

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

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WASHINGTON, D.C. 20062-2000
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June 27, 2016

TO THE MEMBERS OF THE UNITED STATES SENATE:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, strongly supports S. 248, the "Tribal Labor Sovereignty Act of 2015 (TLSA)," which would respect and promote tribal sovereignty by affirming the rights of tribal governmental employers to determine their own labor practices on their own lands. In light of today's Supreme Court decisions, the Chamber requests that the Senate act on TLSA at its earliest opportunity.

Today, the Supreme Court denied certiorari in the cases of *Little River Band of Ottawa Indians Tribal Government v. National Labor Relations Board* (No. 15-1024) and *Soaring Eagle Casino and Resort v. National Labor Relations Board* (No. 15-1034). One of the main arguments made by the National Labor Relations Board (NLRB) last month against granting certiorari was "Congress's active consideration of legislation that would address the issue."

TLSA enjoys bipartisan support in the Senate and passed the House with strong bipartisan support on November 17, 2015, by a margin of 249 to 177.

In 1935, the National Labor Relations Act (NLRA) was enacted to ensure fair labor practices, but excluded federal, state and local governmental employers from its reach. Though the NLRA did not expressly treat Indian tribes as governmental employers, the NLRB respected the sovereign status of tribal governmental employers for close to seventy years before abruptly abandoning its own precedent and reversing course in 2004.

Since its decision in *San Manuel Indian Bingo*, the NLRB has been aggressively asserting jurisdiction over tribal labor practices when it determines tribal government employers are acting in a "commercial" rather than a "governmental" capacity – an analysis it does not apply to state or local government employers.

S. 248 would build upon a principle that is now well-understood in Indian Country. Where tribal sovereignty flows, economic success follows. S. 248 would prevent an unnecessary and unproductive overreach by the NLRB into the sovereign jurisdiction of tribal governments. By amending the NLRA to specifically exempt tribal governments, S. 248 would provide certainty and clarity to ensure that tribal governmental statutes concerning labor relations would remain intact. The Chamber believes that this approach would best meet the needs of the tribes and the American business community more generally.

The Chamber strongly supports S. 248, the “Tribal Labor Sovereignty Act of 2015,” and requests that the Senate take up consideration of this bill forthwith.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first name "R." being small and the last name "Josten" being larger and more prominent.

R. Bruce Josten