States from Overseas

To encourage businesses to create jobs in the United States, the *Creating American Jobs and Ending Offshoring Act* would provide businesses with relief from the employer share of the Social Security payroll tax on wages paid to new U.S. employees performing services in the United States. To be eligible, businesses must certify that the U.S. employee is replacing an employee who had been performing similar duties overseas. This payroll tax relief is available for 24 months for employees hired during the three-year period beginning September 22, 2010. The Joint Committee on Taxation estimates that this provision will reduce revenues by \$1.09 billion over ten years.

Disincentives to Moving American Jobs Overseas

End Subsidies for Plant Closing Costs

The *Creating American Jobs and Ending Offshoring Act* would eliminate subsidies that U.S. taxpayers provide to firms that move facilities offshore. The bill would prohibit a firm from taking any deduction, loss or credit for amounts paid in connection with reducing or ending the operation of a trade or business in the U.S. and starting or expanding a similar trade or business overseas. The bill would not, however, apply to any severance payments or costs associated with outplacement services or employee retraining provided to any employees that lose their jobs as a result of the offshoring. Firms would be able to apply to the Treasury Secretary for relief from this rule for transactions that do not result in the loss of employment in the U.S. The Joint Committee on Taxation estimates that this provision will raise \$277 million over ten years.

End Tax Break for Runaway Plants

The *Creating American Jobs and Ending Offshoring Act* would end the federal tax subsidy that rewards U.S. firms that move their production overseas. Under current law, U.S. companies can defer paying U.S. tax on income earned by their foreign subsidiaries until that income is brought back to the United States. This is known as “deferral.” Deferral has the effect of putting these firms at a competitive advantage over U.S. firms that hire U.S. workers to make products in the United States. The bill would repeal deferral for companies that reduce or close a trade or business in the U.S. and start or expand a similar business overseas for the purpose of importing their products for sale in the United States. U.S. companies that locate facilities abroad in order to sell their products overseas are unaffected by this proposal. The Joint Committee on Taxation estimates that this provision will raise \$92 million over ten years.

Legislative History

On September 21, 2010, Senator **Durbin** introduced **S. 3816**. As of this writing, the bill has seven cosponsors, including Senators **Boxer, Brown, Dorgan, Leahy, Reid, Schumer,** and **Whitehouse**. On September 22, **S. 3816** was placed on the Senate Legislative Calendar under General Orders (Calendar No. 578).

On September 24, Senator **Reid** asked unanimous consent that the Senate proceed to the consideration **S.3816**. Senator McConnell objected to the request. Senator Reid then moved to proceed to **S.3816** and filed a cloture motion on the motion to proceed to the bill.

By unanimous consent, the cloture vote on the motion to proceed to **S.3816** will occur on Tuesday, September 28th.

Expected Amendments

DPC will circulate information on amendments to staff listservs as it becomes available.

Administration Position

As of this writing, the Administration has not issued a Statement of Administration Position related to **S. 3816**.