

117TH CONGRESS
1ST SESSION

S. 2523

To amend the Internal Revenue Code of 1986 to modify the rules for tribal economic development bonds.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2021

Ms. MURKOWSKI (for herself and Mr. SULLIVAN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to modify
the rules for tribal economic development bonds.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal Economic De-
5 velopment Act of 2021”.

6 **SEC. 2. MODIFICATIONS RELATED TO TRIBAL ECONOMIC**
7 **DEVELOPMENT BONDS.**

8 (a) INCREASE IN NATIONAL LIMITATION.—Subpara-
9 graph (B) of section 7871(f)(1) of the Internal Revenue

1 Code of 1986 is amended by striking “\$2,000,000,000”
 2 and inserting “\$4,000,000,000”.

3 (b) OTHER MODIFICATIONS.—

4 (1) IN GENERAL.—Paragraph (2) of section
 5 7871(f) of the Internal Revenue Code of 1986 is
 6 amended to read as follows:

7 “(2) BONDS TREATED AS EXEMPT FROM
 8 TAX.—Notwithstanding any other provision of this
 9 title, gross income shall not include interest on any
 10 tribal economic development bond.”.

11 (2) MODIFICATION OF DEFINITION OF TRIBAL
 12 ECONOMIC DEVELOPMENT BOND.—Section
 13 7871(f)(3) of the Internal Revenue Code of 1986 is
 14 amended to read as follows:

15 “(3) TRIBAL ECONOMIC DEVELOPMENT
 16 BOND.—

17 “(A) IN GENERAL.—For purposes of this
 18 section, the term ‘tribal economic development
 19 bond’ means any bond issued by an Indian trib-
 20 al government (or a subdivision thereof)—

21 “(i) which is part of an issue 95 per-
 22 cent or more of the proceeds of which are
 23 to be used—

24 “(I) by a qualified Native user,
 25 and

1 “(II) to promote the economic
2 development of any Indian tribe or
3 Native Corporation (including through
4 loans by any Indian tribal government
5 or a subdivision thereof to a qualified
6 Native user),

7 “(ii) except as provided in subpara-
8 graph (D), which is not an arbitrage bond
9 (within the meaning of section 148),

10 “(iii) which meets the applicable re-
11 quirements of section 149 (other than sub-
12 sections (b), (d), and (g) thereof), and

13 “(iv) which is designated by the In-
14 dian tribal government as a tribal eco-
15 nomic development bond for purposes of
16 this subsection.

17 “(B) EXCEPTION.—Such term shall not in-
18 clude any bond issued as part of an issue if any
19 portion of the proceeds of such issue are used
20 to finance any portion of a building in which
21 class II or class III gaming (as defined in sec-
22 tion 4 of the Indian Gaming Regulatory Act) is
23 conducted or housed or any other property ac-
24 tually used in the conduct of such gaming.

1 “(C) LIMITATION ON AMOUNT OF BONDS
2 DESIGNATED.—The maximum aggregate face
3 amount of bonds which may be designated by
4 any Indian tribal government under subpara-
5 graph (A) shall not exceed the amount of na-
6 tional tribal economic development bond limita-
7 tion allocated to such government under para-
8 graph (1).

9 “(D) LOANS TO QUALIFIED NATIVE USERS
10 PERMITTED.—

11 “(i) IN GENERAL.—For purposes of
12 applying section 148 to this paragraph, the
13 term ‘arbitrage bond’ shall not include a
14 bond issued as part of an issue the pro-
15 ceeds of which are used to provide a loan
16 described in clause (ii) to a qualified Na-
17 tive user notwithstanding whether the in-
18 terest rate on such loan produces a yield
19 which is higher than the yield on such
20 issue.

21 “(ii) LOAN DESCRIBED.—A loan is de-
22 scribed in this clause if the terms of the
23 loan prevent the borrower of such loan
24 from making further loans with the pro-
25 ceeds of such loan.

1 “(E) QUALIFIED NATIVE USER.—For pur-
2 poses of this paragraph, the term ‘qualified Na-
3 tive user’ means—

4 “(i) an Indian tribal government (or a
5 subdivision thereof),

6 “(ii) a Native Corporation, or

7 “(iii) any other entity if—

8 “(I) in the case of a corporation,
9 not less than two-thirds of the out-
10 standing stock are owned by one or
11 more entities described in clauses (i)
12 or (ii), and

13 “(II) in the case of any entity
14 other than a corporation, not less
15 than two-thirds of the capital and
16 profits interests are owned by one or
17 more entities described in clauses (i)
18 or (ii).

19 “(F) OTHER DEFINITIONS.—For purposes
20 of this paragraph—

21 “(i) NATIVE CORPORATION.—The
22 term ‘Native Corporation’ has the meaning
23 given such term under section 646(h)(2).

1 “(ii) INDIAN TRIBE.—The term ‘In-
2 dian tribe’ has the meaning given such
3 term under subsection (c)(3)(E)(ii).

4 “(G) COORDINATION WITH THIRD-PARTY
5 REPAYMENT, ETC.—A bond shall not fail to be
6 treated as a tribal economic development bond
7 solely because a person other than the Indian
8 tribal government (or subdivision thereof)
9 issuing the bond has guaranteed the repayment
10 of, is otherwise obligated to repay, or in fact re-
11 pays, any portion of the principal or interest of
12 such bond.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to obligations issued after the date
15 of the enactment of this Act.

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