Mr. UDALL of New Mexico. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding to me. I simply rise in support of the legislation that he and other Members of the Committee have supported and brought to the floor and commend them for their efforts on behalf of the Apache Reservation, due to the fact that the Environmental Protection Agency has found these very serious.

I think in fact that this legislation does what is necessary, and that is, to redeem the trust responsibility of the Federal Government to ensure that this Federal water system supplies the tribe with water that is safe and adequate to meet the health, economic, and environmental needs of the Jicarilla Apaches. I want to thank the gentleman for bringing this matter to the floor and urge support of this legislation.

Mr. Speaker, H.R. 3051 directs the Secretary of Interior to conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water system for the residents of the Jicarilla Apache Reservation in New Mexico. The study is to be conducted by the Bureau of Reclamation and in consultation and cooperation with the tribe. Further, the bill provides a report be submitted to Congress 1 year after funds are appropriated to carry out the study and authorizes $200,000 to implement the provisions of the legislation.

The Jicarilla Apache Reservation was established in 1867 by executive order and is located in the San Juan Mountains in north-central New Mexico. The reservation consists of 742,315 acres and ranges in elevation from 6,500 to 9,000 feet. The existing municipal water system was built by the Bureau of Indian Affairs (BIA) and has been rehabilitated. Fortunately, the Bureau of Reclamation is appropriately suited to assist the Jicarilla Apache and the BIA in assessing the feasibility of the rehabilitation of the tribe's water system.

In consultation with the Jicarilla Apache and the Bureau of Reclamation, the bill indicates both its willingness and ability to complete the feasibility study should it be authorized to do so as required by law.

Recognizing this as the most promising method for addressing the serious water safety problems plaguing the Jicarilla, I and my fellow cosponsors introduced this bill to allow this important process to move forward. I hope the rest of our colleagues will join us in passing this bill to remedy this distressing situation.

Mr. GEORGE MILLER of California. Mr. Speaker, will the gentleman yield?
SEC. 3. DECLARATION OF POLICY.
It is the policy of Congress to—
(1) permanently establish and implement tribal self-governance 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-governance;
(A) to enable the United States to maintain and improve its unique and continuing relationship with and responsibility to Indian tribes;
(B) to permit each Indian tribe to choose the extent of its participation in self-governance in accordance with the provisions of the Indian Self-Determination and Education Assistance Act relating to the provision of Federal services to Indian tribes;
(C) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;
(D) to affirm and enable the United States to fulfill its obligations under treaties and other laws;
(E) to strengthen the government-to-government relationship between the United States and Indian tribes through direct and meaningful consultation with all Indian tribes;
(F) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful control, discretion to plan the conduct, redesign, and administer programs, services, functions, and activities (or portions thereof) that meet the needs of the individual tribal communities;
(G) to provide for a measurable parallel reduction in the Federal bureaucracy as programs, services, functions, and activities (or portions thereof) are assumed by Indian tribes;
(H) to encourage the Secretary to identify all programs, services, functions, and activities (or portions thereof) of the Department of Health and Human Services that may be managed by an Indian tribe under this Act and to assist Indian tribes in assuming responsibility for such programs, services, functions, and activities (or portions thereof) and
(I) 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.

SEC. 4. TRIBAL SELF-GOVERNANCE.
The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following new titles:

**TITLE V—TRIBAL SELF-GOVERNANCE**

**SEC. 501. ESTABLISHMENT.**
The Secretary of Health and Human Services shall annually negotiate out a program within the Indian Health Service of the Department of Health and Human Services to be known as the "Tribe Self-Governance Program" in accordance with the terms of this title.

**SEC. 502. DEFINITIONS.**
(a) IN GENERAL.—For purposes of this title—
(1) the term 'construction project' means an organizational undertaking to complete a specific set of predetermined objectives for the planning, environmental determination, design, construction, repair, improvement, or expansion of buildings or facilities, as described in a construction project agreement.
The term 'construction project' does not mean construction program administration and activities described in paragraphs (1) through (3) of section 4(c)(4), which may otherwise be included in a funding agreement under this title;
(2) the term 'construction project agreement' means an agreement entered into by an authorized Indian tribe and the Secretary to establish an inter-tribal consortium or tribal organization and Indian tribe which a minimum—
(A) establishes project phase start and completion dates; and
(B) defines a specific scope of work and standards by which it will be accomplished; and
(1) identifies the responsibilities of the Indian tribe and the Secretary;
(2) addresses environmental considerations;
(E) identifies the operations/maintenance entity of the proposed work;
(3) provides a budget;
(4) provides a payment process; and
(h) establishes the time necessary to complete the construction project 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' include those Federal functions which cannot legally be delegated to Indian tribes;
(A) the term 'inter-tribal consortium' means a coalition of two or more separate Indian tribes that join together for the purpose of participating in self-governance, including, but not limited to, a tribal organization established pursuant to section 501.
(B) the term 'gross mismanagement' means a significant, clear, and convincing violation of compact, funding agreement, or regulatory, or statutory requirements applicable to Federal funds transferred to a tribe by a compact or funding agreement that results in a significant reduction of funds available for the programs, services, functions, or activities (or portions thereof) assumed by an Indian tribe;
(6) the term 'tribal shares' means an Indian tribe's portion of resources that support secretarial programs, services, functions, and activities (or portions thereof) that are not required by the Secretary for performance of inherent functions;
(7) the term 'Secretary' means the Secretary of Health and Human Services;
(8) the term 'self-determination funding agreement' means the program established pursuant to section 501.

**SEC. 502. SELECTION OF PARTICIPATING INDIAN TRIBES.**

(a) CONTINUING PARTICIPATION.—Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project under title III on the date of enactment of this title may elect to participate in self-governance under this title upon establishment of the Bureau of Indian Affairs, Office of Indian Affairs, and upon establishment of the Indian Service, the Bureau of Indian Affairs, and the Office of Indian Affairs under title III of this Act.
(b) ADDITIONAL PARTICIPANTS.—
(1) In addition to those Indian tribes participating in self-governance under subsection (a), each year an additional 50 Indian tribes that meet the eligibility criteria specified in subsection (c) shall be entitled to participate in self-governance.
(2)(A) An Indian tribe that has withdrawn from participation in an inter-tribal consortium or tribal organization in self-governance may elect to participate in self-governance under this title upon re-establishment of the Indian tribe or of the consortium or organization that provided the Indian tribe meets the eligibility criteria specified in subsection (c).
(B) If an Indian tribe has withdrawn from participation in an inter-tribal consortium or tribal organization, it shall be entitled to participate in self-governance under this title upon re-establishment of the Indian tribe.
(C) In no event shall the withdrawal of any Indian tribe from an inter-tribal consortium or tribal organization affect the eligibility of the inter-tribal consortium or tribal organization to participate in self-governance.

**SEC. 503. FUNDING AGREEMENTS.**

(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. Such compacts may only be amended by mutual agreement of the parties.
(c) COMPACT NOT REQUIRED.—Existing COMPACTS.—Each Indian tribe participating in the Tribal Self-Governance Demonstration Project under title III on the date of enactment of this title shall have the option of participating in self-governance.
(d) negotiated in lieu thereof (in whole or in part) a new compact in conformity with this title.

**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 funding agreement required under subsection (a) shall, as determined
by the Indian tribe, authorize the Indian tribe to plan, conduct, consolidate, administer, and receive full tribal share funding, including tribal shares of Indian Health Service competitive grants (including 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 tribal status, and as such funds were initially allocated in the funding agreement (calculated on the same basis as other Indian tribes).

"(g) 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 section, all such funds provided 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, subject to annual adjustment. Such a stable base budget shall become effective within the time frame specified in the resolution which authorizes transfer to the participating tribal organization or inter-tribal consortium to which the agreement specifically refers. Such a stable base budget shall become effective—

1. the earlier of—

(1) the earlier of—

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

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

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

"(h) WITHDRAWAL.—

(1) PROCESS.—An Indian tribe may fully or partially withdraw from a participating 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 become effective within the time frame specified in the resolution which authorizes transfer to the participating tribal organization or inter-tribal consortium to which the agreement specifically refers. Such a withdrawal shall become effective—

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

(iii) the date on which the funding agreement expires.

(2) DISTRIBUTION OF FUNDS.—When an Indian tribe or tribal organization eligible to enter into a self-determination contract under title I on the date of such contract or funding agreement and all agreements negotiated between the Secretary and an Indian tribe, a funding agreement may provide for a stable base budget specifying the recurring funds (including, for purposes of this section, all such funds provided 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, subject to annual adjustment. Such a stable base budget shall become effective within the time frame specified in the resolution which authorizes transfer to the participating tribal organization or inter-tribal consortium to which the agreement specifically refers. Such a stable base budget shall become effective—

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

(ii) the date on which the funding agreement expires.

(3) REGAINING MATURE CONTRACT STATUS.—If an Indian tribe elects to operate all or some programs, services, functions, or activities (or portions thereof) carried out under a compact or funding agreement, the Indian tribe shall not be entitled to contract with the Secretary for such funds under section 102, except that such Indian tribe shall be eligible for new programs on the same basis as other Indian tribes.

"SEC. 507. PROVISIONS RELATING TO THE SECRETARY.

"(a) MANDATORY PROVISIONS.—

"(1) HEALTH STATUS REPORTS.—Compacts or funding agreements negotiated between the Secretary and an Indian tribe shall include provision that requires the Indian tribe to report on health status and service delivery—

(1) to the extent such data is not otherwise available to the Secretary and specific funds for this purpose are provided by the Secretary to the Indian tribe under the funding agreement; and

(2) such reports shall minimize burdens on the participating Indian tribe and such reports shall be promulgated under section 517.

(1) RETRIBUTION.—(A) Compacts and funding agreements negotiated between the Secretary and an Indian tribe shall include provision that the Secretary shall receive reports on the health status and service delivery—

(1) (A) to the extent such data is not otherwise available to the Secretary and specific funds for this purpose are provided by the Secretary to the Indian tribe under the funding agreement; and

(2) such reports shall minimize burdens on the participating Indian tribe and such reports shall be promulgated under section 517.

(2) REASSUMPTION.—Compacts and funding agreements negotiated between the Secretary and an Indian tribe shall include provision that the Secretary shall reassume management of, or service delivery to, the Indian tribe if the Secretary determines that the Indian tribe has failed to report on health status and service delivery.
service, function, or activity (or portion thereof) of—

"(i) imminent endangerment of the public health caused by an act or omission of the Indian tribe in that the endangered program, function, service, or activity (or portion thereof) arises out of a failure to carry out the compact or funding agreement; or

"(ii) gross, manifest disregard on the part of the Indian tribe with respect to funds transferred to a tribe by a compact or funding agreement, as determined by the Secretary in consultation with the Inspector General, as appropriate.

"(B) The Secretary shall not reassess operation of a program, service, function, or activity (or portion thereof) unless (i) the Secretary has first given the Indian tribe a hearing on the record to the Indian tribe; and (ii) the Indian tribe has not taken corrective action to remedy the imminent endangerment to public health.

"(C) Notwithstanding subparagraph (B), the Secretary may, upon written notification to the tribe, immediately reassess operation of a program, service, function, or activity (or portion thereof) and associated funding if (i) the Secretary finds a making of significant substantial and irreparable endangerment of the public health caused by an act or omission of the Indian tribe; and (ii) the endangerment arises out of a failure to carry out the compact or funding agreement.

"(D) Final Offer.—In the event the Secretary and a participating Indian tribe are unable to agree, in whole or in part, on the terms of a compact or funding agreement (including funding levels), the Indian tribe may submit a final offer to the Secretary. Not more than 45 days after such submission, or within a longer time agreed upon by the Indian tribe, the Secretary shall review and make a determination with respect to such offer. In the absence of a timely rejection of the offer, in whole or in part, made in connection with subsection (c), the offer shall be deemed agreed to by the Secretary.

"(E) Rejection of Final Offers.—If the Secretary rejects a offer made under subsection (b) or (D), 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 the Indian tribe electing to carry out a compact or funding agreement authorized under this title in an amount equal to the Federal share of such funding for the previous fiscal year for the program or function involved. The Indian tribe is entitled to receive under self-determination contracts under this Act or self-governance contracts under this Act or self-governance agreements with the use of Federal personnel, Federal supplies (including supplies available from Federal warehouse facilities), Federal supply sources (including lodging, air transportation, and other means of transportation (including the use of interagency motor pool vehicles) or other Federal resources (including supplies, services, and resources available to the Secretary under any procurement contracts in which the Department is capable of participating), the Secretary is authorized to transfer such personnel, supplies, or resources to the Indian tribe.

"(F) Reimbursement to Indian Health Service.—With respect to functions transferred by the Indian Health Service to an Indian tribe, the Indian Health Service is authorized to provide reimbursement for costs associated with the receipt of funds under this Act, on a reimbursable basis, including payment in advance with subsequent adjustment, and the reimbursements received therefrom, along with the funds received from the Indian tribe pursuant to this title, may be credited to the same or subsequent appropriation account which provided the funding, such amounts to remain available until expended.

"(G) Prompt Payment Act.—Chapter 39 of title 31, United States Code, shall apply to the payment of amounts due under this Act or to any funds paid under a compact or funding agreement authorized under this title.

"(H) Interest or Other Income on Transfers.—An Indian tribe is entitled to retain income or other income or income from the receipt of funds due under a compact or funding agreement authorized under this title.

"(I) Provisions.—An Indian tribe is entitled to receive any funds paid under a compact or funding agreement authorized under this title.
shall not diminish the amount of funds the Indian tribe is authorized to receive under its funding agreement in the year the interest is earned or in any subsequent fiscal year. Funds transferred under this Act shall be managed using the prudent investment standard.

(ii) CARRYOVER OF FUNDS.—All funds paid to an Indian tribe in accordance with a compact or funding agreement..."
other Federal laws benefiting Indians and Indian tribes.

**Rules of Construction.**—Each provision of this title and each provision of a compact or funding agreement is not in conflict with this title, the Secretary shall have the burden of proving the existence of such need being presently funded or unfunded for each Indian tribe, either directly by the Secretary, under self-determination contracts, or under compacts and funding agreements authorized under this title.

**Sec. 514. Reports.**

(a) Annual Report.—Not later than January 1 of each year after the date of the enactment of this title, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives a report containing a detailed analysis of the level of need presently funded and any shortfall in funding for any program, project, or activity serving an Indian tribe under this title, the Secretary shall have the burden of proving the existence of such need being presently funded or unfunded for each Indian tribe, either directly by the Secretary, under self-determination contracts, or under compacts and funding agreements authorized under this title.

(b) 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.

(c) Tribal Employment.—For purposes of this Act, the term "Indian tribe" includes an Indian tribe, either directly by the Secretary, under self-determination contracts, or under compacts and funding agreements authorized under this title.

**Sec. 515. Application of Other Sections of the Act.**

(a) Mandatory 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 (covenanted by the Indian Self-Determination and Education Assistance Act, as amended), 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 this title, 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 provision at the option of the participating Indian tribe or tribes. 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 at the negotiation stage of a compact or funding agreement, such incorporation shall be deemed effective immediately and shall control the negotiation and resulting compact and funding agreement.

**Sec. 516. Regulations.**

(a) In General.—

(1) Not later than 90 days after the date of enactment of this title, the Secretary shall initiate procedures under subsection (c) of section 5 of United States Code, to negotiate and promulgate such regulations as necessary to carry out this title.

(b) Committee.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only Federal and Indian self-governance representatives, a majority of whom shall be nominated by the Indian tribes and tribal organizations, developed under section 588 of title 5, United States Code, and who have on their roster representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

(c) Adaptation of Procedures.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

(d) Effect.—The lack of promulgated regulations shall not limit the effect of this title.

(e) Effect of Circulars, Policies, Manuals, Guidance, and Rules.—Unless expressly agreed to by the participating Indian tribes in any compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Indian Health Service, except for the eligibility provisions of section 105(g).

**Sec. 517. Authorization of Appropriations.**

There are authorized to be appropriated such sums as may be necessary to carry out this title.

**Title VI—Tribal Self-Governance—Department of Health and Human Services**

**Sec. 601. Demonstration Project Feasibility.**

(a) Study.—The Secretary shall conduct a study to determine the feasibility of a Tribal Self-Governance Demonstration Project for appropriate programs, services, functions, and activities (or portions thereof) of the agency.

(b) Considerations.—When conducting the study, the Secretary shall consider—

(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 extent to which such a demonstration project is consistent with such programs and program beneficiaries;

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

(5) such 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 Representives 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) included in the demonstration project under which it would be feasible to include in a Tribal Self-Governance Demonstration Project;

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

**Sec. 602. Demonstration Project Demonstration.**

(a) Study.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate a written report regarding the administration of this title. Such report shall include an analysis of the level of need being presently funded or unfunded for each Indian tribe, either directly by the Secretary, under self-determination contracts, or under compacts and funding agreements authorized under this title.

(b) Federal Trust and Treaty Responsibilities.—Nothing in this Act shall be construed to diminish 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 this Act, the term "Indian tribe" includes a self-governance Indian tribe and the corresponding reduction in the Federal bureaucracy.

(d) Indian Health Service.—The Indian Health Service under this Act shall not be responsible for distribution of all funds provided under this title, the Secretary 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 or not such funds are made available to the Office of Tribal Self-Governance under this title.

(e) Reports.—The report shall be compiled and submitted in a timely fashion and shall include the separate views and comments of the Indian tribes participating in self-governance and any ambiguity shall be resolved in favor of the Indian tribes.

(f) Roadmap.—The report shall be submitted to the Congress under title 110 of title 31, United States Code, all funds necessary to fully fund all funding agreements authorized under this title, including funds specifically identified to fund tribal base budgets. All funds so appropriated and made available to the Office of Tribal Self-Governance which shall be responsible for distribution of all funds provided under this title, or under compacts and funding agreements authorized under this title.

(g) Tribal Employment.—For purposes of this Act, the Secretary shall consider—

(1) the results of the study;

(2) a list of programs, services, functions, and activities (or portions thereof) of the agency.

(h) Considerations.—When conducting the study, the Secretary shall consider—

(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 extent to which such a demonstration project is consistent with such programs and program beneficiaries;

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

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

(a) STUDY PRIOIRITIZATION.--Section 312(a)(6) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f(e)(1)) is amended by inserting after the second full sentence of such section the following: """"(5) a list of legislative actions required in conjunction with such study, and (6) a list of legislative actions required in conjunction with such study, and (7) any separate views of tribes and other entities described in section 602 related to the information provided pursuant to paragraph (1) through (4)."

(b) C O N S U L T I N G WITH INDIAN TRIBES.--The Secretary shall consult with Indian tribes to determine a protocol for consultation under such subsection. If the Secretary determines such protocol, the Secretary shall enter into an agreement for the acquisition, operation, control, and redesign of various IHS services on a permanent basis.

(c) EFFECTIVE DATE.--The new title created by H.R. 1167 would create a new title in the existing permanent self-governance legislation for the Interior Department programs which provide services to Indian tribes and native villages.

(d) EFFECTIVE DATE.--The new title created by H.R. 1167 would create a new title in the existing permanent self-governance legislation for the Interior Department programs which provide services to Indian tribes and native villages.

(e) EFFECTIVE DATE.--The new title created by H.R. 1167 would create a new title in the existing permanent self-governance legislation for the Interior Department programs which provide services to Indian tribes and native villages.

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(y) EFFECTIVE DATE.--The new title created by H.R. 1167 would create a new title in the existing permanent self-governance legislation for the Interior Department programs which provide services to Indian tribes and native villages.

(z) EFFECTIVE DATE.--The new title created by H.R. 1167 would create a new title in the existing permanent self-governance legislation for the Interior Department programs which provide services to Indian tribes and native villages.

{...Continued...}
Department of Health and Human Services under which the American Indian and Alaska Native tribes may enter into compacts with the Secretary for direct operation control and redesign of Indian health service activities. Tribes entering into self-governance programs have to meet four eligibility requirements. First, the tribe must, in the case of the consortium, be federally recognized. Second, the tribe must document with official action of the tribal governing body a formal request to enter into a compact with the Department of Interior. Third, the tribe must demonstrate financial stability and financial management capabilities as evidenced through the administration of the prior 638 contracts. Fourth, the tribe must successfully have completed a planning phase requiring the submission of final planning report that demonstrates that the tribe has conducted legal and budgetary research in internal government and organizations.

If we are to adhere and remain faithful to the principles that our founders set forth, the principles of good faith, consent, justice, humanity, we must continue to promote tribal self-governance. I am here today to talk about the 638 contracts. As a means of supervising the tribes' activities, the Department of the Interior conducted legal and budgetary research that demonstrates that the tribe has grown to be an independent of the federal government control without being cut off from federal concerns and federal support.

Mr. Speaker, the nature of Self-Governance is rooted in the inherent sovereignty of American Indian and Alaska Native tribes. From the founding of this nation, Indian tribes and Alaska Native villages have been recognized as "distinct, independent, political communities" exercising powers of self-government, not by virtue of any delegation of powers from the federal government, but rather by virtue of their own innate sovereignty. The tribes' sovereign foundations of the United States and its Constitution and forms the backdrop against which the United States has continued to enter into relations with Indian tribes and Alaska Native villages.

The present model of tribal Self-Governance arose out of the federal policy of Indian Self-Determination. The modern Self-Determination era began as Congress and contemporary Administrations ended the dubious experiment of Termination which was intended to end the federal trust responsibility to Native Americans during the 1950s. The centerpiece of the Termination policy was the Indian Self-Determination and Education Assistance Act, Public Law 93-638. This legislation gave Indian tribes and Alaska Native villages the right to assume responsibility for the administration of federal programs which benefited Indians. In addition, the legislation required the tribes to enter into compacts with the Secretary of the Interior to receive federal funds and must make it clear that Indians could become independent of federal control without being cut off from Federal concerns and federal support.

Thus, while the Indian Self-Determination Act was and is still acknowledged as a watershed moment in the history of tribal self-governance, by the mid-1980s many tribal leaders agreed that it was time for even greater change. They felt that the Indian Self-Determination Act was created to devolve 638 program oversight had simply grown out of control and the percentage of federal dollars allocated for Indian programs actually spent on the reservations was still far too small. To address these concerns, the Indian tribes asked Congress to consider amendments to the Self-Determination Act. At the same time, a group of tribal representatives began meeting to discuss proposals for trimming the BIA bureaucracy and amending the Act as well. But during the fall of 1987, a series of articles appeared in the Arizona Republic entitled "A policy of maximum choice for the American Indian: a policy expressed in programs of self-help, self-development, self-determination... The greatest hope for Indian progress lies in the emergence of Indian leadership and initiative in solving Indian problems. Indians must have a voice in making the plans and decisions in programs which are important to their daily life."

In 1975, Congress passed the Indian Self-Determination and Education Assistance Act, Public Law 93-638. This legislation gave Indian tribes and Alaska Native villages the right to assume responsibility for the administration of federal programs which benefited Indians. In addition, the legislation required the tribes to enter into compacts with the Secretary of the Interior to receive federal funds and must make it clear that Indians could become independent of federal control without being cut off from Federal concerns and federal support.

Together, these messages sparked Congress to work on the Termination Act that laid the foundation of modern federal Indian policy for the remainder of this century. And so, five years later, Congress enacted one of the most profound and powerful pieces of Indian legislation in history. In 1988, Congress enacted Public Law 100-472 and established Title III of the Indian Self-Determination Act which authorized the Secretary of Interior to negotiate Self-Governance compacts with up to twenty tribes. These tribes, for the first time, would be able to "Plan, conduct, consolidate, and administer programs, services, and functions" heretofore controlled by Interior officials. The Act required that these programs be "otherwise available to Indian tribes or Indians," but within these parameters the tribes were authorized...
to redesign programs and reallocated funding according to terms negotiated in the compacts. Tribes would be able to prioritize spending on a systemic level, dramatically reducing the Federal role in the tribal decision-making process. But perhaps the biggest difference is that contract process and the Self-Governance program is that instead of funds coming from multiple contracts there would be one compact with a single Annual Funding Agreement.

The original ten tribes that agreed to participate in the demonstration project were the Confederated Salish and Kootenai Tribes, Hoopa Tribe, Jamestown S'Klaliam Tribe, Lummi Nation, Mescalero Apache Tribe, Mille Lacs Band of Ojibwe, Quinault Indian Nation, Red Earth Cheyenne River Tribe, Rosebud Sioux Tribe, and Tlingit and Haida Central Council. In 1991 President Bush signed Pub. L. 102-184, which extended the Demonstration Project for three more years and increased the number of Tribes participating to thirty. The bill requires the policy of negotiating with Indian Tribes to complete a one-year planning period before they could negotiate a Compact and Annual Funding Agreement. The 1991 law also directed the Indian Health Service to conduct a feasibility study to examine the expansion of the Self-Governance project to IHS programs and services.

In 1992, Congress amended section 314 of the Indian Health Care Improvement Act to allow the Secretary of Health and Human Services to negotiate Self-Governance compacts and annual funding agreements under Title III of the Indian Self-Determination Act with Indian tribes. The Self-Governance Demonstration Project proved to be a success both in the Interior Department and the Department of Health and Human Services. Thus in 1994, Congress responded by passing the “Tribal Self-Governance Act of 1994” and permanently established the Self-Governance program within the Department of Interior. This action solidified the Federal government's policy of negotiating with Indian Tribes and Alaska Native villages on a government-to-government basis while retaining the federal trust relationship. The Tribal Self-Governance Act allowed so-called “Self-Governance tribes” to compact all programs and services that tribes agreed to negotiate under Title I of the Indian Self-Determination Act. The Act required an "ordinary transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities."

Tribes entering the Self-Governance program had to meet four eligibility requirements. First, the tribe (or tribes in the case of a consolidated governmental unit) had to be recognized. Second, the tribe must document, with an official action of the tribal governing body, a formal request to enter negotiations with the Department of Interior. Third, the tribe must demonstrate financial stability and financial management evidenced through the administration of prior 638 contracts. Fourth, the tribe must have successfully completed a planning phase, requiring the submission of a final planning report which demonstrates that the tribe has conducted legal and budgetary research and internal tribal government and organizational planning.

The 1994 Act, however, did not make changes to the demonstration project status of the Self-Governance program within the Indian Health Service. The IHS authority remained on a demonstration project basis until Title III of the Indian Self-Determination Act.

The Indian tribes and the Administration agree that it is now time to take the next logical step in Indian self-governance programs. In order to make the Self-Governance program permanent within the Department of Health and Human Service. H.R. 1167 establishes a permanent Self-Governance Program within the Department of Health and Human Services under which Native American and Alaska Native tribes may enter into compacts with the Secretary for the direct operation, control, and redesign of Indian Health Service (IHS) activities. A limited number of Indian tribes have had a similar right on a demonstration project basis since 1992 under Title III of the Indian Self-Determination and Education Assistance Act. All Indian tribes have enjoyed a similar but lesser right to contract and operate individual IHS programs and functions under Title I of the Indian Self-Determination Act since 1975 (so-called "638 contracting").

In brief, the legislation would expand the number of tribes eligible to participate in Self-Governance, make it a permanent authority within the IHS and authorize the Secretary of Health and Human Services to conduct a feasibility study for the execution of Self-Governance compacts with Indian tribes for programs outside of the IHS but still within HHS.

This legislation is modeled on the existing permanent Self-Governance legislation for Interior Department programs contained in Title IV of the Indian Self-Determination Act and reflects years of planning and negotiation among Indian tribes, Alaska Native villages, the Department of Health and Human Services.

Two hundred years later, Justice Thurgood Marshall delivered a unanimous Supreme Court in 1983 stating that, "Moreover, both the tribes and the Federal Government are firmly committed to the goal of promoting tribal self-government, a goal that is enshrined in numerous Federal statutes. We have stressed that Congress' objective of furthering tribal self-government encompasses far more than encouraging tribal management of disputes between members, but includes Congress' overriding goal of encouraging 'tribal self-sufficiency and economic development.'"

If we are to adhere and remain faithful to the principles that our Founders set forth—the principles of good faith, consent, justice and humanity—then we must continue to promote tribal self-government as is done in the legislation I bring before the House today.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1167, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add extraneous material on H.R. 1167, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

CLARIFYING COASTAL BARRIER RESOURCES SYSTEM BOUNDARIES

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to move to suspend the rules and pass the Senate bill (S. 1398) to clarify certain boundaries on maps relating to the Coastal Barrier Resources System.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read as follows:

S. 1398

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

SECTION 1. REPLACEMENT OF COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) In General. The 7 maps described in subsection (b) are replaced by 14 maps entitled “Dare County, North Carolina, Coastal Barrier Resources System, Cape Hatteras Unit NC-03P” or “Dare County, North Carolina, Coastal Barrier Resources System, Cape Hatteras Unit NC-03P, Hatteras Island Unit L03” and dated October 12, 1999.

(b) DESCRIPTION OF MAPS. The maps described in this subsection are the 7 maps that—