# Office Congressman Joe Donnelly

## Indiana 2nd Congressional District

Office Congressman Joe Donnelly

Indiana 2nd Congressional District

## Tax Provisions in *The American Recovery and Reinvestment Act*

### Tax Provisions for Individuals

**"Making Work Pay" Tax Credit**
For 2009 and 2010, the bill provides a refundable tax credit of up to $400 for working individuals and $800 for working families. How to Apply: Taxpayers will receive this benefit through a reduction in the amount of income tax withheld from their paychecks. Taxpayers may consult with their employer or visit www.irs.gov for more information.

**Economic Recovery Payment to Recipients of Social Security, SSI, Railroad Retirement and Veterans Disability Compensation Benefits**
This provision provides a one time payment of $250 to retirees, disabled individuals and SSI recipients receiving benefits from the Social Security Administration, Railroad Retirement beneficiaries, and disabled veterans receiving benefits from the U.S. Department of Veterans Affairs. The one-time payment is a reduction to any allowable Making Work Pay credit. For more information, please visit www.irs.gov or www.treasury.gov.

**Refundable Credit for Certain Federal and State Pensioners**
The bill provides a one time refundable tax credit of $250 in 2009 to certain government retirees who are not eligible for Social Security benefits. This one-time credit is a reduction to any allowable Making Work Pay credit. For more information, please visit www.irs.gov.

**Child Tax Credit**
A child tax credit is a tax credit based on the number of dependent children in a family. This provision increases the eligibility of the refundable child tax credit. The provision is effective for taxable years beginning after December 31, 2008. The tax credit will be given after filing for taxes. For more information, visit www.irs.gov.

**The Office of Congressman Joe Donnelly**
**1530 Longworth House Office Building • Washington, DC 20515 • phone: 202.225-3915 • fax: 202.225-6798**

**Increase in Earned Income Tax Credit**
The earned income tax credit (EITC) is a tax credit for low-income working individuals and families that is refundable for certain taxpayers, meaning it can be claimed even if the credit is worth more than the taxes owed. This provision temporarily increases the earned income tax credit from 40% to 45% for working families with three or more children. Taxpayers will receive this credit by claiming the credit on their tax returns. The provision is effective for taxable years beginning after December 31, 2008. For more information about the EITC, please contact www.irs.gov.

**Refundable First Time Home Buyer Tax Credit**
There is an $8,000 tax credit for first-time home buyers who purchase a home from Jan 1, 2009 to December 1, 2009. It also eliminates repayment obligations that are under current law unless the home is sold within three years of purchase. In that case, the credit would still be subject to the current-law recapture rules. Eligible taxpayers can claim this credit when filing their taxes.

**Sales Tax Deduction for Vehicle Purchases**
The provision provides all taxpayers with a deduction for state and local sales and excise taxes paid on the purchase of new cars, light truck, recreational vehicles, and motorcycles through 2009. This deduction is subject to a phase-out for taxpayers with adjusted gross income in excess of $125,000 ($250,000 in the case of a joint return). Taxpayers can seek this deduction by claiming the deduction on their 2009 tax return.

## Energy-Related Tax Incentives

**Tax Credits for Energy-Efficient Improvements to Existing Homes**
This provision would extend the tax credits for improvements to energy efficient existing homes through 2010. Under current law, individuals are allowed a tax credit equal to ten percent (10%) of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during the taxable year. This tax credit is capped at $50 for any advanced main air circulating fan, $150 for any qualified natural gas, propane, oil furnace or hot water boiler, and $300 for any item of energy efficient building property. For 2009 and 2010, this provision would increase the amount of the tax credit to thirty percent (30%) of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements during the taxable year. This provision would also eliminate the property-by-property dollar caps on this tax credit and provide an aggregate $1,500 cap on all property qualifying for the credit. This provision would update the energy-efficiency standards of the property qualifying for the credit. Participants will be able to file for the tax credit on their tax return.

**Advanced Energy Investment Credit**
This provision establishes a new 30% investment tax credit for facilities engaged in the manufacture of advanced energy property. Credits are available only for projects certified by the Secretary of Treasury, in consultation with the Secretary of Energy, through a competitive bidding process. The Secretary of Treasury must establish a certification program no later than 180 days after date of enactment, and may allocate up to $2.3 billion in credits. Advanced energy property includes technology for the production of renewable energy, energy storage, energy conservation, efficient transmission and distribution of electricity, and carbon capture and sequestration. Please check www.energy.gov for more information as the Advanced Energy Investment Credit is implemented.

**Long-term Extension and Modification of Renewable Energy Production Tax Credit**
This proposal would extend the placed-in-service date for wind facilities for three years (through December 31, 2012). This proposal would also extend the placed-in-service date for three years (through December 31, 2013) for certain other qualifying facilities: closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; waste-to-energy; and marine renewable facilities. This proposal extends existing tax credits. Information on how to file can be found at www.irs.gov.

**Temporary Election to Claim the Investment Tax Credit in Lieu of the Production Tax Credit**
Under current law, facilities that produce electricity from solar facilities are eligible to take a thirty percent (30%) investment tax credit in the year that the facility is placed in service. Facilities that produce electricity from wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation, hydropower, landfill gas, waste-to-energy, and marine renewable facilities are eligible for a production tax credit. The production tax credit is payable over a ten-year period. Because of current market conditions, it is difficult for many renewable projects to find financing due to the uncertain future tax positions of potential investors in these projects. The bill allows facilities to elect to claim the investment tax

credit in lieu of the production tax credit. Participants will be able to file the tax credit on their tax return. For more information, visit www.irs.gov.

**Removal of Dollar Limitations on Certain Energy Credits**

Under current law, businesses are allowed to claim a thirty percent (30%) tax credit for qualified small wind energy property (capped at $4,000). Individuals are allowed to claim a thirty percent (30%) tax credit for qualified solar water heating property (capped at $2,000), qualified small wind energy property (capped at $500 per kilowatt of capacity, up to $4,000), and qualified geothermal heat pumps (capped at $2,000). This provision repeals the individual dollar caps. As a result, each of these properties would be eligible for an uncapped thirty percent (30%) credit. Participants will be able to file for the tax credit on their tax return. For more information, visit www.irs.gov.

**Tax Credits for Alternative Refueling Property**

The alternative refueling property credit provides a tax credit to businesses (e.g., gas stations) that install alternative fuel pumps, such as fuel pumps that dispense E85 fuel, electricity, hydrogen, and natural gas. For 2009 and 2010, this provision would increase the 30% alternative refueling property credit for businesses (capped at $30,000) to 50% (capped at $50,000). Hydrogen refueling pumps remain at a 30% credit percentage; however, the cap for hydrogen refueling pumps will be increased to $200,000. In addition, provision would increase the 30% alternative refueling property credit for individuals (capped at $1,000) to 50% (capped at $2,000). Participants will be able to file for this tax credit on their tax return. For more information, visit www.irs.gov.

**Plug-in Electric Drive Vehicle Credit**

This provision modifies and increases a tax credit passed into law at the end of last Congress for each qualified plug-in electric drive vehicle placed in service during the taxable year. The base amount of the credit is $2,500. If the qualified vehicle draws propulsion from a battery with at least 5 kilowatt hours of capacity, the credit is increased by $417, plus another $417 for each kilowatt hour of battery capacity in excess of 5 kilowatt hours up to 16 kilowatt hours. Taxpayers may claim the full amount of the allowable credit up to the end of the first calendar quarter in which the manufacturer records its 200,000th sale of a plug-in electric drive vehicle. The credit is reduced in following calendar quarters. The credit is allowed against the alternative minimum tax (AMT). This bill also restores and updates the electric vehicle credit for plug-in electric vehicles that would not otherwise qualify for the larger plug-in electric drive vehicle credit and provides a tax credit for plug in electric drive conversion kits. Participants will be able to file for the tax credit on their tax return.

**Treasury Department Energy Grants in Lieu of Tax Credits**

Under current law, taxpayers are allowed to claim a production tax credit for electricity produced by certain renewable energy facilities and an investment tax credit for certain renewable energy property. These tax credits help attract private capital to invest in renewable energy projects. Current economic conditions have severely undermined the effectiveness of these tax credits. As a result, this provision would allow taxpayers to receive a grant from the Treasury Department in lieu of tax credits. This grant will operate similarly to the current-law investment tax credit.

The Treasury Department will issue a grant in an amount equal to thirty percent (30%) of the cost of the renewable energy facility within sixty days of the facility being placed in service or, if later, within sixty days of receiving an application for such grant.

**Clean Renewable Energy Bonds ("CREBs")**

This provision authorizes an additional $1.6 billion of new clean renewable-energy bonds to finance facilities that generate electricity from the following resources: wind; closed-loop biomass; open-loop biomass; geothermal; small irrigation; hydropower; landfill gas; marine renewable; and trash combustion facilities. This $1.6 billion authorization will be subdivided into thirds: 1/3 will be available for qualifying projects of State/local/tribal governments; 1/3 for qualifying projects of public power providers; and 1/3 for qualifying projects of electric cooperatives. Qualified participants will be able to utilize this bond program as it is developed. Check www.treasury.gov for additional information after this program is implemented.

**Addition of Permanent Sequestration Requirement to CO2 Capture Tax Credit**

Last year, Congress provided a $10 credit per ton for the first 75 million metric tons of carbon dioxide captured and transported from an industrial source for use in enhanced oil recovery, and $20 credit per ton for carbon dioxide captured and transported from an industrial source for permanent storage in a geologic formation. Facilities were required to capture at least 500,000 metric tons of carbon dioxide per year to qualify. This provision would require that any taxpayer claiming the $10 credit per ton for carbon dioxide captured and transported for use in enhanced oil recovery must also ensure that such carbon dioxide is permanently stored in a geologic formation. The new provision does not change the way participants file for the tax credit, just the qualifications to be able to apply for the tax credit.

**Qualified Energy Conservation Bonds**
This provision authorizes an additional $2.4 billion of qualified energy conservation bonds to finance State, municipal and tribal government programs and initiatives designed to reduce greenhouse gas emissions. This provision would also clarify that qualified energy conservation bonds may be issued to make loans and grants for capital expenditures to implement green community programs. This provision also clarifies that qualified energy conservation bonds may be used for programs in which utilities provide ratepayers with energy-efficient property and recoup the costs of that property over an extended period of time. Participants will be able to utilize this bond program as it is developed. Check www.treasury.gov for additional information after this program is implemented.

## Tax Incentives for Businesses

**Extension of Bonus Depreciation**
Businesses are allowed to recover the cost of capital expenditures over time according to a depreciation schedule. Last year, Congress temporarily allowed businesses to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write-off fifty percent of the cost of depreciable property (e.g., equipment, tractors, wind turbines, solar panels, and computers) acquired in 2008 for use in the United States. The bill would extend this temporary benefit for capital expenditures incurred in 2009. The extension of the first-year depreciation deduction is generally effective for property placed in service after December 31, 2008. This benefit can be claimed when filing for taxes.

**Extension of Small Business Expensing**
In order to help small businesses quickly recover the cost of certain capital expenses, small-business taxpayers may elect to write-off the cost of these expenses in the year of acquisition in lieu of recovering these costs over time through depreciation. Until the end of 2010, small-business taxpayers are allowed to write-off up to $125,000 of capital expenditures subject to a phase-out once capital expenditures exceed $500,000. Last year, Congress temporarily increased the amount that small businesses could write-off for capital expenditures incurred in 2008 to $250,000 and increased the phase out threshold for 2008 to $800,000. The bill would extend these temporary increases for capital expenditures incurred in 2009. Small business can obtain this credit when filing for taxes.

**5-Year Carryback of Net Operating Losses for Small Businesses**
A net operating loss means the amount by which a taxpayer's business deductions exceed the gross income. Under current law, net operating losses may be carried back to the two taxable years before the year that the loss arises and carried forward to each of the succeeding twenty taxable years after the year that the loss arises. For 2008, the bill would extend the maximum NOL carryback period from two years to five years for small businesses with gross receipts of $15 million or less. This provision is effective for net operating losses arising in taxable years ending after December 31, 2007. The taxpayer can file for this benefit when filing for taxes.

**Work Opportunity Tax Credit**
Under current law, businesses are allowed to claim a work opportunity tax credit equal to 40 percent of the first $6,000 of wages paid to employees of one of nine targeted groups. The bill would create two new targeted groups of prospective employees: (1) unemployed veterans; and (2) disconnected youth. An individual would qualify as an unemployed veteran if they were discharged or released from active duty from the Armed Forces during the five-year period prior to hiring and received unemployment compensation for more than four weeks during the year before being hired. An individual qualifies as a disconnected youth if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months. Businesses can claim this credit when filing their taxes.

**Temporary Reduction of Small Business Corporation Built-In Gains Holding Period from 10 Years to 7 Years**
Under current law, if a taxable corporation converts into an S corporation, the conversion is not a taxable event. An S Corporation pays no corporate level tax. Instead a loss of gain goes directly to their shareholders. When a company converts to an S corporation, they must hold its assets for ten years in order to avoid a tax on any built-in gains that existed at the time of the conversion. The bill temporarily reduces this holding period from ten years to seven years for

sales occurring in 2009 and 2010. This provision will go into effect for businesses for taxable year beginning after December 31, 2008.

**Small Business Capital Gains**
This provision increases the percentage of exclusion for qualified business stock sold by an individual from 50 percent to 75 percent. This provision is effective for stock issued after the date of enactment and before Jan. 1, 2011. Businesses can claim this credit when filing for taxes.

**Delayed Recognition of Certain Cancellation of Debt Income**
Under current law, a taxpayer generally has income where the taxpayer cancels or repurchases debt for an amount less than its adjusted issue price. The amount of cancellation of debt income ("CODI") is the excess of the old debt's adjusted issue price over the repurchase price. Certain businesses will be allowed to recognize CODI over 10 years (defer tax on CODI for the first four or five years and recognize this income ratably over the following five taxable years) for specified types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011. Business can claim this when they file for taxes. For information on qualifications, visit www.treasury.gov.

**Delay Application of Withholding Requirement on Certain Governmental Payments for Goods and Services**
For payments made after December 31, 2010, the Code requires withholding at a three percent rate on certain payments to persons providing property or services made by Federal, State, and local governments. The withholding is required regardless of whether the government entity making the payment is the recipient of the property or services. Numerous government entities and small businesses have raised concerns about the application of this provision. The provision would delay for one year (through December 31, 2011) the application of the three percent withholding requirement on government payments for goods and services in order to provide time for the Treasury Department to study the impact of this provision on government entities and other taxpayers. This provision is effective on the date of enactment.

**New Market Tax Credits**
New Market Tax Credits are given to qualified equity investment made to acquire stock in a corporation or a capital interest in a partnership that is a qualified community development entity (CDE). Under current law, there are $3.5 billion of New Markets Tax Credits available for each of 2008 and 2009. The provision increases the available credits for 2008 to $5 billion and the available credits for 2009 to $5 billion. This tax credit will go directly to state certified CDE's.

## Tax Provisions for State and Local Governments

**Tax Credit Bond Option for State and Local Governments (Build America Bonds)**
The Federal government provides significant financial support to State and local governments through the federal tax exemption for interest on municipal bonds. Both tax credit bonds and tax-exempt bonds provide a subsidy to municipalities by reducing the cash interest payments that a State or local government must make on its debt. Tax credit bonds differ from tax exempt bonds in two principal ways: (1) interest paid on tax credit bonds is taxable; and (2) a portion of the interest paid on tax credit bonds takes the form of a Federal tax credit. The Federal tax credit offsets a portion of the cash interest payment that the State or local government would otherwise need to make on the borrowing. For 2009 and 2010, this proposal provides State and local governments with the option of issuing a tax credit bond instead of a tax-exempt governmental obligation bond. Because the market for tax credits is currently small given current economic conditions, the bill would allow the State or local government to elect to receive a direct payment from the Federal government equal to the subsidy that would have otherwise been delivered through the Federal tax credit for bonds. Please check www.treasury.gov for more information as they implement this program.

**Repeal Subsidized Energy Financing Limitation on the Investment Tax Credit**
Under current law, the investment tax credit must be reduced if the property qualifying for the investment tax credit is also financed with industrial development bonds or through any other federal, state, or local subsidized financing program. The provision in *The American Recovery and Reinvestment Act* repeals the subsidized energy financing limitation on the investment tax credit in order to allow businesses and individuals to qualify for the full amount of the investment tax credit even if such property is financed with industrial development bonds or through any other subsidized energy financing.

**Parity for Transit Benefits**
Current law provides a tax-free fringe benefit employers can provide to employees for transit and parking. Those benefits are set at different dollar amounts. This provision equalizes the tax-free benefit employers can provide for transit and

parking. The proposal sets both the parking and transit benefits at $230 a month for 2009, indexes them equally for 2010, and clarifies that certain transit benefits apply to federal employees. Eligible participants will receive information on how to apply through their workplace as this program is implemented.

## Benefits for the Unemployed

### Extension of Emergency Unemployment Compensation

Through December 31, 2009, this provision continues the Emergency Unemployment Compensation program, which provides up to 33 weeks of extended unemployment benefits to workers exhausting their regular benefits. Those receiving unemployment compensation will automatically receive this extension.

### Increase in Unemployment Compensation Benefits

The bill increases unemployment weekly benefits by an additional $25 through 2009. Those receiving unemployment compensation will automatically receive this extension.

### Temporary Suspension of Taxation of Unemployment Benefits

Under current law, all federal unemployment benefits are subject to taxation. The average unemployment benefit is approximately $300 per month. The proposal temporarily suspends federal income tax on the first $2,400 of unemployment benefits per recipient. Any unemployment benefits over $2,400 will be subject to federal income tax. This proposal is in effect for taxable year 2009. The provision will take effect and suspend the withholding of federal income tax on unemployment benefits automatically.

### Health Insurance Assistance COBRA (Consolidated Omnibus Budget Reconciliation Act)

To assist individuals in maintaining health coverage, the bill provides a 65% subsidy for COBRA continuation premiums for up to 9 months for workers who have been involuntarily terminated, and for their families. This subsidy also applies to health care continuation coverage if required by states for small employers. To qualify for premium assistance, a worker must be involuntarily terminated between September 1, 2008 and December 31, 2009. The subsidy would terminate upon offer of any new employer sponsored health care coverage or Medicare eligibility. Workers who were involuntarily terminated between September 1, 2008 and enactment, but failed to initially elect COBRA because it was unaffordable, will be given an additional 60 days to elect COBRA and receive the subsidy. To ensure that this assistance is targeted at workers who are most in need, participants must attest that their same year income will not exceed $125,000 for individuals and $250,000 for families.

Current law requires employers to work with employees about how to access COBRA and private health plans must also assist former employees in receiving this benefit. Additional information can be found at: http://www.dol.gov/dol/topic/health-plans/cobra.htm.

### Expansion of Trade Adjustment Assistance (TAA) Programs

This provision expands current Trade Adjustment Assistance Programs. Among other things, it extends TAA to trade-affected services sector workers and workers affected by off shoring or outsourcing to all countries, including China or India. It increases training funds available to states by 160 percent to $575 million per fiscal year, creates a new TAA program for trade-affected communities, allows for automatic TAA eligibility for workers suffering from import surges and unfair trade, makes training, healthcare and reemployment TAA benefits more accessible and flexible, and improves the TAA for Firms and TAA for Farmers programs. It reauthorizes all TAA programs (which expired December 31, 2007) through December 31, 2010. Plant closures and mass layoffs affecting 50 or more workers at a single site of employment; Layoffs at several companies in a single local community including layoffs not meeting the single site criterion that, in total, have significantly increased the total number of unemployed individuals in the community. Priority will be given to those applications where the layoffs resulted in an increase of 1 percent in the local area unemployment during the preceding 12 months. Layoffs at multiple locations (multi--company) that occur within a 4--month period and in which each layoff impacts 50 or more workers; Closures and realignments of military installations; Emergencies or disasters that have been declared eligible for public assistance by the Federal Emergency Management Agency (FEMA); and Special assistance, including health insurance coverage assistance, to trade--impacted workers and other individuals eligible under the Trade Adjustment Assistance Reform Act of 2002.

TAA is administered through the Department of Labor Employment and Training Administration. For more information, visit http://www.doleta.gov/tradeact/.

**Low-Income Housing Grants in Lieu of Tax Credits**
Under current law, taxpayers are allowed to claim a low-income housing tax credit for certain investments made in low-income housing. These tax credits help attract private capital to invest in the construction, acquisition, or rehabilitation of qualified low-income housing buildings. Current economic conditions have severely undermined the effectiveness of these tax credits. As a result, the bill will allow taxpayers to receive a grant from the Treasury Department in lieu of tax credits. Under this provision, state housing agencies will receive a grant equal to up to eighty-five percent of forty percent of the state's low-income housing tax credit allocation in lieu of the low-income housing tax credits they would have received. The sub-awards are subject to the same requirements (including rent, income, and use restrictions on such buildings) as the low-income housing tax credit allocations. The grant program will apply to each state's 2009 low-income housing tax credit allocation.

## Health Care Related Tax Provisions

**Temporary Federal Medical Assistance Percentage (FMAP) Increase**
The bill increases FMAP funding for a 27-month period beginning 10/1/2008 through 12/31/2010, with an across-the-board increase to all states of 6.2% and a similar increase for territories. A bonus structure (in addition to the across-the-board increase) provides an additional decrease in
state financial obligations for Medicaid based on increases in the State's unemployment rate. States will also be required to maintain effort on eligibility. States will automatically receive this benefit.

**Temporary Increase in Disproportionate Share Hospital (DSH) Payments**
The bill increases states' FY2009 annual DSH allotments by 2.5 percent, and increases states' FY 2010 by 2.5 percent above the new FY2009 DSH allotment. After FY2010, states' annual DSH allotments would return to 100% of the annual DSH allotments as determined under current law. DSH hospitals will automatically benefit from this provision.

**Extension of Moratoria on Medicaid Regulations**
The bill extends moratoria on Medicaid regulations for targeted case management, provider taxes, and school-based administration and transportation services through June 30, 2009. The bill also adds a moratorium on the Medicaid regulation for hospital outpatient services through June 30, 2009. The provision includes a Sense of Congress that the Secretary of HHS should not promulgate regulations concerning payments to public providers, graduate medical education, and rehabilitative services. The moratoria will automatically go into effect.

**Extension of the Qualified Individual Program**
The bill extends the Qualified Individual program, which assists certain low-income individuals with Medicare Part B premiums, through December 31, 2010. The program helps Medicare beneficiaries who have a limited income but are not poor enough to qualify for Medicaid with financial assistance to help pay their Medicare premiums.

**Prompt Payment Requirements for Nursing Facilities and Hospitals.**
The bill temporarily applies Medicaid prompt pay requirements to nursing facilities and hospitals.