

108TH CONGRESS
1ST SESSION

S. 1540

To provide for the payment of amounts owed to Indian tribes and individual Indian money account holders.

IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JULY 21), 2003

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

A BILL

To provide for the payment of amounts owed to Indian tribes and individual Indian money account holders.

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 “Indian Trust Payment
5 Equity Act of 2003”.

6 SEC. 2. FINDINGS AND PURPOSES.—

7 (a) FINDINGS.—Congress finds that—

8 (1) the United States has entered into treaties
9 with Indian tribes under which the United States

1 made various commitments to Indian tribes and In-
2 dian people;

3 (2) the United States functions, by treaty and
4 statute, as a trustee for Indian tribes and individual
5 Indians;

6 (3) the United States has a fiduciary obligation
7 to Indian tribes and Indian people and, in accord-
8 ance with that obligation, must use the highest
9 standard of care to protect the assets of Indian
10 tribes and individual Indians;

11 (4) the United States has failed Indian tribes
12 and individual Indians and abridged its treaty obli-
13 gations related to the handling of trust fund man-
14 agement and historical accounting;

15 (5) mismanagement of Indian trust assets by
16 the United States is a longstanding problem that
17 spans many administrations;

18 (6) the complexity and longevity of that mis-
19 management neither mitigates the injustice visited
20 on the 300,000 Native Americans whose accounts
21 have been shortchanged nor absolves the United
22 States of its responsibility to correct the situation in
23 a timely manner;

24 (7) a civil action, Cobell v. Norton, Civ. No.
25 96-1285 (RCL), was filed in 1996 in an attempt to

1 obtain a court order to compel the United States to
2 account for the trust funds managed by the United
3 States on behalf of individual Indians;

4 (8) as of the date of enactment of this Act, the
5 overall individual Indian money fund—

6 (A) contains approximately
7 \$3,000,000,000; and

8 (B) distributes more than \$500,000,000
9 each year to individual Indian money account
10 holders;

11 (9) those funds are generated from Indian trust
12 land royalties resulting from leases of that land to
13 oil, agricultural, timber, and mining interests;

14 (10) not only do the parties to the Cobell action
15 disagree on the amount of money owed to individual
16 Indian money account holders, there is disagreement
17 between the United States and the Cobell plaintiffs
18 on the number of individual Indian beneficiaries re-
19 siding in the United States;

20 (11) the United States estimates that, as of the
21 date of enactment of this Act, there are approxi-
22 mately 300,000 individual Indian trust beneficiaries
23 residing in the United States;

1 (12) the United States has never issued a pub-
2 lic approximation of the amount of money owed to
3 individual Indian money account holders;

12 (A) could last a decade or longer;
13 (B) could cost at least \$2,400,000,000;

15 (C) might not produce a usable result;

16 (15) the Cobell civil action was filed only on be-
17 half of individual Indians, and not Indian tribes; and

23 (b) PURPOSES.—The purposes of this Act are—

12 SEC. 3. DEFINITIONS.

13 In this Act:

1 (4) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning given the term in section 4 of the
3 Indian Self-Determination and Education Assistance
4 Act (25 U.S.C. 450b).

7 SEC. 4. INDIAN TRUST PAYMENT EQUITY.

8 (a) PAYMENTS.—For each of fiscal years 2004
9 through 2008, subject to section 5(d), the Secretary shall
10 use \$2,000,000,000 of the amounts in the Fund to provide
11 to Indian tribes payments of amounts owed by the United
12 States to individual Indian money account holders as a
13 result of mismanagement of the individual Indian money
14 fund.

15 (b) CONTRACTS FOR AUDITING.—The Secretary—

4 (c) NO EFFECT ON ACCOUNTING OR JUDICIAL DECI-
5 SIONS.—Nothing in this section—

6 (1) negates or otherwise affects the requirement
7 of the Department of the Interior to complete the
8 accounting; or

13 SEC. 5. INDIAN TRUST PAYMENT EQUITY FUND.

14 (a) ESTABLISHMENT.—There is established in the
15 Treasury of the United States the Indian Trust Payment
16 Equity Fund to be used in carrying out this Act, con-
17 sisting of such amounts as are appropriated to the Fund
18 under subsection (b).

19 (b) APPROPRIATIONS TO FUND.—There are appro-
20 priated to the Fund—

21 (1) such amounts as are made available under
22 subsections (a) and (b) of section 6;

23 (2) such amounts are deposited in the Fund
24 under section 5(d)(2); and

3 (c) EXPENDITURES FROM FUND.—

15 (d) INVESTMENT OF AMOUNTS.—

16 (1) INVESTMENTS.—

22 (B) OBLIGATIONS.—Investments may be
23 made only in interest-bearing obligations of the
24 United States.

14 (e) TRANSFERS OF AMOUNTS.—

1 **SEC. 6. FUNDING.**

2 (a) IN GENERAL.—Out of any funds in the Treasury
3 not otherwise appropriated, the Secretary of the Treasury
4 shall transfer to the Secretary, for deposit in the Fund—

5 (1) not later than 30 days after the date of en-
6 actment of this Act, \$2,000,000,000; and

7 (2) on October 1, 2004, and each October 1
8 thereafter through October 1, 2007,
9 \$2,000,000,000.

10 (b) RECEIPT AND ACCEPTANCE.—The Secretary
11 shall be entitled to receive, shall accept, and shall deposit
12 in the Fund and use to carry out this Act the funds trans-
13 ferred under subsection (a), without further appropriation.

14 (c) AVAILABILITY OF FUNDS.—Funds transferred
15 under subsection (a) shall remain available until expended.

16 **SEC. 7. REPORT.**

17 Not later than 4 years after the date of enactment
18 of this Act, the Secretary shall submit to Congress a re-
19 port that includes—

20 (1) an accounting of all payments made under
21 section 4(a); and

22 (2) a description of the status of, and an esti-
23 mated date of completion for, the accounting.

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