

## Calendar No. 430

117TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 117-125

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TO TAKE CERTAIN LAND IN THE STATE OF CALIFORNIA INTO TRUST FOR  
THE BENEFIT OF THE AGUA CALIENTE BAND OF CAHUILLA INDIANS,  
AND FOR OTHER PURPOSES

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JUNE 23, 2022.—Ordered to be printed

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

### R E P O R T

[To accompany S. 3273]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 3273) to take certain land in the State of California into trust for the benefit of the Agua Caliente Band of Cahuilla Indians, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

S. 3273 would authorize trust status of approximately 2,560 acres of land transferred to the Agua Caliente Band of Cahuilla Indians in a land exchange with the Bureau of Land Management (BLM) that helped establish the Santa Rosa and San Jacinto Mountains National Monument in 2000. Providing trust status on the exchanged lands would help consolidate the checker-boarded reservation and simplify the management of longstanding cultural sites and natural resources that are important to the Tribe.

#### BACKGROUND & NEED FOR LEGISLATION

The Agua Caliente Band of Cahuilla Indians (ACBCI) has been rebuilding its Tribal homelands and reclaiming certain culturally significant areas through a series of land transfers with the federal government since the 1870s.<sup>1</sup> Currently, the ACBCI reservation consists of more than 31,000 checker-boarded acres in and around Palm Springs, CA. Within the boundaries of the reservation, the United States holds in trust approximately 4,000 acres for the

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<sup>1</sup> See Exec. Order of May 15, 1876; Exec. Order Sept. 29, 1877.

Tribe and approximately 18,000 acres for individual Indian allottees. The remaining lands are held in fee status by the Tribe, Tribal members, and non-Indians.<sup>2</sup>

In 1999, the BLM entered into an agreement with ACBCI to acquire non-trust Tribal lands that would later become part of the Santa Rosa and San Jacinto Mountains National Monument.<sup>3</sup> In exchange, BLM transferred certain federal lands to the Tribe pursuant to the *Santa Rosa and San Jacinto Mountains National Monument Act of 2000*.<sup>4</sup> However, the Act did not address the status of the lands once transferred to the Tribe. Consequently, the lands are currently owned by ACBCI in fee simple and located within its existing reservation boundaries.<sup>5</sup> The Tribe plans to manage the land described in S. 3273 for conservation consistent with the surrounding lands monument status.

#### SUMMARY OF S. 3273

S. 3273 clarifies that the lands transferred by the BLM to ACBCI as part of the creation of the Santa Rosa and San Jacinto Mountains National Monument are to be held in trust for the benefit of the Tribe and deemed part of ACBCI's reservation. The bill also states that these lands to be taken into trust are not eligible for gaming under the Indian Gaming Regulatory Act.

#### SECTION-BY-SECTION ANALYSIS OF S. 3273 AS ORDERED REPORTED

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

This section sets forth the short title as the “Agua Caliente Land Exchange Fee to Trust Confirmation Act.”

##### *Section 2. Land to be taken into trust for the benefit of the Agua Caliente Band of Cahuilla Indians*

This section provides a description of the lands to be taken into trust and the scope of the bill.

Subsection 2(a) provides a description of the lands to be taken into trust for the benefit of the Tribe.

Subsection 2(b) clarifies that the lands to be taken into trust will be part of the Tribe's reservation and that those lands shall be administered in accordance with the laws and regulations generally applicable to property held in trust by the United States for the benefit of an Indian Tribe.

Subsection 2(c) prohibits gaming under the Indian Gaming Regulatory Act on the lands to be taken into trust in subsection (a).

#### LEGISLATIVE HISTORY

S. 3273 was introduced by Senators Padilla and Feinstein on November 29, 2021. The Committee held a hearing on S. 3273 on February 16, 2022. The Committee met in open business session on

<sup>2</sup>Memorandum to Director, Office of Indian Gaming, from Regional Director, Pacific Region (May 31, 2019).

<sup>3</sup>Bureau of Land Management, *Draft Environmental Impact Statement, Appendix I: Scoping Report*, [https://eplanning.blm.gov/public\\_projects/nepa/87914/131946/161030/39-Appendix\\_I\\_\(Scoping\\_IRReport\).pdf](https://eplanning.blm.gov/public_projects/nepa/87914/131946/161030/39-Appendix_I_(Scoping_IRReport).pdf).

<sup>4</sup>Pub. Law No. 106-351 (2000).

<sup>5</sup>See land exchange map of November 17, 2021, produced by Representative Ruiz and Senator Padilla. On file with the Committee.

April 6, 2022, and ordered S. 3273, favorably reported, without amendment by voice vote.

Companion legislation, H.R. 897, was introduced in the House of Representatives by Representative Ruiz on February 5, 2021 and referred to the Committee on Natural Resources. The Committee on Natural Resources ordered H.R. 897 favorably reported by unanimous consent on October 13, 2021 without amendment.<sup>6</sup> The House of Representatives passed the bill, as amended, on a vote of 395 to 30 on December 8, 2021.

In the 116th Congress, a similar bill, H.R. 4059, was introduced by Representative Ruiz (D-CA) in the House of Representatives on July 25, 2019 and referred to the Committee on Natural Resources. The Subcommittee for Indigenous Peoples of the United States held a hearing on the bill on February 5, 2020. Representative Cook (R-CA) was added as a cosponsor on February 7, 2020. No further action was taken on the bill.

COST AND BUDGETARY CONSIDERATIONS

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 28, 2022.*

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. 3273, the Agua Caliente Land Exchange Fee to Trust Confirmation Act.

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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>S. 3273, Agua Caliente Land Exchange Fee to Trust Confirmation Act</b>			
As ordered reported by the Senate Committee on Indian Affairs on June 23, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
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.			

<sup>6</sup>H. Rep. 117-194 (Dec. 1, 2021).

S. 3273 would direct the Department of the Interior (DOI) to take into trust about 2,560 acres of land for the benefit of the Agua Caliente Band of Cahuilla Indians in Riverside County, California. The act also would prohibit certain types of gaming on those lands. Using information provided by DOI, CBO estimates that the administrative costs to implement S. 3273 would be insignificant; such spending would be subject to the availability of appropriated funds.

S. 3273 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). The bill would prohibit state and local governments from taxing land taken into trust for the Agua Caliente Band of Cahuilla Indians. Information from Riverside County about their tax rate and the assessed value of the proposed trust land indicates that those foregone revenues would total less than \$10,000 annually, which is far below the annual threshold established in UMRA (\$85 million in 2021, adjusted annually for inflation).

The bill contains no private-sector mandates.

On February 7, 2022, CBO transmitted a cost estimate for H.R. 897,<sup>7</sup> the Agua Caliente Land Exchange Fee to Trust Confirmation Act, as passed by the House of Representatives on December 8, 2021. The two pieces of legislation are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contacts for this estimate are Sofia Guo (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. 3273 will have minimal impact on regulatory or paperwork requirements.

#### EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 3273.

#### CHANGES IN EXISTING LAW

On February 11, 2021 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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<sup>7</sup>Congressional Budget Office, *H.R. 897, Agua Caliente Land Exchange Fee To Trust Confirmation Act*, <https://www.cbo.gov/publication/57828>.