

We have worked and worked and worked to try to bring BIA's attention to bear on this so this situation will not happen again elsewhere. BIA did not approve this contract to begin with. But the operation took place anyhow. It is our understanding that it should have been approved prior to beginning the operation.

Now we have a problem here; not only do we have the community in an uproar but we also have the rest of the tribe in an uproar. That very thing, sovereignty, which created the ability for the gentlemen in question to begin this operation, is now being exercised by members of that tribe, which are saying we want this taken care of, and we want the Federal Government, or somebody, to do this, to take care of this problem, this potential health problem.

I think as we move forward here, we must understand that, yes, sovereignty is an important point. But whatever we have in the way of a relationship between the Federal Government and Indian tribes and the community, there needs to be some kind of an enforceable check and balance relative to the environmental or other aspects of what a tribe or allottee is able to do or not do, as it relates to the laws that go beyond the boundaries of the allottee's land or the tribal land. In this case, it has become a severe nuisance. And there is no clear recourse to handle the cleaning up of this problem. EPA is working on it, other agencies are working on it, but a year or so has gone by and these and other important questions remain unanswered.

So I wish to bring this to the attention of those involved in Indian affairs, to ask that a review of this kind of a BIA relationship be undertaken. Why did the BIA not exercise the proper oversight when the contract was discussed, or whatever authority they have to do this? Now we have the people doing the actual composting and selling the compost, who are saying, okay, if you give us a contract or a lease on this property for a certain period of time, we will assume the responsibility of disposing of this huge pile of waste. Of course, those who are opposed to the composting, are saying we want everybody off and the site shut down. There is a cease and desist order which has been ignored by those who have continued composting. So you begin to see all of these things coming together, all of which add to what I am trying to say: The BIA I consider to be substandard in the management of their relations with Indian affairs.

I thank the gentleman for yielding. I now have this off my chest. I thank the subcommittee chairman for his indulgence.

Mr. RICHARDSON. Let me say I will take the gentleman's comments very seriously. He is a very serious Member of this body. He will be missed.

I am aware of that problem and we have legislation to get rid of the red-

tape and bureaucracy that are part of the BIA system.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of H.R. 4462, a bill to provide for administrative procedures to extend Federal recognition to certain groups of American Indians.

We all know that a change in the Federal acknowledgement procedures is long overdue. Every time we hold a hearing on recognizing an Indian tribe, or hold a hearing on the process itself, we hear more horror stories resulting from the present process. I am pleased that the members of the Subcommittee on Native American affairs were able to reach a bipartisan agreement on how to proceed, and I want to thank Chairman RICHARDSON, Congressman THOMAS, and their staffs for the time they have given this bill. The end of the Congress is a very busy time for all of us, and I am appreciative that everyone involved was willing to give this bill careful consideration.

Mr. Speaker, H.R. 4462 will make the following changes to the process by which Indian tribes receive Federal recognition. The bill: First, creates a nonpartisan, Presidentially appointed Commission, independent from the Department of the Interior, which will review petitions for recognition; second, ensures that the Commission will work to assist petitioning groups in understanding the process and in obtaining appropriate, relevant documentation; third, sets firm time limits on each step within a new acknowledgement process; fourth, creates a process in which each petition group will know quickly of any deficiencies and omissions in their petition, based on a list which cannot be expanded; fifth, provides for annual publication of a single, composite list of tribes recognized by the federal government, and annual reports on the commission's activity; and sixth, sets forth new, more objective criteria upon which the final determination of applicant will be based.

Mr. Speaker, I know we are in the waning days of the 103d Congress, but given the similarities between this bill and the Senate bill on this issue, I remain hopeful that an agreement can be reached, and that we can see new law in this area later this year.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PAS-TOR). The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4462, as amended.

The question was taken.

Mr. MCCANDLESS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4833), to reform the management of Indian Trust Funds, and for other purposes as amended.

The Clerk read as follows:

H.R. 4833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Indian Trust Fund Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

Sec. 101. Affirmative action required.
Sec. 102. Responsibility of Secretary to account for the daily and annual balances of Indian trust funds.
Sec. 103. Payment of interest on individual Indian money accounts.
Sec. 104. Authority for payment of claims for interest owed.

TITLE II—INDIAN TRUST FUND MANAGEMENT PROGRAM

Sec. 201. Purpose.
Sec. 202. Voluntary withdrawal from trust funds program.
Sec. 203. Judgment funds.
Sec. 204. Technical assistance.
Sec. 205. Grant program.
Sec. 206. Return of withdrawn funds.
Sec. 207. Savings provision.
Sec. 208. Report to Congress.
Sec. 209. Regulations.

TITLE III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

Sec. 301. Purposes.
Sec. 302. Office of Special Trustee for American Indians.
Sec. 303. Authorities and functions of the special trustee.
Sec. 304. Reconciliation report.
Sec. 305. Staff and consultants.
Sec. 306. Advisory board.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "Special Trustee" means the Special Trustee for American Indians appointed under section 302.

(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. 686), 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 302.

(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.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

SEC. 101. AFFIRMATIVE ACTION REQUIRED.

The first section of the Act of June 24, 1938 (25 U.S.C. 162a), is amended by adding at the end the following new subsection:

“(d) The Secretary’s proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:

- “(1) Providing adequate systems for accounting for and reporting trust fund balances.
- “(2) Providing adequate controls over receipts and disbursements.
- “(3) Providing periodic, timely reconciliations to assure the accuracy of accounts.
- “(4) Determining accurate cash balances.
- “(5) Preparing and supplying account holders with periodic statements of their account performance and with balances of their account which shall be available on a daily basis.
- “(6) Establishing consistent, written policies and procedures for trust fund management and accounting.
- “(7) Providing adequate staffing, supervision, and training for trust fund management and accounting.
- “(8) Appropriately managing the natural resources located within the boundaries of Indian reservations and trust lands.”

SEC. 102. RESPONSIBILITY OF SECRETARY TO ACCOUNT FOR THE 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 the Act of June 24, 1938 (25 U.S.C. 162a).

(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 the Act of June 24, 1938 (25 U.S.C. 162a). 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 the Act of June 24, 1938 (25 U.S.C. 162a), and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) after the completion of the audit.

SEC. 103. PAYMENT OF INTEREST ON INDIVIDUAL INDIAN MONEY ACCOUNTS.

(a) **PAYMENT OF INTEREST.**—The first section of the Act of February 12, 1929 (25 U.S.C. 161a), is amended—

- (1) by striking out “That all” and inserting in lieu thereof “That (a) all”; and
- (2) by adding after subsection (a) (as designated by paragraph (1) of this subsection) the following:

“(b) All funds held in trust by the United States and carried in principal accounts on the books of the United States Treasury to the credit of individual Indians shall be invested by the Secretary of the Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved, as

determined by the Secretary of the Interior, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable securities.”

(b) **WITHDRAWAL AUTHORITY.**—The second sentence of subsection (a) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a) is amended by inserting “to withdraw from the United States Treasury and” after “pre-scribe.”

(c) **TECHNICAL CORRECTION.**—The second subsection (b) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a), as added by section 302 of Public Law 101-644 (104 Stat. 4667), is hereby redesignated as subsection (c).

(d) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to interest earned on amounts deposited or invested on or after the date of the enactment of this Act.

SEC. 104. 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 deposited or invested on behalf of such individual before the date of enactment of this Act 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 accountholder losses.

TITLE II—INDIAN TRUST FUND MANAGEMENT PROGRAM

SEC. 201. PURPOSE.

The purpose of this title 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.

SEC. 202. 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 responsibility or liability of the United States with respect to such funds shall cease except as provided for in section 207 of this title.

SEC. 203. JUDGMENT FUNDS.

(a) **IN GENERAL.**—The Secretary is authorized to approve plans under section 202 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) 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.

SEC. 204. 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.

SEC. 205. 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 title that the Secretary deems appropriate.

SEC. 206. 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.

SEC. 207. SAVINGS PROVISION.

By submitting or approving a plan under this title, 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.

SEC. 208. REPORT TO CONGRESS.

The Secretary shall, beginning one year after the date of the enactment of this Act, 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 title. Such report shall include recommendations (if any) for changes necessary to better implement the purpose of this title.

SEC. 300. REGULATIONS.

(a) **IN GENERAL.**—Not later than 12 months after the date of enactment of this title, the Secretary shall promulgate final regulations for the implementation of this title. All regulations promulgated pursuant to this title 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 title.

TITLE III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

SEC. 301. PURPOSES.

The purposes of this title 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.

SEC. 302. 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, United States Code.

(c) **TERMINATION OF OFFICE.**—

(1) **CONDITIONED UPON IMPLEMENTATION OF REFORMS.**—The Special Trustee, in proposing a termination date under section 303(a)(2)(C), 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 per-

manent 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.

SEC. 303. AUTHORITIES AND FUNCTIONS OF THE 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 302(b), 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 Act.

(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 Act.

(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 Act.

(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 responsibilities 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, United States Code.

(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 paragraph (3)(B).

(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 Act.

(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) and in meeting the timetable established in the strategic plan under subsection (a)(2)(C).

SEC. 304. 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.

SEC. 305. 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 title.

SEC. 306. 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) FACIA.—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.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

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

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Department of the Interior is responsible for managing and investing over \$2.1 billion in Indian trust funds. These funds are made up mostly of receipts from leases for timber stumpage, oil and gas royalties, and agricultural uses. The Department currently is unable to give an accurate balance for these accounts and tribes have very little say in how their funds are managed. H.R. 4833 is the culmination of 5 years of oversight and 3 years of seeking specific legislative resolution. This bill will allow tribes to directly manage their funds and receive periodic statements on the accounts which remain with the Department. Further, this bill will establish a special trustee for Indian trust funds. This person will develop an overall strategic plan to reform the current process of handling Indian allotted lands and the proceeds from them. I want to thank my good friend and ranking Republican on the Native American Affairs Subcommittee, Mr. THOMAS of Wyoming, for all his work and efforts on this bill. I make note that he served on the Government Operations Subcommittee with Mr. SYNAR and worked on the original investigation that brought many of these issues to light.

I further want to thank Mr. SYNAR, for it was his Subcommittee on Environment, Energy and Natural Resources that provided most of the background material which made the need for this legislation so obvious. I doubt we would be here today had it not been for his work.

In 1834 the House Committee on Indian Affairs issued a report depicting the administration of Indian Affairs as being "expensive, inefficient, and irresponsible." Although it is 160 years later, I share the concerns of my predecessor committee. This legislation is a first step toward making trust fund management more efficient and more responsible. I urge my colleagues to support it.

□ 1400

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

(Mr. THOMAS of Wyoming asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in strong support of H.R. 4833, the Indian Trust Fund Management Act. I believe that I have made my views on this subject clear over the years that we have been holding hearings on the Department's mismanagement of Indian trust funds. Because of our busy schedule today, then, I will simply urge my colleagues to support this bill and I submit for the RECORD a copy of my statement before the Subcommittee on Environment,

Energy and Natural Resources on September 26, 1994, on this same topic.

STATEMENT OF CONGRESSMAN CRAIG THOMAS BEFORE THE SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, SEPTEMBER 26, 1994

I appreciate Chairman Synar enabling me to submit a statement this morning. As a member of the Committee on Government Operations, and as the ranking Republican on the Subcommittee on Native American Affairs, I am keenly interested in the issue of Indian Trust Funds and the galling failure of the Department and the BIA to live up to their responsibilities. Unfortunately, previous commitments back in Wyoming prevent me from appearing in person today.

I have participated in a number of hearings over the last several years on this subject. We have had two hearings on trust fund management—or, more properly, mismanagement—in the Native American Affairs Subcommittee this Congress, and I was a member of Chairman Synar's subcommittee in the last Congress. Then, as now, I fully support efforts to untangle this mess.

Since the Government Operations Committee released its report, "Misplaced Trust: The Bureau of Indian Affairs' Mismanagement of the Indian Trust Fund", I have seen precious little change in this sad state of affairs. Instead, I have seen promised deadlines come and go; I have seen promises to reform go unfulfilled. Despite statements made in the early days of the Clinton administration, two years later neither the Department nor the BIA has brought us one step closer to resolving the trust fund problem. All we have seen is a continuation of the BIA's one unchallenged specialty: *inertia*.

We have seen the pattern repeated over and over. The Department and BIA promise to act, fail to, we are forced to introduce legislation to deal with the issue, and then when passage of the legislation seems imminent they come to us and ask for more time, quote, "because we're working on the problem, really we are," unquote, or they offer their own, watered-down, legislative proposal in the hope of heading ours off.

We have seen this happen with FAP and 638 reform, and with the trust fund issue we consider today. The gentleman from Oklahoma introduced his trust fund bill—H.R. 1846—on April 22, 1993. The BIA had until September 27—when my subcommittee held an oversight hearing focused on the bill—to fully review it and provide us with its comments on it. Instead, at that hearing the BIA provided only superficial comments and indicated in written testimony that it would, quote, "supplement [its] comments on a fuller report to be submitted in the future," unquote. In fact, Assistant Secretary Deer stated that the Bureau had reviewed both S. 925 and H.R. 1846, and would provide us with detail comments, quote, "in a matter of days," unquote.

Well, the subcommittee held a hearing on August 11, 1994, to consider both H.R. 1846 and H.R. 4833, 318 days after we were promised some action by the Bureau, later, and those promised comments had yet to arrive. Moreover, once Chairman Richardson introduced his bill and scheduled the August hearing, true to form the BIA suddenly had an alternative to the two bills.

Once again, in my opinion, they offered us far too little far too late. I urged the subcommittee to reject more delay and more stonewalling, to reject the BIA alternative, and move forward in the very near future with either of the bills. Last Friday I joined with Congressmen Richardson, Williams, and others in signing a letter to Chairman Miller of the Natural Resources Committee strongly urging him to take up one of the bills in

full committee so that we can pass a bill out of the House this session.

I am sure that this morning we will hear more of the same excuses and promises, more requests to just give it a little more time, from the Department that we have been hearing for the last six years. But, Mr. Chairman, shame on us, shame on this Congress, if we delay any further.

The Department told us in August, and I am sure will repeat this morning, that they have everything under control. Well, Mr. Chairman, my response to that is an explicative which decorum prevents me from using here but which I will paraphrase: cow manure! I have read the GAO's September 1994 draft report (GAO/AIMD-94-185) on this subject, and would like to quote several of the passages from that agency's conclusion:

"[M]any of the [Department's] initiatives are in the early stages and a number of them will not be completed for several years. Further, the Secretary's 6-Point Trust Funds and Trust Asset Management Reform Plan, issued in June 1994, does not provide the comprehensive approach needed to address the full range of trust fund and asset management problems that Interior continues to face.

"A sustained commitment will be needed to carry through on needed improvements. In the past, Interior has not demonstrated the leadership or management commitment needed and many previous corrective action efforts have failed outright or resulted in only incremental improvements. Interior must comprehensively examine its mission and the way it does business to determine how and by whom Indian trust funds can best be managed * * *"

I couldn't have said it better myself.

Mr. Chairman, the Department needs to pull itself out of denial, pull itself out of its fantasy world, and come to grips with reality. It is clear that they are incapable of doing it themselves. I sincerely hope that we can do it for them, and will do everything I can to move a bill before Congress adjourns.

Mr. RICHARDSON. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma [Mr. SYNAR], the pioneer of this effort and one who deserves enormous praise for the work we have done. Because of him we are here today.

(Mr. SYNAR asked and was given permission to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, if ever the words, "It is the right thing to do," meant anything, they mean everything with respect to the legislation we consider today. It is very unfortunate that we stand here today and are forced to take this action to statutorily reform the Department of the Interior's management of the \$2.1 billion trust fund for the tribes and individual Indians. But make no mistake. We must take this step because the Department itself refuses to adequately address the serious accounting and management problems which have plagued the trust fund program for decades.

Over the years, Congress, the General Accounting Office, the Interior Department's inspector general, and the President's Office of Management all have issued directives to the Department to develop a comprehensive plan for cleaning up this mess. In many cases, those directives have simply been ignored. At other times, the Department has responded with simplis-

tic, isolated and often ill-conceived initiatives which, even taken together, will never solve the trust fund problems repeatedly found in three separate bureaus of the Department.

This legislation is the only way we are going to force the Department to give sustained high-level attention to this issue, and to develop the kind of comprehensive strategic plan that is essential to correcting these serious trust fund problems. And it is the only way Congress and the trust fund account holders will ever have assurance that the Secretary of the Interior is taking the steps necessary to meet his fiduciary obligations to those for whom we are holding these funds in trust.

H.R. 4833, as reported, would statutorily establish within the Department a special trustee who would be charged with developing, in close consultation with account holders, a comprehensive strategic plan for correcting the widespread management and accounting problems throughout the Department and with ensuring that those corrective actions are effectively carried out. The bill establishes an advisory board, composed of account holder representatives and persons with trust fund, investment and management expertise, to advise the trustee in carrying out his obligations. The legislation also includes key elements of legislation I previously introduced—H.R. 1846—to reform trust funds management. These include provisions which specify the Secretary's fiduciary duties to account holders, which facilitate greater tribal management of their trust funds, and which require the Secretary to invest and pay interest on individual Indian money trust funds, consistent with current law for tribal trust funds. Each of these provisions is vital.

Mr. Speaker, my Subcommittee on Environment, Energy and Natural Resources, has held five separate oversight hearings on this subject since 1989. Mr. RICHARDSON's subcommittee has also held several hearings in the last two years. Regrettably, year after year we get the same worn-out response from the Interior Department. They tell us they're really on top of this now. They tell us they're really going to move on needed reforms now. Year after year, on and on with the same commitments. Year after year, those commitments are largely forgotten when the hearings are over.

I understand the Interior Department opposes this legislation. That is too bad; we have tried to work in good faith with the Department on correcting these problems and, failing that, on crafting an appropriate legislative measure. I want to assure my colleagues that the Department's vague last-minute arguments over the bill have no merit whatsoever. And, sadly, their promises of reform are no different, and no better, than those of their predecessors.

It is time for Congress to take matters into its own hands, and to require by statute that the Secretary and the

Department do what needs to be done to fix these problems and meet the Government's trust responsibilities to the account holders.

H.R. 4833 is the right answer at the right time, and I ask my colleagues to support it.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to enter into a colloquy with the gentleman from Oklahoma [Mr. SYNAR], and he just said something that is manifestly clear. He has been working on the BIA to reform itself on this issue. We have in this subcommittee anywhere from self-governance issues to self-determination grants, and all we get from the Bureau of Indian Affairs is, "We need more time." The bureaucracy seems to get a stronger foothold, and in fact we have a commission that is looking at BIA operations, and, instead of issuing a report to the Congress on how the BIA should change, they have told us that they need another year of study.

Mr. Speaker, this is incredible, and I would like to ask my colleague to give us his parting words on the BIA issue. I know he will be very active in the future on native American affairs, but I wondered if the gentleman could educate this body on some of the problems that we have with the Bureau of Indian Affairs.

Mr. SYNAR. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Well, very clearly, Mr. Speaker, the gentleman from New Mexico [Mr. RICHARDSON] summarized, I think, what all of us have faced over the years, and I say to my colleague,

There is an understanding that, after the five sets of hearings which the gentleman from Wyoming and I held through our Committee on Environment, and Energy, and Natural Resources, and the two sets of hearings you have held under your jurisdiction, we have been unable to get the responsiveness that we need out of the BIA to perform the basic fiduciary responsibilities which we expect out of any trustee. If this was done in the Social Security system, my colleagues, we would have had a war.

The fact is that literally over 300,000 individual holders, over 300 tribes, literally cannot get a basic accounting of what is owed to them, and that is a disgrace for this Federal Government, and to continue to allow this to exist is an admission on our part that we cannot provide for the basic things that we need in our trustee responsibility. We have through the years, through the help of the gentleman from New Mexico, and the gentleman from Wyoming and others, tried to work with the BIA to get them to respond. It is very clear they will not, and this legislation gives us the only alternative which we do have, and without it we will continue to have the same problems with our tribes and individual account holders, that we cannot give them the basic ac-

counting which they basically need for their funds.

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. SYNAR].

Mr. MCCANDLESS. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from California.

Mr. MCCANDLESS. Mr. Speaker, I appreciate the gentleman from New Mexico [Mr. RICHARDSON] yielding to me.

With respect to experience, if there is any need for anyone to have particular time, date, and place of problems, I have been involved with the BIA now for 12 years as a Member of Congress and almost 12 years prior to that at another level of government where I was involved with the same BIA in the same geographical locations. I would be happy to share with anyone in the committee, or anyone who is interested, my 24 years of experience, line item, with the BIA, and I appreciate this being brought before the body today.

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman from California [Mr. MCCANDLESS], and we appreciate his comments and his contributions to this effort now and, I know, in the future.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PAS-TOR). The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4833, as amended.

The question was taken.

Mr. MCCANDLESS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5, rule 1, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FEDERALLY RECOGNIZED INDIAN TRIBE LIST ACT OF 1994

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4180) to prohibit the withdrawal of acknowledgement or recognition of an Indian tribe or Alaska Native group or of the leaders of an Indian tribe or Alaska Native group, absent an Act of Congress, as amended.

The Clerk read as follows:

H.R. 4180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WITHDRAWAL OF ACKNOWLEDGEMENT OR RECOGNITION

SEC. 101. SHORT TITLE.

This title may be cited as the "Federally Recognized Indian Tribe List Act of 1994".

SEC. 102. DEFINITIONS.

For the purposes of this title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.

(3) The term "list" means the list of recognized tribes published by the Secretary pursuant to section 104 of this title.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the Constitution, as interpreted by Federal case law, invests Congress with plenary authority over Indian Affairs;

(2) ancillary to that authority, the United States has a trust responsibility to recognized Indian tribes, maintains a government-to-government relationship with those tribes, and recognizes the sovereignty of those tribes;

(3) Indian tribes presently may be recognized by Act of Congress; by the administrative procedures set forth in part 83 of the Code of Federal Regulations denominated "Procedures for Establishing that an American Indian Group Exists as an Indian Tribe;" or by a decision of a United States court;

(4) a tribe which has been recognized in one of these manners may not be terminated except by an Act of Congress;

(5) Congress has expressly repudiated the policy of terminating recognized Indian tribes, and has actively sought to restore recognition to tribes that previously have been terminated;

(6) the Secretary of the Interior is charged with the responsibility of keeping a list of all federally recognized tribes;

(7) the list published by the Secretary should be accurate, regularly updated, and regularly published, since it is used by the various departments and agencies of the United States to determine the eligibility of certain groups to receive services from the United States; and

(8) the list of federally recognized tribes which the Secretary publishes should reflect all of the federally recognized Indian tribes in the United States which are eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 104. PUBLICATION OF LIST OF RECOGNIZED TRIBES.

(a) PUBLICATION OF THE LIST.—The Secretary shall publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(b) FREQUENCY OF PUBLICATION.—The list shall be published within 60 days of enactment of this Act, and annually on or before every January 30 thereafter.

TITLE II—CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

SEC. 201. SHORT TITLE.

This title may be cited as the "Tlingit and Haida Status Clarification Act".

SEC. 202. FINDINGS.

The Congress finds and declares that—

(1) the United States has acknowledged the Central Council of Tlingit and Haida Indian Tribes of Alaska pursuant to the Act of June 19, 1935 (49 Stat. 388, as amended, commonly referred to as the "Jurisdiction Act"), as a federally recognized Indian tribe;