



July 31, 2021

Senate Infrastructure Bill Draft Text Circulated Ahead of Vote

On Wednesday, July 28, the group of senators working on bipartisan infrastructure legislation announced they had reached agreement on a \$1.2 trillion package containing funding for roads, bridges, broadband and public transit, among other things. Since then, the full Senate has taken two procedural steps to advance the legislative vehicle that will carry the package. Senate Democratic leaders are aiming to pass the measure before leaving for the August state work period.

As of this writing, final legislative text has not been released. However, a draft form of the package has been circulating among lawmakers. This alert summarizes topline funding for various priorities in that draft bill, provides a section-by-section summary of the pay-fors and other select provisions, and provides a timeline for next steps.

Topline Overview

The infrastructure deal proposes \$550 billion in new spending over five years and contains several offsets. A topline overview is below:

Infrastructure Projects	Amount in Billions (B) Above Baseline
Roads, Bridges and Major Projects	\$110 B
Power and Grid	\$73 B
Passenger and Freight Rail	\$66 B
Broadband	\$65 B
Water Infrastructure	\$55 B
Resilience and Climate Change	\$50 B
Public Transit	\$39 B
Airports	\$25 B
Ports and Waterways	\$17 B
Safety	\$11 B
Electric Vehicles (EV)	\$7.5 B
EV and Low-Carbon School Buses and Ferries	\$7.5 B
Environmental Remediation	\$22 B

Spending Pay-fors	Amount
Repurposing unused COVID-19 relief funding	\$205 B
Proceeds from C-band spectrum auction	\$67 B
Economic growth, assuming a 33% return on investment from long-term infrastructure projects	\$56 B
Delaying Medicare Part D rebate rule	\$49 B
States returning unused enhanced federal UI supplement	\$53 B
Applying information reporting requirements to cryptocurrency	\$28 B
Extending fees on GSEs	\$21 B
Sales of future spectrum auctions	\$20 B
Reinstating Superfund fees	\$13 B
Mandatory sequester	\$8.7 B
Extending customs user fees	\$6 B
Sales from the Strategic Petroleum Reserve	\$6 B
Savings from reducing Medicare spending on discarded medications from large, single-use drug vials	\$3 B
Extending available interest rate smoothing options for defined benefit pension plans	\$2.9 B
Funding from recouping fraudulently-paid benefits from enhanced federal UI supplement	<i>Awaiting CBO Letter</i>

Process and Timeline

The Senate voted 67-32 on Wednesday, July 28, to invoke cloture on the motion to proceed to the legislative vehicle for the infrastructure bill. The following 17 Republicans voted in favor of the motion alongside the unified Democratic majority:

- Sen. Roy Blunt (R-MO)
- Sen. Richard Burr (R-NC)
- Sen. Shelley Moore Capito (R-WV)
- Sen. Bill Cassidy (R-LA)
- Sen. Susan Collins (R-ME)
- Sen. Kevin Cramer (R-ND)
- Sen. Mike Crapo (R-ID)
- Sen. Lindsey Graham (R-SC)
- Sen. Chuck Grassley (R-IA)
- Sen. John Hoeven (R-ND)
- Minority Leader Mitch McConnell (R-KY)
- Sen. Lisa Murkowski (R-AK)
- Sen. Rob Portman (R-OH)
- Sen. Jim Risch (R-ID)
- Sen. Mitt Romney (R-UT)
- Sen. Thom Tillis (R-NC)
- Sen. Todd Young (R-IN)

Two days later on Friday, July 30, the Senate voted 66-28 to approve a motion to proceed to the bill. Of the group that voted to invoke cloture on Wednesday, only Sen. Jim Risch (R-ID) was recorded differently; he instead was recorded as a no vote.

The Senate still must take several steps before it can send the bipartisan package to the House. Below is an outline of these steps and a potential timeline under which they could occur:

- **Substitute Amendment (this weekend):** Senate Majority Leader Chuck Schumer (D-NY) will file a substitute amendment with the final language of the bipartisan infrastructure agreement, which will replace the vehicle on which cloture was filed.

- **Open Amendment Process (early next week):** The full Senate will then have an opportunity to modify the substitute amendment through an open amendment process. Individual amendments require 60 votes to be adopted, unless no one objects to closing debate. Few amendments are expected to pass.
- **Manager's Package or Wraparound Amendment (early next week):** Before finishing the bill, the Senate is likely to consider a manager's package of smaller amendments or the Senate will be presented with a wraparound amendment that will incorporate changes to the substitute amendment.
- **Another Cloture Motion (mid-next week):** Once amendment consideration has concluded, the Senate will vote to proceed to final passage of the substitute amendment. Cloture will again have to be filed, which will require 60 votes.
- **Final Senate Passage (Thursday):** Once cloture is again secured, the full Senate will vote to approve the package as modified.
- **House Consideration (September):** The House will consider the package likely after the August district work period. Speaker Nancy Pelosi (D-CA) has repeatedly said she will not consider the bipartisan infrastructure package until the Senate also approves a budget reconciliation measure containing progressive Democratic priorities. However, pressure on the House to consider the bill will increase over time.

If the House simply approves the Senate package without amendment, it will be sent to President Biden for his signature. However, if the House does amend the Senate package, the two chambers must engage in a conference process to iron out the differences between their respective versions. Only after this process, which could take weeks, will both chambers be able to pass the new version of the bill.

Brownstein is closely tracking the bipartisan infrastructure package and the still-unwritten \$3.5 trillion budget reconciliation measure. For any questions on the contents or prospects of either, please contact a member of the Brownstein team.

Section-by-Section Summary and Analysis

HIGHWAY USE TAX EVASION PROJECTS

Section 1120: Highway Use Tax Evasion Projects.

- Extends the ability of the Transportation Secretary to deduct up to \$4 million from the Highway Trust Fund for fiscal years 2022 through 2026 (from 2016 through 2020) for highway use tax evasion projects.
- Impact: Allows for the continuation of funding for highway use tax evasion projects.

NON-HIGHWAY RECREATIONAL FUEL TAXES

Section 1512: Non-Highway Recreational Fuel Study.

- Authorizes an assessment to be conducted within one year of the date of enactment of the bill and at least once every five years after that of non-highway recreational fuel taxes collected and transferred to the Highway Trust Fund.
- Taxes on non-highway recreational fuel are collected under Internal Revenue Code sections 4041 and 4081, which govern the taxes imposed on taxable fuels—including fuel used in vehicles on recreational trails or back country terrain.
- The Recreational Trails Program (RTP) is funded by the Federal Highway Trust Fund and carried out to provide and maintain recreational trails across the nation (i.e., a track across land or snow, used for recreational purposes).
- Impact: The assessment provides an additional layer of oversight on the management of RTP funds and the appropriate funding levels for the RTP.

NATIONAL MOTOR VEHICLE PER-MILE USER FEE PILOT

Section 3002: National Motor Vehicle Per-Mile User Fee Pilot.

- Provides \$50 million over five years to establish a pilot program for a national motor vehicle per-mile user fee intended to restore and maintain solvency of the Highway Trust Fund and improve the surface transportation system.
- The Transportation Secretary will coordinate with the Treasury Secretary to provide different methods that volunteer-participants can choose from to track mileage (such as diagnostic devices, smartphone applications, and data collected by insurance companies or fuel stations), solicit participants from all 50 states, the District of Columbia and the Commonwealth of Puerto Rico, while ensuring equitable geographic distribution among volunteer participants, and include commercial and passenger vehicles in the pilot program.
- The per-mile user fee may vary based on the type and size of the vehicle.
- The program also will include a Federal System Funding Alternative Advisory Board to provide recommendations, carry out a public awareness campaign, and report on the pilot program.
- The Treasury Secretary will refund to volunteer participants an amount of federal motor fuel excise taxes equivalent to the per-mile usage fee.
- Impact: This pilot program would test the feasibility of a per-mile user fee on drivers of motor vehicles as a potential alternative to the current motor fuels excise tax as the primary source of funding for the federal highway system.

UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY

Section 60301: Grant Program to Assist States in Fighting Fraud and Enhancing Processes.

- Directs the Labor Secretary to establish a program to provide grants to states to improve the administration of their unemployment insurance program.
- Grants may be used to: (1) prevent or respond to fraud (focusing on fraud that involves identity theft or any organized criminal network); (2) improve the timeliness of the delivery of unemployment compensation; to ensure nondiscrimination and to promote access and reciprocity in the delivery of unemployment compensation; to improve administrative efficiency; and (3) for other means determined as appropriate by the Labor Secretary.
- Authorizes \$500 million for fiscal year 2022, to remain available until expended.
- Impact: Allows the Labor Secretary to assist states through grants to improve their unemployment insurance programs.

Section 60311: Use of Digital Identity Proofing Tools That Are Compliant with Standards Established by the National Institute of Standards and Technology.

- Requires state agencies administering unemployment benefits to use digital proofing tools that are compliant with National Institute of Standards and Technology standards. States are allowed to have alternatives to digital identity proofing tools for applicants and claimants who are unable to use such tools.
- Such tools may not flag claims based on personal characteristics of the applicant or claimant, or significantly negatively affect the timeliness of the delivery of unemployment compensation.
- Effective date is the earlier of the date the state changes its statutes, regulations or policies to comply, or Dec. 31, 2023.
- Authorizes \$500 million for fiscal year 2022, to remain available until expended, for grants to states to comply.
- Impact: Requires states to update their unemployment insurance programs through the use of digital identity proofing tools.

Section 60312: Plan for Federal Digital Identity Verification Program.

- Establishes a Payment Integrity and Identity Verification Fund (“Fund”), to be administered by the Treasury Secretary. Also establishes a Payment Integrity and Identity Verification Council (“Council”), consisting of the Director of the Office of Management and Budget, the Administrator of General Services and the Treasury Secretary, who are charged with developing an initial strategic plan for a governmentwide initiative to prevent identity fraud and uphold the integrity of federal programs. The Council will consult with and coordinate with a broad group of stakeholders. The Council and Fund will allow the federal government to take a more active role in developing more secure, coordinated and privacy-enhancing opportunities for agencies and state, local, tribal and territorial governments, regarding identity verification and payment integrity processes.
- Authorizes \$3 billion for the Fund for fiscal year 2022. These monies will also finance the responsibilities of the Council.
- Requires the Comptroller General to submit a report to appropriate congressional committees two years after date of enactment and every two years thereafter. The Fund and Council shall sunset six years after the date of enactment.
- Impact: Will improve access, reduce eligibility fraud, improve eligibility verification processes, improve integrity and combat improper payments, support safe and reliable access and reduce identity fraud with respect to federal programs.

Section 60321: Modernization of Technology for Delivering Unemployment Compensation.

- Tasks the Labor Secretary with developing modular open system technology capabilities and shared services for states to use to administer their unemployment compensation programs. The Labor Secretary shall consult with a broad range of stakeholders and subject matter experts in developing the federal technology capabilities.
- The Labor Secretary, in consultation with the Administrator of the United States Digital Services, shall conduct a study assessing the technology needs of the federal and state unemployment compensation programs prior to

the development of the technology capabilities. A report to Congress shall be made within six months of date of enactment, discussing the study and setting out the department's strategy for development and procurement of the technology capabilities, including any recommendations for legislation and administrative action.

- Authorizes \$1.805 billion for fiscal year 2022, to remain available until expended, for the technology capabilities modernization effort, and an additional \$50 million in funding to establish a Digital Services Team.
- Impact: Provides modular open system technology capabilities and shared services to assist the states in administering their unemployment compensation programs.

Section 60322: Grants to Assist States in Modernizing Their Unemployment Compensation Technology Systems.

- Directs the Labor Secretary to establish a program to provide grants to states to modernize their unemployment compensation technology system to work with federal technology solutions and data reporting requirements.
- Grants may also be used by states to: (1) improve cybersecurity within such system; (2) integrate new technology to prevent fraud, increase timeliness, access and reciprocity and ensure nondiscrimination in the delivery of unemployment; (3) establish or support state digital services teams; (4) comply with Subtitle D; (5) integrate unemployment compensation systems with other benefit systems at the state level; and (6) increase access to reemployment services to speed claimants' path back to work.
- Authorizes \$1 billion for fiscal year 2022, to remain available until expended.
- Impact: Allows the Labor Secretary to provide states with grants to modernize state unemployment compensation technology.

Section 60331: Electronic Transmission of Unemployment Compensation Information.

- Requires state agencies administering unemployment benefits to use automated electronic transmission of requests for information relating to unemployment compensation and the provision of such information between the state agency and employers or their agents.
- Each state shall provide an annual report to the Labor Secretary on the proportion of employers using the designated system, the reasons that employers are not using the system, and the effort each state is making to increase employers' use of such system.
- Effective date is the earlier of the date the state changes its statutes, regulations or policies to comply, or Dec. 31, 2023.
- Impact: Requires states to update their unemployment insurance programs through the use of automated electronic transmission of unemployment compensation information.

Section 60332: Unemployment Compensation Data Cross-Matching.

- Requires the state agencies charged with administering unemployment benefits to cross-match claimants of unemployment compensation against any databases in the system to prevent and detect fraud and improper payments.
- Effective date is the earlier of the date the state changes its statutes, regulations or policies to comply, or Dec. 31, 2023.
- Impact: Requires states to update their unemployment insurance programs through the use of data cross-matching.

Section 60333: Use of Unemployment Claims Data by the Inspector General of the Department of Labor.

- Allows the Inspector General of the Department of Labor access to the following information for the purpose of conducting audits, investigations and other oversight activities: (1) the system for the electronic transmission of requests relating to interstate claims of unemployment; and (2) the system for cross-matching unemployment claims against a database to revenue fraud and improper payments.
- This provision is effective 180 days after the date of enactment.

- Impact: Allows the Inspector General access to enhanced data systems to better prevent fraud and improper payment of unemployment benefit claims.

Section 60334: Use of National Directory of New Hires in Administration of Unemployment Compensation Programs.

- Requires state agencies administering unemployment benefits to have procedures in place to compare information in the National Directory of New Hires against individuals claiming unemployment compensation to identify individuals who may have become employed.
- State agencies may take appropriate action to suspend or modify unemployment compensation and to initiate recovery of any improper payments that have been made.
- Effective date is the earlier of the date the state changes its statutes, regulations or policies to comply, or Dec. 31, 2023.
- Impact: Will improve a state's ability to stop and recover improper payments of unemployment compensation by requiring verification with the National Directory of New Hires.

Section 60335: Incarcerated Individuals.

- Amends Sec. 303(a) of the Social Security Act to require state agencies administering unemployment benefits to cross-match claimants for unemployment compensation with prisoner information databases to verify eligibility.
- Effective date is the earlier of the date the state changes its statutes, regulations or policies to comply, or Dec. 31, 2023.
- Impact: Allows states to better identify incarcerated individuals who are improperly receiving unemployment benefits.

Section 60336: Permissible Use of Unemployment Fund Money for Program Integrity Purposes.

- Amends I.R.C. Sec. 3304(a)(4) to allow a state that has recovered an erroneous unemployment benefit payment to deposit up to 5% of such recovered amounts into a fund. The money in this fund may be withdrawn for: (1) the payment of costs related to detecting, preventing and collecting erroneous payments; (2) purposes relating to the misclassification of employees as independent contractors, implementation of provisions related to state unemployment laws, or other provisions relating to employer fraud or evasion of contributions; (3) payment to the Treasury Secretary to credit the state's account in the Unemployment Trust Fund.
- All money received in the unemployment fund must be paid immediately to the Treasury Secretary, with certain exceptions.
- Effective date is the earlier of the date the state changes its statutes, regulations or policies to comply, or Dec. 31, 2023.
- Impact: Allows for the recovery of erroneously paid unemployment benefits to be returned to the Treasury Department, with the exception of a small percentage that states may deposit into a fund for various administrative purposes.

Section 60337: Penalty and Interest.

- Amends Sec. 303(a) of the Social Security Act to require the immediate deposit of all penalties and interest assessed under state law against individuals or employers in a fund in the state. Money from this fund may only be withdrawn for certain activities, including enforcing program integrity measures.
- Special rules apply to states with a high rate of improper payments for unemployment compensation. For these states, at least 50% of money from the fund discussed above must be used on program integrity activities.
- Effective date is the earlier of the date the state changes its statutes, regulations or policies to comply, or Dec. 31, 2023.
- Impact: Requires states to set aside additional funding for program integrity activities.

Section 60338: State Performance.

- For the purposes of assisting states in meeting requirements associated with the administration of unemployment benefits, the Labor Secretary may: (1) establish measures of state performance; (2) require states to provide data or other relevant information on the operations of the state or state performance; (3) require states with sustained failure to meet acceptable levels of performance; or (4) make awards to states for performance improvement, performance exceeding the criteria established under this provision, or to incentivize high performance.
- This provision is effective on the date of enactment.
- Impact: Will incentivize the creation of performance standards across states with regard to the administration of unemployment benefits.

Section 60341: Implementation.

- Clarifies that the Unemployment Insurance Program Integrity provisions are not subject to the Paperwork Reduction Act of 1995
- Authorizes the Labor Secretary to implement regulations pursuant to the Unemployment Insurance Program Integrity measures.
- Impact: Allows the proposed Unemployment Insurance measures to take effect without satisfying the requirements of the Paperwork Reduction Act, including undergoing an internal agency clearance process or 60-day public comment period.

Section 60342: Definition of Secretary.

- Defines Secretary within the Unemployment Insurance Program Integrity provisions as the Labor Secretary.
- Impact: Effectively authorizes the Labor Secretary to implement regulations pertaining to Unemployment Insurance compliance measures.

EXTENSION OF ENTERPRISE GUARANTEE FEES

Section 60401: Extension of Enterprise Guarantee Fees.

- Extends mandated government-sponsored enterprise (GSE) guarantee fee increases until Oct. 1, 2032.
- Impact: Extends the Federal Housing Finance Agency (FHFA)'s authority to impose scheduled guarantee fee increases and require GSEs to seek FHFA approval for any proposed changes in upfront fees (previously set to expire Oct. 1, 2021).

RESCISSION OF COVID-19 APPROPRIATIONS

Section 60601: Rescission of COVID-19 Appropriations.

- Rescinds the following amounts from previously appropriated COVID-19 relief funds:
 - Economic Injury Disaster Loan (EIDL) Subsidy: \$13.5 billion
 - Targeted EIDL Advance: \$17.578 billion
 - Of the unobligated balances that remain, an unspecified amount may be transferred to the SBA Disaster Loans Program Account, \$175 million may be transferred to SBA Salaries and Expenses and \$992 million may be transferred to the SBA Business Loans Program Account.
 - Economic Stabilization Program: \$1.366 billion
 - Business Loans Program Account: \$5.676 billion
 - Pandemic Relief for Aviation Workers, CARES Act: \$3 billion
 - Pandemic Relief for Aviation Workers, Consolidated Appropriations Act: \$200 million
 - Education Stabilization Fund: \$353.4 million

- SBA Salaries and Expenses: \$175 million
- Impact: Rescinds COVID-19 funding previously appropriated in various relief packages in 2020 and 2021 to partially offset the cost of the infrastructure bill. Rescinded funds represent money that has not yet been spent by the states.

HIGHWAY TRUST FUND

Section 70101: Extension of Highway Trust Fund Expenditure Authority.

- Extends the Highway Trust Fund expenditure authority to Oct. 1, 2026.
- Extends the Sport Fish Restoration and Boating Trust Fund expenditure authority to Oct. 1, 2026.
- Extends the Leaking Underground Storage Tank Trust Fund expenditure authority to Oct. 1, 2026.
- Impact: This provision extends the expenditure authority for various trust funds, without which the expenditure authority for these trust funds would expire on Oct. 1, 2021.

Section 70102: Extension of Highway Related Taxes.

- Maintains the federal gasoline tax for intercity, local and school buses at 7.3 cents per gallon through September 2028.
- Maintains the federal tax on ethanol fuel at 9.15 cents per gallon through September 2028.
- Maintains the federal tax on alcohol-based fuels not containing ethanol at 11.3 cents per gallon through September 2028.
- Maintains the federal gasoline tax at 18.3 cents per gallon through September 2028.
- Maintains the federal diesel fuel tax at 24.3 cents per gallon through September 2028.
- Extends the 12% retail tax imposed on the sale of heavy trucks and trailers through September 2028.
- Extends the federal tax on tires through September 2028.
- Extends the tax to finance the Leaking Underground Storage Tank Trust Fund through September 2028.
- Extends the tax on highway usage by vehicles exceeding 55,000 pounds through September 2029.
- Maintains existing floor stock refunds for tire and gasoline dealers through 2029.
- Allows state and local governments and nonprofit educational organizations to be exempt from the federal tire sales tax and the 12% retail sales tax of heavy trucks and trailers until October 2028.
- Suspends the highway use tax on heavy vehicles for state vehicles and transit buses until Oct. 1, 2029.
- Extends the Highway Trust Fund transfers of collected taxes through September 2028.
- Extends transfers from the Highway Trust Fund to the Land and Conservation Fund for any amount of motorboat fuel taxes collected through September 2028.
- Impact: Extends the expiration dates for fuel, tire and highway use taxes that are used to fund the Highway Trust Fund.

Section 70103: Further Additional Transfer to the Trust Fund.

- Authorizes an amount yet to be determined to be transferred from the U.S. Treasury general fund to the Highway Trust Fund.
- Impact: This provision supplements the Highway Trust Fund to cover its expected shortfall caused by declining tax revenues.

HAZARDOUS SUBSTANCE SUPERFUND

Section 70201: Extension and Modification of Certain Superfund Excise Taxes.

- Reinstates the superfund excise taxes on chemicals and imported products at twice their prior levels for more than 40 chemicals and metals. The bill does not reimpose the superfund tax on oil.

- The reinstatement would terminate after Dec. 31, 2031.
- **Impact:** The reinstatement will raise the price of feedstocks and products containing the chemicals as most of these taxes will be passed through to the ultimate consumer.

CUSTOMS USER FEES

Section 70301: Extension of Customs User Fees.

- Current law prohibits the Treasury Department from charging certain customs user fees after Sept. 30, 2030. The provision would extend that prohibition to Sept. 30, 2031. The affected sections allow the Treasury Department to collect the following customs services fees:
 - For the processing of merchandise that is formally entered or released in any fiscal year, the Treasury Department may collect a 0.21% ad valorem fee, unless adjusted by the Treasury Secretary.
 - For the processing of merchandise that is informally entered or released, other than at a centralized hub facility, an express consignment carrier facility or a small airport, the Treasury Department may collect the following fees:
 - \$2 if the entry or release is automated and not prepared by customs personnel;
 - \$6 if the entry or release is manual and not prepared by customs personnel; or
 - \$9 if the entry or release, whether automated or manual, is prepared by customs personnel.
- Current law also prohibits the Treasury Department from charging other customs user fees after Sept. 30, 2030. The provision would extend that prohibition to Sept. 30, 2031. The affected sections allow the Treasury Department to collect the following customs services fees:
 - \$397 for the arrival of a commercial vessel of 100 net tons or more;
 - \$5 for the arrival of a commercial truck;
 - \$7.50 for the arrival of each railroad car carrying passengers or commercial freight;
 - \$25 for all arrivals made during a calendar year by a private vessel or private aircraft;
 - \$5 for the arrival of certain passengers aboard a commercial vessel or commercial aircraft from a place outside the U.S. other than from a U.S. territory;
 - \$1.75 for the arrival of each passenger aboard a commercial vessel from a U.S. territory;
 - \$5 for each item of dutiable mail for which a document is prepared by a customs officer;
 - \$125 per year for each customs broker permit held by an individual, partnership, association or corporate customs broker; and
 - \$100 for the arrival of a barge or other bulk carrier from Canada or Mexico.
- Under the U.S.-Korea Free Trade Agreement Implementation Act (P.L.112-41), the rate for merchandise processing fees expires on Sept. 30, 2030. The provision would extend that to Sept. 30, 2031.
- **Impact:** The extension of customs user fees will negatively impact businesses and consumers affected by user fees. At the same time, it will generate revenues for the federal government.

RELIEF FOR TAXPAYERS AFFECTED BY DISASTERS OR OTHER CRITICAL EVENTS

Section 70401: Modification of Automatic Extension of Certain Deadlines in the Case of Taxpayers Affected by Federally Declared Disasters.

- Amends I.R.C. section 7508A(d) to require the mandatory extension under current law to end on the date that is 60 days after the earliest incident of the disaster or the issuance of the disaster-area declaration, whichever is later.
- Amends the term “disaster area” to mean an area in which a major disaster occurs that is subject to federal financial assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

- Allows for multiple declarations relating to a disaster area that are issued within a 60-day period, each with its own extension period.
- This provision will apply to disasters declared after the date of enactment.
- **Impact:** For taxpayers affected by disasters, this provision clarifies the duration of the automatic 60-day extension period and the areas in which such extensions apply.

Section 70402: Modifications of Rules for Postponing Certain Acts by Reason of Service in Combat Zone or Contingency Operation.

- Amends I.R.C. section 7508(a) to extend the period during which certain individuals serving in combat zones and in contingency operations may file a petition with the Tax Court or a notice of appeal from a decision of the Tax Court.
- Amends the period during which the United States may bring suit with respect to any tax liability of certain individuals serving in combat zones and in contingency operations to include suits for erroneous refunds.
- This provision will apply to any period for performing an act that has not expired before the date of enactment.
- **Impact:** Allows individuals serving in the U.S. armed forces, and certain support personnel, who are deployed in combat zones or participating in contingency operations to have additional time to file Tax Court petitions and appeals; and extends the period during which the United States may sue to recover tax debts of, and erroneous tax refunds to, such individuals.

Section 70403: Tolling of Time for Filing a Petition with the Tax Court.

- Amends I.R.C. Sec. 7451, with respect to the deadline for filing a Tax Court petition, by extending the deadline by the period during which the office of the clerk of the Tax Court or the court's electronic filing system is unavailable plus an additional 14 days.
- This provision will apply to petitions required to be filed after the date of enactment.
- **Impact:** Provides relief to taxpayers who are unable to access the Tax Court in cases in which the court is shut down due to a natural disaster (e.g., office closures due to the pandemic) or due to a government-funding shutdown.

Section 70404: Authority to Postpone Certain Tax Deadlines by Reason of Significant Fires.

- Amends I.R.C. Sec. 7508A to expand the IRS' current authority to extend certain tax deadlines in cases of natural disasters by including significant fires as a qualifying event.
- Defines the term "significant fire" to mean any fire where assistance is provided under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
- This provision will apply to fires for which federal assistance is provided after the date of enactment.
- **Impact:** Expands the tax-compliance relief for taxpayers involved in natural disasters to include individuals affected by major fires, such as those that have occurred in the western states in recent years.

ADJUSTMENT OF QUALIFYING ADVANCED ENERGY PROJECT CREDIT (I.R.C. SEC. 48C)

Section 70501: Adjustment of Qualifying Advanced Energy Project Credit.

- Provides an additional \$8 billion to manufacturers and industrial users to retool, expand or build new facilities that make or recycle energy-related products—with a \$4 billion carve-out for use in communities where coal mines have closed or coal power plants have been retired.
- Eligible equipment includes advanced electric grids and fuel cell equipment; equipment for the production of low-carbon and low-emission fuels; renewable energy and energy efficiency equipment; products or technologies that capture, remove, use or store carbon dioxide; and advanced light- to heavy-duty vehicles.

- Taxpayers would apply to the Treasury Department for the tax credits, which would be awarded to businesses for up to 30% of qualified costs to manufacture cleaner energy equipment.
- Impact: This provision is designed to incentivize manufacturers and industrial users, promote domestic job creation, and assist in communities experiencing high unemployment due to reduced demand for fossil fuels.

MODIFICATION OF TAX TREATMENT OF CONTRIBUTIONS TO THE CAPITAL OF A CORPORATION

Section 70502: Modification of Tax Treatment of Contributions to the Capital of a Corporation.

- Amends I.R.C. Sec. 118 to create a special rule for contributions of capital that include any amount of money or other property received by a regulated public utility that provides water and sewerage-disposal services, provided such amount or property is not included in the taxpayer's rate base for rate-making purposes.
- Provides that no deduction or credit shall be allowed for expenditures constituting a contribution in aid of construction, subject to a special three-year statute of limitations.
- Impact: Promotes capital investments in water and sewerage-disposal projects.

EXTENSION OF INTEREST RATE STABILIZATION (PENSION SMOOTHING)

Section 70503: Extension of Interest Rate Stabilization.

- Utilizes single-employer pension funding relief (known as pension "smoothing") to raise revenue. This is a familiar raiser to corporate sponsors of defined benefit pension plans, having been used in 2012, 2014, 2015 and, most recently, in the American Rescue Plan Act of 2021.
- Pension smoothing refers to the process of artificially raising by statute the interest rate used to determine minimum annual pension contributions. Contributions are deductible and higher interest rates result in lower contributions. So statutorily increasing interest rates above actual rates raises revenue by reducing the level of deductible pension contributions.
- Under current law, interest rates are held at the highest statutory level through 2025. Beginning in 2026, rates drop in 5% annual increments until they reach the lowest statutory level in 2030. The bipartisan infrastructure legislation would extend the current law dates, holding interest rates at the highest statutory rate until 2030 and extending the phase down to 2035.
- Impact: Corporate sponsors of single-employer defined benefit plans have the option of reducing the minimum required contributions to their plans for the next few years. This gives corporations more flexibility to deploy their capital in the most efficient manner for their particular business (e.g., use the additional capital to expand their business, build a factory, hire more workers, etc.).

ENHANCEMENT OF INFORMATION REPORTING FOR BROKERS AND DIGITAL ASSETS

Section 70504: Enhancement of Information Reporting for Brokers and Digital Assets.

- Amends the definition of broker under I.R.C. Sec. 6045(c)(1) to include any person who is responsible for and regularly involved in transfers of digital assets (e.g., cryptocurrency).
- Defines digital assets as any digital representation that is recorded on a cryptographically secured distributed ledger or any similar technology.
- Amends I.R.C. Sec. 6045(g)(3) to expand the definition of covered security to include digital assets and to apply additional information reporting requirements to transactions involving digital assets, which are applicable to assets acquired on or after Jan. 1, 2023.
- Amends I.R.C. Sec. 6045A to require broker reporting in the case of certain transfers of digital assets to another broker when the transfer is not part of a sale or exchange.

- Amends I.R.C. Sec. 6050I to add digital assets to current rules requiring businesses to report cash payments over \$10,000, effective for statements required to be furnished after Dec. 31, 2023.
- **Impact:** Expands current information-reporting rules, which generally require brokers to report to the IRS and customers certain information, such as the customer's identity, gross proceeds from sales and cost basis of assets. Under the proposal, brokers whose customers own digital assets (e.g., cryptocurrencies such as Bitcoin, Ethereum) would be required to report such information.

TERMINATION OF THE EMPLOYEE RETENTION TAX CREDIT

Section 70505: Termination of Employee Retention Credit for Employers Subject to Closure Due to COVID-19.

- Under current law, the Employee Retention Tax Credit (ERTC) allows employers a 70% credit for qualified wages up to \$10,000 per quarter per employee through the end of 2021.
- This provision would amend I.R.C. Sec. 3134(n) to sunset the credit on Sept. 30, 2021.
- For eligible employers that are considered recovery startup businesses, the credit still applies to wages paid before Jan. 1, 2022.
- **Impact:** Eliminates the ERTC for otherwise eligible businesses for the fourth quarter of 2021—the maximum value of the credit for that period under current law would be \$7,000 per employee. Eligible recovery startup businesses are still eligible for the credit through the end of 2021.

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