

Calendar No. 31

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-2

PALA BAND OF MISSION INDIANS LAND TRANSFER ACT OF 2023

MARCH 21, 2023.—Ordered to be printed

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

R E P O R T

[To accompany S. 277]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 277), to take certain land located in San Diego County, California, into trust for the benefit of the Pala Band of Mission Indians, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 277 is to authorize the Secretary of the Interior to take 721.12 acres in San Diego County, California, into trust for the benefit of the Pala Band of Mission Indians.

BACKGROUND

Originally established through Executive Order,¹ the reservation for the Pala Band of Mission Indians encompasses over 12,000 acres, including 4,000 acres of forests, six acres of wetlands, eight acres of lake, and over 38 miles of streams in Northern San Diego County. It is currently home to more than 900 enrolled Pala Band members belonging to the Cupeño and Luiseño Tribes.

In 2016, the Pala Band acquired the 721.12 acres of property that was originally purchased by developers to create a landfill. This property is adjacent, but not currently located within the

¹ Exec. Order of December 27, 1875.

Tribe’s existing reservation boundaries, and includes a portion of Gregory Mountain (*Chok’la*), Medicine Rock, and other places sacred to the Pala Band and other Luiseño Tribes.

NEED FOR LEGISLATION

S. 277 ensures the Pala Band of Mission Indians will be able to manage and steward their sacred sites and cultural history.

LEGISLATIVE HISTORY

S. 277 was introduced by Senator Padilla (D–CA) on February 7, 2023 and referred to the Committee on Indian Affairs on the same day. The Committee held a business meeting to consider S. 277 on February 15, 2023. The Committee ordered the bill reported without amendment.

On January 20, 2023, Representatives Issa (R–CA) and Vargas (D–CA) introduced H.R. 423, a bill identical to S. 277. On the same day, the bill was referred to the House Committee on Natural Resources. On February 6, 2023, Representative Westerman (R–AR) successfully moved to suspend the rules and pass the bill. The House of Representatives considered the bill and agreed to its passage by voice vote on the same day. H.R. 423 was received in the Senate on February 7, 2023.

117th Congress. On March 17, 2021, H.R. 1975 was introduced by Representatives Issa (R–CA) and Vargas (D–CA) and referred to the House Committee on Natural Resources. On May 17, 2021, H.R. 1975 was referred to the Subcommittee for Indigenous Peoples of the United States and was discharged on October 13, 2021. On the same day, the Committee ordered the bill reported by unanimous consent; the Committee reported the bill favorably on November 2, 2021. On November 1, 2021 Rep. Leger Fernandez (D–NM) moved to suspend the rules and pass the bill; the House passed H.R. 1975 on November 2, 2021 by a vote of 397–25.

H.R. 1975 was received in the Senate on November 3, 2021 and referred to the Committee on Indian Affairs the same day. The Committee held a hearing on H.R. 1975 on November 17, 2021, during which the Department of the Interior testified in support. The Committee held a business meeting on April 6, 2022 and ordered the bill reported without amendment favorably. On June 23, 2022, the Committee reported the bill without amendment and H.R. 1975 was placed on the Senate calendar the same day. No further action was taken on H.R. 1975 before the conclusion of the 117th Congress.

SECTION-BY-SECTION ANALYSIS OF S. 277 AS ORDERED REPORTED

Section 1—Short title

This section sets forth the short title as the “Pala Band of Mission Indians Land Transfer Act of 2023.”

Section 2—Transfer of Land in Trust for the Pala Band of Mission Indians

Subsection 2(a) sets forth the definitions to be used in the bill.

Subsection 2(b) provides that the Tribe has 180 days to transfer the land to the Department of the Interior and that the Department must take those lands into trust for the benefit of the Pala

Band of Mission Indians no later than 180 days following transfer to the Department. It also clarifies that the land transferred to the Tribe shall be made part of its reservation and administered in accordance with the laws and regulations generally applicable to land held in trust by the United States for an Indian Tribe.

Subsection 2(c) provides a description of the land to be transferred into trust.

Subsection 2(d) clarifies that nothing in the bill shall enlarge or impart the rights or claims of Tribe in existence prior to the transfer, affect pre-existing water rights, or terminate or limit access in any rights-of-way or rights-of-use issued prior to enactment.

Subsection 2(e) prohibits gaming on the lands to be taken into trust, either as a matter of claimed inherent authority or under federal law.

COST AND BUDGETARY CONSIDERATIONS

MARCH 14, 2023.

S. 277, Pala Band of Mission Indians Land Transfer Act of 2023			
As ordered reported by the Senate Committee on Indian Affairs on February 15, 2023			
By Fiscal Year, Millions of Dollars	<u>2023</u>	<u>2023-2028</u>	<u>2023-2033</u>
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
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Mandate Effects	Yes, Under Threshold
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 277 would direct the Department of the Interior (DOI) to take into trust approximately 720 acres of land in San Diego County, California, owned by the Pala Band of Mission Indians. Under the bill, DOI would hold title to that land for the benefit of the tribe. The legislation also would prohibit certain types of gaming on those lands. Using information from DOI, CBO estimates that the administrative costs to implement S. 277 would not be significant.

S. 277 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 Pala Band of Mission Indians. Information from San Diego County about taxes and other receipts associated with the land indicates that those forgone revenues would total less than \$13,000 annually, well below the annual intergovernmental thresh-

old established in UMRA (\$99 million in 2023, adjusted annually for inflation).

The bill contains no private-sector mandates.

The CBO staff contact for this estimate is Julia Aman (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, 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 that S. 277 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 277.

CHANGES IN EXISTING LAW

On February 9, 2023 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.