



## H.R. 511 – Tribal Labor Sovereignty Act (Rokita, R-IN)

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### FLOOR SCHEDULE:

Scheduled for consideration on November 17, 2015 under a [closed rule](#).

H. Res 526, which provides for consideration of the bill, also provides for consideration and adoption of other measures. Analysis of these provisions may be found in a separate Legislative Bulletin, available [here](#).

### TOPLINE SUMMARY:

[H.R. 511](#) would exclude tribal governments and any enterprises operated by a tribe on tribal land from regulation under the National Labor Relations Act. This would achieve parity between tribal, state, local, and federal government entities under the statute.

### COST:

The Congressional Budget Office (CBO) [estimates](#) that enacting H.R. 511 would not affect the federal budget.

### CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

The National Labor Relations Act was enacted in 1935 and functions to govern the relationships between private employers and employees and to encourage collective bargaining by employees in order to promote the free flow of commerce.

[Current law](#) defines an employer as “any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof, or any person subject to the Railway Labor Act [45 U.S.C. 151 et seq.], as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.”

Traditionally, Indian tribal governments were recognized as excluded from the definition of employer, a finding that was confirmed in the National Labor Relations Board (NLRB) ruling in [Fort Apache Timber Company](#). However, in 2004 the NLRB adopted a new policy in [San Manuel Indian Bingo and Casino](#), which held the NLRB had jurisdiction over all tribal activities. Since this ruling, the NLRB has relied on a Ninth Circuit doctrine that stipulates federal law should apply to tribal activities whenever the activity is not traditionally governmental in nature or purely intramural. As a result, tribal governments have faced uncertainty as to when the NLRB would assert jurisdiction and have lost parity with federal, state, and local government entities that should be maintained under tribal sovereignty.

H.R. 511 would clarify the National Labor Relations Act by amending the definition of employer to explicitly exclude tribal governments, restoring the status tribes operated under prior to the 2004 NLRB decision.

The committee report can be found [here](#).

## **OUTSIDE GROUPS:**

### **Supporting:**

[U.S. Chamber of Commerce](#)

[National Congress of American Indians](#)

American Indian Chamber of Commerce of South Carolina (SC)

American Indian Infrastructure Association (WY)

Arctic Slope Native Association (AK)

Arctic Slope Regional Corporation (AK)

Arizona Chamber of Commerce and Industry (AZ)

Big Valley Band of Pomo Indians of the Big Valley Rancheria (CA)

Brainerd Lakes Chamber of Commerce (MN)

California Association of Tribal Governments (CA)

Chickasaw Nation (OK)

Choctaw Nation of Oklahoma (OK)

Comanche Nation (OK)

Confederated Tribes of the Chehalis Reservation (WA)

Confederated Tribes of the Colville Reservation (WA)

Council for Native Hawaiian Advancement (HI)

Cow Creek Band of Umpqua Tribe of Indians (OR)

Diné Development Corp a wholly owned Navajo Nation business (AZ, NM)

Elk Valley Rancheria (CA)

Forest County Potawatomi Community (WI)

Great Plains Tribal Chairman's Association (SD)

Greater Flagstaff Chamber of Commerce (AZ)

Ho-Chunk Nation (WI) Jamestown S'Klallam Tribe (WA)

Kenaitze Indian Tribe (AK) Little River Band of Ottawa Indians (MI)

Mashantucket Pequot Tribal Nation (CT)

Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians (Gun Lake Tribe) (MI)

Midwest Alliance of Sovereign Tribes (WI)

Minnesota American Indian Chamber of Commerce (MN)

Mohegan Tribe of Connecticut (CT)

Muscogee (Creek) Nation (OK)

National Native American Bar Association (AZ)

National Native American Chamber of Commerce (MO)

Native American Contractors Association (DC)

New Stuyahok Traditional Council (AK)

Nez Perce (ID)

Norman Chamber of Commerce (OK)

Oklahoma Indian Gaming Association (OK)

Otoe-Missouria Tribe of Indians (OK)

Pechanga Band of Luiseño Indians (CA)

Penobscot Indian Nation (ME)

Prairie Island Indian Community (MN)

Pueblo of Laguna (NM)

Quapaw Tribe of Oklahoma (OK)

Red Cliff Band of Lake Superior Chippewa Indians (WI)

Rincon Band of Luiseño Indians (CA)

Rocky Mountain Indian Chamber of Commerce (CO)

Saginaw Chippewa Indian Tribe (MI)

San Diego East County Chamber of Commerce (CA)

Santee Sioux Nation (NE)

Sault Ste. Marie Tribe of Chippewa Indians (MI)

Seldovia Village Tribe (AK)

Seminole Nation of Oklahoma (OK)

Shingle Springs Band of Miwok (CA)

Shinnecock Indian Nation (NY)

Shoalwater Bay Tribe (WA)

Soboba Band of Luiseño Indians (CA)

Southern Ute Indian Tribe (CO)

Standing Rock Sioux Tribe (ND, SD)

Stockbridge-Munsee Community (WI)  
Susanville Indian Rancheria (CA)  
Sycuan Band of the Kumeyaay (CA)  
Table Mountain Rancheria (CA)  
The Chamber Grand Forks/East Grand Forks (ND, MN)  
Thlopthlocco Tribal Town (OK)  
Torres Martinez Desert Cahuilla Indians (CA)  
United South and Eastern Tribes (TN)  
Viejas Band of Kumeyaay Indians (CA)  
Wayland Area Chamber of Commerce (MI)

White Earth Band of Chippewa Indians (MN)  
Wichita and Affiliated Tribes (OK)  
Yocha Dehe Wintun Nation (CA)

**Opposing:**

[United Steelworkers](#)

[Communications Workers of America](#)

[Teamsters](#)

[United Auto Workers](#)

**COMMITTEE ACTION:**

H.R. 511 was introduced on January 22, 2015 and was referred to the House Committee on Education and the Workforce, where it was ordered reported by a voice vote on July 22, 2015.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is available.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor, Congress has the power to enact this legislation pursuant to Article I, Section 8, Clause 3 to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

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