

Suspend the Rules and Pass the Bill, H. R. 2362, with Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

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—

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

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

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

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

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

18 (2) to encourage increased levels of commerce
19 and economic investment by private entities incor-
20 porated in or emanating from the Republic of Tur-
21 key or other World Trade Organization member na-
22 tions; and

23 (3) to further the policy of Indian self-deter-
24 mination by strengthening Indian tribal economies

1 and political institutions in order to raise the mate-
2 rial standard of living of Indians.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

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

9 (2) **CONSORTIUM.**—The term “consortium”
10 means an organization of two or more entities, at
11 least one of which is an Indian tribe, that has the
12 written consent of the governing bodies of all Indian
13 tribes participating in the consortium pursuant to
14 this Act.

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

18 (4) **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 (5) **ORGANIZATION.**—The term “organization”
23 means a partnership, joint venture, limited liability
24 company, or other unincorporated association or en-

1 tity that is established in order to participate in the
2 demonstration project authorized by this Act.

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

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

13 (8) SECRETARY.—The term “Secretary” means
14 the Secretary of the Interior.

15 **SEC. 3. INDIAN TRIBAL TRADE AND INVESTMENT DEM-**
16 **ONSTRATION PROJECT.**

17 (a) IN GENERAL.—The Secretary shall authorize In-
18 dian tribes or consortia selected under section 4 to partici-
19 pate in a demonstration project under this Act, which shall
20 be known as the “Indian Tribal Trade and Investment
21 Demonstration Project”.

22 (b) LEAD AGENCY.—The Department of the Interior
23 shall be the lead agency for purposes of carrying out the
24 demonstration project.

1 (c) TRIBAL APPROVAL OF LEASES.—Notwith-
2 standing any other provision of law, and in the discretion
3 of a participating Indian tribe or consortium, any lease
4 of Indian land held in trust by the United States for a
5 participating Indian tribe (or an Indian tribe in a consor-
6 tium) entered into under this Act to carry out a project
7 or activity shall not require the approval of the Secretary
8 if the lease—

9 (1) is entered into in furtherance of a commer-
10 cial partnership involving one or more private enti-
11 ties incorporated in or emanating from the Republic
12 of Turkey or other World Trade Organization mem-
13 ber nations;

14 (2) is entered into not later than 3 years after
15 the date of the enactment of this Act;

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

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

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

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

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

13 (e) APPROVAL OF TRIBAL REGULATIONS.—

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

17 (A) is consistent with regulations, if any,
18 issued by the Secretary pursuant to the Act of
19 August 9, 1955 (25 U.S.C. 415(a)); and

20 (B) provides for an environmental review
21 process that includes—

22 (i) the identification and evaluation of
23 any significant effects of the proposed ac-
24 tion on the environment; and

25 (ii) a process for ensuring that—

1 (I) the public is informed of, and
2 has a reasonable opportunity to com-
3 ment on, any significant environ-
4 mental impacts of the proposed action
5 identified by the participating Indian
6 tribe or consortium; and

7 (II) the participating Indian tribe
8 or consortium provides responses to
9 relevant and substantive public com-
10 ments on those impacts before the
11 participating Indian tribe or consor-
12 tium approves the lease.

13 (2) SECRETARIAL REVIEW.—

14 (A) IN GENERAL.—Not later than 120
15 days after the date on which the tribal regula-
16 tions under this subsection are submitted to the
17 Secretary, the Secretary shall review and ap-
18 prove or disapprove the regulations.

19 (B) WRITTEN DOCUMENTATION.—If the
20 Secretary disapproves such tribal regulations,
21 the Secretary shall include written documenta-
22 tion with the disapproval notification that de-
23 scribes the basis for the disapproval.

24 (C) EXTENSION.—The deadline described
25 in subparagraph (A) may be extended by the

1 Secretary, after consultation with the partici-
2 pating Indian tribe or consortium.

3 (f) FEDERAL ENVIRONMENTAL REVIEW.—Notwith-
4 standing subsection (e)(2), if a participating Indian tribe
5 or consortium carries out a project or activity funded by
6 a Federal agency, the participating Indian tribe or consor-
7 tium may rely on the environmental review process of the
8 applicable Federal agency rather than any tribal environ-
9 mental review process under this subsection.

10 (g) DOCUMENTATION.—If a participating Indian
11 tribe or consortium executes a lease pursuant to tribal reg-
12 ulations approved under this section, the participating In-
13 dian tribe or consortium shall provide the Secretary
14 with—

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

17 (2) in the case of tribal regulations or a lease
18 that allows for lease payments to be made directly
19 to the participating Indian tribe or consortium, doc-
20 umentation of the lease payments that are sufficient
21 to enable the Secretary to discharge the trust re-
22 sponsibility of the United States under subsection
23 (h).

24 (h) TRUST RESPONSIBILITY.—

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

4 (2) AUTHORITY OF SECRETARY.—Pursuant to
5 the authority of the Secretary to fulfill the trust ob-
6 ligation of the United States to an Indian tribe
7 under Federal law, including regulations, the Sec-
8 retary may, upon reasonable notice from the Indian
9 tribe and at the discretion of the Secretary, enforce
10 the provisions of, or cancel, any lease executed by a
11 participating Indian tribe or consortium under this
12 Act.

13 (i) COMPLIANCE.—

14 (1) IN GENERAL.—An interested party, after
15 exhausting applicable tribal remedies, may submit a
16 petition to the Secretary, at such time and in such
17 form as the Secretary determines to be appropriate,
18 to review the compliance of a participating Indian
19 tribe or consortium with any tribal regulations ap-
20 proved by the Secretary under this Act.

21 (2) VIOLATIONS.—If, after carrying out a re-
22 view under paragraph (1), the Secretary determines
23 that the tribal regulations were materially violated,
24 the Secretary may take any action the Secretary de-
25 termines to be necessary to remedy the violation, in-

1 including rescinding the approval of the tribal regula-
2 tions and reassuming responsibility for the approval
3 of leases of Indian lands.

4 (3) DOCUMENTATION.—If the Secretary deter-
5 mines under this paragraph that a violation of tribal
6 regulations has occurred and a remedy is necessary,
7 the Secretary shall—

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

10 (B) provide the applicable participating In-
11 dian tribe or consortium with a written notice
12 of the alleged violation together with such writ-
13 ten determination; and

14 (C) prior to the exercise of any remedy,
15 the rescission of the approval of the regulation
16 involved, or the reassumption of lease approval
17 responsibilities, provide the applicable partici-
18 pating Indian tribe or consortium with—

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

20 and

21 (ii) a reasonable opportunity to cure
22 the alleged violation.

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

24 (a) PARTICIPANTS.—The Secretary may select not
25 more than 12 Indian tribes or consortia from the applicant

1 pool described in subsection (b) to submit an application
2 to be a participating Indian tribe or consortium.

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

6 (1) requests participation in the demonstration
7 project through a resolution or other official action
8 of the tribal governing body or, in the case of a con-
9 sortium, a resolution or other official action of each
10 Indian tribe that is a member of the consortium;
11 and

12 (2) demonstrates, for the 3 fiscal years imme-
13 diately preceding the fiscal year for which participa-
14 tion is requested, financial stability and financial
15 management capability as demonstrated by a show-
16 ing by the Indian tribe or consortium that there
17 were no material audit exceptions in the required an-
18 nual audit of the Indian Self-Determination and
19 Education Assistance Act contracts or Tribal Self
20 Governance Act compacts of the Indian tribe or con-
21 sortium.

1 **SEC. 5. APPLICATION REQUIREMENTS, REVIEW, AND AP-**
2 **PROVAL.**

3 (a) **REQUIREMENTS.**—An Indian tribe or consortium
4 selected under subsection (a) may submit to the Secretary
5 an application that—

6 (1) identifies the activities to be conducted by
7 the Indian tribe or consortium;

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

14 (3) is approved by the governing body of the In-
15 dian tribe or consortium, including, in the case of an
16 applicant that is a consortium of Indian tribes, the
17 governing body of each affected member Indian
18 tribe.

19 (b) **REVIEW AND APPROVAL.**—

20 (1) **IN GENERAL.**—Not later than 90 days after
21 the date of receipt of an application under sub-
22 section (a), the Secretary shall inform the applicant,
23 in writing, of the approval or disapproval of the ap-
24 plication.

25 (2) **DISAPPROVAL.**—If an application is dis-
26 approved, the written notice shall identify the rea-

1 sons for the disapproval and the applicant shall be
2 provided an opportunity to amend and resubmit the
3 application to the Secretary.

4 **SEC. 6. REPORT TO CONGRESS.**

5 Not later than 3 years after the date of the enact-
6 ment of this Act, the Secretary shall prepare and submit
7 to Congress a report that includes—

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

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

1 Amend the title so as to read: “A bill to facili-
2 tate economic development by Indian tribes and en-
3 courage investment by Turkish enterprises or other
4 World Trade Organization member nations.”.