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SENATE

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A BILL TO AMEND THE GRAND RONDE RESERVATION ACT, AND FOR OTHER PURPOSES

NOVEMBER 27, 2023.—Ordered to be printed

Mr. SCHATZ, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 910]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill S. 910, a bill to amend the Grand Ronde Reservation Act, and for other purposes, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of S. 910 is to restore the ability of the Confederated Tribes of Grand Ronde to pursue certain land claims in the State of Oregon following the termination of that right in a 1994 amendment to the Grand Ronde Reservation Act (P.L. 100-425).

BACKGROUND

The Grand Ronde Reservation was originally established by treaties entered into and ratified between 1853 and 1855, and by the Executive Order of June 30, 1857. In 1954, the Tribe's federal recognition was terminated by Congress¹ and later restored in 1983 by the *Grand Ronde Restoration Act*.² The Restoration Act reinstated the Tribes' *Indian Reorganization Act* charter, however, a

¹A bill to provide for the termination of Federal supervision over the property of certain tribes and bands of Indians located in western Oregon and the individual members thereof, and for other purposes, Pub. L. No. 83-588, 68 Stat. 724 (1954).

²Public Law 98-165, 97 Stat. 1064 (1983).

separate act of Congress would be needed to reestablish a reservation.

Following the development of a reservation plan, Congress passed the *Grand Ronde Reservation Act* in 1988³ for the Tribe to establish a 9,811 acre reservation.⁴ Following enactment of this law, the U.S. Bureau of Land Management (BLM) detected a land survey error dating back to 1871, when Mr. David Thompson, U.S. Deputy Surveyor, incorrectly surveyed the eastern boundary of the Tribe's original reservation, leaving out 84 acres of unsurveyed land known as the "Thompson Strip." Prior to discovery of the error, BLM treated the 84 acres as Oregon & California Railroad Grant Lands and permitted the harvesting of timber from the land. Once informed of the land survey error, the Tribe found that the land was unmanageable due to its narrow boundaries, and that ownership interests were divided between several parties. The Tribe determined that a land exchange with BLM was the best course of compensation for the land survey error. The Tribe and BLM entered into a land claim settlement to transfer 240 acres of Oregon & California Railroad Grant Lands to the Tribe.⁵ This agreement was included in a 1994 amendment to the *Grand Ronde Reservation Act* that was passed in an Indian technical corrections bill and signed into law on November 2, 1994.⁶ The 1994 amendment relinquished all future land claims by the Grand Ronde Tribe in the State of Oregon, not just to the "Thompson Strip."

NEED FOR LEGISLATION

S. 910 amends a 1994 amendment to the *Grand Ronde Reservation Act*, which restricted the right of the Grande Ronde Tribe to pursue land claims in the State of Oregon. S. 910 clarifies that the Tribe's land claims are extinguished only for the 84-acre "Thompson Strip" and not the entire state of Oregon.

SUMMARY OF THE BILL

S. 910 amends the *Grand Ronde Reservation Act* to clarify that the Tribe only relinquished land claims within the 84 acres known as the Thompson Strip, and provides limitations on the Tribe's ability to engage in class II or class III gaming.

LEGISLATIVE HISTORY

On March 22, 2023, Senators Merkley (D-OR) and Wyden (D-OR) introduced S. 910, *A bill to amend the Grand Ronde Reservation Act, and for other purposes*. On the same day, the Senate referred the bill to the Committee on Indian Affairs. S. 910 is identical to S. 559 that was favorably reported, without amendment, by the Committee in the 117th Congress. On July 19, 2023, the Committee met at a duly convened business meeting to consider S. 910. The Committee ordered S. 910 favorably reported without amendment.

³Pub. L. No. 100-425, 102 Stat. 1594 (1988).

⁴Through subsequent amendments to the 1988 Act, the Tribe's reservation grew to 9,879 acres. In 1994, the Tribe's reservation further expanded to 10,120 acres through Public Law 103-435.

⁵Federal Recognition of Indian Tribes: Hearing on H.R. 2549, H.R. 4462 and H.R. 4709 Before the House Subcommittee on Native American Affairs of the House Committee on Natural Resources, 103 Cong. 104 (1994) (Statement of Mark Mercier).

⁶Pub. L. No. 103-435 (1994).

On March 22, 2023, Representatives Salinas (D–OR) Bonamici (D–OR), Blumenauer (D–OR), Hoyle (D–OR), and Chavez-DeRemer (D–OR) introduced identical legislation, H.R. 1722, which was referred to the Committee on Natural Resources. Representative Bentz (R–OR) later joined as a cosponsor on March 30, 2023. On June 7, 2023, the House Committee on Natural Resources Subcommittee on Indian and Insular Affairs held a hearing on H.R. 1722. On July 26, 2023, the Committee favorably reported H.R. 1722 without amendment by a vote of 32–0. On November 3, 2023, H.R. 1722 was placed on the Union Calendar. On November 6, 2023, Representative Westerman (D–AR) successfully moved to suspend the rules and on November 8, 2023, H.R. 1722 passed the House by voice vote.

117th Congress. On March 3, 2021, Senators Merkley (D–OR) and Wyden (D–OR) introduced S. 559, *A bill to amend the Grand Ronde Reservation Act, and for other purposes*. On the same day, the Senate referred the bill to the Committee on Indian Affairs. S. 559 was identical to its predecessor bill, S. 2716 as amended, that passed the Senate in the 116th Congress. On March 10, 2021, at a duly convened business meeting, the Committee considered and ordered S. 559 to be reported favorably without amendment. On April 28, 2021, the Committee reported S. 559 favorably without an amendment and the bill was placed on the Senate Legislative Calendar. On May 26, 2021, the Senate passed S. 559 without amendment by voice vote. S. 559 was received by the House of Representatives and held at the desk on May 28, 2021. On February 2, 2022, the bill was referred to the House Committee on Natural Resources. On April 27, 2022, the Subcommittee for Indigenous Peoples of the United States held a hearing on S. 559. The House took no further action on S. 559 in the 117th Congress.

On March 12, 2021, Representative Schrader (D–OR) Bonamici (D–OR), DeFazio (D–OR), and Blumenauer (D–OR) introduced identical legislation, H.R. 1891. On the same day, the bill was referred to the House Committee on Natural Resources. On May 14, 2021, the bill was further referred to the House Committee on Natural Resources Subcommittee for Indigenous Peoples of the United States. The House took no further action on H.R. 4888 during the 117th Congress.

116th Congress. On October 28, 2019, Senators Merkley (D–OR) and Wyden (D–OR) introduced S. 2716, *A bill to amend the Grand Ronde Reservation Act, and for other purposes*, which was referred the bill to the Committee on Indian Affairs. The Committee held a hearing on S. 2716 on June 24, 2020. On July 29, 2020, the Committee met at a duly convened business meeting and ordered favorably reported S. 2716, with amendment offered by Senator Udall (D–NM) on behalf of Senator Merkley (D–OR). Senator Udall’s amendment made technical corrections to S. 2716 to align the bill with its House companion, H.R. 4888, by further clarifying that any lands obtained from a land claim settlement would not be eligible or used for gaming purposes under the Indian Gaming Regulatory Act. On December 15, 2020, the Committee favorably reported S. 2716, with amendment. On December 20, 2020, the Senate passed S. 2716 with amendment by unanimous consent. On December 21, 2020, S. 2716 was received by the House of Representa-

tives and held at the desk. The House took no further action on S. 2716 prior to the conclusion of the 116th Congress.

On October 28, 2019, Representatives Schrader (D–OR), Bonamici (D–OR), DeFazio (D–OR), and Blumenauer (D–OR), introduced H.R. 4888, *A bill to amend the Grand Ronde Reservation Act, and for other purposes*, a bill similar to S. 2716. On the same day, the House referred H.R. 4888 to the House Committee on Natural Resources. On November 12, 2019, the bill was further referred to the House Committee on Natural Resources Subcommittee for Indigenous Peoples of the United States. The Subcommittee held a hearing on the H.R. 4888 on February 5, 2020. The House took no further action on H.R. 4888 prior to the conclusion of the 116th Congress.

SECTION-BY-SECTION ANALYSIS OF S. 910 AS ORDERED REPORTED

Section 1—Grand Ronde Reservation Act amendments

This section amends section 1(d) of the *Grand Ronde Reservation Act* by striking “lands within the State of Oregon” and inserting “the 84 acres known as the Thompson Strip”. The section also redesignates paragraphs and inserts a paragraph 2 which provides for a prohibition of Class II or Class III gaming (as these terms are defined by section 4 of the Indian Gaming Regulatory Act) on any lands obtained as part of a land claim settlement for the Tribe.

Section 2—Treaty rights of federally recognized tribes

This section provides that nothing in this Act, or an amendment made by this Act, shall be construed to enlarge, confirm, adjudicate, affect, or modify any treaty right of an Indian tribe (as defined by section 4 of the *Indian Self-Determination and Education Assistance Act*).

COST AND BUDGETARY CONSIDERATIONS

S. 910, a bill to amend the Grand Ronde Reservation Act, and for other purposes As ordered reported by the Senate Committee on Indian Affairs on July 19, 2023			
By Fiscal Year, Millions of Dollars	<u>2023</u>	<u>2023-2028</u>	<u>2023-2033</u>
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	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Mandate Effects	Yes, Under Threshold
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 910 would revise the tribal land claims of the Confederated Tribes of the Grand Ronde Community in Oregon that were extinguished by the Grand Ronde Reservation Act. That act authorized the Department of the Interior (DOI) to provide 240 acres of land to the tribes. In exchange, the tribes relinquished their right to pursue claims to all other land within the state. S. 910 would lower the amount of relinquished land to a specific 84-acre parcel, which would allow the tribes to acquire additional land in Oregon to which they have a valid claim.

Using information from DOI, CBO estimates that the agency would incur insignificant administrative costs to update documents related to the affected land. Any spending would be subject to the availability of appropriated funds.

S. 910 would impose an intergovernmental mandate—as defined in the Unfunded Mandates Reform Act (UMRA)—on the confederated tribes by prohibiting gaming on tribal land in Oregon. That prohibition would apply to land obtained by the tribe in a land claim settlement or purchased with funds from a settlement. Because gaming on such land is currently allowed under federal law, the proposed ban would be a mandate. However, because gaming does not occur now on the tribal land and the tribes have no plans to begin gaming activities on those lands, the cost of the mandate

would be small and below the threshold established in UMRA (\$99 million in 2023, adjusted annually for inflation).

The bill contains no private-sector mandates as defined in UMRA.

On September 22, 2023, CBO transmitted a cost estimate for H.R. 1722, the Grand Ronde Reservation Act Amendment of 2023, as ordered reported by the House Committee on Natural Resources on July 26, 2023. The two bills are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contacts for this estimate are Julia Aman (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 910 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 910.

CHANGES IN EXISTING LAW

On February 9, 2023, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.