



THE DEPUTY SECRETARY OF THE INTERIOR
WASHINGTON

FEB 29 2016

The Honorable John Barrasso
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Administration is deeply committed to respecting tribal sovereignty and the fiduciary trust relationship the Federal Government owes to Native American tribes. It is because of this important fiduciary responsibility that we oppose H.R. 812 and S. 383 as they are written. As written, they undermine a management framework that provides clarity and certainty to the Federal Government, tribes, and individual American Indians.

Specifically, Title III of the legislation would, among other things, restructure the Bureau of Indian Affairs, the Office of the Assistant Secretary – Indian Affairs, and the Office of the Special Trustee (OST) and create an Under Secretary for Indian Affairs within the Department of the Interior (Department). As drafted, the bill mandates that OST submit a report to Congress that outlines how OST will be dissolved and its functions absorbed by other bureaus and offices. H.R. 812 requires the Under Secretary to constitute some new structure or entity that would assume OST's functions. The bill provides for the Under Secretary to bring functions performed and personnel employed by OST into some new unspecified structure.

The OST's value comes not from its position within a particular office at the Department, but rather from its singular focus and discrete duties. As affirmed by the courts numerous times in *Cobell*, OST is meeting those fiduciary responsibilities through a high level of care. Fiduciary duties related to accounting for individual and tribal trust assets deserve the singular focus that OST provides. For the foreseeable future, OST will need to remain as an integral part of the Indian trust system.

The Department views more favorably Title II of the bill, the Indian Trust Asset Management Demonstration Project Act. The Department strongly supports tribes' right to self-determination and self-governance and is supportive of program authority, similar to that found in the HEARTH Act, which would provide tribes with flexibility to manage their resources.

In our view, H.R. 812 and S. 383, as written, lack sufficient detail to ensure that individual beneficiaries and tribes will retain the level of care they currently receive under the Department's trust management structure.

Finally, before engaging in any restructuring, whether initiated by Congress or directed from within, the Department will need to conduct extensive tribal consultations, pursuant to Executive Order 13175, as restructuring would clearly have a significant direct effect on tribes.

Sincerely,

Michael L. Connor