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Subject: **CONGRESSIONAL UPDATE**

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**THE INFLATION REDUCTION ACT of 2022:** Last weekend, the Act passed the Senate and on Friday, it passed the House. Now, it awaits President Biden's signature. The \$3.5 trillion package includes a new minimum tax on large corporations, provisions to lower prescription drug prices and more than \$300 billion to address climate change and promote clean energy. The legislation stipulates that the funding for the energy and climate programs must meet certain prevailing wage and registered apprenticeship requirements. Also, it ensures timely permitting processes including environmental reviews on all federal construction projects and on Federal Energy Regulation Commission (FERC) and interstate electricity transmission line projects. The legislation includes the following:

**Renewable Energy Credits:** The legislation has \$60 billion of incentives to bring clean energy manufacturing into the U.S. These include production tax credits to accelerate U.S. manufacturing of solar panels, wind turbines, batteries, and critical minerals processing. The legislation also includes investment tax credits to build clean technology manufacturing plants that make electric vehicles (EVs), turbines and other products. Additionally, there would be tax credits for consumers who add renewable energy items to their homes including efficient heat pumps, rooftop solar, electric HVAC and water heaters. The legislation includes \$9 billion for home energy rebate programs for low-income consumers to make their homes more energy efficient and \$1 billion in grants for affordable housing energy upgrades.

The legislation adds new tax credits:

- The investment tax credit for renewable energy property, which would be extended and modified for facilities that begin construction before January 1, 2025. The credit would be extended through 2024 to include investments in energy storage technologies, qualified biogas property, and microgrid controllers. The credit would be increased for projects in energy communities and for solar and wind facilities that serve low-income communities.
- A new credit for qualifying zero-emission nuclear power produced by facilities placed in service before the measure's enactment.
- A new credit for the production of clean hydrogen, based on lifecycle greenhouse gas emission rates, for properties that begin construction before 2023.
- New production and investment tax credits related to clean electricity. The credits would be based on carbon emissions. Both would be available for facilities placed in service after 2024 and phase out beginning in 2032 or when U.S. emissions targets are achieved.
- A new credit for the domestic production of clean fuels that would be based on their carbon emissions. It would apply to fuels produced after 2024 and would phase out entirely after 2027.
- The measure would provide as much as \$10 billion in additional allocations for a program to award certifications for qualified investments in energy manufacturing facilities.

The legislation extends existing tax incentives:

- Credit for carbon capture facilities that begin construction before January 1, 2033.
- Credits for biodiesel and renewable diesel and alternative fuels and alternative fuel mixtures through 2024.

- Credit for qualified energy efficiency improvements for residential energy property through 2032. The credit would be increased to as much as \$1,200 annually, from a \$500 lifetime cap, for expenditures on windows, doors, heat pumps, and biomass stoves and boilers.
- Deduction for energy efficient commercial buildings beginning after 2022. A building would have to reduce its annual energy and power costs by more than 25%, instead of 50%. An increased deduction would be available for qualified retrofits.

#### **Manufacturing:**

- The legislation includes over \$60 billion to on-shore clean energy manufacturing in the U.S. across the full supply chain of clean energy and transportation technologies.
- \$10 billion investment tax credit to build clean technology manufacturing facilities such as facilities that make electric vehicles, wind turbines and solar panels.
- \$500 million in the Defense Production Act for heat pumps and critical minerals processing
- \$2 billion in grants to retool existing auto manufacturing facilities to manufacture clean vehicles
- Up to \$20 billion in loans to build new clean vehicle manufacturing facilities across the country
- Tax credits for clean sources of electricity and energy storage and roughly \$30 billion in targeted grant and loan programs for states and electric utilities to accelerate the transition to clean electricity.
- Grants and tax credits to reduce emissions from industrial manufacturing processes, including almost \$6 billion for a new Advanced Industrial Facilities Deployment Program to reduce emissions from chemical, steel and cement plants.

**Building Codes:** The legislation would provide \$330 million for fiscal year 2022 for grants to help states adopt residential and commercial building energy codes that meet or exceed the 2021 International Energy Conservation Code (IECC), the ASHRAE Standard 90.1-2019, or some combination of those codes. Funds could also be used to implement building codes achieving equal or greater energy savings. It would provide a further \$670 million for states and local governments to adopt building codes to meet or exceed the zero-energy provisions in the 2021 IECC and to implement a plan to achieve compliance with newly adopted building energy codes.

**Construction Materials:** The legislation would provide \$2 billion for fiscal year 2022 for the Federal Highway Administration to reimburse or provide incentives to states, local governments, metropolitan planning organizations, and public authorities to use materials produced with lower-carbon emissions. The incentive could cover as much as 2% of the incremental cost of using the materials. Funds could not be used for projects adding travel lanes for single occupancy passenger vehicles. The legislation would authorize the Federal Emergency Management Agency to provide financial assistance for low-carbon building materials and encourage low-carbon and net-zero energy projects.

**Transportation Infrastructure:** The legislation would provide \$1.89 billion for fiscal year 2022 for the Federal Highway Administration to provide grants to states, local governments, territories, or transportation authorities to increase neighborhood access and transportation equity, or reduce the negative effects of infrastructure projects in disadvantaged or underserved communities.

**EPA Greenhouse Gas Reduction:** The legislation would provide \$12 billion for fiscal year 2022 for the Environmental Protection Agency (EPA) to provide financial and technical assistance on projects to reduce greenhouse gas emissions. An additional \$8 billion for fiscal 2022 would be provided for grants to offer assistance on GHG reduction projects in low-income and disadvantaged communities.

**Ports:** The legislation would provide \$2.25 billion for fiscal year 2022 for grants and rebates for port authorities, air pollution control agencies, private entities, and governments with jurisdiction over ports to install zero-emission port equipment or technology. Awards could also be used to develop climate action plans to reduce GHGs and other air pollutants. An additional \$750 million would be provided for ports in areas that do not meet national ambient air quality standards.

**Methane:** The EPA would impose a charge on methane emissions for oil and gas facilities that report more than 25,000 metric tons of carbon dioxide equivalent GHGs per year if they exceed the amount of oil or gas they produce by a certain threshold. The charge would be \$900 for each metric ton above the threshold in 2024, rising to \$1,500 in 2026.

**Diesel:** The legislation would provide \$60 million for fiscal year 2022, for grants, rebates, and loans identifying and reducing diesel emissions resulting from the transportation of goods and to address health effects on low-income and disadvantaged communities.

**Fossil Fuels:** The legislation could cost the oil industry \$25 billion in new taxes as it would reinstate and increase a long-lapsed tax on crude and imported petroleum products to 16.4 cents per gallon.

**Electric Car Credits:** The legislation includes \$4,000 tax credits to purchase used electric vehicles, and up to \$7,500 tax credit for new vehicles.

**Offshore Wind:** The legislation would allow Energy Department (DOE) to grant leases, easements, and rights-of-way for offshore wind projects in parts of the Outer Continental Shelf off the coasts of Georgia, Florida, North Carolina, and South Carolina withdrawn from leasing activities by two Trump administration memos.

**Drought Mitigation:** The legislation would provide \$4 billion for fiscal 2022 and available through fiscal 2026 for grants, contracts, or financial assistance for projects to mitigate drought in the “Reclamation States,” which are primarily in the western US. Priority would be given to the Colorado River Basin and other basins experiencing comparable levels of long-term drought.

The legislation would also provide in fiscal 2022:

- \$2 billion for National Labs.
- \$1.2 billion for national parks and public lands, including for hiring employees and for deferred maintenance projects.
- \$850 million for the EPA to provide grants, rebates, contracts, and loans for incentive programs to reduce methane emissions and waste reduction from petroleum and natural gas systems.
- \$760 million for grants to state, local, or tribal governments to facilitate interstate electricity transmission lines.
- \$700 million for EPA to provide grants, rebates, contracts, and loans for reducing emissions at marginal conventional wells.
- \$700 million for programs to increase availability of high-assay low-enriched uranium.
- \$550 million to the Bureau of Reclamation for domestic water supply projects.
- \$250 million for EPA to provide grants supporting development of environmental impact documentation for construction materials and products that reduce emissions associated at all stages of the material’s production.
- \$200 million for a financial assistance program for states to create a training program for contractors completing energy efficiency and electrification projects.

**Affordable Housing Efficiency:** The legislation would provide \$1 billion to the Housing and Urban Development Department. Of those funds, \$837.5 million would be for grants or loans to the owners and sponsors of affordable housing to implement or promote:

- Energy or water efficiency;
- Indoor air quality or sustainability;
- Zero-emission electricity generation or low-emission building materials or processes;
- Energy storage;
- Building electrification; and
- Climate resilience.

**Corporate Minimum Tax:** The legislation would impose a 15% minimum tax in tax years after 2022 on the income corporations report on their financial statements, or “book income,” with some adjustments. The minimum tax would apply to corporations with more than \$1 billion in average annual income over a three-year period. Financial statement income would be:

- Reduced by depreciation deductions; deductions for the exhaustion or wear and tear of a physical property used for trade, business, or held for the production of income.
- Adjusted to disregard any amount of depreciation expense on a taxpayer’s financial statement for a property.
- Reduced by amortization deductions, deductions for certain capital costs for non-physical assets over time, for wireless spectrum used in the business of a wireless telecommunications carrier and acquired after December 31, 2007, and before the measure’s enactment.

**Stock Repurchases:** The legislation would impose a 1% excise tax of the fair market value of any stock repurchase in a tax year by a publicly traded U.S. corporation, including any subsidiary that has 50% or more of its stock owned by a corporation. Firms purchase their own shares as an alternative way to distribute income to shareholders, with a lower tax rate compared to dividend distributions. The tax would also apply to stock repurchases of certain foreign corporations by subsidiaries and “expatriated entities.” It would exempt stock repurchases that are:

- Less than \$1 million.
- Contributed to an employer-sponsored retirement plan, stock ownership plan, or similar plan.
- Part of a reorganization with no gain or loss recognized.
- Made by a regulated investment company or a real estate investment trust.
- Treated as a dividend.

**IRS Funding:** The legislation would appropriate the following amounts for the Internal Revenue Service (IRS) in fiscal year 2022:

- \$45.6 billion for tax enforcement activities, including legal and litigation support, criminal investigations, and digital asset monitoring and compliance activities.
- \$25.3 billion for operations support, including rent payments, facilities services, other IRS-wide administration activities, research and statistics of income, and information technology development.
- \$4.75 billion for business systems modernization to provide a more personalized customer service.
- \$3.18 billion for taxpayer services, including pre-filing assistance and education, filing and account services, and taxpayer advocacy services.

Amounts would remain available through fiscal year 2031. The measure would specify that the IRS funding boost is not intended to increase taxes on any taxpayer or small business with a taxable income below \$400,000 or any taxpayer not in the top 1%. CBO estimates that the IRS will collect about \$203 billion resulting from the 10-year, \$80 billion allocation for IRS tax enforcement and compliance.

## **Prescription Drugs:**

- **Drug Pricing:** The legislation would direct the Health and Human Services Department to establish a “Drug Price Negotiation Program” to negotiate a maximum price of high-cost prescription drugs beginning in 2026 for Medicare Part B, which covers medicines administered in a medical setting, and Part D, the program’s prescription drug benefit. The measure would require HHS to identify 100 drugs without competition that have been on the market for seven years and biologics that have been on the market for 11 years, and that have the highest spending under Medicare.
- **Vaccine Coverage:** The legislation would require coverage of vaccines with no cost-sharing or deductible under Medicare Part D beginning Jan. 1, 2023. It also would retroactively reimburse Medicare Advantage plans the lost cost-sharing for 2023.
- **Insulin Provisions:**
  - **Medicare:** The legislation would exclude insulin products covered under Medicare Part D from applying to beneficiary deductibles under the program, beginning in 2023. The bill would also cap insulin copayments for Medicare beneficiaries to \$35 a month for plan years 2023 through 2025 regardless of whether a beneficiary has reached the initial coverage limit or out-of-pocket threshold. Beneficiaries would also receive reimbursement for any excess cost-sharing or copayments made in the first three months of 2023.
  - **Private Insurers:** The legislation would require private group or individual health plans including catastrophic coverage plans to cover at least one of each type of insulin, cap cost-sharing at \$35 a month, and not apply deductibles starting in 2023.