



NATIONAL CONGRESS OF AMERICAN INDIANS

July 21, 2015

Chairman John Kline
Committee on Education & Workforce
U.S. House of Representatives
Washington, DC 20515

Ranking Member Bobby Scott
Committee on Education & Workforce
U.S. House of Representatives
Washington, DC 20515

Re: NCAI Support for H.R. 511, Tribal Labor Sovereignty Act

Dear Chairman Kline, Ranking Member Scott, and Members of the Committee:

I write on behalf the National Congress of American Indians to thank you for your support for the Tribal Labor Sovereignty Act, H.R. 511. As you will see by the attached resolution, NCAI strongly supports amending the law to clarify that tribal governments share the same “employer” status as federal, state and local governments.

The member tribes of NCAI have deliberated labor matters and have voiced their support for federal legislation that confirms the sovereign governmental right of Indian tribes to make their own labor policies based on the economic and social conditions existing on tribal lands. Many tribal governments currently exercise their sovereign authority and welcome labor unions and encourage labor organization. But it is critically important that tribal governments to make this policy decision in a way that protects the functions of tribal government and the tribal members living on reservations.

The National Labor Relations Act was enacted in 1935, at the height of the Great Depression, and given the deplorable economic conditions on reservations at that time it is not surprising that the law makes no reference to Indian tribal governments. For over forty years, federal courts had interpreted the NLRA to include tribal governments in its general exemptions for government entities because Congress clearly intended to exempt all government entities. In 2007, the D.C. Circuit Court took a radical departure from several decades of judicial interpretation and unilaterally expanded the NLRA’s application to tribal governments.

Tribal leaders disagree with this interpretation of the law and have strong concerns that it will impair tribal sovereignty and the developing economies in Indian country. Unlike private businesses, governments cannot safely interrupt or stop operations because of labor strife nor should they be forced to negotiate fundamental matters of jurisdiction. Our police and fire departments have to stay open, and depend on tribal government business operations for funding.

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EXECUTIVE DIRECTOR
Jacqueline Johnson Pata
Tlingit

NCAI HEADQUARTERS

1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

H.R. 511 builds upon a principle that has been amply demonstrated by Indian tribes across the country: when tribal sovereignty is respected and acknowledged, economic success follows. H.R. 511 will prevent an unnecessary and unproductive overreach into the sovereign jurisdiction of tribal governments. By amending the NLRA to expressly treat tribal government employers and their enterprises and institutions the same as it treats state and local government employers, H.R. 511 will provide certainty to ensure that tribal ordinances relating to labor practices will be respected.

H.R. 511 builds upon recent congressional actions affirming tribal sovereignty such as the enactment of the Tribal General Welfare Exclusion Act in September 2014. Thank you for your support of this important bill and your work towards its swift passage.

Sincerely,

A handwritten signature in dark ink, reading "Brian Cladoosby". The signature is written in a cursive, flowing style. The first name "Brian" is written in a larger, more prominent script, and "Cladoosby" follows in a similar but slightly smaller script. The signature is positioned above the printed name.

Brian Cladoosby



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #MSP-15-006

TITLE: Supporting Treatment of Indian Tribes and Governments for Purposes of the National Labor Relations Act and Supporting H.R. 511 and S. 248 the “Tribal Labor Sovereignty Act of 2015”

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, President Franklin D. Roosevelt’s New Deal for Indian tribes is the Indian Reorganization Act of 1934, enacted to strengthen tribal governments, encourage adoption of tribal constitutions and incorporation of wholly owned tribal government corporations; and

WHEREAS, the National Labor Relations Act (NLRA) of 1935 was FDR’s New Deal for Labor, which provides for collective bargaining in the private industry, generally is not applied to governments, and from 1925 until 2004 the National Labor Relations Board (NLRB) consistently held that the NLRA does not apply to tribal governments; and

WHEREAS, the NLRB has ruled that the NLRA does not apply to territorial governments (Puerto Rico, American Samoa, Guam, U.S. Virgin Islands, although they are not mentioned; and

WHEREAS, in 2004 the National Labor Relations Board improperly reversed decades of precedent in deciding that tribes are subject to the National Labor Relations Act; and

WHEREAS, the United States has a treaty-based obligation to protect Indian tribal sovereignty within reservations and in Indian lands set apart for the use and occupancy of Indian tribes.

NOW THEREFORE BE IT RESOLVED, that Congress must affirm the original construction of the National Labor Relations Act that treats Indian tribes as governments for all purposes; and

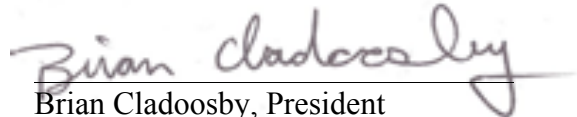
BE IT FURTHER RESOLVED, that NCAI and its Member Indian Tribes call upon Congress to enact H.R. 511 and S. 248 “the Tribal Labor Sovereignty Act of 2015” and amendment to the National Labor Relations Act; and

BE IT FURTHER RESOLVED, that NCAI will work with the other national and regional tribal organizations to coordinate efforts to ensure that Indian Tribes are treated as governments under the National Labor Relations Act and any amendment thereto; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2015 Midyear Session of the National Congress of American Indians, held at the St. Paul River Centre, St. Paul, MN, June 28 to July 1, 2015, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary