

108TH CONGRESS  
2D SESSION

# H. R. 4680

To amend the National Labor Relations Act to ensure that Indian tribes and any organizations owned, controlled, or operated by Indian tribes are not considered employers for purposes of such Act.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2004

Mr. HAYWORTH introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the National Labor Relations Act to ensure that Indian tribes and any organizations owned, controlled, or operated by Indian tribes are not considered employers for purposes of such Act.

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 “Tribal Labor Relations  
5       Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

1           (1) The United States Constitution recognizes  
2 Indian tribes as sovereign government entities.

3           (2) Indian tribes have an inherent right to gov-  
4 ern themselves.

5           (3) Indian tribes and organizations owned, con-  
6 trolled, or operated by Indian tribes engage in a va-  
7 riety of government services and revenue raising ac-  
8 tivities in a manner similar to State and local gov-  
9 ernments.

10          (4) The National Labor Relations Act (29  
11 U.S.C. 151 et seq.) exempts government entities  
12 from the Act's definition of employer but does not  
13 expressly identify Indian tribal governments as in-  
14 cluded within the government entity exemption.

15          (5) For 30 years, the National Labor Relations  
16 Board has interpreted the general government entity  
17 exemption in the National Labor Relations Act to  
18 exempt Indian tribes and organizations owned, con-  
19 trolled, or operated by Indian tribes, a precedent set  
20 forth in the Fort Apache Timber Company case in  
21 1976 and in the Southern Indian Health Council  
22 case in 1988 and affirmed by many Federal courts.

23          (6) On May 28, 2004, the National Labor Rela-  
24 tions Board issued a decision and order in the San  
25 Manuel Indian Bingo and Casino case that reversed

1       this 30-year National Labor Relations Board prece-  
2       dent by holding that the National Labor Relations  
3       Act does not exempt Indian tribes.

4           (7) The San Manuel Indian Bingo and Casino  
5       decision is an affront to longstanding Federal Indian  
6       policy and practice to treat Indian tribes as sov-  
7       ereign governments in a manner consistent with the  
8       United States Constitution.

9           (8) An Indian tribe or an organization owned,  
10      controlled, or operated by an Indian tribe has the in-  
11      herent, sovereign right to choose whether or not to  
12      enter into labor agreements and should not be con-  
13      sidered an employer for purposes of the National  
14      Labor Relations Act.

15   **SEC. 3. DEFINITION OF EMPLOYER.**

16       Section 2 of the National Labor Relations Act (29  
17   U.S.C. 152) is amended—

18           (1) in paragraph (2), by inserting “or any In-  
19      dian tribe or any organization owned, controlled, or  
20      operated by an Indian tribe,” after “subdivision  
21      thereof,”; and

22           (2) by adding at the end the following:

23       “(15) The term ‘Indian tribe’ means any Indian  
24      tribe, band, nation, pueblo, or other organized group or  
25      community which is recognized as eligible for the special

- 1 programs and services provided by the United States to
- 2 Indians because of their status as Indians.”.

