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|---------------|--------------|-------------|
| Stefanik | Valadao | Wilson (SC) |
| Stewart | Wagner | Wittman |
| Stivers | Walberg | Womack |
| Taylor | Walden | Woodall |
| Tenney | Walker | Yoder |
| Thompson (PA) | Walorski | Yoho |
| Thornberry | Weber (TX) | Young (AK) |
| Tiberi | Webster (FL) | Young (IA) |
| Tipton | Wenstrup | Zeldin |
| Trott | Westerman | |
| Upton | Williams | |

NOES—181

| | | |
|-------------------|----------------|----------------|
| Aguilar | Garamendi | O'Halleran |
| Barragan | Gomez | O'Rourke |
| Bass | Gonzalez (TX) | Pallone |
| Beatty | Gottheimer | Panetta |
| Bera | Green, Al | Pascarell |
| Beyer | Green, Gene | Payne |
| Bishop (GA) | Grijalva | Pelosi |
| Blumenauer | Hastings | Perlmutter |
| Blunt Rochester | Heck | Peters |
| Bonamici | Higgins (NY) | Peterson |
| Boyle, Brendan F. | Himes | Pingree |
| Brady (PA) | Hoyer | Pocan |
| Brown (MD) | Huffman | Polis |
| Brownley (CA) | Jackson Lee | Price (NC) |
| Bustos | Jayapal | Quigley |
| Butterfield | Jeffries | Raskin |
| Capuano | Johnson (GA) | Rice (NY) |
| Cardenas | Johnson, E. B. | Richmond |
| Carson (IN) | Kaptur | Rosen |
| Cartwright | Keating | Roybal-Allard |
| Castor (FL) | Kelly (IL) | Ruiz |
| Castro (TX) | Kennedy | Ruppersberger |
| Chu, Judy | Khanna | Rush |
| Ciulline | Kihuen | Ryan (OH) |
| Clark (MA) | Kildee | Sanchez |
| Clarke (NY) | Kilmer | Sarbanes |
| Clay | Krishnamoorthi | Schakowsky |
| Cleaver | Kuster (NH) | Schiff |
| Clyburn | Langevin | Schneider |
| Cohen | Larsen (WA) | Schrader |
| Connolly | Larson (CT) | Scott (VA) |
| Cooper | Lawrence | Scott, David |
| Correa | Lawson (FL) | Serrano |
| Costa | Lee | Sewell (AL) |
| Courtney | Levin | Shea-Porter |
| Crist | Lewis (GA) | Sherman |
| Crowley | Lieu, Ted | Sinema |
| Cuellar | Lipinski | Sires |
| Davis (CA) | Loeb | Slaughter |
| Davis, Danny | Loeb | Smith (WA) |
| DeFazio | Lofgren | Soto |
| DeGette | Lowenthal | Speier |
| Delaney | Lowe | Suozi |
| DeLauro | Lujan Grisham, | Swalwell (CA) |
| DelBene | M. | Takano |
| Demings | Lujan, Ben Ray | Thompson (CA) |
| Deutch | Lynch | Thompson (MS) |
| Dingell | Maloney, | Titus |
| Doggett | Carolyn B. | Tonko |
| Doyle, Michael F. | Maloney, Sean | Torres |
| Ellison | Matsui | Tsongas |
| Engel | McCollum | Vargas |
| Eshoo | McEachin | Veasey |
| Espallat | McGovern | Vela |
| Esty (CT) | Meeks | Velázquez |
| Evans | Meng | Visclosky |
| Foster | Moore | Walz |
| Frankel (FL) | Moulton | Wasserman |
| Fudge | Murphy (FL) | Schultz |
| Galleo | Nadler | Waters, Maxine |
| | Napolitano | Watson Coleman |
| | Neal | Welch |
| | Norcross | |

NOT VOTING—23

| | | |
|---------------|--------------|---------------|
| Adams | Garrett | McNerney |
| Barr | Gutiérrez | Nolan |
| Brooks (IN) | Hanabusa | Scalise |
| Carbajal | Jenkins (WV) | Turner |
| Cummings | Johnson, Sam | Walters, Mimi |
| DeSaulnier | Kind | Wilson (FL) |
| Frelinghuysen | King (IA) | Yarmuth |
| Gabbard | McHenry | |

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1641

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. LAMALFA. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

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

There was no objection.

□ 1645

AMENDING THE WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS QUANTIFICATION ACT OF 2010

Mr. LAMALFA. Mr. Speaker, pursuant to House Resolution 681, I call up the bill (S. 140) to amend the White Mountain Apache Tribe Water Rights Quantification Act of 2010 to clarify the use of amounts in the WMAT Settlement Fund, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 681, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 115-54 is adopted, and the bill, as amended, is considered read.

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

S. 140

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

SECTION 1. USE OF FUNDS IN WMAT SETTLEMENT FUND FOR WMAT RURAL WATER SYSTEM.

(a) AUTHORIZATION OF WMAT RURAL WATER SYSTEM.—Section 307(a) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3080) is amended in the matter preceding paragraph (1) by inserting “, (b)(2),” after “subsections (a)”,

(b) FUNDING.—Section 312(b)(2)(C)(i)(III) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3093) is amended by striking the period at the end and inserting the following: “, including the planning, design, and construction of the WMAT rural water system, in accordance with section 307(a).”

SEC. 2. EXPANSION OF PUEBLO OF SANTA CLARA LAND ELIGIBLE FOR 99-YEAR LEASE.

Subsection (a) of the first section of the Act of August 9, 1955 (commonly known as the “Long-Term Leasing Act”) (25 U.S.C. 415(a)), is amended—

(1) by striking “Indians,,” and inserting “Indians,;”

(2) by inserting “Ohkay Owingeh pueblo,” after “Cochiti,;”

(3) by inserting “the pueblo of Santa Clara,” after “Pojoaque,;”

(4) by striking “the lands” and inserting “the land”;

(5) by striking “lands held in trust for the Pueblo of Santa Clara,;” and

(6) by striking “lands held in trust for Ohkay Owingeh Pueblo”.

SEC. 3. 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 orga-

nized 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 Indian or held by any Indian tribe or Indian 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 bill, as amended, shall be debatable for 1 hour equally divided among and controlled by the chairs and ranking minority members of the Committee on Education and the Workforce and the Committee on Natural Resources.

The gentleman from California (Mr. LAMALFA), the gentleman from Arizona (Mr. GRIJALVA), the gentleman from Michigan (Mr. WALBERG), and the gentleman from Virginia (Mr. SCOTT) each will control 15 minutes.

The Chair recognizes the gentleman from California (Mr. LAMALFA).

GENERAL LEAVE

Mr. LAMALFA. 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 S. 140.

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

There was no objection.

Mr. LAMALFA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 140, as amended, which consists of three sections promoting Tribal self-governance and sovereignty over their lands, resources, and businesses belonging to Indian Tribes.

Section 1 of S. 140 amends current law to ensure the completion of a Tribal water system in Arizona. It makes a technical amendment to the White Mountain Apache Tribe Water Rights Quantification Act of 2010 to clarify that authority exists for any necessary cost overruns associated with the Tribe’s rural water system, provided it falls within the existing authorization level.

This provision provides the White Mountain Apache Tribe and the Department of the Interior certainty that there will be sufficient funds to complete the rural water system.

Section 2 of S. 140 is identical to S. 249, a bill referred to the Subcommittee on Indian, Insular and Alaska Native Affairs, which I chair. The Natural Resources Committee reported S. 249 favorably on July 24, 2017, by unanimous consent.

Section 2 amends what is commonly known as the Long-Term Leasing Act, to authorize two Indian pueblos in New Mexico to lease their restricted fee lands for up to 99 years, subject to the approval of the Secretary of the Interior.

Such leases may be for a variety of nonmineral development purposes. While current law generally authorizes Indian Tribes, subject to the approval of the Secretary, to lease their trust and restricted lands, the terms of the leases may not exceed 25 years.

This bill would authorize the pueblos of Santa Clara and Ohkay Owingeh to lease their restricted fee lands for terms of up to 99 years.

Congress has amended the Long-Term Leasing Act more than 40 times to adjust the terms and conditions of leases of Indian lands and to authorize leases of specific Indian lands by their Indian owners for a term of up to 99 years, subject to the approval of the Secretary.

While the Natural Resources Committee does not have jurisdiction over section 3 of S. 140, I wish to express my full support for promoting Tribal self-governance by giving Tribes parity with States and local governments for the purposes of the National Labor Relations Act.

Tribal self-governance, or sovereignty, means that a Tribe may make its own laws and be governed by them. Since President Nixon launched the era of Indian self-determination, Tribes have shown that when they assume management and control over their affairs, they actually outperform the Federal Government.

Thus, section 3 of S. 140 will continue and enhance the policies of Tribal self-determination that have almost always enjoyed strong bipartisan, bicameral support for these measures.

S. 140, as amended, is fully consistent with promoting this important Tribal economic opportunity and freedom to do as they see fit.

Mr. Speaker, I urge a “yes” vote on the bill, and I reserve the balance of my time.

Mr. GRIJALVA. Mr. Speaker, I yield myself such time as I may consume.

Today, we are debating a bill package that follows a very familiar playbook for House Republican leadership.

This bill package is just the latest attempt by my Republican colleagues to push a highly partisan agenda by combining that divisive proposal with noncontroversial items.

Today’s bill includes two bills that passed Senate and House Natural Resources Committee by unanimous consent.

One of these bills would make a technical correction to a previously passed Tribal water settlement, and the other would clarify that two pueblos in New Mexico should receive equal treatment when leasing their lands.

Unfortunately, instead of quickly passing these bills and suspensions and sending them to the President to be signed into law, House Republican leadership has decided to take those two bills hostage and combine them with a highly divisive bill that is likely not going anywhere—H.R. 986, section 3 of this legislation—which I do not support.

This political stunt seems doomed to fail. The only thing it will accomplish is wasting everyone’s time.

Meanwhile, a list of bills that are critical to Tribes across the country sit in the Natural Resources Committee and are just ignored by the majority.

For example, we could be moving legislation that would protect and preserve Native American cultural artifacts, or legislation that would address issues at Indian Health Service, or legislation to codify meaningful and robust Tribal consultation process; or we could be here today passing the bipartisan bill known as the “clean” Carcieri fix.

These bills deserve attention. They are promoted by not only Indian Country, but many, many Members in a bipartisan fashion in this House.

I hope we can move past these petty political games soon, which people are, rightfully, sick of having to see.

Mr. Speaker, I urge my colleagues across the aisle to change course and stop blocking consensus bills from moving through this body by conjoining them with divisive, contentious proposals.

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

Mr. LAMALFA. Mr. Speaker, I yield 3 minutes to the gentleman from South Dakota (Mrs. NOEM).

Mrs. NOEM. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, today, I rise in support of S. 140.

I strongly support this bill, but I want to speak today about one particular piece of it—the Tribal Labor Sovereignty Act—which I helped introduce, along with Mr. ROKITA.

Mr. Speaker, I often stand in this House to oppose interference from the heavy hand of the Federal Government, and this is no different.

In 2004, the National Labor Relations Board, unilaterally, decided that it needed to meddle in the affairs of Tribally owned businesses on Tribal lands. This is a board that was set up to oversee union elections but has become the bureaucratic arm of big labor.

By further expanding its jurisdiction, the National Labor Relations Board threatened the foundation of Indian law, the principle of Tribal sovereignty, and the limits of a small Federal Government.

Since the Obama administration implemented this incredible government overreach, dozens of Tribes have supported legislation to clarify that the NLRB’s jurisdiction does not extend to Tribes. The conservative, small government legislation we consider today would make that necessary correction.

Native American Tribes around the country, and especially in my home State of South Dakota, are plagued with grinding poverty, high unemployment, substance abuse, and poor healthcare. They continually seek economic development through self-determination, and the last thing that they need, when trying to improve economic

opportunities for their citizens, is a Federal bureaucracy further meddling with their efforts.

Quite frankly, Mr. Speaker, I believe that subjecting Native American Tribes to National Labor Relations Board rules is yet another sign that some still want the Federal Government to interfere with Tribal decision-making.

I have sponsored the Tribal Labor Sovereignty Act, and this House has passed it multiple times.

I am proud that many South Dakota Tribes have long supported the bill, including the Cheyenne River Sioux Tribe, the Oglala Sioux Tribe, and the Great Plains Tribal Chairman’s Association.

I urge my colleagues to withdraw the heavy hand of government and again support Tribal sovereignty.

Mr. GRIJALVA. Mr. Speaker, may I inquire as to how much time I have remaining.

The SPEAKER pro tempore. The gentleman from Arizona has 13 minutes remaining.

Mr. GRIJALVA. Mr. Speaker, I yield the balance of my time to the gentleman from Virginia (Mr. SCOTT), the ranking member of the Education and the Workforce Committee, and I ask unanimous consent that he may control that time.

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

There was no objection.

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

Mr. Speaker, I rise in opposition to S. 140.

As has been pointed out, buried in section 3 of this otherwise non-controversial water and lands bill is the text of H.R. 986, the Tribal Labor Sovereignty Act. This nongermane provision would strip thousands of employees of their rights and protections under the National Labor Relations Act at Tribal enterprises located on Tribal lands.

At issue in the Tribal Labor Sovereignty Act are two solemn and deeply rooted principles:

First, the right that Indian Tribes possess in matters of local self-governance;

Second, the rights of workers to organize unions, bargain collectively, and engage in concerted activities for mutual aid and protection.

Rather than attempting to balance these two important principles, the bill chooses sovereignty for some over the human rights of others. I would note that the approximately 75 percent of workers employed at Tribal casinos are not members of the Tribes running the casino, but this bill would strip labor rights of hundreds of thousands of these workers as well as those who are actually members of the Tribes.

In doing so, this legislation would abandon the carefully drawn balance between Tribal sovereignty and workers’ rights that was adopted in the San

Manuel decision by a Republican-led National Labor Relations Board in 2004. Perhaps prompted by litigation, the board ruled that the National Labor Relations Act will only apply if it does not impact the exclusive rights of self-governance in purely intramural matters or abrogate rights guaranteed by treaties.

The San Manuel decision is based on legal principles governing Federal laws of general applicability with respect to Indian Tribes that have been upheld by appeals courts for over 30 years. That is why courts have ruled that Tribes must comply with labor and employment laws such as the Fair Labor Standards Act; the Occupational Safety and Health Act; the Employee Retirement Income Security Act, ERISA; and the employer mandate of the Affordable Care Act.

Yet this bill singles out the National Labor Relations Act on the grounds that Tribes must be given parity with State and local governments which statutorily are exempt from the NLRA. Maybe States and localities should have been considered, but the statutes are clear that they are exempt.

This is not a reason why Tribes should be exempt from an otherwise generally applicable law. Furthermore, State and local governments are covered under title VII of the Civil Rights Act; whereas, Tribes are expressly exempt.

For employees of Tribal enterprises, therefore, unions are the sole protection under Federal law against discrimination, including sexual harassment, because they can negotiate a collective bargaining agreement that enforces employees' rights to be free from such conduct.

Democrats and Republicans together have insisted that our trading partners abide by and enforce basic labor rights anytime we do a trade deal. And Congress has repeatedly required these obligations in trade agreements, but today the House will vote on a bill that takes away the assurance that employees have for the freedom of association if they are employed in many Tribal casinos.

This creates a fair question: Would this legislation place the United States Government in breach of any of the trade agreements that are now in effect? According to the International Labor Organization, in an opinion on a similar bill a few years ago, it would, in fact, put us in breach of trade agreements.

We should be able to fashion compromises that, frankly, protect both workers' rights and Tribal sovereignty, but what is before us today fails that test. There is no principled basis for stripping hundreds of thousands of workers from the right to join a union and negotiate better wages simply because they happen to work in a commercial enterprise on Tribal lands.

Mr. Speaker, I urge a "no" vote on the bill, and I reserve the balance of my time.

Mr. LAMALFA. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I thank the gentleman from California for yielding and for his work on this bill.

As he mentioned in the opening statements, there is a provision in the bill that allows the Santa Clara Ohkay Owingeh 99-year leasing program to move forward. That is in resolution to the long-standing problems that we face there. So just a significant provision that affects these two units but also the underlying concept that we are going to recognize the sovereignty of our Tribes.

As many people know, some of the Tribes are faced with just very difficult poverty conditions throughout the history of their Tribes since they have been on the reservations, and I work with close friends of mine who are trying to solve these problems and to find resolution to long-term prosperity on the Indian reservations.

So when the National Labor Relations Board reversed its long-standing status of recognizing the sovereignty of our nations—70 years they had recognized that. In 2004, they simply reversed it without much explanation, without any warning, and certainly without precedent.

□ 1700

It has caused things to be much more difficult, especially in States like New Mexico. So the Tribal leaders are saying: We should be sovereign. We should be allowed to make these sorts of decisions ourself without the Federal Government coming in and putting the bureaucracy there.

The underlying concept of the bill is one that simply says we want prosperity on Native American lands, we want their sovereign actions to take care of themselves, to move themselves forward. That is what the entire Nation says is the American Dream. Let's let that occur for the Native Americans in this country. I think the provisions of the bill are very important.

We have been working for 6 years now in Native American housing, another way to help move prosperity into Native American lands. Again, I support the concept of the bill.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from the Northern Mariana Islands (Mr. SABLAN), the ranking member of the Subcommittee on Health, Employment, Labor, and Pensions.

Mr. SABLAN. Mr. Speaker, I rise in opposition to S. 140 because it includes H.R. 986, the Tribal Labor Sovereignty Act of 2017.

The effect of this legislation would be to strip employees who work at businesses owned and operated by an Indian Tribe and located on Indian lands of the protections afforded by the National Labor Relations Act.

I am a Chamorro, one of the native people of the Northern Marianas, and I fully appreciate the importance of

Tribal sovereignty for Native Americans. However, this legislation does not properly reconcile the competing interests between sovereign rights and the rights of workers.

At least 75 percent of employees at Tribal casinos are not Tribal members. In some cases, as few as 1 percent of the employees are members of the Tribes operating the casino. These workers have no say in the decision-making of Tribal governments.

Workers have the right to organize, to collectively bargain, and to protect their right to fight for a safe workplace, fair pay to provide a living for themselves and their families, and good benefits. They should not be stripped of these rights simply due to the geography of the workplace.

Federal law and Tribal sovereignty should be able to coexist at Tribal casinos without stripping workers of their rights under the National Labor Relations Act.

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

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. TAKANO), the ranking member of the Subcommittee on Workforce Protections.

Mr. TAKANO. Mr. Speaker, I thank Ranking Member SCOTT for yielding.

Mr. Speaker, I rise in strong opposition to S. 140, which would strip protections from workers who are employed by a Tribally-owned business but are not Tribal members. This includes protection from harassment and discrimination in the workplace.

Title VII of the Civil Rights Act, which prohibits employers from discriminating against employees, does not apply to Tribal enterprises. A non-Tribal worker employed by a Tribally-owned casino, for example, cannot file a harassment or discrimination claim in Federal court or with the Equal Employment Opportunity Commission. Instead, collective bargaining agreements fill the gap by including provisions that enforce their right to a fair workplace.

By stripping their collective bargaining rights, this legislation eliminates the only recourse that these workers have against discrimination and harassment. This is one of the many unacceptable consequences of this bill.

Now, I have two letters. One from the International Brotherhood of Teamsters and one from the American Federation of State, County, and Municipal Employees, both of which raise strong objections to the majority's attempt to exclude workers from the rights enshrined in the National Labor Relations Act.

Mr. Speaker, I include these letters in the RECORD.

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS,

Washington, DC, December 6, 2017.
HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 1.4 million members of the International Brotherhood of Teamsters, I am again writing to

express our strong opposition to H.R. 986, the Tribal Labor Sovereignty Act. This legislation would exempt all Tribally-owned and -operated commercial enterprises on Indian lands broadly defined from the National Labor Relations Act (NLRA). We urge you to vote no when the House considers this legislation.

If H.R. 986 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, and power plants, to 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 of 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 inaccurate. 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 at tribally owned enterprises.

Finally, the United States requires its trading partners to implement and abide by internationally recognized labor standards, while H.R. 986 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. 986 when the legislation comes to a vote in the House of Representatives.

Sincerely,

JAMES P. HOFFA,
General President.

AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO,

Washington, DC, January 9, 2018.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 1.6 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to urge to oppose S. 140, as currently amended to expand the exemption of employers under the National Labor Relations Act (NLRA).

S. 140, as amended, is Just another attempt at passing the so-called Tribal Sovereignty Act, which would deny protection under the NLRA to many workers employed by tribal-owned and -operated enterprises on Indian land. A great majority of these workers are not Native Americans and in recent years there has been a substantial expansion of enterprises that would be impacted by this legislation, including not only casinos, but mining operations, power plants, saw mills, ski resorts, high-tech firms, hotels, and spas.

AFSCME supports the principle of sovereignty for tribal governments, but does not believe that this principle should be used to deny workers their collective bargaining rights and freedom of association. We 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 National Labor Relations Board (NLRB) standards. Workers must not be left without any legally enforceable right to form unions and bargain collectively, especially in instances where they are working for commercial operations competing with other businesses.

AFSCME strongly urges you to oppose S. 140, as amended, when it comes before the House for a vote.

Sincerely,

SCOTT FREY,

Director of Federal Government Affairs.

Mr. TAKANO. Mr. Speaker, I strongly urge my colleagues to oppose this legislation.

Mr. LAMALFA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in summary, this Federal Government has had a very spotty record over the many decades of its treatment of Native American Indian Tribes in this Nation, and for us to not

act in order to countermand what the National Labor Relations Board has done on its own would be a mistake. It would be wrongheaded, in that if we are going to have the types of relations, these government-to-government relations with Indian Tribes in this country, that level of respect, then Congress needs to act, Congress needs to maintain that relation.

So for local governments, State governments to have this protection from the NLRA and the Tribes not to, then we would be making a severe mistake to not take action here today with this legislation.

Mr. Speaker, I urge strong support for all portions of S. 140 today, and I yield back the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding.

I respect and support Tribal sovereignty. I also support workers' rights to unionize and collective bargaining to improve their workplace and the lives of their families. Those rights must be balanced, but they are not in this bill.

Union members have a collective voice to fight for higher wages, better benefits, safer workplaces, fewer injuries, fewer deaths, lower rates of gender-based violence.

After Unite Here, a union, found that 58 percent of hotel workers and 77 percent of casino workers in the Chicagoland, where I am from, had been sexually harassed, they won a contract that includes panic buttons to protect workers.

Labor rights are fundamental, but under this bill, workers at Tribally-owned businesses, casinos and hotels, construction, and other industries would lose those rights.

Remember, three out of four workers employed in Tribal casinos are not Tribal members. Those workers could end up with no way to bargain for fair wages, appeal unfair disciplinary action, or act against sexual harassment.

Looking at a similar bill in the last Congress, the International Labour Organization stated: "It would appear likely that an exclusion of certain workers from the National Labor Relations Act 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."

Mr. Speaker, there is no such requirement in this bill. Protect workers. Reject this unfair and unbalanced bill.

Mr. Speaker, I include in the RECORD the opinion from the International Labour Office.

INTERNATIONAL LABOUR OFFICE,

Genève 22.

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 sectoral 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 US Council for International Business.

Yours sincerely,

CORINNE VARGHA,
Director of the

International Labour Standards Department.

Mr. WALBERG. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today in strong support of S. 140, the Tribal Labor Sovereignty Act, a provision in the pending legislation that will end the National Labor Relations Board's alarming overreach into businesses operated on sovereign Tribal lands.

In March of 2017, the Subcommittee on Health, Employment, Labor, and Pensions, which I have the privilege of chairing, held a hearing on this legislation and heard from Native American business leaders on how the NLRB's arbitrary use of its jurisdiction had been harming businesses large and small on Tribal lands.

Leaders of the Native American community testified before the subcommittee on how the NLRB had meddled in the day-to-day operations and management of Native American businesses, often dragging out matters for years.

To make matters worse, the proceedings led by the NLRB are creating burdensome legal costs for businesses who are seeking to provide high-quality goods and services to Native American communities.

While members of the NLRB have changed and have begun to make great progress in reversing some of the Board's most damaging decisions, Congress needs to make it clear that Tribal labor sovereignty must be safe from future Washington overreach.

The Tribal Labor Sovereignty Act will clarify the National Labor Relations Act and reverse the troubling encroachment of the Federal Government on Tribal lands.

Congress has the opportunity here to stand up for sovereign rights of Native Americans and the businesses they own and operate on their lands. These Tribes have created their own system of labor protections for employees and employers consistent with their lands and traditions, and it is not for Washington bureaucrats to tamper with those protections.

I urge my colleagues to support the sovereignty of all Native American Tribes and pass the underlying bill.

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

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

Mr. POCAN. Mr. Speaker, I rise to oppose the bill before us that takes away National Labor Relations Act protections for hundreds of thousands of workers.

I support Tribal sovereignty. In my home State of Wisconsin, I am proud the Ho-Chunk Nation is in my district. Potawatomi, Oneida, Menominee, St. Croix, Stockbridge-Munsee, Lac du Flambeau, Lac Corte Oreilles, Red Cliff, Bad River, and other Tribes all reside in my home State, and I am glad to support the autonomy of those Tribal nations. But this bill isn't about Tribal sovereignty. It is about going after workers' rights.

Look at the track record of the majority in this Congress. The Republicans have continued to go after workers' rights, as they have so far. They have repealed the rule that required companies seeking large Federal contracts to disclose violations of labor law. They made it harder for people whose jobs are shipped overseas to get unemployment insurance. They have made it harder for workers whose employers don't offer retirement plans to save for retirement. They have repealed an OSHA rule requiring employers to maintain accurate records of serious workplace injuries for 5 years, while the administration drastically reduces the number of OSHA inspectors.

This bill isn't about meaningful sovereignty. It is about selective sovereignty, because it only goes after labor rights.

If this were a bill about sovereignty, it would include a number of other areas 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, ERISA; the Family and Medical Leave Act; and the public accommodations of Americans with Disabilities Act, just to start.

If this bill was about sovereignty, it would exempt OSHA and ERISA and the FMLA and the ADA, for starters. But it doesn't do that. This bill only exempts labor protections for hundreds of thousands of workers, Tribal members and nonmembers, because the majority in this Congress isn't really worried about sovereignty. It is concerned

about taking away the rights of workers, and that is what this bill is really about.

Mr. Speaker, if this body wants to help Tribes, I am here to help. Bring a bill to the floor that covers all exempted areas, and that is a bill that I could support. But that is not what is in front of us today.

Mr. Speaker, I include in the RECORD letters of opposition from the International Union of Operating Engineers, the United Auto Workers, United Food and Commercial Workers, and Unite Here.

INTERNATIONAL UNION OF
OPERATING ENGINEERS,
Washington, DC, January 8, 2018.

Hon. PAUL D. RYAN,
Washington, DC.

Hon. NANCY PELOSI,
Washington, DC.

DEAR SPEAKER RYAN AND LEADER PELOSI: The International Union of Operating Engineers opposes the Tribal Labor Sovereignty Act, legislation contained in S. 140 (115-54) that would eliminate the labor protections currently guaranteed to hundreds of thousands of American workers. Indeed, if enacted into law, this bill would constitute the biggest rollback in labor law since the passage of the Taft-Hartley Act in 1947.

The International Union of Operating Engineers (IUOE) represents nearly 400,000 men and women across North America. Members of the International Union of Operating Engineers maintain and operate Native American and non-Native American gaming facilities around the United States, from Connecticut to California, and this legislation would have a dramatic effect on their lives and livelihoods. The IUOE is the second-biggest union in the hospitality sector. But this legislation extends beyond casinos and gaming. IUOE members work in mining and energy facilities on Native American lands in a number of locations, and those workers eventually could lose their rights as a result of this legislation.

In a few short words, this bill changes current law by exempting the National Labor Relations Act from tribal enterprises on tribal lands. Today, the National Labor Relations Board (Board) implements a case-by-case review of whether labor law applies to tribal enterprises.

The precedent-setting case that comes from the San Manuel Band of Mission Indians is instructive. The Tribe operated a 92,000-sq-ft. casino (over two acres), with 1,400 employees. Only five of the workers were Native American. The Board determined that this large commercial establishment should not receive the exemption from labor law provided to states and local government because its operations were fundamentally different than a government. The San Manuels were not providing a public good to members of the tribe. They were not behaving like a government. Instead, the Board determined that when the tribal operation in question is commercial in nature, employs significant numbers of non-Indians, and caters to a non-Native American clientele, "the special attributes of sovereignty are not implicated." The Board determined that private labor law applies to the San Manuel casino, just as it would with any other commercial operation. Federal courts have supported this interpretation. Sovereignty does, however, apply to governmental functions of the tribe, just as they would with any state government.

If passed, the exemption from labor law would unfairly advantage commercial tribal operations at the expense of non-Native

American private-sector companies. Competitors with Native American commercial operations must comply with labor law; Native American operations will not. As mentioned above, the bill's reach extends well beyond the gaming industry. Tribes are engaged in a variety of commercial enterprises, from mining and energy development, to manufacturing and construction. Over time, it is reasonable to expect that tribal enterprises will expand and compete more aggressively with non-Native companies in a wide variety of commercial sectors, without any concern for the rights of workers.

Tribal labor law is woefully inadequate—virtually non-existent in most tribes around the country. It is no replacement for the nation's basic legal framework that protects workers' rights. Eliminating the NLRA for tribal enterprises will strip away freedoms guaranteed to Americans today, including hundreds of thousands of workers at tribal casinos who are not Native American. S. 140 (115-54) would immediately eliminate the rights of thousands of Operating Engineers in workplaces all over the United States.

The International Union of Operating Engineers opposes S. 140 (115-54), which eliminates nearly one-million workers' individual right to take collective action to improve their working conditions, and respectfully urges you to oppose it when it comes to the floor of the House of Representatives on Wednesday.

Thank you for your consideration.

Sincerely,

JAMES T. CALLAHAN,
General President.

INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE AND AG-
RICULTURAL IMPLEMENT WORKERS
OF AMERICA—UAW,

Washington, DC, January 9, 2018.

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 S. 140, because it includes provisions from the Tribal Labor Sovereignty Act (H.R. 986). This misguided bill would deny protection under the National Labor Relations Act (NLRA) to hundreds of thousands of workers employed by tribal casinos. This legislation could also impact dozens of other businesses, including power plants, mining operations, and hotels.

UAW believes strongly in tribal sovereignty and has a strong record of supporting civil rights. 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. 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. As a result of having a union and a legally binding contract, 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. This bill would jeopardize these hard-fought gains.

The Tribal Labor Sovereignty Act 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.

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. Tribes are exempt from employment laws (Title VII of the Civil Rights Act) that apply to state and local governments, whereas private sector contractors work extensively on behalf of state and local governments and generally must comply with the NLRA. 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 significant because 75 percent of Native American gaming employees are not tribal members. At Foxwoods, where the UAW represents the workers, well over 98 percent of employees and patrons are not tribal members. Hundreds of tribal gaming facilities make tens of billions in revenue annually, and these employees are working for what is simply a commercial operation competing with non-tribal businesses.

At a time of growing wealth inequality and a 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 S. 140.

Sincerely,

JOSH NASSAR,
Legislative Director.

UFCW,
Washington, DC, January 9, 2018.

To All Members of the U.S. House of Representatives.

DEAR REPRESENTATIVE: On behalf of the 1.3 million members of United Food and Commercial Workers International Union (UFCW), I am writing to express our strong opposition to the Tribal Labor Sovereignty Act as rolled into a bill that will be reported as S. 140.

UFCW is proud to represent 1,000 members at casinos that operate on tribal lands. These workers have joined together to bargain collectively for good wages, decent benefits, and a voice on the job. Passage of the Tribal Labor Sovereignty Act would take that voice away.

We support sovereignty for tribal governments, but the Tribal Labor Sovereignty Act is so broad that it would prevent any worker from exercising their freedom of association under the National Labor Relations Act (NLRA). The vast majority tribal casino workers are not tribal members and therefore have no voice in tribal policy and are not protected under tribal law.

Most federal laws protecting the workplace apply to tribal businesses including the Employee Retirement Income Security Act (ERISA), Occupational Safety and Health Act (OSHA), the Fair Labor Standards Act (FLSA), and NLRA. The NLRA should not be treated any differently than these other important laws that protect workers.

There are many differences between state and local governments and tribal businesses. State and local governments do not operate multi-billion dollar commercial Enterprises, nor manage enterprises where the majority of the employees and customers are from outside of the jurisdiction. If working people don't like state and local government policy

they can change management by voting for different lawmakers, while non-tribal employees and customers have no meaningful way to influence tribal policy.

Congress should be working to expand the rights of American workers, not take them away. We urge you to stand up for American workers and oppose the Tribal Labor Sovereignty Act.

Sincerely,

ANTHONY M. PERRONE,
International President.

UNITE HERE!,
Las Vegas, NV

DEAR REPRESENTATIVE: UNITE HERE represents over 275,000 hardworking men and women in the hospitality industry and strongly urges you to oppose the Tribal Labor Sovereignty Act (H.R. 986).

Like most Americans, our members have a deep respect for Native Americans and their role in shaping our nation. Our members also have a deep and abiding respect for the rights of American workers and to uphold the laws that govern our nation and all of its citizens.

This brings me to H.R. 986. This bill would exempt all businesses owned and operated by Indian nations from the National Labor Relations Act (NLRA). Tribal businesses, including but not limited to Indian-owned casinos, have workforces and customers that are almost all non-Indian. 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." 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 American workers.

Much has been made of the need for this bill to give tribal governments "parity" with state and local governments. This comparison is misleading, if not absurd. States and local governments do not typically operate multi-billion dollar commercial enterprises. States and local governments do not typically run enterprises where the overwhelming majority of the government's employees are from outside of their jurisdiction and the overwhelming majority of customers are also from outside of their jurisdiction. In a state or locality, if the citizens who live there don't like the government's policies, they can vote for people to change those policies. The non-tribal employees and customers have no meaningful way to influence tribal policies.

In this time of incredible income inequality in our country, Congress should be working to expand the rights of American workers, not finding ways to take them away. H.R. 986 is no different than the laws signed by Governors Scott Walker (R-WI) and Rick Snyder (R-MI): they attack the basic rights of workers to organize and collectively bargain.

Please stand up for American workers and join our union to oppose H.R. 986.

Sincerely,

D. TAYLOR.

Mr. WALBERG. Mr. Speaker, I appreciate the fact of those in opposition, but 150 Tribes and individuals from the Native Americans that are asking for this stand in support of this, and we

are delighted to listen to that and work for a solution here.

Mr. Speaker, I yield 3 minutes to the gentlewoman from North Carolina (Ms. FOXX), the chairwoman of the Education and the Workforce Committee.

□ 1715

Ms. FOXX. Mr. Speaker, I rise today in support of the adoption of the Tribal Labor Sovereignty Act, an important and long overdue provision included in this legislation before us today.

For nearly 70 years, the National Labor Relations Board respected the sovereignty of Native American Tribes throughout the country and allowed the Tribes to adjudicate labor issues within the laws and standards of each Tribe. However, in 2004, the NLRB began to change its longstanding practices and adopted subjective tests to determine when it wanted to assert its jurisdiction in matters involving Native American Tribes.

These subjective tests are applied on an arbitrary, case-by-case basis and are having an impact on Tribal businesses that are operated on sovereign Tribal lands. Tribal business leaders have been asking Congress to respect their sovereign rights and end the NLRB's inconsistent and misguided decisions when it comes to labor decisions dealing with Tribal businesses.

The Tribal Labor Sovereignty Act, sponsored by Representative TODD ROKITA, a member of the Education and the Workforce Committee, stops the NLRB from picking winners and losers when it comes to matters dealing with Tribal businesses and ends the bureaucratic overreach conducted by the NLRB in recent years.

Most importantly, this legislation protects the sovereignty Native Americans deserve and ensures that Tribes have control over their own labor relations and, ultimately, determine what works best for workplaces on Tribal lands.

Bipartisan support for Tribal sovereignty has been reaffirmed time and again by Congress, and for more than 180 years, the Supreme Court has held that Tribes possess a nationhood status and retain inherent powers of self-government. It is time that we strip unelected bureaucrats of the power they abuse and respect the rights of Native American Tribes.

I wish to thank Representative TODD ROKITA for introducing and championing the Tribal Labor Sovereignty Act and urge Members to support this important clarification to Federal law.

Mr. SCOTT of Virginia. Mr. Speaker, will you advise as to how much time is left on both sides.

The SPEAKER pro tempore (Mr. YODER). The gentleman from Virginia has 15½ minutes remaining. The gentleman from Michigan has 9½ minutes remaining.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR), the ranking member of the Appropriations Sub-

committee on Energy and Water Development, and Related Agencies.

Ms. KAPTUR. Mr. Speaker, I rise in opposition to this bill.

It was in 1935 that this body enacted the National Labor Relations Act. It guaranteed basic rights to private sector workers to organize into trade unions, to engage in contractual bargaining for decent wages and better conditions at work, and to take joint action, if necessary.

But in 1935, just like today, here, 2018, the Republican Party and business interests vehemently opposed passage of any laws that help workers. Little has changed. Once again our Republican colleagues trample on the backs of workers.

This legislation rolls back proven protections that allow wages to rise in places like California, and their casinos, from \$10 an hour to \$13 an hour. Now, these modest pay increases have helped elevate the workers who work in those casinos above the Federal poverty level.

Who has ever tried to buy a house in California or tried to live on \$13 an hour or \$10 an hour? You are not talking about a whole lot of money there, especially from a party that just gave \$1 trillion away to the people at the very top.

But with this bill, our Republican colleagues chose to strip these hundreds of thousands of workers, the majority of whom are not members of Tribes but work in those casinos, of decent wages and their right to a voice in the workplace.

Wow.

Beneath their sheepskin costumes hides another Republican attack on worker rights in this country, this time under the guise of Tribal sovereignty.

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

Mr. SCOTT of Virginia. I yield the gentlewoman from Ohio an additional 1 minute.

Ms. KAPTUR. Let me remind my colleagues though, throughout our National Labor Relations Board's history, it has never and will not assert jurisdiction where it would interfere with a Tribe's internal governance rights in purely intramural matters.

So I urge my colleagues to oppose this bad bill.

Mr. Speaker, I include in the RECORD the strong opposition to it from the United Steelworkers of America and from the Communications Workers of America. As a proud daughter of labor, I am proud to stand here today in opposition to this bill.

UNITED STEELWORKERS,

Pittsburgh, PA, January 9, 2018.

Re United Steelworkers oppose inclusion of anti-worker H.R. 986, Tribal Labor Sovereignty Act of 2017 in S. 140.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 850,000 members of the United Steelworkers (USW), we strongly urge you to oppose S. 140 on the House floor this week. Rather than

being identical to the Senate bill, this version includes the anti-worker and undemocratic Tribal Labor Sovereignty Act of 2017 (H.R. 986).

H.R. 986 would exempt all employees of federally recognized Native American-owned commercial enterprises operated on Indian lands from the protections of the National Labor Relations Act (NLRA) and would authorize over 567 distinct and separate labor law jurisdictions in the United States.

To be absolutely clear, this legislation strips workers—both Native American and non-Native American—of their NLRA protections. While some organizations have falsely attempted to paint tribal governments as similar entities to states (which are exempt from the NLRA), tribal governments are substantially different than states in one key democratic principal: state governments allow workers an ability to vote for their legislators no matter their ancestry, while most tribal governments require blood quantum or lineal descent to determine who is eligible for membership or citizenship.

Simply put, if H.R. 986 becomes law by inclusion in S. 140, U.S. citizens working in the United States for tribal commercial enterprises would not be able to vote for the elected representatives who set their labor laws. These workers will lose the ability to petition the government that oversees their working conditions.

The gaming industry, which is an employer for approximately 246 of the 567 federally recognized American Indian tribes; has over 600,000 casino workers on tribal lands, the overwhelming majority of whom are not Native Americans. In 2011 before the Senate Indian Affairs Committee, the National Indian Gaming Commission testified that the vast majority of employees (up to 75 percent) were non-tribal members.

Our union understands the importance of the principle of tribal sovereignty; however the fundamental human rights of employees are not the exclusive concern of tribal enterprises or tribal governments. As the International Labor Organization highlighted in a letter on a previous version of this bill, “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”. That is why we believe the current test set by the NLRB is the best course of action until labor laws are strengthened in the United States.

In 2004, the NLRB under the Bush Administration ruled for the first time that Tribal casino workers should have the benefit of NLRA protections, San Manuel, 341 NLRB No. 138 (2204). Yet, since the San Manuel ruling, the NLRB has asserted jurisdiction on a case-by-case basis. In 2015, 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).

The NLRB has developed a reasonable and responsible test to determine jurisdiction. H.R. 986 creates significant confusion and jurisdictional issues over labor law enforcement and grossly undermines worker's

rights. Our union urges you to oppose S. 140, with the inclusion of H.R. 986, and asks you to instead work to expand worker's rights not restrict them further.

Sincerely,

LEO W. GERARD,
International President.

JANUARY 9, 2018.

DEAR REPRESENTATIVE: On behalf of the members and officers of the Communications Workers of America (CWA), I am writing to express our strong opposition to S. 140. CWA has no objections whatsoever to Sections 1 and 2 of the bill as amended. Unfortunately, these non-controversial, sensible bills have been hijacked to also pass H.R. 986, a bill that would strip hundreds of thousands of workers at tribal-owned and -operated enterprises of their protections for the right to bargain collectively.

H.R. 986 seeks to overturn a National Labor Relations Board (NLRB) decision in San Manuel Indian Bingo and Casino, which applied the National Labor Relations Act (NLRA) to a tribal casino enterprise. The NLRB's finding in San Manuel adopted a test to determine whether the NLRA is applicable to businesses operating on tribal lands—if it would “touch exclusive rights of self-governance in purely intramural matters” or “abrogate Indian treaty rights,” the NLRA would not apply, but otherwise the decision will be based on a series of factors including whether an entity is a purely commercial enterprise or employs or caters to individuals who are not tribal members.

The San Manuel test balances two crucial issues—tribal sovereignty and the right of workers to bargain collectively. The test ensures that truly internal matters of self-governance will continue to be handled by sovereign tribes, while also ensuring that the fundamental rights of workers to organize and advocate for their own interests are properly respected. H.R. 986 would overturn this balance by exempting any enterprise or institution owned and operated by an Indian tribe and located on its land from the requirements of the NLRA—or any other guarantee of workers' fundamental right to organize and collectively bargain.

The practical impact of H.R. 986 would be to exempt a broad swath of businesses from the NLRA, even though, in many cases, they are purely commercial enterprises. For many of these companies—particularly casinos—the majority of their workforces are not members of the tribe employing them and therefore do not have full access to internal, tribal mechanisms for grieving issues or petitioning for change in tribal policies. This is why the International Labour Organization stated in 2015 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 these workers their fundamental freedom of association rights.”

I urge you to oppose S. 140 as amended and instead work to advance an agenda that protects both workers' fundamental human right to organize and tribal sovereignty. CWA will consider including votes on this bill in our Congressional Scorecard Thank you in advance for your consideration.

Sincerely,

SHANE LARSON,
Legislative Director,
Communications Workers of America (CWA).

Mr. WALBERG. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. LEWIS).

Mr. LEWIS of Minnesota. Mr. Speaker, I thank my colleague from Indiana (Mr. ROKITA) for introducing this very important legislation that restores a

simple promise: the sovereign rights of Native Americans will be protected.

For almost 70 years following the passage of the National Labor Relations Act, Tribal sovereignty was upheld and Tribes were given the equal right to self-governance enjoyed by our State and local governments. For the Tribes in my district, sovereignty meant the freedom to advance their own economic development and provide critical government services to their Tribal members.

With the NLRB's San Manuel decision, unelected bureaucrats tossed aside this longstanding precedent and began to assert themselves in Tribal matters on an arbitrary, case-by-case basis. The agency granted itself the right to navigate Tribal law and decide when a Tribal enterprise is for commercial purposes, a requirement that would never be imposed on revenue-generating activities of State and local governments.

As the Federal bureaucracy expands its own power, Tribes face legal confusion and uncertainty, hindering their self-sufficiency and the ability to provide for their members.

The Tribal Labor Sovereignty Act restores the well-established legal standard of Tribal sovereignty. As State and local governments are excluded from the Federal requirements of the NLRA, this bill simply ensures Tribal governments receive equal treatment, not lesser status. It provides our Tribes with needed clarity that, when an enterprise is owned and operated by the Indian Tribe and located on Tribal land, Tribal sovereignty will be protected.

I am proud to be a cosponsor of this bipartisan legislation, and I am glad it was included in this package, which I urge my colleagues to support.

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

Mr. HOYER. Mr. Speaker, what a sad state of affairs. There are scores of critically important issues that need to be considered by this House, not the least of which is funding our government. We failed to do that, and now we are confronted with a bill that is recycled, and we have added two natural resources bills on it that could have passed unanimously.

I am a big defender of Native Tribes' rights and sovereignty, and I know that my colleagues on both sides of the aisle remain committed to their sovereignty as well. This bill, however, is about undermining the National Labor Relations Act, not about Tribal sovereignty.

That act, the National Labor Relations Act, safeguards workers' rights to organize and bargain collectively. Most of my friends on the other side of the aisle are not for that. I know that. I have seen them vote that way.

No matter where you work, the basic protections for American workers, however, ought to apply. It is already

settled law that the National Labor Relations Act and other worker protection laws apply to businesses even on Tribal lands outside the context of inherently governmental functions carried out by Tribal governments. This was not decided by some faceless bureaucrat. This was a court of our land that made this decision.

Instead of undermining workers' rights, this House ought to be moving forward with policies that help our workers and their families make it in America as part of a strong middle class. That means raising wages. It means making childcare more affordable. It means expanding access to opportunities like higher education, homeownership, and a secure retirement. Those are the issues that Democrats continue to be focused on.

That is not what this bill focuses on. Instead, Republicans are focused not on helping workers, but trying to pit one group, Tribes, against another group, workers. That is not what we ought to have in this country.

And they are attaching popular, non-controversial natural resources bills to this legislation. They have nothing to do with this legislation and would pass overwhelmingly.

I am going to vote against this bill, and I hope they will bring the natural resources bills back so we can pass those, as everybody wants to do.

This is not the kind of regular order Speaker RYAN promised when he took the gavel and that Republicans promised when they took the majority.

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

Mr. SCOTT of Virginia. I yield the gentleman from Maryland an additional 2 minutes.

Mr. HOYER. As I said at the beginning, we are bringing this bill to the floor, a retreat. This is not new legislation that they are offering. The only thing new about it is they put two natural resources bills attached to it.

We should be focused, as I said before, on reaching agreement on appropriation bills, on caps, on protecting DREAMers, on making sure that CHIP children aren't left aside, not this bill. But those bills aren't scheduled today, and they are not scheduled next week as far as I know. Maybe the majority leader will give me better information tomorrow.

In fact, what we really ought to be working on now, as I say, are those appropriation bills. But, under the Republican majority, we are still stuck working on fiscal year 2018 when we are already nearly halfway through.

I urge my colleagues not to oppose Tribal sovereignty, not to oppose the rights of our Native American brothers and sisters. We are for them, but not to be pitted against workers making a decent, acceptable wage so they can live with some quality of life.

It is not enough to give the upper 1 percent a huge tax cut and pretend that you are helping the middle class, the workers. In fact, in this bill, you are doing exactly the opposite.

I urge my colleagues to oppose this bill and stand up for workers, whether they are Native Americans or whoever they may be. Stand up for workers. Respect workers. Understand that workers made this country great, and they deserve our support and our protection.

Defeat this bill.

Mr. WALBERG. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. ROE), a gentleman who had a distinguished record of supporting and helping and enabling workers.

Mr. ROE of Tennessee. Mr. Speaker, I rise today in strong support of S. 140 and its inclusion of H.R. 986, the Tribal Labor Sovereignty Act.

There are more than 560 federally recognized Native American Tribes across the United States, and each of these Tribes has a unique history and distinct culture that have helped shape who we are today as a nation. Each Tribe has an inherent right to self-govern, just like any other sovereign government does.

That right to self-governance 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 14 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.

□ 1730

Among its other provisions, the bill under consideration would 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 a sovereign right has.

I want to thank my friend and fellow member of the Education and the Workforce Committee from Indiana (Mr. ROKITA) for his leadership on this issue and for continuing to work on 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 and stand with the Native American community and restore to Indian Tribes the ability to govern their own labor relations.

Mr. Speaker, I am not sure how you support Tribal sovereignty, which, by definition, is a sovereign state, but not allow Tribes to self-govern. I don't understand that, and I also don't under-

stand, Mr. Speaker, if our friends on the other side of the aisle today are so worried about getting our work done, why I had to leave committee hearings to come over here three times today to vote not adjourning this body. I would like to know that.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. NORCROSS).

Mr. NORCROSS. Mr. Speaker, the land of opportunity is right here. It is called the United States of America. But, unfortunately, there is not always a level playing field when it comes to that land of opportunity. This year is the 83rd anniversary of the National Labor Relations Act, the act that gave workers a voice, a voice in the workplace. It gave them the ability to bargain—along with their employers—a living wage, pensions, the ability to retire with dignity.

But today, we are really debating how to hurt workers—that somehow you get treated outside of the reservations in a humane way, where casinos are operating in a very profitable way, but you cross that line, and you are being treated differently. You are being treated less than and doing it all under the guise of Native American sovereignty.

The vast majority of casinos on their properties are treated with respect by employees. But they were able to get to some folks to introduce this piece that somehow let them try to do it differently on that line. When we cross it, you are less than. We can take advantage of you, and we see that happen time after time.

I have been before the NLRB many times, had cases. I won many, but I also lost them. But I always felt as if I was treated fairly. And that is what we should be doing here, treating employees, no matter where you are in this great country, fairly. It has been a decade since we raised the minimum wage. And somehow, we are just looking for no reason to hurt employees.

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

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

Mr. NORCROSS. Mr. Speaker, we want to respect the sovereign nations, but we can't pick and choose the way we treat them. Certainly, everybody who works in this great country deserves an opportunity to be treated fairly.

Mr. Speaker, I include in the RECORD a letter from the Transport Workers Union of America that talks about being fairly treated.

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO,

January 10, 2018.

VOTE ALERT: VOTE NO ON THE TRIBAL LABOR SOVEREIGNTY ACT (S. 140)

DEAR REPRESENTATIVE: On behalf of the Transport Workers Union of America (TWU), AFL-CIO, we write urging you to oppose the

Tribal Labor Sovereignty Act. This bill (introduced as H.R. 986) has been paired with unrelated bills and packaged as part of S. 140, which the House is expected to vote on today. We urge you to oppose the Tribal Labor Sovereignty Act by voting NO on S. 140.

The Tribal Labor Sovereignty Act would exempt from the protections of the National Labor Relations Act (NLRA) workers employed by tribal-owned and -operated commercial enterprises located on tribal lands. Under this bill, the NLRA rights and protections would be denied to more than 600,000 tribal casino workers, the vast majority of whom are not Native American.

This bill would overturn a 2004 decision by the Bush Administration's National Labor Relations Board (Board), in which the Board applied the NLRA to a tribal casino (San Manuel Indian Bingo and Casino, 341 NLRB No. 138 (2004)). In reaching this decision, the Board applied a test: the NLRA will not apply if its application would "touch exclusive rights of self-governance in purely intramural matters." And, the NLRA will not apply if it would "abrogate Indian treaty rights." The Board also considered other factors, including that the casino in question was a typical commercial enterprise that catered to non-Native American customers and employed non-Native Americans. While the Board asserted NLRA protections in the San Manuel decision, it ruled the opposite way, denying its jurisdiction in a companion case (Yukon Kuskokwim Health Corporation, 341 NLRB No. 139 (2004)).

We understand the importance of tribal sovereignty and support the principle in true self-governance matters. But the fundamental human rights of employees are not the exclusive concern of tribal enterprises or tribal governments. While proponents of the bill falsely compare tribal governments to state governments, they miss a glaring truth: while state governments are exempt from NLRA protections, their workers are eligible to vote for those who set their labor laws. But the vast majority of the 600,000 casino workers who would be impacted by the Tribal Labor Sovereignty Act are not Native Americans, and therefore have no voice in the selection of those setting tribal policy nor the ability to petition the tribal government to protect their rights.

We object to a sweeping exemption of all tribal enterprises from the NLRA, and believe the test used by the Board to determine whether the NLRA is applicable should remain. Unfortunately, the Tribal Labor Sovereignty Act has been packaged with unrelated bills in an attempt to pressure support for this particular bill. While TWU has no position on the other bills contained in S. 140, we urge you vote NO in opposition to the Tribal Labor Sovereignty Act.

Mr. NORCROSS. Mr. Speaker, I ask Members to really look inside yourself. Is this the best way to treat employees? Is this how we help lift up all of those workers? I think not, and I urge Members to reject this attempt to hurt workers and not protect sovereignty.

Mr. WALBERG. Mr. Speaker, I have the pleasure of yielding 3 minutes to the gentleman from Indiana (Mr. ROKITA), the sponsor of this legislation, as well as the chair of the Subcommittee on Early Childhood, Elementary, and Secondary Education.

Mr. ROKITA. Mr. Speaker, I thank the chairman for yielding. I rise in strong support of this bill which includes a provision identical to the legislation that I have been cosponsoring

the last two Congresses, H.R. 986, the Tribal Labor Sovereignty Act. I also want to thank all of the Members who came in support of this legislation here today and last Congress from this side of the aisle who stood up for the rights of sovereign nations, our friends, Native Americans, and who made very clear the issue before us today.

It was mentioned by the naysayers on the other side of the aisle that the NLRA, the National Labor Relations Act, started in 1935. If you go back to that legislation—and it still exists today in the same form—you see that Federal, State, and local governments are exempted from the act for good reason.

This was supposed to always be a private sector labor relations act and bill. Now, we can argue the pros and cons of that all day long, but that is not the debate here today. The fact of the matter is that governments were specifically exempted.

Mr. Speaker, why does that not include our Native American friends who have sovereign nations? You know, I took my two boys—Kathy and I took my two boys, Ryan and Teddy, to a water park this year and last year—two different cities in my district. Those cities operated the water park. They owned it. We paid the fee. We went in. We used it.

The employees who worked there—and they were excellent—were exempt from the NLRA. Yet the Democrats who pander to groups left and right are now saying that they are for the sovereign rights of the government, of our Native American Tribes, but they say this isn't that bill. No, it is. It is that simple.

You are either for their sovereignty, Mr. Speaker, or you are not. And that is all this bill does. It doesn't choose between friends. The Democrats do not need to worry. It is either you are for people in believing in their own destiny and manifesting it, or you think that you have to subject them to your will. That is all this bill is about.

By the way, I think it is absolutely ridiculous—Dr. ROE asked the question. I won't ask the question. I will put it in statement form. I think it is absolutely ridiculous that some Members, Mr. Speaker, can come to the floor of the House today and say that this is not an important bill, that the rights of the governments of sovereign nations aren't important, and that there are other things to do.

Yet, three times today, the Democrats motioned to adjourn the House, wasting precious legislative time. This bill is supported by more than 150 Tribes. The chamber of commerce supports the bill. Four Democrats cosponsor the bill, and I thank each of them for it. Last Congress, the bill passed the House with bipartisan support. And, Mr. Speaker, I suspect it will again today.

Let's get this job done. Let's support our Native American friends. Let's support the sovereignty of the govern-

ments at the Federal, State, and local level. Support this bill, especially subsection 3.

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

Mr. Speaker, I include in the RECORD a letter in opposition to the bill from the AFL-CIO.

AFL-CIO LEGISLATIVE ALERT
AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, January 9, 2018.

DEAR REPRESENTATIVE: The AFL-CIO urges you to oppose the Tribal Labor Sovereignty Act, H.R. 986, which would deny protection under the National Labor Relations Act (NLRA) to a large number of workers 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, the number and type of enterprises affected has grown well beyond the gaming industry, and would now include mining operations, power plants, smoke shops, saw mills, construction companies, ski resorts, high-tech firms, hotels, and spas. Many of these are commercial businesses that compete with non-Indian enterprises. As proposed, the Tribal Labor Sovereignty Act would strip all workers in these enterprises of their rights and protections under the NLRA.

The House bill, introduced by Representative Rokita, would overturn a decision by the National Labor Relations Board (NLRB) in San Manuel Indian Bingo & Casino, 341 NLRB No. 138 (2004), which applied the 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, the NLRB would forego jurisdiction; off tribal land, the NLRB would assert 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 whether the casino in question was a typical commercial enterprise, employed non-Native Americans, and 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 a careful balancing of tribal sovereignty interests with the NLRA's federal labor law protections. In a companion case, Yukon Kuskokwim Health Corp., 341 NLRB No. 139 (2004), the Board tipped the balance the other way and didn't assert jurisdiction.

The AFL-CIO supports the principle of sovereignty for tribal governments, but does not believe that employers should use this principle 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.

The International Labour Organization (ILO), an agency of the United Nations, has confirmed this view in response to a question about whether excluding (from the NLRA) workers employed on tribal lands would conform with principles of freedom of association. These values are at the core of the ILO Constitution and the ILO's Declaration on Fundamental Principles and Rights at Work. 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 bargaining rights 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 fundamental 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 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 opposes any effort to exempt on an across-the-board basis all tribal enterprises from the NLRA, without undertaking a specific review of all the circumstances—as current NLRB standards provide. Where the enterprise employs mainly Native American employees with mainly Native American customers, and involves self-governance or intramural affairs, leaving the matter to tribal governments may be appropriate. 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.

Mr. SCOTT of Virginia. Mr. Speaker, a lot has been said about State and local being exempt and Tribes not being exempt. Well, that was a decision made way back when. The law specifically exempts State and local. Maybe it should; maybe it didn't; but it did. Tribes were not specifically exempted.

So in conclusion, this bill will strip hundreds of thousands of employees of the right to join a union. Where some Tribes have Tribal labor ordinances that are fair and workable, others do not. And at least one expressly prohibits the formation of unions.

There is no principal basis for excluding these workers from coverage under labor law just because they happen to work in a commercial enterprise on Tribal lands. If this bill will come into law, it will be the first rollback of workers' rights under Federal law in over 70 years, and it may well place the United States in violation of several international trade agreements.

For that reason, Mr. Speaker, I urge my colleagues to oppose the legislation, and I yield back the balance of my time.

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

Mr. Speaker, this has been a telling debate. Again, I think the key question here, as has been asked by so many colleagues: Are Native American Tribes government entities; are they sovereign? The only answer that we can respond with is: Absolutely, yes. They are sovereign. This is not an issue debating NLRB or NLRA. It is going back to what we have established already that, in fact, a sovereign nation, just like a State or local government, is free from the intervention of NLRB.

In this case, a sovereign nation has that right. Just as a reminder, over 150 Native American organizations have asked for this legislative effort to be achieved. Why? Because it was working fine up until 2004, and NLRB then came arbitrarily in—sometimes yes, sometimes not—intervening, but, ultimately, they were changing the system in place.

While we are moving back to letting the sovereignty reign in these Native American Tribes, yet we need to make it very clear for the future and not go back to what has precipitated this change.

The bill amends 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. It protects the sovereignty of Native American Tribes, reaffirming they are afforded the same rights and protections enjoyed by State and local government.

It ensures Tribes have control over their labor relations and can determine what is best for the workplaces. It eliminates legal confusion and uncertainty that is hindering the ability of Tribal governments to serve their citizens.

Mr. Speaker, that is what it does. It reasserts and reaffirms what we have already said in law. And for that reason, I ask my colleagues to support this legislation.

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

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 681, the previous question is ordered on the bill, as amended.

The question is on the third reading of the bill.

The bill was ordered to be 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.

RECORDED VOTE

Mr. WALBERG. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of S. 140 will be followed by 5-minute votes on:

Suspending the rules and passing H.R. 4567; and

Agreeing to the Speaker's approval of the Journal, if ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 173, not voting 19, as follows:

[Roll No. 11]

AYES—239

| | | |
|---------------|-----------------|-------------------|
| Abraham | Gosar | Olson |
| Aderholt | Gowdy | Palazzo |
| Aguilar | Granger | Palmer |
| Allen | Graves (GA) | Paulsen |
| Amash | Graves (LA) | Pearce |
| Amodel | Graves (MO) | Perry |
| Arrington | Griffith | Peterson |
| Babin | Grothman | Pittenger |
| Bacon | Guthrie | Poe (TX) |
| Banks (IN) | Handel | Poliquin |
| Barletta | Harper | Posey |
| Barr | Harris | Ratliffe |
| Barton | Hartzler | Reed |
| Bergman | Heck | Reichert |
| Beyer | Hensarling | Renacci |
| Biggs | Herrera Beutler | Rice (SC) |
| Billrakis | Hice, Jody B. | Roby |
| Bishop (MI) | Higgins (LA) | Roe (TN) |
| Bishop (UT) | Hill | Rogers (AL) |
| Black | Holding | Rogers (KY) |
| Blackburn | Hollingsworth | Rohrabacher |
| Blum | Hudson | Rokita |
| Brady (TX) | Huizenga | Rooney, Francis |
| Brat | Hultgren | Rooney, Thomas J. |
| Bridenstine | Hunter | Roskam |
| Brooks (AL) | Hurd | Ross |
| Buchanan | Issa | Rothfus |
| Buck | Jenkins (KS) | Rouzer |
| Bucshon | Johnson (LA) | Royce (CA) |
| Budd | Johnson (OH) | Ruiz |
| Burgess | Johnson, Sam | Russell |
| Byrne | Jones | Rutherford |
| Calvert | Jordan | Sanford |
| Cárdenas | Kelly (MS) | Schrader |
| Carter (GA) | Kelly (PA) | Schweikert |
| Carter (TX) | Kildee | Scott, Austin |
| Chabot | Kilmer | Sensenbrenner |
| Cheney | King (IA) | Sessions |
| Coffman | Knight | Sewell (AL) |
| Cole | Kustoff (TN) | Shimkus |
| Collins (GA) | Labrador | Simpson |
| Collins (NY) | LaHood | Smith (MO) |
| Comer | LaMalfa | Smith (NE) |
| Comstock | Lamborn | Smith (TX) |
| Conaway | Latta | Smucker |
| Cook | Lewis (MN) | Stefanik |
| Correa | Lieu, Ted | Stewart |
| Cramer | Long | Stivers |
| Crawford | Loudermilk | Taylor |
| Cuellar | Love | Tenney |
| Culberson | Lucas | Thompson (PA) |
| Curbelo (FL) | Luetkemeyer | Thornberry |
| Curtis | Lujan Grisham, | Tiberi |
| Davidson | M. | Tipton |
| DelBene | Luján, Ben Ray | Troott |
| Denham | Marchant | Upton |
| Dent | Marino | Valadao |
| DeSantis | Marshall | Vela |
| DesJarlais | Massie | Wagner |
| Deutch | Mast | Walberg |
| Diaz-Balart | McCarthy | Walden |
| Duffy | McCaul | Walker |
| Duncan (SC) | McClintock | Walorski |
| Duncan (TN) | McCollum | Walters, Mimi |
| Dunn | McMorris | Walz |
| Emmer | Rodgers | Weber (TX) |
| Estes (KS) | McSally | Webster (FL) |
| Farenthold | Meadows | Wenstrup |
| Faso | Meehan | Westerman |
| Ferguson | Meeks | Williams |
| Fleischmann | Messer | Wilson (SC) |
| Flores | Mitchell | Wittman |
| Fortenberry | Moolenaar | Womack |
| Fox | Mooney (WV) | Woodall |
| Frelinghuysen | Moore | Yoder |
| Gallagher | Mullin | Yoho |
| Garrett | Newhouse | Young (AK) |
| Gianforte | Noem | Young (IA) |
| Gibbs | Norman | Zeldin |
| Gohmert | Nunes | |
| Goodlatte | O'Halleran | |

NOES—173

| | | |
|----------|-----------------|----------------|
| Barragán | Bishop (GA) | Bost |
| Bass | Blumenauer | Boyle, Brendan |
| Beatty | Blunt Rochester | F. |
| Bera | Bonamici | Brady (PA) |

Brown (MD) Gutiérrez
 Brownley (CA) Hastings
 Bustos Higgins (NY)
 Butterfield Himes
 Capuano Hoyer
 Carson (IN) Huffman
 Cartwright Jackson Lee
 Castor (FL) Jayapal
 Castro (TX) Jeffries
 Chu, Judy Johnson (GA)
 Cicilline Johnson, E. B.
 Clark (MA) Joyce (OH)
 Clarke (NY) Kaptur
 Clay Katko
 Cleaver Keating
 Clyburn Kelly (IL)
 Cohen Kennedy
 Connolly Khanna
 Cooper Kihuen
 Costa King (NY)
 Costello (PA) Kinzinger
 Courtney Krishnamoorthi
 Crist Kuster (NH)
 Crowley Lance
 Davis (CA) Langevin
 Davis, Danny Larsen (WA)
 Davis, Rodney Larson (CT)
 DeFazio Lawrence
 DeGette Lawson (FL)
 Delaney Lee
 DeLauro Levin
 Demings Lewis (GA)
 Dingell Lipinski
 Doggett LoBiondo
 Donovan Loeb sack
 Doyle, Michael Lofgren
 F. Lowenthal
 Ellison Lowey
 Engel Lynch
 Eshoo MacArthur
 Espallat Maloney
 Esty (CT) Carolyn B.
 Evans Maloney, Sean
 Fitzpatrick Matsui
 Foster McEachin
 Frankel (FL) McGovern
 Fudge McKinley
 Gallego Meng
 Garamendi Moulton
 Gomez Murphy (FL)
 Gonzalez (TX) Nadler
 Gottheimer Napolitano
 Green, Al Neal
 Green, Gene Norcross
 Grijalva O'Rourke

NOT VOTING—19

Adams Hanabusa
 Brooks (IN) Jenkins (WV)
 Carbajal Kind
 Cummings McHenry
 DeSaulnier McNerney
 Gabbard Nolan
 Gaetz Scalise

□ 1809

Messrs. CROWLEY, KATKO, and SMITH of New Jersey changed their vote from “aye” to “no.”

Messrs. HECK, BEN RAY LUJÁN of New Mexico, and ZELDIN changed their vote from “no” to “aye.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DHS OVERSEAS PERSONNEL ENHANCEMENT ACT OF 2017

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 4567) to require a Department of Homeland Security overseas personnel enhancement plan, 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 New York (Mr. KATKO) that the House suspend the rules and pass the bill, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 16, as follows:

[Roll No. 12]

YEAS—415

Abraham
 Aderholt
 Aguilar
 Allen
 Amash
 Amodei
 Arrington
 Babin
 Bacon
 Banks (IN)
 Barletta
 Barr
 Barragán
 Barton
 Bass
 Beatty
 Bera
 Bergman
 Beyer
 Biggs
 Bilirakis
 Bishop (GA)
 Bishop (MI)
 Bishop (UT)
 Black
 Blackburn
 Blum
 Blumenauer
 Blunt Rochester
 Bonamici
 Engel
 Boyle, Brendan F.
 Brady (PA)
 Brady (TX)
 Brat
 Bridenstine
 Brooks (AL)
 Brooks (IN)
 Brown (MD)
 Brownley (CA)
 Buchanan
 Buck
 Bucshon
 Budd
 Burgess
 Bustos
 Butterfield
 Byrne
 Calvert
 Capuano
 Cárdenas
 Carson (IN)
 Carter (GA)
 Carter (TX)
 Cartwright
 Castor (FL)
 Castro (TX)
 Chabot
 Cheney
 Chu, Judy
 Cicilline
 Clark (MA)
 Clarke (NY)
 Clay
 Cleaver
 Clyburn
 Coffman
 Cohen
 Cole
 Collins (GA)
 Collins (NY)
 Comer
 Comstock
 Conaway
 Connolly
 Cook
 Cooper
 Correa
 Costa
 Costello (PA)
 Courtney
 Cramer
 Crawford
 Crist
 Crowley
 Cuellar

McMorris
 Rodgers
 McSally
 Meadows
 Meehan
 Meeks
 Meng
 Messer
 Mitchell
 Moolenaar
 Mooney (WV)
 Moore
 Moulton
 Mullin
 Murphy (FL)
 Nadler
 Napolitano
 Neal
 Newhouse
 Noem
 Norcross
 Norman
 Nunes
 O'Halleran
 O'Rourke
 Olson
 Palazzo
 Pallone
 Palmer
 Panetta
 Pascrell
 Paulsen
 Dingell
 Payne
 Pearce
 Pelosi
 Perlmutter
 Perry
 Peters
 Peterson
 Pingree
 Pittenger
 Pocan
 Poe (TX)
 Poliquin
 Polis
 Posey
 Price (NC)
 Quigley
 Raskin
 Ratcliffe
 Reed
 Reichert
 Renacci
 Rice (NY)

NOT VOTING—16

Adams
 Carbajal
 Cummings
 DeSaulnier
 Gabbard
 Gaetz
 Hanabusa
 Jenkins (WV)
 Kind
 McHenry
 McNerney
 Nolan

□ 1816

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.

THE JOURNAL

The SPEAKER pro tempore. The unfinished business is the question on agreeing to the Speaker's approval of the Journal, which the Chair will put de novo.

The question is on the Speaker's approval of the Journal.

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

Ms. CHENEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 231, nays