

**Statement of Senator John McCain**  
**Committee Hearing on S.2212,**  
**Indian Trust Asset and Trust Fund Management Reform Act of 2002**

Mr. Chairman and Vice Chairman, I thank you for scheduling today's hearing on S.2212, legislation I sponsored along with Senators Daschle and Johnson, in response to continuing problems plaguing the Interior Department's management of Indian trust funds. I would also like to thank the witnesses for appearing today and for their commitment to work toward a meaningful legislative reform proposal.

As I stated upon introduction of this bill in April, the purpose of this legislation is to serve as a "place-holder" bill that can be modified or expanded as the dialogue to consider reform alternatives ensued between the Interior Department, the Tribal Task Force and the Congress. I, as well as Senators Daschle and Johnson, thought it critically important to voice the concerns of the Congress in this process and to stand ready with a legislative remedy. I don't think there can be any doubt that a legislative remedy is required.

S.2212 focuses on two primary changes to the 1994 American Indian Trust Fund Management Reform Act, the underlying law governing Indian trust funds management. First, it creates a single line-of-authority in the Interior Department by establishing a Deputy Secretary for Trust Management and Reform; and second, the bill strengthens provisions for Indian tribes and beneficiaries to directly manage or co-manage with the Interior Secretary trust funds and assets, based on successful self-determination policies.

Obviously, this legislation does not address every issue or problem inherent in trust funds or trust assets management, but it deals with two of the primary issues that are important to true reform - - a single, high-level policy official responsible for oversight of trust funds and assets management and, authorizing the Secretary to contract with Indian tribes to directly manage trust funds or assets themselves through self-governance laws - - concepts embraced by tribes, the Congress and eight presidents of both parties for more than three decades.

I, along with Senators Daschle and Johnson, recognize that S.2212 as currently drafted, can and should be modified - - it was certainly our intention to be open to proposed changes based on the recommendations of the Tribal Task Force and others. As the discussions between the Task Force and the Department have matured, it has become clear that this legislation responds in a very appropriate way to the structural and policy changes needed in the Interior Department's management of trust funds. The changes that need to be made in the bill can now be made rather quickly and should enable us to move the bill prior to adjournment of the 107<sup>th</sup> Congress.

Some of the major policy recommendations of the Task Force, including establishment of an independent trust commission and development of fiduciary standards, obviously require additional deliberation, as stated by the Tribal Task Force Co-chairs in the hearing earlier this morning. While most generally agree that independent oversight is necessary, including myself, the best way to structure

that oversight is still open to considerable debate.. If such a proposal can be readied for enactment this year, I will do everything in my power to support that action.

However, I do not believe we should hold back on modifications to S.2212. It is clear to even the most casual of observers that change in the underlying law is needed and it is needed now. We have been through countless hearings, GAO investigations, and court battles on this matter. Further delay in the changes we know we can make now will only continue the long and sorry history of mismanagement.

In recent days the federal courts have found it necessary to accept an even larger role in dealing with the consequences of mismanagement by the Department and Congressional inaction. In the absence of congressional action this year, the Courts will become increasingly more involved and exercise more authority in areas entrusted to the Congress under the Constitution.

The bottom line is, the status quo is unacceptable. S. 2212 provides significant reform and a framework for the tribes, the Department and the Congress to continue to work toward a full solution to the problems involved in the management of Indian trust funds and assets. S. 2212 embodies a structural reform proposal that can be modified and enacted *this year*. I, along with Senators Daschle and Johnson, stand ready to work with you to make it happen.