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S. 5323

To amend title VI of the Social Security Act to allow States and local governments to use coronavirus relief funds provided under the American Rescue Plan Act for infrastructure projects, improve the Local Assistance and Tribal Consistency Fund, provide Tribal governments with more time to use Coronavirus Relief Fund payments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2022

Mr. CORNYN (for himself, Mr. PADILLA, Mr. TESTER, and Ms. MURKOWSKI) introduced the following bill; which was read twice, considered, read the third time, and passed

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A BILL

To amend title VI of the Social Security Act to allow States and local governments to use coronavirus relief funds provided under the American Rescue Plan Act for infrastructure projects, improve the Local Assistance and Tribal Consistency Fund, provide Tribal governments with more time to use Coronavirus Relief Fund payments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act''.

SEC. 2. AUTHORITY TO USE CORONAVIRUS RELIEF FUNDS FOR INFRASTRUCTURE PROJECTS.

(a) IN GENERAL.—Title VI of the Social Security Act (42 U.S.C. 801 et seq.), as amended by section 40909 of the Infrastructure Investment and Jobs Act, is amended—

(1) in section 602—

(A) in subsection (a)(1), by inserting ''(except as provided in subsection (c)(5))'' after ''December 31, 2024''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''paragraph (3)'' and inserting ''paragraphs (3), (4), and (5)'';

(II) by amending subparagraph (C) to read as follows:

''(C) for the provision of government services up to an amount equal to the greater of—

''(i) the amount of the reduction in revenue of such State, territory, or Tribal government due to the COVID–19 public

health emergency relative to revenues collected in the most recent full fiscal year of the State, territory, or Tribal government prior to the emergency; or

''(ii) $10,000,000;'';

(III) in subparagraph (D), by striking the period at the end and inserting ''; or''; and

(IV) by adding at the end the following new subparagraph:

''(E) to provide emergency relief from natural disasters or the negative economic impacts of natural disasters, including temporary emergency housing, food assistance, financial assistance for lost wages, or other immediate needs.''; and

(ii) by adding at the end the following new paragraph:

''(5) AUTHORITY TO USE FUNDS FOR CERTAIN INFRASTRUCTURE PROJECTS.—

''(A) IN GENERAL.—Subject to subparagraph (C), notwithstanding any other provision of law, a State, territory, or Tribal government receiving a payment under this section may use funds provided under such payment for projects

described in subparagraph (B), including, to the extent consistent with guidance or rules issued by the Secretary or the head of a Federal agency to which the Secretary has delegated authority pursuant to subparagraph (C)(iv)—

"(i) in the case of a project eligible under section 117 of title 23, United States Code, or section 5309 or 6701 of title 49, United States Code, to satisfy a non-Federal share requirement applicable to such a project; and

"(ii) in the case of a project eligible for credit assistance under the TIFIA program under chapter 6 of title 23, United States Code—

"(I) to satisfy a non-Federal share requirement applicable to such a project; and

"(II) to repay a loan provided under such program.

"(B) PROJECTS DESCRIBED.—A project referred to in subparagraph (A) is any of the following:

"(i) A project eligible under section 117 of title 23, United States Code.

"(ii) A project eligible under section 119 of title 23, United States Code.

"(iii) A project eligible under section 124 of title 23, United States Code, as added by the Infrastructure Investment and Jobs Act.

"(iv) A project eligible under section 133 of title 23, United States Code.

"(v) An activity to carry out section 134 of title 23, United States Code.

"(vi) A project eligible under section 148 of title 23, United States Code.

"(vii) A project eligible under section 149 of title 23, United States Code.

"(viii) A project eligible under section 151(f) of title 23, United States Code, as added by the Infrastructure Investment and Jobs Act.

"(ix) A project eligible under section 165 of title 23, United States Code.

"(x) A project eligible under section 167 of title 23, United States Code.

"(xi) A project eligible under section 173 of title 23, United States Code, as

added by the Infrastructure Investment and Jobs Act.

''(xii) A project eligible under section 175 of title 23, United States Code, as added by the Infrastructure Investment and Jobs Act.

''(xiii) A project eligible under section 176 of title 23, United States Code, as added by the Infrastructure Investment and Jobs Act.

''(xiv) A project eligible under section 202 of title 23, United States Code.

''(xv) A project eligible under section 203 of title 23, United States Code.

''(xvi) A project eligible under section 204 of title 23, United States Code.

''(xvii) A project eligible under the program for national infrastructure investments (commonly known as the 'Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program').

''(xviii) A project eligible for credit assistance under the TIFIA program under chapter 6 of title 23, United States Code.

"(xix) A project that furthers the completion of a designated route of the Appalachian Development Highway System under section 14501 of title 40, United States Code.

"(xx) A project eligible under section 5307 of title 49, United States Code.

"(xxi) A project eligible under section 5309 of title 49, United States Code.

"(xxii) A project eligible under section 5311 of title 49, United States Code.

"(xxiii) A project eligible under section 5337 of title 49, United States Code.

"(xxiv) A project eligible under section 5339 of title 49, United States Code.

"(xxv) A project eligible under section 6703 of title 49, United States Code, as added by the Infrastructure Investment and Jobs Act.

"(xxvi) A project eligible under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

"(xxvii) A project eligible under the bridge replacement, rehabilitation, preser-

vation, protection, and construction program under paragraph (1) under the heading 'HIGHWAY INFRASTRUCTURE PROGRAM' under the heading 'FEDERAL HIGHWAY ADMINISTRATION' under the heading 'DEPARTMENT OF TRANSPORTATION' under title VIII of division J of the Infrastructure Investment and Jobs Act.

''(C) LIMITATIONS; APPLICATION OF REQUIREMENTS.—

''(i) LIMITATION ON AMOUNTS TO BE USED FOR INFRASTRUCTURE PROJECTS.—

''(I) IN GENERAL.—The total amount that a State, territory, or Tribal government may use from a payment made under this section for uses described in subparagraph (A) shall not exceed the greater of—

''(aa) $10,000,000; and

''(bb) 30 percent of such payment.

''(II) RULE OF APPLICATION.—The spending limitation under subclause (I) shall not apply to any use of funds permitted under paragraph

(1), and any such use of funds shall be disregarded for purposes of applying such spending limitation.

''(ii) LIMITATION ON OPERATING EXPENSES.—Funds provided under a payment made under this section shall not be used for operating expenses of a project described in clauses (xx) through (xxiv) of subparagraph (B).

''(iii) APPLICATION OF REQUIREMENTS.—Except as otherwise determined by the Secretary or the head of a Federal agency to which the Secretary has delegated authority pursuant to clause (iv) or provided in this section—

''(I) the requirements of section 60102 of the Infrastructure Investment and Jobs Act shall apply to funds provided under a payment made under this section that are used pursuant to subparagraph (A) for a project described in clause (xxvi) of subparagraph (B) that relates to broadband infrastructure;

"(II) the requirements of titles 23, 40, and 49 of the United States Code, title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq) shall apply to funds provided under a payment made under this section that are used for projects described in subparagraph (B); and

"(III) a State government receiving a payment under this section may use funds provided under such payment for projects described in clauses (i) through (xxvii) of subparagraph (B), as applicable, that—

"(aa) demonstrate progress in achieving a state of good repair as required by the State's asset management plan under section 119(e) of title 23, United States Code; and

"(bb) support the achievement of 1 or more performance

targets of the State established under section 150 of title 23, United States Code.

''(iv) OVERSIGHT.—The Secretary may delegate oversight and administration of the requirements described in clause (iii) to the appropriate Federal agency.

''(v) SUPPLEMENT, NOT SUPPLANT.—Amounts from a payment made under this section that are used by a State, territory, or Tribal government for uses described in subparagraph (A) shall supplement, and not supplant, other Federal, State, territorial, Tribal, and local government funds (as applicable) otherwise available for such uses.

''(D) REPORTS.—The Secretary, in consultation with the Secretary of Transportation, shall provide periodic reports on the use of funds by States, territories, and Tribal governments under subparagraph (A).

''(E) AVAILABILITY.—Funds provided under a payment made under this section to a State, territory, or Tribal government shall remain available for obligation for a use described

in subparagraph (A) through December 31, 2024, except that no amount of such funds may be expended after September 30, 2026.''; and

(2) in subsection 603—

(A) in subsection (a), by inserting ''(except as provided in subsection (c)(6))'' after ''December 31, 2024''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''paragraphs (3) and (4)'' and inserting ''paragraphs (3), (4), (5), and (6)'';

(II) by amending subparagraph (C) to read as follows:

''(C) for the provision of government services up to an amount equal to the greater of—

''(i) the amount of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local

government, or county to the emergency; or

''(ii) $10,000,000;'';

(III) in subparagraph (D), by striking the period at the end and inserting ''; or''; and

(IV) by adding at the end the following new subparagraph:

''(E) to provide emergency relief from natural disasters or the negative economic impacts of natural disasters, including temporary emergency housing, food assistance, financial assistance for lost wages, or other immediate needs.''; and

(ii) by adding at the end the following new paragraph:

''(6) AUTHORITY TO USE FUNDS FOR CERTAIN INFRASTRUCTURE PROJECTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), notwithstanding any other provision of law, a metropolitan city, nonentitlement unit of local government, or county receiving a payment under this section may use funds provided under such payment for projects described in subparagraph (B) of section 602(c)(5), includ-

ing, to the extent consistent with guidance or rules issued by the Secretary or the head of a Federal agency to which the Secretary has delegated authority pursuant to subparagraph (B)(iv)—

"(i) in the case of a project eligible under section 117 of title 23, United States Code, or section 5309 or 6701 of title 49, United States Code, to satisfy a non-Federal share requirement applicable to such a project; and

"(ii) in the case of a project eligible for credit assistance under the TIFIA program under chapter 6 of title 23, United States Code—

"(I) to satisfy a non-Federal share requirement applicable to such a project; and

"(II) to repay a loan provided under such program.

"(B) LIMITATIONS; APPLICATION OF REQUIREMENTS.—

"(i) LIMITATION ON AMOUNTS TO BE USED FOR INFRASTRUCTURE PROJECTS.—

"(I) IN GENERAL.—The total amount that a metropolitan city, non-entitlement unit of local government, or county may use from a payment made under this section for uses described in subparagraph (A) shall not exceed the greater of—

"(aa) $10,000,000; and

"(bb) 30 percent of such payment.

"(II) RULE OF APPLICATION.—The spending limitation under subclause (I) shall not apply to any use of funds permitted under paragraph (1), and any such use of funds shall be disregarded for purposes of applying such spending limitation.

"(ii) LIMITATION ON OPERATING EXPENSES.—Funds provided under a payment made under this section shall not be used for operating expenses of a project described in clauses (xx) through (xxiv) of section 602(c)(5)(B).

"(iii) APPLICATION OF REQUIREMENTS.—Except as otherwise determined

by the Secretary or the head of a Federal agency to which the Secretary has delegated authority pursuant to clause (iv) or provided in this section—

"(I) the requirements of section 60102 of the Infrastructure Investment and Jobs Act shall apply to funds provided under a payment made under this section that are used pursuant to subparagraph (A) for a project described in clause (xxvi) of section 602(c)(5)(B) that relates to broadband infrastructure; and

"(II) the requirements of titles 23, 40, and 49 of the United States Code, title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq) shall apply to funds provided under a payment made under this section that are used for projects described in section 602(c)(5)(B).

"(iv) OVERSIGHT.—The Secretary may delegate oversight and administration of the requirements described in clause (iii) to the appropriate Federal agency.

"(v) SUPPLEMENT, NOT SUPPLANT.—Amounts from a payment made under this section that are used by a metropolitan city, nonentitlement unit of local government, or county for uses described in subparagraph (A) shall supplement, and not supplant, other Federal, State, territorial, Tribal, and local government funds (as applicable) otherwise available for such uses.

"(C) REPORTS.—The Secretary, in consultation with the Secretary of Transportation, shall provide periodic reports on the use of funds by metropolitan cities, nonentitlement units of local government, or counties under subparagraph (A).

"(D) AVAILABILITY.—Funds provided under a payment made under this section to a metropolitan city, nonentitlement unit of local government, or county shall remain available for obligation for a use described in subparagraph (A) through December 31, 2024, except

that no amount of such funds may be expended after September 30, 2026.''.

(b) TECHNICAL AMENDMENTS.—Sections 602(c)(3) and 603(c)(3) of title VI of the Social Security Act (42 U.S.C. 802(c)(3), 803(c)(3)) are each amended by striking ''paragraph (17) of''.

(c) GUIDANCE AND EFFECTIVE DATE.—

(1) GUIDANCE OR RULE.—Within 60 days of the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Transportation, shall issue guidance or promulgate a rule to carry out the amendments made by this section, including updating reporting requirements on the use of funds under this section.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the issuance of guidance or the promulgation of a rule described in paragraph (1).

(d) DEPARTMENT OF THE TREASURY ADMINISTRATIVE EXPENSES.—

(1) REDUCTION OF FUNDS AVAILABLE FOR ADMINISTRATIVE EXPENSES.—Title IV of division A of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) is amended—

(A) in section 4003(f), by striking ''$100,000,000'' and inserting ''61,000,000''; and

(B) in section 4112(b), by striking ''$100,000,000'' and inserting ''$67,000,000''.

(2) AUTHORITY.—Notwithstanding any other provision of law, the unobligated balances from amounts made available to the Secretary of the Treasury (referred to in this subsection as the ''Secretary'') for administrative expenses pursuant to the provisions specified in paragraph (3) shall be available to the Secretary (in addition to any other appropriations provided for such purpose) for the purpose described in paragraph (4) (subject to the limitation in such paragraph) and for administrative expenses of the Department of the Treasury, except for the Internal Revenue Service, determined by the Secretary to be necessary to respond to the coronavirus emergency, including any expenses necessary to implement any provision of—

(A) the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136);

(B) division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260);

(C) the American Rescue Plan Act (Public Law 117–2); or

(D) title VI of the Social Security Act (42 U.S.C. 801 et seq.).

(3) PROVISIONS SPECIFIED.—The provisions specified in this paragraph are the following:

(A) Amounts made available under section 4027(a) of the Coronavirus Aid, Relief, and Economic Security Act (15 U.S.C. 9061(a)) to pay costs and administrative expenses under section 4003(f) of such Act (15 U.S.C. 9042(f))) and amounts made available by section 4120(a) of the Coronavirus Aid, Relief, and Economic Security Act (15 U.S.C. 9080) to pay costs and administrative expenses under section 4112(b) of such Act (15 U.S.C. 9072(b)) (after application of the amendments made by paragraph (1) of this subsection).

(B) Section 421(f)(2) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260).

(C) Sections 3201(a)(2)(B), 3206(d)(1)(A), and 7301(b)(5) of the American Rescue Plan Act of 2021 (Public Law 117–2).

(D) Section 602(a)(2) of the Social Security Act (42 U.S.C. 802(a)(2)).

(4) PAYMENTS TO ELIGIBLE REVENUE SHARING CONSOLIDATED GOVERNMENTS.—Of amounts made available under paragraph (2), up to $10,600,000 shall be available to the Secretary (in addition to any other appropriations provided for such purpose) for making payments to eligible revenue sharing consolidated governments under subsection (g) of section 605 of the Social Security Act (42 U.S.C. 805), as added by section 3 of this Act.

SEC. 3. ALLOWING PAYMENTS TO ELIGIBLE REVENUE SHARING CONSOLIDATED GOVERNMENTS FROM LOCAL ASSISTANCE AND TRIBAL CONSISTENCY FUND.

(a) IN GENERAL.—Section 605 of the Social Security Act (42 U.S.C. 805) is amended by adding at the end the following new subsection:

''(g) PAYMENTS TO ELIGIBLE REVENUE SHARING CONSOLIDATED GOVERNMENTS.—

''(1) PAYMENTS TO ELIGIBLE REVENUE SHARING CONSOLIDATED GOVERNMENTS FOR FISCAL YEARS 2023 AND 2024.—The Secretary shall allocate and pay to each eligible revenue sharing consolidated government for each of fiscal years 2023 and 2024

an amount equal to the amount that the Secretary would have allocated to such eligible revenue sharing consolidated government for fiscal year 2022 if all eligible revenue sharing consolidated governments had been treated as eligible revenue sharing counties for purposes of being eligible for payments under subsection (b)(1) for such fiscal year using the allocation methodology adopted by the Department of the Treasury for such eligible revenue sharing counties as of the date of enactment of this subsection.

''(2) FUNDING FOR PAYMENTS.—

''(A) IN GENERAL.—The Secretary shall make the allocations and payments described in paragraph (1) from the amounts described in subparagraph (B), which shall be available to the Secretary for such purpose notwithstanding any other provision of law.

''(B) AMOUNTS DESCRIBED.—The amounts described in this subparagraph are the following:

''(i) Any amount allocated to an eligible revenue sharing county under subsection (b)(1) for fiscal year 2022 or 2023 that, as of January 31, 2023, has not been requested by such county.

''(ii) Amounts made available to the Secretary under section 2(d)(4) of the State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act.''.

(b) CONFORMING AMENDMENTS.—Section 605 of the Social Security Act (42 U.S.C. 805), as amended by subsection (a), is further amended—

(1) in subsection (a), by inserting '', subject to subsection (g),'' after ''obligated'';

(2) in subsection (c), by striking ''or an eligible Tribal government'' and inserting '', an eligible Tribal government, or an eligible revenue sharing consolidated government'';

(3) in subsections (d) and (e), by inserting ''or eligible revenue sharing consolidated government'' after ''eligible revenue sharing county'' each place it appears; and

(4) in subsection (f)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

''(1) ELIGIBLE REVENUE SHARING CONSOLIDATED GOVERNMENT.—The term 'eligible revenue sharing consolidated government' means a county, parish, or borough—

''(A) that has been classified by the Bureau of the Census as an active government consolidated with another government; and

''(B) for which, as determined by the Secretary, there is a negative revenue impact due to implementation of a Federal program or changes to such program.''.

SEC. 4. EXTENSION OF AVAILABILITY OF CORONAVIRUS RELIEF FUND PAYMENTS TO TRIBAL GOVERNMENTS.

Section 601(d)(3) of the Social Security Act (42 U.S.C. 801(d)(3)) is amended by inserting ''(or, in the case of costs incurred by a Tribal government, during the period that begins on March 1, 2020, and ends on December 31, 2022)'' before the period.

SEC. 5. RESCISSION OF CORONAVIRUS RELIEF AND RECOVERY FUNDS DECLINED BY STATES, TERRITORIES, OR OTHER GOVERNMENTAL ENTITIES.

Title VI of the Social Security Act (42 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"SEC. 606. RESCISSION OF FUNDS DECLINED BY STATES, TERRITORIES, OR OTHER GOVERNMENTAL ENTITIES.

''(a) RESCISSION.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), if a State, territory, or other governmental entity provides notice to the Secretary of the Treasury in the manner provided by the Secretary of the Treasury that the State, territory, or other governmental entity intends to decline all or a portion of the amounts that are to be awarded to the State, territory, or other governmental entity from funds appropriated under this title, an amount equal to the unaccepted amounts or portion of such amounts allocated by the Secretary of the Treasury as of the date of such notice that would have been awarded to the State, territory, or other governmental entity shall be rescinded from the applicable appropriation account.

''(2) EXCLUSION.—Paragraph (1) shall not apply with respect to funds that are to be paid to a State under section 603 for distribution to nonentitlement units of local government.

''(3) RULES OF CONSTRUCTION.—Paragraph (1) shall not be construed as—

''(A) preventing a sub-State governmental entity, including a nonentitlement unit of local government, from notifying the Secretary of the Treasury that the sub-State governmental entity intends to decline all or a portion of the amounts that a State may distribute to the entity from funds appropriated under this title; or

''(B) allowing a State to prohibit or otherwise prevent a sub-State governmental entity from providing such a notice.

''(b) USE FOR DEFICIT REDUCTION.—Amounts rescinded under subsection (a) shall be deposited in the general fund of the Treasury for the sole purpose of deficit reduction.

''(c) STATE OR OTHER GOVERNMENTAL ENTITY DEFINED.—In this section, the term 'State, territory, or other governmental entity' means any entity to which a payment may be made directly to the entity under this title other than a Tribal government, as defined in sections

601(g), 602(g), and 604(d), and an eligible Tribal government, as defined in section 605(f).''.

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