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AMENDING THE GRAND RONDE RESERVATION ACT, AND FOR OTHER PURPOSES

DECEMBER 15, 2020.—Ordered to be printed

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

R E P O R T

[To accompany S. 2716]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred to the bill (S. 2716) to amend the Grand Ronde Reservation Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of this bill is to resolve an error created by an 1871 land survey, and later the 1994 amendment to the *Grand Ronde Reservation Act*, that provides for the Confederated Tribes of Grand Ronde (Tribe) to relinquish its claims to only the Thompson Strip, located in Oregon.

BACKGROUND

The Tribe's 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, Congress terminated the Tribe through Public Law 83–588 [1] and later reversed the termination in 1983 by enactment of the *Grand Ronde Restoration Act* (Public Law 98–165). The *Grand Ronde Restoration Act* restored the Tribe's federal recognition by reinstating its *Indian Reorganiza-*

[1] A 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).

tion Act charter and requiring Congressional legislation to reestablish a reservation.

Following the development of a reservation plan, Congress passed the *Grand Ronde Reservation Act* in 1988 for the Tribe to establish 9,811 acres as reservation land.[2] After the *Grand Ronde Reservation Act* was enacted, the U.S. Bureau of Land Management (BLM) detected a land survey error dating back to 1871 when David Thompson, U.S. Deputy Surveyor, incorrectly surveyed the eastern boundary of the Tribe's original reservation by not accounting for an additional 84 acres.

Since the 1871 surveying, the 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 harvested land, also known as the Thompson Strip, was unmanageable due to its narrow boundaries and that it divided ownership interests between several parties. The Tribe determined a land exchange with BLM was the best course of compensation for the land survey error. In 1994, Congress passed Public Law 103–435 that allowed the Tribe to exchange an additional 240 acres of BLM land for relinquishing claims to any land that was part of their original reservation prior to termination. This agreement was included in a 1994 amendment to the *Grand Ronde Reservation Act* that was passed in an Indian technical corrections bill and later signed into law on November 2, 1994.[3]

SUMMARY OF THE BILL

The bill amends section 1 of the *Grand Ronde Reservation Act*[4] by striking "lands within the State of Oregon" and replacing with "the 84 acres known as the Thompson Strip." Under Section 1 of the bill, there is a prohibition on class II and class III gaming on any land transferred to the Tribe as part of a land claim settlement. In Section 2 of the bill, there is acknowledgement that nothing in the bill, including its amendments, will not enlarge, confirm, adjudicate, affect, or modify any treaty right of an Indian Tribe.

LEGISLATIVE HISTORY

S. 2716, *A bill to amend the Grand Ronde Reservation Act, and for other purposes* was introduced by Senators Merkley and Wyden on October 28, 2019. The Committee held a legislative hearing on June 24, 2020. Mr. Darryl LaCounte, Director of the Bureau of Indian Affairs, testified on behalf of the U.S. Department of the Interior on the bill stating that they were willing to work with the Committee on technical corrections.

On July 29, 2020, the Committee held a duly called business meeting to consider eleven bills, including S. 2716. One amendment (KEN20119) was timely filed by Senator Udall, on behalf of Sen-

[2] Through subsequent amendments to the 1988 Act, the Tribe's reservation further grew to 9,879 acres.

[3] The House of Representatives Committee on Natural Resources committee report acknowledged the work of the Bureau of Land Management and Bureau of Indian Affairs officials for negotiating with the Tribe a fair and equitable settlement that was agreed to by the Tribe and the Department of the Interior. *See* House Report 103–704 at 6–7.

[4] A bill to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes, Pub. L. No. 100 425, 102 Stat. 1594 (1988), *amended by* Pub. L. No. 103–435 (1994).

ator Merkley. The amendment made technical corrections, to be in line with the House companion bill, H.R. 4888, by further clarifying that any lands obtained from a land claim settlement are not eligible, or to be used, for Class II or Class III gaming, as these terms are defined under the *Indian Gaming Regulatory Act*.

A House companion bill, H.R. 4888, *To amend the Grand Ronde Reservation Act, and for other purposes*, was introduced by Representatives Kurt Schrader, Suzanne Bonamici, Peter A. DeFazio, and Earl Blumenauer on October 28, 2019, and referred to the Committee on Natural Resources of the House of Representatives. On November 12, 2019, the bill was further referred to the Committee on Natural Resources Subcommittee for Indigenous Peoples (Subcommittee) of the United States of the House of Representatives. The Subcommittee held a hearing on the bill on February 5, 2020. To date, no further action has been taken on H.R. 4888.

NEED FOR LEGISLATION

The language used in the 1994 amendment to the *Grand Ronde Reservation Act* relinquished any land claims by the Tribe within the State of Oregon. The Tribe seeks enactment of S. 2716 to ensure that they have the right to compensation should another land survey error arise and passage of the bill will alleviate any potential issues.

SECTION-BY-SECTION ANALYSIS OF S. 2716, AS AMENDED

Section 1. Grand Ronde Reservation Act Amendment

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.

Sec. 2. Treaty Rights of Federally Recognized Tribes

This section provides that nothing in this Act, or the amendments made by this Act, will not 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

As of the date of publishing this report, the Committee has received the following informal communication from the Congressional Budget Office regarding the cost and budgetary considerations for S. 2716:

CBO estimates S. 2716 would not affect direct spending or revenues. CBO estimates that S. 2716 would increase spending, subject to appropriation (discretionary spending) by an insignificant amount (less than $500,000) over the 2021–2025 period.

Sincerely,

JON SPERL,
Principal Analyst,
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 S. 2716 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 2716.

CHANGES IN EXISTING LAW

On February 6, 2019, 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.

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