



# NATIONAL CONGRESS OF AMERICAN INDIANS

September 9, 2015

The Honorable Barack Obama  
President of the United States  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

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## Re: Support for the Tribal Labor Sovereignty Act

Dear President Obama:

We tribal leaders from across America write to urge support for the Tribal Labor Sovereignty Act pending before Congress, S. 248 and H.R. 511. The legislation has been successfully reported out of committee in both the Senate and the House, and we anticipate floor votes this fall. It is critical for you to voice your support for the legislation as that time approaches. This proposed legislation is an integral part of your Administration's efforts to ensure that the United States continues to respect the sovereignty of tribal governments, and does so by explicitly adding "tribes" to the definition of governmental entities that are exempt from the National Labor Relations Act.

The NLRA was enacted in 1935 to address growing and violent upheavals in private industry. The Act was never designed to regulate government employment, because governments owe their first duty to their citizens. Governments were therefore expressly exempted from the Act. Although the NLRA did not specifically list out each and every type of exempted government, the Board understood Congress's plain intent and consistently interpreted the government exemption to include tribal governments. But in 2004 the NLRB did an about-face and, without either consulting tribes or writing new regulations, the Board declared that Congress intended the Act to apply to tribal governments after all. This interpretation of the law is diametrically opposed to Congress's stated intention to exempt governments, rather than to cover them. Overnight, tribal governments became the only governments out of 90,000 state and local governments to be covered by the NLRA.

Congress's wisdom in exempting governments from the Act is plain. Applying a private sector labor regime of forced collective bargaining over all conditions of employment, under the threat of protected strikes, is a formula for bringing government to its knees. A government would have to choose between surrendering its very right to enact laws, or permit government itself be shut down by work stoppages. This is particularly problematic for tribal governments, whose fragile economic activities are as critical to their success as governments and the resulting delivery of essential government services as is a tax base to any other government. Unlike private businesses, no government can safely shut down operations because of labor disputes. Our police and fire departments, our schools and hospitals, our courts, and our tribal legislatures must stay open. And to do so depends upon uninterrupted revenue-generating activities operated by tribal government employees. The Tribes' exemption from the NLRA is crucial to their very existence as sovereign tribal governments.

The Tribal Labor Sovereignty Act builds upon a principle that has been amply proven by Indian tribes across the country: when tribal sovereignty is respected and acknowledged, successful governments follow. The legislation will address the NLRB's unnecessary and severely damaging overreach into the sovereign jurisdiction of tribal governments. By amending the NLRA to expressly treat tribal government employers the same as state and local government employers, the law will provide needed certainty to ensure that tribal ordinances relating to labor practices will be respected, while also assuring parity across all the Nation's governments.

This legislation is a crucial piece of your Administration's unwavering support for tribal self-governance and self-determination. Your work on issues affecting Indian country has consistently built on respect for tribal self-government, from the tribal provisions in the Affordable Care Act to the tribal jurisdiction provisions of the Violence Against Women Act. There is presented here not merely a legal issue but a moral imperative to protect and defend the sovereignty of America's Indian Tribes and their corresponding right to govern themselves as they deem best. That is true sovereignty and self-determination. You have been the Tribes' consistent champion in the past, and we call upon your leadership once again at this critical crossroad.

Thank you for your consistent record of commitment to maintaining the integrity and effectiveness of tribal self-governance, and for your leadership in assuring parity for tribal governments seeking to meet the needs of their citizens against a terrible past and in the face of continuing barriers. If you have any questions, please contact Jacqueline Pata, NCAI Executive Director, at [jpata@ncai.org](mailto:jpata@ncai.org) or 202-466-7767.

Sincerely,

The National Congress of American Indians; and  
Agua Caliente Band of Cahuilla Indians  
Beaver Village  
Bishop Paiute Tribe  
Bois Forte Band of Chippewa  
Bridgeport Indian Colony  
California Association of Tribal Governments (CATG)  
Central Council of the Tlingit & Haida Indian Tribes  
Chickasaw Nation  
Choctaw Nation of Oklahoma  
Citizen Potawatomi Nation  
Comanche Nation  
Confederated Tribes of the Umatilla Indian Reservation  
Coquille Indian Tribe  
Delaware Nation  
Eastern Band of Cherokee Indians  
Ewiaapaayp Band of Kumeyaay Indians  
Fond du Lac Band of Lake Superior Chippewa  
Forest County Potawatomi Community  
Fort Independence Indian Community

Fort Peck Assiniboine & Sioux Tribes  
Grand Portage Band of Chippewa  
Grand Traverse Band of Ottawa & Chippewa Indians  
Hoonah Indian Association  
Iipay Nation of Santa Ysabel  
Isle de Jean Charles Band of Biloxi-Chitimacha-Choctaw  
Jamestown S'Klallam Tribe  
Jena Band of Choctaw Indians  
Leech Lake Band of Ojibwe - Minnesota Chippewa Tribe  
Little River Band of Ottawa Indians  
Lone Pine Paiute-Shoshone Tribe  
Lower Elwha Klallam Tribe  
Lower Sioux Indian Community  
Mashantucket Pequot Tribal Nation  
Mashpee Wampanoag Tribe  
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians  
Mesa Grande Band of Mission Indians  
Middletown Rancheria of Pomo Indians of California  
Mille Lacs Band of Ojibwe  
Mohegan Tribe  
Morongo Band of Mission Indians  
MOWA Band of Choctaw Indians  
Muscogee (Creek) Nation  
Native Village of Afognak  
Native Village of Port Lions  
Nenana Native Association  
Nez Perce Tribe  
Nottawaseppi Huron Band of the Potawatomi  
Oglala Sioux Tribe  
Ohkay Owingeh  
Omaha Tribe of Nebraska  
Organized Village of Saxman  
Otoe-Missouria Tribe of Indians  
Pawnee Nation  
Pechanga Band of Luiseño Indians  
Poarch Band of Creek Indians  
Prairie Island Indian Community  
Pueblo of Isleta  
Pueblo of Laguna  
Pueblo of Zuni  
Puyallup Tribe  
Red Cliff Band of Lake Superior Chippewa Indians  
Red Lake Band of Chippewa Indians  
Redding Rancheria  
Reno-Sparks Indian Colony

Sac & Fox Nation  
Saginaw Chippewa Tribe  
Saint Regis Mohawk Tribe  
San Manuel Band of Mission Indians  
Sault Tribe of Chippewa Indians  
Seldovia Village Tribe  
Seminole Nation of Oklahoma  
Seneca Nation of Indians  
Shakopee Mdewakanton Sioux Community  
Shingle Springs Band of Miwok  
Shinnecock Indian Nation  
Shoalwater Bay Tribe  
Shoshone-Bannock Tribes  
Skokomish Indian Tribe  
Soboba Band of Luiseno Indians  
Southern Ute Indian Tribe  
Squaxin Island Tribe  
Standing Rock Sioux Tribe  
Susanville Indian Rancheria  
Swinomish Indian Tribal Community  
Sycuan Band of the Kumeyaay Nation  
Table Mountain Rancheria  
Thlopthlocco Tribal Town  
Timsisha Shoshone Tribe  
Traverse Bay Bands of Odawa Indians  
United Houma Nation, Inc.  
Upper Sioux Community  
Viejas Band of Kumeyaay Indians  
Wampanoag Tribe of Gay Head (Aquinnah)  
White Earth Nation  
Wilton Rancheria