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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

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

(b) FINDINGS.—Congress finds that—

(1) the public and private sectors in the Republic of Turkey have demonstrated a unique interest in
bolstering cultural, political, and economic relationships with Indian tribes and tribal members;

(2) uneconomic regulatory, statutory, and policy barriers are preventing more robust relationships between the Turkish and Indian tribal communities; and

(3) it is in the interest of Indian tribes, the United States, and the United States–Turkey relationship to remove or ameliorate these barriers through the establishment of an Indian Tribal Trade and Investment Demonstration Project.

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

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

(2) to encourage increased levels of commerce and economic investment by private entities incorporated in or emanating from the Republic of Turkey; and

(3) to further the policy of Indian self-determination by strengthening Indian tribal economies and political institutions in order to raise the material standard of living of Indians.

SEC. 2. DEFINITIONS.

In this Act:
(1) APPLICANT.—The term “applicant” means an Indian tribe or a consortium of Indian tribes that submits an application under this Act seeking participation in the demonstration project.

(2) DEMONSTRATION PROJECT.—The term “demonstration project” means the trade and investment demonstration project authorized by this Act.

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

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

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

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
SEC. 3. INDIAN TRIBAL TRADE AND INVESTMENT DEMONSTRATION PROJECT.

(a) In General.—The Secretary shall authorize Indian tribes selected under section 4 to participate in a demonstration project under this Act, which shall be known as the “Indian Tribal Trade and Investment Demonstration Project”.

(b) Lead Agency.—The Department of the Interior shall be the lead agency for purposes of carrying out the demonstration project.

(c) Tribal Approval of Leases.—Notwithstanding any other provision of law, and in the discretion of a participating Indian tribe or consortium, any lease of Indian land held in trust by the United States for a participating Indian tribe (or an Indian tribe in a consortium) entered into under this Act to carry out a project or activity shall not require the approval of the Secretary if the lease—

(1) is entered into in furtherance of a commercial partnership involving one or more private entities incorporated in or emanating from the Republic of Turkey;

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

(3) is not for the exploration, development, or extraction of any mineral resources;
(4) does not include lease of land or an interest in land held in trust for an individual Indian;
(5) is executed under the tribal regulations approved by the Secretary under this Act; and
(6) has a term that does not exceed 25 years, except that any such lease may include an option to renew for up to 2 additional terms, each of which may not exceed 25 years.

(d) Activities To Be Conducted On Leased Lands.—Indian land held in trust by the United States for the benefit of a participating Indian tribe (or an Indian tribe in a consortium) may be leased for activities consistent with the purposes of this Act, including business and economic development, public, educational, or residential purposes, including the development or use of natural resources in connection with operations under such leases, for grazing purposes, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by the Secretary.

(e) Approval Of Tribal Regulations.—

(1) In General.—The Secretary shall approve a tribal regulation issued for the purposes of subsection (c)(4), if the tribal regulation—
(A) is consistent with regulations, if any, issued by the Secretary under this Act; and

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

(i) the identification and evaluation of any significant effects of the proposed action on the environment; and

(ii) a process for ensuring that—

(I) the public is informed of, and has a reasonable opportunity to comment on, any significant environmental impacts of the proposed action identified by the participating Indian tribe or consortium; and

(II) the participating Indian tribe or consortium provides responses to relevant and substantive public comments on those impacts before the participating Indian tribe or consortium approves the lease.

(2) Secretarial review.—

(A) In general.—Not later than 120 days after the date on which the tribal regulations under this subsection are submitted to the
Secretary, the Secretary shall review and approve or disapprove the regulations.

(B) \textit{Written documentation}.—If the Secretary disapproves such tribal regulations, the Secretary shall include written documentation with the disapproval notification that describes the basis for the disapproval.

(C) \textit{Extension}.—The deadline described in subparagraph (A) may be extended by the Secretary, after consultation with the participating Indian tribe or consortium.

(f) \textit{Federal Environmental Review}.—Notwithstanding subsection (e)(2), if a participating Indian tribe or consortium carries out a project or activity funded by a Federal agency, the participating Indian tribe or consortium may rely on the environmental review process of the applicable Federal agency rather than any tribal environmental review process under this subsection.

(g) \textit{Documentation}.—If a participating Indian tribe or consortium executes a lease pursuant to tribal regulations approved under this section, the participating Indian tribe or consortium shall provide the Secretary with—

(1) a copy of the lease, including any amendments or renewals to the lease; and
(2) in the case of tribal regulations or a lease that allows for lease payments to be made directly to the participating Indian tribe or consortium, documentation of the lease payments that are sufficient to enable the Secretary to discharge the trust responsibility of the United States under subsection (h).

(h) Trust Responsibility.—

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

(2) Authority of Secretary.—Pursuant to the authority of the Secretary to fulfill the trust obligation of the United States to an Indian tribe under Federal law, including regulations, the Secretary may, upon reasonable notice from the Indian tribe and at the discretion of the Secretary, enforce the provisions of, or cancel, any lease executed by a participating Indian tribe or consortium under this Act.

(i) Compliance.—

(1) In general.—An interested party, after exhausting applicable tribal remedies, may submit a petition to the Secretary, at such time and in such form as the Secretary determines to be appropriate,
to review the compliance of a participating Indian tribe or consortium with any tribal regulations approved by the Secretary under this Act.

(2) VIOLATIONS.—If, after carrying out a review under paragraph (1), the Secretary determines that the tribal regulations were violated, the Secretary may take any action the Secretary determines to be necessary to remedy the violation, including rescinding the approval of the tribal regulations and reassuming responsibility for the approval of leases of Indian lands.

(3) DOCUMENTATION.—If the Secretary determines under this paragraph that a violation of tribal regulations has occurred and a remedy is necessary, the Secretary shall—

(A) make a written determination with respect to the regulations that have been violated;

(B) provide the applicable participating Indian tribe or consortium with a written notice of the alleged violation together with such written determination; and

(C) prior to the exercise of any remedy, the rescission of the approval of the regulation involved, or the reassumption of lease approval
responsibilities, provide the applicable participating Indian tribe or consortium with—

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

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

SEC. 4. SELECTION OF PARTICIPATING INDIAN TRIBES.

(a) PARTICIPANTS.—

(1) IN GENERAL.—During the first year after the date of the enactment of this Act, the Secretary may select not more than 6 Indian tribes or consortia from the applicant pool described in subsection (b) to submit an application to be a participating Indian tribe or consortium.

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

(b) APPLICANT POOL.—The applicant pool described in this subsection shall consist of each Indian tribe or consortium that—

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

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

SEC. 5. APPLICATION REQUIREMENTS, REVIEW, AND AP-
PROVAL.

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

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

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

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

(b) REVIEW AND APPROVAL.—
(1) IN GENERAL.—Not later than 90 days after
the date of receipt of an application under sub-
section (a), the Secretary shall inform the applicant,
in writing, of the approval or disapproval of the ap-
lication.

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

SEC. 6. REPORT TO CONGRESS.

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

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

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