Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1833) to amend the Indian Self-Determination and Education Assistance Act to provide for further self-determination and education assistance to Indian tribes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1833

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 "Tribal Self-Governance Amendments of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the Indian tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance in Indian tribe affairs;

(4) the Tribal Self-Governance Demonstration Project, established under title III of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) was designed to improve and perpetuate the government-to-government relationship between the United States and to strengthen tribal control over Federal funding and program management;

(5) although the Federal Government has made considerable strides in improving Indian health care, it has failed to fully meet its trust responsibilities and to satisfy its obligations to the Indian tribes under treaties and other laws; and

(6) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that transferring full control and funding to tribal governments, upon tribal request, over decision making for Federal programs, services, functions, and activities (or portions thereof).

SEC. 3. DECLARATION OF POLICY.

It is the policy of Congress to—

(1) permanently establish and implement tribal self-government within the Department of Health and Human Services;

(2) call for full cooperation from the Department of Health and Human Services and its constituent agencies in the implementation of tribal self-government;

(A) to enable the United States to maintain and preserve its unique and continuing relationship with, and responsibility to, Indian tribes;

(3) to permit each Indian tribe to choose the extent to which it wishes to participate in self-governance in accordance with the provisions of the Indian Self-Determination and Education Assistance Act relating to the provision of Federal programs, services, functions, and activities (or portions thereof) that are not required by the Indian tribes;

(A) to improve the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance in Indian tribe affairs;

(4) to establish a program to provide Indian tribes with meaningful authority, control, funding, and discretion to plan and manage programs, services, functions, and activities (or portions thereof) that meet the needs of the individual tribal communities;

(B) to provide Indian tribes with the earliest opportunity to administer programs, services, functions, and activities (or portions thereof) from throughout the Department of Health and Human Services;

C. In no event shall the withdrawal of an Indian tribe that has withdrawn from participation in an inter-tribal consortium or tribal organization, in whole or in part, shall be entitled to participate in self-governance under this title or be entitled to Federal funds transferred to a tribe by a compact or funding agreement that requires participation in an inter-tribal consortium or tribal organization affect the eligibility of any Indian tribe that is participating in the Tribal Self-Governance Demonstration Project under title III on the date of enactment of this title to participate in self-governance under this title under existing authority as reflected in tribal resolutions.

(2)(A) An Indian tribe that has withdrawn from participation in an inter-tribal consortium or tribal organization, in whole or in part, shall be entitled to participate in self-governance provided the Indian tribe meets the eligibility criteria specified in subsection (c).

(3) in addition to those Indian tribes participating in self-government under subsection (a), each year an additional 50 Indian tribes may participate in the Tribal Self-Governance Demonstration Project established under title III of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)

(3) the term `construction project' means a significant, clear, and convincing evidence that the withdrawal of an Indian tribe that is participating in the Tribal Self-Governance Demonstration Project established under title III of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall be entitled to participate in self-governance.

(4) the term `construction project' means an organized noncontinuous undertaking to complete a specific set of predetermined objectives for the planning, environmental determination, design, construction, repair, improvement, removal, or disposal of buildings or facilities, as described in a construction project agreement. The term `construction project' does not mean construction program and shall be defined by the Indian tribe that is participating in the Tribal Self-Governance Demonstration Project under title III of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(2) the term `construction project agreement' means a negotiated agreement between the Secretary and an Indian tribe which at a minimum—

(A) establishes project phase start and completion dates;

(B) defines a specific scope of work and standards by which it will be accomplished;

(D) addresses environmental considerations;

(E) identifies the owner and operations/maintenance entity of the proposed work;

(F) provides a budget;

(G) provides a payment process; and

(H) establishes the duration of the agreement based on the time necessary to complete the specified scope of work, which may be 1 or more years;

(3) the term `inherent Federal functions' means those Federal functions which cannot legally be delegated to Indian tribes;

(4) the term `inter-tribal consortium' means an organized, noncontinuous undertaking to complete a specific set of predetermined objectives for the planning, environmental determination, design, construction, repair, improvement, removal, or disposal of buildings or facilities, as described in an inter-tribal consortium agreement. The term `inter-tribal consortium' does not mean construction program and shall be defined by the inter-tribal consortium agreement.

(5) the term `Secretary' means the Secretary of Health and Human Services; and

(6) the term `tribal shares' means an Indian tribe's portion of all funds and resources that support secretarial programs, services, functions, and activities (or portions thereof) that are required by the Secretary for performance of inherent Federal functions.

(7) the term `tribal shares' means an Indian tribe's portion of all funds and resources that support secretarial programs, services, functions, and activities (or portions thereof) that are required by the Secretary for performance of inherent Federal functions.

(8) the term `Secretary' means the Secretary of Health and Human Services; and

(9) the term `self-government' means the program established pursuant to section 501.

(b) INDIAN TRIBE.—Where an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, and activities (or portions thereof) that are required by the Secretary for performance of inherent Federal functions, the Indian tribe shall be entitled to participate in the planning, environmental determination, and construction of the program described in the agreement.

(c) INDIAN TRIBES.—Where an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, and activities (or portions thereof) that are required by the Secretary for performance of inherent Federal functions, the Indian tribe shall be entitled to participate in the planning, environmental determination, and construction of the program described in the agreement.

(d) INDIAN TRIBES.—Where an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, and activities (or portions thereof) that are required by the Secretary for performance of inherent Federal functions, the Indian tribe shall be entitled to participate in the planning, environmental determination, and construction of the program described in the agreement.

(e) INDIAN TRIBES.—Where an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, and activities (or portions thereof) that are required by the Secretary for performance of inherent Federal functions, the Indian tribe shall be entitled to participate in the planning, environmental determination, and construction of the program described in the agreement.

(f) INDIAN TRIBES.—Where an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, and activities (or portions thereof) that are required by the Secretary for performance of inherent Federal functions, the Indian tribe shall be entitled to participate in the planning, environmental determination, and construction of the program described in the agreement.

(5) the term `Secretary' means the Secretary of Health and Human Services; and

(6) the term `tribal shares' means an Indian tribe's portion of all funds and resources that support secretarial programs, services, functions, and activities (or portions thereof) that are required by the Secretary for performance of inherent Federal functions.
Evidence that during such years the Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determined program or the self-governance funding agreements shall be conclusive evidence of the required stability and capability for the purposes of this subsection.

(2) To negotiate the terms of participation by the Indian tribe or tribal organization in self-governance, as set forth in a compact and an operating agreement.

(f) Receipt of Grant Not Required. — Receipt of a grant under subsection (e) shall not be a requirement of participation in self-governance.

SEC. 504. COMPACTS.

(a) Compact Required. — The Secretary shall negotiate and enter into a written compact with each Indian tribe participating in self-governance in a manner consistent with the Federal Government's trust responsibility, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

(b) Contents. — Each compact required under subsection (a) shall set forth the general terms of the government-to-government relationship between the Indian tribe and the Secretary, including such terms as the parties intend shall control year after year.

(c) Existing Compacts. — An Indian tribe participating in the Tribal Self-Governance Demonstration Project under title I of this title shall have the option at any time thereafter to —

(I) retain its Tribal Self-Governance Demonstration Project compact (in whole or in part) and the provisions of such compact are not directly contrary to any express provision of this title,

(II) negotiate in lieu thereof (in whole or in part) a new compact in conformity with this title.

(d) Term and Effective Date. — The effective date of a compact shall be the date of the approval and execution by the Indian tribe or another date agreed upon by the parties, and shall remain in effect for so long as permitted by Federal law or until terminated by the Secretary in writing by agreement, retrocession, or reumission.

SEC. 505. FUNDING AGREEMENTS.

(a) Funding Agreement Required. — The Secretary shall negotiate and enter into a written funding agreement with each Indian tribe participating in self-governance in a manner consistent with the Federal Government's trust responsibility, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

(b) Contents. — Each funding agreement required under subsection (a) shall, as determined by the Indian tribe, authorize the Indian tribe to plan, conduct, consolidate, and administer, under such self-governance funding agreements, including tribal shares of Indian Health Service competitive grants (excluding congressionally earmarked competitive grants), for all programs, services, functions, and activities (or portions thereof), that are carried out for the benefit of Indians because of their relationship to or status as Indians, without regard to the agency or office of the Indian Health Service within which the program, service, function, or activity (or portion thereof) is performed. Such a funding agreement may include all programs, services, functions, activities (or portions thereof) that are performed or administered, the general terms of the funding agreement, records of the Indian tribe or tribal organization in self-governance, and functions, or activities (or portions thereof) that is withdrawing or retroceding the operation. Such funding agreements negotiated under this title shall have the option at any time thereafter to —

(I) retain its Tribal Self-Governance Demonstration Project compact (in whole or in part) a new compact in conformity with this title,

(II) adopt in lieu thereof (in whole or in part) a new funding agreement in conformity with this title.

(III) Stable Base Funding. — At the option of an Indian tribe, a funding agreement may provide for a stable base budget specifying the recurring funds (including, for purposes of this provision, funds available under section 106(a) of the Act) to be transferred to such Indian tribe, for such period as may be specified in the funding agreement, for purposes of providing or funding programs, services, functions, and activities (or portions thereof) included in the compact or funding agreement. Unless the Indian tribe rescinds the request for retrocession, such retrocession will become effective within the time frame specified by the parties in the compact or funding agreement. In the absence of such a specification, such retrocession shall become effective on —

(I) the earlier of —

(II) A year one from the date of submission of such request; or

(II) such date as may be mutually agreed by the Secretary and the Indian tribe.

(II) Process. — An Indian tribe may fully or partially withdraw from a participating

SEC. 506. GENERAL PROVISIONS.

(a) Appropriability. — The provisions of this section shall apply to compacts and funding agreements negotiated under this title and shall include provisions that reflect such requirements in a compact or funding agreement.

(b) Conflicts of interest. — Indian tribes participating in self-governance under this title shall ensure that internal measures are in place to address conflicts of interest in the administration of self-governance programs, services, functions, or activities (or portions thereof).

(c) Audits. —

(I) Single Audit Act. — The provisions of chapter 75 of title 31, United States Code, requiring a single audit report shall apply to funding agreements under this title.

(II) Cost principles. — An Indian tribe shall apply cost principles under the applicable Office of Management and Budget Circular, except as modified by section 106 or other provisions of law, or by any exemptions to applicable Office of Management and Budget Circulars subsequently granted by Office of Management and Budget. No other cost accounting, pricing, or communication requirement shall be required by the Secretary. Any claim by the Federal Government against the Indian tribe relating to funds received under a funding agreement based on such cost principles shall be subject to the provisions of section 106(f).

(d) Records. —

(I) General. — Unless an Indian tribe specifies otherwise in the compact or funding agreement, records of the Indian tribe shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

(II) Recordkeeping System. — The Indian tribe shall maintain a recordkeeping system, and file all records, for 30 days advance notice, provided to the Secretary with reasonable access to such records to enable the Department of Health and Human Services to meet its minimum legal recordkeeping system requirements under sections 3103 through 3106 of title 44, United States Code.

(e) Redesign and Consolidation. — An Indian tribe may redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a funding agreement under section 505 and reallocate funds for such programs, services, functions, and activities (or portions thereof) in any manner which the Indian tribe deems to be in the best interest of the health and welfare of the Indians being served, only if the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under Federal law.

(f) Retrocession. — An Indian tribe may retrocede, fully or partially, to the Secretary programs, services, functions, or activities (or portions thereof) included in a funding agreement under section 505 and reallocate funds for such programs, services, functions, and activities (or portions thereof) in any manner which the Indian tribe deems to be in the best interest of the health and welfare of the Indians being served, only if the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under Federal law.

(g) Stable Funding. — An Indian tribe eligible for participation in the Indian Health Service pursuant to the provisions of section 106(a) of the Act to be transferred to such Indian tribe, for such period as may be specified in the funding agreement, subject to any changes in congressional appropriations by sub-subsection excluding earmarks.
inter-tribal consortium or tribal organization its share of any program, function, service, or activity (or portions thereof) included in a compact or funding agreement. Such withdrawal shall be effective upon the date provided that such a time frame specified in the resolution which authorizes transfer to the participating tribal organization or inter-tribal consortium. In the absence of a specific time frame set forth in the resolution, such withdrawal shall be effective on—

(A) the earlier of—

(i) one year from the date of submission of such request; or

(ii) the date on which the funding agreement expires; or

(B) such date as may be mutually agreed upon by the Secretary, the withdrawing Indian tribe, and the participating tribal organization or inter-tribal consortium that has signed the compact or funding agreement on behalf of the withdrawing Indian tribe, inter-tribal consortium, or tribal organization.

(2) DISTRIBUTION OF FUNDS.—When an Indian tribe or tribal organization eligible to enter into a self-determination contract under title I or a compact or funding agreement for the operation of a program, service, function, or activity (or portions thereof) under this subparagraph, and associated funding if there is a specific finding relative to that program, service, function, or activity (or portion thereof) of—

(i) imminent endangerment of the public health or safety due to—

(A) an omission funded by a program, service, function, or activity (or portion thereof) under this subparagraph, and an Indian tribe, and the imminent endangerment arises out of a failure to carry out the compact or funding agreement; or

(B) the Secretary shall provide the tribe with a finding relative to that program, service, function, or activity (or portion thereof) under this subparagraph, and the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence the validity of the grounds for the reexecution.

(2) REJECTION OF FINAL OFFERS.—If the Secretary rejects an offer made under subsection (c) shall be made either—

(A) by an official of the Department who holds a position at a higher organizational level to which the Indian tribe is entitled under section 102, or

(B) the Secretary shall have the burden of demonstrating by clear and convincing evidence the validity of the grounds for the rejection of the offer (or a provision thereof) made under subsection (b).

(3) TRUST RESPONSIBILITY.—The Secretary shall make such savings available to the Indian tribes, inter-tribal consortia, or tribal organizations for the provision of additional services to program beneficiaries in a manner equitable to directly served, contracted, and compacted programs provided for in this title and shall not diminish the responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions.

(4) DECISIONMAKER.—A decision that constitutes final agency action and relates to an appeal within the Department of Health and Human Services conducted under subsection (c) shall be made either—

(A) by an official of the Department who holds a position at a higher organizational level in the departmental agency in which the decision that is the subject of the appeal was made; or

(B) by an administrative judge.

SEC. 508. TRANSFER OF FUNDS.

(a) IN GENERAL.—Pursuant to the terms of any compact or funding agreement entered into under this subchapter the Secretary shall transfer to the Indian tribe all funds provided for in the funding agreement, pursuant to subsection (c), and provide funding for those programs, services, functions, or activities (or portions thereof) carried out by Indian tribes that are included in the final offer made to the Secretary. In the event the Secretary's rejection under this section, and paragraphs (1), (2), and (3) shall only apply to the portion of the compact, funding agreement or provision thereof that was rejected by the Secretary.

(b) DIRECTION.—With respect to any hearing or appeal or civil action conducted pursuant to this section, the Secretary shall have the burden of demonstrating by clear and convincing evidence the validity of the grounds for rejecting the offer (or a provision thereof) made under subsection (b).

(c) GOOD FAITH.—In the negotiation of compacts and funding agreements the Secretary shall at all times negotiate in good faith to maximize implementation of the self-governance policy. The Secretary shall carry out this title in a manner that maximizes the policy of tribal self-governance, consistent with section (b).

(d) SAVINGS.—To the extent that programs, functions, services, or activities (or portions thereof) carried out by Indian tribes under this title reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the proposed offer for Indian tribes, and other funds determined under section 508(c), the Secretary shall make such savings available to the Indian tribes, inter-tribal consortia, or tribal organizations for the provision of additional services to program beneficiaries in a manner equitable to directly served, contracted, and compacted programs provided for in this title and shall not diminish the responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions.

(e) DECISIONMAKER.—A decision that constitutes final agency action and relates to an appeal within the Department of Health and Human Services conducted under subsection (c) shall be made either—

(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

(B) by an administrative judge.
resolutions. In any instance where a funding agreement requires an annual transfer of funding to be made at the beginning of a fiscal year, or requires semiannual or other periodic transfers to be made commencing at the beginning of a fiscal year, the first such transfer shall be made not later than 10 days after the apportionment of such funds by the Office of Management and Budget to the Department, unless the funding agreement provides otherwise.

(b) Prohibitions. - The Secretary is hereby authorized to employ, upon tribal request, multiyear funding agreements, and references in this title to funding agreements shall include such multiyear agreements.

(c) Amount of Funding. - The Secretary shall provide funds under a funding agreement for the purposes specified in this Act, including amounts for direct program costs specified under section 106(a)(1) and amounts for contract support costs specified under sections 106(a)(2), (a)(3), (a)(5), and (a)(6), including any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian tribe without reference to the organizational level within the Department where such functions are carried out.

(d) Prohibitions. - The Secretary is expressly prohibited from Ð

(1) failing or refusing to transfer to an Indian tribe its full share of any national, regional, area, or service unit office or other funds due under this Act, except as required by Federal law;

(2) withholding portions of such funds for transfers over a period of years;

(3) reducing the amount of funds required herein Ð

(A) to make funding available for self-governance monitoring or administration by the Secretary;

(B) in subsequent years, except pursuant to Ð

(i) a reduction in appropriations from the previous fiscal year for the program or function to be included in a compact or funding agreement;

(ii) a congressional directive in legislation or accompanying report;

(iii) a tribal authorization;

(iv) a change in the amount of pass-through funding to the terms of the funding agreement; or

(v) completion of a project, activity, or program for which such funds were provided;

(C) to pay Federal share of costs of labor, materials, and supplies available from Federal warehouse facilities, for Federal pay costs, Federal employee retirement benefits, automated data processing, technical assistance, and monitoring of activities under this Act; or

(D) to pay for costs of Federal personnel displaced by self-determination contracts under this Act or self-governance, except that such funds may be increased by the Secretary to carry out this Act or as provided in section 105(c)(2).

(e) Other Resources. - In the event an Indian tribe or the Secretary enters into a compact or funding agreement with the use of Federal personnel, Federal supplies (including supplies available from Federal warehouse facilities), for Federal pay costs, Federal employee retirement benefits, automated data processing, technical assistance, and monitoring of activities under this Act, the funds included in funding agreements shall be used consistent with laws and regulations issued pursuant to Federal procurement (including Executive orders) or any law or regulation pertaining to Federal procurement (including Executive orders) that apply to any construction project conducted under a compact or funding agreement.

SEC. 509. CONSTRUCTION PROJECTS.

(a) In General. Ð Indian tribes participating in tribal self-governance may carry out construction projects under this Act if they elect to assume all Federal responsibilities under the National Environmental Policy Act of 1969, the Historic Preservation Act, and regulations promulgated thereunder, and such responsibilities are assumed by the Indian tribe.

(b) Requirements. - The Secretary shall adopt such regulations as are necessary to carry out this section. The Secretary may negotiate, at the request of an Indian tribe, a construction project in accordance with the negotiated construction project agreement.

(c) Protection of Funds. - All funds paid to an Indian tribe in accordance with a compact or funding agreement shall remain available until expended. In the event that an Indian tribe elects to carry over funds from one year to the next, such carryover shall not diminish the amount of funds the Indian tribe is authorized to receive under its funding agreement in that or any subsequent fiscal year.

SEC. 510. FEDERAL PROCUREMENT LAWS AND REGULATIONS.

(a) In General. Ð Federal law shall apply to an Indian tribe in accordance with a compact or funding agreement. If at any time the Indian tribe has reason to believe that the total amount provided for a specific activity in the compact or funding agreement is insufficient the Indian tribe shall provide reasonable notice of such insufficiency to the Secretary. If the Secretary does not increase the amount of funds transferred under the funding agreement, the Indian tribe may suspend performance of the activity until such time as additional funds are transferred.
title shall not be subject to Federal contracting or cooperative agreement laws and regulations (including Executive orders and the Secretary's regulations), except to the extent that such laws expressly apply to Indian tribes.

**SEC. 511. CIVIL ACTIONS.**

(a) CONTRACT DEFINED.—For the purposes of section 512, a “contract” shall include compacts and funding agreements entered into under this title.

(b) APPLICABILITY OF CERTAIN LAWS.—Section 16 of the Act of June 18, 1934 (25 U.S.C. 478), shall not apply to any tribe and the Secretary for their use and benefit, except to the extent that Federal law otherwise applies to Federal property.

(c) INDIVIDUALS.—The President shall be entitled to receive under its funding agreements entered into under this title.

**SEC. 512. FACILITATION.**

(a) SECRETARIAL INTERPRETATION.—Except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive orders and regulations in a manner that will facilitate—

(1) the inclusion of programs, services, functions, and activities (or portions thereof) and funds thereto, in the agreements entered into under this section;

(2) the implementation of compacts and funding agreements entered into under this title; and

(3) the achievement of tribal health goals and objectives.

(b) FUNDING WAIVER.—(1) An Indian tribe may submit a written request to waive application of a regulation promulgated under this Act for a compact or funding agreement entered into under this title, to the Secretary identifying the applicable Federal regulation sought to be waived and the basis for the request.

(2) Not later than 90 days after receipt by the Secretary of a written request by an Indian tribe to waive application of a regulation pursuant to this section, the Secretary shall either approve or deny the requested waiver in writing. A denial may be made only on the basis of a determination that the language in the regulation may not be waived because such waiver is prohibited by Federal law. A failure to approve or deny a written request for a waiver not later than 90 days after receipt shall be deemed an approval of such request. The Secretary’s decision shall be final for the Department.

(c) TO FEDERAL PROPERTY.—In connection with any compact or funding agreement executed pursuant to this title or an agreement negotiated under the Tribal Self-Determination and Tribal Self-Governance Amendments of 1994, upon the request of an Indian tribe, the Secretary—

(1) shall permit an Indian tribe to use existing school buildings, hospitals, and other facilities and equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary’s jurisdiction under such terms and conditions as may be agreed upon by the Secretary and the tribe for their use and maintenance;

(2) may donate to an Indian tribe title to any personal or real property found to be excess to the needs of any agency of the Department, or the General Services Administration, except that—

**SEC. 513. BUDGET REQUEST.**

(a) IN GENERAL.—The President shall identify in the annual budget request submitted under section 515 of title 31, United States Code, all funds necessary to fully fund all funding agreements authorized under this title, including funds specifically identified in the Federal budget request, and shall provide the Secretary with written reports to the Committee on Indian Affairs of the Senate and the Committee on Appropriations of the House of Representatives and the Committee on Resources of the House of Representatives and the Committee on Appropriations of the Senate which shall be measured in a manner consistent with the provisions of section 505.

(b) STATE FACILITATION.—States are hereby authorized to file a written request to the Secretary to facilitate and supplement the implementation of this title and each provision of a compact or funding agreement entered into under this title.

(c) TRIBAL EMPLOYMENT. —For purposes of section 450 of the Act of July 5, 1935 (40 Stat. 450, chapter 372) (commonly known as the National Labor Relations Act), an Indian tribe—

**SEC. 514. RULES OF CONSTRUCTION.**

(a) IN GENERAL. —The President shall determine, at the option of the Secretary upon the request of an Indian tribe, whether Federal law applies to Indian tribes or tribal organizations.

(b) CONTENTS. —The report shall be compiled from information contained in funding agreements, annual audit reports, and Secretarial data regarding the distribution of Federal funds and shall—

(1) identify the relative costs and benefits of self-governance;

(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to self-governance Indian tribes and their members;

(3) identify the funds transferred to each self-governance Indian tribe and the corresponding reduction in the Federal bureaucracy;

(4) identify the funding formula for individual tribal shares of all headquarters funds, together with the comments of affected Indian tribes or tribal organizations, developed under subsections (a) and (b) of this section;

(5) identify amounts expended in the preceding fiscal year to carry out inherent Federal functions, including an identification of those functions by tribe and location;

(6) contain a description of the method or methods (or any revisions thereof) used to determine the individual tribal share of funds controlled by all components of the Indian Health Service (including funds accessed by any other Federal agency) for inclusion in self-governance compacts or funding agreements;

(7) prior to being submitted to Congress, be distributed to the Indian tribes for comment, such comment period to be for no less than 30 days; and

(8) include the separate views and comments of the Indian tribes or tribal organizations.

(c) REPORT ON FUND DISTRIBUTION METHODOLOGY. —Not later than 180 days after the date of enactment of this title, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate which shall be measured in a manner consistent with the provisions of section 505. Nothing in this provision shall be construed to authorize the Indian Health Service to reduce the amount of funds that a self-governance tribe is otherwise entitled to receive under its funding agreement or other applicable law, whether under contracts, grants, or cooperative agreements.

(d) PRESENT FUNDING; SHORTFALLS. —In such budget request, the President shall identify the level of need presently funded and any shortfall in funding (including direct program and contract support costs) for each Indian tribe, either directly by the Secretary, under self-determination contracts, or under compacts and funding agreements authorized under this title.

**SEC. 515. DISCLAIMERS.**

(a) NO FUNDING REDUCTION.—Nothing in the Act shall be construed to limit or reduce in any way the funding for any program, project, or activity serving an Indian tribe under this or any other applicable Federal law. Any Indian tribe that alleges that a compact or funding agreement is in violation of this section may apply the provisions of section 1101 of title 31 of such title 31, United States Code, as such violation.$100. in a manner consistent with the provisions of section 505, with respect to the Indian tribe's need under self-determination contracts under title I, or under compacts and funding agreements authorized under this Act. In compiling reports pursuant to this section, the Secretary may not impose any reporting requirements on participating Indian tribes or tribal organizations, not otherwise provided in this Act.

(b) FEDERAL TRUST AND TREATY RESPONSIBILITIES.—Nothing in this Act shall be construed to diminish in any way the trust responsibility of the United States to Indian tribes and individual Indians that exists under treaties, Executive orders, or other laws and court decisions.

(c) TRIBAL EMPLOYMENT.—For purposes of section 160 of the Act of July 5, 1935 (40 Stat. 450, chapter 372) (commonly known as the National Labor Relations Act), an Indian tribe—
tribe carrying out a self-determination contract, compact, annual funding agreement, grant, or cooperative agreement under this Act shall not be considered an employer.

(2) The obligations of the United States—The Indian Health Service under this Act shall neither bill nor charge those Indians who may have the economic means to pay for services, nor require any Indian tribe to do so.

SEC. 516. APPLICATION OF OTHER SECTIONS OF THE ACT.

(a) Monganic Application.—All provisions of sections 5(b), 6, 7, 102(c) and (d), 104, 105(k) and (l), 106(a) through (k), and 111 of this Act and section 314 of Public Law 101-512 (covering the Federal Tort Claims Act, to the extent not in conflict with this title, shall apply to compacts and funding agreements authorized by this title.

(b) DISCRETIONARY APPLICATION.—At the request of a participating Indian tribe, any other provision of title I, to the extent such provision is not in conflict with this title, shall be made a part of a funding agreement or compact entered into under this title. The Secretary is obligated to include such provisions at the option of the participating Indian tribe, and if such provision is incorporated it shall have the same force and effect as if it were set out in full in this title. In the event an Indian tribe requests such incorporation the negotiation such agreement or compact or funding agreement, such incorporation shall be deemed effective immediately and shall control the negotiation and resulting compact and funding agreement.

SEC. 517. REGULATIONS.

(1) Not later than 90 days after the date of enactment of this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title. Not later than 90 days after the date of enactment of this title, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate. The report shall contain—

(1) the results of the study;

(2) a list of programs, services, functions, and activities (or portions thereof) within the agency which it would be feasible to include in a Tribal Self-Governance Demonstration Project;

(3) strategies for implementing such a demonstration project;

(4) probable costs or savings associated with such a demonstration project;

(5) methods to assure quality and accountability in such a demonstration project; and

(6) other issues that may be determined by the Secretary or developed through consultation pursuant to section 602.

(c) REPORT.—Not later than 18 months after the date of enactment of this title, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate. The report shall contain—

(1) the probable effects on specific programs and program beneficiaries of such a demonstration project;

(2) statutory, regulatory, or other impediments to implementation of such a demonstration project;

(3) the results of the study;

(4) a list of programs, services, functions, and activities (or portions thereof) included in the list provided pursuant to paragraph (2) which could be included in a Tribal Self-Governance Demonstration Project without amending important regulations that the Secretary may not waive; and

(5) a list of legislative actions required in order to include those programs, services, functions, and activities (or portions thereof) included in the list provided pursuant to paragraph (2) but not included in the list provided pursuant to paragraph (3) in a Tribal Self-Governance Demonstration Project.

(5) Any separate views of tribes and other entities consulted pursuant to section 602 related to the information provided pursuant to paragraph (1) through (4).

SEC. 602. CONSULTATION.

(1) ST UDY PROTOCOL.—

(A) CONSULTATION WITH INDIAN TRIBES.—The Secretaries shall consult with Indian tribes to determine a protocol for consultation under subsection (b) prior to consultation with the other entities described in such subsection. The protocol shall require, at a minimum, that—

(A) the government-to-government relationship with Indian tribes forms the basis for the consultation process;

(B) the Indian tribes and the Secretary jointly conduct the consultations required by this section; and

(C) the consultation process allow for separate and direct recommendations from the Indian tribes and other entities described in subsection (b).

(2) OPPORTUNITY FOR PUBLIC COMMENT.—In determining the protocol described in paragraph (1), the Secretary shall publish the proposed protocol and allow a period of not less than 30 days for comments by entities described in subsection (b) and other interested parties, and shall consider such comments received into account in determining the final protocol.

(b) COMMITTING STUDY. In conducting the study under this title, the Secretary shall consult with Indian tribes, States, counties, municipalities, program beneficiaries, and interested public interest groups, and shall consult with other entities as appropriate.

SEC. 603. DEFINITIONS.

(a) IN GENERAL.—For purposes of this title, the Secretary may use definitions provided in title IV.
Mr. Speaker, I am honored to have had a role in the development of this legislation.

And where is fairness, Mr. Speaker, if I were to elaborate a little further on this issue? But the fact that this bill should be approved, again I want to commend the gentleman from Alaska. Give tribute and credence to the fact that the recognition process has failed miserably and we should vote in support of H.R. 1154.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The Speaker pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) asked and was given permission to revise and extend his remarks.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1833, the proposed Tribal Self-Governance Amendments Act of 1998, would make permanent the Indian Health Service Self-Governance Demonstration program.

Thereby, Indian and Alaska Native tribes would be able to contract for the operation and redesign of various IHS activities on a permanent basis.

Pursuant to H.R. 1833, tribes which have already contracted for IHS activities would continue under the provisions of their demonstration compacts, while an additional 50 tribes would be selected each year to enter into compacts.

H.R. 1833 also allows for the tribal contracting of programs outside the IHS, but within the Department of Health and Human Services on a demonstration-project basis.

Mr. Speaker, H.R. 1833 is a major piece of Native American legislation which I have been working on for months and months. This bill lays out 55 pages of findings, Secretarial obligations, Secretarial prohibitions, rulemaking requirements, reporting requirements, and tribal obligations.

The name of California (Mr. MILLER) and his staff, and the gentleman from Michigan (Mr. KILDEE), and his staff, along with my staff, have worked extensively on this legislation. I commend them and their staffs for their perseverance through the scores of meetings which were needed to craft this bill.

This is a landmark piece of legislation in the field of self-governance. Mr. Speaker, I am honored to have had a part in this movement through Congress. I support H.R. 1833 and ask my colleagues to vote for this legislation and urge the passage by my colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again commend the gentleman from Alaska (Chairman YOUNG) for his management of this important legislation.

Mr. Speaker, I fully support this bill, the Tribal Self-Governance Amendments of 1998, which I believe will mark yet another milestone in the history of Indian self-determination.

This major legislation is the product of more than 2 years of hard work and consultation with Indian tribes and the Administration. The Department of Health and Human Services has worked diligently with the tribes and the Department of Health and Human Services to make this bill as fair as possible.

I would like to extend my appreciation to the tribal leaders, their representatives, and the Department staff who have made passage of this bill possible.

Mr. Speaker, it is important to note that subsequent to the full committee markup that occurred in the spring, the tribes and the Department were able to work out additional differences. Thus, there have been several changes that I want to highlight.

We were able to come to agreement on issues regarding reaffirmation, reorganization, trial de novo, rejection of final order, and the creation of a new title VI to carry out the non-Indian Health Service demonstration project study.

Mr. Speaker, let me briefly explain what the bill does. The bill, the Tribal Self-Governance Amendments Act of 1998, would create two new titles in the 1975 Indian Self-Determination and Education Assistance Act. The 1975 act allows Indian tribes to contract for or take over the administration and operation of certain Federal programs which provide service to Indian tribes.

Subsequent amendments to the 1975 Act created title III of the act, which provided for a self-governance demonstration project that allows for large-scale tribal self-governance compacts and funding agreements on a demonstration basis.

Mr. Speaker, this bill is important especially for the Indian communities, but more importantly, the responsibility the Congress should take to provide for the needs of the Indian nations.

I also want to, again, commend my good friend, the gentleman from Alaska (Mr. YOUNG) for his work on solving the problem that we have had over the years in giving proper recognition to Indian tribes. I want to make a note of this to my colleagues. There is nowhere in the current bill that provides better streamlining of the Indian community if they were to apply to the Federal Government that gaming of any form is ever at all involved. I want to reassure my colleagues that that is the basis of that bill that has taken this Member over 6 years to help develop with the administration, with the staffs, with the majority party Members as well as the members of the committee on this side of the aisle.

So, again, I plead with my colleagues, that bill to better streamline the recognition of Indian tribes, given the fact that California was not even a State when America was founded, and California was not even a State.

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 “California Indian Land Transfer Act”.

SEC. 2. LANDS HELD IN TRUST FOR VARIOUS TRIBES OF CALIFORNIA INDIGENS.

(a) IN GENERAL.—Subject to valid existing rights, all right, title, and interest of the United States in and to the lands, including improvements and appurtenances, described in a paragraph of subsection (b) in connection with his or her reservation or group, are as follows:

(1) PIT RIVER TRIBE.—Lands to be held in trust for the Pit River Tribe are comprised of approximately 561.69 acres described as follows:

Mount Diablo Base and Meridian
Township 42 North, Range 13 East
Section 3: 5½ NW¼, NW¼ NW¼, 120 acres.

Township 43 North, Range 13 East
Section 1: N½ NE¼, 80 acres, Section 22: SE¼ SE¼, 40 acres, Section 25: SE¼ NW¼, 40 acres, Section 26: SW¼ SE¼, 40 acres, Section 27: SE¼ NW¼, 40 acres,