

HB3082



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3082

by Rep. Michael Unes

SYNOPSIS AS INTRODUCED:

820 ILCS 405/1400.2	
820 ILCS 405/1402	from Ch. 48, par. 552
820 ILCS 405/1404	from Ch. 48, par. 554
820 ILCS 405/1405	from Ch. 48, par. 555

Amends the Unemployment Insurance Act. Deletes provisions requiring employers to file, on a monthly basis, reports regarding employee wages.

LRB099 05987 JLS 26039 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Sections 1400.2, 1402, 1404, and 1405 as follows:

6 (820 ILCS 405/1400.2)

7 Sec. 1400.2. Annual reporting and paying; household
8 workers. This Section applies to an employer who solely employs
9 one or more household workers with respect to whom the employer
10 files federal unemployment taxes as part of his or her federal
11 income tax return, or could file federal unemployment taxes as
12 part of his or her federal income tax return if the worker or
13 workers were providing services in employment for purposes of
14 the federal unemployment tax. For purposes of this Section,
15 "household worker" has the meaning ascribed to it for purposes
16 of Section 3510 of the federal Internal Revenue Code. If an
17 employer to whom this Section applies notifies the Director, in
18 writing, that he or she wishes to pay his or her contributions
19 for each quarter and submit his or her wage reports for each
20 ~~month or quarter, as the case may be,~~ on an annual basis, then
21 the due date for filing the reports and paying the
22 contributions shall be April 15 of the calendar year
23 immediately following the close of the ~~months or~~ quarters to

1 which the reports and ~~quarters to which the~~ contributions
2 apply, except that the Director may, by rule, establish a
3 different due date for good cause.

4 (Source: P.A. 97-689, eff. 6-14-12.)

5 (820 ILCS 405/1402) (from Ch. 48, par. 552)

6 Sec. 1402. Penalties.

7 A. If any employer fails, within the time prescribed in
8 this Act as amended and in effect on October 5, 1980, and the
9 regulations of the Director, to file a report of wages paid to
10 each of his workers, or to file a sufficient report of such
11 wages after having been notified by the Director to do so, for
12 any period which begins prior to January 1, 1982, he shall pay
13 to the Department as a penalty a sum determined in accordance
14 with the provisions of this Act as amended and in effect on
15 October 5, 1980.

16 B. Except as otherwise provided in this Section, any
17 employer who fails to file a report of wages paid to each of
18 his workers for any period which begins on or after January 1,
19 1982, within the time prescribed by the provisions of this Act
20 and the regulations of the Director, or, if the Director
21 pursuant to such regulations extends the time for filing the
22 report, fails to file it within the extended time, shall, in
23 addition to any sum otherwise payable by him under the
24 provisions of this Act, pay to the Department as a penalty a
25 sum equal to the lesser of (1) \$5 for each \$10,000 or fraction

1 thereof of the total wages for insured work paid by him during
2 the period or (2) \$2,500, for each month or part thereof of
3 such failure to file the report. With respect to an employer
4 who has elected to file reports of wages on an annual basis
5 pursuant to Section 1400.2, in assessing penalties for the
6 failure to submit all reports by the due date established
7 pursuant to that Section, the 30-day period immediately
8 following the due date shall be considered as one month.

9 If the Director deems an employer's report of wages paid to
10 each of his workers for any period which begins on or after
11 January 1, 1982, insufficient, he shall notify the employer to
12 file a sufficient report. If the employer fails to file such
13 sufficient report within 30 days after the mailing of the
14 notice to him, he shall, in addition to any sum otherwise
15 payable by him under the provisions of this Act, pay to the
16 Department as a penalty a sum determined in accordance with the
17 provisions of the first paragraph of this subsection, for each
18 month or part thereof of such failure to file such sufficient
19 report after the date of the notice.

20 For wages paid in calendar years prior to 1988, the penalty
21 or penalties which accrue under the two foregoing paragraphs
22 with respect to a report for any period shall not be less than
23 \$100, and shall not exceed the lesser of (1) \$10 for each
24 \$10,000 or fraction thereof of the total wages for insured work
25 paid during the period or (2) \$5,000. For wages paid in
26 calendar years after 1987, the penalty or penalties which

1 accrue under the 2 foregoing paragraphs with respect to a
2 report for any period shall not be less than \$50, and shall not
3 exceed the lesser of (1) \$10 for each \$10,000 or fraction of
4 the total wages for insured work paid during the period or (2)
5 \$5,000. With respect to an employer who has elected to file
6 reports of wages on an annual basis pursuant to Section 1400.2,
7 for purposes of calculating the minimum penalty prescribed by
8 this Section for failure to file the reports on a timely basis,
9 a calendar year shall constitute a single period. For reports
10 of wages paid after 1986, the Director shall not, however,
11 impose a penalty pursuant to either of the two foregoing
12 paragraphs on any employer who can prove within 30 working days
13 after the mailing of a notice of his failure to file such a
14 report, that (1) the failure to file the report is his first
15 such failure during the previous 20 consecutive calendar
16 quarters, and (2) the amount of the total contributions due for
17 the calendar quarter of such report ~~(or, in the case of an~~
18 ~~employer who is required to file the reports on a monthly~~
19 ~~basis, the amount of the total contributions due for the~~
20 ~~calendar quarter that includes the month of such report)~~ is
21 less than \$500.

22 ~~For any month which begins on or after January 1, 2013, a~~
23 ~~report of the wages paid to each of an employer's workers shall~~
24 ~~be due on or before the last day of the month next following~~
25 ~~the calendar month in which the wages were paid if the employer~~
26 ~~is required to report such wages electronically pursuant to the~~

1 ~~regulations of the Director; otherwise a report of the wages~~
2 ~~paid to each of the employer's workers shall be due on or~~
3 ~~before the last day of the month next following the calendar~~
4 ~~quarter in which the wages were paid.~~

5 Any employer who willfully fails to pay any contribution or
6 part thereof, based upon wages paid prior to 1987, when
7 required by the provisions of this Act and the regulations of
8 the Director, with intent to defraud the Director, shall in
9 addition to such contribution or part thereof pay to the
10 Department a penalty equal to 50 percent of the amount of such
11 contribution or part thereof, as the case may be, provided that
12 the penalty shall not be less than \$200.

13 Any employer who willfully fails to pay any contribution or
14 part thereof, based upon wages paid in 1987 and in each
15 calendar year thereafter, when required by the provisions of
16 this Act and the regulations of the Director, with intent to
17 defraud the Director, shall in addition to such contribution or
18 part thereof pay to the Department a penalty equal to 60% of
19 the amount of such contribution or part thereof, as the case
20 may be, provided that the penalty shall not be less than \$400.

21 However, all or part of any penalty may be waived by the
22 Director for good cause shown.

23 C. With regard to an employer required to report monthly
24 pursuant to this Section, in addition to each employee's name,
25 social security number, and wages for insured work paid during
26 the period, the Director may, by rule, require a report to

1 provide the following information concerning each employee:
2 the employee's occupation, hours worked during the period,
3 hourly wage, if applicable, and work location if the employer
4 has more than one physical location. Notwithstanding any other
5 provision of any other law to the contrary, information
6 obtained pursuant to this subsection shall not be disclosed to
7 any other public official or agency of this State or any other
8 state to the extent it relates to a specifically identified
9 individual or entity or to the extent that the identity of a
10 specific individual or entity may be discerned from such
11 information. The additional data elements required to be
12 reported pursuant to the rule authorized by this subsection may
13 be reported in the same electronic format as in the system
14 maintained by the employer or employer's agent and need not be
15 reformatted.

16 (Source: P.A. 97-689, eff. 6-14-12; 97-791, eff. 1-1-13;
17 98-463, eff. 8-16-13; 98-1133, eff. 12-23-14.)

18 (820 ILCS 405/1404) (from Ch. 48, par. 554)

19 Sec. 1404. Payments in lieu of contributions by nonprofit
20 organizations.

21 A. For the year 1972 and for each calendar year thereafter,
22 contributions shall accrue and become payable, pursuant to
23 Section 1400, by each nonprofit organization (defined in
24 Section 211.2) upon the wages paid by it with respect to
25 employment after 1971, unless the nonprofit organization

1 elects, in accordance with the provisions of this Section, to
2 pay, in lieu of contributions, an amount equal to the amount of
3 regular benefits and one-half the amount of extended benefits
4 (defined in Section 409) paid to individuals, for any weeks
5 which begin on or after the effective date of the election, on
6 the basis of wages for insured work paid to them by such
7 nonprofit organization during the effective period of such
8 election. Notwithstanding the preceding provisions of this
9 subsection and the provisions of subsection D, with respect to
10 benefit years beginning prior to July 1, 1989, any adjustment
11 after September 30, 1989 to the base period wages paid to the
12 individual by any employer shall not affect the ratio for
13 determining the payments in lieu of contributions of a
14 nonprofit organization which has elected to make payments in
15 lieu of contributions. Provided, however, that with respect to
16 benefit years beginning on or after July 1, 1989, the nonprofit
17 organization shall be required to make payments equal to 100%
18 of regular benefits, including dependents' allowances, and 50%
19 of extended benefits, including dependents' allowances, paid
20 to an individual with respect to benefit years beginning during
21 the effective period of the election, but only if the nonprofit
22 organization: (a) is the last employer as provided in Section
23 1502.1 and (b) paid to the individual receiving benefits, wages
24 for insured work during his base period. If the nonprofit
25 organization described in this paragraph meets the
26 requirements of (a) but not (b), with respect to benefit years

1 beginning on or after July 1, 1989, it shall be required to
2 make payments in an amount equal to 50% of regular benefits,
3 including dependents' allowances, and 25% of extended
4 benefits, including dependents' allowances, paid to an
5 individual with respect to benefit years beginning during the
6 effective period of the election.

7 1. Any employing unit which becomes a nonprofit
8 organization on January 1, 1972, may elect to make payments
9 in lieu of contributions for not less than one calendar
10 year beginning with January 1, 1972, provided that it files
11 its written election with the Director not later than
12 January 31, 1972.

13 2. Any employing unit which becomes a nonprofit
14 organization after January 1, 1972, may elect to make
15 payments in lieu of contributions for a period of not less
16 than one calendar year beginning as of the first day with
17 respect to which it would, in the absence of its election,
18 incur liability for the payment of contributions, provided
19 that it files its written election with the Director not
20 later than 30 days immediately following the end of the
21 calendar quarter in which it becomes a nonprofit
22 organization.

23 3. A nonprofit organization which has incurred
24 liability for the payment of contributions for at least 2
25 calendar years and is not delinquent in such payment and in
26 the payment of any interest or penalties which may have

1 accrued, may elect to make payments in lieu of
2 contributions beginning January 1 of any calendar year,
3 provided that it files its written election with the
4 Director prior to such January 1, and provided, further,
5 that such election shall be for a period of not less than 2
6 calendar years.

7 4. An election to make payments in lieu of
8 contributions shall not terminate any liability incurred
9 by an employer for the payment of contributions, interest
10 or penalties with respect to any calendar quarter ~~(or~~
11 ~~month, as the case may be)~~ which ends prior to the
12 effective period of the election.

13 5. A nonprofit organization which has elected,
14 pursuant to paragraph 1, 2, or 3, to make payments in lieu
15 of contributions may terminate the effective period of the
16 election as of January 1 of any calendar year subsequent to
17 the required minimum period of the election only if, prior
18 to such January 1, it files with the Director a written
19 notice to that effect. Upon such termination, the
20 organization shall become liable for the payment of
21 contributions upon wages for insured work paid by it on and
22 after such January 1 and, notwithstanding such
23 termination, it shall continue to be liable for payments in
24 lieu of contributions with respect to benefits paid to
25 individuals on and after such January 1, with respect to
26 benefit years beginning prior to July 1, 1989, on the basis

1 of wages for insured work paid to them by the nonprofit
2 organization prior to such January 1, and, with respect to
3 benefit years beginning after June 30, 1989, if such
4 employer was the last employer as provided in Section
5 1502.1 during a benefit year beginning prior to such
6 January 1.

7 6. Written elections to make payments in lieu of
8 contributions and written notices of termination of
9 election shall be filed in such form and shall contain such
10 information as the Director may prescribe. Upon the filing
11 of such election or notice, the Director shall either order
12 it approved, or, if it appears to the Director that the
13 nonprofit organization has not filed such election or
14 notice within the time prescribed, he shall order it
15 disapproved. The Director shall serve notice of his order
16 upon the nonprofit organization. The Director's order
17 shall be final and conclusive upon the nonprofit
18 organization unless, within 15 days after the date of
19 mailing of notice thereof, the nonprofit organization
20 files with the Director an application for its review,
21 setting forth its reasons in support thereof. Upon receipt
22 of an application for review within the time prescribed,
23 the Director shall order it allowed, or shall order that it
24 be denied, and shall serve notice upon the nonprofit
25 organization of his order. All of the provisions of Section
26 1509, applicable to orders denying applications for review

1 of determinations of employers' rates of contribution and
2 not inconsistent with the provisions of this subsection,
3 shall be applicable to an order denying an application for
4 review filed pursuant to this subsection.

5 B. As soon as practicable following the close of each
6 calendar quarter, the Director shall mail to each nonprofit
7 organization which has elected to make payments in lieu of
8 contributions a Statement of the amount due from it for the
9 regular and one-half the extended benefits paid (or the amounts
10 otherwise provided for in subsection A) during the calendar
11 quarter, together with the names of its workers or former
12 workers and the amounts of benefits paid to each of them during
13 the calendar quarter, with respect to benefit years beginning
14 prior to July 1, 1989, on the basis of wages for insured work
15 paid to them by the nonprofit organization; or, with respect to
16 benefit years beginning after June 30, 1989, if such nonprofit
17 organization was the last employer as provided in Section
18 1502.1 with respect to a benefit year beginning during the
19 effective period of the election. The amount due shall be
20 payable, and the nonprofit organization shall make payment of
21 such amount not later than 30 days after the date of mailing of
22 the Statement. The Statement shall be final and conclusive upon
23 the nonprofit organization unless, within 20 days after the
24 date of mailing of the Statement, the nonprofit organization
25 files with the Director an application for revision thereof.
26 Such application shall specify wherein the nonprofit

1 organization believes the Statement to be incorrect, and shall
2 set forth its reasons for such belief. All of the provisions of
3 Section 1508, applicable to applications for revision of
4 Statements of Benefit Wages and Statements of Benefit Charges
5 and not inconsistent with the provisions of this subsection,
6 shall be applicable to an application for revision of a
7 Statement filed pursuant to this subsection.

8 1. Payments in lieu of contributions made by any
9 nonprofit organization shall not be deducted or
10 deductible, in whole or in part, from the remuneration of
11 individuals in the employ of the organization, nor shall
12 any nonprofit organization require or accept any waiver of
13 any right under this Act by an individual in its employ.
14 The making of any such deduction or the requirement or
15 acceptance of any such waiver is a Class A misdemeanor. Any
16 agreement by an individual in the employ of any person or
17 concern to pay all or any portion of a payment in lieu of
18 contributions, required under this Act from a nonprofit
19 organization, is void.

20 2. A nonprofit organization which fails to make any
21 payment in lieu of contributions when due under the
22 provisions of this subsection shall pay interest thereon at
23 the rates specified in Section 1401. A nonprofit
24 organization which has elected to make payments in lieu of
25 contributions shall be subject to the penalty provisions of
26 Section 1402. In the making of any payment in lieu of

1 contributions or in the payment of any interest or
2 penalties, a fractional part of a cent shall be disregarded
3 unless it amounts to one-half cent or more, in which case
4 it shall be increased to one cent.

5 3. All of the remedies available to the Director under
6 the provisions of this Act or of any other law to enforce
7 the payment of contributions, interest, or penalties under
8 this Act, including the making of determinations and
9 assessments pursuant to Section 2200, are applicable to the
10 enforcement of payments in lieu of contributions and of
11 interest and penalties, due under the provisions of this
12 Section. For the purposes of this paragraph, the term
13 "contribution" or "contributions" which appears in any
14 such provision means "payment in lieu of contributions" or
15 "payments in lieu of contributions." The term
16 "contribution" which appears in Section 2800 also means
17 "payment in lieu of contributions."

18 4. All of the provisions of Sections 2201 and 2201.1,
19 applicable to adjustment or refund of contributions,
20 interest and penalties erroneously paid and not
21 inconsistent with the provisions of this Section, shall be
22 applicable to payments in lieu of contributions
23 erroneously made or interest or penalties erroneously paid
24 by a nonprofit organization.

25 5. Payment in lieu of contributions shall be due with
26 respect to any sum erroneously paid as benefits to an

1 individual unless such sum has been recouped pursuant to
2 Section 900 or has otherwise been recovered. If such
3 payment in lieu of contributions has been made, the amount
4 thereof shall be adjusted or refunded in accordance with
5 the provisions of paragraph 4 and Section 2201 if
6 recoupment or other recovery has been made.

7 6. A nonprofit organization which has elected to make
8 payments in lieu of contributions and thereafter ceases to
9 be an employer shall continue to be liable for payments in
10 lieu of contributions with respect to benefits paid to
11 individuals on and after the date it has ceased to be an
12 employer, with respect to benefit years beginning prior to
13 July 1, 1989, on the basis of wages for insured work paid
14 to them by it prior to the date it ceased to be an
15 employer, and, with respect to benefit years beginning
16 after June 30, 1989, if such employer was the last employer
17 as provided in Section 1502.1 prior to the date that it
18 ceased to be an employer.

19 7. With respect to benefit years beginning prior to
20 July 1, 1989, wages paid to an individual during his base
21 period, by a nonprofit organization which elects to make
22 payments in lieu of contributions, for less than full time
23 work, performed during the same weeks in the base period
24 during which the individual had other insured work, shall
25 not be subject to payments in lieu of contributions (upon
26 such employer's request pursuant to the regulation of the

1 Director) so long as the employer continued after the end
2 of the base period, and continues during the applicable
3 benefit year, to furnish such less than full time work to
4 the individual on the same basis and in substantially the
5 same amount as during the base period. If the individual is
6 paid benefits with respect to a week (in the applicable
7 benefit year) after the employer has ceased to furnish the
8 work hereinabove described, the nonprofit organization
9 shall be liable for payments in lieu of contributions with
10 respect to the benefits paid to the individual after the
11 date on which the nonprofit organization ceases to furnish
12 the work.

13 C. With respect to benefit years beginning prior to July 1,
14 1989, whenever benefits have been paid to an individual on the
15 basis of wages for insured work paid to him by a nonprofit
16 organization, and the organization incurred liability for the
17 payment of contributions on some of the wages because only a
18 part of the individual's base period was within the effective
19 period of the organization's written election to make payments
20 in lieu of contributions, the organization shall pay an amount
21 in lieu of contributions which bears the same ratio to the
22 total benefits paid to the individual as the total wages for
23 insured work paid to him during the base period by the
24 organization upon which it did not incur liability for the
25 payment of contributions (for the aforesaid reason) bear to the
26 total wages for insured work paid to the individual during the

1 base period by the organization.

2 D. With respect to benefit years beginning prior to July 1,
3 1989, whenever benefits have been paid to an individual on the
4 basis of wages for insured work paid to him by a nonprofit
5 organization which has elected to make payments in lieu of
6 contributions, and by one or more other employers, the
7 nonprofit organization shall pay an amount in lieu of
8 contributions which bears the same ratio to the total benefits
9 paid to the individual as the wages for insured work paid to
10 the individual during his base period by the nonprofit
11 organization bear to the total wages for insured work paid to
12 the individual during the base period by all of the employers.
13 If the nonprofit organization incurred liability for the
14 payment of contributions on some of the wages for insured work
15 paid to the individual, it shall be treated, with respect to
16 such wages, as one of the other employers for the purposes of
17 this paragraph.

18 E. Two or more nonprofit organizations which have elected
19 to make payments in lieu of contributions may file a joint
20 application with the Director for the establishment of a group
21 account, effective January 1 of any calendar year, for the
22 purpose of sharing the cost of benefits paid on the basis of
23 the wages for insured work paid by such nonprofit
24 organizations, provided that such joint application is filed
25 with the Director prior to such January 1. The application
26 shall identify and authorize a group representative to act as

1 the group's agent for the purposes of this paragraph, and shall
2 be filed in such form and shall contain such information as the
3 Director may prescribe. Upon his approval of a joint
4 application, the Director shall, by order, establish a group
5 account for the applicants and shall serve notice upon the
6 group's representative of such order. Such account shall remain
7 in effect for not less than 2 calendar years and thereafter
8 until terminated by the Director for good cause or, as of the
9 close of any calendar quarter, upon application by the group.
10 Upon establishment of the account, the group shall be liable to
11 the Director for payments in lieu of contributions in an amount
12 equal to the total amount for which, in the absence of the
13 group account, liability would have been incurred by all of its
14 members; provided, with respect to benefit years beginning
15 prior to July 1, 1989, that the liability of any member to the
16 Director with respect to any payment in lieu of contributions,
17 interest or penalties not paid by the group when due with
18 respect to any calendar quarter shall be in an amount which
19 bears the same ratio to the total benefits paid during such
20 quarter on the basis of the wages for insured work paid by all
21 members of the group as the total wages for insured work paid
22 by such member during such quarter bear to the total wages for
23 insured work paid during the quarter by all members of the
24 group, and, with respect to benefit years beginning on or after
25 July 1, 1989, that the liability of any member to the Director
26 with respect to any payment in lieu of contributions, interest

1 or penalties not paid by the group when due with respect to any
2 calendar quarter shall be in an amount which bears the same
3 ratio to the total benefits paid during such quarter to
4 individuals with respect to whom any member of the group was
5 the last employer as provided in Section 1502.1 as the total
6 wages for insured work paid by such member during such quarter
7 bear to the total wages for insured work paid during the
8 quarter by all members of the group. With respect to calendar
9 ~~months and~~ quarters beginning on or after January 1, 2013, the
10 liability of any member to the Director with respect to any
11 penalties that are assessed for failure to file a timely and
12 sufficient report of wages and which are not paid by the group
13 when due with respect to the calendar ~~month or~~ quarter, ~~as the~~
14 ~~case may be,~~ shall be in an amount which bears the same ratio
15 to the total penalties due with respect to such ~~month or~~
16 quarter as the total wages for insured work paid by such member
17 during such ~~month or~~ quarter bear to the total wages for
18 insured work paid during the ~~month or~~ quarter by all members of
19 the group. All of the provisions of this Section applicable to
20 nonprofit organizations which have elected to make payments in
21 lieu of contributions, and not inconsistent with the provisions
22 of this paragraph, shall apply to a group account and, upon its
23 termination, to each former member thereof. The Director shall
24 by regulation prescribe the conditions for establishment,
25 maintenance and termination of group accounts, and for addition
26 of new members to and withdrawal of active members from such

1 accounts.

2 F. Whenever service of notice is required by this Section,
3 such notice may be given and be complete by depositing it with
4 the United States Mail, addressed to the nonprofit organization
5 (or, in the case of a group account, to its representative) at
6 its last known address. If such organization is represented by
7 counsel in proceedings before the Director, service of notice
8 may be made upon the nonprofit organization by mailing the
9 notice to such counsel.

10 (Source: P.A. 97-689, eff. 6-14-12.)

11 (820 ILCS 405/1405) (from Ch. 48, par. 555)

12 Sec. 1405. Financing Benefits for Employees of Local
13 Governments.

14 A. 1. For the year 1978 and for each calendar year
15 thereafter, contributions shall accrue and become payable,
16 pursuant to Section 1400, by each governmental entity (other
17 than the State of Illinois and its wholly owned
18 instrumentalities) referred to in clause (B) of Section 211.1,
19 upon the wages paid by such entity with respect to employment
20 after 1977, unless the entity elects to make payments in lieu
21 of contributions pursuant to the provisions of subsection B.
22 Notwithstanding the provisions of Sections 1500 to 1510,
23 inclusive, a governmental entity which has not made such
24 election shall, for liability for contributions incurred prior
25 to January 1, 1984, pay contributions equal to 1 percent with

1 respect to wages for insured work paid during each such
2 calendar year or portion of such year as may be applicable. As
3 used in this subsection, the word "wages", defined in Section
4 234, is subject to all of the provisions of Section 235.

5 2. An Indian tribe for which service is exempted from the
6 federal unemployment tax under Section 3306(c)(7) of the
7 Federal Unemployment Tax Act may elect to make payments in lieu
8 of contributions in the same manner and subject to the same
9 conditions as provided in this Section with regard to
10 governmental entities, except as otherwise provided in
11 paragraphs 7, 8, and 9 of subsection B.

12 B. Any governmental entity subject to subsection A may
13 elect to make payments in lieu of contributions, in amounts
14 equal to the amounts of regular and extended benefits paid to
15 individuals, for any weeks which begin on or after the
16 effective date of the election, on the basis of wages for
17 insured work paid to them by the entity during the effective
18 period of such election. Notwithstanding the preceding
19 provisions of this subsection and the provisions of subsection
20 D of Section 1404, with respect to benefit years beginning
21 prior to July 1, 1989, any adjustment after September 30, 1989
22 to the base period wages paid to the individual by any employer
23 shall not affect the ratio for determining payments in lieu of
24 contributions of a governmental entity which has elected to
25 make payments in lieu of contributions. Provided, however, that
26 with respect to benefit years beginning on or after July 1,

1 1989, the governmental entity shall be required to make
2 payments equal to 100% of regular benefits, including
3 dependents' allowances, and 100% of extended benefits,
4 including dependents' allowances, paid to an individual with
5 respect to benefit years beginning during the effective period
6 of the election, but only if the governmental entity: (a) is
7 the last employer as provided in Section 1502.1 and (b) paid to
8 the individual receiving benefits, wages for insured work
9 during his base period. If the governmental entity described in
10 this paragraph meets the requirements of (a) but not (b), with
11 respect to benefit years beginning on or after July 1, 1989, it
12 shall be required to make payments in an amount equal to 50% of
13 regular benefits, including dependents' allowances, and 50% of
14 extended benefits, including dependents' allowances, paid to
15 an individual with respect to benefit years beginning during
16 the effective period of the election.

17 1. Any such governmental entity which becomes an employer
18 on January 1, 1978 pursuant to Section 205 may elect to make
19 payments in lieu of contributions for not less than one
20 calendar year beginning with January 1, 1978, provided that it
21 files its written election with the Director not later than
22 January 31, 1978.

23 2. A governmental entity newly created after January 1,
24 1978, may elect to make payments in lieu of contributions for a
25 period of not less than one calendar year beginning as of the
26 first day with respect to which it would, in the absence of its

1 election, incur liability for the payment of contributions,
2 provided that it files its written election with the Director
3 not later than 30 days immediately following the end of the
4 calendar quarter in which it has been created.

5 3. A governmental entity which has incurred liability for
6 the payment of contributions for at least 2 calendar years, and
7 is not delinquent in such payment and in the payment of any
8 interest or penalties which may have accrued, may elect to make
9 payments in lieu of contributions beginning January 1 of any
10 calendar year, provided that it files its written election with
11 the Director prior to such January 1, and provided, further,
12 that such election shall be for a period of not less than 2
13 calendar years.

14 4. An election to make payments in lieu of contributions
15 shall not terminate any liability incurred by a governmental
16 entity for the payment of contributions, interest or penalties
17 with respect to any calendar quarter ~~(or month, as the case may~~
18 ~~be)~~ which ends prior to the effective period of the election.

19 5. The termination by a governmental entity of the
20 effective period of its election to make payments in lieu of
21 contributions, and the filing of and subsequent action upon
22 written notices of termination of election, shall be governed
23 by the provisions of paragraphs 5 and 6 of Section 1404A,
24 pertaining to nonprofit organizations.

25 6. With respect to benefit years beginning prior to July 1,
26 1989, wages paid to an individual during his base period by a

1 governmental entity which elects to make payments in lieu of
2 contributions for less than full time work, performed during
3 the same weeks in the base period during which the individual
4 had other insured work, shall not be subject to payments in
5 lieu of contribution (upon such employer's request pursuant to
6 the regulation of the Director) so long as the employer
7 continued after the end of the base period, and continues
8 during the applicable benefit year, to furnish such less than
9 full time work to the individual on the same basis and in
10 substantially the same amount as during the base period. If the
11 individual is paid benefits with respect to a week (in the
12 applicable benefit year) after the employer has ceased to
13 furnish the work hereinabove described, the governmental
14 entity shall be liable for payments in lieu of contributions
15 with respect to the benefits paid to the individual after the
16 date on which the governmental entity ceases to furnish the
17 work.

18 7. An Indian tribe may elect to make payments in lieu of
19 contributions for calendar year 2003, provided that it files
20 its written election with the Director not later than January
21 31, 2003, and provided further that it is not delinquent in the
22 payment of any contributions, interest, or penalties.

23 8. Failure of an Indian tribe to make a payment in lieu of
24 contributions, or a payment of interest or penalties due under
25 this Act, within 90 days after the Department serves notice of
26 the finality of a determination and assessment shall cause the

1 Indian tribe to lose the option of making payments in lieu of
2 contributions, effective as of the calendar year immediately
3 following the date on which the Department serves the notice.
4 Notice of the loss of the option to make payments in lieu of
5 contributions may be protested in the same manner as a
6 determination and assessment under Section 2200 of this Act.

7 9. An Indian tribe that, pursuant to paragraph 8, loses the
8 option of making payments in lieu of contributions may again
9 elect to make payments in lieu of contributions for a calendar
10 year if: (a) the Indian tribe has incurred liability for the
11 payment of contributions for at least one calendar year since
12 losing the option pursuant to paragraph 8, (b) the Indian tribe
13 is not delinquent in the payment of any liabilities under the
14 Act, including interest or penalties, and (c) the Indian tribe
15 files its written election with the Director not later than
16 January 31 of the year with respect to which it is making the
17 election.

18 C. As soon as practicable following the close of each
19 calendar quarter, the Director shall mail to each governmental
20 entity which has elected to make payments in lieu of
21 contributions a Statement of the amount due from it for all the
22 regular and extended benefits paid during the calendar quarter,
23 together with the names of its workers or former workers and
24 the amounts of benefits paid to each of them during the
25 calendar quarter with respect to benefit years beginning prior
26 to July 1, 1989, on the basis of wages for insured work paid to

1 them by the governmental entity; or, with respect to benefit
2 years beginning after June 30, 1989, if such governmental
3 entity was the last employer as provided in Section 1502.1 with
4 respect to a benefit year beginning during the effective period
5 of the election. All of the provisions of subsection B of
6 Section 1404 pertaining to nonprofit organizations, not
7 inconsistent with the preceding sentence, shall be applicable
8 to payments in lieu of contributions by a governmental entity.

9 D. The provisions of subsections C through F, inclusive, of
10 Section 1404, pertaining to nonprofit organizations, shall be
11 applicable to each governmental entity which has elected to
12 make payments in lieu of contributions.

13 E. 1. If an Indian tribe fails to pay any liability under
14 this Act (including assessments of interest or penalty) within
15 90 days after the Department issues a notice of the finality of
16 a determination and assessment, the Director shall immediately
17 notify the United States Internal Revenue Service and the
18 United States Department of Labor.

19 2. Notices of payment and reporting delinquencies to Indian
20 tribes shall include information that failure to make full
21 payment within the prescribed time frame:

22 a. will cause the Indian tribe to lose the exemption
23 provided by Section 3306(c)(7) of the Federal Unemployment
24 Tax Act with respect to the federal unemployment tax;

25 b. will cause the Indian tribe to lose the option to
26 make payments in lieu of contributions.

1 (Source: P.A. 97-689, eff. 6-14-12.)