

Rice (NY)	Serrano	Van Hollen
Richmond	Sewell (AL)	Vargas
Roybal-Allard	Sherman	Veasey
Rush	Sires	Velázquez
Sánchez, Linda	Slaughter	Visclosky
T.	Smith (WA)	Wasserman
Sanchez, Loretta	Speier	Schultz
Sanford	Swalwell (CA)	Waters, Maxine
Sarbanes	Takano	Watson Coleman
Schakowsky	Thompson (CA)	Welch
Schiff	Thompson (MS)	Wilson (FL)
Scott (VA)	Tonko	Yarmuth
Scott, David	Torres	

NOT VOTING—10

Barton	Payne	Thompson (PA)
DeFazio	Ros-Lehtinen	Titus
Diaz-Balart	Ruppersberger	
Hinojosa	Takai	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1343

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FUNDS TO THE ARMY CORPS OF ENGINEERS TO ASSIST WITH CURATION AND HISTORIC PRESERVATION ACTIVITIES

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 3114) to provide funds to the Army Corps of Engineers to hire veterans and members of the Armed Forces to assist the Corps with curation and historic preservation activities, and for other purposes, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. GIBBS) that the House suspend the rules and pass the bill, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 3, not voting 8, as follows:

[Roll No. 632]

YEAS—422

Abraham	Blumenauer	Capuano
Adams	Bonamici	Cardenas
Aderholt	Bost	Carney
Aguilar	Boustany	Carson (IN)
Allen	Boyle, Brendan	Carter (GA)
Amodei	F.	Carter (TX)
Ashford	Brady (PA)	Cartwright
Babin	Brady (TX)	Castor (FL)
Barletta	Brat	Castro (TX)
Barr	Bridenstine	Chabot
Barton	Brooks (AL)	Chaffetz
Beatty	Brooks (IN)	Chu, Judy
Becerra	Brown (FL)	Cicilline
Benishek	Brownley (CA)	Clark (MA)
Bera	Buchanan	Clarke (NY)
Beyer	Buck	Clawson (FL)
Bilirakis	Bucshon	Clay
Bishop (GA)	Burgess	Cleaver
Bishop (MI)	Bustos	Clyburn
Bishop (UT)	Butterfield	Coffman
Black	Byrne	Cohen
Blackburn	Calvert	Cole
Blum	Capps	Collins (GA)

Collins (NY)	Herrera Beutler	Meeks
Comstock	Hice, Jody B.	Meng
Conaway	Higgins	Messer
Connolly	Hill	Mica
Conyers	Himes	Miller (FL)
Cook	Holding	Miller (MI)
Cooper	Honda	Mooleenaar
Costa	Hoyer	Mooney (WV)
Costello (PA)	Hudson	Moore
Courtney	Huelskamp	Moulton
Cramer	Huffman	Mullin
Crawford	Huizenga (MI)	Mulvaney
Crenshaw	Hultgren	Murphy (FL)
Crowley	Hunter	Murphy (PA)
Cuellar	Hurd (TX)	Nadler
Culberson	Hurt (VA)	Napolitano
Cummings	Israel	Neal
Curbelo (FL)	Issa	Neugebauer
Davis (CA)	Jackson Lee	Newhouse
Davis, Danny	Jeffries	Noem
Davis, Rodney	Jenkins (KS)	Nolan
DeGette	Jenkins (WV)	Norcross
Delaney	Johnson (GA)	Nugent
DeLauro	Johnson (OH)	Nunes
DelBene	Johnson, E. B.	O'Rourke
Denham	Johnson, Sam	Olson
Dent	Jolly	Palazzo
DeSantis	Jones	Pallone
DeSaulnier	Jordan	Palmer
DesJarlais	Joyce	Pascrell
Deutch	Kaptur	Paulsen
Diaz-Balart	Katko	Pearce
Dingell	Keating	Pelosi
Doggett	Kelly (IL)	Perlmutter
Dold	Kelly (MS)	Perry
Donovan	Kelly (PA)	Peters
Doyle, Michael	Kennedy	Peterson
F.	Kildee	Pingree
Duckworth	Kilmer	Pittenger
Duffy	Kind	Pitts
Duncan (SC)	King (IA)	Pocan
Duncan (TN)	King (NY)	Poe (TX)
Edwards	Kinzinger (IL)	Poliquin
Ellison	Kirkpatrick	Polis
Ellmers (NC)	Kline	Pompeo
Emmer (MN)	Knight	Posey
Engel	Kuster	Price (NC)
Eshoo	Labrador	Price, Tom
Esty	LaHood	Quigley
Farenthold	LaMalfa	Rangel
Farr	Lamborn	Ratcliffe
Fattah	Lance	Reed
Fincher	Langevin	Reichert
Fitzpatrick	Larsen (WA)	Renacci
Fleischmann	Larson (CT)	Ribble
Fleming	Latta	Rice (NY)
Flores	Lawrence	Rice (SC)
Forbes	Lee	Richmond
Fortenberry	Levin	Rigell
Foster	Lewis	Roby
Fox	Lieu, Ted	Roe (TN)
Frankel (FL)	Lipinski	Rogers (AL)
Franks (AZ)	LoBiondo	Rogers (KY)
Frelinghuysen	Loeb	Rohrabacher
Fudge	Lofgren	Rokita
Gabbard	Long	Rooney (FL)
Gallego	Love	Roskam
Garamendi	Lowenthal	Ross
Garrett	Lowe	Rothfus
Gibbs	Lucas	Rouzer
Gibson	Luetkemeyer	Roybal-Allard
Gohmert	Lujan Grisham	Royce
Goodlatte	(NM)	Ruiz
Gosar	Luján, Ben Ray	Rush
Gowdy	(NM)	Russell
Graham	Lummis	Ryan (OH)
Granger	Lynch	Salmon
Graves (GA)	MacArthur	Sánchez, Linda
Graves (LA)	Maloney,	T.
Graves (MO)	Carolyn	Sanchez, Loretta
Grayson	Maloney, Sean	Sarbanes
Green, Al	Marchant	Scalise
Green, Gene	Marino	Schakowsky
Griffith	Massie	Schiff
Grijalva	Matsui	Schrader
Grothman	McCarthy	Schweikert
Guinta	McCauley	Scott (VA)
Guthrie	McClintock	Scott, Austin
Guítez	McCollum	Scott, David
Hahn	McDermott	Sensenbrenner
Hanna	McGovern	Serrano
Hardy	McHenry	Sessions
Harper	McKinley	Sewell (AL)
Harris	McMorris	Sherman
Hart	Rodgers	Shimkus
Hastings	McNerney	Shuster
Heck (NV)	McSally	Simpson
Heck (WA)	Meadows	Sinema
Hensarling	Meehan	Sires

Slaughter	Tsongas	Webster (FL)
Smith (MO)	Turner	Welch
Smith (NE)	Upton	Westrup
Smith (NJ)	Valadao	Westerman
Smith (TX)	Van Hollen	Westmoreland
Smith (WA)	Vargas	Whitfield
Speier	Veasey	Williams
Stefanik	Vela	Wilson (FL)
Stewart	Velázquez	Wilson (SC)
Stivers	Visclosky	Wittman
Stutzman	Wagner	Womack
Swalwell (CA)	Walberg	Woodall
Takano	Walden	Yarmuth
Thompson (CA)	Walker	Yoder
Thompson (MS)	Walorski	Yoho
Thompson (PA)	Walters, Mimi	Young (AK)
Thornberry	Walz	Young (IA)
Tiberi	Wasserman	Young (IN)
Tipton	Schultz	Zeldin
Tonko	Waters, Maxine	Zinke
Torres	Watson Coleman	
Trott	Weber (TX)	

NAYS—3

Amash	Loudermilk	Sanford
-------	------------	---------

NOT VOTING—8

Bass	Payne	Takai
DeFazio	Ros-Lehtinen	Titus
Hinojosa	Ruppersberger	

□ 1351

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 526, S. 1177, as amended, is considered as passed.

TRIBAL LABOR SOVEREIGNTY ACT OF 2015

Mr. ROE of Tennessee. Mr. Speaker, pursuant to House Resolution 526, I call up the bill (H.R. 511) to clarify the rights of Indians and Indian tribes on Indian lands under the National Labor Relations Act, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 526, the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce, printed in the bill, shall be considered as adopted, and the bill, as amended, shall be considered read.

The text of the bill, as amended, is as follows:

H.R. 511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Labor Sovereignty Act of 2015".

SEC. 2. DEFINITION OF EMPLOYER.

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

(1) in paragraph (2), by inserting "or any Indian tribe, or any enterprise or institution owned and operated by an Indian tribe and located on its Indian lands," after "subdivision thereof,"; and

(2) by adding at the end the following:

"(15) The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(16) The term 'Indian' means any individual who is a member of an Indian tribe.

"(17) The term 'Indian lands' means—

"(A) all lands within the limits of any Indian reservation;

"(B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation; and

"(C) any lands in the State of Oklahoma that are within the boundaries of a former reservation (as defined by the Secretary of the Interior) of a federally recognized Indian tribe."

The SPEAKER pro tempore. The gentleman from Tennessee (Mr. ROE) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Tennessee.

GENERAL LEAVE

Mr. ROE of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 511.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. ROE of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 511, the Tribal Labor Sovereignty Act of 2015. There are more than 550 federally recognized Native American tribes across the United States. Each of these tribes has a unique history and distinct culture that have helped shape who they are today. And each tribe has an inherent right to self govern, just like any other sovereign government does.

That right is rooted in the Constitution and has been reaffirmed by courts for almost 200 years. Because of it, tribal leaders are able to make decisions that affect their people in a way that makes the most sense for their tribe and best protects the interests of their members—or, rather, they should be able to make those decisions.

We are here today because, for the past 10 years, the National Labor Relations Board has ignored longstanding labor policy and involved itself in tribal activities. Since its 2004 San Manuel Indian Bingo and Casino decision, the Board has used a subjective test to decide on a case-by-case basis whether a tribal business or tribal land is for commercial purposes, and if it is, the Board has asserted its jurisdiction over that business.

Now, if the Board were to do the same with a school, a park, or any other enterprise owned and operated by a State or local government, no Member of Congress would stand for it. Why, then, should we stand back and allow the NLRB to impose its will on businesses owned and operated by Na-

tive American tribes? The answer is simple: we shouldn't. In fact, we have a responsibility to protect tribal sovereignty, and that is exactly what H.R. 511 will do.

The bill under consideration will amend the National Labor Relations Act to reaffirm that the NLRB cannot assert its authority over enterprises or institutions owned or operated by a tribe on tribal land. It very simply reasserts a legal standard that was in place for decades and returns to tribes the ability to manage their own labor relations—as they have a sovereign right to do.

I want to thank the gentleman from Indiana (Mr. ROKITA), my colleague, for his leadership on this issue and for continuing the work of those in Congress who have helped lead the fight to protect tribal sovereignty over the years. It is time for all of us to join that fight, stand with the Native American community, and restore to Indian tribes the ability to govern their own labor relations.

I urge my colleagues to vote "yes" on the Tribal Labor Sovereignty Act of 2015.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the Tribal Labor Sovereignty Act of 2015, legislation that would strip employees of protections afforded under the National Labor Relations Act at any enterprise owned by an Indian tribe and located on Indian lands.

At issue are two solemn and deeply-rooted principles: one, the right of Indian tribes to possess as distinct independent political communities retaining their original rights in matters of local self-government; and, two, the rights of workers to organize, bargain collectively, and engage in concerted activities for their mutual aid and protection.

Rather than attempting to reconcile these two competing principles, H.R. 4511 chooses sovereignty for some over the longstanding rights of others. This bill strips hundreds of thousands of workers of their voice in tribal-owned workplaces such as casinos, hotels, and mines. It should be noted that some 600,000 workers are employed in tribal casinos, but fully 75 percent are not members of tribes.

This legislation would jettison a carefully drawn balance between tribal sovereignty and workers' rights that was adopted in 2004 by a Republican-led NLRB. That decision, known as the San Manuel Indian Bingo and Casino, restricted the jurisdiction of the NLRB if it touches on the exclusive rights of self-governance in purely intramural matters or aggregated rights guaranteed under treaties.

Furthermore, the NLRB stated that it would also take into account and accommodate the unique status of Indians in their society and legal culture in deciding NLRB jurisdiction.

The San Manuel decision has been upheld in every appeals court where it has been challenged, and it is based on legal precepts that have been upheld by appellate courts over 30 years. The courts have also noted that the tribal casinos are commercial enterprises, not government agencies like the Department of Education, serving predominantly non-tribal clients and hiring predominantly non-tribal members to operate.

By depriving these workers of the right to organize and bargain collectively, this legislation ensures that low-paid service workers in tribal casinos will lose the opportunity to share in the fruits of the wealth that they are creating for the tribe, and depriving them of the opportunity to climb the ladder into the middle class.

□ 1400

The bill also sets up a double standard. As a member of the International Labor Organization, the United States is obligated, as a government, to respect and promote the rights outlined in the ILO Declaration of Fundamental Principles and Rights at Work, including "the freedom of association and effective recognition of the right to collectively bargain."

The Democrats and Republicans have insisted that our trading partners abide by and enforce these basic labor rights, and Congress has repeatedly ratified these obligations in trade agreements. But today the House will vote on a bill that does just the opposite when it comes to the freedom of association and the right to collectively bargain at tribal enterprises.

Mr. Speaker, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. MOOLENAAR).

Mr. MOOLENAAR. Mr. Speaker, Federal rulemaking continues to hurt the people of Michigan's Fourth Congressional District.

As we have already seen, Federal departments and agencies have proposed overreaching water rules that create uncertainty for Michigan farmers, energy rules that raise electric rates on hardworking families, and healthcare rules that disrupt patients' coverage.

Now Federal rulemaking is interfering with the sovereignty of Native American tribes. The National Labor Relations Board has claimed jurisdiction over the commercial businesses on tribal lands, intruding on the self-governance of the Saginaw Chippewa in my district.

Today I rise in support of H.R. 511, the Tribal Labor Sovereignty Act, to restore self-governance for the Saginaw Chippewa and all tribes and to stop the National Labor Relations Board from further hindering business owners and entrepreneurs with more regulations and costs.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. I thank the gentleman for yielding.

Mr. Speaker, I am very proud of my record in support of tribal sovereignty. I have been a member of the Native American Caucus since 2012. I supported the legislative fix to *Carcieri v. Salazar*, a Supreme Court decision that overturned 75 years of Federal Indian policy.

I cosponsored the Non-Disparagement of Native American Persons or Peoples in Trademark Registration Act, and I have actually stood out in the street calling for the Washington football team to change its name because of the ugliness of what that represents.

And, of course, I was proud, proud to be a sponsor and a supporter of the Violence Against Women Act, which authorized tribal governments to exercise special domestic violence criminal jurisdiction over any individual that commits domestic violence, dating violence or any kind of violence, and to protect men and women on the tribal areas.

In short, I am a person who is very proudly and affirmatively for tribal sovereignty and tribal rights.

However, the right to form and work in a labor organization and the right to have rights on your job is also a very important right, and I cannot see why we cannot fashion legislation which protects both tribal sovereignty and the right of labor.

This bill unfortunately takes rights away from some in order to purportedly give them to the other.

I urge my friends who are tempted to vote for this legislation to ask themselves what they are giving up and what they are getting.

We could fashion legislation to look out for tribes. We could work together. But, instead, what we are doing is simply using a wedge issue to try to divide two very important principles, labor rights and tribal rights.

I am going to vote against this. I hope that all Members do. I hope that people who believe in tribal rights and sovereignty know that this is not about not supporting sovereignty, because I support it. But I believe that this Tribal Labor Sovereignty Act is going to do something very damaging to all workers, including tribal members.

We should be supporting all people, including tribal members' right to form unions, to be in a labor organization, which is their very best shot at getting into the middle class.

We know that union members earn \$207 a week more than nonunion counterparts. This is why some business interests, not all, hate unions, because they just don't want to have a fair economy. They want to hoard the wealth of the company for themselves.

Workers who are in the union are far more likely to have retirement benefits, paid sick leave, and other medical benefits. Workers who have organized at their casinos have turned low-wage

service sector jobs into good-paying jobs with benefits. This legislation would take those jobs away.

Therefore, I must oppose it, and I urge all my colleagues to do the same.

Mr. ROE of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. HUNTER), my friend and colleague on the Education and the Workforce Committee and a veteran of this great Nation.

Mr. HUNTER. Mr. Speaker, I thank the good doctor from Tennessee. I want to thank my Republican colleagues, Mr. ROKITA especially, for bringing this important matter to a vote today.

Mr. Speaker, I rise in support of H.R. 511, the Tribal Labor Sovereignty Act.

In this House, we often speak about the importance of ensuring and protecting tribal sovereignty. This bill does just that. The measure treats tribal governments like we do any other government entity in this country by excluding them from the onerous coverage under the National Labor Relations Act.

In my district in San Diego and Riverside County, California, I represent 18 different tribes in Congress. That is more than anybody else in this House. They vary in size, tradition, and economic wealth, but they share one thing in common. They are all sovereign nations.

This sovereignty ensures that they have jurisdiction over their territory. And, remember, the American people made a promise to these tribes that they can govern themselves on their own land. This should especially apply in areas that this bill seeks to address.

I think it is ludicrous that the National Labor Relations Board thinks that they have purview over American Indian tribes.

I urge my colleagues to support H.R. 511.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. NORCROSS).

Mr. NORCROSS. Mr. Speaker, we live in the land of opportunity, and certainly many of the people who are being discussed here today understand that, for a very long time, it was not fair and not equal, because that is what we are truly discussing today, having a level playing field.

This year is the 80th anniversary of the National Labor Relations Act, which, quite frankly, gave rise to the middle class as we know it here in America today. But time after time, on both sides of the aisle, we hear how the discrepancies between those who are on the lower end and the one-percenters is growing wider.

So why am I talking about this when we are talking about this tribal bill? Because that is what we are really talking about.

See, there is a mechanism in place already that addresses this issue. It is a three-part test that has worked very well not only with the NLRB, but in the courts it has been working very well.

So this is a bill that is looking for a problem, because the true test of what is going on here today is trying to take those rights of having a level playing field away from those who don't have a voice. Well, we stand here today as that voice.

My career was as an electrician who later had the opportunity to become a business agent. I have been to National Labor Relations Boards many, many times. I have lost some. I have won some. But one thing I can tell you is it was a fair fight. And that is what we want to give those on tribal lands, a fair fight.

Just because they are tribal lands doesn't mean that none of our laws, history, and traditions apply to them. In fact, just the opposite. That three-part test has stood the test of time and has given a fair shot.

So what we are really talking about today is those who have the most abusing those who have the least, not giving them an opportunity to have a voice in the workplace so that they can have the American Dream.

I would urge my colleagues to vote against this very unfair, misguided bill and to give those who need it most that voice. That is what we are elected to do. I urge my colleagues to vote against this.

Mr. ROE of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. ALLEN).

Mr. ALLEN. I thank the chairman for his good work on this bill.

Mr. Speaker, I rise today in support of legislation that I am proud to cosponsor, the Tribal Labor Sovereignty Act of 2015.

It has long been a priority of this Congress to protect tribal sovereignty. These lands and their people should be free from bureaucratic intrusion, as they are sovereign nations.

However, the National Labor Relations Board has once again overstepped its authority to expand its jurisdiction over tribal lands, creating a cloud of uncertainty for tribal leaders.

This legislation allows tribes to operate as they should, free from the threat of intrusion from the National Labor Relations Board. Much like states' rights, this legislation puts the power back in the hands of local tribal governments so they can make decisions in their best interest.

During a time of political and partisan gridlock, empowering tribes and the lives of their people is a bipartisan issue that both sides should be able to find common ground on. We need to protect tribal lands from Washington's constant overreach.

I will continue to work to ensure tribal sovereignty is not infringed upon.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. POCAN).

Mr. POCAN. Mr. Speaker, I thank Ranking Member SCOTT.

Mr. Speaker, I rise to oppose H.R. 511. One of the most important things

we can do in this body is help the middle class to have every opportunity for their family.

While the economy has been rebounding, unfortunately, wages for the middle class have remained flat. Productivity is up. Profits are up. CEO pay is up. But wages for most workers have remained flat. Now we have a bill before us that will make it harder for hundreds of thousands of workers by taking away National Labor Relations Act protections from them.

Now, the promoters of this legislation say this bill is designed to protect sovereignty. While I strongly support tribal sovereignty, this bill is not about that.

There are a number of Federal laws that tribes are compelled to follow in addition to the National Labor Relations Act: the Occupational Safety and Health Act, the Employee Retirement Income Security Act, the Family and Medical Leave Act, and the public accommodations of the Americans with Disabilities Act, just for starters.

This bill isn't about meaningful sovereignty. It is about selective sovereignty because it only excludes labor rights, which makes this a labor bill, not a sovereignty bill.

It would even affect workers who already have collective bargaining agreements, stripping away the rights they have collectively fought for and have agreed to.

Many of the advocates for this bill are hardly credible on this. The U.S. Chamber and other organizations have never taken strong stances on tribal issues in the past, issues like spearfishing and mascot names in my home State of Wisconsin or funding to address the crumbling infrastructure of Bureau of Indian Affairs schools.

But suddenly they support sovereignty. Well, history says otherwise. If this bill is about sovereignty, exempt OSHA and ERISA and FMLA and ADA, for starters—that would be a sovereignty bill—or require the tribes at least to have their own labor relations boards, which they don't have.

This bill only exempts labor protections for hundreds of thousands of workers, both tribal members and non-members. Those affected workers will be denied their fundamental rights under this bill, and that is what this is really about.

Mr. Speaker, if this body wants to help tribes, I am here to help. If you want to make it easier for Federal tribes to be recognized via the Carcieri fix, I am in.

If you want to provide more adequate funding for Indian Health Services and exempt them from future sequestration cuts, where do I sign up?

If you want to provide funding for the maintenance infrastructure as well as the educational needs for Bureau of Indian Affairs schools, I am with you.

□ 1415

If you want to address some of the Tax Code disparities that hinder tribes

from encouraging economic development on their lands, especially renewable energy projects, let's do that bill. But we are not addressing the real pressing issues that affect tribes in our country. Instead, we are only going after workers' rights in the veil of tribal sovereignty, and that is wrong.

Mr. Speaker, I urge a "no" vote.

Mr. ROE of Tennessee. Mr. Speaker, in hearing testimony at our subcommittee hearing, a number of Indian tribes have labor boards at their particular reservation, so I just want to have that in for the RECORD.

Also, all we are asking for is to treat the Indian tribes exactly the same as local or State governments are treated. If they are sovereign, they are sovereign; if they are not, they are not.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there is no need today to catalog the litany of promises made and broken by this government to the American Indian nations. The sum total of these broken promises amounted to the banishment of these, the first Americans, to the most desolate and undesirable lands in the Nation. We left them with one thing and one thing only. We left them sovereignty over their lands.

In the past half century, many of these tribes have created, from that sovereignty, great engines of prosperity with which to provide for themselves and their posterity; and suddenly, our government's disinterest in their welfare, its benign neglect of their affairs, has changed. Now that they are prosperous, our government has developed a canine appetite to intervene in their affairs.

For 70 years after the enactment of the National Labor Relations Act, the Federal Government recognized the internal independence of these tribal governments established of, by, and for their rightful members. It recognized that unless Congress specified otherwise, the Indian nations were free to conduct their own affairs on their sovereign lands and to organize their enterprises according to their own traditions, customs, conditions, and necessities—that is, until 2004, when the National Labor Relations Board decided to shatter these decades of legal precedents and usurp the legislative powers of the Congress.

The NLRB was never intended to apply to governments, and the American Indian nations have always been recognized as governments—that is, until the NLRB decided to radically and fundamentally change the law that created it in the first place.

The question before the House is whether Congress will reassert its authority over a rogue executive agency and, for a change, honor the promises of tribal sovereignty made to these nations more than 100 years ago.

Mr. SCOTT of Virginia. Mr. Speaker, I yield such time as she may consume

to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I thank the gentleman from Virginia (Mr. SCOTT) for yielding and for his leadership in support of working men and women.

Mr. Speaker, like my colleagues, I am a strong supporter of tribal sovereignty and believe that we must recognize the rights of tribal governments. But I am also a strong supporter of labor rights, the ability of hardworking men and women to join together in collective bargaining to improve their workplace and the lives of their families.

Union membership has many advantages: higher wages, better benefits, and safer working conditions. It is no coincidence that we have seen the middle class shrink dramatically at the same time that union membership has declined. That is why we need to act to expand labor rights and why we should be concerned about the bill before us.

I believe that the 2004 National Labor Relations Board decision in San Manuel Indian Bingo & Casino struck the appropriate balance between respecting tribal sovereignty and upholding labor rights. In its decision, the NLRB stated the National Labor Relations Act does not apply if it would undermine the "exclusive rights of self-governance in purely intramural matters" or "abrogate Indian treaty rights." However, the NLRB clarified that labor law would apply if an entity is a purely commercial enterprise and employs or caters to individuals who are not tribal members. That is an appropriate test, whether we are talking about casinos or construction companies, hotels and resorts, or mines or power plants.

H.R. 511 would overturn the NLRB's carefully crafted decision and could take away existing bargaining rights from hundreds of thousands of workers. We know that workers at tribally owned casinos have benefited from union membership. A UNITE HERE! union study of tribal casino workers in California documented higher wages, lower healthcare costs, and less worker reliance on public benefits like Medicaid to meet the needs of their families. Employers, too, gain when workers are more productive and turnover is reduced.

We have real-world examples of how unions have helped workers. Gary Navarro, a Pomo Nation member employed at Graton Casino & Resort, testified before the Education and the Workforce Committee that "I became active in my union because of unjust treatment of casino workers by the managers and how nothing could be done about even sexual harassment because of sovereignty. Exercising our right to organize turned out to be the only way to protect ourselves and our coworkers."

Madeline, a worker at Foxwoods, was suspended because she was forced to clock out when she went to see a nurse for a work-related injury, which put

her over the casino's attendance points system. Her union won her reinstatement and backpay. And the company provided a mandatory OSHA training program for management.

Jenny Langlois, at Foxwoods, benefited from a union contract that gave her the time she needed to receive treatment for breast cancer.

Mr. Speaker, H.R. 511 would result in the loss of those gains, and, by eliminating NLRA rights, could deny them to many more workers in the future. By doing so, it would leave those workers without any avenue to bargain collectively, ensure fair compensation, or seek redress for workplace injuries.

Three out of four of the 600,000 workers employed in tribal casinos are not tribal members. They do not have full access to internal, tribal mechanisms for filing grievances or petitioning for changes in policy. And while some tribal governments have labor laws that apply to commercial operations, many don't, and there is no guarantee that those who have them will not change or eliminate them in the future. By eliminating NLRA rights, workers could have no place to turn to push for labor rights, to appeal unfair firings or disciplinary action, or to take action against sexual harassment.

H.R. 511 would affect more than the gaming industry, including construction workers, miners, and hotel workers. That is why the International Labour Organization has stated that it "would appear likely that an exclusion of certain workers from the NLRA and its mechanisms would give rise to a failure to ensure to these workers their fundamental freedom of association rights absent any assurances that there were tribal labor laws that provide the same rights to all workers."

But there is no such requirement in H.R. 511. It would preempt NLRA coverage. But there are other Federal laws that apply to tribes, including the Occupational Safety and Health Act, title III of the Americans with Disabilities Act, the Family and Medical Leave Act, and the Employee Retirement Income Security Act. Why should we single out the NLRA, the law that gives workers bargaining rights? Or will we be asked to eliminate those other important protections in the future?

Mr. Speaker, proponents of the bill argue that it is designed to provide equal treatment for tribal nations with State and local governments, but there are key distinctions.

First, we are talking here not about people who work directly for tribal governments but for workers in commercial enterprises. Most States and localities don't operate huge commercial entities that hire the majority of workers from outside of their jurisdictions.

Second, if State or local workers want to push for laws to obtain or protect collective bargaining rights, they have the ability to participate in the political process and vote in elections. That is one reason that the vast major-

ity of State and local public employees have those rights. Non-tribal workers at tribal-operated commercial enterprises lack that ability. They don't vote in tribal elections, and they have no direct ability to affect labor policies for tribal governments.

Mr. Speaker, we should fight for workplace rights and support the balanced approach taken by the NLRB. I ask my colleagues to join in opposing this bill.

Mr. ROE of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. EMMER.)

Mr. EMMER of Minnesota. I thank the gentleman from Tennessee.

Mr. Speaker, I rise in support of the Tribal Labor Sovereignty Act of 2015.

Minnesota is a proud home to seven Ojibwe reservations and four Dakota communities. We have a strong and deep Native American history and are proud of the work we have accomplished through centuries of working together.

The Federal Government has long recognized that Native American tribes have the capacity and ability to govern themselves in an efficient and meaningful manner that is consistent with their heritage. The legislation being discussed today is of grave importance to the communities that have contributed so much to our Nation's history.

The intent of the National Labor Rights Act passed in 1935 was never to include tribal governments within its jurisdiction. It is unfortunate that some are seeking to take advantage of a once well-intended law, but it is now up to Congress to do the right thing and expressly clarify that tribal governments are exempt from the National Labor Relations Act.

Mr. SCOTT of Virginia. Mr. Speaker, could you tell us how much time remains on both sides.

The SPEAKER pro tempore (Mr. MARCHANT). The gentleman from Virginia has 12 minutes remaining. The gentleman from Tennessee has 21¼ minutes remaining.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. I thank the gentleman from Virginia for yielding.

Mr. Speaker, I want to also say to my friend from Tennessee (Mr. ROE), he and I are good friends and have done a lot of work together, but on this we disagree.

I want to say, Mr. Speaker, that if the National Labor Relations Act were at issue on this floor today, my belief is—I may be wrong—that many of the people who will vote for this bill would be for repealing the National Labor Relations Act. That is a fair place to be, I suppose, but that is essentially what we are talking about here.

I can't think of anyone in this House who does not believe strongly in the principle of protecting the sovereignty of American tribes and their governments. I know surely that is where I

am. I presume all 434 of my colleagues are there. It is the least we can do, having treated the Native Americans so badly when we got here and thereafter.

We agree that when tribal governments are carrying out inherently government functions—that is the key. It is the key for the courts; it ought to be the key for us—their sovereignty is fully, and should be, secure under current law. But this bill goes a lot further than reinforcing that understanding.

Instead, this bill extends the current understanding of sovereignty not from what it is, but it is in an effort to undermine the rights for working men and women in this country, which is why, for all Americans, we cannot get a minimum wage bill on this floor, which is \$7.25, which is now 7 years in being, and would be, if we paid the same in 1968 for the minimum wage, \$10.68 today. It is the same principle, we can't get it on the floor. For all Americans—not just Indian Americans—for all Americans, Native Americans, it undermines their rights, rights that every Member of this House also ought to support.

Democrats are proud to stand shoulder to shoulder with Native American tribal communities across this country, and we are going to continue working with them to fight for more investment in education. Hear me. We need to put our money where our mouth is: Native American housing, health care, education, along with continuing to protect their sovereignty in governing themselves according to their cultures and traditions.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SCOTT of Virginia. Mr. Speaker, I yield the gentleman from Maryland an additional 1 minute.

Mr. HOYER. I thank the gentleman.

Mr. Speaker, what we do not support is taking away protections from American workers, Native and non-Native alike, who work in commercial enterprises owned by tribes. All of our people deserve the chance to earn a decent living, be safe at work, and reach for a better life. This bill is not a step in the right direction.

Courts have ruled that tribes must also comply with other laws. I want to adopt the comments of the gentleman from Illinois.

Courts have ruled that tribes must also comply with the Fair Labor Standards Act and the Occupational Safety and Health Act and many criminal laws, among others. Should we repeal that and have unhealthy working conditions in commercial enterprises? Perhaps that is the next bill you will bring forward in the name of Native sovereignty.

□ 1430

Why is the NLRA being singled out from among these laws of general applicability by the proponents of this bill? I suggested why at the beginning

of my comments: because that side does not support National Labor Relations Act rights.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SCOTT of Virginia. Mr. Speaker, I yield the gentleman an additional 1 minute.

Mr. HOYER. Given that there is no logical distinction to explain why these other laws should apply to tribes but the NLRA should not, the only plausible explanation is that this legislation is a precursor of other legislation and says, once again, we do not support the rights of Americans to collectively bargain for pay, benefits, safety, and working conditions.

Mr. Speaker, I urge my colleagues to send a strong and unequivocal message—two messages: A, we support strongly the sovereignty of our tribes, but, secondly, we also support the decency and safety and pay of working Americans, tribes and non-tribes alike. I urge my colleagues to vote “no.”

Mr. ROE of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Just for clarification, Mr. Speaker, many Federal labor laws specifically exclude Indian tribes from the definition of employer, including title VII of the Civil Rights Act of 1964, title I of the Americans with Disabilities Act, and the Worker Adjustment and Retraining Notification Act. In contrast, statutes of general application, including the NLRA; Uniformed Services Employment and Reemployment Rights Act; Age Discrimination in Employment Act, ADEA; Fair Labor Standards Act; Family and Medical Leave Act; and Employee Retirement Income Security Act, ERISA, are silent in their application to Indian tribes. Federal courts have held that the statutes of general application—specifically, FLSA and ERISA—do apply. Otherwise, they do not.

At this time, I yield 1 minute to the gentlewoman from South Dakota (Mrs. NOEM), my good friend, which I had the privilege of visiting her beautiful State about a month ago.

Mrs. NOEM. Mr. Speaker, I want to remind everyone, in light of the debate that we have had today here on the floor, that this bill is extremely bipartisan. It is supported by tribes all across the Nation. It is something that they have been asking us for. In fact, in the last two Congresses, I carried the bill. I was the sponsor of it because it needs to be done, and I was asked to do so by tribes across the country.

This is an issue of sovereignty. No other level of government in the country is subject to the National Labor Relations Act. It is time that Congress clarifies the law and reaffirms its commitment to tribal governments and self-determination.

The bipartisan policy of economic development through self-determination has helped create economic opportunity in Indian country. Tribes across the country and in my home State of

South Dakota work daily to overcome the high rates of poverty and unemployment that they face. They continue to develop their businesses and lands for the benefit of their people and communities. The last thing that they need is to have the National Labor Relations Board meddling in their economic development affairs when they are trying to make life better for the people who live in their communities.

I urge my colleagues to support tribal sovereignty, support tribal governments, and vote “yes” on this important legislation.

Mr. SCOTT of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LAMALFA).

Mr. LAMALFA. Mr. Speaker, I thank the fine gentleman from Tennessee.

Mr. Speaker, I am pleased to be able to speak on this bill today.

While this administration has been eager to recognize tribes, too often it fails to also recognize their sovereign rights, imposing onerous Federal requirements on tribes’ management of their own lands and livelihoods, which is very important in my own First District of California, home of many recognized tribes.

This measure rectifies a clear overreach yet again of this administration by rolling back National Labor Relations Board regulations that impose Federal labor laws on tribal businesses located on their own tribal land never intended under the NLRA.

Mr. Speaker, sovereign status doesn’t mean that tribes may manage their own affairs only now and then, or only when the administration chooses. It means tribes have a right to self-government in every aspect of their affairs.

It is time that this House reaffirm its constitutional role, defined in article I, section 8, and lead the Federal Government in its relations with Indian tribes, not this overreaching board.

Mr. SCOTT of Virginia. Mr. Speaker, I continue to reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. RUSSELL) and thank him for his service to this great Nation.

Mr. RUSSELL. Mr. Speaker, I thank the gentleman from Tennessee.

Really this whole matter and discussion is pretty simple: Article I, section 8, Congress shall have the power “to regulate commerce with foreign nations and among the several States and with the Indian tribes”—explicit language in the Constitution that we all defend and that I have defended since I was 18.

It is the purview of this Congress, not the rulemakers of the National Labor Relations Board, to regulate commerce.

This Nation must continue to recognize the rights of Indian tribal sovereignty, and this Congress must up-

hold the Constitution and sovereign treaties with those tribes.

Those opposed to this bill, Mr. Speaker, say that it will take away the rights of workers. As a Representative from Oklahoma, whose Fifth District has more than 13 percent Native American, our largest minority, our constituents know that the actions of the rulemakers will take away the rights of sovereign tribes. Congress must restore these rights with the passage of this bill.

Mr. SCOTT of Virginia. Mr. Speaker, I continue to reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Tennessee has 17 minutes remaining.

Mr. ROE of Tennessee. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. CRAMER).

Mr. CRAMER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, self-reliance and self-governance need to be more than liberal buzzwords if we are going to make a difference, if they are going to have any meaning at all. And I find some of the comments of the opposition to be quite rich in contradiction. Unfortunately, they are similar to the comments that President Obama had this morning when he announced his opposition to this legislation, stating that he could not support the bill unless tribal governments adopted his view. In other words, they have to be identical to his views in order to have sovereignty. Well, this isn’t sovereignty at all.

The President often likes to say that he honors and respects tribal sovereignty. In fact, I heard him say that he respects it as much as any President, right while standing in the powwow grounds in Cannon Ball, North Dakota, last summer.

Yet when presented with this opportunity—and it is not the only opportunity we presented, by the way—the Native American Energy Act and gas-gathering pipeline bills have done the same thing, trying to give sovereignty where sovereignty is to be given. And, actually, it is not given to them; it is held by them.

So I call on Congress and President Obama to respect the rights of tribes and pass this legislation into law.

Mr. SCOTT of Virginia. Mr. Speaker, I continue to reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield 1 minute to the gentlewoman from New Mexico (Ms. MICHELLE LUJAN GRISHAM).

Ms. MICHELLE LUJAN GRISHAM of New Mexico. Mr. Speaker, I rise in support of the Tribal Labor Sovereignty Act, which would clarify Federal law, restore parity for tribal governments, and protect tribal autonomy.

As you have heard today, tribes have a right to govern themselves, manage their own land, and regulate tribal enterprises according to their own culture, traditions, and law. They have

the right to regulate labor relations with their employees as a result, and I expect tribal governments to view this legislation, in fact, as an opportunity to strengthen their own worker protections.

No worker, as you have also heard today, should be without a voice or an ability to petition their employer for stronger benefits or a better work environment. In fact, many tribes across the country and in New Mexico have developed labor ordinances that, in fact, protect these rights.

During negotiations of the 1999 tribal-State gaming compact, Indian tribes in California agreed to adopt the Model Tribal Labor Relations Ordinance in order to strengthen worker protections.

Although this bill does not prevent similar tribal efforts to protect workers, I am disappointed that it doesn't do anything to promote stronger tribal labor practices.

Congress should provide tribes the resources they need to develop and implement labor laws and regulations at Native American enterprises. Employee protections and tribal autonomy are not opposing values.

I urge my colleagues to support this bill and to work for protecting workers' rights.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I want to read portions of a Statement of Administration Policy, issued by the Executive Office of the President:

"The administration is deeply committed to respecting tribal sovereignty and maintaining government-to-government relationships with Indian tribes as well as to protecting American workers and enforcing Federal labor laws. The administration cannot support H.R. 511, the Tribal Labor Sovereignty Act of 2015, as currently drafted, because it does not include the provisions as explained below."

Going on:

"The administration is encouraged by the efforts of some tribal governments to balance these important interests and find common ground when formulating compacts to operate casinos on tribal land under the Federal Indian Gaming Regulatory Act. In several of these compacts, tribes have agreed to establish their own labor relations policies. Though these compacts differ on minor details, what they have in common is that they generally protect tribal self-governance while also ensuring that most casino workers retain important and effective labor rights.

"It is thus possible to protect both tribal sovereignty and workers' rights, and the administration can only support approaches that accomplish that result. Therefore, the administration can support a bill which recognizes tribal sovereignty in formulating labor relations law and exempts tribes from the jurisdiction of the National Labor Relations Board only if the tribes

adopt labor standards and procedures applicable to tribally owned and operated commercial enterprises reasonably equivalent to those in the National Labor Relations Act."

Mr. Speaker, I include in the RECORD the Statement of Administration Policy.

STATEMENT OF ADMINISTRATIVE POLICY
H.R. 511—TRIBAL LABOR SOVEREIGNTY ACT OF
2015

(Rep. Rokita, R-IN, Nov. 17, 2015)

The Administration is deeply committed to respecting tribal sovereignty and maintaining government-to-government relationships with Indian tribes as well as to protecting American workers and enforcing Federal labor laws. The Administration cannot support H.R. 511, the Tribal Labor Sovereignty Act of 2015, as currently drafted, because it does not include the provisions as explained below.

The President's commitment to tribal sovereignty has taken many forms—from establishing the White House Council on Native American Affairs, to reaffirming tribal authority to prosecute non-Indians under the Violence Against Women Act, and to promoting tribal self-determination by signing into law the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act so that tribes may lease their lands without the approval of the Secretary of the Interior.

At the same time, the President is firmly dedicated to protecting American workers. The Administration vigorously enforces Federal labor laws and has repeatedly emphasized the importance of strengthening workers' rights to collective bargaining.

The Administration is encouraged by the efforts of some tribal governments to balance these important interests and find common ground when formulating compacts to operate casinos on tribal land under the Federal Indian Gaming Regulatory Act. In several of these compacts, tribes have agreed to establish their own labor relations policies. Though these compacts differ on minor details, what they have in common is that they generally protect tribal self-governance while also ensuring that most casino workers retain important and effective labor rights.

It is thus possible to protect both tribal sovereignty and workers' rights, and the Administration can only support approaches that accomplish that result. Therefore, the Administration can support a bill which recognizes tribal sovereignty in formulating labor relations law and exempts tribes from the jurisdiction of the National Labor Relations Board only if the tribes adopt labor standards and procedures applicable to tribally-owned and operated commercial enterprises reasonably equivalent to those in the National Labor Relations Act. Amended legislation would also need to include an authorization for funding to support the development and implementation of tribal labor laws and regulations.

Mr. SCOTT of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I guess what sovereignty means for an Indian reservation is you can be sovereign as long as we tell you what to do.

I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE). New Mexico has been a very active voice on this issue.

Mr. PEARCE. Mr. Speaker, I thank the gentleman for yielding.

H.R. 511, the Tribal Labor Sovereignty Act, says it all. All we are trying to do is to provide Native American tribes the sovereignty and autonomy they deserve, ensuring that they have the same rights as other businesses off the reservation, and that they have the same standards as States and local governments.

Now, we have heard on this floor from those who reject the bill, those who oppose it, about where after is decency, safety, and pay. I am proud of New Mexico. I represent the tribes. And I will tell you we are falling far short of those objectives of those who oppose the bill.

Many of the tribes are looking to get into their own businesses now. They want to compete off reservation. They want to put tribal members to work. But they are hamstrung by the National Labor Relations Board, which currently chooses on a case-by-case basis which tribes are regulated and which are not. They are dependent on the government to give them permission. That is not what sovereignty sounds like in New Mexico, and tribes across this country are rejecting the status quo, saying: Let us move forward. Let us be in charge of our own destiny. We do not want to be responsible—we don't want to be wards of the government any longer. Give us our freedom to compete.

I see tribal companies that could compete easily if they are allowed to by this government. And just the phrase being "allowed to by this government" is one that chafes, and should chafe, Native Americans.

So the resulting confusion from the current status quo, which is trying to provide decency, safety, and pay, and is not doing that, the confusion from some being chosen and some not being chosen is one that needs to be overturned. H.R. 511 does that. I rise to support it, and appreciate the gentleman's time.

□ 1445

Mr. SCOTT of Virginia. Mr. Speaker, I reserve the balance of my time.

Mr. ROE of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Ms. MOORE).

Ms. MOORE. I thank the gentleman for yielding.

Mr. Speaker, I rise today in strong support of H.R. 511.

When Congress originally passed the National Labor Relations Act in 1935, Congress exempted Federal, State, and local governments from the definition of employer. What we have seen since then, Mr. Speaker, is that local units of government have allowed labor unions to develop, and we have seen the growth and the development of the middle class because labor unions have been in place.

Nowhere in the NLRA are Indian tribes mentioned. For nearly 60 years, the NLRB treated tribes as local units of government and the Board declined to apply the NLRA over tribal activities in Indian Country. However, in

2004, the NLRB abruptly reversed course with the San Manuel ruling, asserting that the NLRA does apply to tribal enterprises. The ruling meant that tribes would no longer be treated as local units of government.

H.R. 511 is a narrow legislative fix that simply adds tribal governments to the list of other governments that are specifically excluded from the definition of employer in the NLRA. This bill simply ensures that the American Indian tribes are treated with parity, as our other local units of government are treated.

As a longtime labor advocate, I support this bill because I believe in tribal sovereignty. I have seen tribes afford their workers good pay, good health care and benefits. I respect their sovereignty, and I respect them to do as our cities and our States do. Sovereignty means respecting the individual authority and the decision-making of our country's first nations. That is what H.R. 511 does.

Mr. ROE of Tennessee. Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. POCAN).

Mr. POCAN. Mr. Speaker, I rise for a few of the things we have not heard on the other side of the aisle. I have heard a lot about sovereignty, but we have asked explicitly about other areas, one being OSHA. We have asked explicitly about ERISA. We have asked explicitly about the ADA. Why aren't those in here if this is a sovereignty bill and not just an antilabor bill?

In fact, on the Education and the Workforce Committee, I don't think a month goes by, Mr. Speaker, that we don't have a hearing that attacks the National Labor Relations Board and their actions or some other labor-related activity. It happens as often as you can imagine.

Yet, here we are being told this is really about sovereignty, but we don't really engage in a debate about sovereignty. Where we have a problem is on the labor front and what it would mean to working people—to the hundreds of thousands of people, 700,000 people-plus—who would lose their rights if this were to be passed.

One of the things that was said that is simply not correct is that a number of tribes have their own labor practices. Here is the reality. According to labor employment law in Indian Country—in a book from 2011 that is specifically about labor law and tribes—of the 567 federally recognized tribes, “few tribes have implemented labor ordinances, other than right-to-work provisions, to govern labor organizations and collective bargaining.”

In fact, when you look at specific tribes, what has been passed, all too often, unfortunately, are things like right to work, which takes away the ability to have that collective bargaining right.

If we are going to have this debate about sovereignty, let's talk about sov-

ereignty, let's talk about the funding for the Bureau of Indian Affairs' schools, let's talk about lifting some of those tax laws that make it harder for them to invest in renewable energy. Let's talk about those laws and not just the ones you want to.

This is like when I was a kid. When I had to take a pill, it came in the middle of something sweet. You are trying to take something really bad, like taking away workers' rights, and are putting it in a tribal bill because we support the tribes and because we support the unions, and you want to split that up.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SCOTT of Virginia. I yield the gentleman an additional 1 minute.

Mr. POCAN. I thank the gentleman.

Mr. Speaker, the bottom line is we just want to have that debate. Let's talk about sovereignty. But I am not hearing anything about the other issues that affect the tribes.

I have a tribe in my district, as we have many tribes in Wisconsin, and I have had a good, long relationship in my time in the legislature with these tribes. I have fought on behalf of changing Indian mascot names. I have fought on behalf of making sure that they have spearfishing rights in the State of Wisconsin.

The U.S. Chamber and all of those groups were never there. The U.S. Chamber is only here because they want to go after workers' rights. This bill is only here because you want to go after workers' rights. Let's just be honest about it.

If you want to have a debate on sovereignty, talk about the many issues we have brought up, because that is not what this bill is about. I support tribal sovereignty. I also support the many people who work in these facilities. We have to ensure that they still have the protections. I urge a “no” vote.

Mr. ROE of Tennessee. Mr. Speaker, certainly what we are after here today are the rights of Native Americans, whose rights have been trampled on by this country. We have had treaty after treaty that we have ignored. Maybe we can finally, with this piece of legislation, get one right here.

I yield 5 minutes to the gentleman from Indiana (Mr. ROKITA), my very good friend and the chairman of the Subcommittee on Early Childhood, Elementary, and Secondary Education.

Mr. ROKITA. I thank the gentleman not only for the time, but for his leadership on the committee and in helping bring the bill to the point it is today.

Mr. Speaker, this bill is not a new product. It has been around for about 10 years. But it hasn't gone as far as it has gone today. That is a compliment to all of the proponents of the bill, to Members like KRISTI NOEM, who has talked earlier and who had this bill in the past, to Members like Chairman JOHN KLINE, who has carried it in the past, and all the way back to J.D. Hayworth. We thank them all for get-

ting us here. I, for one, am a Member who has picked up this product and has run with it to help get it here.

I have been to 13 tribal communities this year alone, understanding what the problems are with this activist Department of Labor and National Labor Relations Board. That is why this bill is so popular, and in my talking with nearly every Member of this body, that is why so many Members have supported it. I expect and would ask for a strong vote today for sovereignty, for parity.

Mr. Speaker, the history is this: The National Labor Relations Act was silent as to tribal communities in terms of being regulated as an employer. State governments and local governments were specifically exempted from the act.

Then, because of an error in a court decision as well as an activist Department of Labor, we are in this position where the jurisdiction of tribal communities under the act has now been invented.

This bill corrects that and says in no uncertain terms—and very explicitly in just three pages—that tribal communities are to be exempted from the act if they are to be sovereign. All we are asking for is parity with State and local governments.

Let me give you an example.

Let's say you have a municipally owned and operated golf course in your community—or if it were a State government, then it would be the State government, owned by the State—and that municipality didn't want to have union activities and it wrote its own set of rules for its employees. That would be fine under the act.

By not allowing the very same right or luxury to a tribal government, we are treating them unlike other State and local governments. That is why in this context they are not sovereign. That is why this bill is needed.

The gentleman from Wisconsin who just spoke reminds us that there are agencies in this bill that aren't covered. I would say to him: What a great idea for tribal labor sovereignty, act two.

But the logic that just because every agency isn't covered under what is only meant to cover the NLRA somehow negates the good that this bill does—the right answer that comes with a “yes” vote—is ridiculous. Just because it doesn't do everything doesn't mean you can't do anything.

So I would say to the Members of this body, on that fact alone, you should vote “yes.”

It is also true that many tribal communities have unions, that many tribal communities have rules that govern their labor and employees, and those who want to oppose this bill, in my estimation, Mr. Speaker, simply want to insert their judgments, their biases, for their preferred rule or for their preferred union in place of duly elected members of a tribal government.

So I would say to those opponents: What makes you smarter than the people who elect the tribal government?

What makes you better and your judgment superior to those who have been duly elected by the members of a tribal nation?

The fact of the matter is the arguments that have been made by the opposition do not apply to what is right here. The right thing is to ask ourselves: Are tribal communities sovereign or are they not? Should they at least be in parity with State and local governments or should they not?

I would say, Mr. Speaker, to every Member here and remind everybody—Republican, Democrat—that this is a bipartisan bill. We just had two Democrat Members speak in favor of this bill.

If you want to do what is right—if you believe in the sovereignty of tribal communities, if you believe they should at least have the same parity, judgment, and authority as State and local governments do—then you should vote “yes” on H.R. 511. I urge all Members to do that, Republican and Democrat.

Mr. SCOTT of Virginia. Mr. Speaker, is the gentleman prepared to close?

Mr. ROE of Tennessee. Yes. I am prepared to close.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself the balance of my time.

We have heard about the fact that the National Labor Relations Act is silent. That is true. But in terms of laws of general application, they are applied to tribes based on the balancing test, and the courts applied that test. That test is a half a century old. The activist NLRB that ruled in 2004 was during the George W. Bush administration. So we don't know how activist they could be interpreted.

There are a lot of laws that we have found and have discussed that apply to tribes, like the Fair Labor Standards Act, OSHA, ERISA. They have to withhold taxes. They have to pay their employer share of Social Security and Medicare, and on and on. The criminal laws go on and on as well as laws of general application.

Mr. Speaker, I would like to quote from a letter from the International Labour Office, which is basically talking about the international labor obligations we have. They write:

“While elements of indigenous peoples' sovereignty have been invoked by the proponents of this Bill, the central question revolves around the manner in which the United States Government can best assure throughout its territory the full application of the fundamental principles of freedom of association and collective bargaining. From an ILO perspective, while the variety of mechanisms for ensuring freedom of association and collective bargaining rights may differ depending on distinct sectorial considerations or devolution of labor competence, it is critical that the State (the national authority) takes ultimate responsibility for ensuring respect for freedom of association and collective bargaining rights throughout its territory.

“Given the concerns that you have raised, it would be critically important that, at the very least, a complete legal and comparative review be undertaken to support assurances that all rights, mechanisms and remedies for the full protection of internationally recognized freedom of association rights are available to all workers on all tribal lands. In the absence of such assurances, it would appear likely that an exclusion of certain workers from the NLRA and its mechanisms would give rise to a failure to ensure to these workers their fundamental freedom of association rights.” Therefore, it would be in violation of the ILO.

This isn't about labor rights. This is about whether or not we are going to fulfill our obligations under the International Labour Organization as a government that subscribes to those.

Finally, Mr. Speaker, I include for the RECORD the full letter from the ILO and several other letters in opposition to the legislation.

INTERNATIONAL LABOUR OFFICE,
Geneva, Switzerland.

Mr. R. L. TRUMKA,
President, AFL-CIO,
Washington, DC.

DEAR MR. TRUMKA, I acknowledge receipt of your letter dated 22 October 2015 requesting an informal opinion and guidance from the International Labour Organization in respect of a Bill being considered by the United States Congress.

In particular, you have raised concerns about the Tribal Labor Sovereignty Act (H.R. 511) which you state would deny protection under the National Labor Relations Act (NLRA) of a large number of workers employed by tribal-owned and tribal-operated enterprises located on tribal territory and ask for the informal opinion of the Office as to whether such an exclusion of workers employed on tribal lands would be in conformity with the principles of freedom of Association which are at the core of the ILO Constitution and the ILO's Fundamental Principles and Rights at Work.

In conformity with the regular procedure concerning requests for an informal opinion from the International Labour Office in respect of draft legislation and its possible impact on international labour standards and principles, the views set out below should in no way be considered as prejudging any comments or observations that might be made by the ILO supervisory bodies within the framework of their examination of the application of ratified international labour standards or principles on freedom of association.

Your links to committee reports of the congressional majority and minority and other background information have enabled the Office to consider the views of the parties both for and against the proposed amendment and they all appear to confirm recognition of the United States' obligation to uphold freedom of association and collective bargaining. While the proponents of the Bill assert that this can be achieved through the labour relations' regimes autonomously determined by the tribal nations, the opponents—and you yourself in your request—maintain that excluding tribal lands from the NLRA will in effect result in a loss (or at the very least inadequate protection) of their trade union rights. Not only do you refer to tribal labour relations ordinances which in your view provide inadequate protections in this regard, but you also refer to instances where there are no tribal labour relations ordinances at all.

While elements of indigenous peoples' sovereignty have been invoked by the proponents of this Bill, the central question revolves around the manner in which the United States Government can best assure throughout its territory the full application of the fundamental principles of freedom of association and collective bargaining. From an ILO perspective, while the variety of mechanisms for ensuring freedom of association and collective bargaining rights may differ depending on distinct sectorial considerations or devolution of labour competence, it is critical that the State (the national authority) takes ultimate responsibility for ensuring respect for freedom of association and collective bargaining rights throughout its territory.

As you have indicated, the 2004 San Manuel Indian Bingo and Casino decision assures possible recourse to the National Labor Relations Board (NLRB), an overarching mechanism aimed at ensuring the protection of freedom of association, while also maintaining deference to the sovereign interests of the tribal nations so as to avoid touching on exclusive rights of self-governance.

Full abdication of review via an exclusion from the scope of the NLRA for all workers employed on tribal lands as described might make it very difficult for the United States Government to assure the fundamental trade union rights of workers. In cases like those mentioned where there are no tribal labour relations ordinances, undue restrictions on collective bargaining, excessive limitations on freedom of association rights or lack of protection from unfair labour practices, workers on tribal territories would be left without any remedy for violation of their fundamental freedom of association rights, short of a constitutional battle. Furthermore, the exclusion proposed, with no avenue for federal review or overarching mechanism for appeal should there be an alleged violation of freedom of association, would give rise to discrimination in relation to the protection of trade union rights which would affect both indigenous and non-indigenous workers simply on the basis of their workplace location.

Given the concerns that you have raised, it would be critically important that, at the very least, a complete legal and comparative review be undertaken to support assurances that all rights, mechanisms and remedies for the full protection of internationally recognized freedom of association rights are available to all workers on all tribal lands. In the absence of such assurances, it would appear likely that an exclusion of certain workers from the NLRA and its mechanisms would give rise to a failure to ensure to these workers their fundamental freedom of association rights.

In accordance with ILO procedure concerning requests for informal opinions on draft legislation, this communication will also be brought to the attention of the United States Government and the representative employers' organization, the U.S. Council for International Business.

Yours sincerely,
CORINNE VARGHA,
Director of the International Labour
Standards Department.

UNITED AUTO WORKERS,
Washington, DC, November 16, 2015.

DEAR REPRESENTATIVE: On behalf of the more than one million active and retired members of the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), I urge you to vote against the Tribal Labor Sovereignty Act (H.R. 511). This misguided bill would deny protection under the National Labor Relations Act (NLRA) to hundreds of

thousands of workers employed by tribal casinos alone. Tribal casinos have created over 628,000 jobs. This legislation does not only apply to casinos. It could impact dozens of other businesses, including power plants, mining operations, and hotels.

UAW deeply believes in tribal sovereignty and has a strong record in supporting civil rights throughout our history. This bill, however, is misleading. It is an attack on fundamental collective bargaining rights and would strip workers in commercial enterprises of their rights and protections under the NLRA. Supporters of the bill argue that the bill creates parity for the tribes with state and local governments who are not covered under the NLRA. However, there are some significant differences.

For starters, non-tribal members cannot petition a tribe for labor legislation, while workers employed by a state or local government have a voice with their elected leaders. This is an important difference since 75 percent of Native American gaming employees are not tribal members. In addition, tribes are exempt from employment laws (Title VII of the Civil Rights Act) that apply to state and local governments. Finally, private sector contractors work extensively on behalf of state and local governments and they generally have to comply with the NLRA. In summary, the parity argument does not hold up under scrutiny.

Tribal casinos have a significant and growing presence throughout our country. In 2013, 449 tribal gaming facilities made \$28 billion in revenues. Seventy five percent of the workforce is non-tribal members. In fact, at Foxwoods, where the UAW represents the workers (and many other casinos), well over 95% percent of employees and patrons are not tribal members. These employees are working for a tribal enterprise which is simply a commercial operation competing with non-tribal businesses.

Having a union and a legally binding contract has made a real difference in the lives of UAW members who work as dealers and assistant floor supervisors. Hundreds of dealers have been promoted to benefited and supervisory positions because of provisions in the contract that maintain minimum percentages of full-time, part-time and supervisory positions. Work rules, wages, and benefits have all improved because of the right to collectively bargain. H.R. 511 would put all of these hard fought gains in jeopardy. Under the terms of this bill, when a labor contract expires, a tribe could unilaterally terminate the bargaining relationship with the union without legal consequence under the NLRA, because the employer's obligation to bargain could be eliminated.

H.R. 511 seeks to overturn a decision by the National Labor Relations Board (NLRB) in San Manuel Indian Bingo and Casino, 341 NLRB No. 138 (2004). In that decision the Board concluded that applying the NLRA would not interfere with the tribe's autonomy and the effects of the NLRA would not "extend beyond the tribe's business enterprise and regulate intramural matters." The ruling does not apply in instances where its application would "touch exclusive rights of self-governance in purely intramural matters" or "abrogate Indian treaty rights." The NLRB has taken a nuanced view on this matter and has ruled on a case-by-case basis. Congressional interference is not justified. Finally, it would create a dangerous precedent that could be used to weaken hard fought worker and civil right protections for employees on tribal lands (minimum wage, OSHA, ERISA).

At a time of growing wealth inequality and shrinking middle class, the last thing Congress should do is deprive workers of their legally enforceable right to form unions and

bargain collectively. We urge you to oppose H.R. 511.

Sincerely,

JOSH NASSAR,
Legislative Director.

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS,
Washington, DC, November 6, 2015.
HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The International Brotherhood of Teamsters urges you to oppose H.R. 511, the Tribal Labor Sovereignty Act (H.R. 511). This legislation would exempt all tribally-owned and—operated commercial enterprises on Indian lands broadly defined from the National Labor Relations Act (NLRA).

If H.R. 511 were to become law, hundreds of thousands of workers at these enterprises, including Teamsters, would be stripped of their protections and rights under the NLRA, including the right to organize and collective bargaining. It would deprive both tribal members and non-member employees of the right to form or join unions and to bargain collectively for better wages, hours, and working conditions. We should be working to expand the rights and ability of workers to earn a decent living for themselves and their families and to secure a safe and healthy workplace.

While tribal casinos have been the focus of discussion, this legislation affects not just casino workers. Since the 1980's tribes have expanded business interests beyond casinos. They now operate many different revenue producing commercial enterprises—construction companies, mining operations, power plants, hotels, water parks and ski resorts, to name a few.

In 2004, the National Labor Relations Board (NLRB) (in San Manuel) ruled that tribal casino workers should have NLRA protections. Shortly after the San Manuel decision, legislation, in the form of amendments, was twice offered to block the NLRB from enforcing the San Manuel decision. These amendments were rejected. Since then, the NLRB has proceeded in a measured fashion asserting jurisdiction on a case-by-case basis.

The NLRB will not assert jurisdiction where it would interfere with internal governance rights in purely intramural matters or abrogate treaty rights. Otherwise, the NLRB will protect workers' rights at tribally owned enterprises by asserting jurisdiction. With its case-by-case approach, San Manuel takes a careful approach to balancing tribal sovereignty interests with Federal labor law.

It should be noted that other important federal laws that protect workers apply to Indian businesses, such as the Occupational Safety and Health Act, the Fair Labor Standards Act, the Employee Retirement Income Security Act, and Title III of the Americans with Disabilities Act. Indeed, courts have denied attempts to gain exemptions on numerous occasions ruling commercial tribal enterprises should not be excluded from such laws. NLRA rights and protections should not be treated differently.

Proponents assert that they are seeking the same exemption as state and local governments. However, this is wrong. The NLRA only exempts actual government employees and not private sector employees performing contracted out government functions. Also, a substantial majority of workers at these enterprises are not Indian or tribe members, and thus have no ability to influence tribal governance, since non-tribal members are prohibited from petitioning a tribe.

The bill could also undermine enforcement of existing labor contracts and the decision workers made to organize and bargain collectively. When a collective bargaining

agreement expires, a tribe could unilaterally terminate the relationship with the union without consequence under the NLRA. The employer's obligation to bargain could be eliminated.

Employees of tribal enterprises have no constitutional rights to protect against employers. Only the NLRA gives them free speech rights. Absent the NLRA they have no protection. Workers cannot be left without any legally enforceable right to form unions and bargain collectively just because they are employed by at tribally owned enterprise.

Finally, the United States requires its trading partners to implement and abide by internationally recognized labor standards, while H.R. 511 deprives workers at these tribal enterprises of these core rights: the right to organize and bargain collectively.

To focus solely on the NLRA raises the question of the true motivation for this legislation. It is regrettable that the principle of tribal sovereignty is being used to cloak an attack on the basic rights of workers to organize and bargain collectively. The Teamsters Union respects tribal sovereignty. However, we do not believe that this principle should be used to deny workers their collective bargaining rights and freedom of association. We urge you to oppose the Tribal Labor Sovereignty Act and to Vote No on H.R. 511.

Sincerely,

JAMES P. HOFFA,
General President.

UNITED FOOD & COMMERCIAL
WORKERS INTERNATIONAL UNION,
Washington, DC, November 17, 2015.
To All Democrats of the House of Representatives.

DEAR REPRESENTATIVE: As you know, the House of Representatives is scheduled to vote this week on the Tribal Labor Sovereignty Act (HR 511). This bill is a blatant attack upon hardworking families, and their right to organize and earn a better life. As such, we will be scoring HR 511 in our upcoming congressional scorecard. We urge you to stand with millions of hard-working men and women and vote against this bill.

Our union family is proud to represent 1,000 men and women who work hard every single day to support their families at casinos that operate on Indian land. If this proposed legislation passes, their ability to negotiate a better life, their rights, and the rights of countless others, will be forever worsened.

Every American, and every worker, has the right to earn a better life, and those rights should never be jeopardized or taken away.

We urge, regardless of party, to do what is right for your constituents, hardworking families, and this nation and vote NO of HR511.

Sincerely,

ANTHONY M. PERRONE,
International President.

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, November 16, 2015.

DEAR REPRESENTATIVE: The AFL-CIO urges you to oppose the Tribal Labor Sovereignty Act (H.R. 511), which would deny protection under the National Labor Relations Act to a large number of workers who are employed by tribal-owned and -operated enterprises located on Indian land. Among these workers are over 600,000 tribal casino workers, the vast majority of whom are not Native Americans. In recent years, there has been a substantial expansion of enterprises that would be impacted by this legislation—not only casinos, but mining operations, power plants,

smoke shops, saw mills, construction companies, ski resorts, high-tech firms, hotels, and spas. These are commercial businesses competing with non-Indian enterprises. The Tribal Labor Sovereignty Act, as proposed, would strip all workers in these many commercial enterprises of their rights and protections under the NLRA.

The bill, introduced by Representative Rokita, seeks to overturn a decision by the National Labor Relations Board (NLRB) in *San Manuel Indian Bingo and Casino*, 341 NLRB No. 138 (2004), which applied the National Labor Relations Act (NLRA) to a tribal casino enterprise.

In *San Manuel*, the NLRB looked to Supreme Court and circuit court precedent to articulate a test for whether the NLRB should assert jurisdiction over tribal enterprises, whether located on tribal lands or outside them. (Before *San Manuel*, NLRB jurisdiction was determined based solely on location: on tribal land, no jurisdiction, off tribal land, jurisdiction. Under the *San Manuel* test, the NLRA will not apply if its application would “touch exclusive rights of self-governance in purely intramural matters.” Nor will the NLRA apply if it would “abrogate Indian treaty rights.” The Board in *San Manuel* also considered other factors, including that the casino in question was a typical commercial enterprise, it employed non-Native Americans, and it catered to non-Native American customers.

In *San Manuel*, the Board concluded that applying the NLRA would not interfere with the tribe's autonomy, and the effects of the NLRA would not “extend beyond the tribe's business enterprise and regulate intramural matters.” However, the test articulated in *San Manuel* provides for a careful balancing of the tribal sovereignty interests with the Federal Labor law protections provided through the NLRA. In a companion case, the Board tipped the balance the other way, and the NLRB didn't assert jurisdiction. *Yukon Kuskokwim Health Corporation*, 341 NLRB No. 139 (2004).

The AFL-CIO does support the principle of sovereignty for tribal governments, but does not believe this principle should be used to deny workers their collective bargaining rights and freedom of association. While the AFL-CIO continues to support the concept of tribal sovereignty in truly internal, self-governance matters, it is in no position to repudiate fundamental human rights that belong to every worker in every nation. Workers cannot be left without any legally enforceable right to form unions and bargain collectively in instances where they are working for a tribal enterprise which is simply a commercial operation competing with non-tribal businesses.

This view has been confirmed by the International Labor Organization (ILO), an agency of the United Nations, in response to a question about whether excluding workers employed on tribal lands from the NLRA would be in conformity with the principles of freedom of Association which are at the core of the ILO Constitution and the ILO's Fundamental Principles and Rights at Work. In response, the Director for the International Labour Standards Division wrote that in the absence of tribal ordinances offering full protection of internationally recognized rights, “it is critical that the State (the national authority) takes ultimate responsibility for ensuring respect for freedom of association and collective bargain throughout its territory.” In other words, if the tribes themselves don't guarantee these basic rights, and many do not, the U.S. government must not abdicate its responsibility to protect them.

Notwithstanding the importance of the principle of tribal sovereignty, the funda-

mental human rights of employees are not the exclusive concern of tribal enterprises or tribal governments. In fact, the vast majority of employees of these commercial enterprises, such as the casinos, are not Native Americans. They therefore have no voice in setting tribal policy, and no recourse to tribal governments for the protection of their rights.

The AFL-CIO must oppose any effort to exempt on an across-the-board basis all tribal enterprises from the NLRA, without regard to a specific review of all the circumstances, as is currently provided by current NLRB standards. Where the enterprise is mainly comprised of Native American employees, with mainly Native American customers, and involving self-governance or intramural affairs, that may be the appropriate result. However, where the business employs primarily non-Native American employees and caters to primarily non-Native American customers, there is no basis for depriving employees of their rights and protections under the National Labor Relations Act.

Sincerely,

WILLIAM SAMUEL,
Director, Government Affairs Department.

UNITE HERE!

Las Vegas, NV.

DEAR REPRESENTATIVE: UNITE HERE represents over 275,000 hardworking union members in the hospitality industry and strongly urges you to oppose the Tribal Labor Sovereignty Act (H.R. 511).

Quite simply, if this bill were to become law, American citizens working for Native American businesses would lose their U.S. rights under the NLRA, including “full freedom of association” and “self-organization” without “discrimination.” The legislation as drafted would exempt all businesses owned and operated by Indian nations of the National Labor Relations Act (NLRA) on broadly-defined “Indian lands”. Tribal businesses, including but not limited to Indian-owned casinos, have workforces and customers that are almost all non-Indian. Over the last 30 years, as Indian enterprises entered the stream of interstate commerce, a number of federal laws protecting the workplace have been applied to Indian businesses: Employee Retirement Income Security Act (ERISA), Occupational Safety and Health Act (OSHA), Fair Labor Standards Act (FLSA), and National Labor Relations Act (NLRA).

Congress should not treat the rights Americans have under the NLRA any differently than these other important laws that protect all other American workers.

In this time of growing income inequality in our country, Congress should be working to expand the rights of American workers and their ability to earn a decent living for themselves and their families, not finding ways to take them away. H.R. 511 is no different than the law signed by Governor Scott Walker in Wisconsin that attacked the basic rights of workers to organize and collectively bargain. Again, our union urges you to oppose H.R. 511.

Sincerely,

D.R. TAYLOR,
President.

UNITED STEEL WORKERS,
November 16, 2015.

DEAR REPRESENTATIVE: The United Steelworkers (USVW) represents hundreds of workers in the gambling industry in Nevada and Ohio, and has recently filed a Petition with the National Labor Relations Board (NLRB) to represent over 100 workers at the Saganing Eagles Landing Resort and Casino in Sandish, MI. Saganing Eagles Landing Resort and Casino is owned and operated by the Saginaw Chippewa Indian Tribe but employs

a majority of non-tribal workers. If HR 511, were to become law it would exempt all Indian-owned commercial enterprises operated on Indian lands from the protections of the National Labor Relations Act depriving Indian and non-Indian employees across the nation their right to form or join unions, and collective bargaining for better wages, hours and working conditions.

HR 511 would prohibit the NLRB from examining, on a case-by-case basis, whether or not to assert jurisdiction on workers' petitions to form unions and collectively bargain. It is long standing federal policy that private sector workers should be able to engage in collective bargaining with their employer. In cases where Tribal enterprises are involved, the NLRB, after a complete examination on a case-by-case basis, determines whether the enterprise is governmental or commercial. To ensure both fairness for workers and sovereignty on tribal matters, the NLRB has adopted a three prong test:

1. The enterprise is ‘exclusively involved in Tribal self-governance and purely intramural matters’;
2. Application of the NLRA would ‘abrogate rights guaranteed by Indian treaties’; or
3. There is proof ‘by legislative history or some other means’ that Congress intended NLRA not to apply to Indians on their reservations.

HR 511 would stop the NLRB from applying this test, and deny workers the protections of the Act. Collective bargaining allows workers to negotiate with their employer for better wages and working conditions, and reduces incidents of workplace discrimination and sexual harassment. Unfortunately, many workers in the gambling industry experience sexual harassment and discrimination due to the nature of the work environment. Women are often required to wear provocative uniforms and interact with inebriated customers in a 24/7 work environment.

On June 16, 2015 before the House Education and Workforce Committee, Gary Navarro (a member of the Pomo Nation, one of the largest tribes in California, and a worker at the Native-owned Graton Casino & Resort) illustrated this very point. Mr. Navarro testified he witnessed fellow co-workers suffer harassment by supervisors stating:

“I became active in my union because of unjust treatment of casino workers by their managers and how nothing could be done about even sexual harassment because of sovereignty. Exercising our right to organize turned out to be the only way to protect ourselves and our co-workers. Don't strip us of these rights.”

Since the 1980s Tribes have expanded their business interests, operating many different revenue producing commercial enterprises on Indian lands—not just casinos. Tribes operate and employ both Tribal members and non-members working in mines, smoke shops, power plants, saw mills, construction companies, ski resorts, hotels and spas, gift and farmers markets. Many of these enterprises are dangerous with high incidents of worker injury and death, and jobs are not typically well paid. Only through the benefit of collective bargaining can workers be assured of improving their wages, hours and working conditions, including their safety. Because the vast majority of workers employed by Tribal enterprises are NOT Tribal members, they would have no ability to influence Tribal policy or governance.

In 2011 before the Senate Indian Affairs Committee, the National Indian Gaming Commission testified that of 566 federally-recognized tribes, 246 operate 460 gaming facilities in 28 states, and that the vast majority of employees (up to 75 percent) were non-Tribal members. That same testimony reported in 2009 that tribal casinos generated

gross gaming revenue of \$27.2 billion, only a fraction of the estimated \$100 billion U.S. gambling industry revenue. As of September 2014 the Federal Gaming Commission estimated there were 733,930 people directly employed by the gambling industry in the United States. Gambling industry jobs are typically low-wage jobs, and it is only through collective bargaining that workers can enjoy some of the profits from their hard labor.

In 2004, the Bush Administration NLRB ruled for the first time that Tribal casino workers should have the benefit of NLRA protections, San Manuel, 341 NLRB No. 138 (2004). Yet, since the San Manuel ruling, the NLRB has stepped very carefully, taking jurisdiction on a case-by-case. Just this spring the NLRB declined jurisdiction citing the 1830 Treaty of Dancing Rabbit Creek and 1866 Treaty of Washington stating:

"We have no doubt that asserting jurisdiction over the Casino and the Nation would effectuate the policies of the Act. However, because we find that asserting jurisdiction would abrogate treaty rights specific to the Nation." Chickasaw Nation Windstar World Casino, 362 NLRB 109 92015).

Similarly the NLRB declined jurisdiction:

"...when an Indian tribe is fulfilling a traditionally tribal or governmental function that is unique to its status, fulfilling just such a unique governmental function [providing free health care services solely to tribal members]." Yukon Kuskokwim Health Corporation, 341 NLRB 139 (2004).

Finally, the Tribes asking for this bill assert they are seeking the same NLRA exemption as state and local governments. This argument is erroneous, because the NLRA only exempts actual government employees and not private sector employees performing contracted-out governmental functions. Hundreds of thousands of private sector workers employed by private sector contractors perform state, local and federal governmental functions; thus, are covered under the NLRA.

Casinos and resorts are not inherently governmental operations, and casino employees are not performing inherently governmental functions by serving cocktails, running Keno numbers, or dealing cards. On June 16, While Tribal witnesses asserted air traffic controllers and casino workers should be treated similarly under the law as critical governmental workers and be prohibited from striking, common sense would suggest otherwise.

Finally, depriving Tribal casino employees of their ability to gain the industry standard negotiated by their counterparts working for hugely profitable commercial gambling operators like Trump, MGM or Wynn Enterprises should not be decided by Congress as a blanket exemption to the NLRA. HR 511 would deprive thousands of workers of their fundamental labor law protection under the guise of Tribal Sovereignty. H.R. 511 is union busting—plain and simple, and would deny Indian and non-Indian workers alike their ability to collectively negotiate wages, hours and working conditions and improve their lives and the livelihood of their families. Please vote NO on H.R. 511.

Thank you for your consideration and please contact Alison Reardon, USW Legislative Representative for additional information.

Sincerely,

HOLLY R. HART,
Assistant to the International President,
Legislative Director.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

□ 1500

Mr. ROE of Tennessee. Mr. Speaker, I thank my friend, Mr. SCOTT. He is a de-

light to work with, and I want to thank him for working with me on this.

Policymakers on both sides of the aisle have long agreed on the importance of protecting sovereignty of Native American tribes. Today, we have an opportunity to prove that we are committed to that bipartisan goal.

In my packet here, I have literally page after page of tribes that have supported this piece of legislation. To me, being sovereign means that you are able to make your own decisions. What we are seeing the NLRB do is nibble away a little bit at a time at the authority that the local tribes have over local matters. Look, the political job I had before I came to Congress was being mayor of a city. I had more rights than the Native Americans who occupy this land, many of them my district, the Cherokee Nation.

The Tribal Labor Sovereignty Act of 2015 is a simple, commonsense measure; but it means a great deal, particularly to those in the Native American community. As tribal representatives have said, this bill will prevent unnecessary and unproductive overreach into tribal affairs. It will empower tribal governments to make decisions that are the best for their people, and it will ensure the Federal Government honors and respects the sovereignty of the tribal nations.

Just as importantly, it shows that we are serious about honoring the commitments and making good on promises we have made to Native Americans and broken many, many, many times.

I urge my colleagues to vote "yes" on H.R. 511.

Mr. Speaker, I yield back the balance of my time.

Mr. BLUM. Mr. Speaker, I rise today to offer my support of the bipartisan H.R. 511, the Tribal Labor Sovereignty Act. I wish to recognize the work of my colleague, Mr. ROKITA, as well as the efforts of the Committee on Education and the Workforce on this legislation.

If enacted, this important legislation would amend the National Labor Relations Act to ensure that any enterprise or institution owned and operated by an Indian tribe would be treated with parity by any state or local government.

This legislation is necessary to reverse a 2004 National Labor Relations Board's ruling which increased the jurisdiction of the NLRA to cover tribal operations. H.R. 511 promotes tribal sovereignty and allows the tribal governments to regulate appropriate labor practices on lands without the further overreach and infringement of the federal government.

Because of these reasons, Mr. Speaker, I urge my colleagues to support the Tribal Labor Sovereignty Act to ensure that our Native American citizens can achieve parity with other exempted governments.

Vote "yes" on H.R. 511.

Mr. CALVERT. Mr. Speaker, I have the privilege of representing a district that covers a large portion of the reservation that is home to the Pechanga Band of Luiseño Indians.

From my meetings and visits with members of the Pechanga tribe, as well as with Native Americans from across the country, I know that there is perhaps no greater priority than protecting tribal sovereignty.

In 2004, the National Labor Relations Board issued a ruling that, I believe, inappropriately applied the National Labor Relations Act to tribally owned businesses on tribal lands. That ruling was contrary to previous court-established precedents because it clearly conflicts with the Constitution's recognition of tribes as sovereign governments. That's exactly why in 2011, a U.S. District Court in Oklahoma ruled in Chickasaw Nation v. National Labor Relations Board that tribal businesses on tribal land do not fall under the jurisdiction of the Board on grounds of tribal sovereignty.

Since that ruling, the National Labor Relations Board has filed an appeal and similar legal conflicts have arisen with other tribes across the country.

Rather than allow these lawsuits and legal proceedings to carry on indefinitely, Congress should step in and reaffirm Native American tribal sovereignty by clarifying that the National Labor Relations Act does not apply to tribally owned businesses.

As a proud original cosponsor of the Tribal Labor Sovereignty Act and friend of our Native American tribes, I encourage all of my colleagues to support this long overdue bill.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate has expired.

Pursuant to House Resolution 526, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROE of Tennessee. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

APPOINTMENT OF CONFEREES ON S. 1177, STUDENT SUCCESS ACT

Mr. KLINE. Mr. Speaker, pursuant to House Resolution 526, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Kline moves that the House insist on its amendment to S. 1177 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Minnesota is recognized for 1 hour.

Mr. KLINE. Mr. Speaker, this is a motion to authorize a conference on S. 1177. This bill, with the House amendment, helps improve elementary and secondary education in the Nation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE).