

106TH CONGRESS  
1ST SESSION

# S. 1726

To amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 14, 1999

Mr. MCCAIN (for himself, Mr. CAMPBELL, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations.

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 “Indian Tribal Govern-  
5       ment Unemployment Compensation Act Tax Relief  
6       Amendments of 1999”.

1 **SEC. 2. TREATMENT OF INDIAN TRIBAL GOVERNMENTS**  
 2 **UNDER FEDERAL UNEMPLOYMENT TAX ACT.**

3 (a) IN GENERAL.—Section 3306(c)(7) of the Internal  
 4 Revenue Code of 1986 (defining employment) is  
 5 amended—

6 (1) by inserting “or in the employ of an Indian  
 7 tribe,” after “service performed in the employ of a  
 8 State, or any political subdivision thereof,”; and

9 (2) by inserting “or Indian tribes” after “whol-  
 10 ly owned by one or more States or political subdivi-  
 11 sions”.

12 (b) PAYMENTS IN LIEU OF CONTRIBUTIONS.—Sec-  
 13 tion 3309 of the Internal Revenue Code of 1986 (relating  
 14 to State law coverage of services performed for nonprofit  
 15 organizations or governmental entities) is amended—

16 (1) in subsection (a)(2), by inserting “, includ-  
 17 ing an Indian tribe,” after “the State law shall pro-  
 18 vide that a governmental entity”;

19 (2) in subsection (b)(3)(B), by inserting “, or  
 20 of an Indian tribe” after “of a State or political sub-  
 21 division thereof”;

22 (3) in subsection (b)(3)(E), by inserting “or the  
 23 tribe’s” after “the State”; and

24 (4) in subsection (b)(5) by inserting “or of an  
 25 Indian tribe” after “an agency of a State or political  
 26 subdivision thereof”.

1       (c) STATE LAW COVERAGE.—Section 3309 of the In-  
 2       ternal Revenue Code of 1986 (relating to State law cov-  
 3       erage of services performed for nonprofit organizations or  
 4       governmental entities) is amended by adding at the end  
 5       the following:

6       “(d) ELECTION BY INDIAN TRIBE.—The State law  
 7       shall provide that an Indian tribe may elect to make con-  
 8       tributions for employment as if the employment is within  
 9       the meaning of section 3306 or to make payments in lieu  
 10      of contributions under this section, and shall provide that  
 11      an Indian tribe may make separate elections for itself and  
 12      each subdivision, subsidiary, or business enterprise char-  
 13      tered and wholly owned by such Indian tribe. State law  
 14      may require an electing tribe to post a reasonable payment  
 15      bond or take other reasonable measures to assure the  
 16      making of payments in lieu of contributions under this  
 17      section. An election under this subsection may not be  
 18      made except by an Indian tribe within the meaning of sec-  
 19      tion 4(e) of the Indian Self-Determination and Education  
 20      Assistance Act (25 U.S.C. 450b(e)).”.

21      (d) DEFINITIONS.—Section 3306 of the Internal Rev-  
 22      enue Code of 1986 (relating to definitions) is amended by  
 23      adding at the end the following:

24      “(u) INDIAN TRIBE.—For purposes of this chapter,  
 25      the term ‘Indian tribe’ has the meaning given to such term

1 by section 4(e) of the Indian Self-Determination and Edu-  
2 cation Assistance Act (25 U.S.C. 450b(e)), and includes  
3 any subdivision, subsidiary, or business enterprise char-  
4 tered and wholly owned by such an Indian tribe.”.

5 (e) TRANSITION RULE.—For purposes of the Federal  
6 Unemployment Tax Act, service performed in the employ  
7 of an Indian tribe (as defined in section 3306(u) of the  
8 Internal Revenue Code of 1986 (as added by this Act))  
9 shall not be treated as employment (within the meaning  
10 of section 3306 of such Code) if—

11 (1) it is service which is performed before the  
12 date of enactment of this Act and with respect to  
13 which the tax imposed under the Federal Unemploy-  
14 ment Tax Act has not been paid; and

15 (2) such Indian tribe reimburses a State unem-  
16 ployment fund for unemployment benefits paid for  
17 service attributable to such tribe for such period.

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