

**TRIBAL EMPLOYMENT PRIORITIES**  
**FUTA AND FISHERIES TECHNICAL CORRECTIONS**

- **Addressing Unemployment Insurance Reimbursement Disparities.**

**Background:** Under the Federal Unemployment Tax Act (FUTA), most employers pay the FUTA quarterly and share costs for unemployment benefits in their states' unemployment system. Certain non-profits, states and their subdivisions, and tribes can elect not to pay the quarterly FUTA tax and instead reimburse state unemployment funds dollar-for-dollar for actual unemployment related costs incurred by their former employees.

With the widespread closure of tribal offices and enterprises and accompanying layoffs, tribes that reimburse under this model face massive and unforeseen reimbursement payments and lack the funds due to declining revenues. An amendment is needed to Public Law 116-127 that adds a new section at the end of Division D to require the Secretary of Labor to transfer amounts equal to what tribes owe for reimbursements in state accounts within 30 days of the applicable due date. Reimbursements owed by tribes would be deferred until states receive the corresponding grant payments from the Department of Labor, at which time the obligations would be extinguished.

**Legislative Language:**

*Insert a new Section 4106 at the end of subdivision D in Public Law 116-127, as signed into law on March 19, 2020.*

*SEC. 4106. Grants for Contributions by Indian Tribes*

- a. *IN GENERAL.—In addition to the grants in Section 4102, the Secretary of Labor shall provide for the making of emergency grants in fiscal year 2020 to the accounts of the States in the Unemployment Trust Fund in amounts equal to the amounts Indian tribes (as defined in 25 U.S.C. § 3306(u)) would otherwise be obligated to pay to those States in fiscal year 2020 in lieu of contributions under 26 U.S.C. § 3309(d).*
- b. *TIMING OF GRANTS.—The Secretary of Labor shall make the grants in paragraph (a) within 30 days after the amount an Indian tribe would otherwise pay to those States in lieu of contributions under 26 U.S.C. § 3309(d) are due, or within 30 days of receipt of notice by a State of the amount due and due date, whichever is earlier.*
- c. *EFFECT OF GRANTS.—Notwithstanding any other provision of law, upon receipt of the grant described in paragraph (a) in a State account, the corresponding payment in lieu of contributions owed by an Indian tribe for which the grant was made under paragraph (a) shall be considered satisfied and extinguished.*
- d. *PAYMENT DEFERRAL.—Any payment in lieu of contributions owed by an Indian tribe to a State under 26 U.S.C. § 3309(d) that is pending as of March 19, 2020, or that accrues in fiscal year 2020 shall be deferred until such time as the State receives the grant described in paragraph (a).*

- **Protecting Tribal Fisheries.**

**Background:** Tribal fisheries are a vital component of the tribal economy and the primary source of income for many families. The COVID-19 pandemic is having grave impacts on tribal treaty fisheries due to fisheries being cancelled and lack of an available market. Legislation is needed that supports tribal treaty fishers by providing them a stable income during this crisis.

**Legislative Language:**

*Notwithstanding any other provision of law, Indian fishermen, engaged in fishing rights related activity, as defined under 26 U.S.C. 7873(b)(1) that have been unable to engage in fishing rights related activities due to the COVID-19 pandemic are eligible for unemployment assistance. Such assistance shall be available to an Indian fisherman as long as the COVID-19 outbreak continues in the State in which they reside, but no longer than 26 weeks. Such assistance for a week of unemployment assistance shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the Indian fisherman resides. In the alternative, if an Indian Tribe chooses to reimburse Indian Tribal fisherman for losses directly related to fishing rights related activity, as defined under 26 U.S.C. 7873 (b)(1), there shall be allowed as a credit against the taxes imposed by sections 3101, 3111, and 3306 (b) of the Internal Revenue Code of 1986 for each calendar quarter an amount equal to 100 percent of the wages paid by the Indian Tribe to any employee who receives wages comparable with the reimbursements provided Indian Tribal fisherman with respect to such calendar quarter.*