

TO ALLOW THE PASCUA YAQUI TRIBE TO DETERMINE
THE REQUIREMENTS FOR MEMBERSHIP IN THAT TRIBE

SEPTEMBER 18, 2012.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 3319]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3319) to allow the Pascua Yaqui Tribe to determine the requirements for membership in that tribe, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. REQUIREMENTS FOR MEMBERSHIP DETERMINED BY TRIBE.

Section 3 of Public Law 95-375 (25 U.S.C. 1300f-2) is amended to read as follows:
“SEC. 3. For the purposes of section 1 of this Act, membership of the Pascua Yaqui Tribe shall consist of any United States citizen of Pascua Yaqui blood enrolled by the tribe.”

PURPOSE OF THE BILL

The purpose of H.R. 3319, as ordered reported, is to allow the Pascua Yaqui Tribe to determine the requirements for membership in that tribe.

BACKGROUND AND NEED FOR LEGISLATION

The Pascua Yaqui Tribe was recognized under Public Law 95-375 (25 U.S.C. 1300f et seq.). Prior to its recognition by the United States, Private Law 88-350 (October 8, 1964) conveyed a parcel of public land to the Pascua Yaqui Association, Inc. The tribe today is composed of members living in several communities from the Tucson area to Scottsdale, Arizona.

Under its recognition Act, the Tribe's members consist of: (1) members of the Pascua Yaqui Association, Inc., who applied for enrollment within a year from September 18, 1978; (2) all U.S. citizens of Yaqui blood who apply for membership within two years from September 18, 1978, and further meet the Yaqui Association's enrollment criteria; (3) all U.S. citizens of Yaqui blood who apply within three years after October 14, 1994, and who meet the tribe's enrollment criteria; and (4) direct lineal descendants of the previous categories of members, providing they meet any other criteria developed by the tribe.

Until recent decades, members of federally recognized Indian tribes generally consisted of distinct communities of people with at least one-eighth and often one-quarter degree Indian ancestry. This membership requirement was often contained in a statute or a tribe's own constitution, laws, or customs. In the modern era of federal Indian policy, Congress and the Executive Branch have relaxed what it means to be a member of Indian tribe, leaving the determination of membership criteria to the discretion of the tribe. This has enabled tribes, at their option, to enroll members possessing very small degrees of Indian ancestry, though many tribes nonetheless choose to adhere to strict Indian blood quantum limits.

While the Pascua Yaqui Tribe's recognition statute does not contain a minimum Indian ancestry requirement, it limited eligibility in a manner that prevents a number of people with Yaqui ancestry from applying for membership to that tribe.

H.R. 3319 eliminates all membership criteria established in the tribe's recognition Act and substitutes it with a simple requirement that "membership of the Pascua Yaqui Tribe shall consist of any United States citizen of Pascua Yaqui blood enrolled by the tribe."

The only practical changes made by H.R. 3319 to current law governing the tribe's membership criteria are to authorize the tribe to admit anyone of Yaqui blood regardless of any prior association with the recognized tribe. In the Committee markup of H.R. 3319, an amendment to require each member of the tribe to be a United States citizen, offered by Congressman Paul Gosar (R-AZ), was unanimously adopted.

On July 24, 2012, the Subcommittee on Indian and Alaska Native Affairs held a hearing on H.R. 3319. The Bureau of Indian Affairs testified in support of the bill without, as has been typical under the Obama Administration, providing substantial background information.

Committee support for H.R. 3319 does not necessarily reflect support for continuing the modern Congressional policy of extending recognition to tribes without imposing even the barest limits on who may form tribes. Under current policy, a group could conceivably obtain federal recognition as a tribe without being required to prove that its members are distinctly American Indian in a meaningful sense. A widely dispersed group of people, for example, who are fully assimilated in mainstream communities in big cities, who do not speak a Native tongue and were not raised practicing Native customs, could be federally recognized as an "Indian tribe." Such a tribe would—in the eyes of the United States—be on an equal footing with any treaty tribe whose members include people with no less than one-quarter degree Indian ancestry who have continu-

ously resided on their reservation where speaking in a Native tongue and practicing Native culture is the way of life.

While this modern federal Indian policy remains a concern, it cannot be resolved piecemeal through imposing new membership requirements on individual tribes that have been recognized by a prior Act of Congress. Thus, H.R. 3319 merits favorable consideration in the House as long as Members are aware of the need to address—with the consultation of Indian tribes—whether federal recognition policy must be adjusted for all American Indian tribes.

COMMITTEE ACTION

H.R. 3319 was introduced on November 2, 2011, by Congressman Raúl M. Grijalva (D–AZ). The bill was referred to the House Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Alaska Native Affairs. On July 24, 2012, the Subcommittee on Indian and Alaska Native Affairs held a hearing on the bill. On August 1, 2012, the Full Resources Committee met to consider the bill. The Subcommittee on Indian and Alaska Native Affairs was discharged by unanimous consent. Congressman Paul Gosar (R–AZ) offered an amendment designated .092 to the bill; the amendment was adopted by unanimous consent. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by unanimous consent.

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.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) 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. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 3319—A bill to allow the Pascua Yaqui Tribe to determine the requirements for membership in that tribe

H.R. 3319 would allow the Pascua Yaqui tribe of Arizona to establish its own eligibility requirements for determining membership in the tribe. Based on information provided by the Department of the Interior and the Pascua Yaqui tribe, CBO estimates that implementing the legislation would cost \$9 million over the 2013–2017 period, assuming appropriation of the necessary funds.

CBO estimates that the legislation would increase tribal membership by about 800 people compared to the existing population of

about 18,000. The new members would be eligible for benefits provided by the Indian Health Service (IHS). Assuming appropriation of the necessary funds, CBO estimates that the IHS benefits for the additional members would cost about \$2 million annually. Enacting H.R. 3319 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 3319 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no cost on state, local, or tribal governments. Enacting this legislation would benefit the Pascua Yaqui tribe.

The CBO staff contact for this estimate is Martin von Gnechten (for Bureau of Indian Affairs programs) and Robert Stewart (for Indian Health Service programs). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of 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, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the Department of the Interior and the Pascua Yaqui tribe, CBO estimates that implementing the legislation would cost \$9 million over the 2013–2017 period, assuming appropriation of the necessary funds.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to allow the Pascua Yaqui Tribe to determine the requirements for membership in that tribe.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

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 3 OF THE ACT OF SEPTEMBER 18, 1978

(Public Law 95-375)

AN ACT To provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.

SEC. 3. For the purposes of section 1 of this Act, membership of the Pascua Yaqui Tribe shall consist of—

【(A) the members of the Pascua Yaqui Association, Incorporated, as of the date of the enactment of this Act, who apply for enrollment in the Pascua Yaqui Tribe within one year from the date of enactment of this Act pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe;

【(B) all those persons of Yaqui blood who are citizens of the United States and who, within two years from the date of enactment of this Act, apply for, and are admitted to, membership in the Association pursuant to article VII of the Articles of Incorporation of the Association;

【(C) all those persons of Yaqui blood who are citizens of the United States and who, within three years after the date of enactment of this paragraph, apply for enrollment in the Pascua Yaqui Tribe pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe; and

【(D) direct lineal descendants of such persons, subject to any further qualifications as may be provided by the Tribe in its constitution and bylaws or other governing documents.】

SEC. 3. For the purposes of section 1 of this Act, membership of the Pascua Yaqui Tribe shall consist of any United States citizen of Pascua Yaqui blood enrolled by the tribe.