

112TH CONGRESS
1ST SESSION

H. R. 2938

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

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

1 Tohono O’odham Nation to purchase up to 9,880
2 acres of replacement lands in exchange for granting
3 all right, title and interest to the Gila Bend Indian
4 Reservation to the United States.

5 (2) The intent of the Gila Bend Indian Res-
6 ervation Lands Replacement Act was to replace pri-
7 marily agriculture land that the Tohono O’odham
8 Nation was no longer able to use due to flooding by
9 Federal dam projects.

10 (3) In 1988, Congress passed the Indian Gam-
11 ing Regulatory Act, which restricted the ability of
12 Indian tribes to conduct gaming activities on lands
13 acquired after the date of enactment of the Act.

14 (4) Since 1986, the Tohono O’odham Nation
15 has purchased more than 16,000 acres of land. The
16 Tohono O’odham Nation does not currently game on
17 any lands acquired pursuant to the Gila Bend In-
18 dian Reservation Lands Replacement Act.

19 (5) Beginning in 2003, the Tohono O’odham
20 Nation began taking steps to purchase approxi-
21 mately 134.88 acres of land near 91st and Northern
22 Avenue in Maricopa County, within the City of Glen-
23 dale (160 miles from the Indian tribe’s headquarters
24 in Sells). The Tohono O’odham Nation is now trying
25 to have these lands taken into trust status by the

1 Secretary of the Interior pursuant to the Gila Bend
2 Indian Reservation Lands Replacement Act of 1986
3 (“Gila Bend Act”), and has asked the Secretary to
4 declare these lands eligible for gaming, thereby al-
5 lowing the Indian tribe to conduct Las Vegas style
6 gaming on the lands. The Secretary has issued an
7 opinion stating that he has the authority to take ap-
8 proximately 53.54 acres of these lands into trust
9 status, and plans to do so when legally able to do
10 so.

11 (6) The State of Arizona, City of Glendale, and
12 at least 12 Indian tribes in Arizona oppose the
13 Tohono O’odham Nation gaming on these lands. No
14 Indian tribe supports the Tohono O’odham Nation’s
15 efforts to conduct gaming on these lands.

16 (7) The Tohono O’odham Nation’s proposed ca-
17 sino violates existing Tribal-State gaming compacts
18 and State law, Proposition 202, agreed to by all Ari-
19 zona Indian tribes, which effectively limits the num-
20 ber of tribal gaming facilities in the Phoenix metro-
21 politan area to seven, which is the current number
22 of facilities operating.

23 (8) The Tohono O’odham casino proposal will
24 not generate sales taxes as the State Gaming Com-

1 pact specifically prohibits the imposition of any
2 taxes, fees, charges, or assessments.

3 (9) The proposed casino would be located close
4 to existing neighborhoods and a newly built school
5 and raises a number of concerns. Homeowners,
6 churches, schools, and businesses made a significant
7 investment in the area without knowing that a tribal
8 casino would or even could locate within the area.

9 (10) The development has the potential to im-
10 pact the future of transportation projects, including
11 the Northern Parkway, a critical transportation cor-
12 ridor to the West Valley.

13 (11) The Tohono O’odham Nation currently op-
14 erates three gaming facilities: 2 in the Tucson met-
15 ropolitan area and 1 in Why, Arizona.

16 (12) Nothing in the language or legislative his-
17 tory of the Gila Bend Indian Reservation Lands Re-
18 placement Act indicates that gaming was an antici-
19 pated use of the replacement lands.

20 (13) It is the intent of Congress to clarify that
21 lands purchased pursuant to the Gila Bend Indian
22 Reservation Lands Replacement Act are not eligible
23 for Class II and Class III gaming pursuant to the
24 Indian Gaming Regulatory Act. Such lands may be

1 used for other forms of economic development by the
2 Tohono O’odham Nation.

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

4 Section 6(d) of Public Law 99–503 is amended by
5 inserting “except that no class II gaming or class III gam-
6 ing activities, as defined in section 4 of the Indian Gaming
7 Regulatory Act (25 U.S.C. 2703), may be conducted on
8 such land” after “shall be deemed to be a Federal Indian
9 Reservation for all purposes”.

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