

116TH CONGRESS  
1ST SESSION

# H. R. 2484

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

MAY 2, 2019

Mr. KIND (for himself, Mr. KELLY of Pennsylvania, Ms. HAALAND, Mr. COLE, Ms. DAVIDS of Kansas, Mrs. WALORSKI, Mr. KILMER, Mr. SCHWEIKERT, Ms. MOORE, Mr. COOK, Ms. DELBENE, Mr. MOOLENAAR, and Mr. POCAN) 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 2019”.

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.

○