

105TH CONGRESS  
1ST SESSION

# S. 807

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

MAY 23, 1997

Mr. MCCAIN (for himself and Mr. CAMPBELL) 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 1997”.

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 amend-  
5 ed—

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 new subsection:

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 payment bond or  
15 take other reasonable measures to assure the making of  
16 payments in lieu of contributions under this section. An  
17 election under this subsection may not be made except by  
18 an Indian tribe within the meaning of section 4(e) of the  
19 Indian Self-Determination and Education Assistance Act  
20 (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 new subsection:

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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