

112TH CONGRESS
1ST SESSION

H. R. 2362

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

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

1 bolstering cultural, political, and economic relation-
2 ships with Indian tribes and tribal members;

3 (2) uneconomic regulatory, statutory, and policy
4 barriers are preventing more robust relationships be-
5 tween the Turkish and Indian tribal communities;
6 and

7 (3) it is in the interest of Indian tribes, the
8 United States, and the United States–Turkey rela-
9 tionship to remove or ameliorate these barriers
10 through the establishment of an Indian Tribal Trade
11 and Investment Demonstration Project.

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

13 (1) to remove or ameliorate the certain barriers
14 to facilitate trade and financial investment in Indian
15 tribal economies;

16 (2) to encourage increased levels of commerce
17 and economic investment by private entities incor-
18 porated in or emanating from the Republic of Tur-
19 key; and

20 (3) to further the policy of Indian self-deter-
21 mination by strengthening Indian tribal economies
22 and political institutions in order to raise the mate-
23 rial standard of living of Indians.

24 **SEC. 2. DEFINITIONS.**

25 In this Act:

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

5 (2) DEMONSTRATION PROJECT.—The term
6 “demonstration project” means the trade and invest-
7 ment demonstration project authorized by this Act.

8 (3) INDIAN TRIBE.—The term “Indian tribe”
9 has the meaning given that term in section 102 of
10 the Federally Recognized Indian Tribe List Act of
11 1994 (25 U.S.C. 479a).

12 (4) PARTICIPATING INDIAN TRIBE.—The term
13 “participating Indian tribe” means an Indian tribe
14 selected by the Secretary from the applicant pool.

15 (5) PROJECT; ACTIVITY.—The terms “project”
16 and “activity” mean a community, economic, or
17 business development undertaking that includes
18 components that contribute materially to carrying
19 out a purpose or closely related purposes that are
20 proposed or approved for assistance under more
21 than one Federal program.

22 (6) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

1 **SEC. 3. INDIAN TRIBAL TRADE AND INVESTMENT DEM-**
2 **ONSTRATION PROJECT.**

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

8 (b) **LEAD AGENCY.**—The Department of the Interior
9 shall be the lead agency for purposes of carrying out the
10 demonstration project.

11 (c) **TRIBAL APPROVAL OF LEASES.**—Notwith-
12 standing any other provision of law, and in the discretion
13 of a participating Indian tribe or consortium, any lease
14 of Indian land held in trust by the United States for a
15 participating Indian tribe (or an Indian tribe in a consor-
16 tium) entered into under this Act to carry out a project
17 or activity shall not require the approval of the Secretary
18 if the lease—

19 (1) is entered into in furtherance of a commer-
20 cial partnership involving one or more private enti-
21 ties incorporated in or emanating from the Republic
22 of Turkey;

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

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

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

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

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

9 (d) **ACTIVITIES TO BE CONDUCTED ON LEASED**
10 **LANDS.**—Indian land held in trust by the United States
11 for the benefit of a participating Indian tribe (or an Indian
12 tribe in a consortium) may be leased for activities con-
13 sistent with the purposes of this Act, including business
14 and economic development, public, educational, or residen-
15 tial purposes, including the development or use of natural
16 resources in connection with operations under such leases,
17 for grazing purposes, and for those farming purposes
18 which require the making of a substantial investment in
19 the improvement of the land for the production of special-
20 ized crops as determined by the Secretary.

21 (e) **APPROVAL OF TRIBAL REGULATIONS.**—

22 (1) **IN GENERAL.**—The Secretary shall approve
23 a tribal regulation issued for the purposes of sub-
24 section (c)(4), if the tribal regulation—

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

3 (B) provides for an environmental review
4 process that includes—

5 (i) the identification and evaluation of
6 any significant effects of the proposed ac-
7 tion on the environment; and

8 (ii) a process for ensuring that—

9 (I) the public is informed of, and
10 has a reasonable opportunity to com-
11 ment on, any significant environ-
12 mental impacts of the proposed action
13 identified by the participating Indian
14 tribe or consortium; and

15 (II) the participating Indian tribe
16 or consortium provides responses to
17 relevant and substantive public com-
18 ments on those impacts before the
19 participating Indian tribe or consor-
20 tium approves the lease.

21 (2) SECRETARIAL REVIEW.—

22 (A) IN GENERAL.—Not later than 120
23 days after the date on which the tribal regula-
24 tions under this subsection are submitted to the

1 Secretary, the Secretary shall review and ap-
2 prove or disapprove the regulations.

3 (B) WRITTEN DOCUMENTATION.—If the
4 Secretary disapproves such tribal regulations,
5 the Secretary shall include written documenta-
6 tion with the disapproval notification that de-
7 scribes the basis for the disapproval.

8 (C) EXTENSION.—The deadline described
9 in subparagraph (A) may be extended by the
10 Secretary, after consultation with the partici-
11 pating Indian tribe or consortium.

12 (f) FEDERAL ENVIRONMENTAL REVIEW.—Notwith-
13 standing subsection (e)(2), if a participating Indian tribe
14 or consortium carries out a project or activity funded by
15 a Federal agency, the participating Indian tribe or consor-
16 tium may rely on the environmental review process of the
17 applicable Federal agency rather than any tribal environ-
18 mental review process under this subsection.

19 (g) DOCUMENTATION.—If a participating Indian
20 tribe or consortium executes a lease pursuant to tribal reg-
21 ulations approved under this section, the participating In-
22 dian tribe or consortium shall provide the Secretary
23 with—

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

1 (2) in the case of tribal regulations or a lease
2 that allows for lease payments to be made directly
3 to the participating Indian tribe or consortium, doc-
4 umentation of the lease payments that are sufficient
5 to enable the Secretary to discharge the trust re-
6 sponsibility of the United States under subsection
7 (h).

8 (h) TRUST RESPONSIBILITY.—

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

12 (2) AUTHORITY OF SECRETARY.—Pursuant to
13 the authority of the Secretary to fulfill the trust ob-
14 ligation of the United States to an Indian tribe
15 under Federal law, including regulations, the Sec-
16 retary may, upon reasonable notice from the Indian
17 tribe and at the discretion of the Secretary, enforce
18 the provisions of, or cancel, any lease executed by a
19 participating Indian tribe or consortium under this
20 Act.

21 (i) COMPLIANCE.—

22 (1) IN GENERAL.—An interested party, after
23 exhausting applicable tribal remedies, may submit a
24 petition to the Secretary, at such time and in such
25 form as the Secretary determines to be appropriate,

1 to review the compliance of a participating Indian
2 tribe or consortium with any tribal regulations ap-
3 proved by the Secretary under this Act.

4 (2) VIOLATIONS.—If, after carrying out a re-
5 view under paragraph (1), the Secretary determines
6 that the tribal regulations were violated, the Sec-
7 retary may take any action the Secretary determines
8 to be necessary to remedy the violation, including re-
9 scinding the approval of the tribal regulations and
10 reassuming responsibility for the approval of leases
11 of Indian lands.

12 (3) DOCUMENTATION.—If the Secretary deter-
13 mines under this paragraph that a violation of tribal
14 regulations has occurred and a remedy is necessary,
15 the Secretary shall—

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

18 (B) provide the applicable participating In-
19 dian tribe or consortium with a written notice
20 of the alleged violation together with such writ-
21 ten determination; and

22 (C) prior to the exercise of any remedy,
23 the rescission of the approval of the regulation
24 involved, or the reassumption of lease approval

1 responsibilities, provide the applicable partici-
2 pating Indian tribe or consortium with—

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

4 and

5 (ii) a reasonable opportunity to cure
6 the alleged violation.

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

8 (a) PARTICIPANTS.—

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

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

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

21 (1) requests participation in the demonstration
22 project through a resolution or other official action
23 of the tribal governing body; and

24 (2) demonstrates, for the 3 fiscal years imme-
25 diately preceding the fiscal year for which participa-

1 tion is requested, financial stability and financial
2 management capability as demonstrated by a show-
3 ing by the Indian tribe or consortium that there
4 were no material audit exceptions in the required an-
5 nual audit of the self-determination contracts of the
6 Indian tribe or consortium.

7 **SEC. 5. APPLICATION REQUIREMENTS, REVIEW, AND AP-**
8 **PROVAL.**

9 (a) **REQUIREMENTS.**—An Indian tribe or consortium
10 selected under subsection (a) may submit to the Secretary
11 an application that—

12 (1) identifies the activities to be conducted by
13 the Indian tribe or consortium;

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

20 (3) is approved by the governing body of the In-
21 dian tribe or consortium, including, in the case of an
22 applicant that is a consortium of Indian tribes, the
23 governing body of each affected member Indian
24 tribe.

25 (b) **REVIEW AND APPROVAL.**—

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

6 (2) DISAPPROVAL.—If an application is dis-
7 approved, the written notice shall identify the rea-
8 sons for the disapproval and the applicant shall be
9 provided an opportunity to amend and resubmit the
10 application to the Secretary.

11 **SEC. 6. REPORT TO CONGRESS.**

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

15 (1) a description of the economic benefits and
16 other consequences to participating Indian tribes,
17 their members, and surrounding communities as a
18 result of the economic activities and financial invest-
19 ment engendered by the demonstration project; and

20 (2) observations drawn from the implementa-
21 tion of this Act and recommendations reasonably de-
22 signed to improve the operation or consequences of
23 the demonstration project.

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