

## Union Calendar No.

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2938

[Report No. 112-]

To prohibit certain gaming activities on certain Indian lands in Arizona.

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### IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2011

Mr. FRANKS of Arizona (for himself, Mr. FLAKE, Mr. GOSAR, Mr. QUAYLE, and Mr. SCHWEIKERT) introduced the following bill; which was referred to the Committee on Natural Resources

--, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 15, 2011]

# **A BILL**

To prohibit certain gaming activities on certain Indian lands  
in Arizona.

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.**

4        *This Act may be cited as the “Gila Bend Indian Res-*  
5 *ervation Lands Replacement Clarification Act”.*

6 **SEC. 2. FINDINGS.**

7        *Congress finds the following:*

8            (1) *In 1986, Congress passed the Gila Bend In-*  
9 *dian Reservation Lands Replacement Act, Public*  
10 *Law 99–503, 100 Stat. 1798, to authorize the Tohono*  
11 *O’odham Nation to purchase up to 9,880 acres of re-*  
12 *placement lands in exchange for granting all right,*  
13 *title and interest to the Gila Bend Indian Reservation*  
14 *to the United States.*

15            (2) *The intent of the Gila Bend Indian Reserva-*  
16 *tion Lands Replacement Act was to replace primarily*  
17 *agriculture land that the Tohono O’odham Nation*  
18 *was no longer able to use due to flooding by Federal*  
19 *dam projects.*

20            (3) *In 1988, Congress passed the Indian Gaming*  
21 *Regulatory Act, which restricted the ability of Indian*  
22 *tribes to conduct gaming activities on lands acquired*  
23 *after the date of enactment of the Act.*

24            (4) *Since 1986, the Tohono O’odham Nation has*  
25 *purchased more than 16,000 acres of land. The*

1        *Tohono O’odham Nation does not currently game on*  
2        *any lands acquired pursuant to the Gila Bend Indian*  
3        *Reservation Lands Replacement Act.*

4            (5) *Beginning in 2003, the Tohono O’odham Na-*  
5        *tion began taking steps to purchase approximately*  
6        *134.88 acres of land near 91st and Northern Avenue*  
7        *in Maricopa County, within the City of Glendale*  
8        *(160 miles from the Indian tribe’s headquarters in*  
9        *Sells). The Tohono O’odham Nation is now trying to*  
10       *have these lands taken into trust status by the Sec-*  
11       *retary of the Interior pursuant to the Gila Bend In-*  
12       *dian Reservation Lands Replacement Act of 1986*  
13       *(“Gila Bend Act”), and has asked the Secretary to de-*  
14       *clare these lands eligible for gaming, thereby allowing*  
15       *the Indian tribe to conduct Las Vegas style gaming*  
16       *on the lands. The Secretary has issued an opinion*  
17       *stating that he has the authority to take approxi-*  
18       *mately 53.54 acres of these lands into trust status,*  
19       *and plans to do so when legally able to do so.*

20            (6) *The State of Arizona, City of Glendale, and*  
21        *at least 12 Indian tribes in Arizona oppose the*  
22        *Tohono O’odham Nation gaming on these lands. No*  
23        *Indian tribe supports the Tohono O’odham Nation’s*  
24        *efforts to conduct gaming on these lands.*

1           (7) *The Tohono O’odham Nation’s proposed ca-*  
2           *sino violates existing Tribal-State gaming compacts*  
3           *and State law, Proposition 202, agreed to by all Ari-*  
4           *zona Indian tribes, which effectively limits the num-*  
5           *ber of tribal gaming facilities in the Phoenix metro-*  
6           *politan area to seven, which is the current number of*  
7           *facilities operating.*

8           (8) *The Tohono O’odham casino proposal will*  
9           *not generate sales taxes as the State Gaming Compact*  
10          *specifically prohibits the imposition of any taxes, fees,*  
11          *charges, or assessments.*

12          (9) *The proposed casino would be located close to*  
13          *existing neighborhoods and a newly built school and*  
14          *raises a number of concerns. Homeowners, churches,*  
15          *schools, and businesses made a significant investment*  
16          *in the area without knowing that a tribal casino*  
17          *would or even could locate within the area.*

18          (10) *The development has the potential to impact*  
19          *the future of transportation projects, including the*  
20          *Northern Parkway, a critical transportation corridor*  
21          *to the West Valley.*

22          (11) *The Tohono O’odham Nation currently op-*  
23          *erates three gaming facilities: 2 in the Tucson metro-*  
24          *politan area and 1 in Why, Arizona.*

1           (12) *Nothing in the language or legislative his-*  
2           *tory of the Gila Bend Indian Reservation Lands Re-*  
3           *placement Act indicates that gaming was an antici-*  
4           *pated use of the replacement lands.*

5           (13) *It is the intent of Congress to clarify that*  
6           *lands purchased pursuant to the Gila Bend Indian*  
7           *Reservation Lands Replacement Act are not eligible*  
8           *for Class II and Class III gaming pursuant to the In-*  
9           *Indian Gaming Regulatory Act. Such lands may be*  
10          *used for other forms of economic development by the*  
11          *Tohono O’odham Nation.*

12 **SEC. 3. GAMING CLARIFICATION.**

13          *Section 6(d) of Public Law 99–503 is amended by in-*  
14          *serting “except that no class II or class III gaming activi-*  
15          *ties, as defined in section 4 of the Indian Gaming Regu-*  
16          *latory Act (25 U.S.C. 2703), may be conducted on such land*  
17          *if such land is located north of latitude 33 degrees, 4 min-*  
18          *utes north” after “shall be deemed to be a Federal Indian*  
19          *Reservation for all purposes”.*

20 **SEC. 4. NO EFFECT.**

21          *The limitation on gaming set forth in the amendment*  
22          *made by section 3 shall have no effect on any interpretation,*  
23          *determination, or decision to be made by any court, admin-*  
24          *istrative agency or department, or other body as to whether*  
25          *any lands located south of latitude 33 degrees, 4 minutes*

- 1 *north taken into trust pursuant to this Act qualify as lands*
- 2 *taken into trust as part of a settlement of a land claim*
- 3 *for purposes of title 25 U.S.C. 2719(b).*