

108TH CONGRESS
1ST SESSION

S. 175

To establish a direct line of authority for the Office of Trust Reform Implementation and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determination Act and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2003

Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To establish a direct line of authority for the Office of Trust Reform Implementation and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determination Act 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Indian Trust Asset
3 and Trust Fund Management and Reform Act of 2003”.

4 **SEC. 2. FINDINGS.**

5 Congress finds and affirms that the proper discharge
6 of trust responsibility of the United States requires, with-
7 out limitation, that the trustee, using a high degree of
8 care, skill, and loyalty—

9 (1) protect and preserve Indian trust assets
10 from loss, damage, unlawful alienation, waste, and
11 depletion;

12 (2) ensure that any management of Indian
13 trust assets required to be carried out by the Sec-
14 retary—

15 (A) promotes the interest of the beneficial
16 owner; and

17 (B) supports, to the maximum extent prac-
18 ticable in accordance with the trust responsi-
19 bility of the Secretary, the beneficial owner’s in-
20 tended use of the assets;

21 (3)(A) enforce the terms of all leases or other
22 agreements that provide for the use of trust assets;
23 and

24 (B) take appropriate steps to remedy trespass
25 on trust or restricted land;

1 (4) promote tribal control and self-determina-
2 tion over tribal trust land and resources;

3 (5) select and oversee persons that manage In-
4 dian trust assets;

5 (6) confirm that Indian tribes that manage In-
6 dian trust assets pursuant to contracts and com-
7 pacts authorized by the Indian Self-Determination
8 and Education Assistance Act (25 U.S.C. 450 et
9 seq.) protect and prudently manage those Indian
10 trust assets;

11 (7) provide oversight and review of the perform-
12 ance of the trust responsibility of the Secretary, in-
13 cluding Indian trust asset and investment manage-
14 ment programs, operational systems, and informa-
15 tion systems;

16 (8) account for and identify, collect, deposit, in-
17 vest, and distribute, in a timely manner, income due
18 or held on behalf of tribal and individual Indian ac-
19 count holders;

20 (9) maintain a verifiable system of records that,
21 at a minimum, is capable of identifying, with respect
22 to a trust asset—

23 (A) the location of the trust asset;

24 (B) the beneficial owners of the trust
25 asset;

- 1 (C) any legal encumbrances (such as leases
2 or permits) applicable to the trust asset;
- 3 (D) the user of the trust asset;
- 4 (E) any rent or other payments made;
- 5 (F) the value of trust or restricted land
6 and resources associated with the trust asset;
- 7 (G) dates of—
- 8 (i) collections;
- 9 (ii) deposits;
- 10 (iii) transfers;
- 11 (iv) disbursements;
- 12 (v) imposition of third-party obliga-
13 tions (such as court-ordered child support
14 or judgments);
- 15 (vi) statements of earnings;
- 16 (vii) investment instruments; and
- 17 (viii) closure of all trust fund accounts
18 relating to the trust fund asset;
- 19 (H) documents pertaining to actions taken
20 to prevent or compensate for any diminishment
21 of the Indian trust asset; and
- 22 (I) documents that evidence the actions of
23 the Secretary regarding the management and
24 disposition of the Indian trust asset;

1 (10) establish and maintain a system of records
2 that—

3 (A) permits beneficial owners to obtain in-
4 formation regarding Indian trust assets in a
5 timely manner; and

6 (B) protects the privacy of that informa-
7 tion;

8 (11) invest tribal and individual Indian trust
9 funds to ensure that the trust account remains rea-
10 sonably productive for the beneficial owner con-
11 sistent with market conditions existing at the time
12 at which investment is made;

13 (12) communicate with beneficial owners re-
14 garding the management and administration of In-
15 dian trust assets; and

16 (13) protect treaty-based fishing, hunting, gath-
17 ering, and similar rights-of-access and resource use
18 on traditional tribal land.

19 **SEC. 3. DEFINITIONS.**

20 Section 2 of the American Indian Trust Fund Man-
21 agement Reform Act of 1994 (25 U.S.C. 4001) is amend-
22 ed—

23 (1) by striking paragraph (1);

24 (2) in paragraph (2), by striking “(2) The
25 term” and inserting the following:

1 “(5) INDIAN TRIBE.—The term”;

2 (3) in paragraph (3), by striking “(3) The
3 term” and inserting the following:

4 “(8) SECRETARY.—The term”;

5 (4) in paragraph (4), by striking “(4) The
6 term” and inserting the following:

7 “(6) OFFICE.—The term”;

8 (5) in paragraph (5), by striking “(5) The
9 term” and inserting the following:

10 “(2) BUREAU.—The term”;

11 (6) in paragraph (6), by striking “(6) The
12 term” and inserting the following:

13 “(3) DEPARTMENT.—The term”;

14 (7) by moving paragraphs (2), (3), (5), (6), and
15 (8) (as redesignated by this subsection) so as to ap-
16 pear in numerical order;

17 (8) by inserting before paragraph (2) (as redesi-
18 gnated by paragraph (5)) the following:

19 “(1) BENEFICIAL OWNER.—The term ‘bene-
20 ficial owner’ means an Indian tribe or member of an
21 Indian tribe that is the beneficial owner of Indian
22 trust assets.”;

23 (9) by inserting after paragraph (3) (as redesi-
24 gnated by paragraph (6)) the following:

1 “(4) DEPUTY SECRETARY.—The term ‘Deputy
2 Secretary’ means the Deputy Secretary for Trust
3 Management and Reform appointed under section
4 307(a)(2).”;

5 (10) by inserting after paragraph (6) (as reded-
6 ignated by paragraph (4)) the following:

7 “(7) REFORM OFFICE.—The term ‘Reform Of-
8 fice’ means the Office of Trust Reform Implementa-
9 tion and Oversight established by section 307(e).”;
10 and

11 (11) by adding at the end the following:

12 “(9) TASK FORCE.—The term ‘Task Force’
13 means the Tribal Task Force for Trust Reform es-
14 tablished under section 307(a).

15 “(10) TRUST ASSETS.—The term ‘trust assets’
16 means all tangible property including land, minerals,
17 coal, oil and gas, forest resources, agricultural re-
18 sources, water and water sources, and fish and wild-
19 life held by the Secretary for the benefit of an In-
20 dian tribe or an individual member of an Indian
21 tribe pursuant to Federal law.

22 “(11) TRUST FUNDS.—The term ‘trust funds’
23 means all funds held by the Secretary for the benefit
24 of an Indian tribe or and individual member of an
25 Indian tribe pursuant to Federal law.

1 “(12) TRUSTEE.—The term ‘trustee’ means the
2 Secretary or any other person that is authorized to
3 act as a trustee for Indian trust assets and trust
4 funds.”.

5 **SEC. 4. RESPONSIBILITIES OF SECRETARY.**

6 Section 102 of the American Indian Trust Fund
7 Management Reform Act of 1994 (25 U.S.C. 4011) is
8 amended to read as follows:

9 **“SEC. 4011. RESPONSIBILITIES OF SECRETARY.**

10 “(a) ACCOUNTING FOR DAILY AND ANNUAL BAL-
11 ANCES OF INDIAN TRUST FUNDS.—

12 “(1) IN GENERAL.—The Secretary shall ac-
13 count for the daily and annual balances of all trust
14 funds that are deposited or invested pursuant to the
15 Act of June 24, 1938 (25 U.S.C. 162a).

16 “(2) PERIODIC STATEMENT OF PERFORM-
17 ANCE.—

18 “(A) IN GENERAL.—Not later than 20
19 business days after the close of a calendar quar-
20 ter, the Secretary shall provide a statement of
21 performance to each Indian tribe and member
22 of Indian tribe with respect to which funds are
23 deposited or invested pursuant to the Act of
24 June 24, 1938 (25 U.S.C. 162a).

1 “(B) REQUIREMENTS.—Each statement
2 under subparagraph (A) shall identify, with re-
3 spect to the period covered by the statement—

4 “(i) the source, type, and status of the
5 funds;

6 “(ii) the beginning balance of the
7 funds;

8 “(iii) the gains and losses of the
9 funds;

10 “(iv) receipts and disbursements of
11 the funds; and

12 “(v) the ending balance of the funds.

13 “(3) ANNUAL AUDIT.—With respect to each ac-
14 count containing trust funds in an amount in excess
15 of \$1,000, the Secretary shall—

16 “(A) conduct, for each fiscal year, an audit
17 of all trust funds described in paragraph (1);
18 and

19 “(B) include, in the first statement of per-
20 formance completed under paragraph (2) after
21 completion of the audit, a letter describing the
22 results of the audit.

23 “(b) ADDITIONAL RESPONSIBILITIES.—In addition
24 to the responsibilities described in subsection (a), subject
25 to the availability of appropriations, the Secretary, in car-

1 rying out the trust responsibility of the United States,
2 shall, at a minimum—

3 “(1) provide for adequate systems for account-
4 ing for and reporting trust fund balances;

5 “(2) provide for adequate controls over receipts
6 and disbursements;

7 “(3) provide for periodic, timely reconciliations
8 of financial records to ensure the accuracy of ac-
9 count information;

10 “(4) determine accurate cash balances;

11 “(5) prepare and supply to account holders
12 periodic account statements;

13 “(6) establish and publish in the Federal Reg-
14 ister consistent policies and procedures for trust
15 fund management and accounting;

16 “(7) provide adequate staffing, supervision, and
17 training for trust fund management and accounting;
18 and

19 “(8) manage natural resources located within
20 the boundaries of Indian reservations and trust
21 land.”.

1 **SEC. 5. INDIAN PARTICIPATION IN TRUST FUND ACTIVI-**
 2 **TIES.**

3 Title II of the American Indian Trust Fund Manage-
 4 ment Reform Act of 1994 (25 U.S.C. 4021 et seq.) is
 5 amended—

6 (1) by striking sections 202 and 203; and

7 (2) by inserting after section 201 the following:

8 **“SEC. 202. PARTICIPATION IN TRUST FUND AND TRUST**
 9 **ASSET MANAGEMENT ACTIVITIES BY INDIAN**
 10 **TRIBES.**

11 “(a) PLANNING PROGRAM.—To meet the purposes of
 12 this title, an Indian Trust Fund and Trust Asset Manage-
 13 ment and Monitoring Plan (in this section referred to as
 14 the ‘Plan’) shall be developed and implemented as follows:

15 “(1) Pursuant to a self-determination contract
 16 or compact under section 102 of the Indian Self-De-
 17 termination Act (25 U.S.C. 450f) or section 403 of
 18 the Indian Self Determination and Education Assist-
 19 ance Act (25 U.S.C. 458cc), an Indian tribe may de-
 20 velop or implement a Plan to provide for manage-
 21 ment of the trust funds and assets (or portions of
 22 trust funds or assets) of which the Indian tribe is
 23 the beneficial owner. Subject to the provisions of
 24 paragraphs (3) and (4), the tribe shall have broad
 25 discretion in designing and carrying out the plan-
 26 ning process.

1 “(2) To include in a Plan particular trust funds
2 or assets held by multiple individuals, an Indian
3 tribe shall obtain the approval of a majority of the
4 individuals who hold an interest in any such trust
5 funds or assets.

6 “(3) The Plan shall be submitted to the Sec-
7 retary for approval pursuant to the Indian Self-De-
8 termination Act (25 U.S.C. 450f et seq.).

9 “(4) If an Indian tribe chooses not to develop
10 or implement a Plan, the Secretary shall, at the re-
11 quest of the Indian tribe, develop or implement, as
12 appropriate, a Plan in close consultation with the af-
13 fected Indian tribe.

14 “(5) Whether developed directly by the Indian
15 tribe or by the Secretary, the Plan shall—

16 “(A) determine the amount and source of
17 funds held in trust;

18 “(B) identify and include an inventory of
19 trust assets based on the information available
20 to the Indian tribe and the Secretary;

21 “(C) identify specific tribal goals and ob-
22 jectives;

23 “(D) establish management objectives for
24 the funds and assets held in trust;

1 “(E) define critical values of the Indian
2 tribe and its members and provide identified
3 management objectives;

4 “(F) identify actions to be taken to reach
5 established objectives;

6 “(G) use existing survey documents, re-
7 ports and other research from Federal agencies,
8 tribal community colleges, and land grant uni-
9 versities; and

10 “(H)(i) be completed not later than 3
11 years after the date of initiation of activity to
12 establish the Plan; and

13 “(ii) be revised periodically thereafter as
14 necessary to accomplish the purposes of this
15 Act.

16 “(b) MANAGEMENT AND ADMINISTRATION.—Plans
17 developed and approved under subsection (a) shall govern
18 the management and administration of funds and assets
19 (or portions of funds and assets) held in trust by the Bu-
20 reau and the Indian tribal government.

21 “(c) PLAN DOES NOT TERMINATE TRUST.—Devel-
22 oping or implementing a Plan shall not be construed or
23 deemed to constitute a termination of the trust status of
24 the assets or funds that are included in, or subject to, the
25 Plan.

1 “(d) LIABILITY.—An Indian tribe managing and ad-
2 ministering trust funds and trust assets in a manner that
3 is consistent with an approved Plan shall not be liable for
4 waste or loss of an asset or funds that are included in
5 such Plan.

6 “(e) INDIAN PARTICIPATION IN MANAGEMENT AC-
7 TIVITIES.—

8 “(1) TRIBAL RECOGNITION.—The Secretary
9 shall conduct all management activities of funds and
10 assets held in trust in accordance with goals and ob-
11 jectives set forth in a Plan approved pursuant to
12 and in accordance with all tribal laws and ordi-
13 nances, except in specific instances where such com-
14 pliance would be contrary to the trust responsibility
15 of the United States.

16 “(2) TRIBAL LAWS.—

17 “(A) IN GENERAL.—Unless otherwise pro-
18 hibited by Federal law, the Secretary shall com-
19 ply with tribal law pertaining to the manage-
20 ment of funds and assets held in trust.

21 “(B) DUTIES.—The Secretary shall—

22 “(i) provide assistance in the enforce-
23 ment of tribal laws described in subpara-
24 graph (A);

1 “(ii) provide notice of such tribal laws
2 to persons or entities dealing with tribal
3 funds and assets held in trust; and

4 “(iii) upon the request of an Indian
5 tribe, require appropriate Federal officials
6 to appear in tribal forums.

7 “(3) WAIVER OF REGULATIONS.—In any case
8 in which a regulation or administrative policy of the
9 Department of the Interior conflicts with the objec-
10 tives of the Plan, or with a tribal law, the Secretary
11 shall waive the application of such regulation or ad-
12 ministrative policy unless such waiver would con-
13 stitute a violation of a Federal statute or judicial de-
14 cision or would conflict with the Secretary’s trust re-
15 sponsibility under Federal law.

16 “(4) SOVEREIGN IMMUNITY.—This section does
17 not constitute a waiver of the sovereign immunity of
18 the United States, nor does it authorize tribal justice
19 systems to review actions of the Secretary.

20 “(5) TRUST RESPONSIBILITY.—Nothing in this
21 section shall be construed to diminish or expand the
22 trust responsibility of the United States toward In-
23 dian funds and assets held in trust, or any legal ob-
24 ligation or remedy resulting from such funds and as-
25 sets.

1 “(f) REPORT.—

2 “(1) IN GENERAL.—Not later than 180 days
3 after the enactment of this section, and annually
4 thereafter, the Secretary shall submit a report to the
5 Committee on Indian Affairs of the Senate and the
6 Committee on Resources of the House of Represent-
7 atives.

8 “(2) CONTENTS.—The report required under
9 paragraph (1) shall detail the following:

10 “(A) The efforts of the Department to im-
11 plement this section.

12 “(B) The nature and extent of consultation
13 between the Department, Tribes, and individual
14 Indians with respect to implementation of this
15 section.

16 “(C) Any recommendations of the Depart-
17 ment for further changes to this Act, accom-
18 panied by a record of consultation with Tribes
19 and individual Indians regarding such rec-
20 ommendations.”.

21 **SEC. 6. DEPUTY SECRETARY FOR TRUST MANAGEMENT**
22 **AND REFORM.**

23 (a) IN GENERAL.—Section 302 of the American In-
24 dian Trust Fund Management Reform Act of 1994 (25
25 U.S.C. 4042) is amended to read as follows:

1 **“SEC. 302. DEPUTY SECRETARY FOR TRUST MANAGEMENT**
2 **AND REFORM.**

3 “(a) ESTABLISHMENT.—

4 “(1) IN GENERAL.—There is established within
5 the Department the position of Deputy Secretary for
6 Trust Management and Reform.

7 “(2) APPOINTMENT AND REMOVAL.—

8 “(A) APPOINTMENT.—The Deputy Sec-
9 retary shall be appointed by the President, by
10 and with the advice and consent of the Senate.

11 “(B) TERM.—The Deputy Secretary shall
12 be appointed for a term of 6 years.

13 “(C) REMOVAL.—The Deputy Secretary
14 may be removed only for good cause.

15 “(3) ADMINISTRATIVE AUTHORITY.—The Dep-
16 uty Secretary shall report directly to the Secretary.

17 “(4) COMPENSATION.—The Deputy Secretary
18 shall be paid at a rate determined by the Secretary
19 to be appropriate for the position, but not less than
20 the rate of basic pay prescribed for Level II of the
21 Executive Schedule under section 5313 of title 5,
22 United States Code.

23 “(b) DUTIES.—The Deputy Secretary shall—

24 “(1) oversee all trust fund and trust asset mat-
25 ters of the Department, including—

1 “(A) administration and management of
2 the Reform Office;

3 “(B) financial and human resource matters
4 of the Reform Office; and

5 “(C) all duties relating to trust fund and
6 trust asset matters; and

7 “(2) engage in appropriate government-to-gov-
8 ernment relations and consultations with Indian
9 tribes and individual trust asset and trust fund ac-
10 count holders on matters involving trust asset and
11 trust fund management and reform within the De-
12 partment.

13 “(c) STAFF.—In carrying out this section, the Dep-
14 uty Secretary may hire such staff having expertise in trust
15 asset and trust fund management, financial organization
16 and management, and tribal policy as the Deputy Sec-
17 retary determines is necessary to carry out this title.

18 “(d) EFFECT ON DUTIES OF OTHER OFFICIALS.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), nothing in this section shall be construed
21 to diminish any responsibility or duty of the Assist-
22 ant Secretary of the Interior for Indian Affairs, or
23 any other Federal official, relating to any duty of
24 the Assistant Secretary or official established under
25 this Act or any other provision of law.

1 “(2) TRUST ASSET AND TRUST FUND MANAGE-
2 MENT AND REFORM.—Notwithstanding any other
3 provision of law, the Deputy Secretary shall have
4 overall management and oversight authority on mat-
5 ters of the Department relating to trust asset and
6 trust fund management and reform (including mat-
7 ters that, as of the day before the date of enactment
8 of the Indian Trust Asset and Trust Fund Manage-
9 ment and Reform Act of 2003, were carried out by
10 the Commissioner of Indian Affairs).

11 “(e) OFFICE OF TRUST REFORM IMPLEMENTATION
12 AND OVERSIGHT.—

13 “(1) ESTABLISHMENT.—There is established
14 within the Office of the Secretary the Office of
15 Trust Reform Implementation and Oversight.

16 “(2) REFORM OFFICE HEAD.—The Reform Of-
17 fice shall be headed by the Deputy Secretary.

18 “(3) DUTIES.—The Reform Office shall—

19 “(A) supervise and direct the day-to-day
20 activities of the Assistant Secretary of the Inte-
21 rior for Indian Affairs, the Commissioner of
22 Reclamation, the Director of the Bureau of
23 Land Management, and the Director of the
24 Minerals Management Service, to the extent

1 they administer or manage any Indian trust as-
2 sets or funds;

3 “(B) administer, in accordance with title
4 II, all trust properties, funds, and other assets
5 held by the United States for the benefit of In-
6 dian tribes and individual members of Indian
7 tribes;

8 “(C) require the development and mainte-
9 nance of an accurate inventory of all trust
10 funds and trust assets;

11 “(D) ensure the prompt posting of revenue
12 derived from a trust fund or trust asset for the
13 benefit of each Indian tribe (or individual mem-
14 ber of each Indian tribe) that owns a beneficial
15 interest in the trust fund or trust asset;

16 “(E) ensure that all trust fund accounts
17 are audited at least annually, and more fre-
18 quently as determined to be necessary by the
19 Deputy Secretary;

20 “(F) ensure that the Assistant Secretary
21 of the Interior for Indian Affairs, the Director
22 of the Bureau of Land Management, the Com-
23 missioner of Reclamation, and the Director of
24 the Minerals Management Service provide to
25 the Secretary current and accurate information

1 relating to the administration and management
2 of trust funds and trust assets;

3 “(G) provide for regular consultation with
4 trust fund account holders on the administra-
5 tion of trust funds and trust assets to ensure,
6 to the maximum extent practicable in accord-
7 ance with applicable law and a Plan approved
8 under section 202, the greatest return on those
9 funds and assets for the trust fund account
10 holders; and

11 “(H) enter into contracts and compacts
12 under section 102 of the Indian Self-Deter-
13 mination Act (25 U.S.C. 450f) or section 403
14 of the Indian Self Determination and Education
15 Assistance Act (25 U.S.C. 458cc) to provide for
16 the management of trust assets and trust funds
17 by Indian tribes pursuant to a Trust Fund and
18 Trust Asset Management and Monitoring Plan
19 developed under section 202 of this Act.

20 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated such sums as are nec-
22 essary to carry out this section.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Title III of the American Indian Trust
25 Fund Management Reform Act of 1994 (25 U.S.C.

1 4041 et seq.) is amended by striking the title head-
 2 ing and inserting the following:

3 **“TITLE III—REFORMS RELATING**
 4 **TO TRUST RESPONSIBILITY”.**

5 (2) Section 301(1) of the American Indian
 6 Trust Fund Management Reform Act of 1994 (25
 7 U.S.C. 4041(1)) is amended by striking “by estab-
 8 lishing in the Department of this Interior an Office
 9 of Special Trustee for American Indians” and in-
 10 serting “by directing the Deputy Secretary”.

11 (3) Section 303 of the American Indian Trust
 12 Fund Management Reform Act of 1994 (25 U.S.C.
 13 4043) is amended—

14 (A) by striking the section heading and in-
 15 serting the following:

16 **“SEC. 303. ADDITIONAL AUTHORITIES AND FUNCTIONS OF**
 17 **THE DEPUTY SECRETARY.”;**

18 (B) in subsection (a)(1), by striking “sec-
 19 tion 302(b) of this title” and inserting “section
 20 302(a)(2)”;

21 (C) in subsection (e)—

22 (i) by striking the subsection heading
 23 and inserting the following:

24 “(e) ACCESS OF DEPUTY SECRETARY.—”; and

1 (ii) by striking “and his staff” and in-
 2 serting “and staff of the Deputy Sec-
 3 retary”; and

4 (D) by striking “Special Trustee” each
 5 place it appears and inserting “Deputy Sec-
 6 retary”.

7 (4) Sections 304 and 305 of the American In-
 8 dian Trust Fund Management Reform Act of 1994
 9 (25 U.S.C. 4044, 4045) are amended by striking
 10 “Special Trustee” each place it appears and insert-
 11 ing “Deputy Secretary”.

12 **SEC. 7. ADVISORY BOARD AND TRIBAL TASK FORCE.**

13 The American Indian Trust Fund Management Re-
 14 form Act of 1994 is amended by striking section 306 (25
 15 U.S.C. 4046) and inserting the following:

16 **“SEC. 306. TRIBAL TASK FORCE ON TRUST REFORM.**

17 “(a) ESTABLISHMENT.—As soon as practicable after
 18 the date of enactment of this section, the Deputy Sec-
 19 retary shall establish a Tribal Task Force on Trust Re-
 20 form.

21 “(b) COMPOSITION.—

22 “(1) IN GENERAL.—The Task Force shall be
 23 composed of 18 members and 12 alternates, of
 24 which—

25 “(A) 6 members shall—

1 “(i) serve as primary members; and

2 “(ii) be selected by the Deputy Sec-
3 retary;

4 “(B) 12 members shall—

5 “(i) serve as primary members; and

6 “(ii) be selected by members of feder-
7 ally-recognized Indian tribes located within
8 the regions of the Bureau represented by
9 the members; and

10 “(C) the 12 alternates shall—

11 “(i) serve as alternate members for
12 the members described in subparagraph
13 (B); and

14 “(ii) be selected by members of feder-
15 ally-recognized Indian tribes located within
16 the regions of the Bureau represented by
17 the members.

18 “(2) REGIONAL REPRESENTATION.—Each re-
19 gion of the Bureau shall be represented by a pri-
20 mary member and alternate member on the Task
21 Force.

22 “(3) TERM.—A member of the Task Force
23 shall serve for a term of 2 years.

24 “(c) DUTIES.—The Task Force, in cooperation with
25 the Deputy Secretary, shall—

1 “(1) not later than 1 year after the date of en-
2 actment of this section, conduct and submit to Con-
3 gress a report on a study of appropriate standards
4 and procedures for inventorying and management of
5 trust assets; and

6 “(2) not later than 2 years after the date of en-
7 actment of this section, identify, and submit to Con-
8 gress a report that includes recommendations relat-
9 ing to, modifications to existing law relating to trust
10 reform, including recommendations on matters such
11 as—

12 “(A) the need for an independent commis-
13 sion to oversee the administration of trust
14 funds and assets; and

15 “(B) the most beneficial administrative
16 structure and procedures.

17 “(d) FACA.—The Task Force shall not be subject
18 to the Federal Advisory Committee Act (5 U.S.C. App.).

19 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as are nec-
21 essary to carry out this section.

22 “(f) TERMINATION OF AUTHORITY.—The Task
23 Force and authority of the Task Force under this section
24 terminate on the date that is 3 years after the date of

1 enactment of the Indian Trust Asset and Trust Fund
2 Management and Reform Act of 2003.”.

3 **SEC. 8. REGULATIONS.**

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of enactment of this Act, the Secretary of the Interior
6 shall promulgate regulations to carry out the amendments
7 made by this Act.

8 (b) ACTIVE PARTICIPATION.—

9 (1) IN GENERAL.—All regulations promulgated
10 under subsection (a) shall be developed through a
11 negotiated rulemaking in accordance with sub-
12 chapter II of chapter 5, and chapter 7, of title 5,
13 United States Code (commonly known as the “Ad-
14 ministrative Procedures Act”).

15 (2) PARTICIPANTS.—With the exception of the
16 Secretary of the Interior, each participant in the ne-
17 gotiated rulemaking under paragraph (1) shall be a
18 federally-recognized Indian tribe.

19 **SEC. 9. NO EFFECT ON CERTAIN JUDICIAL DECISION.**

20 Nothing in this Act or any amendment made by this
21 Act limits or otherwise affects any finding, remedy, juris-
22 diction, authority, or discretion of any court with respect
23 to *Cobell v. Norton*, Civ. No. 96–1285 (RCL).

○