By Mr. HEFLIN (for himself, Mr. SPECTER, Mr. FORD, Mr. THURMOND, Mr. BUMPERS, Mr. BROWN, Mr. SIMON, Mr. SHELBY, Ms. MOSELEY-BRAUN, and Mr. COHEN):

S. 486. A bill to reorganize the Federal administrative law judiciary, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 487. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. SPECTER:

S. 488. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on the earned income of individuals and the business taxable income of corporations, and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 489. A bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the Town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 490. A bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BREAUX (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. COCHRAN, and Mr. CHAFEE):

S. 491. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the medicare program for individuals with diabetes; to the Committee on Finance.

By Mr. CHAFEE:

S. 492. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Intrepid*; to the Committee on Commerce, Science, and Transportation.

S. 493. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Consortium*; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS (for himself, Mr. LEAHY, Ms. SNOWE, Mr. KENNEDY, Mr. COHEN, Mr. GREGG, Mr. DODD, Mr. SMITH, Mr. CHAFEE, Mr. KERRY, Mr. LIEBERMAN, and Mr. PELL):

S.J. Res. 28. A joint resolution to grant consent of Congress to the Northeast Interstate Dairy Compact; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN (for himself and Mr. HELMS):

S. Res. 82. A resolution to petition the States to convene a Conference of the States to consider a Balanced Budget Amendment to the Constitution; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. BUMPERS):

S. Res. 83. A resolution expressing the sense of the Senate regarding tax cuts during the 104th Congress; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MACK:

S. Res. 84. A resolution saluting Florida on the 150th anniversary of Florida statehood, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 482. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Emerald Ayes;* to the Committee on Commerce, Science, and Transportation.

''EMERALD AYES'' CERTIFICATE OF DOCUMENTATION LEGISLATION

Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Emerald Ayes*, official number 986099, be accorded coastwise trading privileges and be issued a certificate of documentation under section 12103 of title 46, United States Code.

The *Emerald Ayes* was constructed in Canada in 1992, and is a sailing catamaran for use as a recreational vessel. It is 36.4 feet in length, 18.2 feet in breadth, has a depth of 9.4 feet, and is self-propelled.

The vessel was purchased by Dr. Stephen D. Michel of Mount Pleasant, SC, who purchased it with the intention of chartering the vessel for short sailing tours. However, because the vessel was built in Canada, it did not meet the requirements for coastwise license endorsement in the United States. Such documentation is mandatory to enable the owner to use the vessel for its intended purpose. He first sought to purchase a U.S.-built vessel, but this type of sailboat is not built by any U.S. shipbuilders. He has invested a considerable amount of money in this vessel, and without a Jones Act waiver for the boat, he will be forced to sell it.

The owner of the *Emerald Ayes* is seeking a waiver of the existing law because he wishes to use the vessel for charters. His desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If he is granted this waiver, it is his intention to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Emerald Ayes* to engage in the coastwise trade and the fisheries of the United States.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, and Mr. THOMPSON):

S. 483. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; to the Committee on the Judiciary.

THE COPYRIGHT TERM EXTENSION ACT OF 1995

Mr. HATCH. Mr. President, Congress has in recent years passed many significant copyright measures, but it is a rare occasion when we address the fundamental aspects of copyright protection, such as the nature of the works protected, the scope of rights recognized, or the duration of copyright.

Still, from time to time, it becomes clear that fundamental change is needed. I believe we are now at such a point with respect to the question of whether the current term of copyright adequately protects the interests of authors and the related question of whether the term of protection continues to provide a sufficient incentive for the creation of new works of authorship.

The current term of copyright is, in my view, inadequate to perform its historic functions of spurring creativity and protecting authors. Thus, I am filing today the Copyright Term Extension Act of 1995, which has the general purpose of increasing existing copyright terms by the addition of a further 20 years of protection. I am pleased to be joined in this effort by my colleagues on the Senate Judiciary Committee, Senator FEINSTEIN of California and Senator THOMPSON of Tennessee.

Mr. President, Congress has protected copyrights since the very first Congress, and the entire history of our copyright laws has been a history of everincreasing protection, both with respect to the nature of works protected, as well as with respect to the duration of protection. Still, in over 200 years, the copyright term has only been extended on three prior occasions.

In 1790, the first Congress set the maximum term of copyright protection at 28 years—a 14-year initial period that could be renewed for an additional 14 years. In 1831, we extended that period by 14 years—a 28-year initial period that could be renewed for an additional 14 years. In 1909, the major copyright reform act of that era extended the maximum term of copyright to 56 years—a 28-year initial term that could be renewed for an additional 28 years.

Most recently, the Copyright Act of 1976 fundamentally altered the way in which we measure copyright by protecting works throughout the life of their creator plus an additional 50 years. In so doing, we adopted the prevailing international standard of protection—a standard that was first recommended by the members of the Berne Convention for the Protection of Literary and Artistic Works in the Act of Berlin of November 13, 1908, and that was made mandatory for members of the Berne Union by the Act of Brussels of June 26, 1948.

For existing works, the Copyright Act of 1976 created a maximum term of 75 years of protection—a 34-percent increase in term of protection over the preceding maximum of 56 years. The 20-year increase in protection that the Copyright Extension Act of 1995 provides for existing works is a far more modest extension of copyright than that which we adopted in 1976, or, in fact, that which was implemented by the two previous congressional extensions of copyright term.

Every work created after the effective date of the Copyright Term Extension Act will be prospectively protected for the remainder of the author's life and for 70 years thereafter. Works in existence on that date will receive the identical protection, if their author is still living. As for the works of authors already decreased, my bill provides an additional 20 years of protection; provided, that the works have not, on the effective date of the bill, already gone into the public domain.

Those works whose term of protection under the current Copyright Act is not tied to the life of an author but is a fixed term of years, such as works made for hire, will also receive an additional 20 years of protection. Where they are protected for 75 years under present law, they will be protected for 95 years under the provisions of the Copyright Term Extension Act.

By providing this across-the-board extension of copyright for an additional 20 years, I believe that authors will reap the full benefits to which they are entitled from the exploitation of their creative works. In addition, there are significant trade benefits to be obtained by extending copyright in the United States to bring our law into conformity with the longer copyright term enjoyed by authors in other nations.

As I noted above, our current basic copyright term of life plus 50 years is prevailing international standard, one now also applicable to the members of the World Trade Organization through the implementation of the Agreement on the Trade Related Aspects of Intellectual Property Protection [TRIPS]. Despite the nearly universal adoption of the life-plus-50-year term of copyright, many have observed that the term itself, particularly the decision to give significance to 50 years, has achieved dominance perhaps more through imitation and acceptance than through an analytical belief that the life-plus-50-year term represents the ideal period of protection needed to appropriately reward and inspire creative activity. See, that is, Ricketson, ''The Berne Convention for the protection of literary and artistic works: 1886–1986'' p. 321.

> While the [Berne Convention's] prescriptions as to duration are quite precise, there has never been any real effort made to justify why, or to explain how, these terms have come to be adopted * * *

Even though the United States adopted the life-plus-50-year term of copyright only 19 years ago, and even though that term of protection has a nearly century-old history in the international arena, I do not believe that it should be accepted uncritically as an ideal or even sufficient measurement of the most appropriate duration for copyright term. Instead, we should be aware of the many nations that have historically provided longer terms of copyright as well as the recent developments to extend copyright in Europe. Also, we need to examine the real-life experience of creators, their reasonable expectations for exploiting their works, and the concerns and views of the descendants, heirs, and others whom the postmortem protection of copyright was designed to benefit.

Among the European nations, Germany and Spain have for some time recognized respectively terms of life plus 70 pears and life plus 80 years, and Portugal has for much of this century provided a perpetual term of protection. In addition, it is common for bilateral agreements relating to copyright protection among particular nations to provide for terms of protection in excess of the life-plus-50-year standard.

As far as a general reconsideration of the life-plus-50-year term, it should be noted that as long ago as 1961 the permanent committee of the Berne Union began the process of reexamining the sufficiency of that term of protection. At the Stockholm Conference of 1967, a proposal to increase the copyright term to life plus 80 years was debated though not adopted. It is, however, easy to speculate that the failure to increase copyright term at that time may have been disproportionately influenced by the contemporaneous efforts in the United States to adopt a copyright act compatible with the existing minimum requirements of the Berne Convention. An extension of the minimum term at that time would, however meritorious, surely have made more difficult the eventual adoption of the Copyright Act of 1976 in the United States.

In the intervening years, the inadequacy of the life-plus-50-year term has become more apparent, and nations have acted to increase the duration of copyright. Most significantly, the nations of the European Union, pursuant to an October 1993, directive of the Council of the European Communities, are committed to reaching a life-plus-70-minimum term of protection by July of this year. It is thus fair to say that for a significant portion of the developed world—for the nations, moreover, that have traditionally been in the forefront of protecting authors' rights—the term of life-plus-70 has gained a broad acceptance.

I am pleased to be the author of the bill that I hope will bring American copyright law into accord with this developing international understanding as to the appropriate duration of copyright.

The benefits of extending copyright by 20 years will be felt in many areas. The vast majority of our European and other trading partners have obligated themselves to extend to our authors the full protection of their copyright laws—at least to the extent that America recognizes complementary rights. Of course, I should add that with respect to the minimum requirements for copyright protection, national treatment for U.S. authors is mandated by the Berne Convention as well as by the TRIPS agreement. But copyright protections in excess of the Berne minima will not be freely granted to U.S. authors on the basis of national treatment. Instead, the option allowed by the Berne Convention's ''role of the shorter term'' will no doubt be often employed by foreign states with the result that American works will be protected in those nations only to the extent that the works of their authors are protected in America—article 7(1) of the EC directive explicitly mandates rule of the shorter term treatment for the works of foreign authors.

After the European law goes into effect, American authors will be theoretically protected for an additional 20 years, but will in reality be unprotected for that entire period of time—unless American law is strengthened in the manner proposed by the bill I am filing today.

America exports more copyrighted intellectual property than any country in the world, a huge percentage of it to the nations of the European Union. Intellectual property is, in fact, our second largest export; it is an area in which we possess a large trade surplus. At a time when we face trade deficits in many other areas, we cannot afford to abandon 20 years' worth of valuable overseas protection now available to our creators and copyright owners. We must adopt a life-plus-70-year term of copyright if we wish to improve our international balance. It just makes plain common sense to ensure fair compensation for the American creators whose efforts fuel this important intellectual property sector of our economy by extending our copyright term to allow American copyright owners to benefit from foreign uses. By so doing, we guarantee that our trading partners do not get a free ride for their use of our intellectual property.

While we may be accustomed to a substantial American balance-of-trade surplus with respect to trade in works of intellectual property, we cannot afford to take this condition for granted. In a world economy where copyrighted works flow through a fiber optic global information infrastructure, American competitiveness demands that we adapt our laws—and adapt them quickly—to provide the maximum advantage for our creators.

Anonymous and pseudonymous works: I noted about that the copyright term extension provided by the bill I file today is not mandated by our treaty obligations. But it may be well to note parenthetically that at least in one respect the 20-year term extension does advance our ongoing efforts to fulfill our obligations under the Berne Convention. I am speaking of the term of protection applicable to anonymous and pseudonymous works. Article 7(3) of the Berne Convention mandates that such works be protected for at least 50 years after they are first made lawfully available to the public. Our current law protects those works for 75 years, yet §302(c) of the Copyright Act also establishes a maximum term of protection—

100 years from the date of their creation—beyond which no anonymous or pseudonymous work will be protected, regardless of the date on which it may ultimately be made available to the public. My bill increases each of these terms by 20 years.

Since the Stockholm Act of July 14, 1967, the Berne Convention has recognized the need for an outer limit on the protection of anonymous and pseudonymous works by providing that, ''The countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years.'' Art. 7(3). It has been argued that the American provision setting an outer limit of 100 years of protection for anonymous and pseudonymous works is in violation of the Berne Convention, see Nimmer, ''Copyright'' §9.01[D], at least with respect to works whose country of origin is not the United States. By increasing the maximum protection from its current 100 years to a period of 120 years, the Copyright Term Extension Act will at least serve to reduce greatly the number of potential situations in which our law may operate in violation of the Berne Convention. This for the reason that it is far more reasonable to presume that an author who created a work 120 years ago may have been deceased for 50 years, than it is to presume that the author of a work created only 100 years ago may have been deceased for at least 50 years.

Mr. President, that is the theoretical, one might say jurisprudential, background of the copyright issue before us today. But it may be well to consider this legal question in its practical aspect as well. What works are we talking about? Who is affected by this legislation?

Mr. President, this legislation matters and it matters to some of the most distinguished members of America's cultural and artistic community. If we examine the significance of this legislation just in the area of popular music alone, I believe we will see its importance.

Consider the following songs that fell into the public domain just 2 months ago at the end of 1994—works still widely performed in theaters and through media around the world:

''Swanee'' by George Gershwin and Irving Caesar; ''A Pretty Girl Is Like a Melody'' by Irving Berlin; ''Alice Blue Gown'' by Joseph McCarthy and Harry Tierney.

In the preceding 2 years, the following standards also lost copyright protection, despite their continued popularity: ''After You've Gone'' by Henry Creamer and turner Layton; ''Till the Clouds Roll By'' by Jerome Kern and P.G. Wodehouse; ''Over There'' by George M. Cohan; ''Till We Meet Again'' by Richard Whiting and Raymond Egan.

If the Copyright Term Extension Act of 1995 is not adopted this year in this session of Congress, the following songs will no longer be protected by copyright: ''Look for the Silver Lining'' by Jerome Kern and bud DeSylva; ''Avalon'' by Al Jolson, Bud DeSylva, and Vincent Rose.

Within the next few years, if Congress does not act to adopt legislation such as that which I introduce today, the following musical works will also fall into the public domain: ''Rahpsody in Blue'' by George Gershwin; ''My Buddy'' by Walter Donaldson and Gus Kahn; ''What'll I Do'' by Irving Berlin; ''Georgia'' by Walter Donaldson and Howard Johnson; ''It Had To Be You'' by Isham Jones and Gus Kahn; ''Showboat'' by Jerome Kern and Oscar Hammerstein II.

All of these songwriters and composers are household names still, after 75 years. Indeed ''Showboat'' is back on Broadway, eight performances a week, nearly 70 years after its premiere.

But I would like to draw particular attention to the career of Walter Donaldson. He composed the songs cited above when he was in his twenties, and he died in 1947 when he was in his midfifties. He composed innumerable standards and will forever be linked to the extraordinary success of the 1927 film ''The Jazz Singer'' in which his songs were sung by Al Jolsen. The historical significance of that motion picture, the first sound film to be commercially released, can hardly be overstated.

If the present copyright law had been in effect in the 1920's, all of Walter Donaldson's compositions would fall into the public domain within the next 2 years. Yet these historical facts should not mislead us into thinking that the copyright status of his works is an academic issue. For it was Ellen Donaldson, the composer's daughter, who first alerted me to the importance of this issue only 2 years ago. I do not think she will mind my pointing out that she is now only in her early fifties. She remains extremely active in publishing and exploiting her father's music and in protecting his copyrights. Like the children of composers such as Richard Rogers, Irving Berlin, Richard Whiting, Hoagy Carmichael, and many, many others, her legitimate interest in her father's copyrights can be expected to continue for decades, certainly for another 20 years.

Mr. President, from interviews I have had with writers, authors, and artists of all kinds, and from the hearings we have held on issues of concern to authors in the Judiciary Committee over the past 18 years, I have come to the conclusion that the vast majority of authors expect their copyrights to be a potentially valuable resource to be passed on to their children and through them into the succeeding generation. I believe that they are reasonable in this expectation and that such a general expectation is what the Framers of the Constitution had in mind when they constrained the power of Congress to grant patents and copyrights only with the very broad and flexible requirement that such rights be granted ''for limited times.'' Article I, section 8. When, however, we so often see copyrights expiring before even the first generation of an author's heirs have fully benefited from them, then I believe that is accurate to say that our term of copyright is too short and for a too limited time.

One could also cite demographic factors that point to the need for a longer term if copyright is truly to reflect the natural desire of authors to provide for their heirs. Principal among these would be the increasing lifespan of the average American, as well as the increasing fact of children being born far later, in a marriage than in past decades. Whatever the reason, the inescapable conclusion must be drawn that copyrights in valuable works are too often expiring before they have served their purpose of allowing an author to pass their benefits on to his or her heirs. I urge my colleagues to pass the Copyright Term Extension Act of 1995 to remedy this situation.

Mr. President, we in Congress are currently dealing with a number of fundamental issues that bring into question how we have done things in the Federal government over many years. These debates raise the question of the proper role of the Federal Government in sponsoring, stimulating, and, where appropriate, funding artistic activity across a wide range of fields. We are asking virtually every Federal program now in existence to justify its function. And, as a result, we hear much about the programs that do not work.

We hear all too little about the good that Government can do when it functions in a limited and effective way. I would submit that the copyright system—in the way that it rewards private initiative through governmental protection, all without the need for a regulatory bureaucracy—is a model for the best that government can do to improve the life of its citizens.

And when one considers that all works of creativity fixed by any method now known or later developed are invested from the moment of their creation with substantial rights that can be protected in any Federal court, then I think it becomes clear that the copyright system is something we should encourage and, where appropriate, extend.

Because the bill I introduce today does extend the benefits of copyright in an appropriate and obviously needed way, I am proud to be its sponsor. I urge my colleagues to give it their most serious consideration.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Copyright Term Extension Act of 1995''.

SEC. 2. DURATION OF COPYRIGHT PROVISIONS.

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(c) of title 17, United States Code, is amended by striking out ''February 15, 2047'' in each place it appears and inserting ''February 15, 2067'' in each such place.

(b) DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.—Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking out ''fifty'' and inserting in lieu thereof ''seventy'';

(2) in subsection (b) by striking out ''fifty'' and inserting in lieu thereof ''seventy'';

(3) in subsection (c) in the first sentence—

(A) by striking out ''seventy-five'' and inserting in lieu thereof ''ninety-five''; and

(B) by striking out ''one hundred'' and inserting in lieu thereof ''one hundred and twenty''; and

(4) in subsection (e) in the first sentence—

(A) by striking out ''seventy-five'' and inserting in lieu thereof ''ninety-five'';

(B) by striking out ''one hundred'' and inserting in lieu thereof ''one hundred and twenty''; and

(C) by striking out ''fifty'' in each place it appears and inserting ''seventy'' in each such place.

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence—

(1) by striking out ''December 31, 2002'' in each place it appears and inserting ''December 31, 2012'' in each such place; and

(2) by striking out ''December 31, 2027'' and inserting in lieu thereof ''December 31, 2047''.

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

(1) Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking out ''47'' and inserting in lieu thereof ''67''; and

(II) in subparagraph (C) by striking out ''47'' and inserting in lieu thereof ''67'';

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking out ''47'' and inserting in lieu thereof ''67''; and

(II) in subparagraph (B) by striking out ''47 and inserting in lieu thereof ''67''; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking out ''47'' and inserting in lieu thereof ''67''; and

(II) in subparagraph (B) by striking out ''47'' and inserting in lieu thereof ''67''; and

(B) in subsection (b) by striking out ''seventy-five'' and inserting in lieu thereof ''ninety-five''.

(2) Section 102 of the Copyright Renewal Act of 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking out ''47'' and inserting in lieu thereof ''67'';

(ii) by striking out ''(as amended by subsection (a) of this section)''; and

(iii) by striking out ''effective date of this section'' each place it appears and inserting in each such place ''effective date of the Copyright Term Extension Act of 1995''; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: '', except each reference to forty-seven years in such provisions shall be deemed to be sixty-seven years''.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

Mrs. FEINSTEIN. Mr. President, as always when it comes to matters of copyright law, the distinguished chairman of the Judiciary Committee has spoken well and to the point as to why extending the basic term of copyright protection by 20 years is both the right and the economically desirable thing to do, and to do without delay. As the bill's coauthor, I'd like to add just a few thoughts about our proposal to extend the length of copyright protection for only the fourth time since the Founding Fathers established such rights more than 200 years ago.

First principles come first. The fundamental animating principle of copyright protection was—and remains—assuring that the Nation's most creative individuals have and retain a sufficient economic incentive to continue to craft, work by copyrightable work, the incomparable mosaic of our Nation's cultural life. For many years now, such incentive has been considered to be the right to profit from licensing one's work during one's lifetime and to take pride and comfort in knowing that one's children—and perhaps their children—might also benefit from one's posthumous popularity. Indeed, it was to preserve that incentive that Congress adopted the current life plus 50 years term that is now the law.

Human longevity, however, is increasingly undermining this fundamental precept of copyright law, Mr. President, and with it the economic incentive deemed essential by the authors of the Constitution. We all had the great good fortune, for example, to have the incomparable Irving Berlin among us until 1989, when he died at the age of 101. By that time, however, Mr. Berlin had outlived the period in which he was entitled to royalties from the immortal ''Alexander's Ragtime Band.'' Although not every American copyright owner will reach the century mark, Mr. President, it's clear that we as a Nation are living longer and more active lives.

Copyright law has in the past—and should now again—reflect that central fact of life. Accordingly, the Copyright Term Extension Act of 1995 uniformly extends the life of copyright protection in this country by 20 years, a modest extension relative to past adjustments, as Chairman HATCH points out. Writers, artists, filmmakers, composers, photographers, sculptors, and cartographers alike—and their children, all will benefit from this overdue adjustment. Perhaps more importantly, as the ultimate beneficiaries of the creativity that copyright protection is intended to assure, so will we all.

Second, Mr. President, as important as America's cultural enrichment is, the United States also stands to benefit dramatically on the world economic stage from extension of the current copyright term. As the tense and protracted negotiations with China just concluded underscored, intellectual property—the collective copyrightable output of America's creators of movies, music, art and other works—is an enormous asset to the Nation's balance of trade.

Indeed, in a recent Billboard magazine commentary, Prof. Arthur Miller of the Harvard Law School noted that, ''In 1990, America's 'copyright industries' recorded $34 billion in foreign sales * * *.'' It's no wonder, Mr. President, that the Chinese preferred to appropriate American film and music for resale—two great exports from my State of California—rather than license American works.

By extending to life plus 70 years the basic copyright protection afforded in the United States for new works, Congress will assure comparable protection for American authors in the countries of the European Union, which will formally adopt the life-plus-70 standard this summer. If we do not act, Mr. President, those nations quite simply will not be required to provide American authors, artists and other copyright holders with more than the protection we afford their intellectual property holders here at home. Simply put, Mr. President, conforming our intellectual property laws with those of our trading partners in the service of American competitiveness is critical.

As Professor Miller aptly put it: ''Unless Congress matches the copyright extension adopted by the European Union, we will lost 20 years of valuable protection against rip-off artists around the world.'' I'm certain that the tired, but successful team from the United States Trade Representative's office just returned from China will testify if asked, Mr. President, that the stronger our copyright laws here at home, the better the deal they can negotiate for American copyright holders abroad. Since America is—and is likely to remain—the world's principal exporter of popular culture, extension of the basic copyright term makes international dollars and sense.

Third, and finally, Mr. President, I want to note for the record the extraordinary support for this legislation within the intellectual property community. Not only do movie and music companies strongly back this bill as written, as one would expect, but book and music publishers, performing rights societies representing America's premier songwriters and composers, and major software producing firms all concur that Congress can and must pass this important legislation.

I want to thank Chairman HATCH and his staff once again, Mr. President, for another—to my mind—successful collaboration to protect and encourage the production of American intellectual property. Just as was the case with the digital performance rights legislation which we first introduced in the last Congress and jointly offered again recently, it is equity and economics which make the Copyright

Term Extension Act of 1995 an important and worthwhile bill.

I commend it to my colleagues, and look forward to working with them and the copyright community at large to put it—as well as digital performance rights legislation—before the President by the end of this session of Congress.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Billboard magazine, January 14, 1995]

EXTENDING COPYRIGHTS PRESERVES U.S. CULTURE

(By Arthur R. Miller)

Beginning this summer, all member nations of the European Union will extend the length of copyright protection to the life of the author plus 70 years. Should we in America provide the same protection for our own writers, musicians, artists, computer programmers, and other creators of copyrighted items?

Some feel that we should not tamper with existing U.S. law, which provides copyright protection for life plus 50 years. But this status-quoism ignores some fundamental changes that have occurred in the 20th century.

One of the major reasons Congress originally adopted life-plus-50-years was to offer protection not only to the creator of the copyrighted works, but to his or her children and grandchildren—that is, to three generations in all. With people living longer today, an extension of the copyright term by 20 years would roughly correspond to the increase in longevity that has occurred during the 20th century.

In addition, Congress has already recognized the wisdom of extending copyright protection to match the terms guaranteed by other nations. That is exactly what Congress did in 1976 when it extended the copyright term to life-plus-50-years, in order to bring American law into line with the term then commonly recognized by other nations.

But beyond this, the main arguments for term extension are equity and economics.

If Congress does not extend to Americans the same copyright protection afforded Europeans, American creators will have 20 years less protection than their European counterparts—20 years during which Europeans will not be paying Americans for our copyrighted products. This situation would not only be unfair to creators of copyrighted works, but would be harmful economically to the country as a whole.

The export of intellectual property is growing at a tremendous rate because America dominates popular culture the world over. In 1990, America's ''copyright industries'' recorded $34 billion in foreign sales of records, CDs, computer software, motion pictures, music, books, scientific journals, periodicals, photographs, designs, and pictorial and sculptural works. Because the world is so eager for the products of America's copyright industries, they are one of the few bright spots in our balance-of-trade picture.

The question of copyright extension should be viewed in the larger context of bilateral and multilateral trade talks—including the Trade Related Intellectual Property Rights (TRIPS) negotiations under GATT. U.S. trade representatives have found that shortcomings in our own copyright law are used against us when we call for stronger protection for American works overseas. One can just hear the Europeans objecting in future negotiations: ''How can you ask for better protection in Europe when you do not even grant the same term of protection we do?''

The need for strong copyright protection becomes more important every year as a weapon with which to fight the piracy of intellectual property. Overseas piracy of American copyrighted material has grown dramatically in recent years due to the availability of equipment that can make cheap copies of movies, videotapes, sound recordings, and computer programs. As more and more digital technology arrives on the scene, the problem will only become worse.

Indeed, China alone produced an estimated $2 billion worth of counterfeit recordings and computer discs last year. According to the International Federation of the Phonographic Industry, China now has as many as 26 factories capable of producing 62 million compact discs. China's domestic market accounts for only about 3 million discs, so the dimension of the loss to copyright owners is obvious. Unless Congress matches the copyright extension adopted by the European Union, we will lose 20 years of valuable protection against rip-off artists around the world.

It would not take long to see what harm can come from not changing our laws to match those of Europeans. America may be a young nation, but we have the world's oldest popular culture. Many wonderful motion pictures and songs—including Irving Berlin's ''Alexander's Rag Time Band''—already have lost their copyright protection. Dozens, if not hundreds, of other valuable songs and motion pictures—the legacy of American culture—also will lose their protection in the next few years. For example, if Congress does not act soon, such classics as ''After You've Gone,'' ''I'm Always Chasing Rainbows,'' ''A Pretty Girl Is Like A Melody,'' ''Swanee,'' and ''The World Is Waiting For The Sunrise'' will fall into the public domain, and that is only the beginning.

Commentary writer Professor Lewis Kurlantzick (Billboard, Oct. 29, 1994) asserted that when copyrighted works lose their protection, they become more widely available. At first blush, this appears logical. But, paradoxically, works of art become less available to the public when they enter the public domain—at least in a form that does credit to the original. This is because few businesses will invest the money necessary to reproduce and distribute products that have lost their copyright protection and can therefore be reproduced by anyone. The only products that do tend to be made available after a copyright expires are ''down and dirty'' reproductions of such poor quality that they degrade the original copyrighted work. And there is very little evidence that the consumer really benefits economically from works falling into the public domain.

Kurlantzick also denigrates the importance of long-term copyright protection by stating that ''a dollar to be received 75 years from now is worth a small fraction of one cent.'' But, he fails to see that the dollar value placed on future copyright advantages will increase more or less in proportion with the inflation rate. That is to say, if the dollar loses 90% of its value over the next 75 years, then the cost of goods and services will be roughly 90% higher in 75 years than it is today.

For all these reasons, it's clear why Congress should act. America can reap valuable benefits, at no cost to itself, if Congress enacts legislation to extend our copyright protection by 20 years. By harmonizing our laws with the EU, we can reduce our balance-of-trade deficit, encourage economic investment, strengthen our hand in dealing with intellectual piracy, and see to it that America's authors, composers, artists, and computer programmers receive the same level of protection afforded the creative people of other nations. Thus, copyright term extension makes economic sense, and it's equitable.

By Mr. GRAHAM:

S. 484. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of applicants for law enforcement positions, and for other purposes; to the Committee on the Judiciary.

THE LAW ENFORCEMENT AND CORRECTIONAL OFFICERS EMPLOYMENT REGISTRATION ACT OF 1995

● Mr. GRAHAM. Mr. President, I introduce the Law Enforcement and Correctional Officers Employment Registration Act of 1995, which will establish a national clearinghouse to assist in background checks on law enforcement applicants.

This legislation would establish a national data bank to provide quick, accurate and prior officer employment history on all applicants for law enforcement agencies. This clearinghouse has been called a Pointer File and simply maintains basic information of all certified officers, including names, dates of birth, social security numbers, dates of employment, and any decertifications. The Department of Justice would maintain and offer computer access to all criminal agencies.

The intent of my legislation is to help prevent what ''Dateline NBC'' has referred to as gypsy cops. These are police officers who have been dismissed or have been forced to resign from previous positions but conceal prior employment history in future job applications.

In the case of the beating death of Bobby Jewett on November 24, 1990, in West Palm Beach, FL, ''Dateline NBC'' was able to subsequently trace the prior employment histories of the two officers involved in the case through four States and eight different law enforcement agencies. Much of this had been concealed in their job applications.

As noted in a Tampa Tribune editorial in support of a clearinghouse,

> Few agencies, particularly those in rural areas and smaller towns, have the personnel and resources to conduct thorough background checks on police applicants. Not even the largest agencies always succeed in finding an officer's past if he or she is determined to hide it.

Florida Department of Law Enforcement Commissioner James T. Moore adds, ''Experience has shown that, after being found guilty of misconduct, many problem officers resign or are fired, only to seek police jobs elsewhere. The clearinghouse system would allow a law enforcement agency to review each officer applicant's prior history as an officer.'' In order to protect the rights of officers, however, the clearinghouse would not contain information relating to causes of dismissal.

Thomas J. O'Loughlin, chief of police of Wellesley, MA, notes,

The safety of the citizens of this Commonwealth and this Nation is either weakened or solidified by the character of the individuals that we entrust with the responsibility to protect. This legislation provides society with the necessary tools to ensure that individuals who have violated this trust do not simply relocate and once again commit grievous offenses against the public good, and it ensures that a complete and thorough background investigation will be completed prior to an individual assuming the public's trust to be a protector of society.

This legislation is essential to maintaining public confidence in the police. Further, the financial impact of office misconduct, as measured by the costs of civil liability litigation, is alarming. A 1992 survey of members of the National Institute of Municipal Law Officers found police liability to be the leading cause of soaring litigation costs since 1989. For the majority of law enforcement officers, this is also an issue of job integrity and job safety. The misdeeds of a few place others in an unfavorable light and also at risk.

It is safe to say that a history of past dishonorable service in other criminal justice agencies is the most compelling reason to reject an offer. However, this critical information is often unavailable. That is why the International Association of Chiefs of Police has endorsed this legislation.

In addition, the Florida Criminal Justice Standards and Training Commission adopted a unanimous resolution in support of such a program. I would like to thank these organizations, as well as Commissioner Moore, for their efforts to protect effectiveness and professionalism in law enforcement as well as the public's safety.

I urge my colleagues to join me in support of this important legislation.●

By Mrs. HUTCHISON:

S. 485. A bill to amend the Solid Waste Disposal Act to provide and clarify the authority for certain municipal solid waste flow control arrangements; to the Committee on Environment and Public Works.

THE MUNICIPAL WASTE FLOW CONTROL TRANSITION ACT OF 1995

● Mrs. HUTCHISON. Mr. President, on May 16, 1994 the U.S. Supreme Court handed down a decision in C&A Carbone versus Clarkstown, NY that has important implications for local municipal waste management planning.

At issue in the Carbone case was the constitutionality of local ordinances that enforce flow control. A flow control ordinance enables a local government to direct locally generated waste to a specific waste disposal facility. The waste disposal facility is typically a solid waste combustor that is owned by the local government.

In its Carbone decision the Court found that flow control was an unconstitutional interference in interstate commerce. In general, this ruling was a victory for taxpaying consumers who will benefit from the improved service and prices that result from competition for waste disposal services.

However, the Court's decision leaves local governments with flow control regimes in a vulnerable position. In most cases, flow control assures the financial feasibility of a locally owned or financed waste disposal facility. That is, municipal bonds were sold and facilities built in reliance on flow control guaranteed waste disposal income. Lacking this the financial feasibility of such disposal facilities and local governments is jeopardized.

At the end of the 103d Congress a number of my colleagues and I worked on a bill that would have grandfathered existing flow control arrangements. Unfortunately, the Senate did not complete action before adjournment.

If anything, the urgency of cushioning the effects of the Carbone decision on affected local governments has increased. Although there have not yet been any defaults, the risk of local and municipal bond market disruptions continues.

Today I offer legislation, the Municipal Waste Flow Control Transition Act of 1995, that is very similar to that supported by most of the affected parties at the end of the last Congress.

My bill preserves flow control for local governments that made substantial investments predicated on flow control authority before Carbone. It ensures flow control authority for the life of the affected facilities. However, my legislation would not permit new flow control arrangements, thereby assuring free competition and unfettered interstate commerce in the future.

Mr. President, we should protect the local governments and local taxpayers who are threatened financially by invalidation of their flow control ordinances. We can do so, as my bill does, in a straight forward fashion and, at the same time, assure that businesses and homeowners will have the benefits of a free market in the future.●

By Mr. HEFLIN (for himself, Mr. SPECTER, Mr. FORD, Mr. THURMOND, Mr. BUMPERS, Mr. BROWN, Mr. SIMON, Mr. SHELBY, Ms. MOSELEY-BRAUN, and Mr. COHEN):

S. 486. A bill to reorganize the Federal administrative law judiciary, and for other purposes; to the Committee on the Judiciary.

THE REORGANIZATION OF THE FEDERAL ADMINISTRATIVE JUDICIARY ACT

Mr. HEFLIN. Mr. President, I am pleased to rise in support of legislation entitled ''the Reorganization of the Federal Administrative Judiciary Act.'' I am pleased to advise that I have been joined today by nine colleagues from both sides of the aisle and who are original cosponsors of this reform legislation. They are Senators SPECTER, FORD, THURMOND, BUMPERS, BROWN, SIMON, SHELBY, MOSELEY-BRAUN, and COHEN.

The purpose of this legislation is to reorganize and establish an independent corps of administrative law judges within the executive branch of Government. The bill is designed to address two critical issues which face our Nation. First, an independent corps is vital to the continued impartial resolution of issues and decision of cases arising under the administrative procedure act. Second, this bill streamlines the Federal bureaucracy in order to better meet the needs of the people of the United States. For these reasons, legislation needs to be adopted to improve this Nation's administrative system of justice.

In the 103d Congress, I introduced similar legislation, and on September 15, 1993, the Judiciary Committee considered this legislation, and ordered it favorably reported in the nature of a substitute to the Senate. On November 19, 1993, this bill was considered on the floor of the Senate and adopted a technical amendment which I offered and two valuable amendments offered by my colleagues Senator HANK BROWN of Colorado and Senator WILLIAM COHEN of Maine. The legislation I am introducing today is identical to the legislation which unanimously passed the Senate on November 19, 1993.

While the House of Representatives regretfully failed to consider S. 486 during the second session of the 103d Congress, I am hopeful, in light of the recent election results by which the American people expressed their support for leaner, more efficient, and less costly Federal Government, that the new Congress will favorably consider and adopt this legislation and send it to President Clinton for signature.

the primary objective of this legislation is to reorganize the Federal administrative judiciary to promote efficiency, productivity, and the reduction of overhead functions. It will provide for economies of scale to better serve the public in the resolution of administrative disputes. This goal will be accomplished by placing all ALJ's in a unified corps with a chief judge as the primary administrative officer. The chief judge will be responsible for developing programs and practices, which attain this objective. Those programs and practices will include the training of judges in more than one subject area. This training will permit the utilization of the skills and expertise of each judge across agency lines to meet the demands of the existing workload.

Generally, this bill would establish an independent corps for administrative law judges which would operate under the executive branch of the Government. The corps would be governed by a chief administrative law judge. Further, the corps would be divided into eight divisions, with each division governed by a division chief administrative law judge. The chief and division chief ALJ's would be Presidential appointments, by and with the advice and consent of the U.S. Senate.

The chief and division chief ALJ's would form a council. The council would be the policy making body for

the corps. The council would have the authority to assign judges to divisions, appoint persons as administrative law judges, prescribe rules of practice and procedure for the corps, issue appropriate rules and regulations for the efficient conduct of the corps, and generally manage the day-to-day operations of the corps.

This bill provides explicit protection for ALJ's. The corps would continue to make appointments of administrative law judges from a register of qualified candidates maintained by the Office of Personnel Management. In order for an ALJ to be involuntarily reassigned to a new permanent duty station, an ALJ must receive a written explanation from the council stating that such a move is required in order to meet substantial changes in workloads. ALJ's would continue to hear and adjudicate the same types of cases which they presently decide. Further, ALJ's would continue to be assigned cases within their division on a rotating basis, taking into account issues of expertise and education. In addition, ALJ's would be given explicit authority to continue to act as special masters pursuant to Federal Rule of Civil Procedure 53(a). This bill also contains provisions for the removal and discipline of administrative law judges.

In the committee report (103–154) to this legislation, my colleague, Senator COHEN. expressed support for the concept of establishing an independent corps of administrative law judges within the executive branch of Government and for the concept which would reform and streamline the Federal bureaucracy in order to serve the American public. Senator COHEN did have legitimate concerns and offered excellent suggestions to improve and strengthen section 599(e) of the bill relating to removal and discipline of judges.

I have worked with Senator COHEN to strengthen and improve the removal and discipline provisions of the bill, and I believe these provisions are a balanced effort to make the provisions fairer to all interest parties concerned by insuring public members serve on the complaint resolution board—and its panels—to ensure objectivity and impartiality. This legislation is better because of Senator COHEN's participation and I greatly appreciate his cooperation.

This legislation will promote good government in an efficient and effective manner. The Congressional Budget Office [CBO] has prepared a report which estimates the legislation can save as much as $22 million a year in as few as 5 years. These are the types of savings the American people expect and deserve.

Since the reorganization of the Federal administrative law judges into a unified corps is expected to save the U.S. taxpayer substantial dollars, and in consultation with Senator HANK BROWN of Colorado, a provision offered by Senator BROWN is included in this legislation ensuring that agencies will reduce their budgets to reflect the projected savings from the removal of ALJ's from their agencies and report to Congress on their efforts.

The establishment of a unified corps of administrative law judges is not a unique concept. In fact, this type of legislation was first implemented in a number of States, and has been very successful. The individual States have been leaders in adapting and streamlining the administrative process to meet the changing needs of the American public. The adoption of similar Federal legislation merely builds upon the successful experiences of the States.

A final consideration which argues in favor of independence for ALJ's is the issue of public perception. For individuals who face the daunting prospect of being accused by a Federal agency of illegal activities, the fact that an administrative law judge who is an employee of that agency is hearing their case is hardly reassuring. The realities of the everyday world indicate that the key to public satisfaction and confidence in judicial decisionmaking is the issue of decisional independence. The creation of a unified corps of administrative law judges is likely to have the beneficial effect of greater public satisfaction with the administrative law system.

This legislation which I introduce today responds to concerns expressed by executive branch agencies, particularly the Department of Justice. This legislation is truly a reorganization of Federal administrative adjudication functions and not a radical departure from the principles of administrative law, which has concerned some members in the past. To the contrary, the substitute insures that the rule of law will prevail in administrative adjudications without impermissible influence.

The legislation specifically states that an agency's policymaking authority will not be changed nor will the administrative law judge's adjudicatory authority. The reorganization preserves the existing powers of both agency managers and the administrative law judges, while removing the tension that naturally arises between those two functions. The bill provides that enactment of the bill will effect no change in an agency's rulemaking, interpretative or policymaking authority in carrying out statutory responsibilities vested in the agency or agency head.

The bill clarifies that the reorganization of administrative law judges in a corps will give the new corps no policymaking authority for the agency, a past concern expressed by some members. In preserving the status quo of the present administrative system, the agency and its head retain the authority to review decisions of administrative law judges under any applicable provision of law. The policymaking role of ALJ's is not enlarged by enactment of the bill nor is their adjudicatory authority changed from current status. An agency head or secretary retains final authority to reverse ALJ decisions as provided by statute and makes the final decisions for the agency.

I look forward to working for passage of this reform legislation here in the Senate, and I hope my colleagues in the House of Representatives will likewise favorably consider and act on it, so that President Clinton can sign it into law before the end of the year.

Mr. President, I ask unanimous consent that the bill in its entirety be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reorganization of the Federal Administrative Judiciary Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) in order to promote efficiency, productivity, the reduction of administrative functions, and to provide economies of scale and better public service and public trust in the administrative resolution of disputes, Federal administrative law judges should be organized in a unified corps;

(2) the dispersal of administrative law judges appointed under section 3105 of title 5, United States Code, in every Federal agency that requires hearings to be conducted by administrative law judges, underutilizes the potential of administrative law judges to serve the public and assist the Federal courts as special masters and finders of fact in specific instances to help reduce the backlog of cases in Federal courts;

(3) the organization of administrative law judges in a corps will best promote their assignment to Federal agency needs as demand requires;

(4) a unified administrative law judge corps will better promote the use of information technology in serving the public; and

(5) an administrative law judge corps will, through consolidation, eliminate unnecessary offices and reduce travel and other related costs.

SEC. 3. ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE CORPS.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

''SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

''§ 597. Definitions

''For the purposes of this subchapter—

''(1) 'agency' means an authority referred to in section 551(1);

''(2) 'Corps' means the Administrative Law Judge Corps of the United States established under section 598;

''(3) 'administrative law judge' means an administrative law judge appointed under section 3105 on or before the effective date of the Reorganization of the Federal Administrative Judiciary Act or under section 599c after such effective date;

''(4) 'chief judge' means the chief administrative law judge appointed and serving under section 599;

''(5) 'Council' means the Council of the Administrative Law Judge Corps established under section 599b;

''(6) 'Board', unless otherwise indicated, means the Complaints Resolution Board established under section 599e; and

''(7) 'division chief judge' means the chief administrative law judge of a division appointed and serving under section 599a.

''§ 598. Establishment; membership

''(a) ESTABLISHMENT.—There is established an Administrative Law Judge Corps consisting of all administrative law judges, in accordance with the provisions of subsection (b). Such Corps shall be administered in Washington, D.C.

''(b) MEMBERSHIP.—An administrative law judge serving as such on the date of the commencement of the operation of the Corps shall be transferred to the Corps as of that date. An administrative law judge who is appointed on or after the date of the commencement of the operation of the Corps shall be a member of the Corps as of the date of such appointment.

''§ 599. Chief administrative law judge

''(a) APPOINTMENT; TERM.—The chief administrative law judge shall be the chief administrative officer of the Corps and shall be the presiding judge of the Corps. The chief judge shall be appointed by the President, by and with the advice and consent of the Senate. The chief judge shall be learned in the law. The chief judge shall serve for a term of five years or until a successor is appointed and qualifies to serve. A chief judge may be reappointed upon the expiration of the term of such judge, by and with the advice and consent of the Senate.

''(b) VACANCIES.—(1) If the office of chief judge is vacant, the division chief judge who is senior in length of service as a member of the Council shall serve as acting chief judge until such vacancy is filled.

''(2) If 2 or more division chief judges have the same length of service as members of the Council, the division chief judge who is senior in length of service as an administrative law judge shall serve as such acting chief judge.

''(c) SPECIAL FUNCTIONS OF CHIEF JUDGE.—(1) In addition to other duties conferred on the chief judge, the chief judge shall be responsible for developing programs and practices, in coordination with agencies using administrative law judges, which foster economy and efficiency in the processing of cases heard by administrative law judges. These programs and practices shall include—

''(A) training of judges in more than one subject area;

''(B) employment of computers and software and other information technology for automated decision preparation, case docketing, and research;

''(C) consolidating hearing facilities and law libraries; and

''(D) programs and practices to foster overall efficient use of staff, personnel, equipment, and facilities.

''(2) In order to minimize costs—

''(A) all administrative law judges and support personnel shall, for at least 1 year after the date of the commencement of the operation of the Corps, continue to use the office space and facilities, at the agencies using such judges and personnel, available before such date, and

''(B) the chief judge shall phase in transfers of administrative law judges and support personnel to other facilities so that the cost of providing facilities for the Corps shall not exceed the cost of maintaining such judges and personnel in equivalent space available at agencies using the Corps.

''(d) REPORTS.—The chief judge shall, within 90 days after the end of each fiscal year, make a written report to the President and the Congress concerning the business of the Corps during the preceding fiscal year. The report shall include information and recommendations of the Council concerning the future personnel requirements of the Corps.

''(e) SERVICE AFTER TERM EXPIRES.—After serving as chief judge, an individual may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599e.

''§ 599a. Divisions of the Corps; division chief judges

''(a) ASSIGNMENT TO DIVISIONS.—Each judge of the Corps shall be assigned to a division by the Council, pursuant to section 599b. The assignment of a judge who was an administrative law judge on the date of commencement of the operation of the Corps shall be made after consideration of the areas of specialization in which the judge has served. Each division shall be headed by a division chief judge who shall exercise administrative supervision over such division.

''(b) DIVISIONS.—The divisions of the Corps shall be as follows:

''(1) Division of Communications, Public Utility, and Transportation Regulation.

''(2) Division of Safety and Environmental Regulation.

''(3) Division of Labor.

''(4) Division of Labor Relations.

''(5) Division of Health and Human Services Programs.

''(6) Division of Securities, Commodities, and Trade Regulation.

''(7) Division of General Programs.

''(8) Division of Financial Services Institutions.

''(c) APPOINTMENT OF DIVISION CHIEF JUDGES.—(1) The division chief judge of each division set forth in subsection (b) shall be appointed by the President, by and with the advice and consent of the Senate, and shall be learned in the law.

''(2) Division chief judges shall be appointed for 5-year terms, except that of those division chief judges first appointed, the President shall designate 2 such individuals to be appointed for 5-year terms, 3 for 4-year terms, and 2 for 3-year terms.

''(3) Any division chief judge appointed to fill an unexpired term shall be appointed only for the remainder of such predecessor's term, but may be reappointed as provided in paragraph (4).

''(4) Any division chief judge may be reappointed upon the expiration of his or her term.

''(5) Any judge, after serving as division chief judge, may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 599e.

''§ 599b. Council of the Corps

''(a) IN GENERAL.—The policymaking body of the Corps shall be the Council of the Corps. The chief judge and the division chief judges shall constitute the Council. The chief judge shall preside over the Council. If the chief judge is unable to be present at a meeting of the Council, the division chief judge who is senior in length of service as a member of such Council shall preside at the meeting.

''(b) QUORUM; VOTING.—One half of all of the members of the Council shall constitute a quorum for the purpose of transacting business. The affirmative vote by a majority of all the members of the Council shall be required to approve a matter on behalf of the Council. Each member of the Council shall have one vote.

''(c) MEETINGS.—Meetings of the Council shall be held at least once a month at the call of the chief judge or by the call of one-third or more of the members of the Council.

''(d) POWERS.—The Council is authorized—

''(1) to assign judges to divisions and transfer or reassign judges from one division to another, subject to the provisions of section 599c;

''(2) to appoint persons as administrative law judges under section 599c;

''(3) to file charges seeking adverse action against an administrative law judge under section 599e;

''(4) to prescribe, after providing an opportunity for notice and comment, the rules of practice and procedure for the conduct of proceedings before the Corps, except that, with respect to a category of proceedings adjudicated by an agency before the effective date of the Reorganization of the Federal Administrative Judiciary Act, the Council may not amend or revise the rules of practice and procedure prescribed by that agency during the 2 years following such effective date without the approval of that agency, and any amendments or revisions made to such rules shall not affect or be applied to any pending action;

''(5) to issue such rules and regulations as may be appropriate for the efficient conduct of the business of the Corps and the implementation of this subchapter, including the assignment of cases to administrative law judges;

''(6) subject to the civil service and classification laws and regulations—

''(A) to select, appoint, employ, and fix the compensation of the employees (other than administrative law judges) that the Council deems necessary to carry out the functions, powers, and duties of the Corps; and

''(B) to prescribe the authority and duties of such employees;

''(7) to establish, abolish, alter, consolidate, and maintain such regional, district, and other field offices as are necessary to carry out the functions, powers, and duties of the Corps and to assign and reassign employees to such field offices;

''(8) to procure temporary and intermittent services under section 3109;

''(9) to enter into, to the extent or in such amounts as are authorized in appropriation Acts, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), contracts, leases, cooperative agreements, or other transactions that may be necessary to conduct the business of the Corps;

''(10) to delegate any of the chief judge's functions or powers with the consent of the chief judge, or whenever the office of such chief judge is vacant, to one or more division chief judges or other employees of the Corps, and to authorize the redelegation of any of those functions or powers;

''(11) to establish, after consulting with an agency, initial and continuing educational programs to assure that each administrative law judge assigned to hear cases of that agency has the necessary training in the specialized field of law of that agency;

''(12) to make suitable arrangements for continuing education and training of other employees of the Corps, so that the level of expertise in the divisions of the Corps will be maintained and enhanced; and

''(13) to determine all other matters of general policy of the Corps.

''(e) OFFICIAL SEAL.—The Council shall select an official seal for the Corps which shall be judicially noticed.

''§ 599c. Appointment and transfer of administrative law judges

''(a) APPOINTMENT.—After the initial establishment of the Corps, the Council shall appoint new or additional judges as may be necessary for the efficient and expeditious conduct of the business of the Corps. Appointments shall be made from a register maintained by the Office of Personnel Management under subchapter I of chapter 33 of this title. Upon request by the chief judge, the Office of Personnel Management shall certify enough names from the top of such

register to enable the Council to consider five names for each vacancy. Notwithstanding section 3318, a vacancy in the Corps may be filled from the highest five eligible individuals available for appointment on the certificate furnished by the Office of Personnel Management.

''(b) LIMITATION ON JUDGE'S DUTIES.—A judge of the Corps may not perform or be assigned to perform duties inconsistent with the duties and responsibilities of an administrative law judge.

''(c) REASSIGNMENTS; DETAILS.—A judge or staff member of the Corps on the date of commencement of the operation of the Corps, and all new judges and staff members appointed by the Council, may not thereafter be involuntarily reassigned to a new permanent duty station if such station is beyond the commuting area of the duty station which is the judge's or staff member's permanent duty station on that date. A judge or staff member of the Corps may be temporarily detailed, once in a 24-month period, to a new duty station at any location, for a period of not more than 120 days.

''§ 599d. Jurisdiction

''(a) IN GENERAL.—Any case, claim, action, or proceeding authorized to be heard before an administrative law judge on the day before the effective date of the Reorganization of the Federal Administrative Judiciary Act shall, on or after such date, be referred to the Corps for adjudication on the record after an opportunity for a hearing.

''(b) TYPES OF CASES.—An administrative law judge who is a member of the Corps shall hear and render a decision upon—

''(1) every case of adjudication subject to the provisions of section 553, 554, or 556;

''(2) every case in which hearings are required by law to be held in accordance with sections 553, 554, or section 556;

''(3) every other case referred to the Corps by an agency in which a determination is to be made on the record after an opportunity for a hearing; and

''(4) every case referred to the Corps by a court for an administrative law judge to act as a special master or to otherwise making findings of fact on behalf of the referring court, which shall continue to have exclusive and undiminished jurisdiction over the case.

''(c) REFERRAL OF CASES.—When a case under subsection (b) arises, it shall be referred to the Corps. Under regulations issued by the Council, the case shall be assigned to a division. The appropriate division chief shall assign cases to judges, taking into consideration specialization, training, workload, and conflicts of interest.

''(d) REFERRALS BY AGENCIES AND COURTS.—Courts are authorized to refer, subject to the approval of the majority of the Council and the parties in the court proceeding, those cases, or portions thereof, in which they seek an administrative law judge to act as a special master pursuant to the provisions of Rule 53(a) of the Federal Rules of Civil Procedure which shall continue to have exclusive and undiminished jurisdiction over the case. When a court has referred a case to an administrative law judge, the recommendations, rulings, and findings of fact of the administrative law judge are subject to de novo review by the referring court.

''(e) SATISFACTION OF OTHER PROCEDURAL REQUIREMENTS.—Compliance with this subchapter shall satisfy all requirements imposed under section 916 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

''(f) APPLICATION OF AGENCY POLICY.—The provisions of this subchapter shall effect no change in—

''(1) an agency's rulemaking, interpretative, or policymaking authority in carrying out the statutory responsibilities vested in the agency or agency head;

''(2) the adjudicatory authority of administrative law judges; or

''(3) the authority of an agency to review decisions of administrative law judges under any applicable provision of law.

''§ 599e. Removal and discipline

''(a) IN GENERAL.—(1) Except as provided under paragraph (2), an administrative law judge may not be removed, suspended, reprimanded, or disciplined except for misconduct or neglect of duty, but may be removed for physical or mental disability (consistent with prohibitions on discrimination otherwise imposed by law).

''(2) Paragraph (1) shall not apply to an action initiated under section 1215.

''(b) RULES OF JUDICIAL CONDUCT.—No later than 180 days after the appointment and confirmation of the Council, the Council shall adopt and issue rules of judicial conduct for administrative law judges. Such code shall be enforced by the Council and shall include standards governing—

''(1) judicial conduct and extra-judicial activities to avoid actual, or the appearance of, improprieties or conflicts of interest;

''(2) the performance of judicial duties impartially and diligently;

''(3) avoidance of bias or prejudice with respect to all parties; and

''(4) efficiency and management of cases so as to reduce dilatory practices and unnecessary costs.

''(c) DISCIPLINARY ACTION BY THE COUNCIL.—An administrative law judge may be subject to disciplinary action by the Council under subsection (j). An administrative law judge may be removed only after the Council has filed with the Merit Systems Protection Board a notice of removal and the Merit Systems Protection Board has determined on the record, after an opportunity for a hearing before the Merit Systems Protection Board, that there is good cause to take the action of removal.

''(d) COMPLAINTS RESOLUTION BOARD.—Under regulations issued by the Council, a Complaints Resolution Board shall be established within the Corps to consider and to recommend appropriate action to be taken when a complaint is made concerning conduct of a judge of the Corps. Such complaint may be made by any interested person, including parties, practitioners, the chief judge, administrative law judges, and agencies.

''(e) COMPOSITION OF THE BOARD.—(1) The Board shall consist of—

''(A) 2 judges from each division of the Corps, who shall be appointed by the Council; and

''(B) 16 attorneys who shall be appointed in accordance with the provisions of paragraph (2).

''(2) The Council shall request a list of candidates to be members of the Board from the American Bar Association. Such list may not include any individual who is an administrative law judge or former administrative law judge.

''(3) The chief judge and the division chief judges may not serve on the Board.

''(4) No individual may serve 2 successive terms on the Board.

''(5)(A) Except as provided under subparagraph (B), all terms on the Board shall be 2 years.

''(B) In making the original appointments to the Board, the Council shall designate one-half of the appointments made under paragraph (1)(A) and one-half of the appointments made under paragraph (1)(B), as a term of 1 year.

''(6)(A) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at the level of AL–3, rate C under section 5372 of this title for each day (including traveltime) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are administrative law judges shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(B) The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

''(f) FILING AND REFERRAL OF COMPLAINT.—(1) A complaint concerning the official conduct of an administrative law judge shall be made in writing. The complaint shall be filed with the chief judge, or it may be originated by the chief judge on his own motion. The chief judge shall refer the complaint to a 5-member panel designated by the Council—

''(A) consisting of 3 administrative law judges appointed under subsection (e)(1)(A), none of whom may be serving in the same division as the administrative law judge who is the subject of the complaint; and

''(B) two members appointed under subsection (e)(1)(B), none of whom regularly practice before the division to which the administrative law judge, who is the subject of the complaint is assigned.

''(2) Any individual chosen to serve on the panel who has a personal or financial conflict of interest involving the administrative law judge who is the subject of the complaint shall be disqualified by the Council from serving on the panel. The Council shall replace any disqualified individual or vacancy with another member of the Board who is eligible to serve on the panel.

''(g) CHIEF JUDGE ACTION.—(1) After expeditiously reviewing a complaint, the chief judge, by written order stating his reason, may—

''(A) dismiss the complaint, if the chief judge finds the complaint to be—

''(i) directly related to the merits of a decision or procedural ruling; or

''(ii) frivolous;

''(B) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events; or

''(C) refer the complaint to the Complaint Resolution Board in accordance with subsection (f).

''(2) The chief judge shall transmit copies of the written order to the complainant and to the administrative law judge who is the subject of the complaint.

''(h) NOTICE OF THE COMPLAINT.—The administrative law judge and the complainant shall be given notice of receipt of the complaint and notice of referral of the complaint to the panel.

''(i) INQUIRY AND REPORT BY PANEL.—(1) The panel shall inquire into the complaint and have authority to conduct a full investigation of the complaint, including authority to hold hearings and issue subpoenas, examine witnesses, and receive evidence. All proceedings of the Complaint Resolution Board shall be confidential. The administrative law judge who is the subject of the complaint shall have the right to be represented by counsel and shall have an opportunity to appear before the panel. The complainant shall be afforded an opportunity to appear at the proceedings conducted by the investigating panel, if the panel concludes that the

complainant could offer substantial information.

''(2) In determining whether misconduct has occurred, the panel shall apply a preponderance of evidence standard of proof to its proceedings.

''(3)(A) Within 90 days after the referral of the complaint, the panel shall report to the Council on its findings of fact and recommendations for appropriate disciplinary action, if any, that should be taken against the administrative law judge.

''(B) If the panel has not completed its inquiry within 90 days after receiving the complaint, the panel shall request an extension of time from the Council to complete its inquiry.

''(C) A copy of the report shall be provided concurrently to the Council, the administrative law judge who is the subject of the complaint, and the complainant. The Council shall retain all reports filed under this section and such reports shall be confidential, except that a recommendation for disciplinary action shall be made available to the public.

''(4) The recommendations of the panel shall include one of the following:

''(A) Dismissal of all or part of the complaint.

''(B) Direct informal reprimand.

''(C) Direct formal reprimand.

''(D) Suspension.

''(E) Automatic referral to the Merit Systems Protection Board on recommendations of removal.

''(5) The recommendations of the panel are binding on the Council, unless the administrative law judge appeals to the Merit Systems Protection Board.

''(j) DISCIPLINARY ACTION.—Except as provided in subsection (a)(2), the Council shall take appropriate disciplinary action against the administrative law judge based upon the report of the panel within 30 days after receiving the report of the panel. Such disciplinary action shall be enforced by the Council and shall be final unless the administrative law judge files an appeal with the Merit Systems Protection Board within 30 days after receiving notice of such disciplinary action.

''(k) RECOMMENDATION FOR RELIEF TO AGENCY, DEPARTMENT, OR COMMISSION.—Based upon a finding of judicial misconduct by an administrative law judge, the Council shall have authority to recommend to the head of an agency, department or commission that action may be taken to provide relief to aggrieved individuals due to the judicial misconduct by an administrative law judge.''.

(b) APPOINTMENTS OF DIVISION CHIEF JUDGES.—It is the sense of the Congress that the President should appoint as division chief judges under section 599a(c) of title 5, United States Code (as added by subsection (a) of this section), individuals who have served as an administrative law judge for at least 5 years.

(c) ADMINISTRATIVE PROVISION.—Except as provided under subchapter VI of chapter 5 of title 5, United States Code, the chief administrative law judge and the division chief judges appointed under such subchapter shall be deemed administrative law judges appointed under section 3105.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

''SUBCHAPTER VI—ADMINISTRATIVE LAW JUDGE CORPS

''Sec.
''597. Definitions.
''598. Establishment; membership.
''599. Chief administrative law judge.
''599a. Divisions of the Corps; division chief judges.
''599b. Council of the Corps.
''599c. Appointment and transfer of administrative law judges.
''599d. Jurisdiction.
''599e. Removal and discipline.''.

SEC. 4. AGENCY REVIEW STUDY AND REPORT.

(a) STUDY.—The chief administrative law judge of the Administrative Law Judge Corps of the United States shall conduct a study of the various types and levels of agency review to which decisions of administrative law judges are subject. A separate study shall be conducted for each division of the Corps. The studies shall include monitoring and evaluating data and shall be conducted in consultation with the division chief judges, the Chairman of the Administrative Conference of the United States, and the agencies that review the decisions of administrative law judges.

(b) REPORT.—(1) Not later than 2 years after the effective date of this Act, the Council shall report to the President and the Congress on the findings and recommendations resulting from the studies conducted under subsection (a).

(2) The report under paragraph (1) shall include recommendations, including recommendations for new legislation, for any reforms that may be appropriate to make review of administrative law judges' decisions more efficient and meaningful and to accord greater finality to such decisions, except that all decisions subject, before the effective date of this Act, to review pursuant to section 205(g) of the Social Security Act (42 U.S.C. 405(g)) shall continue to be subject to such review pursuant to such section.

(3) The report under paragraph (1) shall also include recommendations for using staff more efficiently to decrease backlogs, especially in the area of social security disability cases.

SEC. 5. TRANSITION AND SAVINGS PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the administrative law judges of the Administrative Law Judge Corps established by section 598 of title 5, United States Code (as added by section 3 of this Act), all functions authorized to be performed on the day before the effective date of this Act by the administrative law judges appointed under section 3105 of such title before the effective date of this Act.

(b) USE OF AGENCY FACILITIES AND PERSONNEL.—With the consent of the agencies concerned, the Administrative Law Judge Corps of the United States may use the facilities and the services of officers, employees, and other personnel of agencies from which functions and duties are transferred to the Corps for so long as may be needed to facilitate the orderly transfer of those functions and duties under this Act.

(c) INCIDENTAL TRANSFERS.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by this Act, are, subject to section 1531 of title 31, United States Code, transferred to the Corps for appropriate allocation.

(d) PAY OF TRANSFERRED PERSONNEL.—The transfer of personnel pursuant to subsection (b) or (c) shall be without reduction in pay or classification for 5 years after such transfer.

(e) AUTHORITIES OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this Act.

(f) CONTINUED EFFECTIVENESS OF PRIOR ACTIONS.—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements, recognition of labor organizations, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective in the exercise of any duties, powers, or functions which are transferred under this Act and are in effect at the time this Act becomes effective shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrative Law Judge Corps of the United States or a judge thereof in the exercise of authority vested in the Corps or its members by this Act, by a court of competent jurisdiction, or by operation of law.

(g) PENDING PROCEEDINGS.—(1) Except as provided in subsections (d)(5) and (e) of section 599b of title 5, United States Code, this Act shall not affect any proceeding before any department or agency or component thereof which is pending at the time this Act takes effect. Such a proceeding shall be continued before the Administrative Law Judge Corps of the United States or a judge thereof, or, to the extent the proceeding does not relate to functions so transferred, shall be continued before the agency in which it was pending on the effective date of this Act.

(2) No suit, action, or other proceeding commenced before the effective date of this Act shall abate by reason of the enactment of this Act.

(h) REPORTS BY OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall monitor and report to the Congress—

(1) 60 days after the effective date of this Act, on the amount of all funds expended in fiscal year 1995 by each agency on the functions transferred under this Act and the amendments made by this Act;

(2) no later than October 1, 1995, on the amount of unexpended balances of appropriations, authorizations, allocations, and other funds transferred by all agencies to the Administrative Law Judge Corps under this Act and the amendments made by this Act; and

(3) 1 year after the effective date of this Act, and each of the next 2 years thereafter on—

(A) whether the expenditure of each agency that transfers functions and duties under this Act and the amendments made by this Act are reduced by the amount of savings resulting from the transfer of such functions and duties; and

(B) the Government savings resulting from transfer of such functions to the Administrative Law Judge Corps and recommendations to the Congress on how to achieve additional savings.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to carry out the provisions of this Act and subchapter VI of title 5, United States Code (as added by section 3 of this Act) such amounts as may be necessary, not to exceed in any such fiscal year the total amount expended by all agencies in fiscal year 1995 in performing all functions transferred under this Act and the amendments made by this Act.

SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 593(b) is amended—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and

(B) by inserting the following after paragraph (3):

''(4) the chief administrative law judge of the Administrative Law Judge Corps of the United States;''.

(2) Section 3105 is amended to read as follows:

''§ 3105. Appointment of administrative law judges

''Administrative law judges shall be appointed by the Council of the Administrative Law Judge Corps pursuant to sections 596 and 599c of this title.''.

(3) Section 3344, and the item relating to section 3344 in the table of sections for chapter 33, are repealed.

(4) Subchapter III of chapter 75, and the items relating to subchapter III and section 7521 in the table of sections at the beginning of chapter 75, are repealed.

(5) Section 559 is amended—

(A) in the first sentence by striking ''chapter 7'' and all that follows through ''7521'' and inserting ''subchapter VI of this chapter, chapter 7, and sections 1305, 3105, 4301(2)(E), and 5372''; and

(B) in the last sentence by striking ''chapter 7'' and all that follows through ''7521'' and inserting ''subchapter VI of this chapter, chapter 7, section 1305, 3105, 4301(2)(E), or 5372''.

(6) Section 1305 is amended—

(A) by striking ''section 3105, 3344,'' and inserting ''sections 3105,''; and

(B) by striking '', and for the purpose of section 7521 of this title, the Merit Systems Protection Board may''.

(7) Section 5514(a)(2) is amended in the fourth sentence by striking '', except that'' and all that follows through ''administrative law judge''.

(8) Section 7105 is amended—

(A) in subsection (d) by striking '', administrative law judges under section 3105 of this title,''; and

(B) in subsection (e)(2) by striking ''under subsection (d) of this section'' and inserting ''under section 3105 of this title''.

(9) Section 7132(a) is amended by striking ''appointed by the Authority under section 3105 of this title'' and inserting ''appointed under section 3105 of this title who is conducting hearings under this chapter''.

(10) Section 7502 is amended by striking ''7521 or''.

(11) Section 7512(E) is amended by striking ''or 7521''.

(b) OTHER PROVISIONS OF LAW.—

(1) Section 6(c) of the Commodity Exchange Act is amended—

(A) in the second sentence (7 U.S.C. 9)—

(i) by striking ''Administrative Law Judge designated by the Commission'' and inserting ''administrative law judge of the Administrative Law Judge Corps''; and

(ii) by striking ''Administrative Law Judge'' and inserting ''administrative law judge''; and

(B) by striking ''Administrative Law Judge'' each subsequent place it appears (7 U.S.C. 15) and inserting ''administrative law judge of the Administrative Law Judge Corps''.

(2) Section 12(b) of the Commodity Exchange Act (7 U.S.C. 16(b)) is amended by striking ''Administrative Law Judges,''.

(3) Section 274B(e)(2) of the Immigration and Nationality Act (8 U.S.C. 1324b(e)(2)) is amended by striking ''are specially designated by the Attorney General as having'' and inserting ''have''.

(4) Section 1416(a) of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1715(a)) is amended—

(A) in the first sentence by inserting '', subject to section 599d of title 5, United States Code,'' after ''who may'';

(B) by striking the second sentence; and

(C) in the third sentence by striking ''his administrative law judges to other administrative law judges or'' and inserting ''administrative law judges carrying out functions under this title''.

(5) Section 488A(b) of the Higher Education Act of 1965 (20 U.S.C. 1095a(b)) is amended in the third sentence by striking '', except that'' and all that follows through ''administrative law judge''.

(6) Section 509(1) of title 28, United States Code, is amended—

(A) by striking ''subchapter II'' and inserting ''subchapters II and VI''; and

(B) by striking ''employed by the Department of Justice''.

(7) Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended—

(A) in subsection (e)—

(i) by striking ''administrative law judges and other''; and

(ii) by striking '': *Provided*'' and all that follows through the end of the subsection and inserting a period;

(B) in subsection (j) in the first sentence by striking ''A'' and all that follows through ''Commission,'' and inserting ''An administrative law judge to whom is assigned any proceeding instituted before the Commission shall hear and make a determination upon the proceeding and any motion in connection with such proceeding,''; and

(C) by striking subsection (k).

(8) Section 502(e)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 792(e)(1)) is amended by striking the second and third sentences and inserting the following: ''Proceedings required to be conducted under this section shall be presided over by administrative law judges appointed under subchapter VI of chapter 5 of title 5, United States Code.''.

(9) Section 166 of the Job Training Partnership Act (29 U.S.C. 1576(a)) is amended in the first sentence by striking ''of the Department of Labor''.

(10) Section 5(e) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 804(e)) is amended to read as follows:

''(e) Proceedings required to be conducted in accordance with the provisions of this Act shall be presided over by administrative law judges appointed under subchapter VI of chapter 5 of title 5, United States Code.''.

(11) Section 113 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 823) is amended—

(A) in subsection (b)(2) by striking all that follows the second sentence;

(B) in subsection (d)(1) in the first sentence by striking ''appointed by the Commission'' and all that follows through ''by the Commission,'' and inserting ''to whom is assigned any proceeding instituted before the Commission shall hear and make a determination upon the proceeding and any motion in connection with the proceeding,''; and

(C) in subsection (e) in the first sentence by striking ''its'' each place it appears.

(12) Section 428(b) of the Black Lung Benefits Act (30 U.S.C. 938(b)) is amended by striking the seventh sentence.

(13) Section 321(c)(1) of title 31, United States Code, is amended—

(A) by striking ''subchapter II'' and inserting ''subchapters II and VI''; and

(B) by striking ''employed by the Secretary''.

(14) Section 3801(a)(7)(A) of title 31, United States Code, is amended by striking ''appointed in the authority'' and all that follows through ''such title;'' and inserting ''of the Administrative Law Judge Corps;''.

(15) Section 19(d) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 919(d)) is amended by amending the second sentence to read as follows: ''Any such hearing shall be conducted by an administrative law judge qualified under subchapter VI of chapter 5 of that title.''.

(16) Section 21(b)(5) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921(b)(5)) is amended by striking the first sentence.

(17) Section 7101(b)(2)(B) of title 38, United States Code, is amended by striking ''7521'' and inserting ''599e''.

(18) Section 8(b)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 607(b)(1)) is amended in the first sentence by striking ''hearing examiners appointed pursuant to section 3105 of title 5, United States Code'' and inserting ''administrative law judges appointed under section 3105 of title 5, United States Code (as in effect on the day before the effective date of the Reorganization of the Federal Administrative Judiciary Act)''.

(19) Section 705(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(a)) is amended—

(A) by striking ''administrative law judges,''; and

(B) by striking '': *Provided*'' and all that follows through the end of the subsection and inserting a period.

(20) Section 808(c) of the Act of April 11, 1968 (42 U.S.C. 3608(c)), is amended—

(A) in the first sentence by inserting '', subject to section 599d of title 5, United States Code,'' after ''The Secretary may'';

(B) by striking the second sentence; and

(C) in the last sentence by striking ''his hearing examiners to other hearing examiners or'' and inserting ''administrative law judges carrying out functions under this title''.

(21) Section 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3787) is amended—

(A) in the first sentence by striking ''appoint such hearing examiners'' and all that follows through ''United States Code,'' and inserting '', subject to section 599d of title 5, United States Code, request the use of such administrative law judges''; and

(B) in the second sentence by striking ''hearing examiner or administrative law judge assigned to or employed thereby'' and inserting ''such administrative law judge''.

(22) Section 401(c) of the Department of Energy Organization Act (42 U.S.C. 7171(c)) is amended by striking ''appointment and employment of hearing examiners in accordance with the provisions of title 5,'' and inserting ''referral of cases to the Administrative Law Judge Corps in accordance with subchapter VI of chapter 5 of title 5,''.

(23) Section 303(c)(3) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1902(c)(3)) is amended by striking '', attorneys, and administrative law judges'' and inserting ''and attorneys''.

(24) Section 304(b)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)(1)) is amended in the first sentence by striking ''employed by or''.

(c) REFERENCES IN OTHER LAWS.—Reference in any other Federal law to an administrative law judge or hearing examiner or to an administrative law judge, hearing examiner, or employee appointed under section 3105 of title 5, United States Code, shall be deemed to refer to an administrative law judge of the Administrative Law Judge Corps established by section 598 of title 5, United States Code.

SEC. 8. OPERATION OF THE CORPS.

Operation of the Corps shall commence on the date the first chief administrative law judge of the Corps takes office.

SEC. 9. CONTRACT DISPUTES ACT.

Nothing in this Act or the amendments made by this Act shall be deemed to affect

any agency board established pursuant to the Contract Disputes Act (41 U.S.C. 601 and following), or any other person designated to resolve claims or disputes pursuant to such Act.

SEC. 10. PAYMENT BY CERTAIN AGENCIES FOR ADMINISTRATIVE LAW JUDGE SALARIES AND EXPENSES.

Any agency which before the effective date of this Act paid the salaries and expenses of administrative law judges from fees charged by such agency shall on and after the effective date of this Act pay from such fees to the chief judge of the Administrative Law Judge Corps, or the designee of the chief judge, an amount necessary to reimburse the salaries and expenses of the Corps for services provided by the Corps to such agency.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 120 days after the date of the enactment of this Act.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 487. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995

● Mr. MCCAIN. Mr. President, I am pleased to join today with the vice chairman of the Committee on Indian Affairs, Senator INOUYE, as the sponsor of the Indian Gaming Regulatory Act Amendments Act of 1995. I want to associate myself with Senator INOUYE's remarks regarding this legislation and the issue of Indian gaming. I commend Senator INOUYE for his outstanding leadership over the years on this complex issue.

The bill we are introducing today would provide for a major overhaul of the Indian Gaming Regulatory Act of 1988. It will provide for minimum Federal standards in the regulation and licensing of class II and class III gaming as well as all of the contractors, suppliers, and industries associated with such gaming. This will be accomplished through the Federal Indian Gaming Regulatory Commission which will be funded through assessments on Indian gaming revenues and fees imposed on license applicants. The bill also provides a new process for the negotiation of class III compacts which authorizes the Secretary of the Department of the Interior to negotiate compacts with Indian tribes in those instances where a State chooses not to participate in compact negotiations or where an Indian tribe and a State cannot reach an agreement on a compact. This process is consistent with recent Federal court decisions.

In addition, the bill is consistent with the 1987 decision of the U.S. Supreme Court in the case of California versus Cabazon Band of Mission Indians in that it neither expands for further restricts the scope of Indian Gaming. The laws of each State would continue to be the basis for determining what gaming activities may be available to an Indian tribe located in that State.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. In 1993, Indian gaming was estimated to yield gross revenues of about $4 billion per year and net revenues were estimated at $750 million. Today, there are about 160 class II bingo and card games in operation and there are now over 110 tribal/State compacts governing class III gaming in 21 States. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprise about 36 percent of all gaming and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the single largest source of economic activity for Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at $550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas, and minerals are about $230 million and Indian forestry resources revenues are estimated at $61 million. The estimated annual earnings on gaming now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations gaming has meant the end of unemployment rates of 90 or 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act of 1988, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social welfare, education, and health needs of the Indian tribes. Schools, health facilities, roads, and other vital infrastructure is being built by the Indian tribes with the proceeds from Indian gaming.

In the years before the enactment of the Indian Gaming Regulatory Act and in the years since its enactment we have heard concerns about the possibility for organized criminal elements to penetrate Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind associated with Indian gaming. Some of our colleagues have suggested that no one would know if there is criminal activity because not enough people are looking for it. I believe that this point of view overlooks the fact that the act provides for a very substantial regulatory and law enforcement role by the States and Indian tribes in class III gaming and by the Federal Government in class II gaming. The record clearly shows that in the few instances of known criminal activity in class III gaming, the Indian tribes have discovered the activity and have sought Federal assistance in law enforcement.

Nevertheless, the record before the Committee on Indian Affairs also shows that the absence of minimum Federal standards for the regulation and licensing of Indian gaming has allowed a void to develop which will become more and more attractive to criminal elements as Indian gaming continues to generate increased revenues. The legislation we are introducing today provides for the development of strict minimum Federal standards based on the recommendations of Federal, State and tribal officials. While Indian tribes or States, or both, will continue to exercise primary regulatory authority, their regulatory standards must meet or exceed the minimum Federal standards. In the event that the Federal Indian Gaming Regulatory Commission determines that the minimum Federal standards are not being met, then the Commission may directly regulate the gaming activity until such time as the Federal standards are met. In addition, the Commission is vested with authority to issue and revoke licenses as well as to impose civil fines, close Indian gaming facilities or seek enforcement of the act through the Federal courts.

As many of our colleagues know, one of the areas which has caused the greatest controversy under the current law relates to what has come to be known as the scope of gaming. A related issue is the refusal of some States to enter into negotiations for a class III compact and their assertion of sovereign immunity under the 11th amendment to the Constitution when an Indian tribe seeks judicial relief as provided by the act. The bill we are introducing incorporates the explicit standards of the Cabazon decision to guide all parties in determining the permissible gaming activities under the laws of any State. State laws will continue to govern this issue. We have not proposed the preemption of the gaming laws of any State. In most States, the issue of scope of gaming has now been settled through negotiation or litigation. In a few States this issue remains unresolved, but appears headed toward resolution by the courts.

In the course of our work on the gaming issue in the 103d Congress, Senator INOUYE and I advanced various formal and informal proposals for Federal legislation to resolve the scope of gaming issue. In addition proposals were developed by State and tribal officials. However, we were never able to develop a consensus on any one proposal. While the Committee on Indian Affairs remains open to suggestions on this issue, it is apparent that obtaining a consensus may not be possible. This

may be an area of the law best left to resolution through the courts.

With regard to the issue of the refusal of some States to negotiate and their assertion that the 1988 act violates the 11th amendment, the U.S. Supreme Court recently agreed to hear a case which raises that issue. As I noted earlier, the bill we are introducing today seeks to resolve this issue on terms that are consistent with recent decisions of the Federal courts.

Mr. President, I am sure that we will find many things to change in this legislation as it moves through the Senate. However, I believe that it provides a good foundation for our further consideration of this important issue. I want to emphasize that this bill is intended to stimulate discussion. I am looking forward to hearing from all interested parties with regard to their constructive suggestions for ways to improve the bill and move it forward.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Gaming Regulatory Act Amendments Act of 1995''.

SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGULATORY ACT.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended—

(1) by striking the first section and inserting the following new section:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Indian Gaming Regulatory Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

(2) by striking sections 2 through 19 and inserting the following new sections:

''SEC. 2. CONGRESSIONAL FINDINGS.

''The Congress finds that—

''(1) Indian tribes are—

''(A) engaged in the operation of gaming activities on Indian lands as a means of generating tribal governmental revenue; and

''(B) licensing such activities;

''(2) clear Federal standards and regulations for the conduct of gaming on Indian lands will assist tribal governments in assuring the integrity of gaming activities conducted on Indian lands;

''(3) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government;

''(4) while Indian tribes have the right to regulate the operation of gaming activities on Indian lands if such gaming activities are—

''(A) not specifically prohibited by Federal law; and

''(B) conducted within a State that as a matter of public policy permits such gaming activities,

Congress has the authority to regulate the privilege of doing business with Indian tribes in Indian country (as defined in section 1151 of title 18, United States Code);

''(5) systems for the regulation of gaming activities on Indian lands should meet or exceed federally established minimum regulatory requirements;

''(6) the operation of gaming activities on Indian lands has had a significant impact on commerce with foreign nations, among the several States and with the Indian tribes; and

''(7) the Constitution vests the Congress with the powers to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes, and this Act is enacted in the exercise of those powers.

''SEC. 3. PURPOSES.

''The purposes of this Act are—

''(1) to ensure the right of Indian tribes to conduct gaming activities on Indian lands in a manner consistent with the decision of the Supreme Court in California et al. v. Cabazon Band of Mission Indians et al. (480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (1987)), involving the Cabazon and Morongo Bands of Mission Indians;

''(2) to provide a statutory basis for the conduct of gaming activities on Indian lands as a means of promoting tribal economic development, self-sufficiency, and strong Indian tribal governments;

''(3) to provide a statutory basis for the regulation of gaming activities on Indian lands by an Indian tribe adequate to shield such activities from organized crime and other corrupting influences, to ensure that an Indian tribal government is the primary beneficiary of the operation of gaming activities, and to ensure that gaming is conducted fairly and honestly by both the operator and players; and

''(4) to declare that the establishment of independent Federal regulatory authority for the conduct of gaming activities on Indian lands and the establishment of Federal minimum regulatory requirements for the conduct of gaming activities on Indian lands are necessary to protect such gaming.

''SEC. 4. DEFINITIONS.

''For purposes of this Act, the following definitions shall apply:

''(1) APPLICANT.—The term 'applicant' means any person who applies for a license pursuant to this Act, including persons applying for a renewal of a license.

''(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Advisory Committee on Minimum Regulatory Requirements and Licensing Standards established under section 9(a).

''(3) ATTORNEY GENERAL.—The term 'Attorney General' means the Attorney General of the United States.

''(4) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Federal Indian Gaming Regulatory Commission established under section 5.

''(5) CLASS I GAMING.—The term 'class I gaming' means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

''(6) CLASS II GAMING.—

''(A) IN GENERAL.—The term 'class II gaming' means—

''(i) the game of chance commonly known as bingo or lotto including, if played in the same location, pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

''(I) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;

''(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and

''(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards; and

''(ii) card games that—

''(I) are explicitly authorized by the laws of a State; or

''(II) are not explicitly prohibited by the laws of a State and are played at any location in the State, but only if such card games are played in conformity with any such laws (including regulations) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

''(B) EXCLUSIONS.—The term 'class II gaming' does not include—

''(i) any banking card games, including baccarat, chemin de fer, or blackjack (21); or

''(ii) gambling devices, as defined in paragraph (11), except for any class II game that is played under subparagraph (A)(i) with technologic aid that has been approved by the Commission.

''(C) TREATMENT OF CERTAIN GAMES.—Notwithstanding any other provision of this paragraph, the term 'class II gaming' includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Washington, that, on or before May 1, 1988, were actually operated in such State by an Indian tribe, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Commission (as defined in paragraph (8)).

''(7) CLASS III GAMING.—The term 'class III gaming' means all forms of gaming that are not class I gaming or class II gaming.

''(8) COMMISSION.—The term 'Commission' means the Federal Indian Gaming Regulatory Commission established under section 5.

''(9) COMPACT.—The term 'compact' means an agreement relating to the operation of class III gaming on Indian lands entered into by an Indian tribe and a State, that is approved by the Secretary, or an agreement relating to the operation of class III gaming that is negotiated by an Indian tribe and the Secretary, and approved by the Secretary.

''(10) ELECTRONIC, COMPUTER, OR OTHER TECHNOLOGIC AID.—The term 'electronic,

computer, or other technologic aid', in connection with class II gaming, means a device, such as a computer, telephone, cable, television, satellite, or bingo blower, that, when used—

''(A) is not a game of chance or a gambling device;

''(B) merely assists a player or the playing of a game; and

''(C) is operated according to applicable Federal communications law.

''(11) ELECTRONIC OR ELECTROMECHANICAL FACSIMILE.—The term 'electronic or electromechanical facsimile' means any gambling device, as defined in paragraph (12).

''(12) GAMBLING DEVICE.—The term 'gambling device' means—

''(A) any gambling device, as defined in section 1(a) of the Act of January 2, 1951 (commonly referred to as the 'Gambling Devices Transportation Act') (64 Stat. 1134, chapter 1194; 15 U.S.C. 1171(a)), including any electronic or electromechanical facsimile; and

''(B) does not include a technological aid to class II gaming that is approved by the Commission.

''(13) GAMING-RELATED CONTRACT.—The term 'gaming-related contract' means any agreement for an amount of more than $50,000 per year—

''(A) under which an Indian tribe or an agent of any Indian tribe procures gaming materials, supplies, equipment, or services that are used in the conduct of a class II or class III gaming activity, or

''(B) financing contracts or agreements for any facility in which a gaming activity is to be conducted.

''(14) GAMING-RELATED CONTRACTOR.—The term 'gaming-related contractor' means any person who enters into a gaming-related contract with an Indian tribe or an agent of an Indian tribe, including any person with a financial interest in such contract.

''(15) GAMING SERVICE INDUSTRY.—The term 'gaming service industry' means any form of enterprise that provides goods or services that are used in conjunction with any class II or class III gaming activity, in any case in which—

''(A) the proposed agreement between the enterprise and a class II or class III gaming operation, or the aggregate of such agreements is for an amount of not less than $100,000 per year; or

''(B) the amount of business conducted by such enterprise with any gaming operation in the 1-year period preceding the effective date of such agreement was not less than $250,000.

''(16) INDIAN LANDS.—The term 'Indian lands' means—

''(A) all lands within the limits of any Indian reservation; and

''(B) any lands—

''(i) the title to which is held in trust by the United States for the benefit of any Indian tribe; or

''(ii) the title to which is—

''(I) held by an Indian tribe subject to a restriction by the United States against alienation;

''(II) held by the United States for the benefit of an individual Indian; or

''(III) held by an individual subject to restriction by the United States against alienation; and

''(iii) over which an Indian tribe exercises governmental power.

''(17) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians that—

''(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians; and

''(B) is recognized as possessing powers of self-government.

''(18) KEY EMPLOYEE.—The term 'key employee' means any individual employed in a gaming operation licensed pursuant to this Act in a supervisory capacity or empowered to make any discretionary decision with regard to the gaming operation, including any pit boss, shift boss, credit executive, cashier supervisor, gaming facility manager or assistant manager, or manager or supervisor of security employees.

''(19) MANAGEMENT CONTRACT.—The term 'management contract' means any contract or collateral agreement between an Indian tribe and a contractor, if such contract or agreement provides for the management of all or part of a gaming operation.

''(20) MANAGEMENT CONTRACTOR.—The term 'management contractor' means any person entering into a management contract with an Indian tribe or an agent of the Indian tribe for the management of a gaming operation, including any person with a financial interest in such contract.

''(21) MATERIAL CONTROL.—The term 'material control' means the exercise of authority or supervision or the power to make or cause to be made any discretionary decision with regard to matters which have a substantial effect on the financial or management aspects of a gaming operation.

''(22) NET REVENUES.—The term 'net revenues' means the gross revenues of an Indian gaming activity reduced by the sum of—

''(A) any amounts paid out or paid for as prizes; and

''(B) the total operating expenses associated with the gaming activity, excluding management fees.

''(23) PERSON.—The term 'person' means an individual, firm, corporation, association, partnership, trust, consortium, joint venture, entity, or gaming operation.

''(24) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''SEC. 5. ESTABLISHMENT OF THE FEDERAL INDIAN GAMING REGULATORY COMMISSION.

''(a) ESTABLISHMENT.—There is established as an independent agency of the United States, a Commission to be known as the Federal Indian Gaming Regulatory Commission. Such Commission shall be an independent establishment, as defined in section 104 of title 5, United States Code.

''(b) COMPOSITION OF THE COMMISSION.—

''(1) IN GENERAL.—The Commission shall be composed of 3 full-time members, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) CITIZENSHIP OF MEMBERS.—Each member of the Commission shall be a citizen of the United States.

''(3) REQUIREMENTS FOR MEMBERS.—No member of the Commission may—

''(A) pursue any other business or occupation or hold any other office;

''(B) be actively engaged in or, other than through distribution of gaming revenues as a member of an Indian tribe, have any direct pecuniary interest in gaming activities;

''(C) other than through distribution of gaming revenues as a member of an Indian tribe, have any pecuniary interest in any business or organization that holds a gaming license under this Act or that does business with any person or organization licensed under this Act;

''(D) have been convicted of a felony or gaming offense; or

''(E) have any financial interest in, or management responsibility for, any gaming-related contract or any other contract approved pursuant to this Act.

''(4) POLITICAL AFFILIATION.—

''(A) IN GENERAL.—Not more than 2 members of the Commission shall be members of the same political party. In making appointments to the Commission, the President shall appoint members of different political parties, to the extent practicable.

''(B) TRIBAL MEMBERSHIP.—At least 2 members of the Commission shall each be a member of a federally recognized Indian tribe. No 2 members appointed under this subparagraph shall be members of the same Indian tribe.

''(5) ADDITIONAL REQUIREMENTS.—The Commission shall be composed of the most qualified individuals available, subject to the following conditions:

''(A) CERTIFIED PUBLIC ACCOUNTANT REPRESENTATION.—One member of the Commission shall be a certified public accountant with not less than 5 years of progressively responsible experience in accounting and auditing, and a comprehensive knowledge of the principles and practices of corporate finance.

''(B) LAW ENFORCEMENT REPRESENTATION.—One member of the Commission shall be selected with special reference to training and experience in the fields of investigation or law enforcement.

''(6) BACKGROUND INVESTIGATIONS.—The Attorney General shall conduct a background investigation concerning any individual under consideration for appointment to the Commission, with particular regard to the financial stability, integrity, responsibility, and reputation for good character, honesty, and integrity of the nominee.

''(c) CHAIRPERSON.—The President shall select a Chairperson from among the members appointed to the Commission.

''(d) VICE CHAIRPERSON.—The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairperson. The Vice Chairperson shall—

''(1) serve as Chairperson of the Commission in the absence of the Chairperson; and

''(2) exercise such other powers as may be delegated by the Chairperson.

''(e) TERMS OF OFFICE.—

''(1) IN GENERAL.—Each member of the Commission shall hold office for a term of 5 years.

''(2) INITIAL APPOINTMENTS.—Initial appointments to the Commission shall be made for the following terms:

''(A) The Chairperson shall be appointed for a term of 5 years.

''(B) One member shall be appointed for a term of 4 years.

''(C) One member shall be appointed for a term of 3 years.

''(3) LIMITATION.—No member shall serve for more than 2 terms of 5 years each.

''(f) VACANCIES.—

''(1) IN GENERAL.—Each individual appointed by the President to serve as Chairperson and each member of the Commission shall, unless removed for cause under paragraph (2), serve in the capacity for which such individual is appointed until the expiration of the term of such individual or until a successor is duly appointed and qualified.

''(2) REMOVAL FROM OFFICE.—The Chairperson or any member of the Commission may only be removed from office before the expiration of the term of office by the President for neglect of duty, malfeasance in office, or for other good cause shown.

''(3) TERM TO FILL VACANCIES.—The term of any member appointed to fill a vacancy on the Commission shall be for the unexpired term of the member.

''(g) QUORUM.—Two members of the Commission shall constitute a quorum.

''(h) MEETINGS.—

''(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission.

''(2) MAJORITY OF MEMBERS DETERMINE ACTION.—A majority of the members of the Commission shall determine any action of the Commission.

''(i) COMPENSATION.—

''(1) CHAIRPERSON.—The Chairperson shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5316 of title 5, United States Code.

''(2) OTHER MEMBERS.—Each other member of the Commission shall be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(3) TRAVEL.—All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

''(j) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''SEC. 6. POWERS OF THE CHAIRPERSON.

''(a) CHIEF EXECUTIVE OFFICER.—The Chairperson shall serve as the chief executive officer of the Commission.

''(b) ADMINISTRATION OF THE COMMISSION.—

''(1) IN GENERAL.—Subject to subsection (c), the Chairperson—

''(A) shall employ and supervise such personnel as the Chairperson considers necessary to carry out the functions of the Commission, and assign work among such personnel;

''(B) shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code;

''(C) shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service;

''(D) may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule;

''(E) may request the head of any Federal agency to detail any personnel of such agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act, unless otherwise prohibited by law;

''(F) shall use and expend Federal funds and funds collected pursuant to section 17; and

''(G) may contract for the services of such other professional, technical, and operational personnel and consultants as may be necessary to the performance of the Commission's responsibilities under this Act.

''(2) COMPENSATION OF STAFF.—The staff referred to in paragraph (1)(C) shall be paid without regard to the provisions of chapter 51 and subchapters III and VIII of chapter 53 of title 5, United States Code, relating to classification and General Schedule and Senior Executive Service Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for ES–5 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

''(c) APPLICABLE POLICIES.—In carrying out any of the functions under this section, the Chairperson shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

''SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.

''(a) GENERAL POWERS.—

''(1) IN GENERAL.—The Commission shall have the power to—

''(A) approve the annual budget of the Commission;

''(B) promulgate regulations to carry out this Act;

''(C) establish a rate of fees and assessments, as provided in section 17;

''(D) conduct investigations, including background investigations;

''(E) issue a temporary order closing the operation of gaming activities;

''(F) after a hearing, make permanent a temporary order closing the operation of gaming activities, as provided in section 15;

''(G) grant, deny, limit, condition, restrict, revoke, or suspend any license issued under any licensing authority conferred upon the Commission pursuant to this Act or fine any person licensed pursuant to this Act for violation of any of the conditions of licensure under this Act;

''(H) inspect and examine all premises in which class II or class III gaming is conducted on Indian lands;

''(I) demand access to and inspect, examine, photocopy, and audit all papers, books, and records of class II and class III gaming activities conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

''(J) use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

''(K) procure supplies, services, and property by contract in accordance with applicable Federal laws;

''(L) enter into contracts with Federal, State, tribal, and private entities for activities necessary to the discharge of the duties of the Commission;

''(M) serve or cause to be served process or notices of the Commission in a manner provided for by the Commission or in a manner provided for the service of process and notice in civil actions in accordance with the applicable rules of a tribal, State, or Federal court;

''(N) propound written interrogatories and appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, propound written interrogatories, and require testimony under oath;

''(O) conduct all administrative hearings pertaining to civil violations of this Act (including any civil violation of a regulation promulgated under this Act);

''(P) collect all fees and assessments authorized by this Act and the regulations promulgated pursuant to this Act;

''(Q) assess penalties for violations of the provisions of this Act and the regulations promulgated pursuant to this Act;

''(R) provide training and technical assistance to Indian tribes with respect to all aspects of the conduct and regulation of gaming activities;

''(S) monitor and, as specifically authorized by this Act, regulate class II and class III gaming;

''(T) approve all management-related and gaming-related contracts; and

''(U) in addition to the authorities otherwise specified in this Act, delegate, by published order or rule, any of the functions of the Commission (including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting on the part of the Commission concerning any work, business, or matter) to a division of the Commission, an individual member of the Commission, an administrative law judge, or an employee of the Commission.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to authorize the delegation of the function of rulemaking, as described in subchapter II of chapter 5 of title 5, United States Code, with respect to general rules (as distinguished from rules of particular applicability), or the promulgation of any other rule.

''(b) RIGHT TO REVIEW DELEGATED FUNCTIONS.—

''(1) IN GENERAL.—With respect to the delegation of any of the functions of the Commission, the Commission shall retain a discretionary right to review the action of any division of the Commission, individual member of the Commission, administrative law judge, or employee of the Commission, upon the initiative of the Commission.

''(2) VOTE NEEDED FOR REVIEW.—The vote of one member of the Commission shall be sufficient to bring an action referred to in paragraph (1) before the Commission for review, and the Commission shall ratify, revise, or reject the action under review not later than the last day of the applicable period specified in regulations promulgated by the Commission.

''(3) FAILURE TO CONDUCT REVIEW.—If the Commission declines to exercise the right to such review or fails to exercise such right within the applicable period specified in regulations promulgated by the Commission, the action of any such division of the Commission, individual member of the Commission, administrative law judge, or employee, shall, for all purposes, including any appeal or review of such action, be deemed an action of the Commission.

''(c) MINIMUM REQUIREMENTS.—Pursuant to the procedures described in section 9(d), after receiving recommendations from the Advisory Committee, the Commission shall establish minimum Federal standards—

''(1) for background investigations, licensing of persons, and licensing of gaming operations associated with the conduct or regulation of class II and class III gaming on Indian lands by tribal governments; and

''(2) for the operation of class II and class III gaming activities on Indian lands, including—

''(A) surveillance and security personnel and systems capable of monitoring all gaming activities, including the conduct of games, cashiers' cages, change booths, count rooms, movements of cash and chips, entrances and exits to gaming facilities, and other critical areas of any gaming facility;

''(B) procedures for the protection of the integrity of the rules for the play of games and controls related to such rules;

''(C) credit and debit collection controls;

''(D) controls over gambling devices and equipment; and

''(E) accounting and auditing.

''(d) COMMISSION ACCESS TO INFORMATION.—

''(1) IN GENERAL.—The Commission may secure from any department or agency of the United States information necessary to enable the Commission to carry out this Act. Unless otherwise prohibited by law, upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

''(2) INFORMATION TRANSFER.—The Commission may secure from any law enforcement or gaming regulatory agency of any State, Indian tribe, or foreign nation information necessary to enable the Commission to carry out this Act. Unless otherwise prohibited by law, upon request of the Chairperson, the head of any State or tribal law enforcement agency shall furnish such information to the Commission.

''(3) PRIVILEGED INFORMATION.—Notwithstanding sections 552 and 552a of title 5, United States Code, the Commission shall protect from disclosure information provided by

Federal, State, tribal, or international law enforcement or gaming regulatory agencies.

''(4) LAW ENFORCEMENT AGENCY.—For purposes of this subsection, the Commission shall be considered a law enforcement agency.

''(e) INVESTIGATIONS AND ACTIONS.—

''(1) IN GENERAL.—

''(A) POSSIBLE VIOLATIONS.—The Commission may, at the discretion of the Commission, and as specifically authorized by this Act, conduct such investigations as the Commission considers necessary to determine whether any person has violated, is violating, or is conspiring to violate any provision of this Act (including any rule or regulation promulgated under this Act). The Commission may require or permit any person to file with the Commission a statement in writing, under oath, or otherwise as the Commission may determine, concerning all of the relevant facts and circumstances regarding the matter under investigation by the Commission pursuant to this subsection.

''(B) ADMINISTRATIVE INVESTIGATIONS.—The Commission is authorized, at the discretion of the Commission, and as specifically authorized by this Act, to investigate such facts, conditions, practices, or matters as the Commission considers necessary or proper to aid in—

''(i) the enforcement of any provision of this Act;

''(ii) prescribing rules and regulations under this Act; or

''(iii) securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

''(2) ADMINISTRATIVE AUTHORITIES.—

''(A) IN GENERAL.—For the purpose of any investigation or any other proceeding conducted under this Act, any member of the Commission or any officer designated by the Commission is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission considers relevant or material to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing.

''(B) REQUIRING APPEARANCES OR TESTIMONY.—In case of contumacy by, or refusal to obey any subpoena issued to, any person, the Commission may invoke the jurisdiction of any court of the United States within the jurisdiction of which an investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records.

''(C) COURT ORDERS.—Any such court may issue an order requiring such person to appear before the Commission or member of the Commission or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by such court as a contempt of such court.

''(3) ENFORCEMENT.—

''(A) IN GENERAL.—If the Commission determines that any person is engaged, has engaged, or is conspiring to engage, in any act or practice constituting a violation of any provision of this Act (including any rule or regulation promulgated under this Act), the Commission may—

''(i) bring an action in the appropriate district court of the United States or the United States District Court for the District of Columbia to enjoin such act or practice, and upon a proper showing, the court shall grant, without bond, a permanent or temporary injunction or restraining order; or

''(ii) transmit such evidence as may be available concerning such act or practice as may constitute a violation of any Federal criminal law to the Attorney General, who may institute the necessary criminal proceedings.

''(B) STATUTORY CONSTRUCTION.—The authority of the Commission to conduct investigations and take actions may not be construed to affect in any way the authority of any other agency or department of the United States to carry out statutory responsibilities of such agency or department.

''(4) WRITS, INJUNCTIONS, AND ORDERS.—Upon application of the Commission, each district court of the United States shall have jurisdiction to issue writs of mandamus, injunctions, and orders commanding any person to comply with the provisions of this Act (including any rules and regulations promulgated under this Act).

''SEC. 8. REGULATORY FRAMEWORK.

''(a) CLASS II GAMING.—For class II gaming, Indian tribes shall retain the right of such tribes to, in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

''(1) monitor and regulate such gaming; and

''(2) conduct background investigations and issue licenses to persons who are required to obtain a license under section 10(a).

''(b) CLASS III GAMING CONDUCTED UNDER A TRIBAL-STATE COMPACT.—For class III gaming conducted under the authority of a tribal-State compact entered into pursuant to section 12, an Indian tribe or a State, or both, as provided in a compact or by tribal ordinance or resolution, shall, in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

''(1) monitor and regulate gaming;

''(2) conduct background investigations and issue licenses to persons who are required to obtain a license pursuant to section 10(a); and

''(3) establish and regulate internal control systems.

''(c) CERTAIN OTHER COMPACTS.—For class III gaming conducted under the authority of a compact negotiated with the Secretary pursuant to section 12(a)(2), such compact shall provide that the Indian tribes or other appropriate entity shall, in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

''(1) monitor and regulate such gaming;

''(2) conduct background investigations and issue licenses to persons who are required to obtain a license pursuant to section 10(a); and

''(3) establish and regulate internal control systems.

''(d) VIOLATIONS OF MINIMUM FEDERAL STANDARDS.—

''(1) CLASS II GAMING.—In any case in which an Indian tribe that conducts class II gaming substantially fails to meet minimum Federal standards for class II gaming, after providing the Indian tribe notice and opportunity to cure violations and to be heard, and after the exhaustion of other authorized remedies and sanctions, the Commission shall have the authority to conduct background investigations, issue licenses, and establish and regulate internal control systems. Such authority of the Commission may be exclusive until such time as the regulatory and internal control systems of the Indian tribe meet or exceed the minimum Federal standards concerning regulatory, licensing, or internal control requirements established by the Commission.

''(2) CLASS III GAMING.—In any case in which an Indian tribe or a State (or both) that regulates class III gaming fails to meet or exceed minimum Federal standards for class III gaming, after providing notice and opportunity to cure violations and be heard, and after the exhaustion of other authorized remedies and sanctions, the Commission shall have the authority to conduct background investigations, issue licenses, and establish and regulate internal control systems. Such authority of the Commission may be exclusive until such time as the regulatory or internal control systems of the Indian tribe or a State, or both, meet or exceed the minimum regulatory, licensing, or internal control requirements established by the Commission.

''SEC. 9. ADVISORY COMMITTEE ON MINIMUM REGULATORY REQUIREMENTS AND LICENSING STANDARDS.

''(a) ESTABLISHMENT.—The President shall establish an advisory committee to be known as the 'Advisory Committee on Minimum Regulatory Requirements and Licensing Standards'.

''(b) MEMBERS.—The Advisory Committee shall be composed of 7 members who shall be appointed by the President, of which—

''(1) 3 members, selected from a list of recommendations submitted to the President by the Chairperson and Vice Chairperson of the Committee on Indian Affairs of the Senate and the Chairperson and ranking minority member of the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, shall be members of federally recognized Indian tribes involved in gaming covered under this Act;

''(2) 2 members, selected from a list of recommendations submitted to the President by the Majority Leader and the Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Representatives, shall represent State governments; and

''(3) 2 members shall each be an employee of the Department of Justice.

''(c) RECOMMENDATIONS FOR MINIMUM FEDERAL STANDARDS.—

''(1) IN GENERAL.—Not later than 180 days after the date on which the Advisory Committee is fully constituted, the Advisory Committee shall develop and submit to the entities referred to in paragraph (2) recommendations for minimum Federal standards for the conduct of background investigations and the establishment of internal control systems and licensing standards.

''(2) RECIPIENTS OF RECOMMENDATIONS.—The Advisory Committee shall submit the recommendations described in paragraph (1) to the Committee on Indian Affairs of the Senate, the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, the Commission, and to each federally recognized Indian tribe.

''(3) FACTORS FOR CONSIDERATION.—While the minimum standards established pursuant to this section may be developed in light of existing industry standards, the Advisory Committee, and Commission in promulgating standards pursuant to subsection (d), shall give equal weight to—

''(A) the unique nature of tribal gaming as compared to non-Indian commercial, governmental, and charitable gaming;

''(B) the broad variations in the scope and size of tribal gaming activity;

''(C) the inherent sovereign right of Indian tribes to regulate their own affairs; and

''(D) the findings and purposes set forth in sections 2 and 3.

''(d) REGULATIONS.—Upon receipt of the recommendations of the Advisory Committee, the Commission shall hold public hearings on the recommendations. After the conclusion of the hearings, the Commission shall promulgate regulations establishing minimum regulatory requirements and licensing standards.

''(e) TRAVEL.—Members of the Advisory Committee appointed under paragraphs (1) and (2) of subsection (b) shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Advisory Committee while away from home or their regular place of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

''(f) TERMINATION.—The Advisory Committee shall cease to exist on the date that is 60 days after the date on which the Advisory Committee submits the recommendations under subsection (c).

''(g) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—All activities of the Advisory Committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

''SEC. 10. LICENSING.

''(a) IN GENERAL.—A license issued under this Act shall be required of—

''(1) gaming operations;

''(2) key employees of a gaming operation;

''(3) management- and gaming-related contractors;

''(4) any gaming service industry; and

''(5) any person who has material control, either directly or indirectly, over a licensed gaming operation.

''(b) CERTAIN LICENSES FOR MANAGEMENT CONTRACTORS AND GAMING OPERATIONS.—Notwithstanding any other provision of law relating to licenses issued by an Indian tribe or a State (or both) pursuant to this Act, the Commission may require licenses of—

''(1) management contractors; and

''(2) gaming operations.

''(c) STATEMENT OF COMPLIANCE.—

''(1) IN GENERAL.—The Commission may issue a statement of compliance to an applicant for any license or for qualification status under this Act at any time that the Commission is satisfied that one or more eligibility criteria for the license have been satisfied by an applicant.

''(2) CONTENTS OF STATEMENT.—A statement issued under subparagraph (A) shall specify the eligibility criterion satisfied, the date of such satisfaction, and a reservation by the Commission permitting the Commission to revoke the statement of compliance at any time on the basis of a change of circumstances affecting such compliance.

''(d) GAMING OPERATION LICENSE.—

''(1) IN GENERAL.—No gaming operation shall operate unless all required licenses and approvals for the gaming operation have been obtained in accordance with this Act.

''(2) WRITTEN AGREEMENTS.—

''(A) FILING.—Prior to the operation of any gaming facility or activity, each management contract for the gaming operation shall be in writing and filed with the Commission pursuant to section 13.

''(B) EXPRESS APPROVAL REQUIRED.—No such agreement shall be effective unless the Commission expressly approves the agreement.

''(C) REQUIREMENT OF ADDITIONAL PROVISIONS.—The Commission may require that an agreement referred to in subparagraph (A) includes any provisions that are reasonably necessary to meet the requirements of this Act.

''(D) INELIGIBILITY OR EXEMPTION.—Any applicant who does not have the ability to exercise any significant control over a licensed gaming operation may be determined by the Commission to be ineligible to hold a license or may exempt such applicant from being required to hold a license.

''(e) DENIAL OF LICENSE.—The Commission, in the exercise of the specific licensure power conferred upon the Commission by this Act, shall deny a license to any applicant who is disqualified on the basis of a failure to meet any of the minimum Federal standards promulgated by the Commission pursuant to section 7(c).

''(f) APPLICATION FOR LICENSE.—

''(1) IN GENERAL.—Upon the filing of the materials specified in paragraph (2), the Commission shall conduct an investigation into the qualifications of an applicant. The Commission may conduct a nonpublic hearing on such investigation concerning the qualifications of the applicant in accordance with regulations promulgated by the Commission.

''(2) FILING OF MATERIALS.—The Commission shall carry out paragraph (1) upon the filing of—

''(A) an application for a license that the Commission is specifically authorized to issue pursuant to this Act; and

''(B) such supplemental information as the Commission may require.

''(3) TIMING OF FINAL ACTION.—After an application is submitted to the Commission, the Commission shall take final action not later than 90 days after—

''(A) completing all hearings and investigations concerning the application; and

''(B) receiving all information required to be submitted to the Commission.

''(4) DEADLINE FOR HEARINGS AND INVESTIGATIONS.—Not later than 90 days after receiving the information described in paragraph (3)(B), the Commission shall complete the hearings and investigations described in paragraph (3)(A).

''(5) ACTION BY COMMISSION.—Following the completion of an investigation and hearing, the Commission shall either deny or grant a license to an applicant.

''(6) DENIALS.—

''(A) IN GENERAL.—The Commission may deny any application pursuant to this Act.

''(B) ORDER OF DENIAL.—If the Commission denies an application submitted under this section, the Commission shall prepare an order denying such application. In addition, if an applicant requests a statement of the reasons for the denial, the Commission shall prepare such statement and provide the statement to the applicant. The statement shall include specific findings of fact.

''(7) ISSUANCE OF LICENSES.—If the Commission is satisfied that an applicant is qualified to receive a license, the Commission shall issue a license to the applicant upon tender of—

''(A) all license fees and assessments as required by this Act (including regulations promulgated by the Commission under this Act); and

''(B) such bonds as the Commission may require for the faithful performance of all requirements imposed by this Act (including regulations promulgated under this Act).

''(8) BONDS.—

''(A) AMOUNTS.—The Commission shall, by rules of uniform application, fix the amount of each bond that the Commission requires under this section in such amount as the Commission considers appropriate.

''(B) USE OF BONDS.—The bonds furnished to the Commission under this paragraph may be applied by the Commission to the payment of any unpaid liability of the licensee under this Act.

''(C) TERMS.—Each bond required in accordance with this section shall be furnished—

''(i) in cash or negotiable securities;

''(ii) by a surety bond guaranteed by a satisfactory guarantor; or

''(iii) by an irrevocable letter of credit issued by a banking institution acceptable to the Commission.

''(D) TREATMENT OF PRINCIPAL AND INCOME.—If a bond is furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the Commission, but any income shall inure to the benefit of the licensee.

''(g) RENEWAL OF LICENSE.—

''(1) IN GENERAL.—

''(A) RENEWALS.—Subject to the power of the Commission to deny, revoke, or suspend licenses, any license issued under this section and in force shall be renewed by the Commission for the next succeeding license period upon proper application for renewal and payment of license fees and assessments, as required by applicable law (including regulations of the Commission).

''(B) RENEWAL TERM.—Subject to subparagraph (C), the term of a renewal period for a license issued under this section shall be for a period of not more than—

''(i) 2 years, for each of the first 2 renewal periods succeeding the initial issuance of a license pursuant to subsection (f); and

''(ii) 3 years, for each succeeding renewal period.

''(C) REOPENING HEARINGS.—The Commission may reopen licensing hearings at any time after the Commission has issued or renewed a license.

''(2) TRANSITION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Commission shall, for the purpose of facilitating the administration of this Act, renew a license for an activity covered under subsection (a) that is held by a person on the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1995 for a renewal period of 18 months.

''(B) ACTION BEFORE EXPIRATION.—The Commission shall act upon any license renewal application that is filed in a timely manner prior to the date of expiration of the then current license.

''(3) FILING REQUIREMENT.—Each application for renewal shall be filed with the Commission not later than 90 days prior to the expiration of the then current license. All license fees and assessments that are required by law shall be paid to the Commission on or before the date of expiration of the then current license.

''(4) RENEWAL CERTIFICATE.—Upon renewal of a license, the Commission shall issue an appropriate renewal certificate, validating device, or sticker, which shall be attached to the license.

''(h) HEARINGS.—

''(1) IN GENERAL.—The Commission shall establish procedures for the conduct of hearings associated with licensing, including procedures for denying, limiting, conditioning, restricting, revoking, or suspending any such license.

''(2) ACTION BY COMMISSION.—Following a hearing conducted for any of the purposes authorized in this section, the Commission shall—

''(A) render a decision of the Commission;

''(B) issue an order; and

''(C) serve such decision and order upon the affected parties.

''(3) REHEARING.—

''(A) IN GENERAL.—The Commission may, upon a motion made not later than 10 days after the service of a decision and order, order a rehearing before the Commission on such terms and conditions as the Commission considers just and proper if the Commission finds cause to believe that the decision and order should be reconsidered in view of

the legal, policy, or factual matters that are—

''(i) advanced by the party that makes the motion; or

''(ii) raised by the Commission on a motion made by the Commission.

''(B) ACTION AFTER REHEARING.—Following a rehearing conducted by the Commission, the Commission shall—

''(i) render a decision of the Commission;

''(ii) issue an order; and

''(iii) serve such decision and order upon the affected parties.

''(C) FINAL AGENCY ACTION.—A decision and order made by the Commission under paragraph (2) (if no motion for a rehearing is made), or a decision and order made by the Commission upon rehearing shall constitute final agency action for purposes of judicial review.

''(4) JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the licensing decisions and orders of the Commission.

''(i) LICENSE REGISTRY.—The Commission shall—

''(1) maintain a registry of all licenses that are granted or denied pursuant to this Act; and

''(2) make the information contained in the registry available to Indian tribes to assist the licensure and regulatory activities of Indian tribes.

''SEC. 11. REQUIREMENTS FOR THE CONDUCT OF CLASS I AND CLASS II GAMING ON INDIAN LANDS.

''(a) CLASS I GAMING.—Class I gaming on Indian lands shall be within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

''(b) CLASS II GAMING.—

''(1) IN GENERAL.—Any class II gaming on Indian lands shall be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

''(2) LEGAL ACTIVITIES.—An Indian tribe may engage in, and license and regulate, class II gaming on Indian lands within the jurisdiction of such tribe, if—

''(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person; and

''(B) the class II gaming operation meets or exceeds the requirements of sections 7(c) and 10.

''(3) REQUIREMENTS FOR CLASS II GAMING OPERATIONS.—

''(A) IN GENERAL.—The Commission shall ensure that with regard to any class II gaming operation on Indian lands—

''(i) a separate license is issued by the Indian tribe for each place, facility, or location on Indian lands at which class II gaming is conducted;

''(ii) the Indian tribe has or will have the sole proprietary interest and responsibility for the conduct of any class II gaming activity, unless the conditions of clause (ix) apply;

''(iii) the net revenues from any class II gaming activity may only be used—

''(I) to fund tribal government operations or programs;

''(II) to provide for the general welfare of the Indian tribe and the members of the Indian tribe;

''(III) to promote tribal economic development;

''(IV) to donate to charitable organizations;

''(V) to help fund operations of local government agencies; or

''(VI) to comply with the provisions of section 17;

''(iv) the Indian tribe shall provide to the Commission annual outside audits of the class II gaming operation of the Indian tribe, which may be encompassed within existing independent tribal audit systems;

''(v) all contracts for supplies, services, or concessions for a contract amount equal to more than $50,000 per year, other than contracts for professional legal or accounting services, relating to such gaming shall be subject to such independent audits and any audit conducted by the Commission;

''(vi) the construction and maintenance of a class II gaming facility and the operation of class II gaming shall be conducted in a manner that adequately protects the environment and public health and safety;

''(vii) there shall be instituted an adequate system that—

''(I) ensures that—

''(aa) background investigations are conducted on primary management officials, key employees, and persons having material control, either directly or indirectly, in a licensed class II gaming operation, and gaming-related contractors associated with a licensed class II gaming operation; and

''(bb) oversight of such officials and the management by such officials is conducted on an ongoing basis; and

''(II) includes—

''(aa) tribal licenses for persons involved in class II gaming operations, issued in accordance with sections 7(c) and 10;

''(bb) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment or licensure; and

''(cc) notification by the Indian tribe to the Commission of the results of such background investigation before the issuance of any such license;

''(viii) net revenues from any class II gaming activities conducted or licensed by any Indian tribal government may be used to make per capita payments to members of the Indian tribe only if—

''(I) the Indian tribe has prepared a plan to allocate revenues to uses authorized by clause (iii);

''(II) the Secretary determines that the plan is adequate, particularly with respect to uses described in subclause (I) or (III) of clause (iii);

''(III) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved;

''(IV) the per capita payments to minors and other legally incompetent persons are disbursed to the parents or legal guardians of such minors or legally incompetent persons in such amounts as may be necessary for the health, education, or welfare of each such minor or legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

''(V) the per capita payments are subject to Federal income taxation and Indian tribes withhold such taxes when such payments are made.

''(ix) a separate license shall be issued by the Indian tribe for any class II gaming operation owned by any person or entity other than the Indian tribe and conducted on Indian lands, that includes—

''(I) requirements set forth in subparagraph (C); and

''(II) requirements that are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located; and

''(x) no person or entity, other than the Indian tribe, shall be eligible to receive a tribal license to own a class II gaming operation conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

''(B) TRANSITION.—

''(i) IN GENERAL.—Clauses (ii), (iii), and (ix) shall not bar the continued operation of an individually owned class II gaming operation that was operating on September 1, 1986, if—

''(I) such gaming operation is licensed and regulated by an Indian tribe;

''(II) income to the Indian tribe from such gaming is used only for the purposes described in subparagraph (A)(iii);

''(III) not less than 60 percent of the net revenues from such gaming operation is income to the licensing Indian tribe; and

''(IV) the owner of such gaming operation pays an appropriate assessment to the Commission pursuant to section 17 for the regulation of such gaming.

''(ii) LIMITATIONS ON EXEMPTION.—The exemption from application provided under clause (i) may not be transferred to any person or entity and shall remain in effect only during such period as the gaming operation remains within the same nature and scope as such gaming operation was actually operated on October 17, 1988.

''(C) LIST.—The Commission shall—

''(i) maintain a list of each individually owned gaming operation that is subject to subparagraph (A)(x); and

''(ii) publish such list in the Federal Register.

''(c) PETITION FOR CERTIFICATE OF SELF-REGULATION.—

''(1) IN GENERAL.—Any Indian tribe that operates, directly or with a management contract, a class II gaming activity may petition the Commission for a certificate of self-regulation if that Indian tribe—

''(A) has continuously conducted such activity for a period of not less than 3 years, including a period of at least 1 year after the date of the enactment of the Indian Gaming Regulatory Act Amendments Act of 1995; and

''(B) has otherwise complied with the provisions of this Act.

''(2) ISSUANCE OF CERTIFICATE OF SELF-REGULATION.—The Commission shall issue a certificate of self-regulation if the Commission determines on the basis of available information, and after a hearing if requested by the tribe, that the Indian tribe has—

''(A) conducted its gaming activity in a manner which has—

''(i) resulted in an effective and honest accounting of all revenues;

''(ii) resulted in a reputation for safe, fair, and honest operation of the activity; and

''(iii) been generally free of evidence of criminal or dishonest activity;

''(B) adopted and implemented adequate systems for—

''(i) accounting for all revenues from the activity;

''(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

''(iii) investigation, enforcement, and prosecution of violations of its gaming ordinance and regulations;

''(C) conducted the operation on a fiscally and economically sound basis; and

''(D) paid all fees and assessments that the tribe is required to pay to the Commission under this Act.

''(3) EFFECT OF CERTIFICATE OF SELF-REGULATION.—During the period in which a certificate of self-regulation issued under this paragraph is in effect with respect to a gaming activity conducted by an Indian tribe—

''(A) the tribe shall—

''(i) continue to submit an annual independent audit as required by subsection (b)(3)(A)(iv); and

''(ii) submit to the Commission a complete résumé of each employee hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

''(B) the Commission may not assess a fee on such activity pursuant to section 17 in excess of ¼ of 1 percent of the gross revenue from such activity.

''(4) RESCISSION.—The Commission may, for just cause and after an opportunity for a hearing, rescind a certificate of self-regulation by majority vote of the members of the Commission.

''(d) LICENSE REVOCATION.—If, after the issuance of any license by an Indian tribe under this section, the Indian tribe receives reliable information from the Commission indicating that a licensee does not meet any standard established under section 7(c) or 10, or any other applicable regulation promulgated by the Commission, the Indian tribe—

''(1) shall suspend such license; and

''(2) after notice and hearing under procedures established pursuant to applicable tribal law, may revoke such license.

''SEC. 12. CLASS III GAMING ON INDIAN LANDS.

''(a) REQUIREMENTS FOR THE CONDUCT OF CLASS III GAMING ON INDIAN LANDS.—

''(1) IN GENERAL.—Class III gaming activities shall be lawful on Indian lands only if such activities are—

''(A) authorized by a compact that—

''(i) is approved pursuant to tribal law by the governing body of the Indian tribe having jurisdiction over such lands;

''(ii) meets the requirements of section 11(b)(3) for the conduct of class II gaming; and

''(iii) is approved by the Secretary;

''(B) located in a State that permits such gaming for any purpose by any person; and

''(C) conducted in conformance with a tribal-State compact that—

''(i) is in effect; and

''(ii) is—

''(I) entered into by an Indian tribe and a State and approved by the Secretary under paragraph (2); or

''(II) issued by the Secretary under paragraph (2).

''(2) COMPACT NEGOTIATIONS.—

''(A) IN GENERAL.—

''(i) COMPACT NEGOTIATIONS.—Any Indian tribe having jurisdiction over the lands upon which a class III gaming activity is to be conducted may request the State in which such lands are located to enter into negotiations for the purpose of entering into a tribal-State compact governing the conduct of class III gaming activities.

''(ii) REQUIREMENTS FOR REQUEST FOR NEGOTIATIONS.—A request for negotiations under clause (i) shall be in writing and shall specify each gaming activity that the Indian tribe proposes for inclusion in the compact. Not later than 30 days after receipt of such written request, the State shall respond to the Indian tribe.

''(iii) COMMENCEMENT OF COMPACT NEGOTIATIONS.—Compact negotiations conducted under this paragraph shall commence not later than 30 days after the date on which a response by a State is due to the Indian tribe, and shall be completed not later than 120 days after the initiation of compact negotiations, unless the State and the Indian tribe agree to a different period of time for the completion of compact negotiations.

''(iv) INABILITY TO MEET DEADLINES FOR NEGOTIATIONS.—

''(I) NOTIFICATION.—If the State and the Indian tribe find that the State and Indian tribe are unable to commence or complete compact negotiations within the applicable time periods provided in this subsection, the Indian tribe shall notify the Secretary.

''(II) PRESENTATION OF POSITIONS.—Upon receipt of a notice under subclause (I), the Secretary shall request that the tribe and the State present their respective positions, not later than 60 days after such request, regarding—

''(aa) the gaming activities that the tribe seeks to conduct that are permissible under this Act;

''(bb) the framework for regulation of tribal gaming; and

''(cc) such other matters as the Secretary may consider appropriate.

''(B) APPROVAL OF COMPACT.—Not later than 90 days after the date of expiration of the 60-day period specified in subparagraph (A), the Secretary shall approve a compact that meets the requirements of this section, and shall publish the compact in the Federal Register. The compact shall—

''(i) include provisions—

''(I) that best meet the objectives of this Act; and

''(II) for background investigations, internal controls, and licensing that are consistent with this Act (including regulations promulgated by the Commission pursuant to section 7(c)); and

''(ii) not violate—

''(I) any provision of this Act (including regulations promulgated by the Commission pursuant to this Act);

''(II) any other provision of Federal law; or

''(III) the trust obligation of the United States to Indians.

''(C) MANDATORY DISAPPROVAL.—Notwithstanding any other provision of this Act, the Secretary shall not have the authority to approve a compact if the compact requires State regulation of Indian gaming absent the consent of the State or the Indian tribe.

''(D) EFFECT OF PUBLICATION OF COMPACT.—Except for an appeal conducted under subchapter II of chapter 5 of title 5, United States Code, by an Indian tribe or a State associated with the publication of the compact, the publication of a compact pursuant to subparagraph (B) that permits a form of class III gaming shall, for the purposes of this Act, be conclusive evidence that such class III gaming is an activity subject to negotiations under the laws of the State where the gaming is to be conducted, in any matter under consideration by the Commission or a Federal court.

''(E) EFFECTIVE DATE OF COMPACT.—Any compact negotiated under this subsection shall become effective upon the publication of the compact in the Federal Register by the Secretary.

''(F) DUTIES OF COMMISSION.—Consistent with the provisions of sections 7(c), 8, and 10, the Commission shall monitor and, if specifically authorized, regulate and license class III gaming with respect to any compact that is approved by the Secretary under this subsection and published in the Federal Register.

''(3) PROVISIONS OF COMPACTS.—

''(A) IN GENERAL.—A compact negotiated under this subsection may include provisions relating to—

''(i) the application of the criminal and civil laws (including regulations) of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity in a manner consistent with sections 7(c), 8, and 10;

''(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws (including regulations);

''(iii) the assessment by the State of the costs associated with such activities in such amounts as are necessary to defray the costs of regulating such activity;

''(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

''(v) remedies for breach of compact provisions;

''(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing, in a manner consistent with sections 7(c), 8, and 10; and

''(vii) any other subject that is directly related to the operation of gaming activities and the impact of gaming on tribal, State, and local governments.

''(B) STATUTORY CONSTRUCTION WITH RESPECT TO ASSESSMENTS.—Except for any assessments for services agreed to by an Indian tribe in compact negotiations, nothing in this section may be construed as conferring upon a State or any political subdivision thereof the authority to impose any tax, fee, charge, or other assessment upon an Indian tribe, an Indian gaming operation or the value generated by the gaming operation, or any person or entity authorized by an Indian tribe to engage in a class III gaming activity in conformance with this Act.

''(4) STATUTORY CONSTRUCTION WITH RESPECT TO CERTAIN RIGHTS OF INDIAN TRIBES.—Nothing in this subsection impairs the right of an Indian tribe to regulate class III gaming on the Indian lands of the Indian tribe concurrently with a State and the Commission, except to the extent that such regulation is inconsistent with, or less stringent than, this Act or any laws (including regulations) made applicable by any compact entered into by the Indian tribe under this subsection that is in effect.

''(5) EXEMPTION.—The provisions of section 2 of the Act of January 2, 1951 (commonly referred to as the 'Gambling Devices Transportation Act') (64 Stat. 1134, chapter 1194, 15 U.S.C. 1175) shall not apply to any class II gaming activity or any gaming activity conducted pursuant to a compact entered into after the date of enactment of this Act, but in no event shall this paragraph be construed as invalidating any exemption from the provisions of such section 2 for any compact entered into prior to the date of enactment of this Act.

''(b) JURISDICTION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.—The United States District Court for the District of Columbia shall have jurisdiction over any action initiated by the Secretary, the Commission, a State, or an Indian tribe to enforce any provision of a compact entered into under subsection (a) or to enjoin a class III gaming activity located on Indian lands and conducted in violation of any compact that is in effect and that was entered into under subsection (a).

''(c) APPROVAL OF COMPACTS.—

''(1) IN GENERAL.—The Secretary is authorized to approve any compact between an Indian tribe and a State governing the conduct of class III gaming on Indian lands of such Indian tribe entered into under subsection (a).

''(2) REASONS FOR DISAPPROVAL BY SECRETARY.—The Secretary may disapprove a compact entered into under subsection (a) only if such compact violates any—

''(A) provision of this Act or any regulation promulgated by the Commission pursuant to this Act;

''(B) other provision of Federal law; or

''(C) trust obligation of the United States to Indians.

''(3) EFFECT OF FAILURE TO ACT ON COMPACT.—If the Secretary fails to approve or disapprove a compact entered into under subsection (a) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the

compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act and the regulations promulgated by the Commission pursuant to this Act.

''(4) NOTIFICATION.—The Secretary shall publish in the Federal Register notice of any compact that is approved, or considered to have been approved, under this subsection.

''(d) REVOCATION OF ORDINANCE.—

''(1) IN GENERAL.—The governing body of an Indian tribe, in its sole discretion, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

''(2) PUBLICATION OF REVOCATION.—An Indian tribe shall submit any revocation ordinance or resolution described in paragraph (1) to the Commission. The Commission shall publish such ordinance or resolution in the Federal Register. The revocation provided by such ordinance or resolution shall take effect on the date of such publication.

''(3) CONDITIONAL OPERATION.—Notwithstanding any other provision of this subsection—

''(A) any person or entity operating a class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in paragraph (1) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation, ordinance, or resolution is published under paragraph (2), continue to operate such activity in conformance with an applicable compact entered into under subsection (a) that is in effect; and

''(B) any civil action that arises before, and any crime that is committed before, the termination of such 1-year period shall not be affected by such revocation ordinance, or resolution.

''(e) CERTAIN CLASS III GAMING ACTIVITIES.—

''(1) COMPACTS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995.—Class III gaming activities that are authorized under a compact approved or issued by the Secretary under the authority of this Act prior to the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1995 shall, during such period as the compact is in effect, remain lawful for the purposes of this Act, notwithstanding the Indian Gaming Regulatory Act Amendments Act of 1995 and the amendments made by such Act or any change in State law enacted after the approval or issuance of the compact.

''(2) COMPACT ENTERED INTO AFTER THE DATE OF ENACTMENT OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995.—Any compact entered into under subsection (a) after the date specified in paragraph (1) shall remain lawful for the purposes of this Act, notwithstanding any change in State law enacted after the approval or issuance of the compact.

''SEC. 13. REVIEW OF CONTRACTS.

''(a) CONTRACTS INCLUDED.—The Commission shall review and approve or disapprove—

''(1) any management contract for the operation and management of any gaming activity that an Indian tribe may engage in under this Act; and

''(2) unless licensed by an Indian tribe consistent with the minimum Federal standards adopted pursuant to section 7(c), any gaming-related contract.

''(b) MANAGEMENT CONTRACT REQUIREMENTS.—The Commission shall approve any management contract between an Indian tribe and a person licensed by an Indian tribe or the Commission that is entered into pursuant to this Act only if the Commission determines that the contract provides for—

''(1) adequate accounting procedures that are maintained, and verifiable financial reports that are prepared by or for, the governing body of the Indian tribe on a monthly basis;

''(2) access to the daily gaming operations by appropriate officials of the Indian tribe who shall have the right to verify the daily gross revenues and income derived from any gaming activity;

''(3) a minimum guaranteed payment to the Indian tribe that has preference over the retirement of any development and construction costs;

''(4) an agreed upon ceiling for the repayment of any development and construction costs;

''(5) a contract term of not to exceed 5 years, except that, upon the request of an Indian tribe, the Commission may authorize a contract term that exceeds 5 years but does not exceed 7 years, if the Commission is satisfied that the capital investment required, and the income projections for the particular gaming activity, require the additional time; and

''(6) grounds and mechanisms for the termination of the contract, but any such termination shall not require the approval of the Commission.

''(c) MANAGEMENT FEE BASED ON PERCENTAGE OF NET REVENUES.—

''(1) PERCENTAGE FEE.—The Commission may approve a management contract that provides for a fee that is based on a percentage of the net revenues of a tribal gaming activity if the Commission determines that such percentage fee is reasonable, taking into consideration surrounding circumstances.

''(2) FEE AMOUNT.—Except as provided in paragraph (3), a fee described in paragraph (1) shall not exceed an amount equal to 30 percent of the net revenues described in such paragraph.

''(3) EXCEPTION.—Upon the request of an Indian tribe, if the Commission is satisfied that the capital investment required, and income projections for, a tribal gaming activity, necessitate a fee in excess of the amount specified in paragraph (2), the Commission may approve a management contract that provides for a fee described in paragraph (1) in an amount in excess of the amount specified in paragraph (2), but not to exceed 40 percent of the net revenues described in paragraph (1).

''(d) GAMING-RELATED CONTRACT REQUIREMENTS.—The Commission shall approve a gaming-related contract covered under subsection (a)(2) that is entered into pursuant to this Act only if the Commission determines that the contract provides for—

''(1) grounds and mechanisms for termination of the contract, but such termination shall not require the approval of the Commission; and

''(2) such other provisions as the Commission may be empowered to impose by this Act.

''(e) TIME PERIOD FOR REVIEW.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not later than 90 days after the date on which a management contract or other gaming-related contract is submitted to the Commission for approval, the Commission shall approve or disapprove such contract on the merits of the contract. The Commission may extend the 90-day period for an additional period of not more than 45 days if the Commission notifies the Indian tribe in writing of the reason for the extension of the period. The Indian tribe may bring an action in the United States District Court for the District of Columbia to compel action by the Commission if a contract has not been approved or disapproved by the termination date of an applicable period under this subsection.

''(2) EFFECT OF FAILURE OF COMMISSION TO ACT ON CERTAIN GAMING-RELATED CONTRACT.—Any gaming-related contract for an amount less than or equal to $100,000 that is submitted to the Commission pursuant to paragraph (1) by a person who holds a valid license that is in effect under this Act shall be deemed to be approved, if by the date that is 90 days after the contract is submitted to the Commission, the Commission fails to approve or disapprove the contract.

''(f) CONTRACT MODIFICATIONS AND VOID CONTRACTS.—The Commission, after providing notice and hearing—

''(1) shall have the authority to require appropriate contract modifications to ensure compliance with the provisions of this Act; or

''(2) may void any contract regulated by the Commission under this Act if the Commission determines that any of the provisions of this Act have been violated by the terms of the contract.

''(g) INTERESTS IN REAL PROPERTY.—No contract regulated by this Act may transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists, all necessary approvals for such transfer or conveyance have been obtained, and such transfer or conveyance is clearly specified in the contract.

''(h) AUTHORITY OF THE SECRETARY.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) shall not extend to any contract or agreement that is regulated pursuant to this Act.

''(i) DISAPPROVAL OF CONTRACTS.—The Commission may not approve a contract if the Commission determines that—

''(1) any person having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, any individual who serves on the board of directors of such corporation, and any of the stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock—

''(A) is an elected member of the governing body of the Indian tribe which is a party to the contract;

''(B) has been convicted of any felony or gaming offense;

''(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded by the Commission; or

''(D) has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

''(2) the contractor—

''(A) has unduly interfered or influenced for its gain or advantage any decision or process of tribal government relating to the gaming activity; or

''(B) has attempted to interfere or influence a decision pursuant to subparagraph (A);

''(3) the contractor has deliberately or substantially failed to comply with the terms of the contract; or

''(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

"SEC. 14. REVIEW OF EXISTING CONTRACTS; INTERIM AUTHORITY.

''(a) REVIEW OF EXISTING CONTRACTS.—

''(1) IN GENERAL.—At any time after the Commission is sworn in and has promulgated regulations for the implementation of this Act, the Commission shall notify each Indian tribe and management contractor who, prior to the enactment of the Indian Gaming Regulatory Act Amendments Act of 1995, entered into a management contract that was approved by the Secretary, that the Indian tribe is required to submit to the Commission such contract, including all collateral agreements relating to the gaming activity, for review by the Commission not later than 60 days after such notification. Any such contract shall be valid under this Act, unless the contract is disapproved by the Commission under this section.

''(2) REVIEW.—

''(A) IN GENERAL.—Not later than 180 days after the submission of a management contract, including all collateral agreements, to the Commission pursuant to this section, the Commission shall review the contract to determine whether the contract meets the requirements of section 13 and was entered into in accordance with the procedures under such section.

''(B) APPROVAL OF CONTRACT.—The Commission shall approve a management contract submitted for review under subsection (a) if the Commission determines that—

''(i) the management contract meets the requirements of section 13; and

''(ii) the management contractor has obtained all of the licenses that the contractor is required to obtain under this Act.

''(C) NOTIFICATION OF NECESSARY MODIFICATIONS.—If the Commission determines that a contract submitted under this section does not meet the requirements of section 13, the Commission shall provide written notification to the parties to such contract of the necessary modifications and the parties shall have 180 days to make the modifications.

''(b) INTERIM AUTHORITY OF THE NATIONAL INDIAN GAMING COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Chairperson and the associate members of the National Indian Gaming Commission who are holding office on the date of enactment of this Act shall exercise those authorities vested in the Federal Indian Gaming Regulatory Commission by this Act until such time as the members of the Federal Indian Gaming Regulatory Commission are sworn into office.

''(2) TRANSITION.—Notwithstanding any other provision of law, the Commission shall exercise the authority conferred on the Commission by this Act, and until such time as the Commission promulgates revised regulations after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1995, the regulations issued under this Act, as in effect on the day before such date of enactment, shall apply.

"SEC. 15. CIVIL PENALTIES.

''(a) AMOUNT.—Any person who commits any act or causes to be done any act that violates any provision of this Act or the rules or regulations promulgated under this Act, or who fails to carry out any act or causes the failure to carry out any act that is required by any such provision of law shall be subject to a civil penalty in an amount equal to not more than $50,000 per day for each such violation.

''(b) ASSESSMENT AND COLLECTION.—

''(1) IN GENERAL.—Each civil penalty assessed under this section shall be assessed by the Commission and collected in a civil action brought by the Attorney General on behalf of the United States. Before the Commission refers civil penalty claims to the Attorney General, the Commission may compromise the civil penalty after affording the person charged with a violation referred to in subsection (a), an opportunity to present views and evidence in support of such action by the Commission to establish that the alleged violation did not occur.

''(2) PENALTY AMOUNT.—In determining the amount of a civil penalty assessed under this section, the Commission shall take into account—

''(A) the nature, circumstances, extent, and gravity of the violation committed;

''(B) with respect to the person found to have committed such violation, the degree of culpability, any history of prior violations, ability to pay, the effect on ability to continue to do business; and

''(C) such other matters as justice may require.

''(c) TEMPORARY CLOSURES.—

''(1) IN GENERAL.—The Commission may order the temporary closure of all or part of an Indian gaming operation for a substantial violation of any provision of law referred to in subsection (a).

''(2) HEARING ON ORDER OF TEMPORARY CLOSURE.—

''(A) IN GENERAL.—Not later than 30 days after the issuance of an order of temporary closure, the Indian tribe or the individual owner of a gaming operation shall have the right to request a hearing before the Commission to determine whether such order should be made permanent or dissolved.

''(B) DEADLINES RELATING TO HEARING.—Not later than 30 days after a request for a hearing is made, the Commission shall conduct such hearing. Not later than 30 days after the termination of the hearing, the Commission shall render a final decision on the closure.

"SEC. 16. JUDICIAL REVIEW.

''A decision made by the Commission pursuant to sections 7, 8, 10, 13, 14, and 15 shall constitute final agency decisions for purposes of appeal to the United States District Court for the District of Columbia pursuant to chapter 7 of title 5, United States Code.

"SEC. 17. COMMISSION FUNDING.

''(a) ANNUAL FEES.—

''(1) IN GENERAL.—The Commission shall establish a schedule of fees to be paid to the Commission annually by gaming operations for each class II and class III gaming activity that is regulated by this Act.

''(2) LIMITATION ON FEE RATES.—

''(A) IN GENERAL.—For each gaming operation regulated under this Act, the rate of the fees imposed under the schedule established under paragraph (1) shall not exceed 2 percent of the net revenues of such gaming operation.

''(B) TOTAL AMOUNT OF FEES.—The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall equal not more than $25,000,000.

''(3) ANNUAL FEE RATE.—The Commission, by a vote of a majority of the members of the Commission, shall annually adopt the rate of the fees authorized by this section. Such fees shall be payable to the Commission on a monthly basis.

''(4) ADJUSTMENT OF FEES.—The fees paid by a gaming operation may be adjusted by the Commission to reduce the amount of the fees by an amount that takes into account that regulatory functions are performed by an Indian tribe, or the Indian tribe and a State, pursuant to regulations promulgated by the Commission.

''(5) CONSEQUENCES OF FAILURE TO PAY FEES.—Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to regulations promulgated by the Commission, be grounds for revocation of the approval of the Commission of any license required under this Act for the operation of gaming activities.

''(6) SURPLUS FUNDS.—To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) exceed the limitation in paragraph (2)(B) or are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity that is the subject of the fees on a pro rata basis against such fees imposed for the succeeding year.

''(b) REIMBURSEMENT OF COSTS.—The Commission is authorized to assess any applicant, except the governing body of an Indian tribe, for any license required pursuant to this Act. Such assessment shall be an amount equal to the actual costs of conducting all reviews and investigations necessary for the Commission to determine whether a license should be granted or denied to the applicant.

''(c) ANNUAL BUDGET.—

''(1) IN GENERAL.—For the first full fiscal year beginning after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1995, and each fiscal year thereafter, the Commission shall adopt an annual budget for the expenses and operation of the Commission.

''(2) REQUEST FOR APPROPRIATIONS.—The budget of the Commission may include a request for appropriations authorized under section 18.

''(3) SUBMISSION TO CONGRESS.—Notwithstanding any other provision of law, a request for appropriations made pursuant to paragraph (2) shall be submitted by the Commission directly to the Congress beginning with the request for the first full fiscal year beginning after the date of enactment of this Act, and shall include the proposed annual budget of the Commission and the estimated revenues to be derived from fees.

"SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

''Subject to section 17, there are authorized to be appropriated $5,000,000 to provide for the operation of the Commission for each of fiscal years 1997, 1998, and 1999, to remain available until expended.

"SEC. 19. MISCELLANEOUS.

''(a) GAMING PROSCRIBED ON LANDS ACQUIRED IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act, unless—

''(A) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act;

''(B) the Indian tribe has no reservation on the date of enactment of this Act and such lands are located in the State of Oklahoma and—

''(i) are within the boundaries of the former reservation of the Indian tribe, as defined by the Secretary; or

''(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in the State of Oklahoma; or

''(C) such lands are located in a State other than the State of Oklahoma and are within the last recognized reservation of the Indian tribe within the State within which the Indian tribe is presently located.

''(2) EXEMPTION FOR CERTAIN TRUST LANDS.—Paragraph (1) does not apply in any case in which—

''(A) the Secretary, after consultation with the Indian tribe and a review of the recommendations, if any, of the Governor of the State in which such lands are located, and any other State and local officials, including

officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands—

''(i) would be in the best interest of the Indian tribe and the members of the Indian tribe; and

''(ii) would not be detrimental to the surrounding community;

''(B) lands are taken into trust as part of a settlement of a land claim;

''(C) the initial reservation of an Indian tribe is acknowledged by the Secretary under the Federal acknowledgment process or by an Act of Congress; or

''(D) lands are restored for an Indian tribe that is restored to Federal recognition.

''(3) EXEMPTION.—Paragraph (1) shall not apply to—

''(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin that is the subject of the action filed in the United States District Court for the District of Columbia entitled St. Croix Chippewa Indians of Wisconsin v. United States, Civ. No. 86–2278; or

''(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within 1 mile of the intersection of State road numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

''(4) AUTHORITY OF THE SECRETARY.—Nothing in this section may affect or diminish the authority and responsibility of the Secretary to take land into trust.

''(b) APPLICATION OF THE INTERNAL REVENUE CODE OF 1986.—

''(1) IN GENERAL.—The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act, or under a compact entered into under section 12 that is in effect, in the same manner as such provisions apply to State gaming and wagering operations. Any exemptions to States with respect to taxation of such gaming or wagering operations shall be allowed to Indian tribes.

''(2) EXEMPTION.—The provisions of section 6050I of the Internal Revenue Code of 1986 shall apply to an Indian gaming establishment that is not designated by the Secretary of the Treasury as a financial institution pursuant to chapter 53 of title 31, United States Code.

''(3) STATUTORY CONSTRUCTION.—This subsection shall apply notwithstanding any other provision of law enacted before the date of enactment of this Act unless such other provision of law specifically cites this subsection.

''(c) ACCESS TO INFORMATION BY STATE AND TRIBAL GOVERNMENTS.—Subject to section 7(d), upon the request of a State or the governing body of an Indian tribe, the Commission shall make available any law enforcement information which it has obtained pursuant to such section, unless otherwise prohibited by law, in order to enable the State or the Indian tribe to carry out its responsibilities under this Act or any compact approved by the Secretary.'';

(3) by striking section 20;

(4) by redesignating sections 21 through 24 as sections 20 through 23, respectively; and

(5) by adding at the end the following new section:

''SEC. 24. DEFINITION OF FINANCIAL INSTITUTIONS.

''Section 5312(a)(2) of title 31, United States Code, is amended—

''(1) by redesignating subparagraphs (X) and (Y) as subparagraphs (Y) and (Z), respectively; and

''(2) by inserting after subparagraph (W) the following new subparagraph:

''(X) an Indian gaming establishment;''.

SEC. 3. CONFORMING AMENDMENTS.

(a) TITLE 10.—Section 2323a(e)(1) of title 10, United States Code, is amended by striking ''section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4))'' and inserting ''section 4(16) of the Indian Gaming Regulatory Act''.

(b) TITLE 18.—Title 18, United States Code, is amended—

(1) in subsections (c) and (d) of section 1166, by striking ''section 11(d)(8) of the Indian Gaming Regulatory Act'' each place it appears and inserting ''section 12(a)(2)(B) of the Indian Gaming Regulatory Act'';

(2) in section 1167—

(A) in subsection (a), by striking ''National Indian Gaming Commission'' and inserting ''Federal Indian Gaming Regulatory Commission established under section 5 of the Indian Gaming Regulatory Act''; and

(B) in subsection (b), by striking ''National Indian Gaming Commission'' and inserting ''Federal Indian Gaming Regulatory Commission''; and

(3) in section 1168—

(A) in subsection (a), by striking ''National Indian Gaming Commission'' and inserting ''Federal Indian Gaming Regulatory Commission established under section 5 of the Indian Gaming Regulatory Act''; and

(B) in subsection (b), by striking ''National Indian Gaming Commission'' and inserting ''Federal Indian Gaming Regulatory Commission''.

(c) INTERNAL REVENUE CODE OF 1986.—Section 168(j)(4)(A)(iv) of the Internal Revenue Code of 1986 is amended by striking ''Indian Regulatory Act'' and inserting ''Indian Gaming Regulatory Act''.

(d) TITLE 28.—Title 28, United States Code, is amended—

(1) in section 3701(2)—

(A) by striking ''section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5))'' and inserting ''section 4(17) of the Indian Gaming Regulatory Act''; and

(B) by striking ''section 4(4) of such Act (25 U.S.C. 2703(4))'' and inserting ''section 4(16) of such Act''; and

(2) in section 3704(b), by striking ''section 4(4) of the Indian Gaming Regulatory Act'' and inserting ''section 4(16) of the Indian Gaming Regulatory Act''.

SECTION-BY-SECTION SUMMARY OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1995

Section 1. Short Title. This section provides that this Act may be cited as the ''Indian Gaming Regulatory Act Amendments Act of 1995''.

Section 2. Amendment to the Indian Gaming Regulatory Act. This section provides that the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended by striking sections 2 through 19 and inserting the following new sections:

Section 1. Short Title; Table of Contents. Subsection (a) provides that this Act may be cited as the ''Indian Gaming Regulatory Act''.

Subsection (b) sets forth the table of contents for the Act.

Section 2. Congressional Findings. This section contains seven separate findings, including the following: Indian tribes are engaged in the licensing and operation of gaming activities as a means of generating tribal governmental revenue; clear Federal standards and regulations for the conduct of Indian gaming will assist tribal governments in assuring the integrity of gaming activities; a principal goal of Federal Indian policy is to promote tribal economic development, self-sufficiency and strong tribal government; Indian tribes have the right to regulate gaming activities on Indian lands if such activities are not prohibited by Federal law and are conducted within a state that permits such gaming activities and the Congress has the authority to regulate the privilege of doing business with Indian tribes in Indian country; the regulation of Indian gaming activities should meet or exceed federally established minimum regulatory requirements; gaming activities on Indian lands has had a substantial impact on commerce with foreign nations, among the several states and with the Indian tribes; and the Constitution vests the Congress with the power to regulate commerce with foreign nations, among the several states and with the Indian tribes and this Act is enacted in the exercise of those powers.

Section 3. Purposes. This section sets forth four purposes of the Act, including the following: to ensure the right of Indian tribes to conduct gaming operations on Indian lands consistent with the U.S. Supreme Court decision in the case of California v. Cabazon Band of Mission Indians; to provide a statutory basis for the conduct of gaming activities on Indian lands as a means of promoting tribal economic development and strong tribal governments; to provide an adequate statutory basis for the regulation of Indian gaming by tribal governments to shield the gaming from organized crime; ensure that the Indian tribe is the primary beneficiary of the gaming activities and to ensure that the gaming activities are conducted fairly by both the operator and the patrons; and to declare that the establishment of independent Federal regulatory authority and minimum regulatory standards for the conduct of gaming activities on Indian lands are necessary to protect such gaming.

Section 4. Definitions. This section contains definitions for the following terms: ''applicant'', ''Advisory Committee'', ''Attorney General'', ''Chairperson'', ''Class I Gaming'', ''Class II Gaming'', ''Class III Gaming'', ''Commission'', ''Compact'', ''Electronic, Computer, and Other Technologic Aid'', ''Electronic or Electromechanical Facsimile'', ''Gambling Device'', ''Gaming-Related Contract'', ''Gaming Related Contractor'', ''Gaming Service Industry'', ''Indian Lands'', ''Indian Tribe'', ''Key Employee'', ''Management Contract'', ''Management Contractor'', ''Material Control'', ''Net Revenues'', ''Person'', and ''Secretary''.

Section 5. Establishment of the Federal Indian Gaming Regulatory Commission. Subsection (a) of this section provides for the establishment of the Federal Indian Gaming Regulatory Commission as an independent agency of the United States.

Subsection b. provides that the Commission shall be composed of 3 full-time members who are appointed by the President and confirmed by the Senate. Commission members are prohibited from pursuing any other business or occupation or holding any other office. Other than through distribution of gaming revenues as a member of an Indian tribe, Commission members are prohibited from engaging in or having a pecuniary interest in a gaming activity or in any business or organization that has a license under this Act or that does business with any person or organization under this Act. Persons who have been convicted or a felony or a gaming offense cannot serve as Commissioners. In addition, persons who have any financial interest in or management responsibility for any gaming contract or other

contract approved pursuant to this Act are also ineligible to serve as Commissioners.

Subsection (b) also provides that not more than 2 members of the Commission shall be members of the same political party and at least two members of the Commission shall be members of federally recognized Indian tribes. One member of the Commission must be a certified public accountant with at least 5 years of experience in accounting and auditing as well as a comprehensive knowledge of the principles and practices of corporate finance. One member of the Commission must have training and experience in the fields of investigation or law enforcement. Any person under consideration for appointment to the Commission shall be the subject of a background investigation conducted by the Attorney General with particular emphasis on the person's financial stability, integrity, responsibility and reputation for good character and honesty.

Subparagraph (c) provides that the President shall select a Chairperson from among the members appointed to the Commission.

Subparagraph (d) provides that the Commission shall select a Vice Chairperson by majority vote. The Vice Chairperson shall serve as the Chairperson in the absence of the Chairperson and shall exercise such other powers as may be delegated by the Chairperson.

Subparagraph (e) provides that each member of the Commission shall hold office for a term of 5 years and no member can serve more than two terms of 5 years each. The initial appointments to the Commission will be made for staggered terms, with the Chairperson serving a full 5 year term.

Subparagraph (f) provides that Commissioners shall serve until the expiration of their term or until their successor is duly appointed and qualified, unless a Commissioner is removed for cause. A Commissioner can only be removed by the President for neglect of duty, malfeasance in office or for other good cause. Any member appointed to fill a vacancy shall serve for the unexpired term of the vacancy.

Subparagraph (g) provides that two members of the Commission shall constitute a quorum.

Subparagraph (h) provides that the Commission shall meet at the call of the Chairperson or a majority of the members of the Commission. A majority of the members of the Commission shall determine any action of the Commission.

Subparagraph (i) provides that the Chairperson shall be compensated at level IV of the Executive Schedule and other members shall be compensated at level V. All members of the Commission shall be reimbursed for travel, subsistence and other necessary expenses.

Subparagraph (j) requires the Administrator of General Services to provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

Section 6. Powers of the Chairperson. Subsection (a) provides that the Chairperson is the chief executive officer of the Commission.

Subsection (b) provides that the Chairperson can employ and supervise such personnel as may be necessary to carry out the functions of the Commission, without regard to the requirements of title 5 of the United States Code relating to appointments in the competitive service. The Chairperson is required to appoint a General Counsel and may procure temporary and intermittent services or request the head of any federal agency to detail any personnel of such agency to the Commission to assist in carrying out the duties of the Commission under this Act. The Chairperson is also authorized to use and expend federal funds and fees collected pursuant to this Act and to contract for such professional, technical and operational personnel as may be necessary to carry out this Act. Staff of the Commission are to be paid without regard to the requirements of title 5 of the United States Code related to classification and pay rates.

Subsection (c) provides that the Chairperson shall be governed by the general policies of the Commission and by such regulatory decisions and determinations as the Commission is authorized to make.

Section 7. Powers and Authority of the Commission. Subsection (a) provides that the Commission shall have the power to approve the annual budget of the Commission; promulgate regulations to carry out this Act; establish fees and assessments; conduct investigations; issue temporary and permanent orders closing gaming operations; grant, deny or condition or suspend any license issued under any authority conferred on the Commission by this Act; fine any person licensed pursuant to this Act for violation of any of the conditions of licensure under this Act; inspect the premises where Class II and III gaming operations are located; inspect and audit all books and records of Class II and III gaming operations; use the U.S. mail in the same manner as any agency of the U.S.; procure supplies and services by contract; contract with state, tribal and private entities to assist in the discharge of the Commission's duties; serve or cause to be served process or notices of the Commission; propound written interrogatories and appoint hearing examiners who are empowered to administer oaths; conduct hearings pertaining to violations of this Act; collect the fees and assessments authorized by this Act; assess penalties for violations of the Act; provide training and technical assistance to Indian tribes with respect to the conduct and regulation of gaming activities; monitor and regulate Class II and III gaming; approve all management-related and gaming-related contracts; delegate any of the functions of the Commission, except for rulemaking, to a division of the Commission or a Commissioner, employee or administrative law judge.

Subsection (b) provides that the Commission reserves the right to review any action taken pursuant to a delegation of its authority. The vote of one Commissioner is sufficient to bring a delegated action before the full Commission for review. If the Commission declines to exercise the right of review, then the delegated action shall be deemed an action of the Commission.

Subsection (c) provides that after receiving recommendations from the Advisory Committee pursuant to this Act, the Commission shall establish minimum Federal standards for: background investigations; licensing; the operation of Class II and III gaming activities, including surveillance, security and systems for monitoring all gaming activity, protection of the integrity of the rules for play of games, cash counting and control, controls over gambling devices and accounting and auditing.

Subsection (d) provides that the Commission may secure from any department or agency of the Untied States information necessary to enable the Commission to carry out the Act. The Commission may also secure from any law enforcement or gaming regulatory agency of any State, Indian tribe or foreign nation information necessary to enable the Commission to carry out this Act. All such information obtained by the Commission shall be protected from disclosure by the Commission. For purposes of this subsection, the Commission shall be considered to be a law enforcement agency.

Subsection (e) authorizes the Commission to conduct such investigations as the Commission considers necessary to determine whether any person has violated, is violating or is conspiring to violate any provision of this Act. In addition, the Commission is authorized to investigate such facts, conditions, practices, or matters as the Commission considers necessary or proper to aid in the enforcement, implementation or amendment of the Act. Any member of the Commission or any officer designated by the Commission is empowered to administer oaths and to subpoena witnesses and evidence from any place in the United States at any designated place of hearing. The Commission is authorized to invoke the jurisdiction of any Federal court to require the attendance and testimony of witnesses and the production of records. The failure of any person to obey an order of a Federal court to appear and testify or to produce records is punishable as a contempt of such court. If the Commission determines that any person is engaged, has engaged or is conspiring to engage in any act or practice which constitutes a violation of this Act, the Commission may bring an action in the Federal District Court for the District of Columbia to enjoin such act or practice or refer the matter to the Attorney General for the initiation of criminal proceedings. At the request of the Commission, each Federal district court shall have jurisdiction to issue writs of mandamus, injunctions and orders commanding any person to comply with this Act and any rules or regulations promulgated pursuant to the Act.

Section 8. Regulatory Framework. Subsection (a) provides that for Class II gaming Indian tribes shall retain the right to monitor and regulate such gaming, conduct background investigations, and issue licenses in a manner which meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c) of this Act.

Subparagraph (b) provides that for Class III gaming which is conducted pursuant to a tribal/state compact, an Indian tribe or a state or both shall monitor and regulate such gaming, conduct background investigations, issue licenses and establish and regulate internal control systems in a manner which meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c) of this Act.

Subparagraph (c) provides that for Class III gaming conducted under the authority of a compact negotiated with the Secretary, such compact shall provide that the Indian tribe or other appropriate entity shall monitor and regulate such gaming, conduct background investigations, issue licenses and establish and regulate internal control systems in a manner which meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c).

Subsection (d) provides that in any case in which an Indian tribe conducts Class II gaming in a manner which substantially fails to meet the minimum federal standards for Class II gaming, then the Commission shall have the authority to conduct background investigations, issue licenses and establish and regulate internal control systems after providing the Indian tribe an opportunity to cure violations and to be heard. The authority of the Commission may be exclusive and may continue until such time as the regulatory and internal control systems of the Indian tribe meet or exceed the minimum Federal standards established by the Commission.

Subsection (d) also provides that in the case of Class III gaming, if an Indian tribe or a state, or both, fail to meet or exceed minimum Federal standards for Class III gaming

then the Commission shall have the authority to conduct background investigations, issue licenses and establish and regulate internal control systems after providing notice and an opportunity to cure problems and be heard. The authority of the Commission may be exclusive and may continue until such time as the regulatory and internal control systems of an Indian tribe or a state, or both, meet or exceed the minimum Federal standards established by the Commission.

Section 9. Advisory Committee on Minimum Regulatory Requirements and Licensing Standards. Subsection (a) authorizes the President to establish an Advisory Committee on Minimum Regulatory Requirements and Licensing Standards.

Subsection (b) provides that the advisory committee shall be composed of 7 members who shall be appointed by the President. Three members shall be members of federally recognized Indian tribes which are engaged in gaming under this Act and shall be selected from a list of recommendations submitted to the President by the Chairman and Vice Chairman of the Senate Committee on Indian Affairs and the Chairman and ranking minority member of the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives. Two members shall represent state governments and shall be selected from a list of recommendations submitted to the President by the Majority Leader and the Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives. Two members shall be employees of the Department of Justice.

Subsection (c) provides that 180 days after the date on which the Advisory Committee is fully constituted it shall develop recommendations for minimum Federal standards for the conduct of background investigations, internal control systems and licensing standards. The committee's recommendations shall be submitted to the Committee on Indian Affairs of the Senate, the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, the Commission and to each federally recognized Indian tribe. The Commission and the Advisory Committee are required to give equal weight to existing industry standards, the unique nature of tribal gaming, the broad variations in the scope and size of tribal gaming activity, the inherent sovereign right of Indian tribes to regulate their own affairs and the Findings and Purposes set forth in sections 2 and 3 of this Act.

Subsection (d) provides that the Commission shall hold public hearings on the Advisory Committee's recommendations after they are received. At the conclusion of the hearings, the Commission shall promulgate regulations establishing minimum regulatory requirements and licensing standards.

Subsection (e) provides that the members of the Advisory Committee who are representatives of Indian tribes and states shall be reimbursed for travel and per diem during the performance of the duties of the Advisory Committee and while away from home or their regular place of business.

Subsection (f) provides that the Advisory Committee shall cease to exist 60 days after it submits its recommendations to the Commission.

Subsection (g) provides that the activities of the Advisory Committee are exempt from the Federal Advisory Committee Act.

Section 10. Licensing. Subsection (a) provides that licenses shall be required of gaming operations, key employees of a gaming operation, management- and gaming-related contractors, any gaming service industry, and any person who has material control over a licensed gaming operation.

Subsection (b) provides that the Commission may require licenses of management contractors and gaming operations notwithstanding any other provision of law relating to the issuance of licenses by an Indian tribe or a state, or both.

Subsection (c) provides that the Commission may issue a statement of compliance to an applicant for a license under this Act at any time that the Commission is satisfied that one or more eligibility criteria for the license has been satisfied by the applicant.

Subsection (d) provides that no gaming operation shall operate unless all required licenses and approvals have been obtained in accordance with this Act. Each management contract for a gaming operation must be in writing and filed with and approved by the Commission. The Commission may require that a management contract include any provisions that are reasonably necessary to meet the requirements of this Act. Any applicant for a license who does not have the ability to exercise any significant control over a licensed gaming operation may be determined by the Commission to be ineligible to hold a license or to be exempt from being required to hold a license.

Subsection (e) provides that the Commission shall deny a license to any applicant who is disqualified for failure to meet any of the minimum Federal standards promulgated by the Commission pursuant to section 7(c).

Subsection (f) provides that the Commission shall conduct an investigation into the qualifications of the applicant and may conduct a non-public hearing concerning the applicant's qualifications. After an application is filed with the Commission final action will be taken by the Commission to grant or deny the application not later than 90 days after completing all hearings and investigations and receiving all information required to be submitted. If an application is denied by the Commission, the applicant can request a statement of the reasons, including specific findings of fact. If the Commission is satisfied that the applicant is qualified to receive a license, then the Commission shall issue a license upon the tender of all license fees and assessments required by this Act and such bonds as the Commission may require for the faithful performance of all requirements imposed by this Act. The Commission is authorized to fix the amount of any bond it requires. Bonds furnished to the Commission may be applied by the Commission to any unpaid liability of the licensee. Bonds shall be furnished in cash or negotiable securities, by a surety or through an irrevocable letter of credit.

Subsection (g) provides that the Commission shall renew any license issued under this Act, subject to its power to deny, revoke or suspend licenses, upon proper application for renewal and the receipt of license fees and assessments. Licenses can be renewed for up to two years for each of the first 2 renewal periods and three years for each succeeding renewal period. A licensing hearing can be reopened by the Commission at any time. Any licenses in existence on the date of enactment of this Act may be renewed for a period of 18 months. Any application for renewal must be filed with the Commission not later than 90 days prior to the expiration of the current license. Upon renewal of a license, the Commission shall issue an appropriate renewal certificate.

Subsection (h) provides that the Commission shall establish procedures for the conduct of hearings associated with licensing including procedures for denying, limiting, conditioning, revoking or suspending any such license. After the completion of a licensing hearing the Commission shall render a decision and issue and serve an order on the affected parties. The Commission may order a rehearing on a decision on a motion made by a party or the Commission not later than 10 days after the services of a decision and order. Following a rehearing, the Commission shall render a decision, issue an order and serve it on the affected parties. Any licensing decision or order made by the Commission shall be final agency action for the purposes of judicial review. The United States Court of Appeals for the District of Columbia has jurisdiction to review the licensing decisions and orders of the Commission.

Subsection (i) provides that the Commission shall maintain a registry of all licenses granted or denied and shall make the information contained in the registry available to Indian tribes to assist them in the licensing and regulation of gaming activities.

Section 11. Requirements for the Conduct of Class I and Class II Gaming on Indian Lands. Subsection (a) provides that Class I gaming shall be within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

Subsection (b) provides that Class II gaming shall be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act. An Indian tribe may engage in and license and regulate Class II gaming on the lands within the jurisdiction of the tribe if: the gaming is located within a State that permits such gaming for any purpose by any person; such gaming is not otherwise specifically prohibited on Indian lands by Federal law; and the Class II gaming operation meets or exceeds the requirements of section 7(c) and 10. With regard to any Class II gaming operation, the Commission shall ensure that: the Indian tribe has issued a separate license for each place, facility or location at which Class II gaming is conducted; the Indian tribe has or will have the sole proprietary interest and responsibility for the conduct of any Class II gaming activity, except as provided elsewhere in the Act with regard to gaming operations by Indian individuals; and the net revenues from Class II gaming may only be used to fund tribal government operations or programs, to provide for the general welfare of the Indian tribe and its members, to promote tribal economic development, to donate to charitable organizations, to help fund operations of local government agencies or to comply with section 17 of this Act. The Indian tribe is required to provide the Commission with annual outside audits of its Class II gaming operation. Such audits shall include a review of all contracts for supplies and services equal to or more than $50,000 annually, except for contracts for legal and accounting services.

Subsection (b) further provides that the Commission shall ensure that the construction and maintenance of a Class I gaming facility and the operation of the gaming shall be conducted in a manner that adequately protects the environment and public health and safety. The Commission must also ensure that there is an adequate system for background investigations on all persons who are required to be licensed in accordance with sections 7(c) and 10 and notice to the Commission by the Indian tribe of the results of the background investigation before the issuance of any license. No license may be granted to any person whose prior activities, criminal record or reputation habits and associations pose a threat to the public interest or the effective regulation of gaming.

With regard to per capita payments, subsection (b) provides that such payments may

only be made if: the Indian tribe has prepared a plan to allocate revenues to the public, governmental, economic development and social welfare purposes prescribed by this Act and the Secretary determines that the plan is adequate; the interests of minors and other legally incompetent persons are protected and preserved and the payments for such individuals are disbursed to their parents or legal guardians under a plan approved by the Secretary and the governing body of the Indian tribe; and the per capita payments are subject to Federal income taxation and Indian tribes withhold such tax.

With regard to Class II gaming operations on Indian lands which are owned by a person or entity other than the Indian tribe, subsection (b) requires the issuance of a separate license which includes the requirements of this section and requirements that are at least as restrictive as those established by state law governing similar gaming within the jurisdiction of the state within which the Indian lands are located. No person or entity, other than the Indian tribe shall be eligible to receive a tribal license to own a Class II gaming operation on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a state license to conduct the same activity within the jurisdiction of the state. Any individually owned Class II gaming operation that was in operation on September 1, 1986 shall not be barred by this Act if: it is licensed by an Indian tribe; the income to the Indian tribe from such gaming is not used for per capita payments; not less than 60 percent of the net revenues from the gaming operation is income to the Indian tribe; and the owner of the gaming operation pays an assessment to the Commission pursuant to section 17 for the regulation of such gaming. This exemption for certain individually owned games cannot be transferred to any person or entity and only remains in effect so long as the gaming activity remains within the same nature and scope as the gaming operation which was operated on October 17, 1988. The Commission is required to maintain and publish in the Federal Register a list of individually owned gaming operations.

Subsection (c) provides that any Indian tribe that operates a Class II gaming activity may petition the Commission for a certificate of self-regulation if that Indian tribe has continuously conducted such gaming activity for a period of not less than 3 years, including at least one year after the date of enactment of this Act, and has otherwise complied with the provisions of this Act. The Commission shall issue a certificate of self-regulation if it determines that the Indian tribe has: conducted its gaming activity in a manner which has resulted in an effective and honest accounting of all revenues; resulted in a reputation for safe, fair, and honest operation of the activity; been generally free of evidence of criminal or dishonest activity; and the Indian tribe has adequate systems for accounting for revenues, investigation and licensing of employees and contractors, investigation and enforcement of its gaming laws and has conducted the gaming operation on a fiscally sound basis. During any period in which a certificate of self-regulation is in effect, the Indian tribe shall continue to submit an annual independent audit to the Commission and a complete resume of each employee and contractor hired and licensed by the Indian tribe. The Commission cannot assess a fee on a self-regulated activity pursuant to section 17 in excess of one quarter of 1 percent of the net revenue from such activity. The Commission may rescind a certificate of self-regulation for just cause and after an opportunity for a hearing.

Subsection (d) provides that if the Commission notifies the Indian tribe that any license which has been issued by the tribe under this section does not meet any standards established under sections 7(c) or 10, then the Indian tribe shall immediately suspend the license and after notice and hearing to the licensee in conformity with the laws of the Indian tribe may revoke such license.

Section 12. Class III Gaming on Indian Lands. Subsection (a) provides that Class III gaming activities shall be lawful on Indian lands only if such activities are authorized by a compact that: is adopted by the governing body of the Indian tribe having jurisdiction over such lands; meets the requirements of section 11(b)(3) for the conduct of Class II gaming; is approved by the Secretary; is located in a state that permits such gaming for any purpose by any person; and is conducted in conformity with the tribal/state compact that is in effect. Any Indian tribe which has jurisdiction over the lands upon which a Class III gaming activity is to be conducted may request the state in which such lands are located to enter into negotiations for the purpose of entering into a compact to govern the conduct of Class III gaming activities. A request for negotiations shall be in writing and shall specify each gaming activity that the Indian tribe proposes for inclusion in the compact. The state shall respond to the request within 30 days of receipt. Compact negotiations shall commence not later than 30 days after the date on which a response by a state is due to the Indian tribe and shall be completed not later than 120 days after the initiation of negotiations unless the state and the Indian tribe agree to a different time period. If the state and the Indian tribe cannot commence or complete compact negotiations within the time periods provided in this Act, the Indian tribe shall notify the Secretary. After the Secretary receives the notice from the Indian tribe, the Secretary shall provide the state and the Indian tribe 60 days to present their positions on the gaming activities that are permissible, the framework for the regulation of the gaming, and such other matters as the Secretary may consider appropriate. Not later than 90 days after the date of the expiration of the 60 day period for the submission of the positions of the state and the Indian tribe, the Secretary shall approve a compact that meets the requirements of this Act and publish it in the Federal Register. The Secretary shall not approve a compact if the compact requires state regulation of Indian gaming without the consent of the state or the Indian tribe. The publication of a compact that permits a form of Class III gaming shall be conclusive evidence that such Class III gaming is an activity subject to the laws of the state where the gaming is to be conducted. Any compact negotiated under this subsection shall become effective on its publication in the Federal Register. The Commission shall monitor and, if authorized, regulate and license Class III gaming with respect to any compact that is approved by the Secretary.

Subsection (a) also provides that a compact may include provisions relating to the criminal and civil laws of the Indian tribe or the state; the allocation of criminal and civil jurisdiction between the state and the Indian tribe; the assessment by the state of the costs associated with such activities in such amounts as are necessary to defray the costs of regulating such activity; taxation by the Indian tribe of such activity in amounts comparable to the amounts assessed by the state for similar activity; remedies for breach of contract; standards for the operation of such activity and maintenance of the gaming facility; and any other subject that is directly related to the operation of gaming activities and the impact of gaming on tribal, state and local governments. Nothing in this Act may be construed as conferring on a state or political subdivision of a state the authority to impose any tax, fee, charge, or other assessment on an Indian tribe, an Indian gaming operation or the value generated by the gaming operation or any person or entity authorized by an Indian tribe to engage in a Class III gaming activity in conformity with this Act.

Nothing in subsection (a) impairs the right of an Indian tribe to regulate Class III gaming on the lands of the Indian tribe concurrently with a state and the Commission, except to the extent that such regulation is inconsistent with or less stringent than this Act. The Gambling devices Transportation Act shall not apply to any gaming activity conducted pursuant to a compact entered into under this Act. The Federal District Court for the District of Columbia shall have jurisdiction over any action initiated by an Indian tribe, a state, the Secretary or the Commission to enforce a compact or to enjoin a Class III gaming activity located on Indian lands and conducted in violation of any compact.

Subsection (c) provides that the Secretary is authorized to approve any compact between an Indian tribe and a state governing the conduct of Class III gaming on the Indian lands of such Indian tribe. The Secretary may disapprove a compact entered into under this Act only if such compact violates any provision of this Act or any regulation promulgated by the Commission or any other Federal law or the trust obligation of the United States to Indians. If the Secretary fails to approve or disapprove a compact within 45 days after the compact is presented to the Secretary for approval, then the compact shall be considered to have been approved by the Secretary, but only to the extent that it is consistent with this Act and the regulations promulgated by the Commission. The Secretary shall publish notice in the Federal Register of any compact that is approved or considered to have been approved.

Subsection (d) provides that the governing body of an Indian tribe may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized Class III gaming on the Indian lands of the Indian tribe. Such a revocation shall render Class III gaming illegal on the Indian lands of such Indian tribe. The Commission is required to publish the revocation ordinance or resolution in the Federal Register and it shall take effect upon such publication. Any person or entity operating a Class III gaming activity on the date of such revocation may continue to operate such activity in conformity with a compact that is in effect for one year from the date of publication of the revocation.

Subsection (e) provides that with regard to compacts entered into and approved by the Secretary before the date of enactment of this Act shall remain lawful during the period such compact is in effect notwithstanding any amendments made by this Act or any changes made in state law enacted after the approval of the compact. Any compact entered into after the date of enactment of this Act shall remain lawful under this Act notwithstanding any change in state law enacted after the approval of the compact.

Section 13. Review of Contracts. Subsection (a) provides that the Commission shall review and approve or disapprove any management contracts for the management of any gaming activity and any gaming-related contract unless such gaming related contract is licensed by an Indian tribe consistent with the minimum Federal standards promulgated pursuant to section 7(c).

Subsection (b) provides that the Commission shall only approve a management contract if it determines that the contract provides for: adequate accounting procedures that are maintained and for verifiable monthly financial reports prepared by or for the governing body of the Indian tribe; access to the gaming operations by tribal officials who shall have the right to verify the daily gross revenues and income derived from the gaming activity; a minimum guaranteed payment to the Indian tribe that has preference over the retirement of any development and construction costs; an agreed upon ceiling for the repayment of any development and construction costs; a contract term of not more than 5 years unless the Commission determines that a term of 7 years is appropriate based on the capital investment required and the income projections for the gaming activity; and grounds and mechanisms for the termination of the contract.

Subsection (c) provides that the Commission may approve a management contract that provides for a fee of 30% of the net revenues of a tribal gaming activity, unless the Indian tribe requests a higher fee and the Commission determines that based on the capital investment required and the income projections a higher fee is justified. In no circumstance can a management fee exceed 40%.

Subsection (d) provides that the Commission shall approve a gaming-related contract only if the Commission determines that the contract provides for: grounds and mechanisms for the termination of the contract and such other conditions as the Commission may be empowered to impose under this Act.

Subsection (e) provides that not later than 90 days after the date on which a management contract or gaming-related contract is submitted to the Commission for approval the Commission shall either approve or disapprove the contract. The 90 day period may be extended for 45 days if the Commission notifies the tribe in writing of the reason for the extension. The Indian tribe may bring an action in the Federal District Court for the District of Columbia to compel action by the Commission if it does not act in a timely manner. Any gaming-related contract for an amount of $100,000 or less which is submitted to the Commission for approval by a person who holds a valid license that is in effect under this Act, shall be deemed to be approved if the Commission has not acted to approve or disapprove it within 90 days of its submission.

Subsection (f) provides that after providing notice and hearing, the Commission shall have the authority to require appropriate contract modifications to ensure compliance with this Act or may void any contract if the Commission determines that it violates any of the provisions of this Act.

Subsection (g) provides that no contract regulated by this Act may transfer or in any other manner convey any interest in real property unless specific statutory authority exists, all necessary approvals have been obtained and the conveyance is clearly specified in the contract.

Subsection (h) provides that the authority of the Secretary under 25 U.S.C. 81 shall not extend to any contracts or agreements which are regulated pursuant to this Act.

Subsection (i) provides that the Commission may not approve a contract if the Commission finds that: any person having a direct financial interest in, or management responsibility for such contract, and in the case of a corporation, any member of the board of directors or any stockholders who hold more than 10% of its issued stock is an elected member of the governing body of the Indian tribe which is a party to the contract; has been convicted of any felony or any gaming offense; has knowingly and willfully provided materially false statements to the Commission or the Indian tribe or has refused to respond to questions propounded by the Commission; or has been determined to be a person whose prior activities, criminal record, reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming. The Commission may also disapprove any contract if it finds that: the contractor has unduly interfered or influenced for its gain any decision or process of tribal government relating to the gaming activity; the contractor has deliberately or substantially failed to comply with the terms of the contract; or a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

Section 14. Review of Existing Contracts; Interim Authority. Subsection (a) provides that at any time after the Commission is sworn in and has promulgated regulations for the implementation of this Act the Commission shall notify each Indian tribe and management contractor who entered into a contract prior to the enactment of this Act that the Indian tribe is required to submit the contract to the Commission within 60 days of such notice. Any such contract shall be valid under this Act unless the Commission disapproves it under this section. Not later than 180 days after the submission of a contract for review, the Commission shall review it to determine if it meets the requirements of section 13. The Commission shall approve a contract if it determines that the contract meets the requirements of section 13 and the contractor has obtained all of the licenses required by this Act. If the Commission determines that a contract does not meet the requirements of section 13, the Commission shall provide written notice to the parties of the necessary modifications and the parties shall have 180 days to make the modifications.

Subsection (b) provides that the Commissioners who are holding office on the date of enactment of this Act shall exercise the authorities vested in the Federal Indian Gaming Regulatory Commission until such time as the members of that Commission are sworn into office. Until such time as the Federal Indian Gaming Regulatory Commission promulgates regulations under this Act, the regulations promulgated under the Indian Gaming Regulatory Act of 1988 shall apply.

Section 15. Civil Penalties. Subsection (a) provides that any person who violates this Act or the regulations promulgated pursuant to this Act, either by an act or an omission, shall be subject to a civil penalty of not more than $50,000 per day for each violation.

Subsection (b) provides that the Commission shall assess the civil penalties authorized by this Act and the Attorney General shall collect them in a civil action. The Commission may seek to compromise any assessed civil penalty. In determining the amount of a civil penalty, the Commission shall take into account: the nature, circumstances, extent and gravity of the violation; with regard to the person found to have committed the violation, the degree of culpability, any history of prior violations, ability to pay and the effect on ability to continue to do business; and such other matters as justice may require.

Subparagraph (c) provides that the Commission may order the temporary closure of all or part of an Indian gaming operation for substantial violation of this Act and the regulations promulgated by the Commission. Not later than 30 days after an order of temporary closure the Indian tribe or the individual owner of the gaming operation may request a hearing to determine whether the order should be made permanent or dissolved. Not later than 30 days after a request for a hearing, the Commission shall hold the hearing and render a final decision within 30 days after the completion of the hearing.

Section 16. Judicial Review. Any decision made by the Commission pursuant to sections 7, 8, 10, 14, and 15 shall constitute final agency decisions for purposes of appeal to the Federal District Court for the District of Columbia under the Administrative Procedures Act.

Section 17. Commission Funding. Subsection (a) provides that the Commission shall establish an annual schedule of fees to be paid to it by each Class II and III gaming operation that is regulated by this Act. No gaming operation may be assessed more than 2% of its net revenues and the Commission cannot collect more than $25 million in fees in any year. Fees are payable to the Commission on a monthly basis. The fees paid by a gaming operation may be reduced by the Commission to take into account that regulatory functions are performed by an Indian tribe, or an Indian tribe and a state. Failure to pay fees imposed by the Commission will be grounds for revocation of any license required under this Act for the operation of gaming activities. Any surplus assessments in any given year will be credited pro rata against such fees for the succeeding year.

Subparagraph (b) provides that the Commission is authorized to assess license applicants, except for Indian tribes, for the actual cost of all reviews and investigations necessary to determine whether a license should be granted or denied.

Subparagraph (c) provides that the Commission shall adopt an annual budget for each fiscal year. Any request for an appropriation pursuant to section 18 shall be submitted directly to the Congress.

Section 18. Authorization of Appropriations. This section authorizes an appropriation of $5 million for the operation of the Commission for each of the fiscal years, 1997, 1998 and 1999, to remain available until expended.

Section 19. Miscellaneous. Subsection (a) provides that in general, gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe unless: such lands are located within or are contiguous to the boundaries of the reservation of the Indian tribe; the Indian tribe has no reservation and such lands are located in the State of Oklahoma and are within the boundaries of the former reservation of the Indian tribe or are contiguous to other land held in trust by the United States for the Indian tribe; or such lands are located in a state other than Oklahoma and are within the last recognized reservation of the Indian tribe within the state in which the Indian tribe is presently located.

Subsection (a) further provides that the general prohibition on the use of lands taken into trust after the date of enactment of this Act for gaming does not apply if the Secretary, after consultation with the Indian tribe, other Indian tribes, state and local officials and a review of the recommendations of the Governor of the state in which such lands are located, determines that gaming on the newly acquired lands would be in the best interest of the Indian tribe and would not be detrimental to the surrounding community; or where lands are taken into trust as part of a settlement of a land claim; or the initial reservation of an Indian tribe is acknowledged by the Secretary under the Federal acknowledgement process; or where lands are restored for an Indian tribe that is restored to federal recognition.

Lastly, subsection (a) provides that nothing in this section may affect or diminish the authority and responsibility of the Secretary to take land into trust.

Subsection (b) provides that the provisions of the Internal Revenue Code with regard to reporting and withholding taxes on winnings and the provisions of the Bank Secrecy Act relating to the reporting requirements for cash transactions of $10,000 or greater will apply to Indian gaming operations which are regulated by this Act.

Subsection (c) provides that the Commission shall make available to a state or the governing body of an Indian tribe any law enforcement information it has obtained pursuant to section 7(d), unless otherwise prohibited by law, in order to assist the state or Indian tribe to carry out its responsibilities under this Act or any compact approved by the Secretary.

Section 24. Definition of Financial Institutions. This section amends section 5312(a)(2) of title 31, United States Code to include Indian gaming establishments.

Section 3. Conforming Amendments. This section provides for several amendments to titles 10, 18, 26 and 28 of the United States Code to conform them to the provisions of this Act.●

● Mr. INOUYE. Mr. President, I am pleased to join the esteemed chairman of the Committee on Indian Affairs today, in the introduction, for purposes of discussion, of a bill to amend the Indian Gaming Regulatory Act of 1988.

Mr. President, the impetus for the amendment of the Indian Gaming Regulatory Act arose a little under 3 years ago when a number of Governors of the several States called upon the President and the Congress to address the rulings of Federal district courts interpreting the act within the context of various State laws. In response, Chairman MCCAIN and I initiated a dialog involving Governors, attorneys general, and tribal leaders that we hoped would lead to a consensus with regard to the manner in which the act would be amended. Although the dialog did not yield that consensus, it did provide us with considerable guidance in formulating the amendments that we advance today for the consideration of all affected parties.

In the interim, there have been a number of rulings from the circuit courts of appeal that have clarified what has become known as the scope-of-gaming issue, and the Supreme Court has granted certiorari in litigation raising the issues associated with the 11th amendment and the doctrine of Ex parte Young. Nonetheless, the Indian Gaming Regulatory Act Amendments Act sets forth a process that does not entail litigation between State and tribal governments. In an effort to address the 10th amendment concerns of the States, the bill we introduce today removes any requirement for good-faith negotiations and provides for tribal-State compacting only if a State elects to engage in negotiations leading to a compact.

As Chairman MCCAIN has indicated, the 1995 Amendments Act provides authority for the establishment of minimum Federal standards for the regulation of Indian gaming, including background investigations, internal control and licensing standards. The States and the tribes would participate in the development of recommendations of these standards through an advisory committee, and the Federal Indian Gaming Regulatory Commission would hold hearings on those recommendations and promulgate regulations. It is in the capacity of assuring compliance with minimum Federal standards that the Commission will have a greater role to play in the area of class III gaming.

This is a matter that I believe bears some emphasis. Under existing law, the National Indian Gaming Commission's responsibilities lie primarily in the area of class II gaming. Class III gaming is regulated by the State and tribal governments. Thus, when comparisons are made by some between the regulatory capacity of Nevada or Atlantic City to the regulatory authority of the National Indian Gaming Commission, they are comparing two regulatory systems that oversee those activities that are typically associated with large casino operations with a regulatory system that is designed to monitor tribal regulation of bingo halls. I would hope that as the debate in the Congress on matters of Indian gaming proceeds, this stark disparity in the type of operation being regulated will not be lost.

Finally, in an effort to address the constitutional concerns associated with the Interior Secretary's authority to take land into trust for gaming purposes, the bill authorizes the Secretary to consult with the Governor of the State in which the land is located.

Chairman MCCAIN and I wrote to all parties in December of last year to advise them of our intent to introduce a bill to amend the Indian Gaming Regulatory Act early in the 104th session of the Congress, and to request their comments on the substitute amendment to S. 2230, a bill we introduced in the 103d session of the Congress. The National Governors Association [NGA] requested that we delay introduction of a new measure, and we indicated that we would delay introduction until March. Unfortunately, at the scheduled time of introduction, the committee has not had the benefit of the Governors' views on these matters—and so the bill we introduce today is substantially lacking in that respect. However, as Chairman MCCAIN has indicated, we look forward to working with all of the affected governments—Federal, State, and tribal—in the further refinement of this measure.

In conclusion, I want to thank the chairman of the Committee on Indian Affairs for his kind comments, and to commend him on his leadership of the committee in the 104th session of the Congress.●

By Mr. SPECTER:

S. 488. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on the earned income of individuals and the business taxable income of corporations, and for other purposes; to the Committee on Finance.

THE FLAT TAX ACT OF 1995

Mr. SPECTER. Mr. President, I now turn to the introduction of the modified flat tax bill entitled the Flat Tax Act of 1995. This is a proposal which would simplify the filing of Federal tax returns, would provide for fairness among all taxpayers, and would stimulate economic growth in the United States. As these proceedings of the U.S. Senate are being watched on C–SPAN2, I am confident that thousands of Americans are sitting at their desks with an ear to television but an eye to their tax returns and they are poring over the complexities of the Federal tax laws.

This bill would permit the American taxpayer to file his or her return on a small, 10-line postcard. It would do so because it retains the principles of a flat tax, which have long been discussed but not really considered in sufficient depth and not acted upon by the American Congress. This flat tax would be a 20-percent rate, with deductions limited to interest on home mortgages up to $100,000 in borrowing and charitable deductions up to $2,500.

The entire return could be filled out on a simple 10-line postcard. This postcard would identify the taxpayer, specify the total amount of wages, salaries, pensions, and retirement benefits, list the deductions and exemptions, and allow taxpayers to compute their taxes on this simple postcard form.

Beyond simplicity, and the simplicity is of great importance, we now have reliable estimates that Americans spend some $5.4 billion a year on their tax returns. The Internal Revenue Service regulations have grown from 744,000 words in 1955 to some 5,600,000 words at the present time. The Internal Revenue Service is a mammoth bureaucracy, with annual spending of $13 billion on the IRS bureaucracy alone, with 110,000 employees in over 650 offices nationwide. The compliance costs to the American people are almost $200 billion a year.

We all know that the greatest impediment in confidence between the American Government and the American citizen is concern with the Internal Revenue Service. How often have you and I received those automatic computer printouts from the IRS, written them a letter, written them a second letter or multiple letters, and finally had a conference to work out some bureaucratic computer error? And most of the time, no additional tax is needed.

This legislation would liberate the American people to devote their time and energy to productive pursuits.

A second major advantage to my flat tax bill is that there would be an enormous increase in growth. This growth would occur because this flat tax would not impose any tax burden on interest, on dividends, or capital gains because

all of those items of income would have been taxed at the source; that is, at the business level.

Another benefit of the flat tax is the projected growth in the economy. From the point of view of growth, reliable estimates are that we would have an increase in the gross national product of some $2 trillion during the course of a 7-year period—an increase of some 28 percent.

We would also benefit from increased savings, which would mean that the United States of America would be less dependent on borrowing from foreign sources. These increased savings would substantially change the great imbalance we have now, where we have massive interest payments on foreign debt flowing abroad.

Additionally, in terms of fairness, there would be a lesser tax on those in the lower brackets by having an increase in the personal allowance for $16,500 for married couples filing jointly, $9,500 for single taxpayers, $14,000 for single head of households, and an exemption of $4,500 for each dependent. That would be substantially more than under the present code and would enable a family of four earning $25,500 to pay no taxes at all. A family of four earning up to $30,000 a year would pay very minimal or no taxes at all. The effective tax rate would be as low as 12.7 percent for an average projection of a family earning $100,000 a year.

This proposal is revenue neutral based upon the computations made by Professor Hall and Professor Rabushka of Stanford's Hoover Institute. They have elaborately projected a national flat tax with no deductions and are calling for a rate of some 19 percent to have tax neutrality. This bill deviates from what Professors Hall and Rabushka have proposed by having the allowance of charitable contributions of up to $2,500 a year and the deduction for interest on home mortgages with a maximum borrowing of up to $100,000 a year.

The computations provided by the Joint Tax Committee show that the cost will be $35 billion a year to the Government for the interest deduction on borrowings up to $100,000 a year, and $13 billion for the charitable contributions up to $2,500 a year. The computation is that the additional 1 percent in my flat tax above Hall and Rabushka would cover those deductions.

I might say the computation is necessarily inexact because the model used by the Joint Tax Committee was on a national flat tax on individuals alone while this proposal is a national flat tax on both individuals and businesses. The Hall-Rabushka proposal is very similar to the proposal made by Congressman ARMEY last year with the differences being in the allowance here for interest and charitable contributions. Also, a difference between this plan and the flat tax plan of Congressman ARMEY is that Congressman ARMEY did not provide for automatic withholding.

Mr. President, my interest in tax policy is longstanding, originating during my law school days. Some of my early practice of law included some tax work. And years ago, I published an article on the subject in the Villanova Law Review raising an issue of fairness as to the pension and profit sharing deductions for professional associations contrasted with corporations.

This is a subject where I debated my former colleague, Senator John Heinz, almost 20 years ago in our contest for the Republican nomination to the U.S. Senate in 1976 based upon legislation which he had introduced in the House of Representatives where he had suggested very substantial cuts in a good many deductions.

Mr. President, in offering this legislation, it is not cast in stone, but I think it is high time that the U.S. Senate consider in some detail the benefits of this national flat tax proposal or the modified Flat Tax Act which I am suggesting today.

The benefits are very, very substantial in terms of simplicity, growth, and fairness.

Mr. President, I ask unanimous consent that the full text of my statement be printed in the RECORD, as well as the text of the legislative proposal itself.

Mr. President, as April 15 rapidly approaches—and as I present this floor statement—millions of Americans are spending their evenings poring over page after page of IRS instructions, going through their records looking for information and struggling to find and fill out all the appropriate forms on their Federal tax returns. At the same time, a patchwork quilt of deductions, credits, and special exceptions lets some Americans pay less than their fair share of taxes. Year after year, we continue to ask the same question—isn't there a better way?

Today I am introducing legislation that provides that better way. I am introducing legislation which will fundamentally revise the present Tax Code, with its myriad rates, deductions, and instructions. Instead, the legislation I offer today would institute a simple, flat 20 percent tax rate for all individuals and businesses. It will allow all taxpayers to file their April 15 tax returns on a simple postcard. This legislation is a vital first step in simplifying our Nation's Tax Code and redirecting our collective energies toward productivity and growth. This proposal is not in stone, but is intended to move the debate forward as the first such legislation to be introduced this term in the Senate, by focusing attention on three key principles which are critical to an effective and equitable taxation system: simplicity, fairness, and economic growth.

Over the years, I have devoted considerable time and attention to analyzing our Nation's Tax Code and the policies which underlie it. I began this study of the complexities of the Tax Code 40 years ago as a law student at Yale University. I included some tax law as part of my practice in my early years as an attorney in Philadelphia. In the spring of 1962, I published a law review article in the Villanova Law Review, ''Pension and Profit Sharing Plans: Coverage and Operation for Closely Held Corporations and Professional Associations,'' 7 Villanova L. Rev. 335, which in part focused on the inequity in making tax-exempt retirement benefits available to some kinds of businesses but not others. It was apparent then, as it is now, that the very complexities of the Internal Revenue Code could be used to give unfair advantage to some; and made the already unpleasant obligation of paying taxes a real nightmare for many Americans.

I became interested many years ago in the practicality and simplicity of a flat tax as a way to reduce the burden on working Americans. My former Senate colleague, John Heinz, while he was in the House of Representatives, introduced H.R. 636, which would have eliminated numerous deductions, including the deductibility of home mortgage interest, charitable contributions, the investment tax credit, the oil depletion allowance and other exemptions, exclusions and deductions. Last fall, I had discussions with Congressmen RICHARD ARMEY, now the House majority leader, about his flat tax proposal, which he introduced as H.R. 4585. Since then, my staff and I have studied the flat tax at some length and have engaged in a host of discussions with economists and tax experts, including the staff of the Joint Committee on Taxation, to evaluate the economic impact and viability of a flat tax.

Based on those discussions, and on the revenue estimates supplied to us, I have concluded that a simple flat tax at a rate of 20 percent on all business and personal income can be enacted without reducing Federal revenues, and I offer such a bill today.

The flat tax will help reduce the size of Government and allow ordinary citizens to have more influence over how their money is spent because they will spend it and not the Government. With a simple 20-percent flat tax rate in effect, the average person can easily see the impact of any additional Federal spending proposal on his or her own paycheck. By creating strong incentives for savings and investment, the flat tax will have the beneficial result of making available larger pools of capital for expansion of the private sector for the economy—rather than more tax money for big Government. This will mean more jobs and, just as important, more better paying jobs.

As a matter of Federal tax policy, there has been considerable controversy over whether tax breaks should be used to stimulate particular kinds of economic activity, or whether tax policy should be neutral, leaving people to do what they consider best from a purely economic point of view. Our current Tax Code attempts to use tax policy to direct economic activity,

but experience under that Code has demonstrated that so-called tax breaks are inevitably used as the basis for tax shelters which have no real relation to solid economic purposes, or to the activities which the tax laws were meant to promote. Even when the Government responds to particular tax shelters with new and often complex revisions of the regulations, clever tax experts are able to stay one or two steps ahead of the IRS bureaucrats by changing the structure of their business transactions and then claiming some legal distinctions between the taxpayer's new approach and the revised IRS regulations and precedents.

Under the massive complexity of the current IRS Code, the battle between $500-an-hour tax lawyers and IRS bureaucrats to open and close loopholes is a battle the Government can never win. Under the flat tax bill I offer today, there are no loopholes, and tax avoidance through manipulations will become a thing of the past.

The basic model for this legislation comes from a plan created by Professors Robert Hall and Alvin Rabushka of the Hoover Institute at Stanford University. Their plan envisioned a flat tax with no deductions whatever. After considerable reflection, I have decided to include limited deductions for home mortgage interest on up to $100,000 in borrowing and charitable contributions up to $2,500 in the legislation I offer today. While this modification undercuts the pure principle of the flat tax, and does continue the use of tax policy to promote homebuying and charitable contributions by retaining those deductions, I believe that those two deductions are so deeply ingrained in the financial planning of American families that they should be retained as a matter of fairness and public policy—and also political practicality. With those two deductions maintained, passage of a modified flat tax will be difficult; but without them, probably impossible.

In my judgment, an indispensable prerequisite to enactment of a modified flat tax is revenue neutrality. Professor Hall advised that the revenue neutrality of the Hall-Rabushka proposal, which uses a 19-percent rate, is based on a well documented model founded on reliable governmental statistics. The bill offered today raises that rate from 19 to 20 percent to accommodate retaining limited home mortgage interest and charitable deductions. A preliminary estimate by the Committee on Joint Taxation places the annual cost of the home interest deduction at $35 billion, and the cost of the charitable deduction at $13 billion. While the revenue calculation is complicated because the Hall-Rabushka proposal encompasses significant revisions to business taxes as well as personal income taxes, there is a sound basis for concluding that the 1-percent increase in rate would pay for the two deductions. Revenue estimates for Tax Code revisions are difficult to obtain and are, at best, judgment calls based on projections from fact situations with a myriad of assumed variables. It is possible that some modification may be needed at a later date to guarantee revenue neutrality.

This legislation offered today is quite similar to the bill introduced in the House by Congressman ARMEY, which was itself modeled after the Hall-Rabushka proposal and uses much of the same legislative language as the Armey bill. The flat tax offers great potential for enormous economic growth, in keeping with principles articulated so well by former Congressman Jack Kemp. This proposal taxes business revenues fully at their source, so that there is no personal taxation on interest, dividends and capital gains. Restructured in this way, the tax code can become a powerful incentive for savings and investment—which translates into economic growth and expansion, more and better jobs, and a rising standard of living for all Americans.

In this Congress, we have so far been concerned with the work of reducing the size and cost of Government, and this is work which is vitally important. But the work of downsizing Government is only one side of the coin; what we must do at the same time, and with as much energy and care, is to grow the private sector. As we reform the welfare programs and Government bureaucracies of past administrations, we must replace those programs with a prosperity that extends to all segments of American society through private investment and job creation—which can have the additional benefit of producing even lower taxes for Americans as economic expansion adds to Federal revenues. Just as Americans need a tax code that is fair and simple, they also are entitled to tax laws designed to foster rather than retard economic growth. The bill I offer today embodies those principles.

Professors Hall and Rabushka have summarized the advantages of their proposals as follows:

> The tax on families is fair and progressive—the poor pay no tax at all, and the fraction of income that a family pays rises with income. The system is simple and easy to understand. And the tax operates on the consumption-tax principle [encourages savings; discourages consumption]—families are taxed on what they take out of the economy, not what they put into it
>
> Our system rests on a basic administrative principle: income should be taxed exactly once, as close as possible to its source. Today's tax system violates this principle in all kinds of ways. Some kinds of income—like fringe benefits—are never taxed at all. Other kinds, like dividends and capital gains, are taxed twice. And interest income, which is supposed to be taxed once, escapes taxation completely in all too many cases, where clever taxpayers arrange to receive interest beyond the reach of the IRS.
>
> Under our plan, all income is taxed at the same rate. Equality of tax rates is a basic concept of the flat tax. Its logic is much more profound than just the simplicity of calculation with a single tax rate. Whenever different forms of income are taxed at different rates or different taxpayers face different rates, the public figures out how to take advantage of the differential.
>
> Limiting the burden of taxes on the poor is a central principle of tax reform. Some ideas for tax simplification and reform flout this principle—neither a federal sales tax nor a value-added tax is progressive. Instead, all citizens, rich and poor alike, pay essentially the same fraction of their spending in taxes. We reject sales and value-added taxes for this reason. . . .
>
> Exempting the poor from taxes does not require graduated tax rates rising to high levels for upper-income taxpayers. A flat rate, applied to all income above a generous personal allowance, provides progressivity without creating important differences in tax rates. Graduated taxes automatically create differences in tax rates among taxpayers, with all the attendant opportunities for leakage. Because it is high-income taxpayers who have the biggest incentive and the best opportunity to use special tricks to exploit tax-rate differentials, applying the same tax rate to these taxpayers for all of their income in all years is the most important goal of flat-rate taxation. . . .
>
> We believe that the simplicity of our system is a central feature. Complex tax forms and tax laws do more harm than just deforesting America. Complicated taxes require expensive advisers for taxpayers and equally expensive reviews and audits by the Government. A complex tax invites the taxpayer to search for a special feature to exploit to the disadvantage of the rest of us. And complex taxes diminish confidence in government, inviting a breakdown in cooperation with the tax system and the spread of outright evasion.

My plan, which like Representative ARMEY's is based on the Hall-Rabushka analysis, differs from the legislation introduced by Representative ARMEY in four key respects: First, my bill contains a 20-percent flat tax rate. Second, this bill would retain modified deductions for mortgage interest and charitable contributions, which will require a 1 percent higher tax rate than otherwise. Third, my bill would maintain the automatic withholding of taxes from an individual's paycheck. Lastly, my bill is designed to be revenue neutral, and thus will not undermine our vital efforts to balance the Nation's budget. The estimate of revenue neutrality is based on the Hall-Rabushka analysis together with preliminary projections supplied by the Joint Committee on Taxation on the modifications proposed in this bill

The key advantages of this flat tax plan are threefold: First, it will dramatically simplify the payment of taxes. Second, it will remove much of the IRS regulatory morass now imposed on individual and corporate taxpayers, and allow those taxpayers to devote more of their energies to productive pursuits. Third, since it is a plan which rewards savings and investment, the flat tax will spur economic growth in all sectors of the economy as more money flows into investments and savings accounts, and as interest rates drop. By contrast, there will be a contraction of the IRS if this proposal is enacted.

Under this tax plan, individuals would be taxed at a flat rate of 20 percent on all income they earn from

wages, pensions, and salaries. Individuals would not be taxed on any capital gains, interest on savings, or dividends—since those items will have already been taxed as part of the flat tax on business revenue. The flat tax will also eliminate all but two of the deductions and exemptions currently contained within the Tax Code. Instead, taxpayers will be entitled to personal allowances for themselves and their children: $9,500 for a single taxpayer, $14,000 for a single head of household and $16,500 for a married couple filing jointly; and $4,500 per child or dependent. These personal allowances would be adjusted annually for inflation.

In order to ensure that this flat tax does not unfairly impact low income families, the personal allowances contained in my proposal are much higher than the standard deduction and personal exemptions allowed under the current Tax Code. For example, in 1994, the standard deduction is $3,800 for a single taxpayer, $5,600 for a head of household, and $6,350 for a married couple filing jointly, while the personal exemption for individuals and dependents is $2,450. Thus, under the current Tax Code, a family of four which does not itemize deductions would pay tax on all income over $16,500—personal exemptions of $9,800 and a standard deduction of $6,350. By contrast, under my flat tax bill, that same family would receive a personal exemption of $25,500, and would pay tax only on income over that amount.

My legislation retains the provisions for the deductibility of charitable contributions up to a limit of $2,500 and home mortgage interest on up to $100,000 of borrowing. Retention of these key deductions will, I believe, enhance the political salability of this legislation and allow the debate on the flat tax to move forward. If a decision is made to eliminate these deductions, the revenue saved could be used to reduce the overall flat tax rate from 20 to 19 percent.

With respect to businesses, the flat tax would also be a flat rate of 20 percent. My legislation would eliminate the intricate scheme of complicated depreciation schedules, deductions, credits, and other complexities that go into business taxation in favor of a much-simplified system that taxes all business revenue less only wages, direct expenses and purchases—a system with much less potential for fraud, ''creative accounting,'' and tax avoidance.

Businesses would be allowed to expense 100 percent of the cost of capital formation, including purchases of capital equipment, structures and land, and to do so in the year in which the investments are made. The business tax would apply to all money not reinvested in the company in the form of employment or capital formation—thus fully taxing revenue at the business level and making it inappropriate to retax the same money when passed on to investors as dividends or capital gains.

Professors Hall and Rabushka summarize the benefits from this kind of flat taxation of business revenue as follows:

> The business tax is a giant, comprehensive withholding tax on all types of income other than wages, salaries, and pensions. It is carefully designed to tax every bit of income outside of wages, but to tax it only once. The business tax does not have deductions for interest payments, dividends, or any other type of payment to the owners of the business. As a result, all income that people receive from business activity has already been taxed. Because the tax has already been paid, the tax system does not need to worry about what happens to interest, dividends, or capital gains after these types of income leave the firm. The resulting simplification and improvement in the tax system is enormous. Today, the IRS receives over a billion Form 1099s, which keep track of interest and dividends, and must make an overwhelming effort to match these forms to the 1040s filed by the recipients. The only reason for a Form 1099 is track income as it makes its way from the business where it originates to the ultimate recipient. Not a single Form 1099 would be needed under a flat tax with business income taxed at the source.

Let me now turn to a more specific discussion of the advantages of the flat tax legislation I offer today.

SIMPLICITY

The first major advantage to this flat tax is simplicity. According to reliable studies, Americans spend approximately 5.4 billion hours each year filling out tax forms. Much of this time is spent burrowing through IRS laws and regulations, which, according to the Tax Foundation, have grown from 744,000 words in 1955 to 5.6 million words in 1994. The Internal Revenue Code annotations alone have grown to 21 volumes of mind-numbing detail and minutiae. Even those IRS forms which are intended to be simple are not—the instructions for the 1040EZ form—the so-called easy form—alone comprise 17 small-print pages.

Whenever the Government gets involved in any aspect of our lives, it can covert the most simple goal or task into a tangled array of complexity, frustration and inefficiency. By way of example, most Americans have become familiar with the absurdities of the Government's military procurement programs. If these programs have taught us anything, it is how a simple purchase order for a hammer or a toilet seat can mushroom into thousands of words of regulations and restrictions when the government gets involved. The Internal Revenue Service is certainly no exception. Indeed, it has become a distressly common experience for taxpayers to receive computerized printouts claiming that additional taxes are due, which require repeated exchanges of correspondence or personal visits before it is determined, as it so often is, that the taxpayer was right in the first place.

The plan offered today would eliminate these kinds of frustrations for millions of taxpayers. This flat tax would enable us to scrap the great majority of the IRS rules, regulations and instructions and delete literally millions of words from the Internal Revenue Code. Instead of tens of millions of hours of nonproductive time spent in compliance with—or avoidance of—the Tax Code, taxpayers would spend only the small amount of time necessary to fill out a postcard-sized form. Both business and individual taxpayers would thus find valuable hours freed up to engage in productive business activity, or for more time with their families, instead of poring over tax tables, schedules and regulations.

The flat tax I have proposed can be calculated just by filling out a small postcard which would require a taxpayer only to answer a few easy questions. The postcard would ask for the following information:

FORM 1—INDIVIDUAL WAGE TAX, 1995

Your first name and initial (if joint return, also give spouse's name and initial):
Your social security number:
Home address (number and street including apartment number or rural route):
Spouse's social security number:
City, town, or post office, state, and ZIP code:
1. Wages, salary, pension and retirement benefits:
2. Personal allowance (enter only one):
$16,500 for married filing jointly
$9,500 for single
$14,000 for single head of household
3. Number of dependents, not including spouse, multiplied by $4,500:
4. Mortgage interest on debt up to $100,000 for owner-occupied home:
5. Cash or equivalent charitable contributions (up to $2,500):
6. Total allowances and deductions (lines 2, 3, 4, 5):
7. Taxable compensation (line 1 less line 6, if positive; otherwise zero):
8. Tax (20% of line 7):
9. Tax withheld by employer:
10. Tax or refund due (difference between lines 8 and 9):

Filing a tax return would become a manageable chore, not a seemingly endless nightmare, for most taxpayers.

CUTTING BACK GOVERNMENT

Along with the advantage of simplicity, enactment of this flat tax bill will help to remove the burden of costly and unnecessary government regulation, bureaucracy and redtape from our everyday lives. The heavy hand of government bureaucracy is particularly onerous in the case of the Internal Revenue Service, which has been able to extend its influence into so many aspects of our lives.

In 1994, the IRS employed over 110,000 people, spread out over 650 offices across the United States. Its budget was in excess of $13 billion, with some $7.1 billion spent annually just to administer the tax laws, and another $4 billion for enforcement. By simplifying the Tax Code and eliminating most of the IRS' vast array of rules and regulations, the flat tax would enable us to cut a significant portion of the IRS budget, including the bulk of the funding now needed for enforcement and administration.

In addition, a flat tax would allow taxpayers to redirect their time, energies, and money away from the yearly morass of tax compliance. According to the Tax Foundation, in 1994, businesses spent approximately $127 billion in compliance with the Federal tax laws, and individuals spent an additional $65 billion, for a total of $192 billion. Moneys spent by businesses and investors in creating tax shelters and finding loopholes could be instead directed to productive and job-creating economic activity. With the adoption of a flat tax, the opportunities for fraud and cheating would also be vastly reduced, allowing the Government to collect, according to some estimates, over $120 billion annually.

ECONOMIC GROWTH

The third major advantage to a flat tax is that it will be a tremendous spur to economic growth. Harvard economist Dale Jorgenson estimates adoption of a flat tax like the one offered today would increase future national wealth by over $2 trillion, in present value terms, over a 7-year period. The economic principles are fairly straightforward. Our current tax system is inefficient; it is biased toward too little savings and too much consumption. The flat tax creates substantial incentives for savings and investment by eliminating taxation on interest, dividends, and capital gains—and tax policies which promote capital formation and investment are the best vehicle for creation of new and high paying jobs, and for a greater prosperity for all Americans.

It is well recognized that to promote future economic growth, we need not only to eliminate the Federal Government's reliance on deficits and borrowed money, but to restore and expand the base of private savings and investment that has been the real engine driving American prosperity throughout our history. These concepts are interrelated, for the Federal budget deficit soaks up much of what we have saved, leaving less for businesses to borrow for investments.

It is the sum total of savings by all aspects of the U.S. economy that represented the pool of all capital available for investment—in training, education, research, machinery, physical plant, et cetera—and that constitutes the real seed of future prosperity. The statistics here are daunting. In the 1960's the net U.S. national savings rate was 8.2 percent, but it has fallen to a dismal 1.5 percent. In recent international comparisons, the United States has the lowest savings rate of any of the G–7 countries. We save at only one-tenth the rate of the Japanese, and only one-fifth the rate of the Germans, which is clearly reflected in the comparative growth rates of our economies over the last three decades.

An analysis of the components of U.S. savings patterns shows that although the Federal budget deficit is the largest cause of dissavings, both personal and business savings rates have declined significantly over the past three decades. Thus, to recreate the pool of capital stock that is critical to future U.S. growth and prosperity, we have to do more than just get rid of the deficit. We have to very materially raise our levels of private savings and investment. And we have to do so in a way that will not cause additional deficits.

The less money people save, the less money is available for business investment and growth. The current tax system discourages savings and investment, because it taxes the interest we earn from our savings accounts, the dividends we make from investing in the stock market, and the capital gains we make from successful investments in our homes and the financial markets. Indeed, under the current law these rewards for saving and investment are not only taxed, they are overtaxed—since gains due solely to inflation, which represent no real increase in value, are taxed as if they were really profit.

With the limited exceptions of retirement plans and tax-free municipal bonds, our current Tax Code does virtually nothing to encourage personal savings and investment, or to reward it over consumption. As William Schreyer wrote recently in the Harvard Business Review, ''the budget deficit is only one part of a larger national problem: the U.S. saving deficit.''

This bill will change this system, and address this problem. The proposed legislation reverses the current skewed incentives by promoting savings and investment by individuals and by businesses. Individuals would be able to invest and save their money tax-free and reap the benefits of the accumulated value of those investments without paying a capital gains tax upon the sale of these investments. Businesses would also invest more as the flat tax allowed them to expense fully all sums invested in new equipment and technology in the year the expense was incurred, rather than dragging out the tax benefits for these investments through complicated depreciation schedules. With greater investment and a larger pool of savings available, interest rates and the costs of investment would also drop, spurring even further economic growth.

Critics of the flat tax have argued that we cannot afford the revenue losses associated with the tremendous savings and investment incentives the bill affords to businesses and individuals. Those critics are wrong. Not only is this bill carefully crafted to be revenue neutral, but historically we have seen that when taxes are cut, revenues actually increase, as more taxpayers work harder for a larger share of their take-home pay, and investors are more willing to take risks in pursuit of rewards that will not get eaten up in taxes. As one example, under President Kennedy individual tax rates were lowered, investment incentives including the investment tax credit were created and then expanded, depreciation rates were accelerated, and yet between 1962 and 1967 gross annual Federal tax receipts went from $99.7 to $148 billion—an increase of nearly 50 percent. More recently under President Reagan, after his tax cuts in the early 1980's, Government tax revenues rose from just under $600 billion in 1981 to nearly $1 trillion in 1989. In fact, the Reagan tax cut program helped to bring about the longest peacetime expansion of the U.S. economy in history. There is every reason to believe that the flat tax proposed here can do the same—and by maintaining revenue neutrality in this flat tax proposal, as we have, we can avoid any increases in annual deficits and the national debt.

In addition to increasing Federal revenues by fostering economic growth, the flat tax can also add to Federal revenues without increasing taxes by closing tax loopholes. The Congressional Research Service estimates that for fiscal year 1995, individuals will shelter more than $393 billion in tax revenue in legal loopholes, and corporations will shelter an additional $60 billion. There may well be additional moneys hidden in quasi-legal or even illegal tax shelters. Under a flat tax system, all tax shelters will disappear and all income will be subject to taxation.

The larger pool of savings created by a flat tax will also help to reduce our dependence on foreign investors to finance both our Federal budget deficits and our private sector economic activity. Currently, of the publicly held Federal debt, that is, the portion was not held by various Federal trust funds like Social Security, nearly 20 percent is held by foreigners—the highest level in our history. By contrast, in 1965 less than 5 percent of publicly held national debt was foreign-owned. We are paying over $40 billion in annual interest to foreign governments and individuals, and this by itself accounts for roughly one-third of our whole international balance of payments deficit. These massive interest payments are one of the principal sources of American capital flowing abroad, a factor which then enables foreign investors to buy up American business. During the period 1980–91, the gross value of U.S. assets owned by foreign businesses and individuals rose 427 percent from $543 billion to $2.3 trillion.

The substantial level of foreign ownership of our national debt creates both political and economic problems. On the political level, there is at least the potential that some foreign nation may assume a position where its level of investment in U.S. debt gives it disproportionate leverage over American policy. Economically, increasing foreign investment in Treasury debt furthers our national shift from a creditor to a debtor nation, weakening the dollar and undercutting our international trade position. A recent Congressional Research Service report put it succinctly: ''To pay for today's capital

inflows, tomorrow's economy will have to ship more abroad in exchange for fewer foreign products. These payments will be a consequence in part of heavy Federal borrowing since 1982.'' With a flat tax in place, America's own supply of capital can be replenished, and we can return to our historic position as an international creditor nation rather than a debtor.

Professors Hall and Rabushka describe the pro-growth aspects of the flat tax in this way:

Today's absurd system taxes entrepreneurial success at 60 percent while it actually subsidizes leveraged investment. Our simple tax would put the same low rate on both activities. A huge redirection of national effort would follow. And the redirection could only be food for national income. There is nothing wrong with shopping centers, apartment buildings, airplanes, boxcars, medical equipment, and cattle, but tax advantages have made us invest far too much in them, and their contribution to income is correspondingly low. Real growth will come when effort and capital flow back into innovation and the development of new business, the areas where confiscatory taxation has discouraged investment. The contribution to income from new resources will be correspondingly high.

We project a 3 percent increase in output from increased total work in the U.S. economy and an additional increment to total output of 3 percent from added capital formation and dramatically improved entrepreneurial incentives. The sum of 6 percent is our best estimate of the improvement in real incomes after the economy has had seven years to assimilate the changed economic conditions brought about by the simple flat tax. Both the amount and the timing are conservative.

Even this limited claim for economic improvement represents enormous progress. By 2002, it would mean each American will have an income about $1,900 higher, in 1995 dollars, as a consequence of tax reform.

As Professors Hall and Rabushka state it, the growth case for a flat tax is compelling. It is even more compelling in the case of a tax revision that is simple and demonstrably fair.

FAIRNESS

By substantially increasing the personal allowances for taxpayers and their dependents, this flat tax proposal ensures that poorer taxpayers will pay no tax and that taxes will not be regressive for lower and middle income taxpayers. At the same time, by closing the hundreds of tax loopholes which are currently used by wealthier taxpayers to shelter their income and avoid taxes, this flat tax bill will also ensure that all Americans pay their fair share.

A variety of specific cases illustrate the fairness and simplicity of this flat tax:

Case No. 1.—Married couple with two children, rents home, yearly income $30,000

Under Current Law:	
Income	30,000
Four personal exemptions	9,800
Standard deduction	6,350
Taxable income	13,850
Tax due under current rates	2,081
Marginal rate (percent)	15.0
Effective tax rate (percent)	6.9
Under Flat Tax:	
Personal allowance	16,500
Two dependents	9,000
Taxable income	4,500
Tax due under flat tax	900
Effective tax rate (percent)	3.0

* * * Savings of $1,181 * * *

Case No. 2.—Single individual, rents home, yearly income $45,000

Under Current Law:	
Income	45,000
One personal exemption	2,450
Standard deduction	3,800
Taxable income	38,750
Tax due under current rates	7,900
Marginal rate (percent)	28.0
Effective rate (percent)	17.6
Under Flat Tax:	
Personal allowance	9,500
Taxable income	35,500
Tax due under flat tax	7,100
Effective rate (percent)	15.8

* * * Savings of $800 * * *

Case No. 3.—Married couple with no children, $140,000 mortgage at 9%, yearly income $70,000

Under Current Law:	
Income	$70,000
Two personal exemptions	4,900
Home mortgage deduction	12,600
State and local taxes	2,000
Charitable deduction	1,400
Taxable income	49,100
Tax due under current rates	8,815
Marginal rate (percent)	28
Effective tax rate (percent)	12.6
Under Flat Tax:	
Personal allowance	16,500
Home mortgage deduction	9,000
Charitable deduction	1,400
Taxable income	43,100
Tax due under flat tax	8,620
Effective tax rate (percent)	12.3

* * * Savings of $195 * * *

Case No. 4.—Married couple with two children, $240,000 mortgage at 9%, yearly income $120,000

Under Current Law:	
Income	$120,000
Four personal exemptions	9,800
Home mortgage deduction	21,600
State and local taxes	6,000
Retirement fund deductions	6,000
Charitable deductions	2,500
Taxable income	74,100
Tax due under current rates	15,815
Marginal rate (percent)	31
Effective tax rate (percent)	13.2
Under Flat Tax:	
Personal allowance	16,500
Two dependents	9,000
Home mortgage deduction	9,000
Charitable deduction	2,500
Taxable income	78,500
Tax due under flat tax	15,700
Effective tax rate (percent)	13.1

* * * Savings of $115 * * *

Case No. 5.—Married couple, no children, $1,000,000 mortgages at 9 percent on 2 homes, $500,000 income

Under Current Law:	
Income	$500,000
Personal exemptions at this level	0
Home mortgage deductions	90,000
State and local taxes	50,000
Retirement deductions	40,000
Charitable deductions	30,000
Taxable income	290,000
Tax due under current rates	91,144
Marginal rate (percent)	39.6
Effective tax rate (percent)	18.2
Under Flat Tax:	
Personal allowance	16,500
Mortgage deduction	9,000
Charitable deduction	2,500
Taxable income	472,000
Tax due under flat tax	94,400
Effective tax rate (percent)	18.9

* * * $3,256 higher taxes * * *

The flat tax legislation that I am offering will retain the element of progressivity that Americans view as essential to fairness in an income tax system. Because of the lower end income exclusions, and the capped deductions for home mortgage interest and charitable contributions, the effective tax rates under my bill will range from 0 percent for families with incomes under about $30,000 to roughly 20 percent for the highest income groups:

ANNUAL TAXES UNDER 20 PERCENT FLAT TAX FOR MARRIED COUPLE WITH TWO CHILDREN FILING JOINTLY

Income	Taxes owed	Effective rate (percent)
$25,500	None	0
$30,000	None	0
$40,000	$1,300	3.3
$50,000	2,900	5.8
$60,000	4,860	8.1
$70,000	6,820	9.7
$80,000	8,780	11
$90,000	10,740	11.9
$100,000	12,700	12.7
$125,000	17,600	14.1
$150,000	22,600	15.1
$200,000	32,600	16.3
$250,000	42,600	17.0
$500,000	92,600	18.5
$1,000,000	192,600	19.3

Note: Assumes home mortgage of twice annual income at a rate of 9 percent and charitable contributions up to 2 percent of annual income.

My proposed legislation demonstrably retains the fairness that must be an essential component of the American tax system.

CONCLUSION

The proposal that I make today is dramatic, but so are its advantages: a taxation system that is simple, fair and designed to maximize prosperity for all Americans. A summary of the key advantages are:

Simplicity: A 10-line postcard filing would replace the myriad forms and attachments currently required, thus saving Americans up to 5.4 billion hours they currently spend every year in tax compliance.

Cuts Government: The flat tax would eliminate the lion's share of IRS rules, regulations, and requirements, which have grown from 744,000 words in 1955 to 5.6 million words in 1994. It would also allow us to slash the mammoth IRS bureaucracy of 110,000 employees spread out over 650 offices nationwide.

Promotes economic growth: Economists estimate a growth of over $2 trillion in national wealth over 7 years, representing an increase of $1,900 in personal income for every man, woman, and child in America.

Increases efficiency: Investment decisions would be made on the basis of productivity rather than simply for tax avoidance, thus leading to even greater economic expansion.

Reduces interest rates: Economic forecasts indicate that interest rates would fall substantially, by as much as two points, as the flat tax removes many of the current disincentives to savings.

Lowers compliance costs: Americans would be able to save up to $192 billion they currently spend every year in tax compliance.

Decreases fraud: As tax loopholes are eliminated and the Tax Code is simplified, there will be far less opportunity for tax avoidance and fraud, which now amounts to over $120 billion in uncollected revenue annually.

Reduces IRS costs: Simplification of the Tax Code will allow us to save significantly on the $13 billion annual budget currently allocated to the Internal Revenue Service.

Professors Hall and Rabushka have projected that within 7 years of enactment, this type of a flat tax would produce a 6-percent increase in output from increased total work in the U.S. economy and increased capital formation. The economic growth would mean a $1,900 increase in the personal income of all Americans.

No one likes to pay taxes. But Americans will be much more willing to pay their taxes under a system that they believe is fair, a system that they can understand, and a system that they recognize promotes rather than prevents growth and prosperity. The legislation I introduce today will afford Americans such a tax system.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 489. A bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, CO, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

THE ROCKY MOUNTAIN NATIONAL PARK GRAND LAKE CEMETERY ACT OF 1995

Mr. CAMPBELL. Mr. President, on January 26, 1915, Congress passed legislation creating a 265,726-acre Rocky Mountain National Park. In 1892, long before the park was created, the town of Grand Lake established a small, less than 5-acre community cemetery that lies barely 1,000 feet inside the western edge of the park. Apparently, in the early 1950's, the National Park Service took notice of the cemetery and issued the town a formal special use permit, which has been renewed over the years. In 1991, Rocky Mountain National Park apparently informed the town of Grand Lake that it would issue one final 5-year special use permit.

This 103-year-old cemetery has become part of the community's heritage. Grand Lake residents have very strong emotional and personal attachments to it and need to be assured of its continued use and designation as a cemetery. The current permit is due to expire in 1996. All parties have agreed that a more permanent solution was needed to meet the needs of the community and the resource preservation and protection intended by the establishment of the park.

Existing measures available to the National Park Service, including special use permit authority, do not provide for a permanent solution that satisfies both the park and the community. In addition, special uses apparently can only be permitted for a maximum period of 5 years. Given that the town and park agree that the small cemetery is a permanent use, continued renewal of a 5-year permit is not a realistic solution.

In an effort to avoid future difficulties, park and town representatives have agreed that this legislation would offer the best solution to this problem. Authorizing the continued existence of the cemetery with specific size and boundaries within the park also protects park resources. The community has expressed a strong willingness and desire to assume responsibility for permanent management of the cemetery. This legislation would authorize the development of an agreement to turn maintenance responsibilities for the cemetery and road over to the town, resulting in a financial savings to the park. It also recognizes the cultural significance of the cemetery and its strong ties with the history of the Grand Lake area, which includes the story of Rocky Mountain National Park.

This legislation would negate the need for repeated negotiations between the community and the National Park Service, and the chance for misunderstandings. The National Park Service and Grand Lake representatives have worked long and hard on developing this proposal. Enactment of this legislation would go a long way in maintaining and enhancing the spirit of cooperation and goodwill between park and community that has been achieved during the development of this resolution.

By Mr. GRASSLEY:

S. 490. A bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes; to the Committee on Environment and Public Works.

THE CLEAN AIR ACT AMENDMENT ACT OF 1995

● Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF POTENTIAL TO EMIT.

Section 302(j) of the Clean Air Act (42 U.S.C. 7602(j)) is amended—

(1) by striking ''(j) Except as otherwise'' and inserting the following:

''(j) MAJOR STATIONARY SOURCE AND MAJOR EMITTING FACILITY.—

''(1) IN GENERAL.—Except as otherwise''; and

(2) by adding at the end the following:

''(2) AGRICULTURE-RELATED FACILITY.—In this subsection, with respect to an agriculture-related facility, such as a grain elevator, a grain, feed, or rice mill, or a grain processing facility;

(A) AIR POLLUTANT.—With respect to particulate emissions, the term 'air pollutant' shall include only particulate matter less than or equal to 10 microns in size.

''(B) POTENTIAL TO EMIT.—

''(i) IN GENERAL.—The term 'potential to emit' means the potential of a facility to emit during a 1-year period under maximum realistic operation of the facility.

'(ii) MAXIMUM REALISTIC OPERATION.—In determining the maximum realistic operation of an agriculture-related facility, the Administrator shall consider—

''(I) the cyclical or seasonal nature of the facility; and

''(II) in the case of a facility in operation on the date of the determination, the maximum hours of operation of the facility that actually occurred during any of the preceding 5 years.

''(iii) EQUIPMENT, TECHNIQUES, AND PROCEDURES.—The Administrator shall consider the effect of control equipment, techniques, and procedures in lowering the potential to emit of an agriculture-related facility.''.

SEC. 2. EXEMPTION FROM PERMITTING REQUIREMENTS.

Section 502 of the Clean Air Act (42 U.S.C. 7661a) is amended—

(1) in the first sentence of subsection (a), by striking ''any other source (including an area source) subject to standards or regulations under section 111 or 112,''; and

(2) by adding at the end the following:

''(j) EXEMPTION.—A source shall not be subject to any regulation or requirement under this section if the source is—

''(1) not a major source; and

''(2) subject to section 111 or 112.''.●

By Mr. BREAUX (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. COCHRAN, and Mr. CHAFEE):

S. 491. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the Medicare Program for individuals with diabetes; to the Committee on Finance.

THE MEDICARE DIABETES OUTPATIENTS SELF-MANAGEMENT TRAINING ACT OF 1995

● Mr. BREAUX. Mr. President, diabetes is the third leading cause of death from disease in the United States. It is the leading cause of blindness in people aged 25 to 74 and the most frequent cause of nontraumatic lower limb amputations. Diabetes also greatly increases an individual's chances of succumbing to stroke or heart disease.

What is such a shame, Mr. President, is that diabetes is a condition that can generally be treated so that major complications do not occur. In some cases it can even be prevented. While there is no known cure for diabetes, individuals with the disease can lead completely normal lives—even extraordinarily productive lives—if they know how to balance their diet, get enough exercise, and manage their disease.

People with diabetes learn to take care of themselves through self-maintenance and education programs. Generally, classes are taken when an individual is diagnosed with the disease and periodically thereafter in order to keep up with the changes in their condition and to get the most up-to-date treatments available.

Appropriate preventive education services for those with diabetes have the potential to save a great deal of money that would otherwise go for hospitalizations and other acute care costs. Education also saves these individuals from a great deal of unnecessary pain and suffering. Studies by the American Diabetes Association and others have shown that the Medicare program could save $2 to $3 for every $1 spent on diabetes education.

Medicare currently covers these services in inpatient or hospitalbased settings and in limited outpatient settings—specifically hospital outpatient departments or rural health clinics. Unfortunately, Medicare does not currently cover education services if they are given in any other outpatient setting, such as a doctor's office. Even the limited coverage of outpatient settings that is currently permitted under Medicare is subject to State-by-State variation according to interpretation by the program's fiscal intermediaries.

The Medicare Diabetes Outpatient Self-Management Training Act of 1995, which I am reintroducing today along with Senators CHAFEE, COCHRAN, INOUYE, and HOLLINGS, would provide for Medicare coverage for outpatient diabetes education on a consistent basis throughout the country. The bill would extend Medicare coverage of outpatient programs beyond hospital-based programs and rural health clinics. It would direct the Secretary of Health and Human Services to guarantee that coverage be available only for those services delivered through programs that meet stringent quality standards. Uniform payment would be achieved through implementation of new working guidelines.

This legislation is all about preventive medicine and is a sensible approach that should show savings for the Medicare Program in the long run. I hope that my colleagues will join me as cosponsors.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Diabetes Outpatient Self-Management Training Act of 1995''.

SEC. 2. MEDICARE COVERAGE OF DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (O) (as redesignated by section 147(f)(6)(B)(iii)(II) of the Social Security Act Amendments of 1994 (Pub. Law 103–432)); and

(2) by inserting after subparagraph (O) the following new subparagraph:

''(P) diabetes outpatient self-management training services (as defined in subsection (oo)); and.''.

(b) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Diabetes Outpatient Self-Management Training Services

''(oo)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) if—

''(A) the services are furnished in an outpatient setting by an individual or entity meeting the quality standards described in paragraph (2)(B); and

''(B) the physician who is managing the individual's diabetic condition certifies that the services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

''(2) In paragraph (1)—

''(A) a 'certified provider' is an individual or entity that, in addition to furnishing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

''(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity—

''(i) meets quality standards established by the Secretary;

''(ii) meets applicable standards developed by the National Diabetes Advisory Board, including any revision of such standards by the organizations that participated in the original development of the applicable standards; or

''(iii) is recognized by the American Diabetes Association as being qualified to furnish the services.''.

(c) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.●

By Mr. CHAFEE:

S. 492. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Intrepid*, to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

● Mr. CHAFEE. Mr. President, today I am introducing legislation to issue a certificate of documentation for the vessel *Intrepid* under title 46, United States Code.

The *Intrepid* has a long and proud history in sailing, including representing the United States in the America's Cup and winning in 1967 and 1971. It is currently U.S.-owned and is the Flagship of the America's Cup Hall of Fame.

The *Intrepid* is a 12 meter yacht, 65 feet in length that was built at the Minneford Boat Yard in City Island, NY in 1967. At the time of its construction, the vessel employed the breakthrough technology of noted boat designer Olin Stephen. In a departure from the past, its design separated the keel and rudder, and added a trim tab on the trailing edge of the keel. Variations of this technology are still being used today.

Because the *Intrepid* was at one point sold to non-U.S. owners and thus became ineligible to participate in U.S. coastwise trade, the owners seek a waiver of the Jones Act. They plan to use the vessel only in limited commercial ventures, and the vessel's use will not adversely affect the coastwise trade in U.S. waters. If granted this waiver, *Intrepid*'s owners intend to fully comply with U.S. documentation and safety requirements.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF CERTIFICATE OF DOCUMENTATION.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel INTREPID, United States official number 508185.●

By Mr. CHAFEE:

S. 493. A bill to authorize the Secretary of Transportation to issue a certificate of documentation for the vessel *Consortium;* to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

● Mr. CHAFEE. Mr. President, today I am introducing legislation to issue a certificate of documentation for the vessel *Consortium* under title 46, United States Code.

A recently formed Rhode Island corporation, Marine Consortium, Inc., has purchased the 102-foot Camper and Nicholson motoryacht, *Consortium*. It is a U.S. documented vessel homeported in Newport, RI, and is ideally suited for charter operation.

Because *Consortium* has a foreign built—British—hull, it cannot undertake charters in U.S. waters. Its owners seek a waiver of this Jones Act prohibition so that they may engage in

charter operations this summer and in the future.

Operation of the *Consortium* would build upon the economic vitality of Newport County. Its owners have also offered to make the vessel available at no cost to the Newport Preservation Society, the Museum of Yachting, and the Save the Bay Foundation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF CERTIFICATE OF DOCUMENTATION.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel CONSORTIUM, United States official number 1029192.●

By Mr. JEFFORDS (for himself, Mr. LEAHY, Ms. SNOWE, Mr. KENNEDY, Mr. COHEN, Mr. GREGG, Mr. DODD, Mr. SMITH, Mr. CHAFEE, Mr. KERRY, Mr. LIEBERMAN, and Mr. PELL):

S.J. Res. 28. A joint resolution to grant consent of Congress to the Northeast Interstate Dairy Compact; read the first time.

NORTHEAST INTERSTATE DAIRY COMPACT

Mr. JEFFORDS. Mr. President, I rise today to strongly support the introduction of a joint resolution to grant the consent of Congress to the northeast interstate dairy compact. Congress is simply being asked to ratify a completed piece of legislation—legislation that passed overwhelmingly in each of the six New England States that the compact represents.

Mr. President, a great deal of time and effort has gone into creating the dairy compact, over 6 years in fact. The dairy compact represents a cooperative effort of six States working collectively to restore the traditional Federal-State balance to milk regulation. The compact has been carefully designed so that it will not adversely affect any other region of the country. Provisions have been set forth in the compact to protect the interests of farmers and processors outside the compact region. In addition, there is no cost to the Federal Government.

Mr. President, the dairy compact simply complements the Federal Milk Marketing Program. It would not supplant or replace Federal law. The compact regulates only fluid milk, which is milk for beverage use. Milk for manufacturing purposes such as cheese and ice cream would be absolutely exempt from the compact. We are talking about a very small amount of milk in a local market.

Just since 1984, almost a third of the 3,170 farms then operating in Vermont have shut down. In 1994 alone, Vermont lost 148 farms and if the downward trend of milk prices continues we will lose more this year. Vermont dairy farmers are receiving milk prices well below the cost of production. Current milk prices for farmers are as low as they were 10 years ago, yet the cost of production and price to the consumer has increased. Farmers and consumers would both benefit from the compact's ability to establish a more stable price structure for the milk they produce and purchase, removing the fluctuations in fluid milk prices, assuring the region a viable supply of locally produced milk.

The dairy compact is a unique partnership of the region's governments and the dairy industry supported by a broad coalition of organizations and people committed to maintaining the vitality of the region's dairy industry.

The joint resolution being introduced today, has strong support from both sides of the isle. All 12 Senators from the New England delegation, representing producing and consuming States have come together to cosponsor this joint resolution.

Mr. President, I can say with certainty, support for the dairy compact in New England is impressive. During the New England Governors' Conference winter meeting, all six New England Governors urged Congress to approve the dairy compact. A resolution of the New England Governors' Conference in support of congressional enactment of the northeast dairy compact was approved and signed by the chair of the New England Governors, Governor Steve Merrill of New Hampshire.

The Governors of the compact region speak for not only the farmers and consumers but for the States themselves and the rights of the States. Mr. President, the message to Congress from Governors nationwide has been clear. ''Increase the flexibility of states and support legislation that promotes state and regional policy initiatives.''

Well Mr. President, this thoroughly thought out compact provides the opportunity for a partnership between Congress and the States to strengthen this fundamental federalism movement. It maintains that the States' constitutional authority, resources, and competence of the people to govern, is recognized and protected.

Mr. President, I am certain that my colleagues will agree with me that dairy farmers deserve a fair price for their product. What does it say about our values when some of the hardest working people. our farmers, are underpaid and unappreciated? The people of New England have a right and deserve the chance to help themselves. The joint resolution that I am introducing today, along with Senator LEAHY and my colleagues from New England gives the region the tools to face the challenges of improving and stabilizing farm prices.

I urge my colleagues to respect this interstate cooperation and ratify the dairy compact.

Mr. President, I ask unanimous consent that this one page fact sheet that explains and addresses the compact appear in the RECORD.

Mr. President, I unanimous consent ask to have printed in the RECORD the resolution of the New England Governors' Conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW ENGLAND GOVERNORS' CONFERENCE, INC.,
Boston, MA, February 13, 1995.

Hon. JAMES M. JEFFORDS,
Washington, DC.

DEAR SENATOR JEFFORDS: I understand the Northeast Interstate Dairy Compact awaits action by the full Senate. On behalf of the New England Governors' Conference, Inc., I write to ask your help in moving the Compact bill forward as quickly as possible.

The attached Resolution of the New England Governors' Conference, Inc. was adopted unanimously at our recent meeting in Washington, D.C.

The Dairy Compact has been enacted into law by the six New England states. We hope you will support this unique experiment in cooperative federalism. This Compact is a bipartisan, state-sponsored, regional response to the chronic problem of low dairy farm prices. If successfully implemented, the Compact will stabilize our region's dairy industry and reinvigorate this crucial segment of our rural economy, without cost to the federal government or adverse impact on the national industry.

Thank you for your consideration of this matter.

Very truly yours,

WILLIAM A. GILDEA,
Executive Director.

RESOLUTION 127—NORTHEAST DAIRY COMPACT

A Resolution of the New England Governors' Conference, Inc. in support of congressional enactment of the Northeast Dairy Compact.

Whereas, the six New England states have enacted the Northeast Interstate Dairy Compact to address the alarming loss of dairy farms in the region; and

Whereas, the Compact is a unique partnership of the region's governments and the dairy industry supported by a broad and active coalition of organizations and people committed to maintaining the vitality of the region's dairy industry, including consumers, processors, bankers, equipment dealers, veterinarians, the tourist and travel industry, environmentalists, land conservationists and recreational users of open land; and

Whereas, the Compact would not harm but instead complement the existing federal structure for milk pricing, nor adversely affect the competitive position of any dairy farmer, processor or other market participant in the nation's dairy industry; and

Whereas, the limited and relatively isolated market position of the New England dairy industry makes it an appropriate locality in which to access the effectiveness of regional regulation of milk pricing, and

Whereas, the Constitution of the United States expressly authorizes states to enter into interstate compacts with the approval of Congress and government at all levels increasingly recognizes the need to promote cooperative, federalist solutions to local and regional problems; and

Whereas, the Northeast Interstate Dairy Compact has been submitted to Congress for approval as required by the Constitution;

Now therefore be it resolved That the New England Governors' Conference, Inc. requests that Congress approve the Northeast Interstate Dairy Compact; and

Be it further resolved that, a copy of this resolution be sent to the leadership of the Senate and the House of Representatives, the Chairs of the appropriate legislative committees, and the Secretary of the United States Department of Agriculture.

Adoption certified by the New England Governors' Conference, Inc. on January 31, 1995.

STEPHEN MERRILL,
Governor of New Hampshire Chairman.

THE NORTHEAST INTERSTATE DAIRY COMPACT

Was adopted with near-unanimous support by the six New England state legislatures. It is backed by the New England Governors Conference, the region's consumer groups, dairy farmers and processors.

Establishes an interstate commission authorized to regulate New England dairy farm prices. The commission would help stabilize fluid milk prices for both consumers and farmers by establishing a pricing structure which would remove the price fluctuations that currently exist.

Assures control by the region's consumer states. Four of the six compact states, Massachusetts, Connecticut, Rhode Island and New Hampshire, are milk importing states. They joined the Compact because it promotes as well as protects the consumer interest.

Complements the federal milk marketing program. It would not supplant or replace federal law.

Does not discriminate against out-of-region farmers or processors. Milk will flow into and from the Compact region in exactly the same manner as occurs under federal law. Any farmer or processor, regardless of their location, may market milk in the compact region without competitive disadvantage.

Benefits out-of-region farmers equally with New England farmers. Thirty percent of New England's milk supply is produced by New York farmers. These farmers will receive the same Compact benefits as New England farmers.

Is strictly local in effect. The Compact regulates only fluid milk. Processors purchasing milk for manufacturing purposes such as cheese and ice cream would be absolutely exempt from the Compact.

Protects against the production of surplus milk. Provisions in the Compact and the Congressional enabling legislation ensure this result.

Was given a zero score by the Congressional Budget Office. It will operate without cost to the federal government.

Mr. LEAHY. Mr. President, I rise along with my good friend from Vermont, Senator JEFFORDS, and in fact the entire New England delegation. We rise to introduce a resolution to approve the Northeast Interstate Dairy Compact.

The compact is an agreement among the six New England States that has been approved by each of our States' legislatures. It needs approval, under the Constitution, of the Congress to take effect. Its intent is simple. It would rationalize the pricing of fluid milk in the New England States so our farmers can receive a fair price and so the consumers themselves can play a role in stabilizing these milk prices.

In fact, the roots of this compact are in the country's strong tradition of federalism. On January 27, 1995, this body overwhelmingly approved the unfunded mandates bill, which is currently in the House-Senate conference committee.

Now, throughout that debate, I heard Senator after Senator talk about giving more power back to our States. They said the Federal Government should not dictate to the States what they are supposed to do without providing the money. They said the States should have constraints lifted so they could take care of their own concerns.

The New England States are concerned about the dairy farmers in our area. They want to take more control of pricing fluid milk as a minimum price that is now set by a very complicated system of Federal milk marketing orders.

So, here is a chance for the Senate to show its support of the federalist principles it espoused in the unfunded mandates bill. This measure was approved last year by the Senate Judiciary Committee with the strong support of Senator KENNEDY, and Senator COHEN, but it ended in a filibuster at the end of last year.

All we are saying from New England, is that we have gotten the Governors together, Republicans and Democrats; the Senators together, Republicans and Democrats; legislatures made up of Republicans and Democrats all came together to agree on a procedure that affects only the New England States in the pricing and sale of fluid milk. We have done all this. We now come, as the Constitution requires, to the Congress to ask for the imprimatur of the Congress, the blessing of the Congress. We can go forward and handle our own affairs without the Federal Government telling us what to do.

The New England States want to improve the way milk is priced and the compact is the way to do it. Farmers are struggling as they receive prices at or below their cost of production. While farmers struggle with low prices, the consumers have not seen any benefit. While farm prices have declined 5 to 10 percent for the last decade, retail milk prices have increased nearly 30 percent. A recent USDA study shows that stable prices will help consumers.

The compact would create a commission made up of both farmers and consumers that would have the authority to adjust and stabilize fluid milk prices. The commission could raise prices so farmers receive a fair return for their work, but there are also strong consumer safeguards. Consumers are represented from each State and it would take four of the six New England States to approve any price increase. Any State could drop out of the compact after 1 year.

The compact is designed to work in conjunction with the New England Federal milk marketing order. The compact would work just as the Federal order does with all farmers supplying the market benefitting from any price increase. Milk would move into and out of the region just as it does now.

This compact is a model of cooperation—it is a partnership between the States and the Federal Government, between dairy cooperatives and milk processors and most importantly, between farmers and consumers.

In addition to the New England Governors Association, the National Association of State Departments of Agriculture, the National Grange, the National Farmers Organization, and dairy cooperatives from many regions in the country support this compact.

The New England States are asking for nothing from this body nor the Federal treasury—just the opportunity to act in concert for their common good. In the spirit of federalism I urge my colleagues to give this opportunity to the New England States and approve this compact.

● Ms. SNOWE. Mr. President, I am pleased to join my colleagues from New England in introducing this resolution to grant the consent of Congress to the Northeast Interstate Dairy Compact. The survival of many family dairy farms in Maine and the other New England States depends on prompt passage of this legislation.

As in many other rural regions of the country, agriculture is a cornerstone of Maine's economy. Within the agricultural sector, dairy farming usually ranks second or third in cash receipts every year. The dairy industry provides not only jobs for the farmers themselves, but for the people who sell farm machinery, service the machinery, sell fuel and feed, and provide other goods and services. Dairy farms also account for large shares of the municipal tax base throughout rural Maine, making them critical contributors to local schools and essential town services.

Unfortunately, all is not well in the Maine dairy industry. In 1978, Maine had 1,133 dairy farms. By 1988, that number had declined to 800. In 1991, there were 680. And by 1994, the number dwindled further to 606.

This precipitous decline in the number of dairy farms can be attributed to several factors, most notably to the fact that dairy prices are very low while costs remain high, and these same circumstances are driving farmers in other New England States out of business as well. In Maine, the average cost of producing milk is $17 per 100 pounds. The June 1994 Federal order price in the Northeast was $16.23 per hundred. For August of 1994, the market order price declined to $14.49. In 1993, the average milk price in the Northeast declined by 54 cents per hundred.

Milk prices simply have not increased in concert with production. Whereas the retail price for a gallon of milk in 1991 was $2.20 a gallon, that same gallon still retailed for $2.20 a

gallon in 1994—without adjusting for inflation.

Another contributing factor in the loss of dairy farms is price volatility. Prices can decline by $2 per hundred in less than 3 months. These price swings add serious uncertainty to a farmer's daily existence, making it difficult for the farmer to plan strategically or to raise capital when needed.

The State of Maine attempted to address this serious problem by establishing a dairy vendor's fee that stabilized the price that farmers in Maine received for their milk. The vendor's fee enjoyed the strong support of both farmers and consumers in Maine, but a Federal court struck it down in 1994 as a violation of interstate commerce. According to the Maine Department of Agriculture, the inevitable result of the court's action will be an accelerating decline in family dairy farms.

Faced with similar problems throughout the region, the six New England States banded together to develop a joint regional solution. They negotiated an interstate dairy compact that will ensure a more reasonable and stable price for dairy farmers in the region. But it is a pricing program that also protects the interests of consumers in the region. As evidence of the balance and fairness achieved by the compact, both the net-producing and net-consuming States in the region all approved it with strong support.

The compact creates a regional commission which has the authority to set minimum prices paid to farmers for fluid, or class I milk. Delegations from each State comprise the voting membership of the commission, and these delegations in turn will include both farmer and consumer representatives. The minimum price established by the commission is the Federal market order price plus a small over-order differential that would be paid by milk processing plants. This over-order price is capped in the compact, and a two-thirds voting majority of the commission is required before any over-order price can be instituted.

Mr. President, until the court struck down the Maine dairy vendor's fee, milk in my State was priced by a mechanism that is similar to that which could be utilized by the compact commission. Maine's experience was uniformly positive. Farm prices were stable, and they were higher, but only modestly higher. No farmers got rich on the minimal adjustment provided by the over-order price under the vendor's fee program. It helped them keep their heads above water. Dairy processors and vendors maintained their business, and consumers did not see any significant increases in the price of milk. It was a win-win proposition for everyone in Maine, and I am confident that the compact will achieve the same success throughout New England without violating the Constitution's interstate commerce clause.

Although the compact affects only the participating States, the cosponsors decided to remove any doubt by including language in the resolution that provides explicit assurances to farmers and processors in States outside the region. These assurances further specify that the over-order price can only be established for class I fluid milk, that no new States can join the compact without the formal approval of both Houses of Congress, that out-of-region farmers who sell milk in the compact region will get the same price as farmers in the region, that the commission's pricing authority is strictly limited, and that the commission must develop a plan to ensure that over-order prices do not lead to increases in production.

In the debates held so far in this Congress, and surely in the debates to come, we have heard and will hear many Members argue that the States are often best-positioned to solve their own problems, and that they should be allowed to do so without interference from Washington. I couldn't agree more.

With the Northeast Interstate Dairy Compact bill being introduced today, Senators will have an opportunity to match words on this concept with deeds. The compact represents a regional response to a regional problem. It affects only those States that belong to the compact. Why should the Federal Government deny the States an opportunity to solve their own problems? The answer is that we shouldn't. We should praise the States for their self-reliance and ingenuity. I hope that Senators will recognize the value in this kind of State-based problem-solving, and support the compact when it comes to the floor for a vote.●

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 22, a bill to require Federal agencies to prepare private property taking impact analyses.

S. 96

At the request of Mr. HATCH, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 96, a bill to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

S. 198

At the request of Mr. CHAFEE, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 198, a bill to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes.

S. 241

At the request of Mr. D'AMATO, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 241, a bill to increase the penalties for sexual exploitation of children, and for other purposes.

S. 250

At the request of Mr. MCCONNELL, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 250, a bill to amend chapter 41 of title 28, United States Code, to provide for an analysis of certain bills and resolutions pending before the Congress by the Director of the Administrative Office of the United States Courts, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 302

At the request of Mrs. HUTCHISON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 302, a bill to make a technical correction to section 11501(h)(2) of title 49, United States Code.

S. 332

At the request of Mr. CONRAD, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 332, a bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes.

S. 388

At the request of Ms. SNOWE, the names of the Senator from Tennessee [Mr. THOMPSON] and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 388, a bill to amend title 23, United States Code, to eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets, and for other purposes.

S. 390

At the request of Mr. KYL, his name was added as a cosponsor of S. 390, a bill to improve the ability of the United States to respond to the international terrorist threat.

S. 391

At the request of Mr. CRAIG, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Utah [Mr. BENNETT], the Senator from Alaska [Mr. STEVENS], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 391, a bill to authorize and direct the