

## Calendar No. 52

117TH CONGRESS } <i>1st Session</i>	SENATE	{ REPORT 117-18
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### TO AMEND THE GRAND RONDE RESERVATION ACT, AND FOR OTHER PURPOSES

APRIL 28, 2021.—Ordered to be printed

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

### R E P O R T

[To accompany S. 559]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 559) 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 this bill is to reinstitute the ability of the Confederated Tribes of Grand Ronde (Tribe) to pursue land claims in the State of Oregon following the termination of that right pursuant to the 1994 amendment to the Grand Ronde Reservation Act.

#### 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. Congress later reversed the termination by enactment of the Grand Ronde Restoration Act (Public Law 98-165) in 1983. The Grand Ronde Restoration Act restored the Tribe's federal recognition by reinstating its Indian Reorganization 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. 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 its 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.

#### 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. 559 to preserve their pre-1994 right to compensation and alleviate any potential issues should another land survey error arise.

#### LEGISLATIVE HISTORY

Senators Merkley and Wyden introduced S. 559, a bill to amend the Grand Ronde Reservation Act and for other purposes, on March 3, 2021. The Senate referred the bill to the Committee on the same day. The bill, S. 559, is identical to the version favorably reported by the Committee, as amended, in the 116th Congress. On March 10, 2021, at a duly called business meeting, the Committee considered and reported S. 559 favorably without amendment.

*116th Congress.* 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 timely filed amendment made technical corrections to S. 2716, clarifying that any lands obtained from a land claim settlement were not eligible, or to be used, for Class II or Class III gaming as these terms are defined under the Indian Gaming Regulatory Act. The Committee ordered reported S. 2716 as amended favorably to the full Senate. On December 15, 2020, the Committee reported S. 2716 with an amendment and the bill as amended passed the Senate by unanimous consent on December 20, 2020.

The House companion bill, H.R. 4888, to amend the Grand Ronde Reservation Act and for other purposes, was introduced by Rep-

representatives Kurt Schrader, Suzanne Bonamici, Peter DeFazio, and Earl Blumenauer on October 28, 2019, and referred 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 (Subcommittee). The Subcommittee held a hearing on the bill on February 5, 2020. No further action was taken on H.R. 4888.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

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. Indian reservation drinking water program*

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

The following cost estimate, as provided by the Congressional Budget Office, dated March 19, 2021, was prepared for S. 314:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE  
*Washington, DC, March 23, 2021.*

Hon. BRIAN SCHATZ,  
*Chairman Committee on Indian Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 559, a bill to amend the Grand Ronde Reservation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>S. 559, a bill to amend the Grand Ronde Reservation Act</b>			
<b>As Ordered Reported by the Senate Committee on Indian Affairs on March 10, 2021</b>			
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)	*	*	not estimated
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?	<b>Yes, Under Threshold</b>
		Contains private-sector mandate?	<b>No</b>
* = between zero and \$500,000.			

The Grand Ronde Reservation Act, enacted in 1994, authorized the Department of the Interior (DOI) to provide 240 acres of land to the Confederated Tribes of the Grand Ronde Community in Oregon. That land was added to the tribes' reservation. In exchange, the tribes relinquished their right to pursue claims to all other land within the state. S. 559 would lower the amount of relinquished land to an 84-acre parcel, which in the future 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 administrative costs to update documents concerning the affected parcels of land; however, those costs would not be significant. Any such spending would be subject to the availability of appropriated funds.

S. 559 also would impose an intergovernmental mandate—as defined in the Unfunded Mandates Reform Act (UMRA)—on the tribes by prohibiting some forms of gaming on tribal land in Oregon. The land was obtained by the confederated tribes as part of a land claim settlement, and 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, the cost of the mandate would be small and below the threshold established in UMRA (\$85 million in 2021, adjusted annually for inflation).

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

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

#### 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. 559 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

Except as otherwise noted, the Committee has received no communications from the Executive Branch regarding S. 559.

CHANGES IN EXISTING LAW

In accordance with Committee Rules, subsection 12 of rule XXVI of the Standing Rules of the Senate is waived. 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.

