

107TH CONGRESS
1ST SESSION

S. 660

To amend the Internal Revenue Code of 1986 to provide for the issuance of tax-exempt bonds by Indian tribal governments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2001

Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. INOUE) 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 provide for the issuance of tax-exempt bonds by Indian tribal governments, and for other purposes.

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 Government
5 Tax-Exempt Bond Authority Amendments Act of 2001”.

6 **SEC. 2. MODIFICATIONS OF AUTHORITY OF INDIAN TRIBAL**
7 **GOVERNMENTS TO ISSUE TAX-EXEMPT**
8 **BONDS.**

9 (a) GENERAL PROVISION.—Subsection (c) of section
10 7871 of the Internal Revenue Code of 1986 (relating to

1 Indian tribal governments treated as States for certain
2 purposes) is amended to read as follows:

3 “(c) ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT
4 BONDS.—

5 “(1) IN GENERAL.—Subsection (a) of section
6 103 shall apply to any obligation issued by an In-
7 dian tribal government (or subdivision thereof) only
8 if such obligation is part of an issue 95 percent or
9 more of the net proceeds of which are to be used to
10 finance facilities located on land within or in close
11 proximity to the exterior boundaries of an Indian
12 reservation.

13 “(2) PRIVATE ACTIVITY BONDS.—Any private
14 activity bond (as defined in section 141(a)) issued by
15 an Indian tribal government (or subdivision thereof)
16 shall be treated as a qualified bond for purposes of
17 section 103(b)(1) to which section 146 does not
18 apply if—

19 “(A) GENERAL RESTRICTIONS.—The re-
20 quirements of section 144(a)(8)(B) and section
21 147 are met with respect to the issue.

22 “(B) SPECIFIC RESTRICTIONS.—

23 “(i) OWNERSHIP.—In the case of an
24 issue the net proceeds of which exceed
25 \$500,000, 50 percent or more of the prof-

1 its or capital interests in the facilities to be
2 financed thereby (or in the entity owning
3 the facilities) are owned either by an In-
4 dian tribe, a subdivision thereof, a corpora-
5 tion chartered under section 17 of the In-
6 dian Reorganization Act of 1934 (25
7 U.S.C. 477) or section 3 of the Oklahoma
8 Welfare Act (25 U.S.C. 503), individual
9 enrolled members of an Indian Tribe, an
10 entity wholly-owned by any of the fore-
11 going, or any combination thereof.

12 “(ii) EMPLOYMENT TEST.—It is rea-
13 sonably expected (at the time of issuance
14 of the obligations) that for each \$100,000
15 of net proceeds of the issue at least 1 em-
16 ployee rendering services at the financed
17 facilities is an enrolled member of an In-
18 dian tribe or the spouse of an enrolled
19 member of an Indian tribe.

20 “(3) DEFINITIONS.—For purposes of this
21 subsection—

22 “(A) INDIAN TRIBE.—The term ‘Indian
23 tribe’ means any Indian tribe, band, nation,
24 pueblo, or other organized group or community,
25 including any Alaska Native village, or regional

1 or village corporation, as defined in, or estab-
2 lished pursuant to, the Alaska Native Claims
3 Settlement Act (43 U.S.C. 1601 et seq.), which
4 is recognized as eligible for the special pro-
5 grams and services provided by the United
6 States to Indians because of their status as In-
7 dians.

8 “(B) INDIAN RESERVATION.—The term
9 ‘Indian reservation’ means—

10 “(i) a reservation, as defined in sec-
11 tion 4(10) of the Indian Child Welfare Act
12 of 1978 (25 U.S.C. 1903(10)), or

13 “(ii) lands held under the provisions
14 of the Alaska Native Claims Settlement
15 Act (43 U.S.C. 1601 et seq.) by a Native
16 corporation as defined in section 3(m) of
17 such Act (43 U.S.C. 1602(m)).

18 “(C) IN CLOSE PROXIMITY TO.—The term
19 ‘in close proximity to’ means—

20 “(i) in the case of an Indian reserva-
21 tion, or portion thereof, located within a
22 metropolitan statistical area (within the
23 meaning of section 143(k)(2)(B)), within 1
24 mile of the boundaries of such reservation,
25 or portion thereof, and

1 “(ii) in the case of an Indian reserva-
2 tion, or portion thereof, located within a
3 nonmetropolitan area (as defined in section
4 42(d)(5)(C)(iv)(IV)), within 15 miles of
5 the boundaries of such reservation, or por-
6 tion thereof.

7 “(D) NET PROCEEDS.—The term ‘net pro-
8 ceeds’ has the meaning given such term by sec-
9 tion 150(a)(3).

10 “(4) COORDINATION WITH NONREVENUE
11 LAWS.—Any reference in this subsection to a provi-
12 sion not contained in this title shall be treated for
13 purposes of this subsection as a reference to such
14 provision as in effect on the date of the enactment
15 of this paragraph.”.

16 (b) CONFORMING AMENDMENT.—Paragraph (3) of
17 section 149(b) of the Internal Revenue Code of 1986 (re-
18 lating to federally guaranteed bond is not exempt) is
19 amended by redesignating subparagraph (D) as subpara-
20 graph (E) and by inserting after subparagraph (C) the
21 following new subparagraph:

22 “(D) EXCEPTION FOR BONDS ISSUED BY
23 INDIAN TRIBAL GOVERNMENTS.—Paragraph (1)
24 shall not apply to any bond issued by an Indian
25 tribal government (or subdivision thereof) un-

1 less such bond is federally guaranteed within
2 the meaning of paragraph (2)(B)(ii).”.

3 **SEC. 3. EXEMPTION FROM REGISTRATION REQUIREMENTS.**

4 The first sentence of section 3(a)(2) of the Securities
5 Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by inserting
6 “or by any Indian tribal government or subdivision thereof
7 (within the meaning of section 7871 of the Internal Rev-
8 enue Code of 1986),” after “or Territories,”.

9 **SEC. 4. EFFECTIVE DATE.**

10 The amendments made by this Act shall apply to obli-
11 gations issued after the date of the enactment of this Act.

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