

## Calendar No. 636

107TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
107-299

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PROTECTING CERTAIN LANDS HELD IN FEE BY THE PECHANGA BAND OF  
LUISENO MISSION INDIANS FROM CONDEMNATION UNTIL A FINAL DE-  
CISION IS MADE BY THE SECRETARY OF THE INTERIOR REGARDING A  
PENDING FEE TO TRUST APPLICATION FOR THAT LAND

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OCTOBER 4, 2002.—Ordered to be printed

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

### R E P O R T

[To accompany S. 2989]

The Committee on Indian Affairs, to which was referred the bill (S. 2989) to protect certain lands, held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 2989 is to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a fee to trust application for those lands.

#### BACKGROUND AND NEED

The Pechanga Band of Luiseno Mission Indians has a pending fee-to-trust application for certain land. On March 21, 2002, the Secretary of the Interior issued a Notice of Decision to accept such land into trust for the Band. A local private utility seeks to have the land condemned so that a transmission line can be constructed on lands on which sites sacred to the Band are located. Section 208 prohibits the transfer or other conveyance of the land for condemnation until the Secretary of the Interior renders a final decision on the pending fee-to-trust application and final decisions have

been rendered on all appeals relating on that decision. The bill does not place the land into trust for the Band.

#### LEGISLATIVE HISTORY

S. 2989 was introduced by Senator Boxer on September 23, 2002, and was referred to the Committee on Indian Affairs. On October 1, 2002, the Committee favorably reported S. 2989 to the full Senate.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Land of Pechanga Band of Luiseno Mission Indians*

Subsection (a) prohibits the transfer of the land until the Secretary of the Interior renders a final decision on the pending fee to trust application and final decisions are rendered on all appeals relating to that fee to trust application or until the fee to trust application is withdrawn.

Subsection (b) describes the land that is the subject of this bill.

Subsection (c) provides that this section does not designate, nor shall it be used to construe, the land as an Indian reservation, Indian country, Indian land, or reservation land for any purpose under any Federal law.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Committee on Indian Affairs, in an open business session on October 1, 2002, ordered S. 2989 to be reported favorably to the Senate.

#### COST AND BUDGETARY CONSIDERATIONS

The cost estimate for S. 2989 as provided by the Congressional Budget Office is set forth below:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 3, 2002.*

Hon. DANIEL K. INOUE,  
*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. 2989, a bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lanette J. Walker (for federal costs), Marjorie Miller (for the state and local impact), and Cecil McPherson (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*S. 2989—A bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from Condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land, and for other purposes*

S. 2989 would prohibit the transfer or condemnation of certain lands held in fee by the Pechanga Band of Luiseno Mission Indians until the Secretary of the Interior renders a final decision on the pending application to designate such fee lands as held in trust and until final decisions have been made regarding all appeals to that application.

In March 2002 the Secretary decided to take the land into trust for the Band, but the Sempra Energy company has appealed that decision. San Diego Gas and Electric (SDG&E), a subsidiary of Sempra Energy, has proposed a new corridor for an electric transmission line that would cross this property and has indicated its intention to condemn the property. (Electric utilities in California have the power of eminent domain.)

Under current law, these fee lands may be taken for public use upon just compensation paid to the owners of the land. Such compensation would be paid directly to the Pechanga Band of Luiseno Mission Indian Tribe. Enacting S. 2989 could delay or prevent a taking of the land by SDG&E, but that transaction would not affect the federal budget. In addition, we estimate that enactment of S. 2989 would not affect direct spending or receipts of the federal government.

S. 2989 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit the Pechanga Band because it would protect tribal land from condemnation until its application to have that land taken into trust is resolved.

S. 2989 contains a private-sector mandate as defined by UMRA. The costs of the mandate, if any, would be the expected incremental costs to SDG&E of choosing among several alternative properties as routes for the new transmission line. CBO expects that the direct cost of the mandate would be below the annual threshold for the private sector established by UMRA (\$115 million in 2002, adjusted annually for inflation).

On July 29, 2002, CBO transmitted a cost estimate for H.R. 3476, as ordered reported by the House Committee on Resources on July 10, 2002. The two bills and our cost estimates are identical.

The CBO staff contacts for this estimate are Lanette J. Walker (for federal costs), Marjorie Miller (for the state and local impact), and Cecil McPherson (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### EXECUTIVE COMMUNICATIONS

The position of the Administration on S. 2989 has not been received.

## REGULATORY AND PAPERWORK IMPACT

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 carry out the bill. The Committee finds that S. 2989 will not require the promulgation of regulations so the regulatory and paperwork impact should be minimal, if any.

## CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by a bill are required to be set forth in the accompanying Committee report. S. 2989 effects no changes in existing law.

