

Union Calendar No. 315

112TH CONGRESS
2^D SESSION

H. R. 2362

[Report No. 112-451]

To facilitate economic development by Indian tribes and encourage investment
by Turkish enterprises.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2011

Mr. COLE introduced the following bill; which was referred to the Committee
on Natural Resources

APRIL 19, 2012

Additional sponsors: Ms. FOXX, Mr. WHITFIELD, Mr. STIVERS, Mr. CON-
NOLLY of Virginia, Mr. HASTINGS of Florida, Mr. LARSON of Con-
necticut, Mr. COHEN, Mr. MORAN, Ms. RICHARDSON, Mr. INSLEE, Mr.
BOREN, and Mr. HONDA

APRIL 19, 2012

Committed to the Committee of the Whole House on the State of the Union,
and ordered to be printed

A BILL

To facilitate economic development by Indian tribes and encourage investment by Turkish enterprises.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Indian Tribal Trade and Investment Demonstration
6 Project Act of 2011”.

7 (b) **FINDINGS.**—Congress finds that—

8 (1) the public and private sectors in the Repub-
9 lic of Turkey have demonstrated a unique interest in
10 bolstering cultural, political, and economic relation-
11 ships with Indian tribes and tribal members;

12 (2) uneconomic regulatory, statutory, and policy
13 barriers are preventing more robust relationships be-
14 tween the Turkish and Indian tribal communities;
15 and

16 (3) it is in the interest of Indian tribes, the
17 United States, and the United States–Turkey rela-
18 tionship to remove or ameliorate these barriers
19 through the establishment of an Indian Tribal Trade
20 and Investment Demonstration Project.

21 (c) **PURPOSE.**—The purposes of this Act are—

22 (1) to remove or ameliorate the certain barriers
23 to facilitate trade and financial investment in Indian
24 tribal economies;

1 (2) to encourage increased levels of commerce
2 and economic investment by private entities incor-
3 porated in or emanating from the Republic of Tur-
4 key; and

5 (3) to further the policy of Indian self-deter-
6 mination by strengthening Indian tribal economies
7 and political institutions in order to raise the mate-
8 rial standard of living of Indians.

9 **SEC. 2. DEFINITIONS.**

10 In this Act:

11 (1) **APPLICANT.**—The term “applicant” means
12 an Indian tribe or a consortium of Indian tribes that
13 submits an application under this Act seeking par-
14 ticipation in the demonstration project.

15 (2) **DEMONSTRATION PROJECT.**—The term
16 “demonstration project” means the trade and invest-
17 ment demonstration project authorized by this Act.

18 (3) **INDIAN TRIBE.**—The term “Indian tribe”
19 has the meaning given that term in section 102 of
20 the Federally Recognized Indian Tribe List Act of
21 1994 (25 U.S.C. 479a).

22 (4) **PARTICIPATING INDIAN TRIBE.**—The term
23 “participating Indian tribe” means an Indian tribe
24 selected by the Secretary from the applicant pool.

1 (5) PROJECT; ACTIVITY.—The terms “project”
2 and “activity” mean a community, economic, or
3 business development undertaking that includes
4 components that contribute materially to carrying
5 out a purpose or closely related purposes that are
6 proposed or approved for assistance under more
7 than one Federal program.

8 (6) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 **SEC. 3. INDIAN TRIBAL TRADE AND INVESTMENT DEM-**
11 **ONSTRATION PROJECT.**

12 (a) IN GENERAL.—The Secretary shall authorize In-
13 dian tribes selected under section 4 to participate in a
14 demonstration project under this Act, which shall be
15 known as the “Indian Tribal Trade and Investment Dem-
16 onstration Project”.

17 (b) LEAD AGENCY.—The Department of the Interior
18 shall be the lead agency for purposes of carrying out the
19 demonstration project.

20 (c) TRIBAL APPROVAL OF LEASES.—Notwith-
21 standing any other provision of law, and in the discretion
22 of a participating Indian tribe or consortium, any lease
23 of Indian land held in trust by the United States for a
24 participating Indian tribe (or an Indian tribe in a consor-
25 tium) entered into under this Act to carry out a project

1 or activity shall not require the approval of the Secretary
2 if the lease—

3 (1) is entered into in furtherance of a commer-
4 cial partnership involving one or more private enti-
5 ties incorporated in or emanating from the Republic
6 of Turkey;

7 (2) is entered into not later than one year after
8 the date of the enactment of this Act;

9 (3) is not for the exploration, development, or
10 extraction of any mineral resources;

11 (4) does not include lease of land or an interest
12 in land held in trust for an individual Indian;

13 (5) is executed under the tribal regulations ap-
14 proved by the Secretary under this Act; and

15 (6) has a term that does not exceed 25 years,
16 except that any such lease may include an option to
17 renew for up to 2 additional terms, each of which
18 may not exceed 25 years.

19 (d) ACTIVITIES TO BE CONDUCTED ON LEASED
20 LANDS.—Indian land held in trust by the United States
21 for the benefit of a participating Indian tribe (or an Indian
22 tribe in a consortium) may be leased for activities con-
23 sistent with the purposes of this Act, including business
24 and economic development, public, educational, or residen-
25 tial purposes, including the development or use of natural

1 resources in connection with operations under such leases,
2 for grazing purposes, and for those farming purposes
3 which require the making of a substantial investment in
4 the improvement of the land for the production of special-
5 ized crops as determined by the Secretary.

6 (e) APPROVAL OF TRIBAL REGULATIONS.—

7 (1) IN GENERAL.—The Secretary shall approve
8 a tribal regulation issued for the purposes of sub-
9 section (c)(4), if the tribal regulation—

10 (A) is consistent with regulations, if any,
11 issued by the Secretary under this Act; and

12 (B) provides for an environmental review
13 process that includes—

14 (i) the identification and evaluation of
15 any significant effects of the proposed ac-
16 tion on the environment; and

17 (ii) a process for ensuring that—

18 (I) the public is informed of, and
19 has a reasonable opportunity to com-
20 ment on, any significant environ-
21 mental impacts of the proposed action
22 identified by the participating Indian
23 tribe or consortium; and

24 (II) the participating Indian tribe
25 or consortium provides responses to

1 relevant and substantive public com-
2 ments on those impacts before the
3 participating Indian tribe or consor-
4 tium approves the lease.

5 (2) SECRETARIAL REVIEW.—

6 (A) IN GENERAL.—Not later than 120
7 days after the date on which the tribal regula-
8 tions under this subsection are submitted to the
9 Secretary, the Secretary shall review and ap-
10 prove or disapprove the regulations.

11 (B) WRITTEN DOCUMENTATION.—If the
12 Secretary disapproves such tribal regulations,
13 the Secretary shall include written documenta-
14 tion with the disapproval notification that de-
15 scribes the basis for the disapproval.

16 (C) EXTENSION.—The deadline described
17 in subparagraph (A) may be extended by the
18 Secretary, after consultation with the partici-
19 pating Indian tribe or consortium.

20 (f) FEDERAL ENVIRONMENTAL REVIEW.—Notwith-
21 standing subsection (e)(2), if a participating Indian tribe
22 or consortium carries out a project or activity funded by
23 a Federal agency, the participating Indian tribe or consor-
24 tium may rely on the environmental review process of the

1 applicable Federal agency rather than any tribal environ-
2 mental review process under this subsection.

3 (g) DOCUMENTATION.—If a participating Indian
4 tribe or consortium executes a lease pursuant to tribal reg-
5 ulations approved under this section, the participating In-
6 dian tribe or consortium shall provide the Secretary
7 with—

8 (1) a copy of the lease, including any amend-
9 ments or renewals to the lease; and

10 (2) in the case of tribal regulations or a lease
11 that allows for lease payments to be made directly
12 to the participating Indian tribe or consortium, doc-
13 umentation of the lease payments that are sufficient
14 to enable the Secretary to discharge the trust re-
15 sponsibility of the United States under subsection
16 (h).

17 (h) TRUST RESPONSIBILITY.—

18 (1) IN GENERAL.—The United States shall not
19 be liable for losses sustained by any party to a lease
20 executed under this Act.

21 (2) AUTHORITY OF SECRETARY.—Pursuant to
22 the authority of the Secretary to fulfill the trust ob-
23 ligation of the United States to an Indian tribe
24 under Federal law, including regulations, the Sec-
25 retary may, upon reasonable notice from the Indian

1 tribe and at the discretion of the Secretary, enforce
2 the provisions of, or cancel, any lease executed by a
3 participating Indian tribe or consortium under this
4 Act.

5 (i) COMPLIANCE.—

6 (1) IN GENERAL.—An interested party, after
7 exhausting applicable tribal remedies, may submit a
8 petition to the Secretary, at such time and in such
9 form as the Secretary determines to be appropriate,
10 to review the compliance of a participating Indian
11 tribe or consortium with any tribal regulations ap-
12 proved by the Secretary under this Act.

13 (2) VIOLATIONS.—If, after carrying out a re-
14 view under paragraph (1), the Secretary determines
15 that the tribal regulations were violated, the Sec-
16 retary may take any action the Secretary determines
17 to be necessary to remedy the violation, including re-
18 scinding the approval of the tribal regulations and
19 reassuming responsibility for the approval of leases
20 of Indian lands.

21 (3) DOCUMENTATION.—If the Secretary deter-
22 mines under this paragraph that a violation of tribal
23 regulations has occurred and a remedy is necessary,
24 the Secretary shall—

1 (A) make a written determination with re-
2 spect to the regulations that have been violated;

3 (B) provide the applicable participating In-
4 dian tribe or consortium with a written notice
5 of the alleged violation together with such writ-
6 ten determination; and

7 (C) prior to the exercise of any remedy,
8 the rescission of the approval of the regulation
9 involved, or the reassumption of lease approval
10 responsibilities, provide the applicable partici-
11 pating Indian tribe or consortium with—

12 (i) a hearing that is on the record;

13 and

14 (ii) a reasonable opportunity to cure
15 the alleged violation.

16 **SEC. 4. SELECTION OF PARTICIPATING INDIAN TRIBES.**

17 (a) PARTICIPANTS.—

18 (1) IN GENERAL.—During the first year after
19 the date of the enactment of this Act, the Secretary
20 may select not more than 6 Indian tribes or con-
21 sortia from the applicant pool described in sub-
22 section (b) to submit an application to be a partici-
23 pating Indian tribe or consortium.

1 (2) CONSORTIA.—Two or more Indian tribes
2 may form a consortium to participate as an appli-
3 cant under paragraph (1).

4 (b) APPLICANT POOL.—The applicant pool described
5 in this subsection shall consist of each Indian tribe or con-
6 sortium that—

7 (1) requests participation in the demonstration
8 project through a resolution or other official action
9 of the tribal governing body; and

10 (2) demonstrates, for the 3 fiscal years imme-
11 diately preceding the fiscal year for which participa-
12 tion is requested, financial stability and financial
13 management capability as demonstrated by a show-
14 ing by the Indian tribe or consortium that there
15 were no material audit exceptions in the required an-
16 nual audit of the self-determination contracts of the
17 Indian tribe or consortium.

18 **SEC. 5. APPLICATION REQUIREMENTS, REVIEW, AND AP-**

19 **PROVAL.**

20 (a) REQUIREMENTS.—An Indian tribe or consortium
21 selected under subsection (a) may submit to the Secretary
22 an application that—

23 (1) identifies the activities to be conducted by
24 the Indian tribe or consortium;

1 (2) describes the revenues, jobs, and related
2 economic benefits and other likely consequences to
3 the Indian tribe or consortium, its members, the in-
4 vestors, and the surrounding communities to be gen-
5 erated as a result of the activities identified in para-
6 graph (1); and

7 (3) is approved by the governing body of the In-
8 dian tribe or consortium, including, in the case of an
9 applicant that is a consortium of Indian tribes, the
10 governing body of each affected member Indian
11 tribe.

12 (b) REVIEW AND APPROVAL.—

13 (1) IN GENERAL.—Not later than 90 days after
14 the date of receipt of an application under sub-
15 section (a), the Secretary shall inform the applicant,
16 in writing, of the approval or disapproval of the ap-
17 plication.

18 (2) DISAPPROVAL.—If an application is dis-
19 approved, the written notice shall identify the rea-
20 sons for the disapproval and the applicant shall be
21 provided an opportunity to amend and resubmit the
22 application to the Secretary.

1 **SEC. 6. REPORT TO CONGRESS.**

2 Not later than 1 year after the date of the enactment
3 of this Act, the Secretary shall prepare and submit to Con-
4 gress a report that includes—

5 (1) a description of the economic benefits and
6 other consequences to participating Indian tribes,
7 their members, and surrounding communities as a
8 result of the economic activities and financial invest-
9 ment engendered by the demonstration project; and

10 (2) observations drawn from the implementa-
11 tion of this Act and recommendations reasonably de-
12 signed to improve the operation or consequences of
13 the demonstration project.

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