

116TH CONGRESS  
2D SESSION

# S. 4333

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, 2020

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 2020”.

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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