

117TH CONGRESS  
1ST SESSION

# S. 2523

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

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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

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## 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.

“(C) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated by any Indian tribal government under subparagraph (A) shall not exceed the amount of national tribal economic development bond limitation allocated to such government under paragraph (1).

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

“(i) IN GENERAL.—For purposes of applying section 148 to this paragraph, the term ‘arbitrage bond’ shall not include a bond issued as part of an issue the proceeds of which are used to provide a loan described in clause (ii) to a qualified Native user notwithstanding whether the interest rate on such loan produces a yield which is higher than the yield on such issue.

“(ii) LOAN DESCRIBED.—A loan is described in this clause if the terms of the loan prevent the borrower of such loan from making further loans with the proceeds 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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