

117TH CONGRESS
1ST SESSION

H. R. 4054

To amend the Internal Revenue Code of 1986 to treat Indian tribal governments in the same manner as State governments for certain Federal tax purposes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2021

Mr. KIND (for himself, Mr. KELLY of Pennsylvania, Ms. DAVIDS of Kansas, Mr. COLE, Ms. MOORE of Wisconsin, Mrs. WALORSKI, Ms. DELBENE, Mr. SCHWEIKERT, Mr. KILMER, and Mr. MOOLENAAR) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to treat Indian tribal governments in the same manner as State governments for certain Federal tax purposes, 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 Tax and Invest-
5 ment Reform Act of 2021”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) There is a unique Federal legal and political
4 relationship between the United States and Indian
5 tribes.

6 (2) Indian tribes have the responsibility and au-
7 thority to provide governmental programs and serv-
8 ices to tribal citizens, develop tribal economies, and
9 build community infrastructure to ensure that In-
10 dian reservation lands serve as livable, permanent
11 homes.

12 (3) The United States Constitution, U.S. Fed-
13 eral Court decisions, Executive orders, and numer-
14 ous other Federal laws and regulations recognize
15 that Indian tribes are governments, retaining the in-
16 herent authority to tax and operate as other govern-
17 ments, including (inter alia) financing projects with
18 government bonds and maintaining eligibility for
19 general tax exemptions via their government status.

20 (4) Codifying tax parity with respect to tribal
21 governments is consistent with Federal treaties rec-
22 ognizing the sovereignty of tribal governments.

23 (5) That Indian tribes face historic disadvan-
24 tages in accessing the underlying capital to build the
25 necessary infrastructure for job creation, and that
26 certain statutory restrictions on tribal governance

1 further inhibit tribes’ ability to develop strong gov-
 2 ernance and economies.

3 (6) Indian tribes are sometimes excluded from
 4 the Internal Revenue Code of 1986 in key provisions
 5 which results in unfair tax treatment for tribal citi-
 6 zens or unequal enforcement authority for tribal en-
 7 forcement agencies.

8 (7) Congress is vested with the authority to
 9 regulate commerce with Indian tribes, and hereby
 10 exercises that authority in a manner which furthers
 11 tribal self-governance, and in doing so, further af-
 12 firms the United States government-to-government
 13 relationship with Indian tribes.

14 **SEC. 3. TREATMENT OF INDIAN TRIBES AS STATES WITH**
 15 **RESPECT TO BOND ISSUANCE.**

16 (a) IN GENERAL.—Subsection (c) of section 7871 of
 17 the Internal Revenue Code of 1986 (relating to Indian
 18 tribal governments treated as States for certain purposes)
 19 is amended to read as follows:

20 “(c) SPECIAL RULES FOR TAX-EXEMPT BONDS.—In
 21 applying section 146 to bonds issued by Indian tribal gov-
 22 ernments (or subdivisions thereof) the Secretary of the
 23 Treasury shall annually—

24 “(1) establish a national bond volume cap based
 25 on the greater of—

1 “(A) the State population formula ap-
2 proach in section 146(d)(1)(A) (using national
3 tribal population estimates supplied annually by
4 the Department of the Interior in consultation
5 with the Census Bureau), and

6 “(B) the minimum State ceiling amount in
7 section 146(d)(1)(B) (as adjusted in accordance
8 with the cost of living provision in section
9 146(d)(2)), and

10 “(2) allocate such national bond volume cap
11 among all Indian tribal governments seeking such an
12 allocation in a particular year under regulations pre-
13 scribed by the Secretary.”.

14 (b) REPEAL OF ESSENTIAL GOVERNMENTAL FUNC-
15 TION REQUIREMENTS.—Section 7871 of such Code is fur-
16 ther amended by striking subsections (b) and (e).

17 (c) CONFORMING AMENDMENT.—Subparagraph (B)
18 of section 45(c)(9) of such Code is amended to read as
19 follows:

20 “(B) INDIAN TRIBE.—For purposes of this
21 paragraph, the term ‘Indian tribe’ means any
22 Indian tribe, band, nation, or other organized
23 group or community which is recognized as eli-
24 gible for the special programs and services pro-

1 vided by the United States to Indians because
2 of their status as Indians.”.

3 (d) EFFECTIVE DATE.—

4 (1) SUBSECTION (a).—The amendment made
5 by subsection (a) shall apply to obligations issued in
6 calendar years beginning after the date of the enact-
7 ment of this Act.

8 (2) SUBSECTION (b).—The repeals made by
9 subsection (b) shall apply to transactions after, and
10 obligations issued in calendar years beginning after,
11 the date of the enactment of this Act.

12 **SEC. 4. TREATMENT OF PENSION AND EMPLOYEE BENEFIT**
13 **PLANS MAINTAINED BY TRIBAL GOVERN-**
14 **MENTS.**

15 (a) AMENDMENTS TO THE INTERNAL REVENUE
16 CODE OF 1986.—

17 (1) QUALIFIED PUBLIC SAFETY EMPLOYEE.—
18 Section 72(t)(10)(B) of the Internal Revenue Code
19 of 1986 (defining qualified public safety employee) is
20 amended by—

21 (A) striking “or political subdivision of a
22 State” and inserting “, political subdivision of
23 a State, or Indian tribe”; and

1 (B) striking “such State or political sub-
2 division” and inserting “such State, political
3 subdivision, or Indian tribe”.

4 (2) GOVERNMENTAL PLAN.—The last sentence
5 of section 414(d) of such Code (defining govern-
6 mental plan) is amended to read as follows: “The
7 term ‘governmental plan’ includes a plan established
8 or maintained for its employees by an Indian tribal
9 government (as defined in section 7701(a)(40)), a
10 subdivision of an Indian tribal government (deter-
11 mined in accordance with section 7871(d)), an agen-
12 cy, instrumentality, or subdivision of an Indian trib-
13 al government, or an entity established under Fed-
14 eral, State, or tribal law which is wholly owned or
15 controlled by any of the foregoing.”.

16 (3) DOMESTIC RELATIONS ORDER.—Section
17 414(p)(1)(B)(ii) of such Code (defining domestic re-
18 lations order) is amended by inserting “or tribal”
19 after “State”.

20 (4) EXEMPT GOVERNMENTAL DEFERRED COM-
21 PENSATION PLAN.—Section 3121(v)(3) of such Code
22 (defining governmental deferred compensation plan)
23 is amended by inserting “by an Indian tribal govern-
24 ment or subdivision thereof,” after “political subdivi-
25 sion thereof”.

1 (5) GRANDFATHER OF CERTAIN DEFERRED
2 COMPENSATION PLANS.—Section 457 of such Code
3 is amended by adding at the end the following new
4 subsection:

5 “(h) CERTAIN TRIBAL GOVERNMENT PLANS GRAND-
6 FATHERED.—Plans established before the date of enact-
7 ment of this subsection and maintained by an Indian tribal
8 government (as defined in section 7701(a)(40)), a subdivi-
9 sion of an Indian tribal government (determined in accord-
10 ance with section 7871(d)), an agency, instrumentality, or
11 subdivision of an Indian tribal government, or an entity
12 established under Federal, State, or tribal law which is
13 wholly owned or controlled by any of the foregoing, in com-
14 pliance with subsection (b) or (f) shall be treated as if
15 established by an eligible employer under subsection
16 (e)(1)(A).”.

17 (b) AMENDMENTS TO THE EMPLOYEE RETIREMENT
18 INCOME SECURITY ACT OF 1974.—

19 (1) IN GENERAL.—The last sentence of section
20 3(32) of the Employee Retirement Income Security
21 Act of 1974 (29 U.S.C. 1002(32)) is amended to
22 read as follows: “The term ‘governmental plan’ in-
23 cludes a plan established or maintained for its em-
24 ployees by an Indian tribal government (as defined
25 in section 7701(a)(40) of the Internal Revenue Code

1 of 1986), a subdivision of an Indian tribal govern-
2 ment (determined in accordance with section
3 7871(d) of such Code), an agency, instrumentality,
4 or subdivision of an Indian tribal government, or an
5 entity established under Federal, State, or tribal law
6 which is wholly owned or controlled by any of the
7 foregoing.”.

8 (2) DOMESTIC RELATIONS ORDER.—Section
9 206(d)(3)(B)(ii)(II) of such Act (29 U.S.C.
10 1056(d)(3)(B)(ii)(II)) is amended by inserting “or
11 tribal” after “State”.

12 (3) CONFORMING AMENDMENTS.—

13 (A) Section 4021(b) of such Act (29
14 U.S.C. 1321(b)) is amended by striking “or” at
15 the end of paragraph (12), by striking the pe-
16 riod at the end of paragraph (13) and inserting
17 “; or”, and by inserting after paragraph (13)
18 the following new paragraph:

19 “(14) established or maintained for its employ-
20 ees by an Indian tribal government (as defined in
21 section 7701(a)(40) of the Internal Revenue Code of
22 1986), a subdivision of an Indian tribal government
23 (determined in accordance with section 7871(d) of
24 such Code), an agency, instrumentality, or subdivi-
25 sion of an Indian tribal government, or an entity es-

1 tablished under Federal, State, or tribal law which
 2 is wholly owned or controlled by any of the fore-
 3 going.”.

4 (B) Section 4021(b)(2) of such Act (29
 5 U.S.C. 1321(b)(2)) is amended by striking “, or
 6 which is described in the last sentence of sec-
 7 tion 3(32)” and inserting a comma.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to years beginning after the date
 10 of the enactment of this Act.

11 **SEC. 5. TREATMENT OF TRIBAL FOUNDATIONS AND CHAR-**
 12 **ITIES LIKE CHARITIES FUNDED AND CON-**
 13 **TROLLED BY OTHER GOVERNMENTAL**
 14 **FUNDERS AND SPONSORS.**

15 (a) IN GENERAL.—Section 170(b)(1)(A) of the Inter-
 16 nal Revenue Code of 1986 is amended by adding at the
 17 end the following: “For purposes of clause (vi), the term
 18 ‘governmental unit’ includes an Indian tribal government
 19 (determined in accordance with section 7871(d) of such
 20 Code), an agency, instrumentality, or subdivision of an In-
 21 dian tribal government, or an entity established under
 22 Federal, State, or tribal law which is wholly owned or con-
 23 trolled by any of the foregoing.”.

24 (b) CERTAIN SUPPORTING ORGANIZATIONS.—Sec-
 25 tion 509(a) of such Code is amended by adding at the

1 end the following: “For purposes of paragraph (3), an or-
 2 ganization described in paragraph (2) shall be deemed to
 3 include an Indian tribal government (determined in ac-
 4 cordance with section 7871(d) of such Code), an agency,
 5 instrumentality, or subdivision of an Indian tribal govern-
 6 ment, or an entity established under Federal, State, or
 7 tribal law which is wholly owned or controlled by any of
 8 the foregoing.”.

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to taxable years beginning after
 11 the date of the enactment of this Act.

12 **SEC. 6. IMPROVING EFFECTIVENESS OF TRIBAL CHILD**
 13 **SUPPORT ENFORCEMENT AGENCIES BY PAR-**
 14 **ITY OF ACCESS TO THE FEDERAL PARENT LO-**
 15 **CATOR SERVICE AND FEDERAL TAX REFUND**
 16 **OFFSETS.**

17 (a) ACCESS TO FEDERAL PARENT LOCATOR SERV-
 18 ICE.—Section 453(c) of the Social Security Act (42 U.S.C.
 19 653(c)) is amended—

20 (1) by striking “and” at the end of paragraph
 21 (4);

22 (2) by striking the period at the end of para-
 23 graph (5) and inserting “; and”; and

24 (3) by adding at the end the following:

1 “(6) the child support enforcement agency of an
2 Indian tribe or tribal organization that is eligible for
3 a grant under section 455(f).”.

4 (b) IMPROVING THE COLLECTION OF PAST-DUE
5 CHILD SUPPORT FROM FEDERAL TAX REFUNDS.—

6 (1) AMENDMENT TO THE SOCIAL SECURITY
7 ACT.—Section 464 of the Social Security Act (42
8 U.S.C. 664) is amended by adding at the end the
9 following:

10 “(d) APPLICABILITY TO INDIAN TRIBES AND TRIBAL
11 ORGANIZATIONS ELIGIBLE FOR A GRANT UNDER THIS
12 PART.—This section, except for the requirement to dis-
13 tribute amounts in accordance with section 457, shall
14 apply to an Indian tribe or tribal organization eligible for
15 a grant under section 455(f) in the same manner in which
16 this section applies to a State with a plan approved under
17 this part.”.

18 (2) AMENDMENT TO THE INTERNAL REVENUE
19 CODE.—Subsection (c) of section 6402 of the Inter-
20 nal Revenue Code of 1986 is amended by adding at
21 the end the following: “For purposes of this sub-
22 section, any reference to a State shall include a ref-
23 erence to any Indian tribe or tribal organization de-
24 scribed in section 464(d) of the Social Security
25 Act.”.

1 **SEC. 7. RECOGNIZING INDIAN TRIBAL GOVERNMENTS FOR**
2 **PURPOSES OF DETERMINING UNDER THE**
3 **ADOPTION CREDIT WHETHER A CHILD HAS**
4 **SPECIAL NEEDS.**

5 (a) IN GENERAL.—Section 23(d)(3) of the Internal
6 Revenue Code of 1986 (defining child with special needs)
7 is amended—

8 (1) in subparagraph (A), by inserting “or In-
9 dian tribal government” after “a State”; and

10 (2) in subparagraph (B), by inserting “or In-
11 dian tribal government” after “such State”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 the date of the enactment of this Act.

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