

109TH CONGRESS
1ST SESSION

S. 1439

To provide for Indian trust asset management reform and resolution of historical accounting claims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2005

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

A BILL

To provide for Indian trust asset management reform and resolution of historical accounting claims, 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
5 “Indian Trust Reform Act of 2005”.

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—SETTLEMENT OF LITIGATION CLAIMS

Sec. 101. Findings.

Sec. 102. Definitions.

- Sec. 103. Individual Indian Accounting Claim Settlement Fund.
- Sec. 104. General distribution.
- Sec. 105. Claims relating to share determination.
- Sec. 106. Claims relating to method of valuation.
- Sec. 107. Claims relating to constitutionality.
- Sec. 108. Attorneys' fees.
- Sec. 109. Waiver and release of claims.
- Sec. 110. Effect of title.

TITLE II—INDIAN TRUST ASSET MANAGEMENT POLICY REVIEW COMMISSION

- Sec. 201. Establishment.
- Sec. 202. Membership.
- Sec. 203. Meetings and procedures.
- Sec. 204. Duties.
- Sec. 205. Powers.
- Sec. 206. Commission personnel matters.
- Sec. 207. Exemption from FACA.
- Sec. 208. Authorization of appropriations.
- Sec. 209. Termination of Commission.

TITLE III—INDIAN TRUST ASSET MANAGEMENT DEMONSTRATION PROJECT ACT

- Sec. 301. Short title.
- Sec. 302. Definitions.
- Sec. 303. Establishment of demonstration project; selection of participating Indian tribes.
- Sec. 304. Indian trust asset management plan.
- Sec. 305. Effect of title.

TITLE IV—FRACTIONAL INTEREST PURCHASE AND CONSOLIDATION PROGRAM

- Sec. 401. Fractional interest program.

TITLE V—RESTRUCTURING BUREAU OF INDIAN AFFAIRS AND OFFICE OF SPECIAL TRUSTEE

- Sec. 501. Purpose.
- Sec. 502. Definitions.
- Sec. 503. Under Secretary for Indian Affairs.
- Sec. 504. Transfer of functions of Assistant Secretary for Indian Affairs.
- Sec. 505. Office of Special Trustee for American Indians.
- Sec. 506. Hiring preference.
- Sec. 507. Authorization of appropriations.

TITLE VI—AUDIT OF INDIAN TRUST FUNDS

- Sec. 601. Audits and reports.
- Sec. 602. Authorization of appropriations.

1 **TITLE I—SETTLEMENT OF**
2 **LITIGATION CLAIMS**

3 **SEC. 101. FINDINGS.**

4 Congress finds that—

5 (1) Congress has appropriated tens of millions
6 of dollars for purposes of providing an historical ac-
7 counting of funds held in Individual Indian Money
8 accounts;

9 (2) as of the date of enactment of this Act, the
10 efforts of the Federal Government in conducting his-
11 torical accounting activities have provided informa-
12 tion regarding the feasibility and cost of providing a
13 complete historical accounting of IIM account funds;

14 (3) in the case of many IIM accounts, a com-
15 plete historical accounting—

16 (A) may be impossible because necessary
17 records and accounting data are missing or de-
18 stroyed;

19 (B) may take several years to perform even
20 if necessary records are available;

21 (C) may cost the United States hundreds
22 of millions and possibly several billion dollars;
23 and

1 (D) may be impossible to complete before
2 the deaths of many elderly IIM account bene-
3 ficiaries;

4 (4) without a complete historical accounting, it
5 may be difficult or impossible to ascertain the extent
6 of losses in an IIM account as a result of accounting
7 errors or mismanagement of funds, or the correct
8 amount of interest accrued or owned on the IIM ac-
9 count;

10 (5) the total cost to the United States of pro-
11 viding a complete historical accounting of an IIM ac-
12 count may exceed—

13 (A) the current balance of the IIM ac-
14 count;

15 (B) the total sums of money that have
16 passed through the IIM account; and

17 (C) the enforceable liability of the United
18 States for losses from, and interest in, the IIM
19 account;

20 (6)(A) the delays in obtaining an accounting
21 and in pursuing accounting claims in the case styled
22 Cobell v. Norton, Civil Action No. 96–1285 (RCL)
23 in the United States District Court for the District
24 of Columbia, have created a great hardship on IIM
25 account beneficiaries; and

1 (B) many beneficiaries and their representatives
2 have indicated that they would rather receive mone-
3 tary compensation than experience the continued
4 frustration and delay associated with an accounting
5 of transactions and funds in their IIM accounts;

6 (7) it is appropriate for Congress, taking into
7 consideration the findings under paragraphs (1)
8 through (6), to provide benefits that are reasonably
9 calculated to be fair and appropriate in lieu of per-
10 forming an accounting of an IIM account, or assum-
11 ing liability for errors in such an accounting, mis-
12 management of IIM account funds (including unde-
13 termined amounts of interest in IIM accounts, losses
14 in which may never be discovered or quantified if a
15 complete historical accounting cannot be performed),
16 or breach of fiduciary duties with respect to the ad-
17 ministration of IIM accounts, in order to transmute
18 claims by the beneficiaries of IIM accounts for unde-
19 termined or unquantified accounting losses and in-
20 terest to a fixed amount to be distributed to the
21 beneficiaries of IIM accounts;

22 (8) in determining the amount of the payments
23 to be distributed as described in paragraph (7), Con-
24 gress should take into consideration, in addition to

1 the factors described in paragraphs (1) through
2 (6)—

3 (A) the risks and costs to IIM account
4 beneficiaries, as well as any delay, associated
5 with the litigation of claims that will be resolved
6 by this title; and

7 (B) the benefits to IIM account bene-
8 ficiaries available under this title;

9 (9) the situation of the Osage Nation is unique
10 because, among other things, income from the min-
11 eral estate of the Osage Nation is distributed to in-
12 dividuals through headright interests that belong not
13 only to members of the Osage Nation, but also to
14 members of other Indian tribes, and to non-Indians;
15 and

16 (10) due to the unique situation of the Osage
17 Nation, the Osage Nation, on its own behalf, has
18 filed various actions in Federal district court and the
19 United States Court of Federal Claims seeking ac-
20 countings, money damages, and other legal and equi-
21 table relief

22 **SEC. 102. DEFINITIONS.**

23 In this title:

24 (1) **ACCOUNTING CLAIM.**—The term “account-
25 ing claim” means any claim for an historical ac-

1 counting of a claimant against the United States
2 under the Litigation.

3 (2) CLAIMANT.—The term “claimant” means
4 any beneficiary of an IIM account (including an heir
5 of such a beneficiary) that was living on the date of
6 enactment of the American Indian Trust Fund Man-
7 agement Reform Act of 1994 (25 U.S.C. 4001 et
8 seq.).

9 (3) IIM ACCOUNT.—The term “IIM account”
10 means an Individual Indian Money account adminis-
11 tered by the Bureau of Indian Affairs.

12 (4) LITIGATION.—The term “Litigation” means
13 the case styled Cobell v. Norton, Civil Action No.
14 96–1285 (RCL) in the United States District Court
15 for the District of Columbia.

16 (5) SECRETARY.—The term “Secretary” means
17 the Secretary of the Treasury.

18 (6) SETTLEMENT FUND.—The term “Settle-
19 ment Fund” means the fund established by section
20 103(a).

21 (7) SPECIAL MASTER.—The term “Special Mas-
22 ter” means the special master appointed by the Sec-
23 retary under section 103(b) to administer the Settle-
24 ment Fund.

1 **SEC. 103. INDIVIDUAL INDIAN ACCOUNTING CLAIM SETTLE-**
2 **MENT FUND.**

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—There is established in the
5 general fund of the Treasury a fund, to be known
6 as the “Individual Indian Accounting Claim Settle-
7 ment Fund”.

8 (2) INITIAL DEPOSIT.—The Secretary shall de-
9 posit into the Settlement Fund to carry out this title
10 not less than \$[____],000,000,000 from funds ap-
11 propriated under section 1304 of title 31, United
12 States Code.

13 (b) SPECIAL MASTER.—As soon as practicable after
14 the date of enactment of this Act, the Secretary shall ap-
15 point a Special Master to administer the Settlement Fund
16 in accordance with this title.

17 (c) DISTRIBUTION.—

18 (1) IN GENERAL.—The Special Master shall use
19 not less than 80 percent of amounts in the Settle-
20 ment Fund to make payments to claimants in ac-
21 cordance with section 104.

22 (2) METHOD OF VALUATION AND CONSTITU-
23 TIONAL CLAIMS.—The Special Master may use not
24 to exceed 12 percent of amounts in the Settlement
25 Fund to make payments to claimants described in—

26 (A) section 106; or

1 (B) section 107.

2 (3) ATTORNEYS' FEES.—The Special Master
3 may use not to exceed **【____】** percent of amounts
4 in the Settlement Fund to make payments to claim-
5 ants for attorneys' fees in accordance with section
6 108.

7 (d) COSTS OF ADMINISTRATION.—The Secretary may
8 use not more than **【____】** percent of amounts in the Set-
9 tlement Fund to pay the costs of—

10 (1) administering the Settlement Fund; and

11 (2) otherwise carrying out this title.

12 **SEC. 104. GENERAL DISTRIBUTION.**

13 (a) PAYMENTS TO CLAIMANTS.—

14 (1) IN GENERAL.—Not later than 1 year after
15 the date on which the Secretary publishes in the
16 Federal Register the regulations described in sub-
17 section (d), the Special Master shall distribute to
18 each claimant from the Settlement Fund an amount
19 equal to the sum of—

20 (A) the per capita share of the claimant of
21 \$**【____】**,000,000,000 of the amounts described
22 in section 103(c)(1); and

23 (B) of \$**【____】**,000,000,000 of the
24 amounts described in section 103(c)(1), the ad-
25 ditional share of the claimant, to be determined

1 in accordance with a formula established by the
2 Secretary under subsection (d)(1).

3 (2) HEIRS OF CLAIMANTS.—

4 (A) IN GENERAL.—An heir of a claimant
5 shall receive the entire amount distributed to
6 the claimant under paragraphs (1) and (3).

7 (B) MULTIPLE HEIRS.—If a claimant has
8 more than 1 heir, the amount distributed to the
9 claimant under paragraphs (1) and (3) shall be
10 divided equally among the heirs of the claimant.

11 (3) RESIDUAL AMOUNTS.—After making each
12 distribution required under sections 106, 107, and
13 108, the Special Master shall distribute to claimants
14 the remainder of the amounts described in para-
15 graphs (2) and (3) of section 103(c), in accordance
16 with paragraph (1)(B).

17 (b) REQUIREMENT FOR DISTRIBUTION.—The Special
18 Master shall not make a distribution to a claimant under
19 subsection (a) until the claimant executes a waiver and
20 release of accounting claims against the United States in
21 accordance with section 109.

22 (c) LOCATION OF CLAIMANTS.—

23 (1) RESPONSIBILITY OF SECRETARY OF THE
24 INTERIOR.—The Secretary of the Interior shall pro-
25 vide to the Special Master any information, includ-

1 ing IIM account information, that the Special Mas-
2 ter determines to be necessary to—

3 (A) identify any claimant under this title;

4 or

5 (B) apply a formula established by the
6 Secretary under subsection (d).

7 (2) CLAIMANTS OF UNKNOWN LOCATION.—

8 (A) IN GENERAL.—The Special Master
9 shall deposit in an account, for future distribu-
10 tion, amounts under this title for each claimant
11 who—

12 (i) is entitled to receive a distribution
13 under this title, as determined by the Spe-
14 cial Master; and

15 (ii) has not been located by the Spe-
16 cial Master as of the date on which a dis-
17 tribution is required under subsection
18 (a)(1).

19 (B) LOCATION OF CLAIMANTS.—

20 (i) RESPONSIBILITY OF SECRETARY
21 OF THE INTERIOR.—The Secretary of the
22 Interior shall provide to the Special Master
23 any information and assistance necessary
24 to locate a claimant described in subpara-
25 graph (A)(ii).

1 (ii) CONTRACTS.—The Special Master
2 may enter into contracts with an Indian
3 tribe or an organization representing indi-
4 vidual Indians in order to locate a claimant
5 described in subparagraph (A)(ii).

6 (d) REGULATIONS.—

7 (1) IN GENERAL.—The Secretary shall promul-
8 gate any regulations that the Secretary determines
9 to be necessary to carry out this title, including reg-
10 ulations establishing a formula to determine the
11 share of each claimant of payments under subsection
12 (a)(1).

13 (2) FACTORS FOR CONSIDERATION.—In devel-
14 oping the formula described in paragraph (1), the
15 Secretary shall take into consideration the amount
16 of funds that have passed through the IIM account
17 of each claimant during the period beginning on
18 January 1, 1980, and ending on December 31,
19 2005, or another period, as the Secretary determines
20 to be appropriate.

21 **SEC. 105. CLAIMS RELATING TO SHARE DETERMINATION.**

22 (a) IN GENERAL.—Subject to subsection (b), any
23 claimant may seek judicial review of the determination of
24 the Special Master with respect to the amount of a share
25 payment of a claimant under section 104(a)(1).

1 (b) REQUIREMENTS.—A claimant shall file a claim
2 under subsection (a)—

3 (1) not later than 180 days after the date of re-
4 ceipt of a notice by the claimant under subsection
5 (c); and

6 (2) in the United States district court for the
7 district in which the claimant resides.

8 (c) NOTICE.—The Secretary shall provide to each
9 claimant a notice of the right of any claimant to seek judi-
10 cial review of a determination of the Special Master with
11 respect to the amount of the share payment of the claim-
12 ant under section 105.

13 (d) SUBSEQUENT APPEALS.—A claim relating to a
14 determination of a United States district court relating
15 to an appeal under subsection (a) shall be filed only in
16 the United States Court of Appeals for the District of Co-
17 lumbia.

18 **SEC. 106. CLAIMS RELATING TO METHOD OF VALUATION.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of enactment of this Act, a claimant may seek judicial
21 review of the method of distribution of a payment to the
22 claimant under section 104(a).

23 (b) REQUIREMENTS.—A claim under subsection
24 (a)—

1 (1) shall not be filed as part of a class action
2 claim against any party; and

3 (2) shall be filed only in the United States
4 Court of Federal Claims.

5 (c) AVAILABLE AMOUNTS.—

6 (1) IN GENERAL.—The Special Master shall use
7 only amounts described in section 103(c)(2)(A) to
8 satisfy an award under a claim under this section.

9 (2) PAYMENTS TO CLAIMANTS.—A claimant
10 that files a claim under this subsection shall not be
11 eligible to receive a distribution under section
12 104(a).

13 (d) EFFECT OF CLAIM.—The filing of a claim under
14 this section shall be considered to be a waiver by the claim-
15 ant of any right to an award under section 104.

16 **SEC. 107. CLAIMS RELATING TO CONSTITUTIONALITY.**

17 (a) IN GENERAL.—Any claimant may seek judicial
18 review in the United States District Court for the District
19 of Columbia of the constitutionality of the application of
20 this title to an individual claimant.

21 (b) PROCEDURE.—

22 (1) JUDICIAL PANEL.—A claim under this sec-
23 tion shall be determined by a panel of 3 judges, to
24 be appointed by the chief judge of the United States
25 District Court for the District of Columbia.

1 (2) CONSOLIDATION OF CLAIMS.—

2 (A) IN GENERAL.—The judicial panel may
3 consolidate claims under this section, as the ju-
4 dicial panel determines to be appropriate.

5 (B) PROHIBITION OF CLASS ACTION
6 CASES.—A claim under this section shall not be
7 filed as part of a class action claim against any
8 party.

9 (3) DETERMINATION.—The judicial panel may
10 award a claimant such relief as the judicial panel de-
11 termines to be appropriate, including monetary com-
12 pensation.

13 (c) AVAILABLE AMOUNTS.—

14 (1) IN GENERAL.—The Special Master shall use
15 only amounts described in section 103(c)(2)(B) to
16 satisfy an award under a claim under this section.

17 (2) PAYMENTS TO CLAIMANTS.—A claimant
18 that files a claim under this subsection shall not be
19 eligible to receive a distribution under section
20 104(a).

21 (d) EFFECT OF CLAIM.—The filing of a claim under
22 this section shall be considered to be a waiver by the claim-
23 ant of any right to an award under section 104.

1 **SEC. 108. ATTORNEYS' FEES.**

2 (a) IN GENERAL.—The Special Master may use
3 amounts described in section 103(c)(3) to make payments
4 to claimants for costs and attorneys' fees incurred under
5 the Litigation before the date of enactment of this Act,
6 or in connection with a claim under section 104, at a rate
7 not to exceed \$[_____] per hour.

8 (b) REQUIREMENTS.—

9 (1) IN GENERAL.—The Special Master may
10 make a payment under subsection (a) only if, as of
11 the date on which the Special Master makes the pay-
12 ment, the applicable costs and attorneys' fees have
13 not been paid by the United States pursuant to a
14 court order.

15 (2) ACTION BY ATTORNEYS.—To receive a pay-
16 ment under subsection (a), an attorney of the claim-
17 ant shall submit to the Special Master a written
18 claim for costs or fees under the Litigation.

19 **SEC. 109. WAIVER AND RELEASE OF CLAIMS.**

20 (a) IN GENERAL.—In order to receive an award
21 under this title, a claimant shall execute and submit to
22 the Special Master a waiver and release of claims under
23 this section.

24 (b) CONTENTS.—A waiver and release under sub-
25 section (a) shall contain a statement that the claimant
26 waives and releases the United States (including any offi-

1 cer, official, employee, or contractor of the United States)
2 from any legal or equitable claim under Federal, State,
3 or other law (including common law) relating to any ac-
4 counting of funds in the IIM account of the claimant on
5 or before the date of enactment of this Act.

6 **SEC. 110. EFFECT OF TITLE.**

7 (a) **SUBSTITUTION OF BENEFITS.—**

8 (1) **IN GENERAL.—**The benefits provided under
9 this title shall be considered to be provided in lieu
10 of any claims under Federal, State, or other law
11 originating before the date of enactment of this Act
12 for—

13 (A) losses as a result of accounting errors
14 relating to funds in an IIM account;

15 (B) mismanagement of funds in an IIM
16 account; or

17 (C) interest accrued or owed in connection
18 with funds in an IIM account.

19 (2) **LIMITATION OF CLAIMS.—**Except as pro-
20 vided in this title, and notwithstanding any other
21 provision of law, a claimant shall not maintain an
22 action in any Federal, State, or other court for an
23 accounting claim originating before the date of en-
24 actment of this Act.

25 (3) **JURISDICTION OF COURTS.—**

1 (A) IN GENERAL.—Except as otherwise
2 provided in this title, no court shall have juris-
3 diction over a claim filed by an individual or
4 group for the historical accounting of funds in
5 an IIM account on or before the date of enact-
6 ment of this Act, including any such claim that
7 is pending on the date of enactment of this Act.

8 (B) LIMITATION.—This paragraph does
9 not prevent a court from ordering an account-
10 ing in connection with an action relating to the
11 mismanagement of trust resources that are not
12 funds in an IIM account on or before the date
13 of enactment of this Act.

14 (b) ACCEPTANCE AS WAIVER.—The acceptance by a
15 claimant of a benefit under this title shall be considered
16 to be a waiver by the claimant of any accounting claim
17 that the claimant has or may have relating to the IIM
18 account of the claimant.

19 (c) RECEIPT OF PAYMENTS HAVE NO IMPACT ON
20 BENEFITS UNDER OTHER FEDERAL PROGRAMS.—The
21 receipt of a payment by a claimant under this title shall
22 not be—

- 23 (1) subject to Federal or State income tax; or
24 (2) treated as benefits or otherwise taken into
25 account in determining the eligibility of the claimant

1 for, or the amount of benefits under, any other Fed-
2 eral program, including the social security program,
3 the medicare program, the medicaid program, the
4 State children’s health insurance program, the food
5 stamp program, or the Temporary Assistance for
6 Needy Families program.

7 (d) CERTAIN CLAIMS.—Nothing in this title pre-
8 cludes any court from granting any legal or equitable relief
9 in an action by an Indian tribe or Indian nation against
10 the United States, or an officer of the United States, filed
11 or pending on or before the date of enactment of this Act,
12 seeking an accounting, money damages, or any other relief
13 relating to a tribal trust account or trust asset or resource.

14 **TITLE II—INDIAN TRUST ASSET**
15 **MANAGEMENT POLICY RE-**
16 **VIEW COMMISSION**

17 **SEC. 201. ESTABLISHMENT.**

18 There is established a commission, to be known as
19 the “Indian Trust Asset Management Policy Review Com-
20 mission,” (referred to in this title as the “Commission”),
21 for the purposes of—

22 (1) reviewing trust asset management laws (in-
23 cluding regulations) in existence on the date of en-
24 actment of this Act governing the management and

1 administration of individual Indian and Indian tribal
2 trust assets;

3 (2) reviewing the management and administra-
4 tion practices of the Department of the Interior with
5 respect to individual Indian and Indian tribal trust
6 assets; and

7 (3) making recommendations to the Secretary
8 of the Interior and Congress for improving those
9 laws and practices.

10 **SEC. 202. MEMBERSHIP.**

11 (a) IN GENERAL.—The Commission shall be com-
12 posed of 12 members, of whom—

13 (1) 4 shall be appointed by the President;

14 (2) 2 shall be appointed by the Majority Leader
15 of the Senate;

16 (3) 2 shall be appointed by the Minority Leader
17 of the Senate;

18 (4) 2 shall be appointed by the Speaker of the
19 House of Representatives; and

20 (5) 2 shall be appointed by the Minority Leader
21 of the House of Representatives.

22 (b) QUALIFICATIONS.—The membership of the Com-
23 mission shall include—

1 (1) at least 6 members who are representatives
2 of federally recognized Indian tribes with reservation
3 land or other trust land that is managed for—

4 (A) grazing;

5 (B) fishing; or

6 (C) crop, timber, mineral, or other re-
7 source production purposes;

8 (2) at least 1 member (including any member
9 described in paragraph (1)) who is or has been the
10 beneficial owner of an individual Indian monies ac-
11 count; and

12 (3) at least 4 members who have experience
13 in—

14 (A) Indian trust resource (excluding a fi-
15 nancial resource) management;

16 (B) fiduciary investment management;

17 (C) financial asset management; and

18 (D) Federal law and policy relating to In-
19 dians.

20 (e) DATE OF APPOINTMENTS.—

21 (1) IN GENERAL.—The appointment of a mem-
22 ber of the Commission shall be made not later than
23 90 days after the date of enactment of this Act.

24 (2) FAILURES TO APPOINT.—A failure to make
25 an appointment in accordance with paragraph (1)

1 shall not affect the powers or duties of the Commis-
2 sion if sufficient members are appointed to establish
3 a quorum.

4 (d) TERM; VACANCIES.—

5 (1) TERM.—A member shall be appointed for
6 the life of the Commission.

7 (2) VACANCIES.—A vacancy on the Commis-
8 sion—

9 (A) shall not affect the powers or duties of
10 the Commission; and

11 (B) shall be filled in the same manner as
12 the original appointment was made.

13 **SEC. 203. MEETINGS AND PROCEDURES.**

14 (a) INITIAL MEETING.—Not later than 150 days
15 after the date of enactment of this Act, the Commission
16 shall hold the initial meeting of the Commission to—

17 (1) elect a Chairperson; and

18 (2) establish procedures for the conduct of busi-
19 ness of the Commission, including public hearings.

20 (b) SUBSEQUENT MEETINGS.—The Commission shall
21 meet at the call of the Chairperson.

22 (c) QUORUM.—7 members of the Commission shall
23 constitute a quorum, but a lesser number of members may
24 hold hearings.

1 (d) CHAIRPERSON.—The Commission shall elect a
2 Chairperson from among the members of the Commission.

3 **SEC. 204. DUTIES.**

4 (a) REVIEWS AND ASSESSMENTS.—The Commission
5 shall review and assess—

6 (1) Federal laws (including regulations) appli-
7 cable or relating to the management and administra-
8 tion of Indian trust assets; and

9 (2) the practices of the Department of the Inte-
10 rior relating to the management and administration
11 of Indian trust assets.

12 (b) CONSULTATION.—In conducting the reviews and
13 assessments under subsection (a), the Commission shall
14 consult with—

15 (1) the Secretary of the Interior;

16 (2) federally recognized Indian tribes; and

17 (3) organizations that represent the interests of
18 individual owners of Indian trust assets.

19 (c) RECOMMENDATIONS.—After conducting the re-
20 views and assessments under subsection (a), the Commis-
21 sion shall develop recommendations with respect to—

22 (1) changes to Federal law that would improve
23 the management and administration of Indian trust
24 assets by the Secretary of the Interior;

1 (2) changes to Indian trust asset management
2 and administration practices that would—

3 (A) better protect and conserve Indian
4 trust assets;

5 (B) improve the return on those assets to
6 individual Indian and Indian tribal bene-
7 ficiaries; or

8 (C) improve the level of security of indi-
9 vidual Indian and Indian tribal money account
10 data and assets; and

11 (3) proposed Indian trust asset management
12 standards that are consistent with any Federal law
13 that is otherwise applicable to the management and
14 administration of the assets.

15 (d) REPORT.—Not later than 2 years after the date
16 on which the Commission holds the initial meeting, the
17 Commission shall submit to the Committee on Indian Af-
18 fairs of the Senate, the Committee on Resources of the
19 House of Representatives, and the Secretary of the Inte-
20 rior a report that includes—

21 (1) an overview and the results of the reviews
22 and assessments under subsection (a); and

23 (2) any recommendations of the Commission
24 under subsection (c).

1 **SEC. 205. POWERS.**

2 (a) HEARINGS.—The Commission may hold such
3 hearings, meet and act at such times and places, take such
4 testimony, and receive such evidence as the Chairperson
5 determines to be appropriate to carry out this title.

6 (b) INFORMATION FROM FEDERAL AGENCIES.—

7 (1) IN GENERAL.—The Commission may secure
8 directly from a Federal agency such information as
9 the Chairperson determines to be necessary to carry
10 out this title.

11 (2) PROVISION OF INFORMATION.—On request
12 of the Chairperson, the head of a Federal agency
13 shall provide information to the Commission.

14 (c) ACCESS TO PERSONNEL.—For purposes of car-
15 rying out this title, the Commission shall have reasonable
16 access to staff responsible for Indian trust asset manage-
17 ment and administration of—

18 (1) the Department of the Interior;

19 (2) the Department of the Treasury; and

20 (3) the Department of Justice.

21 (d) POSTAL SERVICES.—The Commission may use
22 the United States mail in the same manner and under the
23 same conditions as other Federal agencies.

24 (e) GIFTS.—The Commission may accept, use, and
25 dispose of gifts or donations of services or property to the

1 same extent and under the same conditions as other Fed-
2 eral agencies.

3 **SEC. 206. COMMISSION PERSONNEL MATTERS.**

4 (a) COMPENSATION OF MEMBERS.—

5 (1) NON-FEDERAL EMPLOYEES.—A member of
6 the Commission who is not an officer or employee of
7 the Federal Government shall be compensated at a
8 rate equal to the daily equivalent of the annual rate
9 of basic pay prescribed for level IV of the Executive
10 Schedule under section 5315 of title 5, United
11 States Code, for each day (including travel time)
12 during which the member is engaged in the perform-
13 ance of the duties of the Commission.

14 (2) FEDERAL EMPLOYEES.—A member of the
15 Commission who is an officer or employee of the
16 Federal Government shall serve without compensa-
17 tion in addition to the compensation received for the
18 services of the member as an officer or employee of
19 the Federal Government.

20 (b) TRAVEL EXPENSES.—A member of the Commis-
21 sion shall be allowed travel expenses, including per diem
22 in lieu of subsistence, at rates authorized for an employee
23 of an agency under subchapter I of chapter 57 of title
24 5, United States Code, while away from home or regular

1 place of business of the member in the performance of the
2 duties of the Commission.

3 (c) STAFF.—

4 (1) IN GENERAL.—The Chairperson may, with-
5 out regard to the civil services laws (including regu-
6 lations), appoint and terminate an executive director
7 and such other additional personnel as are necessary
8 to enable the Commission to perform the duties of
9 the Commission.

10 (2) CONFIRMATION OF EXECUTIVE DIREC-
11 TOR.—The employment of an executive director shall
12 be subject to confirmation by the Commission.

13 (3) COMPENSATION.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), the Chairperson may fix the
16 compensation of the executive director and
17 other personnel without regard to the provisions
18 of chapter 51 and subchapter III of title 5,
19 United States Code, relating to classification of
20 positions and General Schedule pay rates.

21 (B) MAXIMUM RATE OF PAY.—The rate of
22 pay for the executive director and other per-
23 sonnel shall not exceed the rate payable for
24 level V of the Executive Schedule under section
25 5316 of title 5, United States Code.

1 **SEC. 207. EXEMPTION FROM FACIA.**

2 The Federal Advisory Committee Act (5 U.S.C. App.)
3 shall not apply to the Commission if all hearings of the
4 Commission are held open to the public.

5 **SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated such sums
7 as are necessary to carry out this title.

8 **SEC. 209. TERMINATION OF COMMISSION.**

9 The Commission and the authority of the Commis-
10 sion under this title shall terminate on the date that is
11 3 years after the date on which the Commission holds the
12 initial meeting of the Commission.

13 **TITLE III—INDIAN TRUST ASSET**
14 **MANAGEMENT DEMONSTRA-**
15 **TION PROJECT ACT**

16 **SEC. 301. SHORT TITLE.**

17 This title may be cited as the “Indian Trust Asset
18 Management Demonstration Project Act of 2005”.

19 **SEC. 302. DEFINITIONS.**

20 In this title:

21 (1) **PROJECT.**—The term “Project” means the
22 Indian trust asset management demonstration
23 project established under section 303(a).

24 (2) **OTHER INDIAN TRIBE.**—The term “other
25 Indian tribe” means an Indian tribe that—

26 (A) is federally recognized;

1 (B) is not a section 131 Indian tribe; and
 2 (C) submits an application under section
 3 303(c).

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

6 (4) SECTION 131 INDIAN TRIBE.—The term
 7 “section 131 Indian tribe” means any Indian tribe
 8 that is participating in the demonstration project
 9 under section 131 of title III, division E of the Con-
 10 solidated Appropriations Act, 2005 (Public Law
 11 108–447; 118 Stat. 2809).

12 **SEC. 303. ESTABLISHMENT OF DEMONSTRATION PROJECT;**
 13 **SELECTION OF PARTICIPATING INDIAN**
 14 **TRIBES.**

15 (a) IN GENERAL.—The Secretary shall establish and
 16 carry out an Indian trust asset management demonstra-
 17 tion project, in accordance with this title.

18 (b) SELECTION OF PARTICIPATING INDIAN
 19 TRIBES.—

20 (1) SECTION 131 INDIAN TRIBES.—A section
 21 131 Indian tribe shall be eligible to participate in
 22 the Project if the section 131 Indian tribe submits
 23 to the Secretary an application under subsection (c).

24 (2) OTHER TRIBES.—

1 (A) IN GENERAL.—Any other Indian tribe
2 shall be eligible to participate in the Project
3 if—

4 (i) the other Indian tribe submits to
5 the Secretary an application under sub-
6 section (c); and

7 (ii) the Secretary approves the appli-
8 cation of the other Indian tribe.

9 (B) LIMITATION.—

10 (i) 30 OR FEWER APPLICANTS.—If 30
11 or fewer other Indian tribes submit appli-
12 cations under subsection (c), each of the
13 other Indian tribes shall be eligible to par-
14 ticipate in the Project.

15 (ii) MORE THAN 30 APPLICANTS.—

16 (I) IN GENERAL.—If more than
17 30 other Indian tribes submit applica-
18 tions under subsection (c), the Sec-
19 retary shall select 30 other Indian
20 tribes to participate in the Project.

21 (II) PREFERENCE.—In selecting
22 other Indian tribes under subclause
23 (I), the Secretary shall give preference
24 to other Indian tribes the applications

1 of which were first received by the
2 Secretary.

3 (3) NOTICE.—

4 (A) IN GENERAL.—The Secretary shall
5 provide a written notice to each Indian tribe se-
6 lected to participate in the Project.

7 (B) CONTENTS.—A notice under subpara-
8 graph (A) shall include—

9 (i) a statement that the application of
10 the Indian tribe has been approved by the
11 Secretary; and

12 (ii) a requirement that the Indian
13 tribe shall submit to the Secretary a pro-
14 posed Indian trust asset management plan
15 in accordance with section 304.

16 (c) APPLICATION.—

17 (1) IN GENERAL.—To be eligible to participate
18 in the Project, an Indian tribe shall submit to the
19 Secretary a written application in accordance with
20 paragraph (2).

21 (2) REQUIREMENTS.—The Secretary shall take
22 into consideration an application under this sub-
23 section only if the application—

24 (A) includes a copy of a resolution or other
25 appropriate action by the governing body of the

1 Indian tribe, as determined by the Secretary, in
2 support of or authorizing the application;

3 (B) is received by the Secretary by the
4 date that is 180 days after the date of enact-
5 ment of this Act; and

6 (C) states that the Indian tribe is request-
7 ing to participate in the Project.

8 (d) DURATION.—The Project shall remain in effect
9 for a period of 8 years after the date of enactment of this
10 Act.

11 **SEC. 304. INDIAN TRUST ASSET MANAGEMENT PLAN.**

12 (a) PROPOSED PLAN.—

13 (1) SUBMISSION.—

14 (A) IN GENERAL.—Not later than 120
15 days after the date on which an Indian tribe re-
16 ceives a notice from the Secretary under section
17 303(b)(3), the Indian tribe shall submit to the
18 Secretary a proposed Indian trust asset man-
19 agement plan in accordance with paragraph (2).

20 (B) TIME LIMITATIONS.—

21 (i) IN GENERAL.—Except as provided
22 in clause (ii), any Indian tribe that fails to
23 submit the Indian trust asset management
24 plan of the Indian tribe by the date speci-

1 fied in subparagraph (A) shall no longer be
2 eligible to participate in the Project.

3 (ii) EXTENSION.—The Secretary shall
4 grant an extension of not more than 60
5 days to an Indian tribe if the Indian tribe
6 submits a written request for such an ex-
7 tension before the date described in sub-
8 paragraph (A).

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

11 (A) identify the trust assets that will be
12 subject to the plan, including financial and non-
13 financial trust assets;

14 (B) establish trust asset management ob-
15 jectives and priorities for Indian trust assets
16 that are located within the reservation, or oth-
17 erwise subject to the jurisdiction, of the Indian
18 tribe;

19 (C) allocate trust asset management fund-
20 ing that is available for the Indian trust assets
21 subject to the plan in order to meet the trust
22 asset management objectives and priorities;

23 (D) if the Indian tribe has contracted or
24 compacted functions or activities under the In-
25 dian Self-Determination and Education Assist-

1 ance Act (25 U.S.C. 450 et seq.) relating to the
2 management of trust assets—

3 (i) identify the functions or activities
4 that are being performed by the Indian
5 tribe under the contracts or compacts; and

6 (ii) describe the proposed manage-
7 ment systems, practices, and procedures
8 that the Indian tribe will follow; and

9 (E) establish procedures for nonbinding
10 mediation or resolution of any dispute between
11 the Indian tribe and the United States relating
12 to the trust asset management plan.

13 (3) AUTHORITY OF INDIAN TRIBES TO DE-
14 VELOP SYSTEMS, PRACTICES, AND PROCEDURES.—

15 For purposes of preparing and carrying out a man-
16 agement plan under this section, an Indian tribe
17 that has compacted or contracted activities or func-
18 tions under the Indian Self-Determination and Edu-
19 cation Assistance Act (25 U.S.C. 450 et seq.), for
20 purposes of carrying out the activities or functions,
21 may develop and carry out trust asset management
22 systems, practices, and procedures that differ from
23 any such systems, practices, and procedures used by
24 the Secretary in managing the trust assets if the
25 systems, practices, and procedures of the Indian

1 tribe meet the requirements of the laws, standards,
2 and responsibilities described in subsection (c).

3 (4) TECHNICAL ASSISTANCE AND INFORMA-
4 TION.—The Secretary shall provide to an Indian
5 tribe any technical assistance and information, in-
6 cluding budgetary information, that the Indian tribe
7 determines to be necessary for preparation of a pro-
8 posed plan on receipt of a written request from the
9 Indian tribe.

10 (b) APPROVAL AND DISAPPROVAL OF PROPOSED
11 PLANS.—

12 (1) APPROVAL.—

13 (A) IN GENERAL.—Not later than 120
14 days after the date on which an Indian tribe
15 submits a proposed Indian trust asset manage-
16 ment plan under subsection (a), Secretary shall
17 approve or disapprove the proposed plan.

18 (B) REQUIREMENTS FOR DISAPPROVAL.—
19 The Secretary shall approve a proposed plan
20 unless the Secretary determines that—

21 (i) the proposed plan fails to address
22 a requirement under subsection (a)(2);

23 (ii) the proposed plan includes 1 or
24 more provisions that are inconsistent with
25 subsection (c); or

1 (iii) the cost of implementing the pro-
2 posed plan exceeds the amount of funding
3 available for the management of trust as-
4 sets that would be subject to the proposed
5 plan.

6 (2) ACTION ON DISAPPROVAL.—

7 (A) NOTICE.—If the Secretary disapproves
8 a proposed plan under paragraph (1)(B), the
9 Secretary shall provide to the Indian tribe a
10 written notice of the disapproval, including any
11 reason why the proposed plan was disapproved.

12 (B) ACTION BY TRIBES.—An Indian tribe
13 the proposed plan of which is disapproved
14 under paragraph (1)(B) may resubmit an
15 amended proposed plan not later than 90 days
16 after the date on which the Indian tribe receives
17 the notice under subparagraph (A).

18 (3) FAILURE TO APPROVE OR DISAPPROVE.—If
19 the Secretary fails to approve or disapprove a pro-
20 posed plan in accordance with paragraph (1), the
21 plan shall be considered to be disapproved under
22 clauses (i) and (ii) of paragraph (1)(B).

23 (4) JUDICIAL REVIEW.—An Indian tribe may
24 seek judicial review of the determination of the Sec-
25 retary in accordance with subchapter II of chapter

1 5, and chapter 7, of title 5, United States Code
2 (commonly known as the “Administrative Procedure
3 Act”) if—

4 (A) the Secretary disapproves the proposed
5 plan of the Indian tribe under paragraph (1) or
6 (3); and

7 (B) the Indian tribe has exhausted any
8 other administrative remedy available to the In-
9 dian tribe.

10 (c) APPLICABLE LAWS; STANDARDS; TRUST RE-
11 SPONSIBILITY.—

12 (1) APPLICABLE LAWS.—An Indian trust asset
13 management plan, and any activity carried out
14 under the plan, shall not be approved unless the pro-
15 posed plan is consistent with—

16 (A) all Federal treaties, statutes, regula-
17 tions, Executive orders, and court decisions that
18 are applicable to the trust assets, or the man-
19 agement of the trust assets, identified in the
20 plan; and

21 (B) all tribal laws that are applicable to
22 the trust assets, or the management of trust as-
23 sets, identified in the plan, except to the extent
24 that the laws are inconsistent with the treaties,

1 statutes, regulations, Executive orders, and
2 court decisions referred to in subparagraph (A).

3 (2) STANDARDS.—Subject to the laws referred
4 to in paragraph (1)(A), an Indian trust asset man-
5 agement plan shall not be approved unless the Sec-
6 retary determines that the plan will—

7 (A) protect trust assets from loss, waste,
8 and unlawful alienation;

9 (B) promote the interests of the beneficial
10 owner of the trust asset;

11 (C) conform, to the maximum extent prac-
12 ticable, to the preferred use of the trust asset
13 by the beneficial owner, unless the use is incon-
14 sistent with a treaty, statute, regulation, Execu-
15 tive order, or court decision referred to in para-
16 graph (1)(A);

17 (D) protect any applicable treaty-based
18 fishing, hunting and gathering, and similar
19 rights relating to the use, access, or enjoyment
20 of a trust asset; and

21 (E) require that any activity carried out
22 under the plan be carried out in good faith and
23 with loyalty to the beneficial owner of the trust
24 asset.

1 (3) TRUST RESPONSIBILITY.—An Indian trust
2 asset management plan shall not be approved unless
3 the Secretary determines that the plan is consistent
4 with the trust responsibility of the United States to
5 the Indian tribe and individual Indians.

6 (d) TERMINATION OF PLAN.—

7 (1) IN GENERAL.—An Indian tribe may termi-
8 nate an Indian trust asset management plan on any
9 date after the date on which a proposed Indian trust
10 asset management plan is approved by providing to
11 the Secretary—

12 (A) a notice of the intent of the Indian
13 tribe to terminate the plan; and

14 (B) a resolution of the governing body of
15 the Indian tribe authorizing the termination of
16 the plan.

17 (2) EFFECTIVE DATE.—A termination of an In-
18 dian trust asset management plan under paragraph
19 (1) takes effect on October 1 of the first fiscal year
20 following the date on which a notice is provided to
21 the Secretary under paragraph (1)(A).

22 **SEC. 305. EFFECT OF TITLE.**

23 (a) LIABILITY.—Nothing in this title, or a trust asset
24 management plan approved under section 304, shall inde-
25 pendently diminish, increase, create, or otherwise affect

1 the liability of the United States or an Indian tribe partici-
2 pating in the Project for any loss resulting from the man-
3 agement of an Indian trust asset under an Indian trust
4 asset management plan.

5 (b) EFFECT ON OTHER LAWS.—Nothing in this title
6 amends or otherwise affects the application of any treaty,
7 statute, regulation, Executive order, or court decision that
8 is applicable to Indian trust assets or the management or
9 administration of Indian trust assets, including the Indian
10 Self-Determination and Education Assistance Act (25
11 U.S.C. 450 et seq.).

12 (c) TRUST RESPONSIBILITY.—Nothing in this title
13 diminishes or otherwise affects the trust responsibility of
14 the United States to Indian tribes and individual Indians.

15 **TITLE IV—FRACTIONAL INTER-**
16 **EST PURCHASE AND CON-**
17 **SOLIDATION PROGRAM**

18 **SEC. 401. FRACTIONAL INTEREST PROGRAM.**

19 Section 213 of the Indian Land Consolidation Act
20 (25 U.S.C. 2212) is amended—

21 (1) by redesignating subsection (d) as sub-
22 section (h); and

23 (2) by inserting after subsection (e) the fol-
24 lowing:

1 “(d) PURCHASE OF INTERESTS IN FRACTIONATED
2 INDIAN LAND.—

3 “(1) INCENTIVES.—In acquiring an interest
4 under this section in any parcel of land that includes
5 undivided trust or restricted interests owned by not
6 less than 20 separate individuals, as determined by
7 the Secretary, the Secretary may include in the of-
8 fered purchase price for the interest, in addition to
9 fair market value, an amount not less than \$100
10 and not to exceed \$350, as an incentive for the
11 owner to sell the interest to the Secretary.

12 “(2) SALE OF ALL TRUST OR RESTRICTED IN-
13 TERESTS.—If an individual agrees to sell to the Sec-
14 retary all trust or restricted interests owned by the
15 individual, the Secretary may include in the offered
16 purchase price, in addition to fair market value and
17 the incentive described in paragraph (1), an amount
18 not to exceed \$2,000, as the Secretary determines to
19 be appropriate, taking into consideration the avoided
20 costs to the United States of probating the estate of
21 the individual or an heir of the individual.

22 “(e) CERTAIN PARCELS OF HIGHLY FRACTIONATED
23 INDIAN LAND.—

24 “(1) DEFINITION OF OFFEREE.—In this sub-
25 section, the term ‘offeree’ does not include the In-

1 dian tribe that has jurisdiction over a parcel of land
2 for which an offer is made.

3 “(2) OFFER TO PURCHASE.—

4 “(A) IN GENERAL.—If the Secretary deter-
5 mines that a tract of land consists of not less
6 than 200 separate undivided trust or restricted
7 interests, the Secretary may offer to purchase
8 the interests in the tract, in accordance with
9 this subsection, for an amount equal to the sum
10 of—

11 “(i) the fair market value of the inter-
12 ests; and

13 “(ii) an additional amount, to be de-
14 termined by the Secretary, not less than
15 triple the fair market value of the interest.

16 “(B) REQUIREMENT.—The Secretary shall
17 make an offer under subparagraph (A) not
18 later than 3 days before the date on which the
19 Secretary mails a notice of the offer to the
20 offeree under paragraph (3).

21 “(3) NOTICE OF OFFER.—

22 “(A) IN GENERAL.—The Secretary shall
23 provide to an offeree, by certified mail to the
24 last known address of the offeree, a notice of

1 any offer to purchase land under this sub-
2 section.

3 “(B) INCLUSIONS.—A notice under sub-
4 paragraph (A) shall include in plain language,
5 as determined by the Secretary—

6 “(i) the date on which the offer was
7 made;

8 “(ii) the name of the offeree;

9 “(iii) the location of the tract of land
10 containing the interest that is the subject
11 of the offer;

12 “(iv) the size of the interest of the
13 offeree, expressed in terms of a fraction or
14 a percentage of the tract of land described
15 in clause (iii);

16 “(v) the fair market value of the tract
17 of land described in clause (iii);

18 “(vi) the fair market value of the in-
19 terest of the offeree;

20 “(vii) the amount offered for the in-
21 terest in addition to fair market value
22 under paragraph (2)(A)(ii);

23 “(viii) a statement that the offeree
24 shall be considered to have accepted the
25 offer for the amount stated in the notice

1 unless a notice of rejection form is depos-
2 ited in the United States mail not later
3 than 90 days after the date on which the
4 offer is received; and

5 “(ix) a self-addressed, postage pre-
6 paid notice of rejection form.

7 “(4) TREATMENT OF OFFER.—

8 “(A) IN GENERAL.—An offer made under
9 this subsection shall be considered to be accept-
10 ed by the offeree if—

11 “(i) the certified mail receipt for the
12 offer is signed by the offeree; and

13 “(ii) the notice of rejection form de-
14 scribed in paragraph (3)(B)(ix) is not de-
15 posited in the United States mail by the
16 date that is 90 days after the date on
17 which the offer is received.

18 “(B) REJECTION.—An offer made under
19 this subsection shall be considered to be re-
20 jected by the offeree if—

21 “(i) the notice of rejection form de-
22 scribed in paragraph (3)(B)(ix) is depos-
23 ited in the United States mail by the date
24 that is 90 days after the date on which the
25 offer is received; or

1 “(ii) the certified mail receipt for the
2 offer is returned to the Secretary unsigned
3 by the offeree.

4 “(5) WITHDRAWAL OF ACCEPTANCE; NOTICE.—

5 “(A) WITHDRAWAL OF ACCEPTANCE.—A
6 person that is considered to have accepted an
7 offer under paragraph (4)(A) may withdraw the
8 acceptance by depositing in the United States
9 mail a notice of withdrawal of acceptance form
10 by the date that is 30 days after the date of re-
11 ceipt of the notice under subparagraph (B).

12 “(B) NOTICE.—The Secretary shall pro-
13 vide to any person that is considered to have
14 accepted an offer under paragraph (4)(A), by
15 certified mail, restricted delivery, to the last
16 known address of the person, a preaddressed,
17 postage prepaid withdrawal of acceptance form
18 and a notice stating that—

19 “(i) the offer made to the person is
20 considered to be accepted; and

21 “(ii) the person has the right to with-
22 draw the acceptance by depositing in the
23 United States mail the notice of with-
24 drawal of acceptance form by the date that

1 is 30 days after the date on which the no-
2 tice was delivered to the person.

3 “(6) NOTICE OF ACCEPTANCE AND RIGHT TO
4 APPEAL.—The Secretary shall provide to any person
5 that has been served with a notice under paragraph
6 (5)(B) and fails to withdraw the acceptance of the
7 offer in accordance with paragraph (5)(A), by first
8 class mail to the last known address of the person,
9 a notice stating that—

10 “(A) the offer made to the person is con-
11 sidered to be accepted and not timely with-
12 drawn; and

13 “(B) after exhausting all administrative
14 remedies, the person may appeal any deter-
15 mination of the Secretary in accordance with
16 paragraph (7).

17 “(7) JUDICIAL REVIEW.—A person described in
18 paragraph (6) may appeal any determination of the
19 Secretary with respect to—

20 “(A) the number of owners of undivided
21 interests in a tract of land required under para-
22 graph (2);

23 “(B) the fair market value of a tract of
24 land or interest in land;

1 “(C) the date on which a notice of rejec-
2 tion form was deposited in the United States
3 mail under paragraph (4)(B)(i); or

4 “(D) the date on which a notice of with-
5 drawal of acceptance form was deposited in the
6 United States mail under paragraph (5)(A).

7 “(f) OFFER TO SETTLE CLAIMS AGAINST THE
8 UNITED STATES.—

9 “(1) IN GENERAL.—The Secretary may make
10 an offer to any individual owner (not including an
11 Indian tribe) of a trust or restricted interest in a
12 tract of land to settle any claim that the owner may
13 have against the United States relating to the spe-
14 cific tract of land of which the interest is a part (not
15 including a claim for an accounting described in title
16 I of the Indian Trust Reform Act of 2005).

17 “(2) REQUIREMENTS.—An offer to settle claims
18 under this subsection shall—

19 “(A) be in writing;

20 “(B) be delivered to an individual owner by
21 the Secretary in person or through first class
22 mail; and

23 “(C) include—

24 “(i) the name of the individual owner;

1 “(ii) a description of the tract of land
2 to which the offer relates;

3 “(iii) the amount offered to settle a
4 claim of the individual owner;

5 “(iv) the manner and date by which
6 the individual owner shall accept the offer;

7 “(v) a statement that the individual
8 owner is under no obligation to accept the
9 offer;

10 “(vi) a statement that the individual
11 owner has the right to consult an attorney
12 or other advisor before accepting the offer;

13 “(vii) a statement that acceptance of
14 the offer by the individual owner will result
15 in a full and final settlement of all claims,
16 known and unknown, of the individual
17 owner (including the heirs and assigns of
18 the individual owner) against the United
19 States relating to the tract of land identi-
20 fied in the offer; and

21 “(viii) a statement that the settlement
22 proposed by the offer does not cover any
23 claim for an accounting described in title I
24 of the Indian Trust Reform Act of 2005.

1 “(3) ACCEPTANCE.—No acceptance of an offer
2 under this subsection shall be valid or binding on the
3 individual owner unless the acceptance—

4 “(A) is in writing;

5 “(B) is signed by the individual owner;

6 “(C) is notarized; and

7 “(D) is attached to a copy of, or contains
8 all material terms of, the offer to which the ac-
9 ceptance corresponds.

10 “(4) LIMITATION.—No offer to purchase an in-
11 terest under this section or any other provision of
12 law shall be conditioned on the acceptance of an
13 offer to settle a claim under this subsection.

14 “(5) OTHER LAWS.—The authority of the Sec-
15 retary to settle claims under this subsection shall be
16 in addition to, and not in lieu of, the authority of
17 the Secretary to settle claims under any other provi-
18 sion of Federal law.

19 “(g) BORROWING FROM TREASURY.—

20 “(1) ISSUANCE OF OBLIGATIONS.—

21 “(A) IN GENERAL.—To the extent ap-
22 proved in annual appropriations Acts, the Sec-
23 retary may issue to the Secretary of the Treas-
24 ury obligations in such amounts as the Sec-
25 retary determines to be necessary to acquire in-

1 terests under this Act, subject to approval of
2 the Secretary of the Treasury, and bearing in-
3 terest at a rate to be determined by the Sec-
4 retary of the Treasury, taking into consider-
5 ation current market yields on outstanding
6 marketable obligations of the United States of
7 comparable maturities to the obligations.

8 “(B) LIMITATION.—The aggregate amount
9 of obligations under subparagraph (A) out-
10 standing at any time shall not exceed
11 \$[_____].

12 “(2) FORMS AND DENOMINATIONS.—The obli-
13 gations issued under paragraph (1) shall be in such
14 forms and denominations, and subject to such other
15 terms and conditions, as the Secretary of the Treas-
16 ury may prescribe.

17 “(3) REPAYMENT.—

18 “(A) IN GENERAL.—Revenues derived
19 from land restored to the Tribe under this Act
20 shall be used by the Secretary to pay the prin-
21 cipal and interest on the obligations issued
22 under paragraph (1).

23 “(B) ASSURANCE OF REPAYMENT.—The
24 Secretary shall ensure, to the maximum extent
25 possible, that the revenues described in sub-

1 paragraph (A) provide reasonable assurance of
2 repayment of the obligations issued under para-
3 graph (1).

4 “(4) AUTHORIZATION OF APPROPRIATIONS.—
5 There are authorized to be appropriated to the Sec-
6 retary for each fiscal year beginning after the date
7 of enactment of this subsection such sums as are
8 necessary to cover any difference between—

9 “(A) the total amount of repayments of
10 principal and interest on obligations issued to
11 the Secretary of the Treasury under paragraph
12 (1) during the previous fiscal year; and

13 “(B) the total amount of repayments de-
14 scribed in subparagraph (A) that were contrac-
15 tually required to be made to the Secretary of
16 the Treasury during that fiscal year.

17 “(h) RECEIPT OF PAYMENTS HAVE NO IMPACT ON
18 BENEFITS UNDER OTHER FEDERAL PROGRAMS.—The
19 receipt of a payment by an offeree under this title shall
20 not be—

21 “(1) subject to Federal or State income tax; or

22 “(2) treated as benefits or otherwise taken into
23 account in determining the eligibility of the offeree
24 for, or the amount of benefits under, any other Fed-
25 eral program, including the social security program,

1 the medicare program, the medicaid program, the
 2 State children’s health insurance program, the food
 3 stamp program, or the Temporary Assistance for
 4 Needy Families program.”.

5 **TITLE V—RESTRUCTURING BU-**
 6 **REAU OF INDIAN AFFAIRS**
 7 **AND OFFICE OF SPECIAL**
 8 **TRUSTEE**

9 **SEC. 501. PURPOSE.**

10 The purpose of this title is to ensure a more effective
 11 and accountable administration of duties of the Secretary
 12 of the Interior with respect to providing services and pro-
 13 grams to Indians and Indian tribes, including the manage-
 14 ment of Indian trust resources.

15 **SEC. 502. DEFINITIONS.**

16 In this title:

17 (1) BUREAU.—The term “Bureau” means the
 18 Bureau of Indian Affairs.

19 (2) OFFICE.—The term “Office” means the Of-
 20 fice of Trust Reform Implementation and Oversight
 21 referred to in section 503(c).

22 (3) SECRETARY.—The term “Secretary” means
 23 the Secretary of the Interior.

24 (4) UNDER SECRETARY.—The term “Under
 25 Secretary” means the individual appointed to the po-

1 sition of Under Secretary for Indian Affairs, estab-
2 lished by section 503(a).

3 **SEC. 503. UNDER SECRETARY FOR INDIAN AFFAIRS.**

4 (a) ESTABLISHMENT OF POSITION.—There is estab-
5 lished in the Department of the Interior the position of
6 Under Secretary for Indian Affairs, who shall report di-
7 rectly to the Secretary.

8 (b) APPOINTMENT.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the Under Secretary shall be appointed
11 by the President, by and with the advice and consent
12 of the Senate.

13 (2) EXCEPTION.—The officer serving as the As-
14 sistant Secretary for Indian Affairs on the date of
15 enactment of this Act may assume the position of
16 Under Secretary without appointment under para-
17 graph (1) if—

18 (A) the officer was appointed as Assistant
19 Secretary for Indian Affairs by the President by
20 and with the advice and consent of the Senate;
21 and

22 (B) not later than 180 days after the date
23 of enactment of this Act, the Secretary ap-
24 proves the assumption.

1 (c) DUTIES.—In addition to the duties transferred to
2 the Under Secretary under sections 504 and 505, the
3 Under Secretary, acting through an Office of Trust Re-
4 form Implementation and Oversight, shall—

5 (1) carry out any activity relating to trust fund
6 accounts and trust resource management of the Bu-
7 reau (except any activity carried out under the Of-
8 fice of the Special Trustee for American Indians be-
9 fore the date on which the Office of the Special
10 Trustee is abolished), in accordance with the Amer-
11 ican Indian Trust Fund Management Reform Act of
12 1994 (25 U.S.C. 4001 et seq.);

13 (2) develop and maintain an inventory of Indian
14 trust assets and resources;

15 (3) coordinate with the Special Trustee for
16 American Indians to ensure an orderly transition of
17 the functions of the Special Trustee under section
18 505;

19 (4) supervise any activity carried out by the De-
20 partment of the Interior, including—

21 (A) to the extent that the activities relate
22 to Indian affairs, activities carried out by—

23 (i) the Commissioner of Reclamation;

24 (ii) the Director of the Bureau of

25 Land Management; and

- 1 (iii) the Director of the Minerals Man-
2 agement Service; and
- 3 (B) intergovernmental relations between
4 the Bureau and Indian tribal governments;
- 5 (5) to the maximum extent practicable, coordi-
6 nate activities and policies of the Bureau with activi-
7 ties and policies of—
- 8 (A) the Bureau of Reclamation;
9 (B) the Bureau of Land Management; and
10 (C) the Minerals Management Service;
- 11 (6) provide for regular consultation with Indi-
12 ans and Indian tribes that own interests in trust re-
13 sources and trust fund accounts;
- 14 (7) manage and administer Indian trust re-
15 sources in accordance with any applicable Federal
16 law;
- 17 (8) take steps to protect the security of data re-
18 lating to individual Indian and Indian tribal trust
19 accounts; and
- 20 (9) take any other measure the Under Sec-
21 retary determines to be necessary with respect to In-
22 dian affairs.

1 **SEC. 504. TRANSFER OF FUNCTIONS OF ASSISTANT SEC-**
2 **RETARY FOR INDIAN AFFAIRS.**

3 (a) TRANSFER OF FUNCTIONS.—There is transferred
4 to the Under Secretary any function of the Assistant Sec-
5 retary for Indian Affairs that has not been carried out
6 by the Assistant Secretary as of the date of enactment
7 of this Act.

8 (b) DETERMINATIONS OF CERTAIN FUNCTIONS BY
9 THE OFFICE OF MANAGEMENT AND BUDGET.—If nec-
10 essary, the Office of Management and Budget shall make
11 any determination relating to the functions transferred
12 under subsection (a).

13 (c) PERSONNEL PROVISIONS.—

14 (1) APPOINTMENTS.—The Under Secretary
15 may appoint and fix the compensation of such offi-
16 cers and employees as the Under Secretary deter-
17 mines to be necessary to carry out any function
18 transferred under this section.

19 (2) REQUIREMENTS.—Except as otherwise pro-
20 vided by law—

21 (A) an officer or employee described in
22 paragraph (1) shall be appointed in accordance
23 with the civil service laws; and

24 (B) the compensation of the officer or em-
25 ployee shall be fixed in accordance with title 5,
26 United States Code.

1 (d) DELEGATION AND ASSIGNMENT.—

2 (1) IN GENERAL.—Except as otherwise ex-
3 pressly prohibited by law or otherwise provided by
4 this section, the Under Secretary may—

5 (A) delegate any of the functions trans-
6 ferred to the Under Secretary by this section
7 and any function transferred or granted to the
8 Under Secretary after the date of enactment of
9 this Act to such officers and employees of the
10 Office as the Under Secretary may designate;
11 and

12 (B) authorize successive redelegations of
13 such functions as the Under Secretary deter-
14 mines to be necessary or appropriate.

15 (2) DELEGATION.—No delegation of functions
16 by the Under Secretary under this section shall re-
17 lieve the Under Secretary of responsibility for the
18 administration of the functions.

19 (e) REORGANIZATION.—The Under Secretary may al-
20 locate or reallocate any function transferred under this
21 section among the officers of the Office, and establish,
22 consolidate, alter, or discontinue such organizational enti-
23 ties in the Office, as the Under Secretary determines to
24 be necessary or appropriate.

1 (f) RULES.—The Under Secretary may prescribe, in
2 accordance with the provisions of chapters 5 and 6 of title
3 5, United States Code, such rules and regulations as the
4 Under Secretary determines to be necessary or appro-
5 priate to administer and manage the functions of the Of-
6 fice.

7 (g) TRANSFER AND ALLOCATIONS OF APPROPRIA-
8 TIONS AND PERSONNEL.—

9 (1) IN GENERAL.—Except as otherwise pro-
10 vided in this section, the personnel employed in con-
11 nection with, and the assets, liabilities, contracts,
12 property, records, and unexpended balances of ap-
13 propriations, authorizations, allocations, and other
14 funds employed, used, held, arising from, available
15 to, or to be made available in connection with, the
16 functions transferred by this section, subject to sec-
17 tion 1531 of title 31, United States Code, shall be
18 transferred to the Office.

19 (2) UNEXPENDED FUNDS.—Unexpended funds
20 transferred pursuant to this subsection shall be used
21 only for the purposes for which the funds were origi-
22 nally authorized and appropriated.

23 (h) INCIDENTAL TRANSFERS.—

24 (1) IN GENERAL.—The Director of the Office of
25 Management and Budget, at any time the Director

1 may provide, may make such determinations as are
2 necessary with regard to the functions transferred
3 by this section, and make such additional incidental
4 dispositions of personnel, assets, liabilities, grants,
5 contracts, property, records, and unexpended bal-
6 ances of appropriations, authorizations, allocations,
7 and other funds held, used, arising from, available
8 to, or to be made available in connection with such
9 functions, as are necessary, to carry out this section.

10 (2) TERMINATION OF AFFAIRS.—The Director
11 of the Office of Management and Budget shall pro-
12 vide for the termination of the affairs of all entities
13 terminated by this section and for any further meas-
14 ures and dispositions as are necessary to effectuate
15 the purposes of this section.

16 (i) EFFECT ON PERSONNEL.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided by this section, the transfer pursuant to this
19 section of full-time personnel (except special Govern-
20 ment employees) and part-time personnel holding
21 permanent positions shall not cause any such em-
22 ployee to be separated or reduced in grade or com-
23 pensation for a period of at least 1 year after the
24 date of transfer of the employee under this section.

1 (2) EXECUTIVE SCHEDULE POSITIONS.—Except
2 as otherwise provided in this section, any person
3 who, on the day preceding the date of enactment of
4 this Act, held a position compensated in accordance
5 with the Executive Schedule prescribed in chapter
6 53 of title 5, United States Code, and who, without
7 a break in service, is appointed to a position in the
8 Office having duties comparable to the duties per-
9 formed immediately preceding such appointment
10 shall continue to be compensated in the new position
11 at not less than the rate provided for the previous
12 position, for the duration of the service of the person
13 in the new position.

14 (3) TERMINATION OF CERTAIN POSITIONS.—
15 Positions whose incumbents are appointed by the
16 President, by and with the advice and consent of the
17 Senate, the functions of which are transferred by
18 this title, shall terminate on the date of enactment
19 of this Act.

20 (j) SEPARABILITY.—If a provision of this section or
21 the application of this section to any person or cir-
22 cumstance is held invalid, neither the remainder of this
23 section nor the application of the provision to other per-
24 sons or circumstances shall be affected.

25 (k) TRANSITION.—The Under Secretary may use—

1 (1) the services of the officers, employees, and
2 other personnel of the Assistant Secretary for Indian
3 Affairs relating to functions transferred to the Office
4 by this section; and

5 (2) funds appropriated to the functions for such
6 period of time as may reasonably be needed to facili-
7 tate the orderly implementation of this section.

8 (l) REFERENCES.—Any reference in a Federal law,
9 Executive order, rule, regulation, delegation of authority,
10 or document relating to the Assistant Secretary for Indian
11 Affairs, with respect to functions transferred under this
12 section, shall be deemed to be a reference to the Under
13 Secretary.

14 (m) RECOMMENDED LEGISLATION.—Not later than
15 180 days after the effective date of this title, the Under
16 Secretary, in consultation with the appropriate committees
17 of Congress and the Director of the Office of Management
18 and Budget, shall submit to Congress any recommenda-
19 tions relating to additional technical and conforming
20 amendments to Federal law to reflect the changes made
21 by this section.

22 (n) EFFECT OF SECTION.—

23 (1) CONTINUING EFFECT OF LEGAL DOCU-
24 MENTS.—Any legal document relating to a function
25 transferred by this section that is in effect on the

1 date of enactment of this Act shall continue in effect
2 in accordance with the terms of the document until
3 the document is modified or terminated by—

4 (A) the President;

5 (B) the Under Secretary;

6 (C) a court of competent jurisdiction; or

7 (D) operation of Federal or State law.

8 (2) PROCEEDINGS NOT AFFECTED.—This sec-
9 tion shall not affect any proceeding (including a no-
10 tice of proposed rulemaking, an administrative pro-
11 ceeding, and an application for a license, permit,
12 certificate, or financial assistance) relating to a
13 function transferred under this section that is pend-
14 ing before the Assistant Secretary on the date of en-
15 actment of this Act.

16 **SEC. 505. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN IN-**
17 **DIANS.**

18 (a) TERMINATION.—Notwithstanding sections 302
19 and 303 of the American Indian Trust Fund Management
20 Reform Act of 1994 (25 U.S.C. 4042; 4043), the Office
21 of Special Trustee for American Indians shall terminate
22 on the effective date of this section.

23 (b) TRANSFER OF FUNCTIONS.—There is transferred
24 to the Under Secretary any function of the Special Trustee

1 for American Indians that has not been carried out by
2 the Special Trustee as of the effective date of this section.

3 (c) DETERMINATIONS OF CERTAIN FUNCTIONS BY
4 THE OFFICE OF MANAGEMENT AND BUDGET.—If nec-
5 essary, the Office of Management and Budget shall make
6 any determination relating to the functions transferred
7 under subsection (b).

8 (d) PERSONNEL PROVISIONS.—

9 (1) APPOINTMENTS.—The Under Secretary
10 may appoint and fix the compensation of such offi-
11 cers and employees as the Under Secretary deter-
12 mines to be necessary to carry out any function
13 transferred under this section.

14 (2) REQUIREMENTS.—Except as otherwise pro-
15 vided by law—

16 (A) any officer or employee described in
17 paragraph (1) shall be appointed in accordance
18 with the civil service laws; and

19 (B) the compensation of such an officer or
20 employee shall be fixed in accordance with title
21 5, United States Code.

22 (e) DELEGATION AND ASSIGNMENT.—

23 (1) IN GENERAL.—Except as otherwise ex-
24 pressly prohibited by law or otherwise provided by
25 this section, the Under Secretary may—

1 (A) delegate any of the functions trans-
2 ferred to the Under Secretary under this sec-
3 tion and any function transferred or granted to
4 the Under Secretary after the effective date of
5 this section to such officers and employees of
6 the Office as the Under Secretary may des-
7 ignate; and

8 (B) authorize successive redelegations of
9 the functions as are necessary or appropriate.

10 (2) DELEGATION.—No delegation of functions
11 by the Under Secretary under this section shall re-
12 lieve the Under Secretary of responsibility for the
13 administration of the functions.

14 (f) REORGANIZATION.—The Under Secretary may al-
15 locate or reallocate any function transferred under sub-
16 section (b) among the officers of the Office, and establish,
17 consolidate, alter, or discontinue such organizational enti-
18 ties in the Office as the Under Secretary determines to
19 be necessary or appropriate.

20 (g) RULES.—The Under Secretary may prescribe, in
21 accordance with the provisions of chapters 5 and 6 of title
22 5, United States Code, such rules and regulations as the
23 Under Secretary determines to be necessary or appro-
24 priate to administer and manage the functions of the Of-
25 fice.

1 (h) TRANSFER AND ALLOCATIONS OF APPROPRIA-
2 TIONS AND PERSONNEL.—

3 (1) IN GENERAL.—Except as otherwise pro-
4 vided in this section, the personnel employed in con-
5 nection with, and the assets, liabilities, contracts,
6 property, records, and unexpended balances of ap-
7 propriations, authorizations, allocations, and other
8 funds employed, used, held, arising from, available
9 to, or to be made available in connection with the
10 functions transferred by this section, subject to sec-
11 tion 1531 of title 31, United States Code, shall be
12 transferred to the Office.

13 (2) UNEXPENDED FUNDS.—Unexpended funds
14 transferred pursuant to this subsection shall be used
15 only for the purposes for which the funds were origi-
16 nally authorized and appropriated.

17 (i) INCIDENTAL TRANSFERS.—

18 (1) IN GENERAL.—The Director of the Office of
19 Management and Budget, at any time the Director
20 may provide, may make such determinations as are
21 necessary with regard to the functions transferred
22 by this section, and make such additional incidental
23 dispositions of personnel, assets, liabilities, grants,
24 contracts, property, records, and unexpended bal-
25 ances of appropriations, authorizations, allocations,

1 and other funds held, used, arising from, available
2 to, or to be made available in connection with such
3 functions, as are necessary, to carry out this section.

4 (2) TERMINATION OF AFFAIRS.—The Director
5 of the Office of Management and Budget shall pro-
6 vide for the termination of the affairs of all entities
7 terminated by this section and for any further meas-
8 ures and dispositions as are necessary to effectuate
9 the purposes of this section.

10 (j) EFFECT ON PERSONNEL.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided by this section, the transfer pursuant to this
13 section of full-time personnel (except special Govern-
14 ment employees) and part-time personnel holding
15 permanent positions shall not cause any such em-
16 ployee to be separated or reduced in grade or com-
17 pensation for a period of at least 1 year after the
18 date of transfer of the employee under this section.

19 (2) EXECUTIVE SCHEDULE POSITIONS.—Except
20 as otherwise provided in this section, any person
21 who, on the day preceding the effective date of this
22 section, held a position compensated in accordance
23 with the Executive Schedule prescribed in chapter
24 53 of title 5, United States Code, and who, without
25 a break in service, is appointed to a position in the

1 Office having duties comparable to the duties per-
2 formed immediately preceding such appointment,
3 shall continue to be compensated in the new position
4 at not less than the rate provided for the previous
5 position, for the duration of the service of the person
6 in the new position.

7 (3) TERMINATION OF CERTAIN POSITIONS.—
8 Positions the incumbents of which are appointed by
9 the President, by and with the advice and consent
10 of the Senate, and the functions of which are trans-
11 ferred by this title, shall terminate on the effective
12 date of this section.

13 (k) SEPARABILITY.—If a provision of this section or
14 the application of this section to any person or cir-
15 cumstance is held invalid, neither the remainder of this
16 section nor the application of the provision to other per-
17 sons or circumstances shall be affected.

18 (l) TRANSITION.—The Under Secretary may use—
19 (1) the services of the officers, employees, and
20 other personnel of the Special Trustee relating to
21 functions transferred to the Office by this section;
22 and
23 (2) funds appropriated to those functions for
24 such period of time as may reasonably be needed to
25 facilitate the orderly implementation of this section.

1 (m) REFERENCES.—Any reference in a Federal law,
2 Executive order, rule, regulation, delegation of authority,
3 or document relating to the Special Trustee, with respect
4 to functions transferred under this section, shall be
5 deemed to be a reference to the Under Secretary.

6 (n) RECOMMENDED LEGISLATION.—Not later than
7 180 days after the effective date of this title, the Under
8 Secretary, in consultation with the appropriate committees
9 of Congress and the Director of the Office of Management
10 and Budget, shall submit to Congress any recommenda-
11 tions relating to additional technical and conforming
12 amendments to Federal law to reflect the changes made
13 by this section.

14 (o) EFFECT OF SECTION.—

15 (1) CONTINUING EFFECT OF LEGAL DOCU-
16 MENTS.—Any legal document relating to a function
17 transferred by this section that is in effect on the ef-
18 fective date of this section shall continue in effect in
19 accordance with the terms of the document until the
20 document is modified or terminated by—

- 21 (A) the President;
22 (B) the Under Secretary;
23 (C) a court of competent jurisdiction; or
24 (D) operation of Federal or State law.

1 (2) PROCEEDINGS NOT AFFECTED.—This sec-
 2 tion shall not affect any proceeding (including a no-
 3 tice of proposed rulemaking, an administrative pro-
 4 ceeding, and an application for a license, permit,
 5 certificate, or financial assistance) relating to a
 6 function transferred under this section that is pend-
 7 ing before the Special Trustee on the effective date
 8 of this section.

9 (p) EFFECTIVE DATE.—This section shall take effect
 10 on December 31, 2008.

11 **SEC. 506. HIRING PREFERENCE.**

12 In appointing or otherwise hiring any employee to the
 13 Office, the Under Secretary shall give preference to Indi-
 14 ans in accordance with section 12 of the Act of June 8,
 15 1934 (25 U.S.C. 472).

16 **SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
 18 as are necessary to carry out this title.

19 **TITLE VI—AUDIT OF INDIAN**
 20 **TRUST FUNDS**

21 **SEC. 601. AUDITS AND REPORTS.**

22 (a) FINANCIAL STATEMENTS AND INTERNAL CON-
 23 TROL REPORT.—

24 (1) FINANCIAL STATEMENTS.—For each fiscal
 25 year beginning after the enactment of this Act, the

1 Secretary of Interior shall prepare financial state-
2 ments for individual Indian, Indian tribal, and other
3 Indian trust accounts in accordance with generally
4 accepted accounting principles of the Federal Gov-
5 ernment.

6 (2) INTERNAL CONTROL REPORT.—Concur-
7 rently with the financial statements under by para-
8 graph (1), the Secretary shall prepare an internal
9 control report that—

10 (A) establishes the responsibility of the
11 Secretary for establishing and maintaining an
12 adequate internal control structure and proce-
13 dures for financial reporting under this Act;
14 and

15 (B) assesses the effectiveness of the inter-
16 nal control structure and procedures for finan-
17 cial reporting under subparagraph (A) during
18 the preceding fiscal year.

19 (b) INDEPENDENT EXTERNAL AUDITOR.—

20 (1) IN GENERAL.—The Comptroller General of
21 the United States shall enter into a contract with an
22 independent external auditor to conduct an audit
23 and prepare a report in accordance with this sub-
24 paragraph.

1 (2) AUDIT REPORT.—An independent external
2 auditor shall submit to the Committee on Indian Af-
3 fairs of the Senate, and make available to the public,
4 an audit of the financial statements under sub-
5 section (a)(1) in accordance with—

6 (A) generally accepted auditing standards
7 of the Federal Government; and

8 (B) the financial audit manual jointly
9 issued by the Government Accountability Office
10 and the Council on Integrity and Efficiency of
11 the President.

12 (3) ATTESTATION AND REPORT.—In conducting
13 the audit under paragraph (2), the independent ex-
14 ternal auditor shall attest to, and report on, the as-
15 sessment of internal controls made by the Secretary
16 under subsection (a)(2)(B).

17 (4) PAYMENT FOR AUDIT AND REPORT.—

18 (A) TRANSFER OF FUNDS.—On request of
19 the Comptroller General, the Secretary shall
20 transfer to the Government Accountability Of-
21 fice from funds made available for administra-
22 tive expenses of the Department of Interior the
23 amount requested by the Comptroller General
24 to pay for an annual audit and report.

25 (B) CREDIT TO ACCOUNT.—

1 (i) IN GENERAL.—The Controller
2 General shall credit the amount of any
3 funds transferred under subparagraph (A)
4 to the account established for salaries and
5 expenses of the Government Accountability
6 Office.

7 (ii) AVAILABILITY.—Any amount
8 credited under clause (i) shall be made
9 available on receipt, without fiscal year
10 limitation, to cover the full costs of the
11 audit and report.

12 **SEC. 602. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as are necessary to carry out this title.

○