

106TH CONGRESS
1ST SESSION

S. 1589

To amend the American Indian Trust Fund Management Reform Act of
1994.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 1999

Mr. CAMPBELL introduced the following bill; which was read twice and
referred to the Committee on Indian Affairs

A BILL

To amend the American Indian Trust Fund Management
Reform Act of 1994.

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 Amendments”.

6 **SEC. 2. DEFINITIONS.**

7 Section 2 of the American Indian Trust Fund Man-
8 agement Reform Act of 1994 (25 U.S.C. 4001) is amend-
9 ed by adding at the end the following:

1 “(7) The term ‘Commission’ means the Indian
 2 Trust Reform Commission established under section
 3 303.”.

4 **SEC. 3. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDI-**
 5 **ANS, INDIAN TRUST REFORM COMMISSION.**

6 (a) OFFICE OF SPECIAL TRUSTEE FOR AMERICAN
 7 INDIANS.—

8 (1) IN GENERAL.—Section 302 of the American
 9 Indian Trust Fund Management Reform Act of
 10 1994 (25 U.S.C. 4042) is amended by striking sub-
 11 section (c) and inserting the following:

12 “(c) TERM OF SPECIAL TRUSTEE.—The Special
 13 Trustee shall serve for a term of 2 years.”.

14 (2) CONFORMING AMENDMENT.—Section 306
 15 of the American Indian Trust Fund Management
 16 Reform Act (25 U.S.C. 4046) is amended by strik-
 17 ing subsection (d).

18 (b) INDIAN TRUST REFORM COMMISSION.—Section
 19 302 of the American Indian Trust Fund Management Re-
 20 form Act (25 U.S.C. 4042) is amended by adding at the
 21 end the following:

22 “(d) INDIAN TRUST FUND REFORM COMMISSION.—
 23 “(1) ESTABLISHMENT.—There is established
 24 the Indian Trust Fund Reform Commission.

1 “(2) MEMBERSHIP.—The Commission shall be
2 composed of the following members:

3 “(A) One member appointed by the Major-
4 ity Leader of the Senate.

5 “(B) One member appointed by the Minor-
6 ity Leader of the Senate.

7 “(C) One member appointed by the Speak-
8 er of the House of Representatives.

9 “(D) One member appointed by the Minor-
10 ity Leader of the House of Representatives.

11 “(E) One member appointed by the Sec-
12 retary of the Interior.

13 “(3) CONSULTATION.—Before making an ap-
14 pointment under paragraph (2), each individual re-
15 ferred to in subparagraphs (A) through (D) shall
16 consult with each other individual referred to in
17 those subparagraphs to achieve, to the maximum ex-
18 tent practicable, fair and equitable representation of
19 different interests, with respect to the matters to be
20 studied by the commission, including the interests of
21 Indian tribes, appropriate intertribal organizations,
22 and individual Indian account holders.

23 “(4) QUALIFICATIONS OF MEMBERS.—

1 “(A) IN GENERAL.—Each individual ap-
2 pointed as a member under paragraph (2)
3 shall—

4 “(i) have legal, accounting, regulatory,
5 or administrative experience with respect
6 to trust assets and accounts or comparable
7 experience in tribal government; or

8 “(ii) at the time of the appointment,
9 be an individual who is serving as a mem-
10 ber of the advisory board established under
11 section 306(a).

12 “(B) CONCURRENT MEMBERSHIP.—A
13 member of the advisory board referred to in
14 subparagraph (A)(ii) may serve concurrently as
15 a member of the Commission.

16 “(5) CHAIRPERSON.—Not later than the date
17 on which a majority of the members of the Commis-
18 sion have been appointed (but not later than 75 days
19 after the date of enactment of this subsection) a
20 chairperson of the Commission shall be selected a
21 consensus or majority decision made by the Sec-
22 retary of the Interior, the Speaker of the House of
23 Representatives, and the Majority Leader of the
24 Senate.

1 “(6) INITIAL APPOINTMENTS; PERIOD OF AP-
2 POINTMENT; AND VACANCIES.—

3 “(A) INITIAL APPOINTMENTS.—The initial
4 appointment of the members of the Commission
5 shall be made not later than 60 days after the
6 date of enactment of this subsection.

7 “(B) PERIOD OF APPOINTMENT.—Mem-
8 bers shall be appointed for the life of the Com-
9 mission.

10 “(C) VACANCIES.—Any vacancy in the
11 Commission shall not affect its powers, but
12 shall be filled in the same manner as the origi-
13 nal appointment, but not later than 60 days
14 after the date on which the vacancy occurs.

15 “(7) INITIAL MEETING.—Not later than 30
16 days after the date on which a majority of the mem-
17 bers of the Commission have been appointed, the
18 Commission shall hold its first meeting.

19 “(8) MEETINGS.—The Commission shall meet
20 at the call of the Chairman.

21 “(9) QUORUM.—A majority of the members of
22 the Commission shall constitute a quorum, but a
23 lesser number of members may hold hearings.

1 “(10) DUTIES OF THE COMMISSION.—The
2 Commission shall carry out the duties of the Com-
3 mission specified in section 303(a).

4 “(11) POWERS OF THE COMMISSION.—

5 “(A) HEARINGS.—The Commission may
6 hold such hearings, sit and act at such times
7 and places, take such testimony, and receive
8 such evidence as the Commission considers ad-
9 visable to carry out the duties of the Commis-
10 sion under this Act.

11 “(B) INFORMATION FROM FEDERAL AGEN-
12 CIES.—The Commission may secure directly
13 from any Federal department or agency such
14 information as the Commission considers nec-
15 essary to carry out the duties of the Commis-
16 sion under this subsection. Upon request of the
17 Chairman of the Commission, the head of such
18 department or agency shall furnish such infor-
19 mation to the Commission.

20 “(12) POSTAL SERVICES.—The Commission
21 may use the United States mails in the same man-
22 ner and under the same conditions as other depart-
23 ments and agencies of the Federal Government.

1 “(13) GIFTS.—The Commission may accept,
2 use, and dispose of gifts or donations of services or
3 property.

4 “(14) COMMISSION PERSONNEL MATTERS.—

5 “(A) COMPENSATION OF MEMBERS.—Each
6 member of the Commission who is not an offi-
7 cer or employee of the Federal Government
8 shall be compensated at a rate equal to the
9 daily equivalent of the annual rate of basic pay
10 prescribed for level IV of the Executive Sched-
11 ule under section 5315 of title 5, United States
12 Code, for each day (including travel time) dur-
13 ing which such member is engaged in the per-
14 formance of the duties of the Commission. All
15 members of the Commission who are officers or
16 employees of the United States shall serve with-
17 out compensation in addition to that received
18 for their services as officers or employees of the
19 United States.

20 “(B) TRAVEL EXPENSES.—The members
21 of the Commission shall be allowed travel ex-
22 penses, including per diem in lieu of subsist-
23 ence, at rates authorized for employees of agen-
24 cies under subchapter I of chapter 57 of title 5,
25 United States Code, while away from their

1 homes or regular places of business in the per-
2 formance of services for the Commission.

3 “(15) STAFF.—

4 “(A) IN GENERAL.—The Chairman may,
5 without regard to the civil service laws and reg-
6 ulations, appoint and terminate an executive di-
7 rector and such other additional personnel as
8 may be necessary to enable the Commission to
9 perform its duties. The employment of an exec-
10 utive director shall be subject to confirmation
11 by the Commission.

12 “(B) COMPENSATION.—The Chairman
13 may fix the compensation of the executive direc-
14 tor and other personnel without regard to the
15 provisions of chapter 51 and subchapter III of
16 chapter 53 of title 5, United States Code, relat-
17 ing to classification of positions and General
18 Schedule pay rates, except that the rate of pay
19 for the executive director and other personnel
20 may not exceed the rate payable for level V of
21 the Executive Schedule under section 5316 of
22 such title.

23 “(C) DETAIL OF GOVERNMENT EMPLOY-
24 EES.—Any Federal Government employee may
25 be detailed to the Board without reimburse-

1 ment, and such detail shall be without interrup-
2 tion or loss of civil service status or privilege.

3 “(D) PROCUREMENT OF TEMPORARY AND
4 INTERMITTENT SERVICES.—The Chairman may
5 procure temporary and intermittent services
6 under section 3109(b) of title 5, United States
7 Code, at rates for individuals which do not ex-
8 ceed the daily equivalent of the annual rate of
9 basic pay prescribed for level V of the Executive
10 Schedule under section 5316 of such title.”.

11 **SEC. 4. REINVENTION STRATEGY.**

12 Section 303 of the American Indian Trust Fund
13 Management Act of 1994 (25 U.S.C. 4043) is amended
14 by striking subsection (a) and inserting the following:

15 “(a) IN GENERAL.—

16 “(1) REINVENTION STRATEGY.—

17 “(A) IN GENERAL.—Not later than 180
18 days after a majority of the members of the
19 Commission have been appointed, the Commis-
20 sion, in consultation with Indian tribes and ap-
21 propriate Indian organizations, shall prepare
22 for submission to the individuals and entities
23 specified in subparagraph (C) in accordance
24 with subparagraph (B) a recommended reinven-
25 tion strategy for all phases of the trust manage-

1 ment business cycle that ensures the proper and
2 efficient discharge of the trust responsibility of
3 the Federal Government to Indian tribes and
4 individual Indians in compliance with this title.

5 “(B) ADOPTION.—Not later than 90 days
6 after the date specified in subparagraph (A),
7 the Commission shall—

8 “(i)(I) meet to consider the reinven-
9 tion strategy developed under subpara-
10 graph (A); and

11 “(II)(aa) take a vote concerning the
12 adoption of the reinvention strategy for
13 recommendation to the individuals and en-
14 tities specified in subparagraph (C), and
15 adopt for recommendation the reinvention
16 strategy if it is approved by a majority
17 vote; or

18 “(bb) modify the reinvention strategy,
19 and if the modified reinvention strategy is
20 approved by a majority vote, adopt the
21 modified reinvention strategy for rec-
22 ommendation to the individuals and enti-
23 ties specified in subparagraph (C); and

1 “(ii) submit a recommended reinven-
 2 tion strategy to the individuals and entities
 3 specified in subparagraph (C).

4 “(C) INDIVIDUALS AND ENTITIES.—The
 5 individuals and entities referred to in subpara-
 6 graphs (A) and (B) are as follows:

7 “(i) The advisory commission estab-
 8 lished under section 306(a).

9 “(ii) The Secretary.

10 “(iii) The Committee on Resources of
 11 the House of Representatives.

12 “(iv) The Committee on Indian Af-
 13 fairs of the Senate.

14 “(2) REINVENTION STRATEGY REQUIRE-
 15 MENTS.—

16 “(A) IN GENERAL.—In preparing the re-
 17 invention strategy under this subsection, the
 18 Commission shall explicitly consider and include
 19 in the report to the individuals and entities de-
 20 scribed in paragraph (1)(C) findings concerning
 21 the following options for fulfilling the obliga-
 22 tions of the Federal Government (including the
 23 trust obligations of the Federal Government) to
 24 Indian tribes and individual Indian account
 25 holders:

1 “(i) The creation of a Government-
2 sponsored enterprise or a federally char-
3 tered corporation to undertake some or all
4 of the management, accounting, or other
5 parts of the trust management business
6 cycle.

7 “(ii) The use of existing or expanded
8 authority under the Indian Self-Determina-
9 tion and Education Assistance Act (25
10 U.S.C. 450 et seq.) to undertake some or
11 all of the management, accounting, or
12 other parts of the trust management busi-
13 ness cycle.

14 “(iii) Requiring the Secretary to con-
15 tract directly with private sector entities
16 (including banks and other private institu-
17 tions) to undertake some or all of the man-
18 agement, accounting, or other parts of the
19 trust management business cycle.

20 “(iv) Any combination of the options
21 described in clauses (i) through (iii) that
22 the Commission considers to be appro-
23 priate.

24 “(B) ADDITIONAL REQUIREMENTS.—In
25 addition to meeting the requirements under

1 subparagraph (A), the reinvention strategy
2 shall—

3 “(i) identify all reforms to the poli-
4 cies, procedures, practices, and systems of
5 the Department (including systems of the
6 Bureau, the Bureau of Land Management,
7 and the Minerals Management Service)
8 that are necessary to ensure the proper
9 and efficient discharge of the trust respon-
10 sibilities of the Secretary in compliance
11 with this Act;

12 “(ii) include provisions to—

13 “(I) provide opportunities to In-
14 dian tribes to assist in the manage-
15 ment of their trust accounts; and

16 “(II) identify for the Secretary
17 options for the investment of the trust
18 accounts of Indian tribes in a manner
19 consistent with the trust responsibil-
20 ities of the Secretary in compliance
21 with this Act in such manner as to
22 ensure the promotion of economic de-
23 velopment in the communities of In-
24 dian tribes; and

1 “(iii) include recommendations con-
2 cerning whether the position of Special
3 Trustee should be continued or made per-
4 manent.

5 “(3) REGULATORY ENTITY.—

6 “(A) IN GENERAL.—Not later than 90
7 days after approving a reinvention strategy
8 under paragraph (1), the Commission shall rec-
9 ommend to Congress the Federal agency that
10 should be responsible for regulating the trust
11 management activities of the Federal Govern-
12 ment, with respect to funds held in trust under
13 this Act, and submit such recommendations for
14 legislation to implement the reinvention strat-
15 egy as the Commission considers to be appro-
16 priate.

17 “(B) CRITERIA FOR RECOMMENDING REG-
18 ULATORY ENTITY.—In determining which regu-
19 latory entity to recommend under subparagraph
20 (A), the Commission shall consider—

21 “(i) the provisions of the rec-
22 ommended reinvention strategy approved
23 under paragraph (1); and

24 “(ii) the similarity of the rec-
25 ommended reinvention strategy approved

1 under paragraph (1) and the functions and
2 activities of an entity regulated by—

3 “(I) the Office of the Comptroller
4 of the Currency;

5 “(II) the Board of Governors of
6 the Federal Reserve System;

7 “(III) the Office of Federal
8 Housing Enterprise Oversight;

9 “(IV) the Federal Trade Com-
10 mission;

11 “(V) the Office of Thrift Super-
12 vision; or

13 “(VI) any other Federal agency
14 charged with the responsibility of reg-
15 ulating public or private entities that
16 invest or manage financial re-
17 sources.”.

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