



S. 140, which includes the *Tribal Labor Sovereignty Act of 2017*

S. 140, which includes the *Tribal Labor Sovereignty Act of 2017* (H.R. 986), would strip workers of their protections under the *National Labor Relations Act* (NLRA) at any enterprise owned and operated by an Indian tribe that is located on tribal lands. This bill arises from a tension between two deeply-held principles: the rights that Indian tribes possess in matters of local self-governance, and the workers' rights to join unions and collectively bargain. Rather than attempting to balance these important principles, S. 140 chooses sovereignty for some over the rights of others. This bill would be the first rollback to workers' rights under federal labor law in over 70 years.

H.R. 986 was voted out of the Education & the Workforce Committee on a party-line vote on June 29, 2017, with 22 Republicans in favor and 16 Democrats against. In the 114th Congress, the House approved this bill 249-177. The Majority has since packaged H.R. 986 into S. 140, containing two non-controversial bills.

S. 140 is unnecessary because the National Labor Relations Board (NLRB) already balances tribal sovereignty and workers' rights.

- Similar to many other labor laws, the NLRB will not assert jurisdiction where it would interfere with a tribe's internal governance rights in purely intramural matters or abrogate treaty rights. Otherwise, the NLRB will protect workers' rights at tribally-owned enterprises.
- Employment laws such as the *Fair Labor Standards Act*, *Occupational Safety and Health Act*, *Employee Retirement Income Security Act*, *Family Medical Leave Act*, and the employer mandate under the *Patient Protection and Affordable Care Act* are all applicable to tribes. The NLRA should not be treated differently.

Exempting tribes under the NLRA would have an adverse economic impact on workers at tribal enterprises.

- Since 75% of Indian gaming employees are not tribal members, S. 140 does not ensure parity for these workers. Non-tribal members are prohibited from petitioning a tribe for labor legislation, unlike employees of state or local governments.
- According to one study, where unions have organized at tribal casinos in California, low-wage service workers' wages have increased, health care costs have declined, and fewer workers and their children require government assistance with health care costs.
- There are over 400 tribal gaming facilities in 28 states, which earned over \$28 billion in revenues, according to the Government Accountability Office. An estimated 43 percent of all U.S. gaming revenue comes from tribally-owned casinos, while the clientele is largely non-tribal. Workers who help create this prosperity should have the right to bargain for an equitable share.

S. 140 strips employees of their only recourse against discrimination and harassment.

- While most federal employment laws do apply to tribal enterprises, Title VII of the *Civil Rights Act* is a notable exception. Employees of tribal enterprises who are subject to discrimination or harassment cannot bring a claim to the EEOC or in federal court—even where the alleged perpetrator and victim are both non-tribal members employed at the tribal enterprise.
- Unions offer these employees the only protection against discrimination and harassment because they can negotiate a collective-bargaining agreement that enforces employees' rights to be free from such conduct.