

## **A Bill**

To provide for a voluntary incentive program for extinguishment of historic accounting claims related to Individual Indian Money accounts, and for other purposes.

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

### **SEC. 1. PURPOSE.**

It is the purpose of this Act to --

(1) establish a voluntary program whereby eligible Individual Indian Money account holders may elect to receive a cash payment in exchange for a waiver and satisfaction of their claims relating to an accounting for funds held in trust for them by the United States; and

(2) require the establishment of an administrative process for the resolution of claims to an accounting for funds held in trust by the United States for Indian tribes.

### **SEC. 2. DEFINITIONS.**

For purposes of this Act, the term -

(1) "Individual Indian Money account" means an Individual Indian Money account as that term is defined in 25 C.F.R. 115.002.

(2) "Secretary" means Secretary of the Interior.

(3) "claims to an accounting" means any and all legal or equitable claims that have been or could be brought, asserting any duties claimed to be owed by the United States under statute, common law, or any other source of law to an Individual Indian Money or tribal trust account holder that pertain in any way to the account holder's account, including, without limitation, the duty to --

(A) collect and deposit funds into the account;

(B) invest the funds while in the account;

(C) make disbursements from the account;

(D) make and maintain records of account activity;

(E) provide an accounting; and

(F) value, compromise, resolve, or otherwise dispose of claims relating to the accounts;

and including any claims to damages or other relief for failure to perform, or for improper performance of, any such duties.

(4) "eligible individual" means --

(A) any individual who is living and who is, or has been, an Individual Indian Money account holder, except for any such individual whose account holds or held funds only from the distribution of a judgment fund or a per capita distribution; and

(B) the estate of any deceased individual who was living on the date of enactment of the American Indian Trust Fund Management Reform Act of 1994 and who held an Individual Indian Money account on that date or at any time subsequent to that date, except where the account held funds only from the distribution of a judgment fund or a per capita distribution.

### **SEC. 3. PAYMENT TO RESOLVE ACCOUNTING CLAIMS.**

(a) Establishment of Program. Notwithstanding any other provision of law, the Secretary shall establish a voluntary program, in accordance with this Act, whereby any eligible individual may elect to receive a cash payment in exchange for a waiver and extinguishment of his claims to an accounting for funds held in trust by the United States. In implementing the program the Secretary shall —

(1) propose to pay such sum as she determines to resolve the claims to an accounting of any eligible individual who has submitted an application in accordance with regulations adopted under this Act.

(2) ensure that each settlement proposal shall reflect —

(A) the Secretary's good faith belief that because of missing, incomplete, and faulty documentation and other relevant information, the account holder's account balance is not readily discernible;

(B) the Secretary's good faith belief that account reconciliation will require a greater period of time and more resources to undertake than it would to provide a reasonable and timely settlement proposal to that account holder;

(C) the level of activity in the account holder's accounts;

(D) the volume of funds transferred to and through the account holder's accounts;

(E) such other factors that the Secretary determines are appropriate in providing incentives to an account holder to accept a settlement proposal; and

(F) such other factors as justice may require.

(3) The terms and conditions of the settlement proposals, including the methods or regulatory formulas by which they may be calculated or arrived at, shall be in the sole discretion of the Secretary and shall not be subject to judicial review.

(4) By means determined by the Secretary in the Secretary's discretion, the Secretary shall provide to eligible individuals notification concerning the existence and details of the program.

(5) The Secretary shall establish the program as soon as practicable and shall make payments thereunder in an order of priority as determined by

the Secretary. All eligible individuals who apply for and elect to accept a payment in accordance with this Act shall receive a payment.

(b) Judgment Fund. Any payment made by the Secretary pursuant to this Act shall be paid pursuant to the appropriation of funds provided for in section 1304 of title 31, United States Code.

(c) Regulations and procedures. The Secretary may adopt such regulations as are deemed necessary to implement this Act. Notwithstanding any other provision of law, the Secretary, and any officer or employee of the Department of the Interior, or her designee(s), are authorized to provide the notification required by subsection (a)(2) and to communicate directly with any eligible individual who has submitted an application in connection with the program described in subsection (a).

(d) Admissibility of information. Neither the amount or value of any payment nor the fact of any settlement nor any other material rendered inadmissible by Federal Rule of Evidence 408 shall be considered in any way in any litigation relating to claims to an accounting as defined in this Act, except insofar as may be necessary to establish the waiver and extinguishment of claims under section 4(a) of this Act.

(e) Authorization of appropriations. Appropriations sufficient to administer the program established by this Act, are hereby authorized.

#### **SEC. 4. PAYMENT AND EXTINGUISHMENT OF CLAIMS.**

(a) Waiver and extinguishment of claims. Receipt by an eligible individual of the payment for which he applied under this Act shall be deemed a full and complete waiver, and extinguishment of, any and all claims to an accounting for the period up to and including the date of the receipt of the payment. The waiver and extinguishment shall be binding upon any heirs, transferees and/or assigns of such individual.

(b) Account Balance. The individual Indian Money account balance on record with the Secretary for any eligible individual as of the date of the receipt of a payment made pursuant to this Act shall be deemed accurate for all purposes as of the date of the acceptance of the offer.

**SEC. 5. REPORT TO CONGRESS.** Within 180 days of the date of enactment of this Act, the Secretary shall prepare and submit a report to the Committee on Indian Affairs in the Senate and the Committee on Natural Resources in the House of Representatives on the extent of participation of account holders in the program, and the number of account holders to whom an election to receive a cash payment has yet to be made.