

§ 3907. Authorization of appropriations

(a) General authorization

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

(b) Coordination

The activities required to be performed by the Director under this chapter shall be coordinated with activities related to solid waste and sanitation facilities funded pursuant to other authorizations.

(Pub. L. 103-399, § 8, Oct. 22, 1994, 108 Stat. 4168.)

§ 3908. Disclaimers

(a) Authority of Director

Nothing in this chapter shall be construed to alter, diminish, repeal, or supersede any authority conferred on the Director pursuant to section 1632 of this title, and section 2004a of title 42.

(b) Exempted lands and facilities

This chapter shall not apply to open dump sites on Indian lands or Alaska Native lands—

(1) that comprise an area of one-half acre or less and that are used by individual families on lands to which they hold legal or beneficial title;

(2) of any size that have been or are being operated for a profit; or

(3) where solid waste from an industrial process is being or has been routinely disposed of at a privately owned facility in compliance with applicable Federal laws.

(c) Rules of construction

(1) Nothing in this chapter shall be construed to amend or modify the authority or responsibility of the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(2) Nothing in this chapter is intended to amend, repeal, or supersede any provision of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(Pub. L. 103-399, § 9, Oct. 22, 1994, 108 Stat. 4168.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (c), is title II of Pub. L. 89-272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94-580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

CHAPTER 42—AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM

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SUBCHAPTER IV—AUTHORIZATION OF APPROPRIATIONS

4061. Authorization of appropriations.

§ 4001. Definitions

For the purposes of this chapter:

(1) The term “Special Trustee” means the Special Trustee for American Indians appointed under section 4042 of this title.

(2) The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term “Secretary” means the Secretary of the Interior.

(4) The term “Office” means the Office of Special Trustee for American Indians established by section 4042 of this title.

(5) The term “Bureau” means the Bureau of Indian Affairs within the Department of the Interior.

(6) The term “Department” means the Department of the Interior.

(Pub. L. 103-412, § 2, Oct. 25, 1994, 108 Stat. 4239.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 103-412, Oct. 25, 1994, 108 Stat. 4239, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (2), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

SHORT TITLE

Pub. L. 103-412, § 1(a), Oct. 25, 1994, 108 Stat. 4239, provided that: “This Act [enacting this chapter, amending sections 161a and 162a of this title, and enacting provisions set out as a note under section 161a of this title] may be cited as the ‘American Indian Trust Fund Management Reform Act of 1994.’”

SUBCHAPTER I—RECOGNITION OF TRUST
RESPONSIBILITY

§ 4011. Responsibility of Secretary to account for daily and annual balances of Indian trust funds

(a) Requirement to account

The Secretary shall account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to section 162a of this title.

(b) Periodic statement of performance

Not later than 20 business days after the close of a calendar quarter, the Secretary shall provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited or invested pursuant to section 162a of this title. The statement, for the period concerned, shall identify—

- (1) the source, type, and status of the funds;
- (2) the beginning balance;
- (3) the gains and losses;
- (4) receipts and disbursements; and
- (5) the ending balance.

(c) Annual audit

The Secretary shall cause to be conducted an annual audit on a fiscal year basis of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to section 162a of this title, and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) of this section after the completion of the audit.

(Pub. L. 103-412, title I, §102, Oct. 25, 1994, 108 Stat. 4240.)

PERFORMANCE AND ACCOUNT STATEMENTS FOR INACTIVE
ACCOUNTS

Provisions stating that the Secretary was not required to provide a quarterly statement of performance for any Indian trust account that had not had activity for at least 18 months and had a balance of \$1.00 or less but was required to issue an annual account statement and maintain a record of any such accounts and to permit the balance in each such account to be withdrawn upon the express written request of the account holder, were contained in Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Pub. L. 109-54, title I, Aug. 2, 2005, 119 Stat. 519, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108-447, div. E, title I, Dec. 8, 2004, 118 Stat. 3061.

Pub. L. 108-108, title I, Nov. 10, 2003, 117 Stat. 1263.

Pub. L. 108-7, div. F, title I, Feb. 20, 2003, 117 Stat. 236.

Pub. L. 107-63, title I, Nov. 5, 2001, 115 Stat. 435.

Pub. L. 106-291, title I, Oct. 11, 2000, 114 Stat. 939.

Pub. L. 106-113, div. B, §1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A-153.

Pub. L. 105-277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-251.

§ 4012. Authority for payment of claims for interest owed

The Secretary shall make payments to an individual Indian in full satisfaction of any claim of such individual for interest on amounts de-

posited or invested on behalf of such individual before October 25, 1994, retroactive to the date that the Secretary began investing individual Indian monies on a regular basis, to the extent that the claim is identified—

(1) by a reconciliation process of individual Indian money accounts, or

(2) by the individual and presented to the Secretary with supporting documentation, and is verified by the Secretary pursuant to the Department's policy for addressing account-holder losses.

(Pub. L. 103-412, title I, §104, Oct. 25, 1994, 108 Stat. 4241.)

SUBCHAPTER II—INDIAN TRUST FUND
MANAGEMENT PROGRAM

§ 4021. Purpose

The purpose of this subchapter is to allow tribes an opportunity to manage tribal funds currently held in trust by the United States and managed by the Secretary through the Bureau, that, consistent with the trust responsibility of the United States and the principles of self-determination, will—

(1) give Indian tribal governments greater control over the management of such trust funds; or

(2) otherwise demonstrate how the principles of self-determination can work with respect to the management of such trust funds, in a manner consistent with the trust responsibility of the United States.

(Pub. L. 103-412, title II, §201, Oct. 25, 1994, 108 Stat. 4242.)

§ 4022. Voluntary withdrawal from trust funds program

(a) In general

An Indian tribe may, in accordance with this section, submit a plan to withdraw some or all funds held in trust for such tribe by the United States and managed by the Secretary through the Bureau.

(b) Approval of plan

The Secretary shall approve such plan within 90 days of receipt and when approving the plan, the Secretary shall obtain the advice of the Special Trustee or prior to the appointment of such Special Trustee, the Director of the Office of Trust Fund Management within the Bureau. Such plan shall meet the following conditions:

(1) Such plan has been approved by the appropriate Indian tribe and is accompanied by a resolution from the tribal governing body approving the plan.

(2) The Secretary determines such plan to be reasonable after considering all appropriate factors, including (but not limited to) the following:

(A) The capability and experience of the individuals or institutions that will be managing the trust funds.

(B) The protection against substantial loss of principal.

(c) Dissolution of trust responsibility

Beginning on the date funds are withdrawn pursuant to this section, any trust responsibil-

ity or liability of the United States with respect to such funds shall cease except as provided for in section 4027 of this title.

(Pub. L. 103-412, title II, §202, Oct. 25, 1994, 108 Stat. 4242.)

§ 4023. Judgment funds

(a) In general

The Secretary is authorized to approve plans under section 4022 of this title for the withdrawal of judgment funds held by the Secretary.

(b) Limitation

Only such funds held by the Secretary under the terms of the Indian Judgment Funds Use or Distribution Act [25 U.S.C. 1401 et seq.] or an Act of Congress which provides for the secretarial management of such judgment funds shall be included in such plans.

(c) Secretarial duties

In approving such plans, the Secretary shall ensure—

(1) that the purpose and use of the judgment funds identified in the previously approved judgment fund plan will continue to be followed by the Indian tribe in the management of the judgment funds; and

(2) that only funds held for Indian tribes may be withdrawn and that any funds held for individual tribal members are not to be included in the plan.

(Pub. L. 103-412, title II, §203, Oct. 25, 1994, 108 Stat. 4242.)

REFERENCES IN TEXT

The Indian Judgment Funds Use or Distribution Act, referred to in subsec. (b), probably means the Indian Tribal Judgment Funds Use or Distribution Act, Pub. L. 93-134, Oct. 19, 1973, 87 Stat. 466, as amended, which is classified generally to chapter 16 (§1401 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

§ 4024. Technical assistance

The Secretary shall—

(1) directly or by contract, provide Indian tribes with technical assistance in developing, implementing, and managing Indian trust fund investment plans; and

(2) among other things, ensure that legal, financial, and other expertise of the Department of the Interior has been made fully available in an advisory capacity to the Indian tribes to assist in the development, implementation, and management of investment plans.

(Pub. L. 103-412, title II, §204, Oct. 25, 1994, 108 Stat. 4243.)

§ 4025. Grant program

(a) General authority

The Secretary is authorized to award grants to Indian tribes for the purpose of developing and implementing plans for the investment of Indian tribal trust funds.

(b) Use of funds

The purposes for which funds provided under this section may be used include (but are not limited to)—

(1) the training and education of employees responsible for monitoring the investment of trust funds;

(2) the building of tribal capacity for the investment and management of trust funds;

(3) the development of a comprehensive tribal investment plan;

(4) the implementation and management of tribal trust fund investment plans; and

(5) such other purposes related to this subchapter that the Secretary deems appropriate.

(Pub. L. 103-412, title II, §205, Oct. 25, 1994, 108 Stat. 4243.)

§ 4026. Return of withdrawn funds

Subject to such conditions as the Secretary may prescribe, any Indian tribe which has withdrawn trust funds may choose to return any or all of the trust funds such tribe has withdrawn by notifying the Secretary in writing of its intention to return the funds to the control and management of the Secretary.

(Pub. L. 103-412, title II, §206, Oct. 25, 1994, 108 Stat. 4243.)

§ 4027. Savings provision

By submitting or approving a plan under this subchapter, neither the tribe nor the Secretary shall be deemed to have accepted the account balance as accurate or to have waived any rights regarding such balance and to seek compensation.

(Pub. L. 103-412, title II, §207, Oct. 25, 1994, 108 Stat. 4243.)

§ 4028. Report to Congress

The Secretary shall, beginning one year after October 25, 1994, submit an annual report to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate on the implementation of programs under this subchapter. Such report shall include recommendations (if any) for changes necessary to better implement the purpose of this subchapter.

(Pub. L. 103-412, title II, §208, Oct. 25, 1994, 108 Stat. 4243.)

§ 4029. Regulations

(a) In general

Not later than 12 months after October 25, 1994, the Secretary shall promulgate final regulations for the implementation of this subchapter. All regulations promulgated pursuant to this subchapter shall be developed by the Secretary with the full and active participation of the Indian tribes with trust funds held by the Secretary and other affected Indian tribes.

(b) Effect

The lack of promulgated regulations shall not limit the effect of this subchapter.

(Pub. L. 103-412, title II, §209, Oct. 25, 1994, 108 Stat. 4243.)

SUBCHAPTER III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

§ 4041. Purposes

The purposes of this subchapter are—

(1) to provide for more effective management of, and accountability for the proper discharge of, the Secretary's trust responsibilities to Indian tribes and individual Indians by establishing in the Department of the Interior an Office of Special Trustee for American Indians to oversee and coordinate reforms within the Department of practices relating to the management and discharge of such responsibilities;

(2) to ensure that reform of such practices in the Department is carried out in a unified manner and that reforms of the policies, practices, procedures and systems of the Bureau, Minerals Management Service, and Bureau of Land Management, which carry out such trust responsibilities, are effective, consistent, and integrated; and

(3) to ensure the implementation of all reforms necessary for the proper discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians.

(Pub. L. 103-412, title III, §301, Oct. 25, 1994, 108 Stat. 4244.)

TRANSFER OF FUNCTIONS

The Minerals Management Service was abolished and functions divided among the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement. See Secretary of the Interior Orders No. 3299 of May 19, 2010, and No. 3302 of June 18, 2010, and chapters II, V, and XII of title 30, Code of Federal Regulations, as revised by final rules of the Department of the Interior at 75 F.R. 61051 and 76 F.R. 64432.

§ 4042. Office of Special Trustee for American Indians

(a) Establishment

There is hereby established within the Department of the Interior the Office of Special Trustee for American Indians. The Office shall be headed by the Special Trustee who shall report directly to the Secretary.

(b) Special Trustee

(1) Appointment

The Special Trustee shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who possess demonstrated ability in general management of large governmental or business entities and particular knowledge of trust fund management, management of financial institutions, and the investment of large sums of money.

(2) Compensation

The Special Trustee shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay payable at Level II of the Executive Schedule under section 5313 of title 5.

(c) Termination of Office

(1) Conditioned upon implementation of reforms

The Special Trustee, in proposing a termination date under section 4043(a)(2)(C) of this title, shall ensure continuation of the Office until all reforms identified in the strategic

plan have been implemented to the satisfaction of the Special Trustee.

(2) 30-day notice

Thirty days prior to the termination date proposed in the plan submitted under this section, the Special Trustee shall notify the Secretary and the Congress in writing of the progress in implementing the reforms identified in the plan. The Special Trustee, at that time, may recommend the continuation, or the permanent establishment, of the Office if the Special Trustee concludes that continuation or permanent establishment is necessary for the efficient discharge of the Secretary's trust responsibilities.

(3) Termination date

The Office shall terminate 180 legislative days after the date on which the notice to the Congress under paragraph (2) is provided, unless the Congress extends the authorities of the Special Trustee. For the purposes of this section, a legislative day is a day on which either House of the Congress is in session.

(Pub. L. 103-412, title III, §302, Oct. 25, 1994, 108 Stat. 4244.)

§ 4043. Authorities and functions of Special Trustee

(a) Comprehensive strategic plan

(1) In general

The Special Trustee shall prepare and, after consultation with Indian tribes and appropriate Indian organizations, submit to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, within one year after the initial appointment is made under section 4042(b) of this title, a comprehensive strategic plan for all phases of the trust management business cycle that will ensure proper and efficient discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians in compliance with this chapter.

(2) Plan requirements

The plan prepared under paragraph (1) shall include the following:

(A) Identification of all reforms to the policies, procedures, practices and systems of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service necessary to ensure the proper and efficient discharge of the Secretary's trust responsibilities in compliance with this chapter.

(B) Provisions for opportunities for Indian tribes to assist in the management of their trust accounts and to identify for the Secretary options for the investment of their trust accounts, in a manner consistent with the trust responsibilities of the Secretary, in ways that will help promote economic development in their communities.

(C) A timetable for implementing the reforms identified in the plan, including a date for the proposed termination of the Office.

(b) Duties**(1) General oversight of reform efforts**

The Special Trustee shall oversee all reform efforts within the Bureau, the Bureau of Land Management, and the Minerals Management Service relating to the trust responsibilities of the Secretary to ensure the establishment of policies, procedures, systems and practices to allow the Secretary to discharge his trust responsibilities in compliance with this chapter.

(2) Bureau of Indian Affairs**(A) Monitor reconciliation of trust accounts**

The Special Trustee shall monitor the reconciliation of tribal and Individual Indian Money trust accounts to ensure that the Bureau provides the account holders, with a fair and accurate accounting of all trust accounts.

(B) Investments

The Special Trustee shall ensure that the Bureau establishes appropriate policies and procedures, and develops necessary systems, that will allow it—

(i) properly to account for and invest, as well as maximize, in a manner consistent with the statutory restrictions imposed on the Secretary's investment options, the return on the investment of all trust fund monies, and

(ii) to prepare accurate and timely reports to account holders (and others, as required) on a periodic basis regarding all collections, disbursements, investments, and return on investments related to their accounts.

(C) Ownership and lease data

The Special Trustee shall ensure that the Bureau establishes policies and practices to maintain complete, accurate, and timely data regarding the ownership and lease of Indian lands.

(3) Bureau of Land Management

The Special Trustee shall ensure that the Bureau of Land Management establishes policies and practices adequate to enforce compliance with Federal requirements for drilling, production, accountability, environmental protection, and safety with respect to the lease of Indian lands.

(4) Minerals Management Service

The Special Trustee shall ensure that the Minerals Management Service establishes policies and practices to enforce compliance by lessees of Indian lands with all requirements for timely and accurate reporting of production and payment of lease royalties and other revenues, including the audit of leases to ensure that lessees are accurately reporting production levels and calculating royalty payments.

(c) Coordination of policies**(1) In general**

The Special Trustee shall ensure that—

(A) the policies, procedures, practices, and systems of the Bureau, the Bureau of Land Management, and the Minerals Management

Service related to the discharge of the Secretary's trust responsibilities are coordinated, consistent, and integrated, and

(B) the Department prepares comprehensive and coordinated written policies and procedures for each phase of the trust management business cycle.

(2) Standardized procedures

The Special Trustee shall ensure that the Bureau imposes standardized trust fund accounting procedures throughout the Bureau.

(3) Integration of ledger with investment system

The Special Trustee shall ensure that the trust fund investment, general ledger, and subsidiary accounting systems of the Bureau are integrated and that they are adequate to support the trust fund investment needs of the Bureau.

(4) Integration of land records, trust funds accounting, and asset management systems among agencies

The Special Trustee shall ensure that—

(A) the land records system of the Bureau interfaces with the trust fund accounting system, and

(B) the asset management systems of the Minerals Management Service and the Bureau of Land Management interface with the appropriate asset management and accounting systems of the Bureau, including ensuring that—

(i) the Minerals Management Service establishes policies and procedures that will allow it to properly collect, account for, and disburse to the Bureau all royalties and other revenues generated by production from leases on Indian lands; and

(ii) the Bureau of Land Management and the Bureau provide Indian landholders with accurate and timely reports on a periodic basis that cover all transactions related to leases of Indian resources.

(5) Trust Management program budget**(A) Development and submission**

The Special Trustee shall develop for each fiscal year, with the advice of program managers of each office within the Bureau of Indian Affairs, Bureau of Land Management and Minerals Management Service that participates in trust management, including the management of trust funds or natural resources, or which is charged with any responsibility under the comprehensive strategic plan prepared under subsection (a) of this section, a consolidated Trust Management program budget proposal that would enable the Secretary to efficiently and effectively discharge his trust responsibilities and to implement the comprehensive strategic plan, and shall submit such budget proposal to the Secretary, the Director of the Office of Management and Budget, and to the Congress.

(B) Duty of certain program managers

Each program manager participating in trust management or charged with respon-

sibilities under the comprehensive strategic plans shall transmit his office's budget request to the Special Trustee at the same time as such request is submitted to his superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31.

(C) Certification of adequacy of budget request

The Special Trustee shall—

(i) review each budget request submitted under subparagraph (B);

(ii) certify in writing as to the adequacy of such request to discharge, effectively and efficiently, the Secretary's trust responsibilities and to implement the comprehensive strategic plan; and

(iii) notify the program manager of the Special Trustee's certification under clause (ii).

(D) Maintenance of records

The Special Trustee shall maintain records of certifications made under subparagraph (C).

(E) Limitation on reprogramming or transfer

No program manager shall submit, and no official of the Department of the Interior may approve or otherwise authorize, a reprogramming or transfer request with respect to any funds appropriated for trust management which is included in the Trust Management Program Budget unless such request has been approved by the Special Trustee.

(d) Problem resolution

The Special Trustee shall provide such guidance as necessary to assist Department personnel in identifying problems and options for resolving problems, and in implementing reforms to Department, Bureau, Bureau of Land Management, and Minerals Management Service policies, procedures, systems and practices.

(e) Special Trustee access

The Special Trustee, and his staff, shall have access to all records, reports, audits, reviews, documents, papers, recommendations, files and other material, as well as to any officer and employee, of the Department and any office or bureau thereof, as the Special Trustee deems necessary for the accomplishment of his duties under this chapter.

(f) Annual report

The Special Trustee shall report to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate each year on the progress of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service in implementing the reforms identified in the comprehensive strategic plan under subsection (a)(1) of this section and in meeting the timetable established in the strategic plan under subsection (a)(2)(C) of this section.

(Pub. L. 103-412, title III, §303, Oct. 25, 1994, 108 Stat. 4245; Pub. L. 104-109, §6(a), Feb. 12, 1996, 110 Stat. 764.)

AMENDMENTS

1996—Subsec. (c)(5)(D). Pub. L. 104-109 substituted “subparagraph (C)” for “paragraph (3)(B)”.

TRANSFER OF FUNCTIONS

The Minerals Management Service was abolished and functions divided among the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement. See Secretary of the Interior Orders No. 3299 of May 19, 2010, and No. 3302 of June 18, 2010, and chapters II, V, and XII of title 30, Code of Federal Regulations, as revised by final rules of the Department of the Interior at 75 F.R. 61051 and 76 F.R. 64432.

LANDS TITLE REPORT COMMISSION

Pub. L. 106-569, title V, §501, Dec. 27, 2000, 114 Stat. 2959, provided that:

“(a) ESTABLISHMENT.—Subject to sums being provided in advance in appropriations Acts, there is established a Commission to be known as the Lands Title Report Commission (hereafter in this section referred to as the ‘Commission’) to facilitate home loan mortgages on Indian trust lands. The Commission will be subject to oversight by the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(b) MEMBERSHIP.—

“(1) APPOINTMENT.—The Commission shall be composed of 12 members, appointed not later than 90 days after the date of the enactment of this Act [Dec. 27, 2000] as follows:

“(A) Four members shall be appointed by the President.

“(B) Four members shall be appointed by the Chairperson of the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives.

“(C) Four members shall be appointed by the Chairperson of the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(2) QUALIFICATIONS.—

“(A) MEMBERS OF TRIBES.—At all times, not less than eight of the members of the Commission shall be members of federally recognized Indian tribes.

“(B) EXPERIENCE IN LAND TITLE MATTERS.—All members of the Commission shall have experience in and knowledge of land title matters relating to Indian trust lands.

“(3) CHAIRPERSON.—The Chairperson of the Commission shall be one of the members of the Commission appointed under paragraph (1)(C), as elected by the members of the Commission.

“(4) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

“(5) TRAVEL EXPENSES.—Members of the Commission shall serve without pay, but each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

“(c) INITIAL MEETING.—The Chairperson of the Commission shall call the initial meeting of the Commission. Such meeting shall be held within 30 days after the Chairperson of the Commission determines that sums sufficient for the Commission to carry out its duties under this Act [probably should be “section”] have been appropriated for such purpose.

“(d) DUTIES.—The Commission shall analyze the system of the Bureau of Indian Affairs of the Department of the Interior for maintaining land ownership records and title documents and issuing certified title status reports relating to Indian trust lands and, pursuant to such analysis, determine how best to improve or replace the system—

“(1) to ensure prompt and accurate responses to requests for title status reports;

“(2) to eliminate any backlog of requests for title status reports; and

“(3) to ensure that the administration of the system will not in any way impair or restrict the ability of Native Americans to obtain conventional loans for purchase of residences located on Indian trust lands, including any actions necessary to ensure that the system will promptly be able to meet future demands for certified title status reports, taking into account the anticipated complexity and volume of such requests.

“(e) REPORT.—Not later than the date of the termination of the Commission under subsection (h), the Commission shall submit a report to the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the analysis and determinations made pursuant to subsection (d).

“(f) POWERS.—

“(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

“(2) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

“(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

“(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

“(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its duties under this section.

“(6) STAFF.—The Commission may appoint personnel as it considers appropriate, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall pay such personnel in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary, and any amounts appropriated pursuant to this subsection shall remain available until expended.

“(h) TERMINATION.—The Commission shall terminate 1 year after the date of the initial meeting of the Commission.”

Substantially identical provisions were contained in Pub. L. 106-568, title X, §1001, Dec. 27, 2000, 114 Stat. 2923.

§ 4044. Reconciliation report

The Secretary shall transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, by May 31, 1996, a report identifying for each tribal trust fund account for which the Secretary is responsible a balance reconciled as of September 30, 1995. In carrying out this section, the Secretary shall consult with the Special Trustee. The report shall include—

(1) a description of the Secretary’s methodology in reconciling trust fund accounts;

(2) attestations by each account holder that—

(A) the Secretary has provided the account holder with as full and complete accounting as possible of the account holder’s funds to the earliest possible date, and that the account holder accepts the balance as reconciled by the Secretary; or

(B) the account holder disputes the balance of the account holder’s account as reconciled by the Secretary and statement explaining why the account holder disputes the Secretary’s reconciled balance; and

(3) a statement by the Secretary with regard to each account balance disputed by the account holder outlining efforts the Secretary will undertake to resolve the dispute.

(Pub. L. 103-412, title III, §304, Oct. 25, 1994, 108 Stat. 4248.)

SETTLEMENT OF TRIBAL CLAIMS

Pub. L. 107-153, §1, Mar. 19, 2002, 116 Stat. 79, as amended by Pub. L. 109-158, §1, Dec. 30, 2005, 119 Stat. 2954, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the date on which an Indian tribe received a reconciliation report for purposes of applying a statute of limitations, any such report provided to or received by an Indian tribe in response to section 304 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4044) shall be deemed to have been received by the Indian tribe on December 31, 2000.

“(b) STATEMENT OF PURPOSE.—Subsection (a) is solely intended to provide recipients of reconciliation reports with the opportunity to postpone the filing of claims, or to facilitate the voluntary dismissal of claims, to encourage settlement negotiations with the United States.”

§ 4045. Staff and consultants

(a) Staff

The Special Trustee may employ such staff as the Special Trustee deems necessary. The Special Trustee may request staff assistance from within the Department and any office or Bureau thereof as the Special Trustee deems necessary.

(b) Contracts

To the extent and in such amounts as may be provided in advance by appropriations Acts, the Special Trustee may enter into contracts and other arrangements with public agencies and with private persons and organizations for consulting services and make such payments as necessary to carry out the provisions of this subchapter.

(Pub. L. 103-412, title III, §305, Oct. 25, 1994, 108 Stat. 4248.)

§ 4046. Advisory board

(a) Establishment and membership

Notwithstanding any other provision of law, the Special Trustee shall establish an advisory board to provide advice on all matters within the jurisdiction of the Special Trustee. The advisory board shall consist of nine members, appointed by the Special Trustee after consultation with Indian tribes and appropriate Indian organizations, of which—

(1) five members shall represent trust fund account holders, including both tribal and Individual Indian Money accounts;

- (2) two members shall have practical experience in trust fund and financial management;
- (3) one member shall have practical experience in fiduciary investment management; and
- (4) one member, from academia, shall have knowledge of general management of large organizations.

(b) Term

Each member shall serve a term of two years.

(c) FACA

The advisory board shall not be subject to the Federal Advisory Committee Act.

(d) Termination

The advisory board shall terminate upon termination of the Office of Special Trustee.

(Pub. L. 103-412, title III, §306, Oct. 25, 1994, 108 Stat. 4249; Pub. L. 104-109, §6(b), Feb. 12, 1996, 110 Stat. 764.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-109 substituted “advisory board” for “Advisory Board”.

APPOINTMENT OF NEW MEMBERS

Pub. L. 108-7, div. F, title I, §133, Feb. 20, 2003, 117 Stat. 243, provided that: “Within 90 days of enactment of this Act [Feb. 20, 2003] the Special Trustee for American Indians, in consultation with the Secretary of the Interior and the Tribes, shall appoint new members to the Special Trustee Advisory Board.”

SUBCHAPTER IV—AUTHORIZATION OF APPROPRIATIONS

§ 4061. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 103-412, title IV, §401, Oct. 25, 1994, 108 Stat. 4249.)

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