113TH CONGRESS 1ST SESSION  

H. R. ______

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

Mr. Kind introduced the following bill; which was referred to the Committee on ___________________.

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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Tribal Tax and Investment Reform Act of 2013”.

6 SEC. 2. FINDINGS.

7 The Congress finds the following:
(1) There is a unique Federal legal and political relationship between the United States and Indian tribes.

(2) Indian tribes have the responsibility and authority to provide governmental services, develop tribal economies, and build community infrastructure to ensure that Indian reservation lands serve as livable, permanent homes.

(3) The United States Constitution, U.S. Federal Court decisions, Executive Orders, and numerous other federal laws and regulations recognize that Indian tribes are governments, retaining the inherent authority to tax and operate as other governments, including (inter alia) financing projects with government bonds and maintaining eligibility for general tax exemptions via their government status.

(4) Codifying tax parity with respect to tribal governments is consistent with Federal treaties recognizing the sovereignty of tribal governments.

(5) That Indian tribes face historic disadvantages in accessing the underlying capital to build the necessary infrastructure for job creation, and that certain statutory restrictions on tribal governance further inhibit tribes’ ability to develop strong governance and economies.
(6) Indian tribes are sometimes excluded from the Internal Revenue Code of 1986 in key provisions which results in unfair tax treatment for tribal citizens or unequal enforcement authority for tribal enforcement agencies.

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

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

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

"(c) SPECIAL RULES FOR TAX-EXEMPT BONDS.—In applying section 146 to bonds issued by Indian tribal governments (or subdivisions thereof) the Secretary of the Treasury shall annually—

"(1) establish a national bond volume cap based on the greater of—

"(A) the State population formula approach in section 146(d)(1)(A) (using national
tribal population estimates supplied annually by the Department of the Interior in consultation with the Census Bureau, and

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

"(2) allocate such national bond volume cap among all Indian tribal governments seeking such an allocation in a particular year under regulations prescribed by the Secretary.".

(b) REPEAL OF ESSENTIAL GOVERNMENTAL FUNCTION REQUIREMENTS.—Section 7871 of such Code is further amended by striking subsections (b) and (e).

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to obligations issued in calendar years beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—The repeals made by subsection (b) shall apply to transactions after, and obligations issued in calendar years beginning after, the date of the enactment of this Act.
SEC. 4. TREATMENT OF PENSION AND EMPLOYEE BENEFIT PLANS MAINTAINED BY TRIBAL GOVERNMENTS.

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

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

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

(B) striking “such State or political subdivision” and inserting “such State, political subdivision, or tribe”.

(2) GOVERNMENTAL PLAN.—The last sentence of section 414(d) of such Code (defining governmental plan) is amended to read as follows: “The term ‘governmental plan’ includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency, instrumentality, or subdivision of an Indian tribal government, or an entity established under Fed-
eral, State, or tribal law which is wholly owned or
controlled by any of the foregoing.”.

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

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

(5) GRANDFATHER OF CERTAIN DEFERRED
COMPENSATION PLANS.—Section 457 of the Internal
Revenue Code is amended by adding at the end the
following new subsection:

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

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

(1) IN GENERAL.—The last sentence of section
3(32) of the Employee Retirement Income Security
Act of 1974 (29 U.S.C. 1002(32)) is amended to
read as follows: "The term 'governmental plan' in-
cludes a plan established or maintained for its em-
ployees by an Indian tribal government (as defined
in section 7701(a)(40) of the Internal Revenue Code
of 1986), a subdivision of an Indian tribal govern-
ment (determined in accordance with section
7871(d) of such Code), an agency, instrumentality,
or subdivision of an Indian tribal government, or an
entity established under Federal, State, or tribal law
which is wholly owned or controlled by any of the
foregoing."

(2) DOMESTIC RELATIONS ORDER.—Section
206(d)(3)(B)(ii)(II) of such Act is amended by in-
serting "or tribal" after "State".

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 109(d) of the
Worker, Retiree, and Employer Recovery Act of
2008 (Public Law 110–458; 122 Stat. 5112) is repealed, and, subject to subparagraph (B), each provision amended by such paragraph is amended to read as if such paragraph had not been enacted.

(B) Section 4021(b) of the Employee Retirement Income Security Act of 1974 is amended by striking "or" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting "; or", and by inserting after paragraph (13) the following new paragraph:

"(14) established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency, instrumentality, or subdivision of an Indian tribal government, or an entity established under Federal, State, or tribal law which is wholly owned or controlled by any of the foregoing."

(C) Section 4021(b)(2) of such Act (29 U.S.C. 1321(b)(2)) is amended by striking "or"
which is described in the last sentence of section 3(32)” and inserting a comma.

(c) Effective Date.—The amendments made by this section shall apply to years beginning after the date of the enactment of this Act.

SEC. 5. TREATMENT OF TRIBAL FOUNDATIONS AND CHARITIES LIKE CHARITIES FUNDED AND CONTROLLED BY OTHER GOVERNMENTAL FUNDERS AND SPONSORS.

(a) In General.—Section 170(b)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “For purposes of clause (vi), the term ‘governmental unit’ includes an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency, instrumentality, or subdivision of an Indian tribal government, or an entity established under Federal, State, or tribal law which is wholly owned or controlled by any of the foregoing.”.

(b) Certain Supporting Organizations.—Section 509(a) of such Code is amended by adding at the end the following: “For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency, instrumentality, or subdivision of an Indian tribal govern-
ment, or an entity established under Federal, State, or tribal law which is wholly owned or controlled by any of the foregoing.”.

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

SEC. 6. IMPROVING EFFECTIVENESS OF TRIBAL CHILD SUPPORT ENFORCEMENT AGENCIES BY PART-ITY OF ACCESS TO THE FEDERAL PARENT LOCATOR SERVICE AND FEDERAL TAX REFUND OFFSETS.

(a) ACCESS TO FEDERAL PARENT LOCATOR SERVICE.—Section 453(e) of the Social Security Act (42 U.S.C. 653(e)) is amended—

(1) by striking “and” at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; and” ; and

(3) by adding at the end the following:

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

(b) IMPROVING THE COLLECTION OF PAST-DUE CHILD SUPPORT FROM FEDERAL TAX REFUNDS.—
(1) Amendment to the Social Security Act.—Section 464 of the Social Security Act (42 U.S.C. 664) is amended by adding at the end the following:

“(d) Applicability to Indian Tribes and Tribal Organizations Eligible for a Grant Under This Part.—This section, except for the requirement to distribute amounts in accordance with section 457, shall apply to an Indian tribe or tribal organization eligible for a grant under section 455(f) in the same manner in which this section applies to a State with a plan approved under this part.”.

(2) Amendment to the Internal Revenue Code.—Subsection (c) of section 6402 of the Internal Revenue Code of 1986 is amended by adding at the end the following: “For purposes of this subsection, any reference to a State shall include a reference to any Indian tribe or tribal organization described in section 464(d) of the Social Security Act.”.

Sec. 7. Application of Clean Renewable Energy Bonds to Tribes.

(a) In General.—Section 54(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:
“(6) INDIAN TRIBAL GOVERNMENT.—The term ‘Indian tribal government’ has the meaning given such term by section 7701(a)(40) and includes a subdivision of an Indian tribal government (determined in accordance with section 7871(d), an agency, instrumentality, or subdivision of an Indian tribal government, or an entity established under Federal, State, or tribal law which is wholly owned or controlled by any of the foregoing.”.

(b) ALLOCATION.—Section 54(f) of such Code is amended by adding at the end the following:

“(3) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS.—

“(A) IN GENERAL.—Notwithstanding subsection (m), there is a clean renewable energy bond limitation for Indian tribal governments of $200,000,000 for each of calendar years 2014, 2015, and 2016.

“(B) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in subparagraph (A) among qualified projects in such manner as the Secretary determines appropriate, except that the Secretary may not allocate more than 20 percent of the national
clean renewable energy bond limitation to finance any 1 qualified project.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2014.