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WAIVING APPLICATION OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT TO A SPECIFIC PARCEL OF REAL PROPERTY BY THE UNITED STATES TO 2 INDIAN TRIBES IN THE STATE OF OREGON AND FOR OTHER PURPOSES

SEPTEMBER 26, 2006.—Ordered to be printed

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

R E P O R T

[To accompany S. 3687]

The Committee on Indian Affairs, to which was referred the bill, S. 3687, to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property by the United States to 2 Indian tribes in the State of Oregon and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 3687 will waive application of the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, to a specific parcel of real property transferred by the United States to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of Grand Ronde Community of Oregon. It further directs the Secretary of the Interior to issue a new deed that will not include a reversionary clause, and will prohibit gaming on the property.

BACKGROUND

In 2002, the United States transferred approximately 19.86 acres of land in Keizer, Oregon to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of Grand Ronde Community of Oregon (hereafter the "Tribes"). Transfer of the property was made under the authority of the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638 (the "Act"). Pursuant to the Act the United States is required to retain a right of reversion in the quitclaim deed transferring the property. Unfortunately, due to that right of reversion, the property cannot be used as collateral to finance development of the property.

The parcel of land described in the quitclaim deed is approximately 19.86 acres of land originally used as part of the Chemawa Indian School. The land was transferred by the United States in 1973 and 1974 to the State of Oregon for use in highway and associated road projects. Interstate Highway 5 and the Salem Parkway were completed, and in 1988 the Oregon Department of Transportation deeded the remaining acreage of the parcel back to the United States. The United States, in turn, on request of the Tribes, transferred the parcel jointly to the Tribes for economic development and other purposes under the Act. The quitclaim deed dated June 18, 2002, was recorded in the public records of Marion County, Oregon, on June 19, 2002.

The United States does not desire the return of the parcel and does not intend under any circumstances to take action to seek return of the parcel. In reliance on this intent, the Tribes have committed over $2.5 million to infrastructure improvements to the parcel, and have approved plans to further develop the parcel for economic purposes, the realization of which is dependent on the ability of the Tribes to secure conventional financing. The property is an integral component of a major commercial development advocated by the City of Keizer. The Tribal property development master plan, approved by the City, includes development of a gas station, restaurants, retail space and flex office space.

By waiving the residual application of the Act, S. 3687 will clear title to the property and allow the Tribes to obtain financing to realize the full commercial potential of the property. S. 3687 contains an express prohibition on using the property for gaming purposes.

LEGISLATIVE HISTORY

S. 3687 was introduced on July 19, 2006, by Senator Smith and Senator Wyden, and was referred to the Committee on Indian Affairs. On September 14, 2006, S. 3687 was unanimously passed out of the Committee and ordered reported without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On September 14, 2006, the Committee, in an open business session, considered S. 3687. By a unanimous voice vote, the Committee ordered the bill reported favorably to the full Senate with the recommendation that the bill do pass.

SECTION-BY-SECTION ANALYSIS OF S. 3687

Section 1. Findings

Section 1 provides findings supporting the intent of the bill, including: that the parcel of land described in the quitclaim deed is approximately 19.86 acres of land originally used as part of the Chemawa Indian School; that the United States does not desire the return of the parcel and does not intend under any circumstances to take action to seek return of the parcel; and that in reliance on this intent, the Tribes have committed over $2.5 million to infrastructure improvements to the parcel, and have approved plans to further develop the parcel for economic purposes, the realization of which is dependent on the ability of the Tribes to secure conventional financing.

Section 2. Waiver of application of Indian Self-Determination and Education Assistance Act

Section 2(a), notwithstanding any other provision of law, waives the application of Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) for the transfer of the parcel of real property deeded by the United States to the Confederated Tribes of Siletz Indians of Oregon and the Confederated Tribes of Grand Ronde Community of Oregon by quitclaim deed dated June 18, 2002.

Section 2(b) directs the Secretary of the Interior to issue a new deed that does not include any restriction on the right to alienate the parcel or any reference to any provision of the Indian Self-Determination and Education Assistance Act.

Section 2(c) prohibits Class II gaming and Class III gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) from being conducted on the 19.86 acres of land.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office cost estimate for S. 3687 is set forth below:

S. 3687—A bill to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to two Indian tribes in the state of Oregon, and for other purposes

S. 3687 would direct the Secretary of the Interior to issue a new deed to the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community of Oregon, exempting approximately 20 acres of land currently owned by the tribes from provisions of the Indian Self-Determination and Education Assistance Act. CBO estimates that enacting S. 3687 would have no significant impact on the federal budget.

S. 3687 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit the two tribes.

In June 2002, the federal government transferred approximately 20 acres of land to the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community of Oregon. S. 3687 would direct the Secretary to reissue a deed for the land that waives provisions of the Indian Self-Determination and Education Assistance Act related to use of that property. Because the land in question is not currently owned or held in trust by the United States, CBO estimates that enacting the bill would have no significant effect on the federal budget.

The CBO staff contact for this estimate is Daniel Hoople. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the regulatory and paperwork impact that would be incurred in carrying

out the bill. The Committee has concluded that the regulatory and paperwork impacts of S. 3687 will be de minimis.

EXECUTIVE COMMUNICATIONS

The Committee has received no official executive communications on S. 3687.

CHANGES IN EXISTING LAW

S. 3687 will not make changes to existing law.

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