Tribal Employment and Jobs Protection Act Seeks to Exempt Native American Tribes from ACA

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The Tribal Employment and Jobs Protection Act (H.R. 3080) could have a big impact on tribes if it becomes law. The legislation, which was passed by the U.S. House Ways and Means Committee June 15, seeks to exempt Native American tribes from the large employer mandate of the Affordable Care Act (ACA), which requires employers with at least 50 workers to offer health insurance.

The bill would eliminate fines that tribal employers could incur under the employer mandate, thereby allowing tribes to avoid the high costs of compliance or costly fines for non-compliance. U.S. Sen. Steve Daines, R-Mont., and Rep. Kristi Noem, R-S.D., introduced the Tribal Employment and Jobs Protection Act to provide an exemption for tribal governments and agencies, tribal organizations and majority tribal-owned corporations and partnerships from the mandate.

The bill would amend the Internal Revenue Code of 1986 to create the large employer mandate exception for tribes and tribal entities, with the proposed change to take effect for 2015 and beyond. Many tribes cannot afford the employer mandate and believe it is unnecessary because the federal government already bears the responsibility of providing health care to tribal members. Tribal leaders feel it is contradictory and illogical for the ACA to exempt tribal members from an individual mandate penalty, while still requiring tribal governments to comply with the employer mandate.

The legislation will now be considered by the full House of Representatives.

Stinson Leonard Street will continue to monitor and provide updates on this important legislation. If you have questions or feedback regarding this issue, please contact Carrie Francis, Sharon Ng, Bryant Tchida, Javier Torres or the Stinson Leonard Street attorneys with whom you regularly work.
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