
TRIBAL LABOR SOVEREIGNTY ACT OF 2017

BACKGROUND: With its 2004 *San Manuel Indian Bingo and Casino* decision, the National Labor Relations Board (NLRB) overturned long-standing precedent and began using a subjective test to determine when and where to assert its jurisdiction over Native American tribes. Prior to this decision, the NLRB respected the sovereignty of tribes, holding that they were generally free from outside intervention. The board now decides on a case-by-case basis whether a tribal business on tribal land is for commercial purposes, and if it is, the board asserts its jurisdiction over that business. As a result, the NLRB is picking winners and losers among tribal businesses and creating legal confusion and uncertainty for tribal leaders.

Members of the Native American community have raised concerns about the NLRB's actions and have urged Congress to stand up for tribal sovereignty:

- "The *San Manuel* decision was not only a complete reversal of the NLRB's recognition of tribes as sovereigns, it is also an affront to Indian Country." — **Mashantucket Pequot Nation**
- "The policy question of whether tribal sovereignty is to be supported by the U.S. ... is a profound issue of national importance that cannot be left in the hands of an admittedly inexpert federal agency." — **The Chickasaw Nation**
- "This is not merely a legal issue but a moral imperative of protecting and defending the sovereignty of America's Indian tribes." — **Swinomish Indian Tribal Community**
- "Continued threat of NLRB intrusion into tribal governance undermines the ability of a tribal government ... to carry out its ultimate responsibility to deliver essential government services." — **Viejas Band of Kumeyaay Indians**
- "We are simply asking that our right to self-govern is acknowledged and not brushed aside by an external agency." — **The Navajo Nation**

H.R. 986: To protect the sovereignty of Native American tribes from bureaucratic overreach, Rep. Todd Rokita (R-IN) introduced the *Tribal Labor Sovereignty Act of 2017* (H.R. 986). The legislation would amend the *National Labor Relations Act* to clarify that the law does not apply to any enterprise or institution owned and operated by an Indian tribe and located on tribal land. This commonsense solution:

- ✓ **Prevents the NLRB from wrongfully exerting jurisdiction** over Native American businesses operating on tribal lands by restoring a well-established legal standard.
- ✓ **Protects the sovereignty of Native American tribes**, reaffirming they are afforded the same rights and protections enjoyed by state and local governments.
- ✓ **Ensures tribes have control over their labor relations** and can determine what is best for their workplaces.
- ✓ **Eliminates legal confusion and uncertainty** that is hindering the ability of tribal governments to serve their citizens.