

114TH CONGRESS  
2D SESSION

**H. R. 812**

---

**AN ACT**

To provide for Indian trust asset management reform, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Indian Trust Asset Reform Act”.

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

See. 1. Short title; table of contents.

**TITLE I—RECOGNITION OF TRUST RESPONSIBILITY**

See. 101. Findings.  
 See. 102. Reaffirmation of policy.

**TITLE II—INDIAN TRUST ASSET MANAGEMENT DEMONSTRATION  
PROJECT**

See. 201. Short title.  
 See. 202. Definitions.  
 See. 203. Establishment of demonstration project; selection of participating Indian Tribes.  
 See. 204. Indian trust asset management plan.  
 See. 205. Forest land management and surface leasing activities.  
 See. 206. Effect of title.

**TITLE III—IMPROVING EFFICIENCY AND STREAMLINING  
PROCESSES**

See. 301. Purpose.  
 See. 302. Definitions.  
 See. 303. Under Secretary for Indian Affairs.  
 See. 304. Office of Special Trustee for American Indians.  
 See. 305. Appraisals and valuations.  
 See. 306. Cost savings.

6 **TITLE I—RECOGNITION OF  
7 TRUST RESPONSIBILITY**

8 **SEC. 101. FINDINGS.**

9 Congress finds that—

10 (1) there exists a unique relationship between  
 11 the Government of the United States and the governments of Indian tribes;

## 21 SEC. 102. REAFFIRMATION OF POLICY.

22 Pursuant to the constitutionally vested authority of  
23 Congress over Indian affairs, Congress reaffirms that the  
24 responsibility of the United States to Indian tribes in-

1     cludes a duty to promote tribal self-determination regard-  
2     ing governmental authority and economic development.

3     **TITLE II—INDIAN TRUST ASSET**  
4     **MANAGEMENT DEMONSTRA-**  
5     **TION PROJECT**

6     **SEC. 201. SHORT TITLE.**

7         This title may be cited as the “Indian Trust Asset  
8     Management Demonstration Project Act of 2016”.

9     **SEC. 202. DEFINITIONS.**

10        In this title:

11           (1) INDIAN TRIBE.—The term “Indian tribe”  
12        has the meaning given the term in the Indian Self-  
13        Determination and Education Assistance Act (25  
14        U.S.C. 450b).

15           (2) PROJECT.—The term “Project” means the  
16        Indian trust asset management demonstration  
17        project established under section 203(a).

18           (3) SECRETARY.—The term “Secretary” means  
19        the Secretary of the Interior.

20     **SEC. 203. ESTABLISHMENT OF DEMONSTRATION PROJECT;**

21           **SELECTION OF PARTICIPATING INDIAN**  
22           **TRIBES.**

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

1       (b)    SELECTION   OF    PARTICIPATING   INDIAN  
2   TRIBES.—

3               (1) IN GENERAL.—An Indian tribe shall be eli-  
4       gible to participate in the project if—

5                       (A) the Indian tribe submits to the Sec-  
6       retary an application under subsection (e); and  
7                       (B) the Secretary approves the application  
8       of the Indian tribe.

9               (2) NOTICE.—

10                       (A) IN GENERAL.—The Secretary shall  
11       provide a written notice to each Indian tribe ap-  
12       proved to participate in the project.

13                       (B) CONTENTS.—A notice under subpara-  
14       graph (A) shall include—

15                               (i) a statement that the application of  
16       the Indian tribe has been approved by the  
17       Secretary; and

18                               (ii) a requirement that the Indian  
19       tribe shall submit to the Secretary a pro-  
20       posed Indian trust asset management plan  
21       in accordance with section 204.

22               (c) APPLICATION.—

23                       (1) IN GENERAL.—To be eligible to participate  
24       in the project, an Indian tribe shall submit to the

1       Secretary a written application in accordance with  
2       paragraph (2).

3                   (2) REQUIREMENTS.—The Secretary shall con-  
4       sider an application under this subsection only if the  
5       application—

6                   (A) includes a copy of a resolution or other  
7       appropriate action by the governing body of the  
8       Indian tribe, as determined by the Secretary, in  
9       support of or authorizing the application;

10                  (B) is received by the Secretary after the  
11       date of enactment of this Act; and

12                  (C) states that the Indian tribe is request-  
13       ing to participate in the project.

14                  (d) DURATION.—The project—

15                  (1) shall remain in effect for a period of 10  
16       years after the date of enactment of this Act; but

17                  (2) may be extended at the discretion of the  
18       Secretary.

19       **SEC. 204. INDIAN TRUST ASSET MANAGEMENT PLAN.**

20                  (a) PROPOSED PLAN.—

21                  (1) SUBMISSION.—After the date on which an  
22       Indian tribe receives a notice from the Secretary  
23       under section 203(b)(2), the Indian tribe shall sub-  
24       mit to the Secretary a proposed Indian trust asset  
25       management plan in accordance with paragraph (2).

5 (B) establish trust asset management ob-  
6 jectives and priorities for Indian trust assets  
7 that are located within the reservation, or oth-  
8 erwise subject to the jurisdiction, of the Indian  
9 tribe;

10 (C) allocate trust asset management fund-  
11 ing that is available for the Indian trust assets  
12 subject to the plan in order to meet the trust  
13 asset management objectives and priorities;

14 (D) if the Indian tribe has contracted or  
15 compacted functions or activities under the In-  
16 dian Self-Determination and Education Assist-  
17 ance Act (25 U.S.C. 450 et seq.) relating to the  
18 management of trust assets—

19 (i) identify the functions or activities  
20 that are being or will be performed by the  
21 Indian tribe under the contracts, compacts,  
22 or other agreements under that Act, which  
23 may include any of the surface leasing or  
24 forest land management activities author-

3 (ii) describe the practices and pro-  
4 cedures that the Indian tribe will follow;

5 (E) establish procedures for nonbinding  
6 mediation or resolution of any dispute between  
7 the Indian tribe and the United States relating  
8 to the trust asset management plan;

9 (F) include a process for the Indian tribe  
10 and the Federal agencies affected by the trust  
11 asset management plan to conduct evaluations  
12 to ensure that trust assets are being managed  
13 in accordance with the plan; and

14 (G) identify any Federal regulations that  
15 will be superseded by the plan.

23 (b) APPROVAL AND DISAPPROVAL OF PROPOSED  
24 PLANS.—

25 (1) APPROVAL.—

1 (A) IN GENERAL.—Not later than 120  
2 days after the date on which an Indian tribe  
3 submits a proposed Indian trust asset manage-  
4 ment plan under subsection (a), the Secretary  
5 shall approve or disapprove the proposed plan.

6 (B) REQUIREMENTS FOR DISAPPROVAL.—  
7 The Secretary shall approve a proposed plan  
8 unless the Secretary determines that—

9 (i) the proposed plan fails to address  
10 a requirement under subsection (a)(2);

11 (ii) the proposed plan includes 1 or  
12 more provisions that are inconsistent with  
13 subsection (c); or

14 (iii) the cost of implementing the pro-  
15 posed plan exceeds the amount of funding  
16 available for the management of trust as-  
17 sets that would be subject to the proposed  
18 plan.

19 (2) ACTION ON DISAPPROVAL.—

20 (A) NOTICE.—If the Secretary disapproves  
21 a proposed plan under paragraph (1)(B), the  
22 Secretary shall provide to the Indian tribe a  
23 written notice of the disapproval, including any  
24 reason why the proposed plan was disapproved.

1 (B) ACTION BY TRIBES.—If a proposed  
2 plan is disapproved under paragraph (1)(B),  
3 the Indian tribe may resubmit an amended pro-  
4 posed plan by not later than 90 days after the  
5 date on which the Indian tribe receives the no-  
6 tice under subparagraph (A).

20 (B) the Indian tribe has exhausted all  
21 other administrative remedies available to the  
22 Indian tribe.

23 (c) APPLICABLE LAWS.—Subject to section 205, an  
24 Indian trust asset management plan, and any activity car-  
25 ried out under the plan, shall not be approved unless the

1 proposed plan is consistent with any treaties, statutes, and  
2 Executive orders that are applicable to the trust assets,  
3 or the management of the trust assets, identified in the  
4 plan.

5 (d) TERMINATION OF PLAN.—

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

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

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

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

21 **SEC. 205. FOREST LAND MANAGEMENT AND SURFACE  
22 LEASING ACTIVITIES.**

23 (a) DEFINITIONS.—In this section:

24 (1) FOREST LAND MANAGEMENT ACTIVITY.—

25 The term “forest land management activity” means

1       any activity described in section 304(4) of the Na-  
2       tional Indian Forest Resources Management Act (25  
3       U.S.C. 3103(4)).

4                   (2) INTERESTED PARTY.—The term “interested  
5       party” means an Indian or non-Indian individual,  
6       entity, or government the interests of which could be  
7       adversely affected by a tribal trust land leasing deci-  
8       sion made by an applicable Indian tribe.

9                   (3) SURFACE LEASING TRANSACTION.—The  
10      term “surface leasing transaction” means a residen-  
11      tial, business, agricultural, or wind or solar resource  
12      lease of land the title to which is held—

13                   (A) in trust by the United States for the  
14      benefit of an Indian tribe; or

15                   (B) in fee by an Indian tribe, subject to re-  
16      strictions against alienation under Federal law.

17                   (b) APPROVAL BY SECRETARY.—The Secretary may  
18      approve an Indian trust asset management plan that in-  
19      cludes a provision authorizing the Indian tribe to enter  
20      into, approve, and carry out a surface leasing transaction  
21      or forest land management activity without approval of  
22      the Secretary, regardless of whether the surface leasing  
23      transaction or forest land management activity would re-  
24      quire such an approval under otherwise applicable law (in-  
25      cluding regulations), if—

6 (2) the Indian tribe has adopted regulations ex-  
7 pressly incorporated by reference into the Indian  
8 trust asset management plan that—

9 (A) with respect to a surface leasing trans-  
10 action—

11 (i) have been approved by the Sec-  
12 retary pursuant to subsection (h)(4) of the  
13 first section of the Act of August 9, 1955  
14 (25 U.S.C. 415(h)(4)); or

22 (B) with respect to forest land manage-  
23 ment activities, the Secretary determines—

24 (i) are consistent with the regulations  
25 of the Secretary adopted under the Na-

3 (ii) provide for an environmental re-  
4 view process that includes—

5 (I) the identification and evalua-  
6 tion of any significant effects of the  
7 proposed action on the environment;  
8 and

9 (II) a process consistent with the  
10 regulations referred to in clause (i)  
11 for ensuring that—

12 (aa) the public is informed  
13 of, and has a reasonable oppor-  
14 tunity to comment on, any sig-  
15 nificant environmental impacts of  
16 the proposed forest land manage-  
17 ment activity identified by the In-  
18 dian tribe; and

19 (bb) the Indian tribe pro-  
20 vides responses to relevant and  
21 substantive public comments on  
22 any such impacts before the In-  
23 dian tribe approves the forest  
24 land management activity.

### 25 (c) TYPES OF TRANSACTIONS.—

12 (d) TECHNICAL ASSISTANCE.—

1       (e) FEDERAL ENVIRONMENTAL REVIEW.—Notwith-  
2 standing subsection (b), if an Indian tribe carries out a  
3 project or activity funded by a Federal agency, the Indian  
4 tribe shall have the authority to rely on the environmental  
5 review process of the applicable Federal agency, rather  
6 than any tribal environmental review process under this  
7 section.

8       (f) DOCUMENTATION.—If an Indian tribe executes a  
9 surface leasing transaction or forest land management ac-  
10 tivity, pursuant to tribal regulations under subsection  
11 (b)(2), the Indian tribe shall provide to the Secretary

12               (1) a copy of the surface leasing transaction or  
13 forest land management activity documents, includ-  
14 ing any amendments to, or renewals of, the applica-  
15 ble transaction; and

16               (2) in the case of tribal regulations, a surface  
17 leasing transaction, or forest land management ac-  
18 tivities that allow payments to be made directly to  
19 the Indian tribe, documentation of the payments  
20 that is sufficient to enable the Secretary to dis-  
21 charge the trust responsibility of the United States  
22 under subsection (g).

23       (g) TRUST RESPONSIBILITY.—

24               (1) IN GENERAL.—The United States shall not  
25 be liable for losses sustained—

5 (B) by any party to a lease executed pur-  
6 suant to tribal regulations under subsection (b).

15 (h) COMPLIANCE.—

1       tion the Secretary determines to be necessary to  
2       remedy the violation, including rescinding the ap-  
3       proval of the tribal regulations and reassuming re-  
4       sponsibility for the approval of leases of tribal trust  
5       land.

10 (A) make a written determination with re-  
11 spect to the regulations that have been violated;

12 (B) provide to the applicable Indian tribe  
13 a written notice of the alleged violation, to-  
14 gether with the written determination; and

15 (C) prior to the exercise of any remedy,  
16 the rescission of the approval of the regulation  
17 involved, or the reassumption of the trust asset  
18 transaction approval responsibilities, provide to  
19 the applicable Indian tribe—

20 (i) a hearing on the record; and  
21 (ii) a reasonable opportunity to cure  
22 the alleged violation.

## 23 SEC. 206. EFFECT OF TITLE.

24 (a) LIABILITY.—Subject to section 205 and this sec-  
25 tion, nothing in this title or an Indian trust asset manage-

1       ment plan approved under section 204 shall independently  
2       diminish, increase, create, or otherwise affect the liability  
3       of the United States or an Indian tribe participating in  
4       the project for any loss resulting from the management  
5       of an Indian trust asset under an Indian trust asset man-  
6       agement plan.

7           (b) DEVIATION FROM STANDARD PRACTICES.—The  
8       United States shall not be liable to any party (including  
9       any Indian tribe) for any term of, or any loss resulting  
10      from the terms of, an Indian trust asset management plan  
11      that provides for management of a trust asset at a less-  
12      stringent standard than the Secretary would otherwise re-  
13      quire or adhere to in absence of an Indian trust asset  
14      management plan.

15           (c) EFFECT OF TERMINATION OF PLAN.—Subsection  
16      (b) applies to losses resulting from a transaction or activ-  
17      ity described in that subsection even if the Indian trust  
18      asset management plan is terminated under section  
19      204(d) or rescinded under section 205(h).

20           (d) EFFECT ON OTHER LAWS.—

21           (1) IN GENERAL.—Except as provided in sec-  
22      tions 204 and 205 and subsection (e), nothing in  
23      this title amends or otherwise affects the application  
24      of any treaty, statute, regulation, or Executive order

1       that is applicable to Indian trust assets or the man-  
2       agement or administration of Indian trust assets.

3                   (2) INDIAN SELF-DETERMINATION ACT.—Noth-  
4       ing in this title limits or otherwise affects the au-  
5       thority of an Indian tribe, including an Indian tribe  
6       participating in the project, to enter into and carry  
7       out a contract, compact, or other agreement under  
8       the Indian Self-Determination and Education Assist-  
9       ance Act (25 U.S.C. 450 et seq.) (including regula-  
10      tions).

11               (e) SEPARATE APPROVAL.—An Indian tribe may sub-  
12       mit to the Secretary tribal regulations described in section  
13       205(b) governing forest land management activities for re-  
14       view and approval under this title if the Indian tribe does  
15       not submit or intend to submit an Indian trust asset man-  
16       agement plan.

17               (f) TRUST RESPONSIBILITY.—Nothing in this title  
18       enhances, diminishes, or otherwise affects the trust re-  
19       sponsibility of the United States to Indian tribes or indi-  
20       vidual Indians.

1 **TITLE III—IMPROVING EFFI-**  
2 **CIENCY AND STREAMLINING**  
3 **PROCESSES**

4 **SEC. 301. PURPOSE.**

5       The purpose of this title is to ensure a more efficient  
6 and streamlined administration of duties of the Secretary  
7 of the Interior with respect to providing services and pro-  
8 grams to Indians and Indian tribes, including the manage-  
9 ment of Indian trust resources.

10 **SEC. 302. DEFINITIONS.**

11       In this title:

12           (1) **BIA.**—The term “BIA” means the Bureau  
13 of Indian Affairs.

14           (2) **DEPARTMENT.**—The term “Department”  
15 means the Department of the Interior.

16           (3) **SECRETARY.**—The term “Secretary” means  
17 the Secretary of the Interior.

18           (4) **UNDER SECRETARY.**—The term “Under  
19 Secretary” means the Under Secretary for Indian  
20 Affairs established under section 303(a).

21 **SEC. 303. UNDER SECRETARY FOR INDIAN AFFAIRS.**

22       (a) **ESTABLISHMENT OF POSITION.**—Notwith-  
23 standing any other provision of law, the Secretary may  
24 establish in the Department the position of Under Sec-

1 Secretary for Indian Affairs, who shall report directly to the  
2 Secretary.

3 (b) APPOINTMENT.—

17 (B) not later than 180 days after the date  
18 of enactment of this Act, the Secretary ap-  
19 proves the assumption.

20 (c) DUTIES.—In addition to any other duties directed  
21 by the Secretary, the Under Secretary shall—

22 (1) coordinate with the Special Trustee for  
23 American Indians to ensure an orderly transition of  
24 the functions of the Special Trustee to one or more

1       appropriate agencies, offices, or bureaus within the  
2       Department, as determined by the Secretary;

3               (2) to the maximum extent practicable, super-  
4       vise and coordinate activities and policies of the BIA  
5       with activities and policies of—

6                       (A) the Bureau of Reclamation;  
7                       (B) the Bureau of Land Management;  
8                       (C) the Office of Natural Resources Rev-  
9       enue;

10                      (D) the National Park Service; and  
11                       (E) the United States Fish and Wildlife  
12       Service; and

13               (3) provide for regular consultation with Indi-  
14       ans and Indian tribes that own interests in trust re-  
15       sources and trust fund accounts.

16       (d) PERSONNEL PROVISIONS.—

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

22               (2) REQUIREMENTS.—Except as otherwise pro-  
23       vided by law—

4 (B) the compensation of such an officer or  
5 employee shall be fixed in accordance with title  
6 5, United States Code; and

11 SEC. 304. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN IN-  
12 DIANS.

(a) INFORMATION TO CONGRESS.—Notwithstanding sections 302 and 303 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4042 and 4043), not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and, after consultation with Indian tribes and appropriate Indian organizations, submit to the Committee on Natural Resources of the House of Representatives, the Committee on Indian Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate—

(1) an identification of all functions, other than the collection, management, and investment of Indian trust funds, that the Office of the Special

1       Trustee performs independently or in concert with  
2       the BIA or other Federal agencies, specifically those  
3       functions that affect or relate to management of  
4       nonmonetary trust resources;

5               (2) a description of any functions of the Office  
6       of the Special Trustee that will be transitioned to  
7       other bureaus or agencies within the Department  
8       prior to the termination date of the Office, as de-  
9       scribed in paragraph (3), together with the time-  
10      frames for those transfers; and

11               (3) a transition plan and timetable for the ter-  
12       mination of the Office of the Special Trustee, to  
13       occur not later than 2 years after the date of sub-  
14       mission, unless the Secretary determines than an or-  
15       derly transition cannot be accomplished within 2  
16       years, in which case the Secretary shall include—

17                       (A) a statement of all reasons why the  
18       transition cannot be effected within that time;  
19       and

20                       (B) an alternative date for completing the  
21       transition.

22               (b) FIDUCIARY TRUST OFFICERS.—Subject to appli-  
23       cable law and regulations, the Secretary, at the request  
24       of an Indian tribe or a consortium of Indian tribes, shall  
25       include fiduciary trust officers in a contract, compact, or

1 other agreement under the Indian Self-Determination and  
2 Education Assistance Act (25 U.S.C. 450 et seq.).

3 (c) EFFECT OF SECTION.—Nothing in this section or  
4 the submission required by this section—

5 (1) shall cause the Office of the Special Trustee  
6 to terminate; or

7 (2) affect the application of sections 302 and  
8 303 of the American Indian Trust Fund Manage-  
9 ment Reform Act of 1994 (25 U.S.C. 4042 and  
10 4043).

**11 SEC. 305. APPRAISALS AND VALUATIONS.**

12 (a) IN GENERAL.—Notwithstanding section 304, not  
13 later than 18 months after the date of enactment of this  
14 Act, the Secretary, in consultation with Indian tribes and  
15 tribal organizations, shall ensure that appraisals and val-  
16 uations of Indian trust property are administered by a sin-  
17 gle bureau, agency, or other administrative entity within  
18 the Department.

19 (b) MINIMUM QUALIFICATIONS.—Not later than 1  
20 year after the date of enactment of this Act, the Secretary  
21 shall establish and publish in the Federal Register min-  
22 imum qualifications for individuals to prepare appraisals  
23 and valuations of Indian trust property.

24 (c) SECRETARIAL APPROVAL.—In any case in which  
25 an Indian tribe or Indian beneficiary submits to the Sec-

1     retary an appraisal or valuation that satisfies the min-  
2     imum qualifications described in subsection (b), and that  
3     submission acknowledges the intent of the Indian tribe or  
4     beneficiary to have the appraisal or valuation considered  
5     under this section, the appraisal or valuation—

6                 (1) shall not require any additional review or  
7                 approval by the Secretary; and

8                 (2) shall be considered to be final for purposes  
9                 of effectuating the transaction for which the ap-  
10                 praisal or valuation is required.

11 **SEC. 306. COST SAVINGS.**

12                 (a) IN GENERAL.—For any program, function, serv-  
13     ice, or activity (or any portion of a program, function,  
14     service, or activity) of the Office of the Special Trustee  
15     that will not be operated or carried out as a result of a  
16     transfer of functions and personnel following enactment  
17     of this Act, the Secretary shall—

18                 (1) identify the amounts that the Secretary  
19     would otherwise have expended to operate or carry  
20     out each program, function, service, and activity (or  
21     portion of a program, function, service, or activity);  
22     and

23                 (2) provide to the tribal representatives of the  
24     Tribal-Interior Budget Council or the representative  
25     of any other appropriate entity that advises the Sec-

1       retary on Indian program budget or funding issues  
2       a list that describes—

10 (b) TRIBAL RECOMMENDATIONS.—Not later than 90  
11 days after the date of receipt of a list under subsection  
12 (a)(2), the tribal representatives of the Tribal-Interior  
13 Budget Council and the representatives of any other ap-  
14 propriate entities that advise the Secretary on Indian pro-  
15 gram budget or funding issues may provide recomenda-  
16 tions regarding how any amounts or cost savings should  
17 be reallocated, incorporated into future budget requests,  
18 or appropriated to—

19 (1) the Secretary;

20 (2) the Office of Management and Budget;

21 (3) the Committee on Appropriations of the

22 House of Representatives;

23 (4) the Committee on Natural Resources of the

24 House of Representatives;

Passed the House of Representatives February 24, 2016.

Attest:

*Clerk.*

114TH CONGRESS  
2D SESSION

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## **AN ACT**

To provide for Indian trust asset management reform, and for other purposes.