AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

II

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tribal Economic Development Act of 2021''.

SEC. 2. MODIFICATIONS RELATED TO TRIBAL ECONOMIC DEVELOPMENT BONDS.

(a) INCREASE IN NATIONAL LIMITATION.—Subparagraph (B) of section 7871(f)(1) of the Internal Revenue

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

(b) OTHER MODIFICATIONS.—

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

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

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

“(3) TRIBAL ECONOMIC DEVELOPMENT BOND.—

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

“(i) which is part of an issue 95 percent or more of the proceeds of which are to be used—

“(I) by a qualified Native user, and

"(II) to promote the economic development of any Indian tribe or Native Corporation (including through loans by any Indian tribal government or a subdivision thereof to a qualified Native user),

"(ii) except as provided in subparagraph (D), which is not an arbitrage bond (within the meaning of section 148),

"(iii) which meets the applicable requirements of section 149 (other than subsections (b), (d), and (g) thereof), and

"(iv) which is designated by the Indian tribal government as a tribal economic development bond for purposes of this subsection.

"(B) EXCEPTION.—Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue are used to finance any portion of a building in which class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act) is conducted or housed or any other property actually 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.

"(E) QUALIFIED NATIVE USER.—For purposes of this paragraph, the term 'qualified Native user' means—

"(i) an Indian tribal government (or a subdivision thereof),

"(ii) a Native Corporation, or

"(iii) any other entity if—

"(I) in the case of a corporation, not less than two-thirds of the outstanding stock are owned by one or more entities described in clauses (i) or (ii), and

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

"(F) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) NATIVE CORPORATION.—The term 'Native Corporation' has the meaning given such term under section 646(h)(2).

"(ii) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term under subsection (c)(3)(E)(ii).

"(G) COORDINATION WITH THIRD-PARTY REPAYMENT, ETC.—A bond shall not fail to be treated as a tribal economic development bond solely because a person other than the Indian tribal government (or subdivision thereof) issuing the bond has guaranteed the repayment of, is otherwise obligated to repay, or in fact repays, any portion of the principal or interest of such bond.".

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

○