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[H.R. 511, Tribal Labor Sovereignty Act of 2015](#)

FLOOR SITUATION

On Tuesday, November 17, 2015, the House will consider [H.R. 511](#), *the Tribal Labor Sovereignty Act of 2015*, under a [closed rule](#). H.R. 511 was introduced on January 22, 2015 by Rep. Todd Rokita (R-IN) and was referred to the Committee on Education and the Workforce, which ordered the bill reported, as amended, by voice vote, on July 22, 2015.

SUMMARY

H.R. 511 adds tribes to the list of entities that are excluded from the definition of employer for purposes of the National Labor Relations Act (NLRA). The change essentially codifies a previous National Labor Relations Board (NLRB) standard that excludes any enterprise or institution owned and operated by an Indian tribe and located on its land from being considered an employer so that tribes would be treated in a manner similar to state and local governments under the NLRA.

BACKGROUND

The NLRA, passed by Congress in 1935, guarantees the right of most private sector employees to organize and select their representation. The Act also established the NLRB, which is an independent federal agency that fulfills two principal functions: (1) to prevent and remedy employer and union unlawful acts, called unfair labor practices or ULPs, and (2) to determine by secret ballot election whether employees wish to be represented by a union. The NLRA is neutral in determining whether employees want to be represented by a union.¹

States, which are excluded from the NLRA, “have promulgated varying labor laws based on the specific needs of the states.”² For example, “most states permit collective bargaining and collective wage negotiations for public-sector workers, while a minority of states prohibits public-sector workers from such collective action.”³ Like states, tribal nations have passed labor and employment laws modeled after federal laws, but tailored to their specific needs.

¹ See [House Report 114-260](#) at 3 and 4.

² *Id.* at 4.

³ *Id.*

For nearly three decades, the NLRB held that “individual Indians and Indian tribal governments, at least on reservation lands, are generally free from state or even in most instances federal intervention, unless Congress specifically provided to the contrary.”⁴ However, in 2004, in *San Manuel Indian Bingo and Casino*, “the Board adopted a new approach to considering Indian owned and operated enterprises, holding that the NLRB has jurisdiction over all tribal activities.”⁵

Relying on *San Manuel*, the Board now asserts jurisdiction on a case-by-case basis, depending on whether the activity is commercial or governmental in nature, generally asserting jurisdiction over commercial enterprises owned and operated by Indian tribes, even when located on tribal land. The practice has eroded tribal sovereignty and undermined parity with regard to labor law between tribal nations and federal, state, and local governments.⁶ H.R. 511 is designed to preserve tribal sovereignty and provide statutory clarity with respect to NLRB jurisdiction over tribal enterprises.

According to Chairman Kline, the legislation “is about whether Native Americans should be free to govern employee-employer relations in a way they determine is best for their workplaces [. . .] Native Americans have spoken loud and clear: They do not want an unelected and unaccountable federal labor board dictating policies in their workplaces.”⁷

COST

The Congressional Budget Office (CBO) [estimates](#) that enacting H.R. 511 would not significantly affect the workload of the NLRB, so it would have no effect on the federal budget. The bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

STAFF CONTACT

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.

⁴ Id. at 7.

⁵ Id.

⁶ Id. at 7 to 11.

⁷ See Press Release—“[Kline Statement: Markup of H.R. 511, the Tribal Labor Sovereignty Act](#),” July 22, 2015.