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Calendar No. 683

111TH CONGRESS
2d Session

SENATE

REPORT
111–359

AMENDING 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

DECEMBER 9, 2010.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 5811]

The Committee on Indian Affairs, to which was referred the bill, H.R. 5811, 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, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 5811 is 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 of Texas to determine blood quantum requirement for membership in that Tribe.

BACKGROUND AND NEED FOR LEGISLATION

Congress passed the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act in 1987 ((Restoration Act), Public Law 100–89). That Act restored federal recognition to the Ysleta del Sur Pueblo of Texas and the Alabama and Coushatta Indian Tribes of Texas. The Restoration Act also contained a tribal membership provision for the Ysleta del Sur Pueblo (Tigua) Tribe which required members to (1) have 1/8th degree or more of Tigua Indian blood and (2) be enrolled by the tribe.

The Ysleta del Sur Pueblo Tribe has approximately 1,300 enrolled members. Due to the blood quantum restrictions in the Restoration Act, it is believed that the Tribe will see a significant de-

cline in tribal membership over the next 50 years. A number of individuals have already been removed from tribal membership as it was determined that they no longer satisfied the blood quantum requirement, as currently authorized under the Restoration Act.

Under the Restoration Act, the Ysleta del Sur Pueblo is one of the few federally recognized tribes that have their membership criteria prescribed by the federal government. One of the most recognized aspects of tribal sovereignty is the ability of a tribe to determine its own membership. The United States Supreme Court acknowledged the authority of Indian tribes to determine their own membership in *Santa Clara Pueblo* v. *Martinez*, 436 U.S. 49 (1978).

H.R. 5811 would amend the Restoration Act by authorizing the Ysleta del Sur Pueblo to determine its own blood quantum requirement, similar to most other federally-recognized Indian tribes in the United States.

LEGISLATIVE HISTORY

H.R. 5811 was introduced on July 21, 2010, by Congressman Silvestre Reyes (TX), and was referred to the Committee on Natural Resources in the House of Representatives. On September 22, 2010, the House of Representatives considered and passed H.R. 5811 by voice vote. On September 23, 2010, H.R. 5811 was received in the Senate and referred to the Senate Committee on Indian Affairs. On November 18, 2010, the Committee on Indian Affairs held an open business meeting and approved H.R. 5811 by unanimous voice vote without amendment.

In the 110th Congress, Representative Reyes introduced H.R. 1696, which was almost identical to the current bill. It was introduced on March 26, 2007 and was referred to the Committee on Natural Resources in the House of Representatives. On July 18, 2007, the bill was reported favorably without amendment to the full House of Representatives. On July 30, 2007, the House of Representatives passed H.R. 1696 by unanimous consent, however, no further action was taken on the bill.

Similar bills to H.R. 5811 were also introduced from the 105th to the 109th Congresses. Unlike the current bill, each of the bills between the 105th and 109th Congresses specifically lowered the blood quantum requirement from ⅛ to 1/16, as opposed to removing the blood quantum requirement entirely. With the exception of H.R. 1460 in the 106th Congress, each of these bills saw no action beyond being referred to the Committee on Natural Resources in the House of Representatives. In the 106th Congress, H.R. 1460 passed the House of Representatives, but was not taken up by the Senate.

SECTION-BY-SECTION OF H.R. 5811

Section 1. Blood Quantum Requirement Determined by Tribe. This section removes the 1/8th blood quantum requirement for tribal membership from federal law, which would allow the tribe to determine its own blood quantum criteria for tribal membership.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In an open business session on November 18, 2010, the Committee on Indian Affairs, by a unanimous voice vote, adopted H.R.

5811, without amendment, and ordered the bill reported to the Senate, with the recommendation that the Senate do pass the bill.

COST AND BUDGETARY CONSIDERATION

The following cost estimate, as provided by the Congressional Budget Office, dated December 7, 2010, was prepared for H.R. 5811. The Congressional Budget Office estimated that implementing H.R. 5811 would cost the federal government $7 million over the 2011–2015 period.

H.R. 5811—An act 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

H.R. 5811 would amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to eliminate the requirement that individuals have a blood quantum level of at least one-eighth to qualify for tribal membership. This legislation would allow the Ysleta del Sur Pueblo tribe to establish its own blood quantum requirement for determining membership. Based on information from the Bureau of Indian Affairs (BIA) and assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 5811 would cost $7 million over the 2011–2015 period. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 5811 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit the Ysleta del Sur Pueblo tribe.

Based on information from the BIA and the Ysleta del Sur Pueblo tribe, CBO estimates that enacting H.R. 5811 would lead to an increase in the tribal population of about 700 members in 2011. Those additional members of the tribe would be eligible for services from the Indian Health Service (IHS) and BIA. Such services are available to members of federally recognized Indian tribes.

Based on information from IHS, CBO estimates that about 55 percent of new tribal members—or about 400 people—would receive benefits each year. CBO expects that the cost to serve those individuals would be similar to that for current beneficiaries—about $2,800 per person in 2010. In addition, based on information provided by BIA, CBO expects that additional costs for services provided by that agency would total about $1 million over the 2011–2015 period. In total, CBO estimates that implementing H.R. 5811 would cost between $1 million and $2 million a year over that period, assuming appropriation of the necessary amounts.

The CBO staff contacts for this estimate are Jeff LaFave (for BIA programs) and Robert Stewart (for IHS programs). This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

EXECUTIVE COMMUNICATIONS

The Committee has received no Executive communications regarding H.R. 5811.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the regulatory paperwork impact that would be incurred in carrying out the bill. The Committee believes that H.R. 5811 will have de minimis regulatory or paperwork impact.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law (existing law proposed to be omitted is enclosed in black brackets, new matter printed in italic):

25 U.S.C. 1300g–7(a)

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

(1) the individuals listed on the Tribal Membership Roll approved by the tribe's Resolution No. TC–5–84 approved December 18, 1984, and approved by the Texas Indian Commission's Resolution No. TIC–85–005 adopted on January 16, 1985; and

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

(i) has ⅛ or more of Tigua-Ysleta del Sur Pueblo Indian blood, and

(ii) is enrolled by the tribe.**]**

(2) any person of Tigua Ysleta del Sur Pueblo Indian blood enrolled by the tribe.

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