

Union Calendar No. 307

112TH CONGRESS
2^D SESSION

H. R. 2938

[Report No. 112-440]

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

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

APRIL 16, 2012

Additional sponsors: Mr. KILDEE, Mr. BOREN, Mr. BACA, and Ms. McCOLLUM

APRIL 16, 2012

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 *italie*]

[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 *Indian 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).*

Union Calendar No. 307

112TH CONGRESS
2^D Session

H. R. 2938

[Report No. 112-440]

A BILL

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

APRIL 16, 2012

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