

115TH CONGRESS
2D SESSION

H. R. 7000

To amend the Internal Revenue Code of 1986 to provide for increased economic opportunities for Native American tribes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2018

Mrs. NOEM introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, 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 provide for increased economic opportunities for Native American tribes, 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 Empower-
5 ment and Jobs Act of 2018”.

1 **SEC. 2. TREATMENT OF INDIAN TRIBES AS STATES WITH**
2 **RESPECT TO CERTAIN EXCISE TAXES AND**
3 **BOND ISSUANCES.**

4 (a) IN GENERAL.—Section 7871 of the Internal Rev-
5 enue Code of 1986 is amended by striking subsections (b),
6 (c), and (e).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 7871(a)(2) of such Code is amended
9 by striking “subject to subsection (b),”.

10 (2) Section 45(c)(9)(B) of such Code is amend-
11 ed by inserting “(as in effect before the date of the
12 enactment of the Tribal Tax Empowerment and
13 Jobs Act of 2018)” after “section 7871(c)(3)(E)(ii)”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to transactions after, and obliga-
16 tions issued in calendar years beginning after, the date
17 of the enactment of this Act.

18 **SEC. 3. INDIAN TRIBAL GOVERNMENTS PERMITTED TO BE**
19 **SHAREHOLDERS OF S CORPORATIONS.**

20 (a) IN GENERAL.—Section 1361(c)(6) of the Internal
21 Revenue Code of 1986 is amended by striking “and” at
22 the end of subparagraph (A), by inserting “and” at the
23 end of subparagraph (B), and by inserting after subpara-
24 graph (B) the following:

25 “(C) an Indian tribal government (as de-
26 fined in section 7701(a)(40) and including any

1 subdivision of such government and any agency
2 or instrumentality of such government or sub-
3 division),”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years ending after the
6 date of the enactment of this Act.

7 **SEC. 4. INTERAGENCY COORDINATION.**

8 Not later than 1 year after the enactment of this sec-
9 tion, the Secretary of the Interior and the Secretary of
10 the Treasury shall coordinate to consult with Indian tribes
11 and with the Securities and Exchange Commission to
12 study, and collaborate to establish regulatory changes nec-
13 essary to qualify an Indian tribe as an accredited investor
14 for the purposes of sections 230.500 through 230.508 of
15 title 17, Code of Federal Regulations (or successor regula-
16 tions), consistent with the goals of promoting capital for-
17 mation and ensuring qualifying Indian tribes have the
18 ability to withstand investment loss, on a basis comparable
19 to other legal entities that qualify as accredited investors
20 who are not natural persons.

21 **SEC. 5. MAKING PERMANENT THE INDIAN EMPLOYMENT**
22 **CREDIT AND DEPRECIATION RULES FOR**
23 **BUSINESS PROPERTY ON INDIAN RESERVA-**
24 **TIONS.**

25 (a) INDIAN EMPLOYMENT CREDIT.—

1 (1) IN GENERAL.—Section 45A of the Internal
2 Revenue Code of 1986 is amended by striking sub-
3 section (f).

4 (2) EFFECTIVE DATE.—The amendment made
5 by this subsection shall apply to taxable years begin-
6 ning after December 31, 2016.

7 (b) ACCELERATED DEPRECIATION FOR BUSINESS
8 PROPERTY ON AN INDIAN RESERVATION.—

9 (1) IN GENERAL.—Section 168(j) of the Inter-
10 nal Revenue Code of 1986 is amended by striking
11 paragraph (9).

12 (2) EFFECTIVE DATE.—The amendment made
13 by this subsection shall apply to property placed in
14 service after December 31, 2017.

15 **SEC. 6. PRIORITY UNDER NEW MARKETS TAX CREDIT FOR**
16 **QUALIFIED LOW-INCOME COMMUNITY IN-**
17 **VESTMENTS ON INDIAN RESERVATIONS.**

18 (a) IN GENERAL.—Paragraph (2) of section 45D(f)
19 of the Internal Revenue Code of 1986 is amended by strik-
20 ing “or” at the end of subparagraph (A), by striking the
21 period at the end of subparagraph (B) and inserting “,
22 or”, and by adding at the end the following new subpara-
23 graph:

24 “(C) which intends to make qualified low-
25 income community investments within a res-

1 ervation, including any such entity established
 2 by a tribe or an economic enterprise which in-
 3 tends to make such investments within a res-
 4 ervation.”.

5 (b) DEFINITIONS.—Section 45D(f) of such Code is
 6 amended by adding at the end the following:

7 “(4) DEFINITIONS.—For purposes of subpara-
 8 graph (C) of paragraph (2), the terms ‘reservation’,
 9 ‘tribe’, and ‘economic enterprise’ shall have the same
 10 meanings given such terms under section 3 of the
 11 Indian Financing Act of 1974 (25 U.S.C. 1452).”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to calendar years beginning after
 14 December 31, 2017.

15 **SEC. 7. LOW-INCOME HOUSING CREDIT.**

16 (a) SELECTION CRITERIA UNDER QUALIFIED ALLO-
 17 CATION PLANS.—

18 (1) IN GENERAL.—Subparagraph (C) of section
 19 42(m)(1) of the Internal Revenue Code of 1986 is
 20 amended by striking “and” at the end of clause (ix),
 21 by striking the period at the end of clause (x) and
 22 inserting “, and”, and by adding at the end the fol-
 23 lowing new clause:

24 “(xi) the affordable housing needs of
 25 individuals in the State who are members

1 of Indian tribes (as defined in section
2 45A(c)(6)).”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by subsection (a) shall apply to allocations of credits
5 under section 42 of such Code made after December
6 31, 2018.

7 (b) INCLUSION OF INDIAN AREAS AS DIFFICULT DE-
8 VELOPMENT AREAS FOR PURPOSES OF CERTAIN BUILD-
9 INGS.—

10 (1) IN GENERAL.—Subclause (I) of section
11 42(d)(5)(B)(iii) of such Code is amended by insert-
12 ing before the period the following: “, and any In-
13 dian area”.

14 (2) INDIAN AREA.—Clause (iii) of section
15 42(d)(5)(B) of such Code is amended by redesign-
16 ating subclause (II) as subclause (III) and by in-
17 serting after subclause (I) the following new sub-
18 clause:

19 “(II) INDIAN AREA.—For pur-
20 poses of subclause (I), the term ‘In-
21 dian area’ means any Indian area (as
22 defined in section 4(11) of the Native
23 American Housing Assistance and
24 Self Determination Act of 1996 (25
25 U.S.C. 4103(11)).”.

1 (3) ELIGIBLE BUILDINGS.—Clause (iii) of sec-
2 tion 42(d)(5)(B) of such Code, as amended by para-
3 graph (2), is amended by adding at the end the fol-
4 lowing new subclause:

5 “(IV) SPECIAL RULE FOR BUILD-
6 INGS IN INDIAN AREAS.—In the case
7 of an area which is a difficult develop-
8 ment area solely because it is an In-
9 dian area, a building shall not be
10 treated as located in such area unless
11 such building is assisted or financed
12 under the Native American Housing
13 Assistance and Self Determination
14 Act of 1996 (25 U.S.C. 4101 et seq.)
15 or the project sponsor is an Indian
16 tribe (as defined in section
17 45A(c)(6)), a tribally designated hous-
18 ing entity (as defined in section 4(22)
19 of such Act (25 U.S.C. 4103(22))), or
20 wholly owned or controlled by such an
21 Indian tribe or tribally designated
22 housing entity.”.

23 (4) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to buildings placed in
25 service after December 31, 2018.

1 **SEC. 8. 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 (as defined in section
10 7701(a)(40) and including any subdivision of such
11 government and any agency or instrumentality of
12 such government or subdivision)” after “a State”;
13 and

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

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

19 **SEC. 9. PARITY FOR INDIAN HEALTH SERVICE PROFES-**
20 **SIONALS.**

21 (a) EXCLUSION FROM GROSS INCOME FOR PAY-
22 MENTS MADE UNDER INDIAN HEALTH SERVICE LOAN
23 REPAYMENT PROGRAM.—

24 (1) IN GENERAL.—Section 108(f)(4) is amend-
25 ed by inserting “under section 108 of the Indian

1 Health Care Improvement Act,” after “338I of such
2 Act,”.

3 (2) CLERICAL AMENDMENT.—The heading for
4 section 108(f)(4) is amended by striking “AND CER-
5 TAIN” and inserting “, INDIAN HEALTH SERVICE
6 LOAN REPAYMENT PROGRAM, AND CERTAIN”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to amounts received in taxable
9 years beginning after December 31, 2017.

10 **SEC. 10. OPPORTUNITY ZONES.**

11 (a) DESIGNATION.—Section 1400Z–1(b) of the Inter-
12 nal Revenue Code of 1986 is amended by adding at the
13 end the following:

14 “(4) INDIAN LAND.—For purposes of sub-
15 section (a), a population census tract located on In-
16 dian Land is designated as a qualified opportunity
17 zone.”.

18 (b) INDIAN LAND DEFINED.—Section 1400Z–1(c) of
19 such Code is amended by adding at the end the following:

20 “(4) INDIAN LAND.—The term ‘Indian land’
21 shall have the same meaning as provided in section
22 2601(2) of the Energy Policy Act of 1992 (25
23 U.S.C. 3501(2)).”.

1 (c) NUMBER OF DESIGNATIONS.—Section 1400Z–
2 1(d) of such Code is amended by adding at the end the
3 following:

4 “(3) INDIAN LANDS EXCLUDED.—Indian land
5 deemed to be a qualified opportunity zone by sub-
6 section (b)(4) shall not be taken into account for
7 purposes of paragraphs (1) and (2).”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply with respect to Indian lands after
10 the date of the enactment of this Act.

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