

Union Calendar No. 329

114TH CONGRESS
2D SESSION

H. R. 812

[Report No. 114–432]

To provide for Indian trust asset management reform, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2015

Mr. SIMPSON (for himself, Mr. COLE, and Mr. HECK of Washington) introduced the following bill; which was referred to the Committee on Natural Resources

FEBRUARY 24, 2016

Additional sponsors: Mr. KILMER, Ms. DELBENE, Mr. LABRADOR, Mr. REICHERT, Mrs. McMORRIS RODGERS, Mr. POCAN, Mr. JONES, Mr. GOSAR, and Mr. NEWHOUSE

FEBRUARY 24, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 9, 2015]

A BILL

To provide for Indian trust asset management reform, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “In-*
 5 *dian Trust Asset Reform Act”.*

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

Sec. 1. Short title; table of contents.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

Sec. 101. Findings.

Sec. 102. Reaffirmation of policy.

**TITLE II—INDIAN TRUST ASSET MANAGEMENT DEMONSTRATION
PROJECT**

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Establishment of demonstration project; selection of participating In-
dian Tribes.

Sec. 204. Indian trust asset management plan.

Sec. 205. Forest land management and surface leasing activities.

Sec. 206. Effect of title.

**TITLE III—IMPROVING EFFICIENCY AND STREAMLINING
PROCESSES**

Sec. 301. Purpose.

Sec. 302. Definitions.

Sec. 303. Under Secretary for Indian Affairs.

Sec. 304. Office of Special Trustee for American Indians.

Sec. 305. Appraisals and valuations.

Sec. 306. Cost savings.

8 **TITLE I—RECOGNITION OF**
 9 **TRUST RESPONSIBILITY**

10 **SEC. 101. FINDINGS.**

11 *Congress finds that—*

1 (1) *there exists a unique relationship between the*
2 *Government of the United States and the governments*
3 *of Indian tribes;*

4 (2) *there exists a unique Federal responsibility*
5 *to Indians;*

6 (3) *through treaties, statutes, and historical rela-*
7 *tions with Indian tribes, the United States has under-*
8 *taken a unique trust responsibility to protect and*
9 *support Indian tribes and Indians;*

10 (4) *the fiduciary responsibilities of the United*
11 *States to Indians also are founded in part on specific*
12 *commitments made through written treaties and*
13 *agreements securing peace, in exchange for which In-*
14 *dians have surrendered claims to vast tracts of land,*
15 *which provided legal consideration for permanent, on-*
16 *going performance of Federal trust duties; and*

17 (5) *the foregoing historic Federal-tribal relations*
18 *and understandings have benefitted the people of the*
19 *United States as a whole for centuries and have estab-*
20 *lished enduring and enforceable Federal obligations to*
21 *which the national honor has been committed.*

22 **SEC. 102. REAFFIRMATION OF POLICY.**

23 *Pursuant to the constitutionally vested authority of*
24 *Congress over Indian affairs, Congress reaffirms that the*
25 *responsibility of the United States to Indian tribes includes*

1 *a duty to promote tribal self-determination regarding gov-*
 2 *ernmental authority and economic development.*

3 ***TITLE II—INDIAN TRUST ASSET***
 4 ***MANAGEMENT DEMONSTRA-***
 5 ***TION PROJECT***

6 ***SEC. 201. SHORT TITLE.***

7 *This title may be cited as the “Indian Trust Asset*
 8 *Management Demonstration Project Act of 2016”.*

9 ***SEC. 202. DEFINITIONS.***

10 *In this title:*

11 (1) *INDIAN TRIBE.*—*The term “Indian tribe” has*
 12 *the meaning given the term in the Indian Self-Deter-*
 13 *mination and Education Assistance Act (25 U.S.C.*
 14 *450b).*

15 (2) *PROJECT.*—*The term “Project” means the*
 16 *Indian trust asset management demonstration project*
 17 *established under section 203(a).*

18 (3) *SECRETARY.*—*The term “Secretary” means*
 19 *the Secretary of the Interior.*

20 ***SEC. 203. ESTABLISHMENT OF DEMONSTRATION PROJECT;***

21 ***SELECTION OF PARTICIPATING INDIAN***
 22 ***TRIBES.***

23 (a) *IN GENERAL.*—*The Secretary shall establish and*
 24 *carry out an Indian trust asset management demonstration*
 25 *project, in accordance with this title.*

1 (b) *SELECTION OF PARTICIPATING INDIAN TRIBES.*—

2 (1) *IN GENERAL.*—*An Indian tribe shall be eligi-*
3 *ble to participate in the project if—*

4 (A) *the Indian tribe submits to the Sec-*
5 *retary an application under subsection (c); and*

6 (B) *the Secretary approves the application*
7 *of the Indian tribe.*

8 (2) *NOTICE.*—

9 (A) *IN GENERAL.*—*The Secretary shall pro-*
10 *vide a written notice to each Indian tribe ap-*
11 *proved to participate in the project.*

12 (B) *CONTENTS.*—*A notice under subpara-*
13 *graph (A) shall include—*

14 (i) *a statement that the application of*
15 *the Indian tribe has been approved by the*
16 *Secretary; and*

17 (ii) *a requirement that the Indian*
18 *tribe shall submit to the Secretary a pro-*
19 *posed Indian trust asset management plan*
20 *in accordance with section 204.*

21 (c) *APPLICATION.*—

22 (1) *IN GENERAL.*—*To be eligible to participate*
23 *in the project, an Indian tribe shall submit to the*
24 *Secretary a written application in accordance with*
25 *paragraph (2).*

(2) *REQUIREMENTS.*—*The Secretary shall consider an application under this subsection only if the application—*

(A) includes a copy of a resolution or other appropriate action by the governing body of the Indian tribe, as determined by the Secretary, in support of or authorizing the application;

(B) is received by the Secretary after the date of enactment of this Act; and

(C) states that the Indian tribe is requesting to participate in the project.

(d) DURATION.—*The project—*

(1) shall remain in effect for a period of 10 years after the date of enactment of this Act; but

(2) may be extended at the discretion of the Secretary.

SEC. 204. INDIAN TRUST ASSET MANAGEMENT PLAN.

(a) PROPOSED PLAN.—

(1) SUBMISSION.—*After the date on which an Indian tribe receives a notice from the Secretary under section 203(b)(2), the Indian tribe shall submit to the Secretary a proposed Indian trust asset management plan in accordance with paragraph (2).*

(2) CONTENTS.—*A proposed Indian trust asset management plan shall include provisions that—*

1 (A) identify the trust assets that will be sub-
2 ject to the plan;

3 (B) establish trust asset management objec-
4 tives and priorities for Indian trust assets that
5 are located within the reservation, or otherwise
6 subject to the jurisdiction, of the Indian tribe;

7 (C) allocate trust asset management funding
8 that is available for the Indian trust assets sub-
9 ject to the plan in order to meet the trust asset
10 management objectives and priorities;

11 (D) if the Indian tribe has contracted or
12 compacted functions or activities under the In-
13 dian Self-Determination and Education Assist-
14 ance Act (25 U.S.C. 450 et seq.) relating to the
15 management of trust assets—

16 (i) identify the functions or activities
17 that are being or will be performed by the
18 Indian tribe under the contracts, compacts,
19 or other agreements under that Act, which
20 may include any of the surface leasing or
21 forest land management activities author-
22 ized by the proposed plan pursuant to sec-
23 tion 205(b); and

24 (ii) describe the practices and proce-
25 dures that the Indian tribe will follow;

1 (E) establish procedures for nonbinding me-
2 diation or resolution of any dispute between the
3 Indian tribe and the United States relating to
4 the trust asset management plan;

5 (F) include a process for the Indian tribe
6 and the Federal agencies affected by the trust
7 asset management plan to conduct evaluations to
8 ensure that trust assets are being managed in ac-
9 cordance with the plan; and

10 (G) identify any Federal regulations that
11 will be superseded by the plan.

12 (3) *TECHNICAL ASSISTANCE AND INFORMA-*
13 *TION.*—On receipt of a written request from an In-
14 dian tribe, the Secretary shall provide to the Indian
15 tribe any technical assistance and information, in-
16 cluding budgetary information, that the Indian tribe
17 determines to be necessary for preparation of a pro-
18 posed plan.

19 (b) *APPROVAL AND DISAPPROVAL OF PROPOSED*
20 *PLANS.*—

21 (1) *APPROVAL.*—

22 (A) *IN GENERAL.*—Not later than 120 days
23 after the date on which an Indian tribe submits
24 a proposed Indian trust asset management plan

1 *under subsection (a), the Secretary shall approve*
2 *or disapprove the proposed plan.*

3 *(B) REQUIREMENTS FOR DISAPPROVAL.—*

4 *The Secretary shall approve a proposed plan un-*
5 *less the Secretary determines that—*

6 *(i) the proposed plan fails to address a*
7 *requirement under subsection (a)(2);*

8 *(ii) the proposed plan includes 1 or*
9 *more provisions that are inconsistent with*
10 *subsection (c); or*

11 *(iii) the cost of implementing the pro-*
12 *posed plan exceeds the amount of funding*
13 *available for the management of trust assets*
14 *that would be subject to the proposed plan.*

15 *(2) ACTION ON DISAPPROVAL.—*

16 *(A) NOTICE.—If the Secretary disapproves*
17 *a proposed plan under paragraph (1)(B), the*
18 *Secretary shall provide to the Indian tribe a*
19 *written notice of the disapproval, including any*
20 *reason why the proposed plan was disapproved.*

21 *(B) ACTION BY TRIBES.—If a proposed plan*
22 *is disapproved under paragraph (1)(B), the In-*
23 *Indian tribe may resubmit an amended proposed*
24 *plan by not later than 90 days after the date on*

1 *which the Indian tribe receives the notice under*
2 *subparagraph (A).*

3 (3) *FAILURE TO APPROVE OR DISAPPROVE.—If*
4 *the Secretary fails to approve or disapprove a pro-*
5 *posed plan in accordance with paragraph (1), the*
6 *plan shall be considered to be approved.*

7 (4) *JUDICIAL REVIEW.—An Indian tribe may*
8 *seek judicial review of a determination of the Sec-*
9 *retary under this subsection in accordance with sub-*
10 *chapter II of chapter 5, and chapter 7, of title 5,*
11 *United States Code (commonly known as the “Admin-*
12 *istrative Procedure Act”), if—*

13 (A) *the Secretary disapproves the proposed*
14 *plan of the Indian tribe under paragraph (1);*
15 *and*

16 (B) *the Indian tribe has exhausted all other*
17 *administrative remedies available to the Indian*
18 *tribe.*

19 (c) *APPLICABLE LAWS.—Subject to section 205, an In-*
20 *dian trust asset management plan, and any activity car-*
21 *ried out under the plan, shall not be approved unless the*
22 *proposed plan is consistent with any treaties, statutes, and*
23 *Executive orders that are applicable to the trust assets, or*
24 *the management of the trust assets, identified in the plan.*

25 (d) *TERMINATION OF PLAN.—*

1 (1) *IN GENERAL.*—*An Indian tribe may termi-*
 2 *nate an Indian trust asset management plan on any*
 3 *date after the date on which a proposed Indian trust*
 4 *asset management plan is approved by providing to*
 5 *the Secretary—*

6 (A) *a notice of the intent of the Indian tribe*
 7 *to terminate the plan; and*

8 (B) *a resolution of the governing body of the*
 9 *Indian tribe authorizing the termination of the*
 10 *plan.*

11 (2) *EFFECTIVE DATE.*—*A termination of an In-*
 12 *dian trust asset management plan under paragraph*
 13 *(1) takes effect on October 1 of the first fiscal year fol-*
 14 *lowing the date on which a notice is provided to the*
 15 *Secretary under paragraph (1)(A).*

16 **SEC. 205. FOREST LAND MANAGEMENT AND SURFACE LEAS-**
 17 **ING ACTIVITIES.**

18 (a) *DEFINITIONS.*—*In this section:*

19 (1) *FOREST LAND MANAGEMENT ACTIVITY.*—*The*
 20 *term “forest land management activity” means any*
 21 *activity described in section 304(4) of the National*
 22 *Indian Forest Resources Management Act (25 U.S.C.*
 23 *3103(4)).*

24 (2) *INTERESTED PARTY.*—*The term “interested*
 25 *party” means an Indian or non-Indian individual,*

1 *entity, or government the interests of which could be*
 2 *adversely affected by a tribal trust land leasing deci-*
 3 *sion made by an applicable Indian tribe.*

4 (3) *SURFACE LEASING TRANSACTION.*—*The term*
 5 *“surface leasing transaction” means a residential,*
 6 *business, agricultural, or wind or solar resource lease*
 7 *of land the title to which is held—*

8 (A) *in trust by the United States for the*
 9 *benefit of an Indian tribe; or*

10 (B) *in fee by an Indian tribe, subject to re-*
 11 *strictions against alienation under Federal law.*

12 (b) *APPROVAL BY SECRETARY.*—*The Secretary may*
 13 *approve an Indian trust asset management plan that in-*
 14 *cludes a provision authorizing the Indian tribe to enter*
 15 *into, approve, and carry out a surface leasing transaction*
 16 *or forest land management activity without approval of the*
 17 *Secretary, regardless of whether the surface leasing trans-*
 18 *action or forest land management activity would require*
 19 *such an approval under otherwise applicable law (including*
 20 *regulations), if—*

21 (1) *the resolution or other action of the governing*
 22 *body of the Indian tribe referred to in section*
 23 *203(c)(2)(A) expressly authorizes the inclusion of the*
 24 *provision in the Indian trust asset management plan;*
 25 *and*

1 (2) *the Indian tribe has adopted regulations ex-*
2 *pressly incorporated by reference into the Indian*
3 *trust asset management plan that—*

4 *(A) with respect to a surface leasing trans-*
5 *action—*

6 *(i) have been approved by the Sec-*
7 *retary pursuant to subsection (h)(4) of the*
8 *first section of the Act of August 9, 1955 (25*
9 *U.S.C. 415(h)(4)); or*

10 *(ii) have not yet been approved by the*
11 *Secretary in accordance with clause (i), but*
12 *that the Secretary determines at or prior to*
13 *the time of approval under this paragraph*
14 *meet the requirements of subsection (h)(3) of*
15 *the first section of that Act (25 U.S.C.*
16 *415(h)(3)); or*

17 *(B) with respect to forest land management*
18 *activities, the Secretary determines—*

19 *(i) are consistent with the regulations*
20 *of the Secretary adopted under the National*
21 *Indian Forest Resources Management Act*
22 *(25 U.S.C. 3101 et seq.); and*

23 *(ii) provide for an environmental re-*
24 *view process that includes—*

1 (I) the identification and evalua-
2 tion of any significant effects of the
3 proposed action on the environment;
4 and

5 (II) a process consistent with the
6 regulations referred to in clause (i) for
7 ensuring that—

8 (aa) the public is informed
9 of, and has a reasonable oppor-
10 tunity to comment on, any sig-
11 nificant environmental impacts of
12 the proposed forest land manage-
13 ment activity identified by the In-
14 dian tribe; and

15 (bb) the Indian tribe pro-
16 vides responses to relevant and
17 substantive public comments on
18 any such impacts before the In-
19 dian tribe approves the forest land
20 management activity.

21 (c) *TYPES OF TRANSACTIONS.*—

22 (1) *IN GENERAL.*—At the discretion of the In-
23 dian tribe, an Indian trust asset management plan
24 may authorize the Indian tribe to carry out a surface

1 *leasing transaction, a forest land management activ-*
 2 *ity, or both.*

3 (2) *SELECTION OF SPECIFIC TRANSACTIONS AND*
 4 *ACTIVITIES.—At the discretion of the Indian tribe, the*
 5 *Indian tribe may include in the integrated resource*
 6 *management plan any 1 or more of the transactions*
 7 *and activities authorized to be included in the plan*
 8 *under subsection (b).*

9 (d) *TECHNICAL ASSISTANCE.—*

10 (1) *IN GENERAL.—The Secretary may provide*
 11 *technical assistance, on request of an Indian tribe, for*
 12 *development of a regulatory environmental review*
 13 *process required under subsection (b)(2)(B)(ii).*

14 (2) *INDIAN SELF-DETERMINATION AND EDU-*
 15 *CATION ASSISTANCE ACT.—The technical assistance to*
 16 *be provided by the Secretary pursuant to paragraph*
 17 *(1) may be made available through contracts, grants,*
 18 *or agreements entered into in accordance with, and*
 19 *made available to entities eligible for, contracts,*
 20 *grants, or agreements under the Indian Self-Deter-*
 21 *mination and Education Assistance Act (25 U.S.C.*
 22 *450 et seq.).*

23 (e) *FEDERAL ENVIRONMENTAL REVIEW.—Notwith-*
 24 *standing subsection (b), if an Indian tribe carries out a*
 25 *project or activity funded by a Federal agency, the Indian*

1 *tribe shall have the authority to rely on the environmental*
2 *review process of the applicable Federal agency, rather than*
3 *any tribal environmental review process under this section.*

4 *(f) DOCUMENTATION.—If an Indian tribe executes a*
5 *surface leasing transaction or forest land management ac-*
6 *tivity, pursuant to tribal regulations under subsection*
7 *(b)(2), the Indian tribe shall provide to the Secretary*

8 *(1) a copy of the surface leasing transaction or*
9 *forest land management activity documents, includ-*
10 *ing any amendments to, or renewals of, the applicable*
11 *transaction; and*

12 *(2) in the case of tribal regulations, a surface*
13 *leasing transaction, or forest land management ac-*
14 *tivities that allow payments to be made directly to the*
15 *Indian tribe, documentation of the payments that is*
16 *sufficient to enable the Secretary to discharge the*
17 *trust responsibility of the United States under sub-*
18 *section (g).*

19 *(g) TRUST RESPONSIBILITY.—*

20 *(1) IN GENERAL.—The United States shall not be*
21 *liable for losses sustained—*

22 *(A) by an Indian tribe as a result of the*
23 *execution of any forest land management activ-*
24 *ity pursuant to tribal regulations under sub-*
25 *section (b); or*

1 (B) by any party to a lease executed pursu-
2 ant to tribal regulations under subsection (b).

3 (2) *AUTHORITY OF SECRETARY.*—Pursuant to
4 the authority of the Secretary to fulfill the trust obli-
5 gation of the United States to Indian tribes under
6 Federal law (including regulations), the Secretary
7 may, on reasonable notice from the applicable Indian
8 tribe and at the discretion of the Secretary, enforce
9 the provisions of, or cancel, any lease executed by the
10 Indian tribe under this section.

11 (h) *COMPLIANCE.*—

12 (1) *IN GENERAL.*—An interested party, after ex-
13 hausting any applicable tribal remedies, may submit
14 to the Secretary a petition, at such time and in such
15 form as the Secretary determines to be appropriate,
16 to review the compliance of an applicable Indian
17 tribe with any tribal regulations approved by the Sec-
18 retary under this subsection.

19 (2) *VIOLATIONS.*—If the Secretary determines
20 under paragraph (1) that a violation of tribal regula-
21 tions has occurred, the Secretary may take any action
22 the Secretary determines to be necessary to remedy
23 the violation, including rescinding the approval of the
24 tribal regulations and reassuming responsibility for
25 the approval of leases of tribal trust land.

1 (3) *DOCUMENTATION.*—If the Secretary deter-
 2 mines under paragraph (1) that a violation of tribal
 3 regulations has occurred and a remedy is necessary,
 4 the Secretary shall—

5 (A) make a written determination with re-
 6 spect to the regulations that have been violated;

7 (B) provide to the applicable Indian tribe a
 8 written notice of the alleged violation, together
 9 with the written determination; and

10 (C) prior to the exercise of any remedy, the
 11 rescission of the approval of the regulation in-
 12 volved, or the reassumption of the trust asset
 13 transaction approval responsibilities, provide to
 14 the applicable Indian tribe—

15 (i) a hearing on the record; and

16 (ii) a reasonable opportunity to cure
 17 the alleged violation.

18 **SEC. 206. EFFECT OF TITLE.**

19 (a) *LIABILITY.*—Subject to section 205 and this sec-
 20 tion, nothing in this title or an Indian trust asset manage-
 21 ment plan approved under section 204 shall independently
 22 diminish, increase, create, or otherwise affect the liability
 23 of the United States or an Indian tribe participating in
 24 the project for any loss resulting from the management of

1 *an Indian trust asset under an Indian trust asset manage-*
2 *ment plan.*

3 (b) *DEVIATION FROM STANDARD PRACTICES.*—*The*
4 *United States shall not be liable to any party (including*
5 *any Indian tribe) for any term of, or any loss resulting*
6 *from the terms of, an Indian trust asset management plan*
7 *that provides for management of a trust asset at a less-*
8 *stringent standard than the Secretary would otherwise re-*
9 *quire or adhere to in absence of an Indian trust asset man-*
10 *agement plan.*

11 (c) *EFFECT OF TERMINATION OF PLAN.*—*Subsection*
12 *(b) applies to losses resulting from a transaction or activity*
13 *described in that subsection even if the Indian trust asset*
14 *management plan is terminated under section 204(d) or re-*
15 *scinded under section 205(h).*

16 (d) *EFFECT ON OTHER LAWS.*—

17 (1) *IN GENERAL.*—*Except as provided in sections*
18 *204 and 205 and subsection (e), nothing in this title*
19 *amends or otherwise affects the application of any*
20 *treaty, statute, regulation, or Executive order that is*
21 *applicable to Indian trust assets or the management*
22 *or administration of Indian trust assets.*

23 (2) *INDIAN SELF-DETERMINATION ACT.*—*Nothing*
24 *in this title limits or otherwise affects the authority*
25 *of an Indian tribe, including an Indian tribe partici-*

1 *pating in the project, to enter into and carry out a*
 2 *contract, compact, or other agreement under the In-*
 3 *dian Self-Determination and Education Assistance*
 4 *Act (25 U.S.C. 450 et seq.) (including regulations).*

5 *(e) SEPARATE APPROVAL.—An Indian tribe may sub-*
 6 *mit to the Secretary tribal regulations described in section*
 7 *205(b) governing forest land management activities for re-*
 8 *view and approval under this title if the Indian tribe does*
 9 *not submit or intend to submit an Indian trust asset man-*
 10 *agement plan.*

11 *(f) TRUST RESPONSIBILITY.—Nothing in this title en-*
 12 *hances, diminishes, or otherwise affects the trust responsi-*
 13 *bility of the United States to Indian tribes or individual*
 14 *Indians.*

15 ***TITLE III—IMPROVING EFFI-***
 16 ***CIENCY AND STREAMLINING***
 17 ***PROCESSES***

18 ***SEC. 301. PURPOSE.***

19 *The purpose of this title is to ensure a more efficient*
 20 *and streamlined administration of duties of the Secretary*
 21 *of the Interior with respect to providing services and pro-*
 22 *grams to Indians and Indian tribes, including the manage-*
 23 *ment of Indian trust resources.*

24 ***SEC. 302. DEFINITIONS.***

25 *In this title:*

1 (1) *BIA*.—The term “*BIA*” means the Bureau of
2 *Indian Affairs*.

3 (2) *DEPARTMENT*.—The term “*Department*”
4 means the *Department of the Interior*.

5 (3) *SECRETARY*.—The term “*Secretary*” means
6 the *Secretary of the Interior*.

7 (4) *UNDER SECRETARY*.—The term “*Under Sec-*
8 *retary*” means the *Under Secretary for Indian Affairs*
9 established under section 303(a).

10 **SEC. 303. UNDER SECRETARY FOR INDIAN AFFAIRS.**

11 (a) *ESTABLISHMENT OF POSITION*.—Notwithstanding
12 any other provision of law, the Secretary may establish in
13 the Department the position of Under Secretary for Indian
14 Affairs, who shall report directly to the Secretary.

15 (b) *APPOINTMENT*.—

16 (1) *IN GENERAL*.—Except as provided in para-
17 graph (2), the Under Secretary shall be appointed by
18 the President, by and with the advice and consent of
19 the Senate.

20 (2) *EXCEPTION*.—The individual serving as the
21 Assistant Secretary for Indian Affairs on the date of
22 enactment of this Act may assume the position of
23 Under Secretary without appointment under para-
24 graph (1), if—

1 (A) that individual was appointed as As-
2 sistant Secretary for Indian Affairs by the Presi-
3 dent, by and with the advice and consent of the
4 Senate; and

5 (B) not later than 180 days after the date
6 of enactment of this Act, the Secretary approves
7 the assumption.

8 (c) DUTIES.—In addition to any other duties directed
9 by the Secretary, the Under Secretary shall—

10 (1) coordinate with the Special Trustee for
11 American Indians to ensure an orderly transition of
12 the functions of the Special Trustee to one or more
13 appropriate agencies, offices, or bureaus within the
14 Department, as determined by the Secretary;

15 (2) to the maximum extent practicable, supervise
16 and coordinate activities and policies of the BIA with
17 activities and policies of—

18 (A) the Bureau of Reclamation;

19 (B) the Bureau of Land Management;

20 (C) the Office of Natural Resources Revenue;

21 (D) the National Park Service; and

22 (E) the United States Fish and Wildlife
23 Service; and

1 (3) *provide for regular consultation with Indians*
 2 *and Indian tribes that own interests in trust re-*
 3 *sources and trust fund accounts.*

4 (d) *PERSONNEL PROVISIONS.—*

5 (1) *APPOINTMENTS.—The Under Secretary may*
 6 *appoint and fix the compensation of such officers and*
 7 *employees as the Under Secretary determines to be*
 8 *necessary to carry out any function transferred under*
 9 *this section.*

10 (2) *REQUIREMENTS.—Except as otherwise pro-*
 11 *vided by law—*

12 (A) *any officer or employee described in*
 13 *paragraph (1) shall be appointed in accordance*
 14 *with the civil service laws;*

15 (B) *the compensation of such an officer or*
 16 *employee shall be fixed in accordance with title*
 17 *5, United States Code; and*

18 (C) *in appointing or otherwise hiring any*
 19 *employee, the Under Secretary shall give pref-*
 20 *erence to Indians in accordance with section 12*
 21 *of the Act of June 18, 1934 (25 U.S.C. 472).*

22 **SEC. 304. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN IN-**
 23 **DIANS.**

24 (a) *REPORT TO CONGRESS.—Notwithstanding sections*
 25 *302 and 303 of the American Indian Trust Fund Manage-*

1 *ment Reform Act of 1994 (25 U.S.C. 4042 and 4043), not*
2 *later than 1 year after the date of enactment of this Act,*
3 *the Secretary shall prepare and, after consultation with In-*
4 *dian tribes and appropriate Indian organizations, submit*
5 *to the Committee on Natural Resources of the House of Rep-*
6 *resentatives, the Committee on Indian Affairs of the Senate,*
7 *and the Committees on Appropriations of the House of Rep-*
8 *resentatives and the Senate a report that includes—*

9 *(1) an identification of all functions, other than*
10 *the collection, management, and investment of Indian*
11 *trust funds, that the Office of the Special Trustee per-*
12 *forms independently or in concert with the BIA or*
13 *other Federal agencies, specifically those functions*
14 *that affect or relate to management of nonmonetary*
15 *trust resources;*

16 *(2) a description of any functions of the Office*
17 *of the Special Trustee that will be transitioned to*
18 *other bureaus or agencies within the Department*
19 *prior to the termination date of the Office, as de-*
20 *scribed in paragraph (3), together with the time-*
21 *frames for those transfers; and*

22 *(3) a transition plan and timetable for the ter-*
23 *mination of the Office of the Special Trustee, to occur*
24 *not later than 2 years after the date of submission of*
25 *the report, unless the Secretary determines than an*

1 *orderly transition cannot be accomplished within 2*
 2 *years, in which case the report shall include—*

3 *(A) a statement of all reasons why the tran-*
 4 *sition cannot be effected within that time; and*

5 *(B) an alternative date for completing the*
 6 *transition.*

7 *(b) FIDUCIARY TRUST OFFICERS.—Subject to applica-*
 8 *ble law and regulations, the Secretary, at the request of an*
 9 *Indian tribe or a consortium of Indian tribes, shall include*
 10 *fiduciary trust officers in a contract, compact, or other*
 11 *agreement under the Indian Self-Determination and Edu-*
 12 *cation Assistance Act (25 U.S.C. 450 et seq.).*

13 *(c) EFFECT OF SECTION.—Nothing in this section or*
 14 *the report required by this section—*

15 *(1) shall cause the Office of the Special Trustee*
 16 *to terminate; or*

17 *(2) affect the application of sections 302 and 303*
 18 *of the American Indian Trust Fund Management Re-*
 19 *form Act of 1994 (25 U.S.C. 4042 and 4043).*

20 **SEC. 305. APPRAISALS AND VALUATIONS.**

21 *(a) IN GENERAL.—Notwithstanding section 304, not*
 22 *later than 18 months after the date of enactment of this*
 23 *Act, the Secretary, in consultation with Indian tribes and*
 24 *tribal organizations, shall ensure that appraisals and valu-*
 25 *ations of Indian trust property are administered by a single*

1 bureau, agency, or other administrative entity within the
2 Department.

3 (b) *MINIMUM QUALIFICATIONS.*—Not later than 1 year
4 after the date of enactment of this Act, the Secretary shall
5 establish and publish in the Federal Register minimum
6 qualifications for individuals to prepare appraisals and
7 valuations of Indian trust property.

8 (c) *SECRETARIAL APPROVAL.*—In any case in which
9 an Indian tribe or Indian beneficiary submits to the Sec-
10 retary an appraisal or valuation that satisfies the min-
11 imum qualifications described in subsection (b), and that
12 submission acknowledges the intent of the Indian tribe or
13 beneficiary to have the appraisal or valuation considered
14 under this section, the appraisal or valuation—

15 (1) shall not require any additional review or
16 approval by the Secretary; and

17 (2) shall be considered to be final for purposes of
18 effectuating the transaction for which the appraisal or
19 valuation is required.

20 **SEC. 306. COST SAVINGS.**

21 (a) *IN GENERAL.*—For any program, function, service,
22 or activity (or any portion of a program, function, service,
23 or activity) of the Office of the Special Trustee that will
24 not be operated or carried out as a result of a transfer of

1 *functions and personnel following enactment of this Act, the*
2 *Secretary shall—*

3 (1) *identify the amounts that the Secretary*
4 *would otherwise have expended to operate or carry*
5 *out each program, function, service, and activity (or*
6 *portion of a program, function, service, or activity);*
7 *and*

8 (2) *provide to the tribal representatives of the*
9 *Tribal-Interior Budget Council or the representative*
10 *of any other appropriate entity that advises the Sec-*
11 *retary on Indian program budget or funding issues a*
12 *list that describes—*

13 (A) *the programs, functions, services, and*
14 *activities (or any portion of a program, func-*
15 *tion, service, or activity) identified under para-*
16 *graph (1); and*

17 (B) *the amounts associated with each pro-*
18 *gram, function, service, and activity (or portion*
19 *of a program, function, service, or activity).*

20 (b) *TRIBAL RECOMMENDATIONS.—Not later than 90*
21 *days after the date of receipt of a list under subsection*
22 *(a)(2), the tribal representatives of the Tribal-Interior*
23 *Budget Council and the representatives of any other appro-*
24 *priate entities that advise the Secretary on Indian program*
25 *budget or funding issues may provide recommendations re-*

1 *garding how any amounts or cost savings should be reallo-*
2 *cated, incorporated into future budget requests, or appro-*
3 *priated to—*

4 *(1) the Secretary;*

5 *(2) the Office of Management and Budget;*

6 *(3) the Committee on Appropriations of the*
7 *House of Representatives;*

8 *(4) the Committee on Natural Resources of the*
9 *House of Representatives;*

10 *(5) the Committee on Appropriations of the Sen-*
11 *ate; and*

12 *(6) the Committee on Indian Affairs of the Sen-*
13 *ate.*

Union Calendar No. 329

114TH CONGRESS
2^D Session

H. R. 812

[Report No. 114-432]

A BILL

To provide for Indian trust asset management
reform, and for other purposes.

FEBRUARY 24, 2016

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed