

112TH CONGRESS  
2D SESSION

# H. R. 3878

To authorize the Secretary of the Interior to hold in trust for the benefit of the nine federally recognized Indian tribes in Oregon the Chemawa Indian School land and improvements, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2012

Mr. SCHRADER introduced the following bill; which was referred to the  
Committee on Natural Resources

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## A BILL

To authorize the Secretary of the Interior to hold in trust for the benefit of the nine federally recognized Indian tribes in Oregon the Chemawa Indian School land and improvements, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; FINDINGS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Chemawa Indian School Trust Transfer and Self-Deter-  
6       mination Act of 2012”.

7       (b) **FINDINGS.**—Congress finds the following:

1           (1) The Chemawa Indian School, originally  
2 opened in Forest Grove, Oregon, in 1880, is the  
3 longest continuously operating off-reservation board-  
4 ing school for Indian children in the United States.

5           (2) Circa 1885, Chemawa Indian School stu-  
6 dents and staff donated significant resources toward  
7 the purchase of the Salem, Oregon, school property  
8 and expressed a desire that the school lands and  
9 buildings belong to the Indians.

10          (3) All the land purchased for the Chemawa In-  
11 dian School was deeded directly to the Federal Gov-  
12 ernment, has never been converted to trust status,  
13 and is not considered “Indian country” under title  
14 18, United States Code.

15          (4) The land that comprises the Chemawa In-  
16 dian School is now managed by the General Services  
17 Administration.

18          (5) As much as one-third of the Chemawa In-  
19 dian School property has been sold or transferred by  
20 the Federal Government for various purposes, with-  
21 out direct benefit to the Chemawa students and  
22 without input from the Oregon tribes regarding  
23 whether such sales or transfers would affect the mis-  
24 sion of the Chemawa Indian School or whether the  
25 property could be used for other Indian purposes.

1           (6) Consistent with principles of tribal self-de-  
2           termination, decisions about the operation and fu-  
3           ture of the Chemawa Indian school, lands, and pur-  
4           poses should be under the control and authority of  
5           the Oregon tribes.

6           (7) Resolutions supporting the transfer of the  
7           Chemawa Indian School into trust status for the  
8           benefit of the federally recognized Indian tribes in  
9           Oregon have been passed by the Confederated Tribes  
10          of the Warm Springs Reservation of Oregon, the  
11          Confederated Tribes of Siletz Indians of Oregon, the  
12          Confederated Tribes of the Umatilla Indian Reserva-  
13          tion, the Coquille Indian Tribe, the Confederated  
14          Tribes of Coos, the Lower Umpqua and Siuslaw In-  
15          dians, the Klamath Tribes, the Cow Creek Band of  
16          Umpqua Indians, the Burns Paiute Tribe, the  
17          Chemawa Indian School Board, the Affiliated Tribes  
18          of Northwest Indians, and the National Congress of  
19          American Indians.

20 **SEC. 2. CHEMAWA INDIAN SCHOOL AND CHEMAWA CEME-**  
21 **TERY LAND HELD IN TRUST FOR BENEFIT OF**  
22 **OREGON TRIBES.**

23           (a) TRANSFER OF ADMINISTRATION AND AUTHOR-  
24           IZATION TO HOLD IN TRUST.—

1           (1) TRANSFER OF ADMINISTRATIVE JURISDIC-  
2           TION FROM THE GENERAL SERVICES ADMINISTRA-  
3           TION.—The Administrator of the General Services  
4           Administration shall transfer to the Secretary, with-  
5           out reimbursement, administrative jurisdiction over  
6           the land described in subsection (b).

7           (2) HOLDING IN TRUST BY SECRETARY.—Upon  
8           completion of the transfer of administrative jurisdic-  
9           tion under paragraph (1) and subject to any existing  
10          encumbrances, rights of way, restrictions, easements  
11          of record, or utility service agreements in effect on  
12          the date of the enactment of this Act with respect  
13          to the land described in subsection (b), the Secretary  
14          shall hold in trust for the benefit of the Oregon  
15          tribes the land described in subsection (b).

16          (3) LIMITATION.—Nothing in this subsection  
17          shall be construed to prevent the future removal of  
18          the encumbrances referred to in paragraph (2).

19          (b) LAND DESCRIPTION.—

20               (1) IN GENERAL.—The land to be held in trust  
21               under subsection (a) is the land and improvements  
22               owned by the United States and occupied by the  
23               Chemawa Indian School in Salem, Oregon, including  
24               the cemeteries on such land, but excluding the ap-  
25               proximately 1.4 acres comprising the former Indian

1 Health Service School Clinic that is located within  
2 the following sections:

3 (A) Section 36 of township 6 south, range  
4 3 west.

5 (B) Section 31 of township 6 south, range  
6 2 west.

7 (C) Section 1 of township 7 south, range  
8 3 west.

9 (D) Section 6 of township 7 south, range  
10 2 west.

11 (2) SURVEY.—

12 (A) IN GENERAL.—Not later than 90 days  
13 after the date of the enactment of this Act, the  
14 Secretary shall conduct a survey of the trust  
15 land.

16 (B) ADJUSTMENT.—Upon completion of  
17 the survey conducted under subparagraph (A),  
18 the Secretary shall provide an opportunity for  
19 public notice and comment on the survey, in-  
20 cluding comments on any survey revision or ad-  
21 justment. After the revisions or adjustments  
22 have been completed, the Secretary shall pro-  
23 vide notice to the Board of Trustees that the  
24 survey has been completed.

1           (C) AVAILABILITY OF SURVEY.—The Sec-  
2           retary shall place a copy of the completed sur-  
3           vey on file for public inspection at the appro-  
4           priate office of the Secretary. The survey placed  
5           on file shall thereafter be the official survey and  
6           legal description of the Chemawa Indian School  
7           property and the Chemawa Cemetery property.

8           (e) CONDITION.—

9           (1) USE OF LAND.—As a condition of the Sec-  
10          retary holding the trust land in trust, the Oregon  
11          tribes shall agree that such land shall be used—

12                   (A) in the case of land that is Chemawa  
13          Indian School property only for—

14                           (i) Indian educational purposes;

15                           (ii) the direct support of the edu-  
16                           cational programs and services carried out  
17                           on such land and other activities that sup-  
18                           port Indian education carried out on such  
19                           land;

20                           (iii) the cultural benefit of the Oregon  
21                           tribes; and

22                           (iv) any other purpose authorized by  
23                           the Board of Trustees and approved by the  
24                           Secretary; and

1 (B) in the case of land that is Chemawa  
2 Cemetery property, only for cemetery purposes.

3 (2) NONCOMPLIANCE.—If the Secretary deter-  
4 mines that the trust land is not being used for the  
5 purposes described in paragraph (1), the Secretary  
6 may initiate any remedial action the Secretary deter-  
7 mines is appropriate, including seeking injunctive re-  
8 lief.

9 (3) PROHIBITION ON GAMING.—As a condition  
10 of the Secretary holding the trust land in trust, the  
11 Oregon tribes shall agree that such land shall not be  
12 used to conduct gaming activities as a matter of  
13 claimed inherent authority or under the authority of  
14 any Federal law, including the Indian Gaming Regu-  
15 latory Act (25 U.S.C. 2701 et seq.) or under any  
16 regulations thereunder promulgated by the Secretary  
17 or the National Indian Gaming Commission.

18 **SEC. 3. BOARD OF TRUSTEES.**

19 (a) ESTABLISHMENT.—Not later than 180 days after  
20 the date of the enactment of this Act, the Secretary shall  
21 establish a Chemawa Indian School Board of Trustees.

22 (b) COMPOSITION.—The Board of Trustees shall be  
23 composed of nine trustees and two adjunct trustee advi-  
24 sors appointed as follows:

1           (1) Each of the Oregon tribes shall appoint one  
2 trustee.

3           (2) One adjunct trustee advisor shall be ap-  
4 pointed by the Secretary to jointly represent Indian  
5 tribes from each of the following Bureau of Indian  
6 Affairs Regions:

7                   (A) The Alaska Region.

8                   (B) The Northwest Region.

9                   (C) The Pacific Region.

10                  (D) The Rocky Mountain Region.

11                  (E) The Great Plains Region.

12                  (F) The Midwest Region.

13           (3) One adjunct trustee advisor shall be ap-  
14 pointed by the Secretary to jointly represent tribes  
15 from the following Bureau of Indian Affairs Re-  
16 gions:

17                   (A) The Western Region.

18                   (B) The Navajo Region.

19                   (C) The Southwest Region.

20                   (D) The Eastern Oklahoma Region.

21                   (E) The Southern Plains Region.

22                   (F) The Eastern Region.

23           (c) TERMS.—

24                   (1) TRUSTEES.—



1 (A) IN GENERAL.—Each trustee shall be  
2 appointed for a term of six years except as pro-  
3 vided in subparagraph (B).

4 (B) TERMS OF INITIAL APPOINTEES.—As  
5 designated by the Oregon tribes at the time of  
6 appointment, of the trustees first appointed—

7 (i) one trustee shall be appointed for  
8 a term of two years;

9 (ii) two trustees shall be appointed for  
10 a term of three years;

11 (iii) two trustees shall be appointed  
12 for a term of four years;

13 (iv) two trustees shall be appointed  
14 for a term of five years; and

15 (v) two trustees shall be appointed for  
16 a term of six years.

17 (2) ADJUNCT TRUSTEE ADVISORS.—

18 (A) IN GENERAL.—Each adjunct trustee  
19 advisor shall be appointed for a term of six  
20 years, except as provided in subparagraph (B).

21 (B) TERMS OF INITIAL APPOINTEES.—As  
22 designated by the Secretary at the time of ap-  
23 pointment, of the adjunct trustee advisors first  
24 appointed—

1 (i) one adjunct trustee advisor shall  
2 be appointed for a term of three years; and

3 (ii) one adjunct trustee advisor shall  
4 be appointed for a term of six years.

5 (d) QUORUMS AND VOTING.—

6 (1) QUORUM.—Five trustees shall constitute a  
7 quorum to conduct the business of the Board of  
8 Trustees.

9 (2) VOTING.—

10 (A) VOTING RIGHTS.—Each trustee shall  
11 have one vote and an adjunct trustee advisor  
12 may not vote.

13 (B) SUPER-MAJORITY REQUIRED.—Adop-  
14 tion of any action by the Board of Trustees in-  
15 volving a material change or decision with re-  
16 spect to the use, protection, or development of  
17 any of the trust land, or a material change in  
18 the status of the educational institution oper-  
19 ating on or activities conducted on such land  
20 shall require the affirmative votes of at least  
21 seven trustees voting in the majority.

22 (e) DUTIES AND RESPONSIBILITIES.—

23 (1) TRUSTEES.—Subject to any regulations  
24 that may be issued by the Secretary with respect to  
25 the trust land, the Board of Trustees shall—

1 (A) establish protocols and procedures for  
2 the organization and operation of the Board of  
3 Trustees;

4 (B) during such time as the Secretary di-  
5 rectly operates a school on such land, coordi-  
6 nate with the Chemawa School Board regarding  
7 the organization and operation of such School  
8 Board;

9 (C) serve as the beneficiary of such land  
10 regarding decisions made by the United States  
11 with respect to the management, use, protec-  
12 tion, and development of such land; and

13 (D) provide guidance and leadership relat-  
14 ing to the long-term welfare of such land and  
15 the Indian educational and cultural functions  
16 conducted on such land.

17 (2) ADJUNCT TRUSTEE ADVISORS.—Adjunct  
18 trustee advisors shall advise the Board of Trustees  
19 on how the use, operation, protection, or develop-  
20 ment of the trust land affects the Chemawa Indian  
21 School students from the Bureau of Indian Affairs  
22 Regions the adjunct trustee advisors represent.

23 (f) TERMINATION.—Section 14(a)(2)(B) of the Fed-  
24 eral Advisory Committee Act (5 U.S.C. App.; relating to

1 the termination of advisory committees) shall not apply  
2 to the Board of Trustees.

3 **SEC. 4. OPERATION OF CHEMAWA INDIAN SCHOOL.**

4 (a) OPERATION BY THE SECRETARY.—The Secretary  
5 shall directly operate the Chemawa Indian School unless  
6 the Board of Trustees assumes operation of the school as  
7 described in subsection (b).

8 (b) SELF-DETERMINATION CONTRACT OR SELF-GOV-  
9 ERNANCE COMPACT WITH THE SECRETARY.—The Board  
10 of Trustees may assume operation of the Chemawa Indian  
11 School or use the trust land for any use specified in sec-  
12 tion 2(c) if the Board of Trustees, acting with the ap-  
13 proval of a super-majority of the Board of Trustees as  
14 provided in section 3(d)(2), enters into a self-determina-  
15 tion contract or self-governance compact with the Sec-  
16 retary under the Indian Self-Determination and Edu-  
17 cation Assistance Act (25 U.S.C. 450b et seq.) with re-  
18 spect to such assumption or use.

19 (c) EDUCATIONAL ACTIVITIES.—

20 (1) The Board of Trustees may undertake or  
21 authorize any educational activity on the trust land  
22 during the operation of the Chemawa Indian School  
23 by the Secretary if such activity does not interfere  
24 with such operation.

1           (2) If the Board of Trustees assumes the oper-  
2           ation of the School under an Indian self-determina-  
3           tion contract or self-governance compact as de-  
4           scribed in subsection (b), the Board of Trustees may  
5           undertake or authorize any educational activity the  
6           Board of Trustees determines is appropriate.

7 **SEC. 5. USE OF THE CHEMAWA INDIAN SCHOOL LAND IF**  
8                                   **NOT NEEDED FOR EDUCATION PURPOSES.**

9           (a) IN GENERAL.—If the Secretary determines, after  
10          consultation with the Board of Trustees, that the portion  
11          of the trust land occupied by the Chemawa Indian School  
12          is no longer needed for Indian education purposes, the  
13          Secretary shall certify that the land is not needed for such  
14          purposes.

15          (b) USE BY TRIBES.—Notwithstanding the condi-  
16          tions on the use of the trust land specified in section 2(c),  
17          if the Secretary makes the certification under subsection  
18          (a), the Board of Trustees shall require that such land  
19          be used for the collective benefit of the Oregon tribes.

20 **SEC. 6. DEFINITIONS.**

21          In this Act:

22               (1) BOARD OF TRUSTEES.—The term “Board  
23               of Trustees” means the Chemawa Indian School  
24               Board of Trustees established in section 3.

1           (2) OREGON TRIBES.—The term “Oregon  
2 tribes” means the following federally recognized In-  
3 dian tribes in Oregon:

4                   (A) Burns Paiute Tribe.

5                   (B) Coquille Indian Tribe.

6                   (C) Confederated Tribes of Coos, Lower  
7 Umpqua, and Siuslaw Indians.

8                   (D) Confederated Tribes of the Grand  
9 Ronde Community of Oregon.

10                  (E) Confederated Tribes of Siletz Indians  
11 of Oregon.

12                  (F) Confederated Tribes of the Warm  
13 Springs Reservation of Oregon.

14                  (G) Confederated Tribes of the Umatilla  
15 Indian Reservation.

16                  (H) Cow Creek Band of Umpqua Tribe of  
17 Indians.

18                  (I) Klamath Tribes.

19           (3) SECRETARY.—The term “Secretary” means  
20 the Secretary of the Interior.

21           (4) TRUST LAND.—The term “trust land”  
22 means the land described in section 2(b)(1).

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