

103^D CONGRESS
2^D SESSION

H. R. 4833

To reform the management of Indian Trust Funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 1994

Mr. RICHARDSON introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To reform the management of Indian Trust Funds, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Indian Trust
5 Fund Management Reform Act of 1994”.

6 **SEC. 2. STATEMENT OF RESPONSIBILITY.**

7 The Secretary of the Interior is responsible for the
8 management of Indian trust funds including tribal ac-
9 counts and Individual Indian money accounts.

10 **SEC. 3. DEFINITIONS.**

11 For the purposes of this Act:

1 (1) The term “Special Trustee” means the Spe-
2 cial Trustee for American Indians established by
3 section 102.

4 (2) The term “Indian tribe” means any Indian
5 tribe, band, nation, or other organized group or com-
6 munity, including any Alaska Native village or re-
7 gional or village corporation as defined in or estab-
8 lished pursuant to the Alaska Native Claims Settle-
9 ment Act (85 Stat. 688), which is recognized as eli-
10 gible for the special programs and services provided
11 by the United States to Indians because of their sta-
12 tus as Indians.

13 (3) The term “Secretary” means the Secretary
14 of the Interior.

15 (4) The term “Office” means the Office of Spe-
16 cial Trustee for American Indians established by
17 section 102.

18 **TITLE I—SPECIAL TRUSTEE FOR** 19 **AMERICAN INDIANS**

20 **SEC. 101. PURPOSES.**

21 The purposes of this title are—

22 (1) to provide for more effective management
23 of, and accountability for the proper discharge of,
24 the Secretary’s trust responsibilities to Indian tribes
25 and individual Indians by establishing in the Depart-

1 ment of the Interior an Office of Special Trustee for
2 American Indians to oversee and coordinate reforms
3 within the Department of practices relating to the
4 management and discharge of such responsibilities;

5 (2) to ensure that reform of such practices in
6 the Department is carried out in a unified manner
7 and that reforms of the policies, practices, proce-
8 dures and systems of the Bureau of Indian Affairs,
9 Minerals Management Service, and Bureau of Land
10 Management, which carry out such trust responsibil-
11 ities, are effective, consistent, and integrated; and

12 (3) to ensure the implementation of all reforms
13 necessary for the proper discharge of the Secretary's
14 trust responsibilities to Indian tribes and individual
15 Indians.

16 **SEC. 102. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN IN-**
17 **DIANS.**

18 (a) ESTABLISHMENT.—There is hereby established
19 within the Department of the Interior the Office of Special
20 Trustee for American Indians. The Office shall be headed
21 by the Special Trustee who shall report directly to the Sec-
22 retary of the Interior.

23 (b) SPECIAL TRUSTEE.—

24 (1) APPOINTMENT.—The Special Trustee shall
25 be appointed by the President, by and with the ad-

1 vice and consent of the Senate, from among individ-
2 uals who possess demonstrated ability in general
3 management of large governmental or business enti-
4 ties and particular knowledge of trust fund manage-
5 ment, management of financial institutions, and the
6 investment of large sums of money.

7 (2) COMPENSATION.—The Special Trustee shall
8 be paid at a rate determined by the Secretary to be
9 appropriate for the position, but not less than the
10 rate of basic pay payable at Level II of the Execu-
11 tive Schedule under section 5313 of title 5, United
12 States Code.

13 (c) CONSULTATION.—It is expected that the Senate,
14 in offering its advice and consent, will consult with Indian
15 tribes and appropriate Indian organizations.

16 (d) TERMINATION OF OFFICE.—

17 (1) CONDITIONED UPON IMPLEMENTATION OF
18 REFORMS.—The Special Trustee, in proposing a ter-
19 mination date under section 103(b)(2)(C), shall en-
20 sure continuation of the Office until all reforms
21 identified in the strategic plan have been imple-
22 mented to the satisfaction of the Special Trustee.

23 (2) 30-DAY NOTICE.—Thirty days prior to the
24 termination date proposed in the plan submitted
25 under this section, the Special Trustee shall notify

1 the Secretary and the Congress in writing of the
2 progress in implementing the reforms identified in
3 the plan. The Special Trustee, at that time, may
4 recommend the continuation, or the permanent es-
5 tablishment, of the Office if the Special Trustee con-
6 cludes that continuation or permanent establishment
7 is necessary for the efficient discharge of the Sec-
8 retary's trust responsibilities.

9 (3) TERMINATION DATE.—The Office shall ter-
10minate 180 legislative days after the date on which
11the notice to the Congress under paragraph (2) is
12provided, unless the Congress extends the authorities
13of the Special Trustee. For the purposes of this ses-
14sion, a legislative day is a day on which either House
15of the Congress is in session.

16 **SEC. 103. AUTHORITIES AND FUNCTIONS OF THE SPECIAL**
17 **TRUSTEE.**

18 (a) COMPREHENSIVE STRATEGIC PLAN.—

19 (1) IN GENERAL.—The Special Trustee shall
20prepare and, after consultation with Indian tribes
21and appropriate Indian organizations, submit to the
22Secretary of the Interior and the Committee on Nat-
23ural Resources of the House of Representatives and
24the Committee on Indian Affairs of the Senate,
25within one year after the initial appointment is made

1 under section 102(b), a comprehensive strategic plan
2 for all phases of the trust management business
3 cycle that will ensure proper and efficient discharge
4 of the Secretary's trust responsibilities to Indian
5 tribes and individual Indians in compliance with this
6 Act.

7 (2) PLAN REQUIREMENTS.—The plan prepared
8 under paragraph (1) shall include the following:

9 (A) Identification of all reforms to the poli-
10 cies, procedures, practices and systems of the
11 Department of the Interior, the Bureau of In-
12 dian Affairs, the Bureau of Land Management,
13 and the Minerals Management Service nec-
14 essary to ensure the proper and efficient dis-
15 charge of the Secretary's trust responsibilities
16 in compliance with this Act.

17 (B) Provisions for opportunities for Indian
18 tribes to assist in the management of their
19 trust accounts and to identify for the Secretary
20 options for the investment of their trust ac-
21 counts, in a manner consistent with the trust
22 responsibilities of the Secretary, in ways that
23 will help promote economic development in their
24 communities.

1 (C) A timetable for implementing the re-
2 forms identified in the plan, including a date
3 for the proposed termination of the Office.

4 (b) DUTIES.—

5 (1) GENERAL OVERSIGHT OF REFORM EF-
6 FORTS.—The Special Trustee shall oversee all re-
7 form efforts within the Bureau of Indian Affairs, the
8 Bureau of Land Management, and the Minerals
9 Management Service relating to the trust respon-
10 sibilities of the Secretary to ensure the establish-
11 ment of policies, procedures, systems and practices
12 to allow the Secretary to discharge his trust respon-
13 sibilities in compliance with this Act.

14 (2) BUREAU OF INDIAN AFFAIRS.—

15 (A) MONITOR RECONCILIATION OF TRUST
16 ACCOUNTS.—The Special Trustee shall monitor
17 the reconciliation of tribal and Individual In-
18 dian Money trust accounts to ensure that the
19 Bureau of Indian Affairs provides the account
20 holders, with a fair and accurate accounting of
21 all trust accounts.

22 (B) INVESTMENTS.—The Special Trustee
23 shall ensure that the Bureau of Indian Affairs
24 establishes appropriate policies and procedures,

1 and develops necessary systems, that will allow
2 it—

3 (i) properly to account for and invest,
4 as well as maximize, in a manner consist-
5 ent with the statutory restrictions imposed
6 on the Secretary's investment options, the
7 return on the investment of all trust fund
8 monies, and

9 (ii) to prepare accurate and timely re-
10 ports to account holders (and others, as re-
11 quired) on a periodic basis regarding all
12 collections, disbursements, investments,
13 and return on investments related to their
14 accounts.

15 (C) OWNERSHIP AND LEASE DATA.—The
16 Special Trustee shall ensure that the Bureau of
17 Indian Affairs establishes policies and practices
18 to maintain complete, accurate, and timely data
19 regarding the ownership and lease of Indian
20 lands.

21 (3) BUREAU OF LAND MANAGEMENT.—The
22 Special Trustee shall ensure that the Bureau of
23 Land Management establishes policies and practices
24 adequate to enforce compliance with Federal re-
25 quirements for drilling, production, accountability,

1 environmental protection, and safety with respect to
2 the lease of Indian lands.

3 (4) MINERALS MANAGEMENT SERVICE.—The
4 Special Trustee shall ensure that the Minerals Man-
5 agement Service establishes policies and practices to
6 enforce compliance by lessees of Indian lands with
7 all requirements for timely and accurate reporting of
8 production and payment of lease royalties and other
9 revenues, including the audit of leases to ensure that
10 lessees are accurately reporting production levels and
11 calculating royalty payments.

12 (c) COORDINATION OF POLICIES.—

13 (1) IN GENERAL.—The Special Trustee shall
14 ensure that—

15 (A) the policies, procedures, practices, and
16 systems of the Bureau of Indian Affairs, the
17 Bureau of Land Management, and the Minerals
18 Management Service related to the discharge of
19 the Secretary's trust responsibilities are coordi-
20 nated, consistent, and integrated, and

21 (B) the Department prepares comprehen-
22 sive and coordinated written policies and proce-
23 dures for each phase of the trust management
24 business cycle.

1 (2) STANDARDIZED PROCEDURES.—The Special
2 Trustee shall ensure that the Bureau of Indian Af-
3 fairs imposes standardized trust fund accounting
4 procedures throughout the Bureau.

5 (3) INTEGRATION OF LEDGER WITH INVEST-
6 MENT SYSTEM.—The Special Trustee shall ensure
7 that the trust fund investment, general ledger, and
8 subsidiary accounting systems of the Bureau of In-
9 dian Affairs are integrated and that they are ade-
10 quate to support the trust fund investment needs of
11 the Bureau.

12 (4) INTEGRATION OF LAND RECORDS, TRUST
13 FUNDS ACCOUNTING, AND ASSET MANAGEMENT SYS-
14 TEMS AMONG AGENCIES.—The Special Trustee shall
15 ensure that—

16 (A) the land records system of the Bureau
17 of Indian Affairs interfaces with the trust fund
18 accounting system, and

19 (B) the asset management systems of the
20 Minerals Management Service and the Bureau
21 of Land Management interface with the appro-
22 priate asset management and accounting sys-
23 tems of the Bureau of Indian Affairs, including
24 ensuring that—

1 (i) the Minerals Management Service
2 establishes policies and procedures that
3 will allow it to properly collect, account for,
4 and disburse to the Bureau of Indian Af-
5 fairs all royalties and other revenues gen-
6 erated by production from leases on Indian
7 lands; and

8 (ii) the Bureau of Land Management
9 and the Bureau of Indian Affairs provide
10 Indian landholders with accurate and time-
11 ly reports on a periodic basis that cover all
12 transactions related to leases of Indian re-
13 sources.

14 (d) PROBLEM RESOLUTION.—The Special Trustee
15 shall provide such guidance as necessary to assist Depart-
16 ment personnel in identifying problems and options for re-
17 solving problems, and in implementing reforms to Depart-
18 ment, Bureau of Indian Affairs, Bureau of Land Manage-
19 ment, and Minerals Management Service policies, proce-
20 dures, systems and practices.

21 (e) SPECIAL TRUSTEE ACCESS.—The Special Trust-
22 ee, and his staff and agents, shall have access to all
23 records, reports, audits, reviews, documents, papers, rec-
24 ommendations, files and other material, as well as to any
25 officer and employee, of the Department and any office

1 or bureau thereof, as the Special Trustee deems necessary
2 for the accomplishment of his duties under this Act.

3 (f) ANNUAL REPORT.—The Special Trustee shall re-
4 port to the Secretary and the Committee on Natural Re-
5 sources of the House of Representatives and the Commit-
6 tee on Indian Affairs of the Senate each year on the
7 progress of the Department, the Bureau of Indian Affairs,
8 the Bureau of Land Management, and the Minerals Man-
9 agement Service in implementing the reforms identified in
10 the comprehensive strategic plan under subsection (a)(1)
11 and in meeting the timetable established in the strategic
12 plan under subsection (a)(2)(C).

13 **SEC. 105. STAFF AND CONSULTANTS.**

14 (a) STAFF.—The Special Trustee may employ such
15 staff as the Special Trustee deems necessary. The Special
16 Trustee may request staff assistance from within the De-
17 partment and any office or Bureau thereof as the Special
18 Trustee deems necessary.

19 (b) CONTRACTS.—To the extent and in such amounts
20 as may be provided in advance by appropriations Acts, the
21 Special Trustee may enter into contracts and other ar-
22 rangements with public agencies and with private persons
23 and organizations for consulting services and make such
24 payments as necessary to carry out the provisions of this
25 title.

1 **SEC. 106. ADVISORY BOARD.**

2 Notwithstanding any other law, the Special Trustee
3 shall establish an advisory board to provide advice on all
4 matters within the jurisdiction of the Special Trustee. The
5 advisory board shall consist of nine members, appointed
6 by the Special Trustee after consultation with Indian
7 tribes and appropriate Indian organizations, of which—

8 (1) five members shall represent trust fund ac-
9 count holders, including both tribal and Individual
10 Indian Money accounts;

11 (2) two members shall have practical experience
12 in trust fund or financial management;

13 (3) one member, from academia, shall have par-
14 ticular knowledge of trust fund management; and

15 (4) one member, from academia, shall have
16 knowledge of general management of large organiza-
17 tions.

18 Each member shall serve a term of two years. The Advi-
19 sory Board shall terminate upon termination of the Office
20 of Special Trustee.

21 **TITLE II—INDIAN TRUST FUND**
22 **MANAGEMENT DEMONSTRA-**
23 **TION PROGRAM**

24 **SEC. 201. PURPOSE.**

25 The purpose of this title is to allow tribes an oppor-
26 tunity to assess new approaches for the management of

1 tribal and individual Indian funds currently held in trust
2 by the United States and managed by the Secretary
3 through the Bureau, that, consistent with the trust re-
4 sponsibility of the United States and the principles of self-
5 determination, will—

6 (1) give Indian tribal governments and individ-
7 ual Indian account holders greater control over the
8 management of such trust funds; or

9 (2) otherwise demonstrate how the principles of
10 self-determination can work with respect to the man-
11 agement of such trust funds, in a manner consistent
12 with the trust responsibility of the United States.

13 **SEC. 202. INDIAN TRIBE DEFINED.**

14 For the purposes of this title, except for the purposes
15 of section 204, the terms “Indian tribe” and “tribe” mean
16 an Indian tribe or a consortia of Indian tribes.

17 **SEC. 203. DEMONSTRATION PLANS.**

18 (a) PLAN.—An Indian tribe may submit to the Sec-
19 retary a plan for the tribe to directly manage tribal funds
20 currently held in trust by the United States for such tribe,
21 and as of the date of the enactment of this Act, managed
22 by the Secretary through the Bureau, in a manner that
23 the tribe considers to be more responsive to its financial
24 needs. The implementation of the plan shall be subject to
25 supervision and oversight by the Secretary.

1 (b) SCOPE.—For the purposes of this section, the
2 term “manage” may include one or more of the functions
3 carried out, as of the date of the enactment of this Act,
4 by the Secretary through the Bureau with regard to trust
5 funds, such as collection, disbursement, and investment
6 functions.

7 **SEC. 204. APPROVAL OF PLANS BY THE SECRETARY.**

8 (a) IN GENERAL.—The Secretary shall approve with-
9 in 90 days of receipt a plan submitted under section 203
10 that meets the following conditions:

11 (1) Such plan has been approved by the appro-
12 priate Indian tribe, as follows:

13 (A) For a plan involving tribal trust funds,
14 such plan is accompanied by a resolution from
15 the tribal governing body approving the plan.

16 (B) For a plan submitted by an Indian
17 tribe (as defined in paragraphs (1) and (2) of
18 section 202), it is accompanied by a resolution
19 from the tribal governing body approving the
20 plan, along with a certification that the tribe
21 held no fewer than two public meetings to pro-
22 vide an opportunity for tribal members to com-
23 ment on the plan.

1 (2) The Secretary determines such plan to be
2 reasonable after considering all appropriate factors,
3 including (but not limited to) the following:

4 (A) The capability and experience of the
5 individuals or institutions that will be managing
6 the trust funds.

7 (B) The protection against substantial loss
8 of principal.

9 (C) The rate of return, except that the
10 plan need not produce the highest rate of re-
11 turn possible if the Indian tribe chooses to ac-
12 cept a lower rate in return for other benefits
13 such as the benefits from investing in local fi-
14 nancial institutions.

15 (D) The ability of the Secretary to effec-
16 tively monitor the demonstration, pursuant to
17 the trust responsibility of the United States as
18 specified in section 205.

19 (3) The duration of the plan may not exceed 5
20 years. At the end of that 5-year period, the tribe
21 may—

22 (A) elect to withdraw its funds from the
23 trust and terminate the trust relationship, in
24 accordance with section 208,

1 (B) return management of its funds to the
2 Secretary, or

3 (C) request renewal of its demonstration
4 plan for an additional five years.

5 (b) INVESTMENT IN EQUITIES OR OTHER FORMS OF
6 INVESTMENTS.—Nothing in this section shall prohibit an
7 Indian tribe submitting a plan for a demonstration under
8 this section from providing in such plan for the investment
9 of its trust funds in equities or other approved forms of
10 investments, if the Secretary determines that such plan
11 meets the standard of subsection (a)(2).

12 **SEC. 205. FEDERAL TRUST RESPONSIBILITY FOR TRUST**
13 **FUND DEMONSTRATION PURPOSES.**

14 (a) IN GENERAL.—If an Indian tribe assumes man-
15 agement of trust funds pursuant to a demonstration under
16 this title, the trust responsibility of the United States with
17 respect to such funds shall, for the duration of the dem-
18 onstration, be limited to the following:

19 (1) The exercise of reasonable care by the Sec-
20 retary in approving the plan for the demonstration.

21 (2) An annual audit provided by the Secretary,
22 directly or by contract, to determine that the tribe
23 is performing in conformance with such plan.

1 (3) If the Secretary finds, through such audits,
2 that the tribe is not in compliance with the terms of
3 the plan, the Secretary shall—

4 (A) terminate the demonstration; or

5 (B) prescribe remedial action to be taken
6 by the tribe to achieve compliance with the
7 plan.

8 (b) DECREASE IN INTEREST AND LOSS OF PRIN-
9 CIPAL.—If a plan for a demonstration submitted under
10 this title and approved by the Secretary provides for the
11 implementation of such demonstration by the Secretary,
12 the United States shall not be liable, during the period
13 of such demonstration, for any decrease in interest rate
14 or any loss of principal that is proximately caused by the
15 Secretary's prudent implementation of such demonstra-
16 tion.

17 (c) AGREEMENT.—Prior to the implementation of
18 any demonstration under this title, the Indian tribe in-
19 volved shall sign a written statement indicating that it un-
20 derstands and accepts the limitations on the trust respon-
21 sibility of the United States as provided in this section.

22 **SEC. 206. TECHNICAL AND FINANCIAL ASSISTANCE.**

23 The Secretary shall, directly or by contract, provide
24 Indian tribes with technical and financial assistance in de-

1 veloping, implementing, and managing plans for dem-
2 onstrations under this title.

3 **SEC. 207. NO INCOME TAX CONSEQUENCES.**

4 Funds managed pursuant to a demonstration pro-
5 gram under this title, and distributions made from such
6 funds, shall, for purposes of the Internal Revenue Code
7 of 1986, be treated in the same manner as such funds
8 would be treated if such funds were managed directly by
9 the Secretary, through the Bureau.

10 **SEC. 208. VOLUNTARY WITHDRAWAL FROM TRUST FUND**
11 **PROGRAM.**

12 (a) IN GENERAL.—An Indian tribe may, in accord-
13 ance with this section, submit a plan to withdraw some
14 or all funds held in trust, including judgment fund ac-
15 counts, for such tribe by the United States and managed
16 by the Secretary through the Bureau.

17 (b) APPROVAL OF PLAN.—The Secretary shall ap-
18 prove a plan under this section that meets the require-
19 ments specified in section 204(a)(1) and subparagraphs
20 (A) and (B) of section 204(a)(2).

21 (c) TERMINATION OF TRUST RESPONSIBILITY.—Be-
22 ginning on the date funds are withdrawn pursuant to this
23 section, any trust responsibility of the United States with
24 respect to such funds shall terminate.

1 **SEC. 209. REPORT TO CONGRESS.**

2 The Secretary shall, beginning one year after the date
3 of the enactment of this Act, submit an annual report to
4 the House Committee on Natural Resources and the Sen-
5 ate Committee on Indian Affairs on the implementation
6 of demonstration programs under this title. Such report
7 shall include recommendations for changes necessary to
8 effectively implement the purpose of this title.

9 **SEC. 210. SAVINGS PROVISION.**

10 By submitting or approving a plan under this section,
11 neither the tribe nor the Secretary shall be deemed to have
12 accepted the account balance as accurate or to have
13 waived any rights regarding such balance and to seek com-
14 pensation.

15 **TITLE III—MISCELLANEOUS**

16 **SEC. 301. INVESTMENT BY THE SECRETARY OF THE TREAS-**
17 **URY OF TRIBAL TRUST FUNDS.**

18 Section 161a of title 25, United States Code, is
19 amended as follows:

20 (1) The current text of section 161a is des-
21 ignated as subsection (a).

22 (2) A new subsection (b) is added as follows:

23 “(b)(1) At the election of each individual Indian tribe,
24 all of the funds, or a portion thereof, as designated by
25 the tribe, held in trust by the United States and carried
26 in principal accounts on the books of the United States

1 Treasury to the credit of the tribe may be invested by the
2 Secretary of the Interior—

3 “(A) in accordance with the second subsection
4 (b) of section 162a of title 25, United States Code;

5 “(B) in the ‘Common Stock Index Investment
6 Fund’ established under section 161b(f)(1) of title
7 25, United States Code; and

8 “(C) in the ‘Fixed Income Investment Fund’ es-
9 tablished under section 161b(f)(2) of title 25, United
10 States Code.

11 “(2) Twice a year, during time periods designated by
12 the Tribal Trust Funds Investment Board under section
13 161b(c)(1) of this title, a tribe may elect to invest in any
14 one or a combination of the investment options offered in
15 this subsection. If an election is not made, the Secretary
16 shall invest all sums held on account of the tribe in accord-
17 ance with subsection (a) of this section.

18 “(3) Each tribe who elects to invest any of its funds
19 in the Common Stock Index Investment Fund or the Fixed
20 Income Investment Fund shall sign an acknowledgement
21 which states that the tribe understands that an investment
22 in either such Fund is made at the tribe’s risk, that the
23 tribe is not protected by the Government against any loss
24 on such investment, and that a return on such investment
25 is not guaranteed by the Government.

1 “(4) A tribe who elects to invest any of its funds in
2 the Common Stock Index Investment Fund or the Fixed
3 Income Investment Fund may make withdrawals of those
4 funds only twice a year, during those time periods des-
5 ignated by the Tribal Trust Funds Investment Board for
6 election of investment options.

7 “(5) Any management or other fees incurred by the
8 Secretary in investing amounts under this subsection shall
9 be paid from the proceeds of the investments.”.

10 **SEC. 302. TRIBAL TRUST FUND INVESTMENT BOARD.**

11 Section 161b of title 25, United States Code, is reded-
12 icated as section 161d, and new sections 161b and 161c
13 are included as follows:

14 **“SEC. 161b. TRIBAL TRUST FUND INVESTMENT BOARD.**

15 “(a) There is hereby established in the Department
16 of the Interior a Tribal Trust Fund Investment Board.

17 “(b) The Board shall be composed of 5 members ap-
18 pointed by the Secretary of the Interior, after consultation
19 with Indian tribes and appropriate tribal organizations,
20 one of whom the Secretary shall designate as Chairman.
21 The Secretary shall not appoint as a member of the Board
22 any person who is currently a Federal employee. The Di-
23 rector of the Office of Trust Fund Management shall serve
24 as an ex-officio, nonvoting member of the Board.

1 “(1) Members of the Board shall have substan-
2 tial practical experience, training, and expertise, in
3 the management of financial investments.

4 “(2) A member of the Board shall be appointed
5 for a term of 4 years, except that of the members
6 first appointed—

7 “(A) the Chairman shall be appointed for
8 a term of 4 years;

9 “(B) three members, at the Secretary’s
10 discretion, shall be appointed for terms of 3
11 years; and

12 “(C) the remaining two members shall be
13 appointed for terms of two years.

14 The term of any member shall not expire before the
15 date on which the member’s successor takes office.

16 “(3) A vacancy on the Board shall be filled by
17 the Secretary; the individual chosen to fill the va-
18 cancy shall be appointed for the unexpired term of
19 the member replaced.

20 “(c) The Board shall—

21 “(1) establish policies for the investment and
22 management of all tribal trust funds, to provide for
23 prudent investments and low administrative costs,
24 including the designation of two periods of time per
25 calendar year during which tribes may elect invest-

1 ment options under section 161a(b)(2) of this title
2 and during which tribes may make withdrawals
3 under section 161a(b)(4);

4 “(2) review the performance of all investments
5 of tribal trust funds; and

6 “(3) review and approve the budget of the
7 Board.

8 “(d) The members of the Board shall discharge their
9 responsibilities solely in the interest of tribal trust fund
10 accontholders, and are held to the same high degree of
11 fiduciary responsibility to the tribes as is the Secretary.

12 “(e) The Board shall establish—

13 “(1) a Common Stock Index Fund, by selecting
14 an index which is a commonly recognized index com-
15 prised of common stock the aggregate market value
16 of which is a reasonably complete representation of
17 the United States equity markets. The Common
18 Stock Index Investment Fund shall be invested in a
19 portfolio designed to replicate the performance of
20 the index selected. The portfolio shall be designed
21 such that, to the extent practicable, the percentage
22 of the Common Stock Index Investment Fund that
23 is invested in each stock is the same as the percent-
24 age determined by dividing the aggregate market
25 value of all shares of that stock by the aggregate

1 market value of all shares of all stocks included in
2 such index;

3 “(2) a Fixed Income Investment Fund under
4 which sums are invested in—

5 “(A) insurance contracts;

6 “(B) certificates of deposit; or

7 “(C) other instruments of obligations se-
8 lected by qualified professional asset managers,
9 which return the amount invested and pay interest
10 at a specified rate or rates, on that amount during
11 a specified period of time. For the purposes of this
12 section, the term ‘qualified professional asset man-
13 ager’ shall have the same meaning as provided in
14 section 8438(a)(7) of title 5, United States Code.

15 “(f) The Board shall meet not less than once a
16 month, but at additional times at the call of the Chairman.
17 The Board shall perform the functions and exercise the
18 powers of the Board on a majority vote of a quorum of
19 the Board. Three members of the Board shall constitute
20 a quorum. A vacancy on the Board shall not impair the
21 authority of a quorum of the Board to perform.

22 “(g) Each member of the Board who is not an officer
23 or employee of the Federal Government shall be com-
24 pensated at the daily rate of basic pay for level IV of the
25 Executive Schedule for each day during which such mem-

1 ber is engaged in performing a function of the Board. A
2 member of the Board shall be paid travel, per diem, and
3 other necessary expenses under subchapter I of chapter
4 57 of title 5, United States Code, while traveling away
5 from such member's home or regular place of business in
6 the performance of the duties of the Board. The accrued
7 annual leave of any Federal employee who is a member
8 of the Board shall not be charged for any time used in
9 performing services for the Board.

10 **“SEC. 161c. ACCOUNTING AND INFORMATION.**

11 “(a) The Secretary of the Interior shall establish and
12 maintain an account for each tribe whose funds are held
13 in trust by the United States.

14 “(b) The Director, Office of Trust Funds Manage-
15 ment, Bureau of Indian Affairs, shall allocate to each ac-
16 count an amount equal to a pro rata share of the net earn-
17 ings and net losses from each investment under section
18 161a of this title attributable to sums credited to such
19 account, reduced by an appropriate share of management
20 and other fees paid out of the net earnings from invest-
21 ments under subsection (b)(5) of section 161a of this title.

22 “(c)(1) The Director, Office of Trust Funds Manage-
23 ment shall engage, annually, on behalf of all tribes for
24 whom an account is maintained, an independent qualified
25 accountant, who shall conduct an examination of all ac-

1 counts and other books and records maintained in the ad-
2 ministration of sections 161a, 161b, and 161c, as the pub-
3 lic accountant considers necessary to enable the public ac-
4 countant to make the determination required by para-
5 graph (2) of this subsection. The examination shall be con-
6 ducted in accordance with auditing standards established
7 by the Comptroller General of the United States, and shall
8 involve such tests of the accounts, books, and records as
9 the public accountant considers necessary.

10 “(2) The public accountant conducting an examina-
11 tion under paragraph (1) of this subsection shall deter-
12 mine whether the accounts, books, and records referred
13 to in such paragraph have been maintained in conformity
14 with generally accepted accounting principles applied on
15 a basis consistent with the manner in which such prin-
16 ciples were applied during the examination conducted
17 under such paragraph during the preceding year. The pub-
18 lic accountant shall transmit to the Tribal Trust Funds
19 Investment Board, the Director, Office of Trust Funds
20 Management, Special Trustee, Secretary of the Interior,
21 and the Comptroller General of the United States a report
22 on his examination, including his determination under this
23 paragraph.

24 “(3) In making a determination under paragraph (2)
25 of this subsection, a public accountant may rely on the

1 correctness of any actuarial matter certified by an enrolled
2 actuary if the public accountant states his reliance in the
3 report transmitted under such paragraph.

4 “(4) For purposes of this subsection, the term “quali-
5 fied public accountant” shall have the same meaning as
6 provided in section 103(a)(3)(D) of the Employee Retire-
7 ment Income Security Act of 1974 (29 U.S.C.
8 1023(a)(3)(D)).

9 “(d)(1) The Board shall prescribe regulations under
10 which each tribe for whom an account is maintained shall
11 be furnished with—

12 “(A) a periodic statement relating to the tribe’s
13 account; and

14 “(B) a summary description of the investment
15 options under section 161a of this title including an
16 evaluation of each such option covering the 5-year
17 period preceding the date as of which such evalua-
18 tion is made.

19 “(2) Information under this subsection shall be pro-
20 vided at least 30 calendar days before the beginning of
21 each election period under section 161a(b)(2) of this title,
22 and in a manner designed to facilitate informed decision-
23 making with respect to such election.”.

1 **TITLE IV—MISCELLANEOUS**

2 **SEC. 401. RECONCILIATION REPORT.**

3 The Secretary of the Interior shall transmit to the
4 Committee on Natural Resources of the House of Rep-
5 resentatives and the Committee on Indian Affairs of the
6 Senate, by September 30, 1995, a report identifying for
7 each tribal trust fund account for which the Secretary is
8 responsible a balance reconciled as of that date. The re-
9 port shall include—

10 (1) a description of the Secretary's methodology
11 in reconciling trust fund accounts;

12 (2) attestations by each account holder that—

13 (A) the Secretary has provided the account
14 holder with a full and complete accounting of
15 the account holder's funds to the earliest pos-
16 sible date, and that the account holder accepts
17 the balance as reconciled by the Secretary; or

18 (B) the account holder disputes the bal-
19 ance of the account holder's account as rec-
20 onciled by the Secretary and statement explain-
21 ing why the account holder disputes the Sec-
22 retary's reconciled balance;

23 (3) a statement by the Secretary with regard to
24 each account balance disputed by the account holder

1 outlining efforts the Secretary will undertake to re-
2 solve the dispute; and

3 (4) for each account that the Secretary is un-
4 able to reconcile as of September 30, 1995, a state-
5 ment explaining why the Secretary is unable to rec-
6 oncile the account and a statement of the Sec-
7 retary's plans to negotiate a balance acceptable to
8 both the Secretary and the account holder.

9 **SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

10 There is authorized to be appropriated such sums as
11 may be necessary to carry out the provisions of this Act.

○

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