

Calendar No. 251

112TH CONGRESS
1ST SESSION**S. 1944**

To create jobs by providing payroll tax relief for middle class families and businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2011

Mr. CASEY (for himself, Mr. REID, Mr. SCHUMER, and Mr. DURBIN)
introduced the following bill; which was read the first time

DECEMBER 6, 2011

Read the second time and placed on the calendar

A BILL

To create jobs by providing payroll tax relief for middle class families and businesses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Middle Class Tax Cut
5 Act of 2011”.

1 **SEC. 2. TEMPORARY EXTENSION AND EXPANSION OF EM-**
2 **PLOYEE PAYROLL TAX RELIEF.**

3 (a) EXTENSION.—Section 601(e) of the Tax Relief,
4 Unemployment Insurance Reauthorization, and Job Cre-
5 ation Act of 2010 (26 U.S.C. 1401 note) is amended by
6 striking “year 2011” and inserting “years 2011 and
7 2012”.

8 (b) INCREASED RELIEF.—

9 (1) IN GENERAL.—Subsection (a) of section
10 601 of the Tax Relief, Unemployment Insurance Re-
11 authorization, and Job Creation Act of 2010 (26
12 U.S.C. 1401 note) is amended—

13 (A) by inserting “(9.3 percent for calendar
14 year 2012)” after “10.40 percent” in para-
15 graph (1), and

16 (B) in paragraph (2)—

17 (i) by striking “(including” and in-
18 serting “(3.1 percent in the case of cal-
19 endar year 2012), including” after “4.2
20 percent”, and

21 (ii) by striking “Code)” and inserting
22 “Code”.

23 (2) COORDINATION WITH INDIVIDUAL DEDUC-
24 TION FOR EMPLOYMENT TAXES.—Subparagraph (A)
25 of section 601(b)(2) of such Act is amended by in-

1 serting “(66.67 percent for taxable years which
2 begin in 2012)” after “59.6 percent”.

3 (c) **TECHNICAL AMENDMENTS.**—Paragraph (2) of
4 section 601(b) of the Tax Relief, Unemployment Insur-
5 ance Reauthorization, and Job Creation Act of 2010 (26
6 U.S.C. 1401 note) is amended—

7 (1) by inserting “of such Code” after “164(f)”,

8 (2) by inserting “of such Code” after
9 “1401(a)” in subparagraph (A), and

10 (3) by inserting “of such Code” after
11 “1401(b)” in subparagraph (B).

12 **SEC. 3. SURTAX ON MILLIONAIRES.**

13 (a) **IN GENERAL.**—Subchapter A of chapter 1 of the
14 Internal Revenue Code of 1986 is amended by adding at
15 the end the following new part:

16 **“PART VIII—SURTAX ON MILLIONAIRES**

“Sec. 59B. Surtax on millionaires.

17 **“SEC. 59B. SURTAX ON MILLIONAIRES.**

18 “(a) **GENERAL RULE.**—In the case of a taxpayer
19 other than a corporation for any taxable year beginning
20 after 2012 and before 2022, there is hereby imposed (in
21 addition to any other tax imposed by this subtitle) a tax
22 equal to 1.9 percent of so much of the modified adjusted
23 gross income of the taxpayer for such taxable year as ex-
24 ceeds the threshold amount.

1 “(b) THRESHOLD AMOUNT.—For purposes of this
2 section—

3 “(1) IN GENERAL.—The threshold amount is
4 \$1,000,000.

5 “(2) INFLATION ADJUSTMENT.—

6 “(A) IN GENERAL.—In the case of any
7 taxable year beginning after 2013, the
8 \$1,000,000 amount under paragraph (1) shall
9 be increased by an amount equal to—

10 “(i) such dollar amount, multiplied by

11 “(ii) the cost-of-living adjustment de-
12 termined under section 1(f)(3) for the cal-
13 endar year in which the taxable year be-
14 gins, determined by substituting ‘calendar
15 year 2011’ for ‘calendar year 1992’ in sub-
16 paragraph (B) thereof.

17 “(B) ROUNDING.—If any amount as ad-
18 justed under paragraph (1) is not a multiple of
19 \$10,000, such amount shall be rounded to the
20 next highest multiple of \$10,000.

21 “(3) MARRIED FILING SEPARATELY.—In the
22 case of a married individual filing separately for any
23 taxable year, the threshold amount shall be one-half
24 of the amount otherwise in effect under this sub-
25 section for the taxable year.

1 “(c) MODIFIED ADJUSTED GROSS INCOME.—For
2 purposes of this section, the term ‘modified adjusted gross
3 income’ means adjusted gross income reduced by any de-
4 duction (not taken into account in determining adjusted
5 gross income) allowed for investment interest (as defined
6 in section 163(d)). In the case of an estate or trust, ad-
7 justed gross income shall be determined as provided in sec-
8 tion 67(e).

9 “(d) SPECIAL RULES.—

10 “(1) NONRESIDENT ALIEN.—In the case of a
11 nonresident alien individual, only amounts taken
12 into account in connection with the tax imposed
13 under section 871(b) shall be taken into account
14 under this section.

15 “(2) CITIZENS AND RESIDENTS LIVING
16 ABROAD.—The dollar amount in effect under sub-
17 section (a) shall be decreased by the excess of—

18 “(A) the amounts excluded from the tax-
19 payer’s gross income under section 911, over

20 “(B) the amounts of any deductions or ex-
21 clusions disallowed under section 911(d)(6)
22 with respect to the amounts described in sub-
23 paragraph (A).

24 “(3) CHARITABLE TRUSTS.—Subsection (a)
25 shall not apply to a trust all the unexpired interests

1 in which are devoted to one or more of the purposes
2 described in section 170(c)(2)(B).

3 “(4) NOT TREATED AS TAX IMPOSED BY THIS
4 CHAPTER FOR CERTAIN PURPOSES.—The tax im-
5 posed under this section shall not be treated as tax
6 imposed by this chapter for purposes of determining
7 the amount of any credit under this chapter or for
8 purposes of section 55.”.

9 (b) CLERICAL AMENDMENT.—The table of parts for
10 subchapter A of chapter 1 of the Internal Revenue Code
11 of 1986 is amended by adding at the end the following
12 new item:

“PART VIII. SURTAX ON MILLIONAIRES.”.

13 (c) SECTION 15 NOT TO APPLY.—The amendment
14 made by subsection (a) shall not be treated as a change
15 in a rate of tax for purposes of section 15 of the Internal
16 Revenue Code of 1986.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2012.

20 **SEC. 4. UNWARRANTED UNEMPLOYMENT COMPENSATION.**

21 (a) IN GENERAL.—Subtitle E of the Internal Rev-
22 enue Code of 1986 is amended by adding at the end the
23 following new chapter:

1 **“CHAPTER 56—UNWARRANTED**
2 **UNEMPLOYMENT COMPENSATION**

“Sec. 5895. Unwarranted unemployment compensation.

3 **“SEC. 5895. UNWARRANTED UNEMPLOYMENT COMPENSA-**
4 **TION.**

5 “(a) IMPOSITION OF TAX.—There is hereby imposed
6 on any taxpayer with adjusted gross income (as defined
7 in section 62) for any taxable year of at least \$1,000,000
8 (\$500,000, in the case of a married individual filing a sep-
9 arate return), a tax equal to 50 percent (55 percent in
10 the case of a taxable year beginning in 2011 or 2012) of
11 any unemployment compensation (as defined in section
12 85(b)) received by such taxpayer in such taxable year.

13 “(b) ADMINISTRATIVE PROVISIONS.—For purposes
14 of the deficiency procedures of subtitle F, any tax imposed
15 by this section shall be treated as a tax imposed by subtitle
16 A.”.

17 (b) CLERICAL AMENDMENT.—The table of chapters
18 for subtitle E of the Internal Revenue Code of 1986 is
19 amended by adding at the end the following new item:

“CHAPTER 56—UNWARRANTED UNEMPLOYMENT COMPENSATION”.

20 (c) TAX NOT DEDUCTIBLE.—Section 275(a) of the
21 Internal Revenue Code of 1986 is amended by inserting
22 after paragraph (6) the following new paragraph:

23 “(7) Tax imposed by section 5895.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2010.

4 **SEC. 5. ENDING SUPPLEMENTAL NUTRITION ASSISTANCE**
5 **PROGRAM BENEFITS FOR MILLIONAIRES.**

6 (a) IN GENERAL.—Section 6 of the Food and Nutri-
7 tion Act of 2008 (7 U.S.C. 2015) is amended by adding
8 at the end the following:

9 “(r) DISQUALIFICATION FOR RECEIPT OF ASSETS OF
10 AT LEAST \$1,000,000.—Any household in which a mem-
11 ber receives income or assets with a fair market value of
12 at least \$1,000,000 shall, immediately on the receipt of
13 the assets, become ineligible for further participation in
14 the program until the date on which the household meets
15 the income eligibility and allowable financial resources
16 standards under section 5.”.

17 (b) CONFORMING AMENDMENTS.—Section 5(a) of
18 the Food and Nutrition Act of 2008 (7 U.S.C. 2014(a))
19 is amended in the second sentence by striking “sections
20 6(b), 6(d)(2), and 6(g)” and inserting “subsections (b),
21 (d)(2), (g), and (r) of section 6”.

22 **SEC. 6. GUARANTEE FEES.**

23 Subpart A of part 2 of subtitle A of title XIII of the
24 Housing and Community Development Act of 1992 is

1 amended by adding after section 1326 (12 U.S.C. 4546)
2 the following new section:

3 **“SEC. 1327. ENTERPRISE GUARANTEE FEES.**

4 “(a) DEFINITIONS.—For purposes of this section, the
5 following definitions shall apply:

6 “(1) GUARANTEE FEE.—The term ‘guarantee
7 fee’—

8 “(A) means a fee described in subsection
9 (b); and

10 “(B) includes—

11 “(i) the guaranty fee charged by the
12 Federal National Mortgage Association
13 with respect to mortgage-backed securities;
14 and

15 “(ii) the management and guarantee
16 fee charged by the Federal Home Loan
17 Mortgage Corporation with respect to par-
18 ticipation certificates.

19 “(2) AVERAGE FEES.—The term ‘average fees’
20 means the average contractual fee rate of single-
21 family guaranty arrangements by an enterprise en-
22 tered into during 2011, plus the recognition of any
23 up-front cash payments over an estimated average
24 life, expressed in terms of basis points. Such defini-
25 tion shall be interpreted in a manner consistent with

1 the annual report on guarantee fees by the Federal
2 Housing Finance Agency.

3 “(b) INCREASE.—

4 “(1) IN GENERAL.—

5 “(A) PHASED INCREASE REQUIRED.—Sub-
6 ject to subsection (c), the Director shall require
7 each enterprise to charge a guarantee fee in
8 connection with any guarantee of the timely
9 payment of principal and interest on securities,
10 notes, and other obligations based on or backed
11 by mortgages on residential real properties de-
12 signed principally for occupancy of from 1 to 4
13 families, consummated after the date of enact-
14 ment of this section.

15 “(B) AMOUNT.—The amount of the in-
16 crease required under this section shall be de-
17 termined by the Director to appropriately re-
18 flect the risk of loss, as well the cost of capital
19 allocated to similar assets held by other fully
20 private regulated financial institutions, but such
21 amount shall be not less than an average in-
22 crease of 12.5 basis points for each origination
23 year or book year above the average fees im-
24 posed in 2011 for such guarantees. The Direc-
25 tor shall prohibit an enterprise from offsetting

1 the cost of the fee to mortgage originators, bor-
2 rowers, and investors by decreasing other
3 charges, fees, or premiums, or in any other
4 manner.

5 “(2) AUTHORITY TO LIMIT OFFER OF GUAR-
6 ANTEE.—The Director shall prohibit an enterprise
7 from consummating any offer for a guarantee to a
8 lender for mortgage-backed securities, if—

9 “(A) the guarantee is inconsistent with the
10 requirements of this section; or

11 “(B) the risk of loss is allowed to increase,
12 through lowering of the underwriting standards
13 or other means, for the primary purpose of
14 meeting the requirements of this section.

15 “(3) DEPOSIT IN TREASURY.—Amounts re-
16 ceived from fee increases imposed under this section
17 shall be deposited directly into the United States
18 Treasury, and shall be available only to the extent
19 provided in subsequent appropriations Acts. The fees
20 charged pursuant to this section shall not be consid-
21 ered a reimbursement to the Federal Government
22 for the costs or subsidy provided to an enterprise.

23 “(c) PHASE-IN.—

24 “(1) IN GENERAL.—The Director may provide
25 for compliance with subsection (b) by allowing each

1 enterprise to increase the guarantee fee charged by
2 the enterprise gradually over the 2-year period be-
3 ginning on the date of enactment of this section, in
4 a manner sufficient to comply with this section. In
5 determining a schedule for such increases, the Direc-
6 tor shall—

7 “(A) provide for uniform pricing among
8 lenders;

9 “(B) provide for adjustments in pricing
10 based on risk levels; and

11 “(C) take into consideration conditions in
12 financial markets.

13 “(2) RULE OF CONSTRUCTION.—Nothing in
14 this subsection shall be interpreted to undermine the
15 minimum increase required by subsection (b).

16 “(d) INFORMATION COLLECTION AND ANNUAL
17 ANALYSIS.—The Director shall require each enterprise to
18 provide to the Director, as part of its annual report sub-
19 mitted to Congress—

20 “(1) a description of—

21 “(A) changes made to up-front fees and
22 annual fees as part of the guarantee fees nego-
23 tiated with lenders;

1 “(B) changes to the riskiness of the new
2 borrowers compared to previous origination
3 years or book years; and

4 “(C) any adjustments required to improve
5 for future origination years or book years, in
6 order to be in complete compliance with sub-
7 section (b); and

8 “(2) an assessment of how the changes in the
9 guarantee fees described in paragraph (1) met the
10 requirements of subsection (b).

11 “(e) ENFORCEMENT.—

12 “(1) REQUIRED ADJUSTMENTS.—Based on the
13 information from subsection (d) and any other infor-
14 mation the Director deems necessary, the Director
15 shall require an enterprise to make adjustments in
16 its guarantee fee in order to be in compliance with
17 subsection (b).

18 “(2) NONCOMPLIANCE PENALTY.—An enter-
19 prise that has been found to be out of compliance
20 with subsection (b) for any 2 consecutive years shall
21 be precluded from providing any guarantee for a pe-
22 riod, determined by rule of the Director, but in no
23 case less than 1 year.

24 “(3) RULE OF CONSTRUCTION.—Nothing in
25 this subsection shall be interpreted as preventing the

1 Director from initiating and implementing an en-
2 forcement action against an enterprise, at a time the
3 Director deems necessary, under other existing en-
4 forcement authority.

5 “(f) EXPIRATION.—The provisions of this section
6 shall expire on October 1, 2021.”.

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112TH CONGRESS
1ST Session

S. 1944

A BILL

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