

## KLAMATH TRIBE JUDGMENT FUND REPEAL ACT

DECEMBER 12, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,  
submitted the following

### R E P O R T

[To accompany S. 314]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (S. 314) to repeal the Klamath Tribe Judgment Fund Act, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of S. 314 is to repeal the Klamath Tribe Judgment Fund Act.

#### BACKGROUND AND NEED FOR LEGISLATION<sup>1</sup>

Similar to many tribal governments, the Klamath Tribes were terminated by Congress in the 1950s, in this case through the Klamath Termination Act of 1954. In addition to termination, the legislation established procedures for selling over 850,000 acres of reservation land belonging to members of the Klamath Tribes. In the termination process, Tribes were required to submit to the Secretary of the Interior a “final” roll of tribal members within six months of enactment. The Tribes complied, and on August 13, 1954, tribal leadership submitted a list of 2,133 members.<sup>2</sup>

At the time of passage, the Klamath Tribes had pending lawsuits before the now-defunct Indian Claims Commission (ICC) seeking compensation for the mismanagement or misappropriation of tribal assets, primarily timber and ranch lands. These claims were not

<sup>1</sup>See generally S. REP. NO. 117-11 (2021), <https://www.congress.gov/117/crpt/srpt11/CRPT-117srpt1.pdf>.

<sup>2</sup>22 Fed. Reg. 9303 (November 21, 1957).

extinguished by the Termination Act and were not paid to the Klamath Tribes until each one was authorized and appropriated by Congress. Congress determined that it would be most efficient to adopt a judgment distribution fund that would allow distribution to Klamath tribal members following specific requirements. On October 1, 1965, Congress passed the Klamath Tribe Judgment Fund Act, which directed the Secretary of the Interior to make per-capita distributions to all living individuals listed on the 1954 “final” roll. According to the Termination Act, the share of any deceased enrollee would be paid to their heirs and legatees.

In August 1986, the Klamath Tribes’ federal trust relationship with the United States was restored with the passage of the Klamath Indian Tribe Restoration Act. However, the Klamath Tribe Judgment Fund Act did not account for this restoration, which reinitiated the enrollment of tribal members born after the compilation of the 1954 “final” roll.

Unfortunately, the Klamath Tribe Judgment Fund Act’s limitation on the distribution of funds to persons on the “final” roll or to their heirs or legatees continues to result in adverse consequences for the Klamath Tribes. Many of the individuals to whom shares passed were not Klamath tribal members or of Native American descent. Today, the Klamath Tribes cannot determine how tribal funds can be allocated to members or other tribal priorities. To remedy this oversight, S. 314 repeals the Klamath Tribe Judgment Fund Act and restores the Klamath Tribes’ ability to exercise its sovereign authority and discretion over its tribal judgment funds.

#### COMMITTEE ACTION

S. 314 was introduced on February 12, 2021, by Senator Jeff Merkley (D–OR). The bill was referred to the Senate Committee on Indian Affairs. On March 10, 2021, the Committee considered the bill *en bloc* with other legislation and ordered the bill reported favorably without amendment by voice vote. On April 14, 2021, the Committee reported the bill favorably without amendment to the full Senate. On May 26, 2021, the Senate passed the bill without amendment by unanimous consent.

The House received the engrossed bill and referred it solely to the Committee on Natural Resources. Within the Committee, the bill was referred to the Subcommittee for Indigenous Peoples of the United States. On April 27, 2022, the Subcommittee held a hearing on the bill. On December 8, 2022, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

#### HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee for Indigenous Peoples of the United States held on April 27, 2022.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, as well as clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee adopts the following estimate for the bill from the Director of the Congressional Budget Office:

<b>S. 314, Klamath Tribe Judgement Fund Repeal Act</b>			
As ordered reported by the Senate Committee on Indian Affairs on March 10, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 314 would repeal the Klamath Tribe Judgment Fund Act, which authorizes the Department of the Interior (DOI) to establish and maintain a fund to make payments to Klamath Tribe members to satisfy any judgments obtained by the tribe. The bill also would require any amounts remaining in the fund upon its closure to be disbursed to the Klamath Tribe.

Payments to certain tribal trust funds that are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes are treated as payments to a nonfederal entity. Thus, the balances remaining in the Klamath Tribe Judgment Fund were previously recorded as federal budget authority and outlays at the time those funds were deposited into the fund. Accordingly, any subsequent disbursement of those funds would have no effect on the federal budget.

According to information provided by DOI, about \$660,000 remains in the fund. That money is slated to be paid to almost 200 members of the Klamath Tribe or to their next of kin, none of whom DOI has been able to locate. Assuming that S. 314 is enacted early in calendar year 2021, CBO estimates that those funds would be disbursed directly to the government of the Klamath Tribe during fiscal year 2021.

The CBO staff contact for this estimate is Jon Sperl. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

The Committee adopts as its own any finalized additional materials of the Director of the Congressional Budget Office regarding the bill, should such materials be made available before House passage of the bill.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to repeal the Klamath Tribe Judgment Fund Act.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### UNFUNDED MANDATES REFORM ACT STATEMENT

According to CBO, this bill contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

#### EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

#### PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

### **THE KLAMATH TRIBE JUDGEMENT FUND ACT**

(Public Law 89-224)

AN ACT To provide for the disposition of judgment funds of the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians, and for other purposes

¶ That the Secretary of the Interior is authorized and directed to distribute in accordance with the provisions of this Act the funds appropriated in satisfaction of a judgment obtained by the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians, hereinafter called the Klamath Tribe for the purposes of the administration of this Act, from the Indian Claims Commission against the United States in docket numbered 100, and all other funds heretofore or hereafter deposited in the United States Treasury to the credit of the Klamath Tribe or any of its constituent parts or groups, except the funds heretofore or hereafter set aside for the

purpose of paying the usual and necessary expenses of prosecuting claims against the United States.

【SEC. 2. (a) A distribution shall be made of the funds resulting from docket numbered 100, including interest, after deducting litigation expenses and estimated costs of distribution to all persons whose names appear on the final roll of the Klamath Tribe, which roll was closed and made final as of August 13, 1954 (68 Stat. 718). Except as provided in subsections (b), (c), (d), and (e) of this section, a share or portion of a share payable to a living adult shall be paid directly to such adult; (b) a share payable to a deceased enrollee shall be paid to his heirs or legatees upon the filing of proof of death and inheritance satisfactory to the Secretary of the Interior, whose findings and determinations upon such proof shall be final and conclusive: Provided, That amounts payable to deceased heirs amounting to \$5 or less shall not be paid, and such amounts shall remain in the United States Treasury to the credit of the Klamath Tribe; (c) a share payable to an adult under legal disability shall be paid to his legal representative; (d) a share payable to a person previously found to be in need of assistance under the provisions of section 15 of the Act of August 13, 1954, may be paid directly to the individual or, if the Secretary deems it in the best interest of the individual, it may be added to the trust now in force on behalf of said individual, with concurrence of the trustee; and (e) a share or portion of a share payable to a person under age of majority as determined by the laws of the State of residence shall be paid to a parent, legal guardian, or trustee of such minor.

【SEC. 3. Within sixty days of the date of approval of this Act, the Secretary of the Interior shall commence to pay the share due to each living person whose name appears on the final roll of August 13, 1954. As to members who have died since promulgation of the final roll of August 13, 1954, the Secretary shall mail a notice of distribution of funds and a form for presentation of a claim thereunder to all known heirs or legatees of such deceased enrollees. All such claims shall be filed with the area director of the Bureau of Indian Affairs, Portland, Oregon, within two years following the date of approval of this Act. From and after that date, all claims and the right to file claims for any distribution from the judgment in docket numbered 100 shall be forever barred.

【SEC. 4. Funds remaining in the United States Treasury to the credit of the said Klamath Tribe, or any of its constituent parts or groups, after the distribution of funds resulting from Indian Claims Commission docket numbered 100 as provided by sections 2 and 3 of this Act, together with any other funds which may be deposited in the United States Treasury, including without limitation funds accruing from other judgments against the United States (after payment of expenses, including attorney fees, payments for rights-of-way, trespass damages, or other revenues, together with any interest accrued thereon, shall, after deduction of the estimated cost of distribution, be distributed from time to time as determined by the Secretary to the members of the Klamath Tribe or to the members of any of its constituent parts or groups in the same manner as provided in sections 2 and 3 of this Act.

【SEC. 5. After all claims of the Klamath Tribe or any of its constituent parts or groups against the United States have been finally determined, appropriated, and distributed, as provided in sec-

tions 2, 3, and 4 of this Act; and after all litigation expenses (including attorney fees) and costs of distributions have been paid, any funds remaining in the United States Treasury to the credit of the Klamath Tribe or any of its constituent parts or groups which, in the discretion of the Secretary of the Interior are insufficient to justify a further distribution, shall be deposited in the miscellaneous receipts of the Treasury of the United States.

**【SEC. 6. The costs of distribution may be aid out of the deductions authorized by sections 2 and 4 of this Act. Any unused portion of such amounts shall remain in the United States Treasury to the credit of the Klamath Tribe.**

**【SEC. 7. None of the funds distributed pursuant to this Act shall be subject to Federal or State income tax.**

**【SEC. 8. The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this Act.】**

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS

None.

