

PUBLIC TRUST MODELS

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Trust Model Subcommittee

National Commission on Indian Trust
Administration & Reform

GOALS

- ▶ Research public trust models to compare to private trust models, determining similarities, if any, between
 - ▶ operation of public models and Indian trust management,
 - ▶ member services provided by public models and through Indian trust management, and
 - ▶ fiduciary duties of trustees of public models and Office of Special Trustee (OST).
- ▶ Compile chart to compare public and private trust models to Indian trust management system for use by the Commission.

PENSION BENEFIT GUARANTY CORPORATION

- ▶ Insures pensions of private-sector defined benefit pension plans.
- ▶ Provides pension benefits only when private companies and their trusts are unable to provide adequate protection for benefits.
- ▶ Solely funded by premiums and investment returns on assets held in trust fund.
- ▶ Fiduciary duty of trustee:
 - ▶ 29 USC §1104 – standards for fiduciary duty: “prudent man standard of care”
 - ▶ See also *Piech v. Pension Ben. Guar. Corp.*, 744 F.2d 156 (1984).

SOCIAL SECURITY

- ▶ Provides retirement and/or medical benefits to workers.
- ▶ Trust Funds
 - ▶ Old-Age and Survivors Insurance Trust Fund pays retirement and survivors benefits
 - ▶ Disability Insurance Trust Fund pays disability benefits
 - ▶ Hospital Insurance Trust Fund pays for inpatient hospital and related care
 - ▶ Supplementary Medical Insurance Trust Fund pays for physician and outpatient services and prescription drug benefits
- ▶ Management of Funds
 - ▶ Disbursements permitted from the funds are administrative costs and benefit payments.
 - ▶ Excess funds invested in interest-bearing securities backed by the full faith and credit of the United States.
- ▶ Duties of Trustee
 - ▶ 42 USC §401 (c) – Board of Trustees; duties; reports to Congress
 - ▶ Fiduciary duties not mentioned

PUBLIC PENSION PLANS

- ▶ Federal government defined benefit plans, mostly paying retirement and annuity benefits.
- ▶ There are 34 plans, 28 of which use trust funds, while 6 are pay-as-you-go plans that do not have trust funds.
 - ▶ Trust funds are separate accounting entities established to account for government and employee contributions, investments, and benefits paid.
- ▶ Primary purpose of the trust funds is not to provide a source of cash for the government to pay benefits, but to provide budget authority to allow Treasury to disburse checks without annual appropriations.
- ▶ Fiduciary duties of applicable trustees, if any, depend on plan.

NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST

- ▶ Manages and invests Railroad Retirement assets.
- ▶ Trust authorized to invest assets of the Railroad Retirement Account in diversified investment portfolio like those of private sector retirement plans.
- ▶ Financial statements of Trust required to be audited annually by independent public accountant.
- ▶ Trust must submit annual management report to Congress, the President, the Railroad Retirement Board, and the Director of the Office of Management and Budget.
- ▶ Fiduciary duties similar to that of “prudent man standard of care”
 - ▶ 45 USC §231N (j)(5)(A)(ii)

ILLINOIS OFFICE OF PUBLIC GUARDIANSHIP

- ▶ Office of the Public Guardian renders guardianship to adults with disabilities, acts as Guardian ad Litem and/or attorney for minors whose parents are either charged with abuse and neglect or involved in disputed proceedings.
- ▶ Office of State Guardian has legal responsibility to seek the best interests of its wards.

VETERANS' AFFAIRS

- ▶ Thirteen states have state-sponsored veterans' trust funds to support veterans and their families.
- ▶ Programs vary from state to state with respect to funding, administration, and services provided.
- ▶ Programs typically operated out of each state's office of veterans' affairs and overseen by a board of trustees.
- ▶ Fiduciary duties of applicable trustees, if any, depend on program.