

TO AMEND THE YSLETA DEL SUR PUEBLO AND ALABAMA AND
COUSHATTA INDIAN TRIBES OF TEXAS RESTORATION ACT TO ALLOW
THE YSLETA DEL SUR PUEBLO TRIBE TO DETERMINE BLOOD QUANTUM
REQUIREMENT FOR MEMBERSHIP IN THAT TRIBE

JULY 30, 2007.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 1696]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1696) to amend the Ysleta del Sur Pueblo and Alabama and Coshatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo tribe to determine blood quantum requirement for membership in that Tribe, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1696 is to amend the Ysleta del Sur Pueblo and Alabama and Coshatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that Tribe.

BACKGROUND AND NEED FOR LEGISLATION

Established in 1681, Ysleta del Sur Pueblo is the oldest community in Texas and the only pueblo still in existence in the state. The Ysleta del Sur Pueblo is located in El Paso, Texas and has approximately 1,300 tribal members. The Tribe was recognized by the State of Texas in 1968 and in 1987, the Tribe received federal recognition through the “Ysleta del Sur Pueblo and Alabama and Coshatta Indian Tribes of Texas Restoration Act.” The 1987 Act requires that tribal members meet a 1/8th blood quantum requirement for membership into the Tribe. As a result, the Tribe is faced

with the prospect of a declining membership as most tribal members are elderly and there is little intermarriage due to close familial relations.

If the current blood quantum requirements remain in effect, tribal membership will decline significantly within three generations. In 2000, 27 individuals were removed from the Tribe's rolls because their blood quantum was determined to be below the requisite minimum mandated by law. Upon enactment of this measure, these individuals and others would be eligible to petition for enrollment. It is estimated that passage of this legislation would allow for an additional 857 members to be enrolled in the Tribe.

YSLETA DEL SUR PUEBLO AND ALABAMA AND COUSHATTA INDIAN
TRIBES OF TEXAS RESTORATION ACT OF 1987 (25 U.S.C. § 1300G-7)

In 1968, the United States acknowledged the Tribe as Indians but precluded the Tribe from accessing federal services and benefits. Hence, the Tribe's relationship with the federal government was effectively terminated upon enactment of the Tiwa Indians Act of 1968 (82 Stat. 93). In 1987, the Tiwa Indians Act of 1968 was repealed by the Ysleta del Sur Pueblo and Alabama Coushatta Indian Tribes of Texas Restoration Act, which restored the federal trust relationship and extended all federal services and benefits to the Tribe. But in doing so, the United States required that individuals have a blood quantum of at least one-eighth to qualify for tribal membership.

BLOOD QUANTUM OVERVIEW

Before the imposition of blood quantum criteria, Indian nations had customary ways of determining who was and who was not a member of their tribe. It was often based on customs, traditions, language and tribal blood. This preserved the unique character and traditions of each tribe. Tribal authority to determine their membership criteria has been affirmed by the Supreme Court in *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978). But because Congress has plenary authority over Indian tribes, Congress can supersede a tribe's decision. This occurred with the enactment of the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act of 1987, thereby limiting the United States' trust responsibility to the Tribe.

LEGISLATIVE HISTORY

Similar bills were introduced from the 105th to the 109th Congress, but those bills lowered the minimum blood quantum requirement from $\frac{1}{8}$ to $\frac{1}{16}$ whereas this bill deletes any blood quantum requirement. During the 105th Congress, Representative Reyes introduced H.R. 2419, which was referred to the House Committee on Resources, but no action was taken. During the 106th Congress, Representative Reyes introduced H.R. 1460, which was referred to the Committee on Resources. On July 26, 2000, the Committee on Resources unanimously reported H.R. 1460 (H. Rept. 106-830) to the House of Representatives without amendment. On September 7, 2000, the bill passed the House under suspension of the rules. On September 13, 2000, the bill was received in the Senate and referred to the Committee on Indian Affairs. On September 27, 2000,

the bill was favorably reported to the Senate without amendment but the bill died when the 106th Congress adjourned. In the 107th, 108th, and 109th Congresses, Representative Reyes introduced H.R. 1197, H.R. 2495, and H.R. 861, respectively. Each of these bills was referred to the House Committee on Resources but no major actions were taken.

COMMITTEE ACTION

H.R. 1696 was introduced on March 26, 2007 by Representative Reyes (D-TX). The bill was referred to the Committee on Natural Resources. The full Committee on Natural Resources held a hearing on H.R. 1696 on July 11, 2007, at which the Department of the Interior testified in support of the measure. On July 18, 2007, the full Committee met to mark up the bill. No amendments were offered and the bill was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Blood quantum requirement determined by tribe

Section 1 amends the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. 1300g-7(2)) by deleting the $\frac{1}{8}$ blood requirement. This authorizes the Ysleta del Sur Pueblo to determine the blood quantum requirement for membership in the Tribe.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. This bill authorizes no funding, nor does it affect direct spending or revenues. It is therefore anticipated that enacting H.R. 1696 would have no significant impact on the federal budget.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 1696 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 108 OF THE YSLETA DEL SUR PUEBLO AND ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS RESTORATION ACT

SEC. 108. TRIBAL MEMBERSHIP.

(a) IN GENERAL.—The membership of the tribe shall consist of—

(1) * * *

(2) a descendant of an individual listed on that Roll [if the descendant—

 [(i) has 1/8 degree or more of Tigua-Ysleta del Sur Pueblo Indian blood, and

 [(ii) is enrolled by the tribe.] *if the descendant is enrolled by the tribe.*

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