

108TH CONGRESS
1ST SESSION

S. 555

AN ACT

To establish the Native American Health and Wellness
Foundation, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Native American
5 Health and Wellness Foundation Act of 2003”.

1 **SEC. 2. NATIVE AMERICAN HEALTH AND WELLNESS FOUN-**
 2 **DATION.**

3 (a) IN GENERAL.—The Indian Self-Determination
 4 and Education Assistance Act (25 U.S.C. 450 et seq.) is
 5 amended by adding at the end the following:

6 **“TITLE VIII—NATIVE AMERICAN**
 7 **HEALTH AND WELLNESS**
 8 **FOUNDATION**

9 **“SEC. 801. DEFINITIONS.**

10 “In this title:

11 “(1) BOARD.—The term ‘Board’ means the
 12 Board of Directors of the Foundation.

13 “(2) COMMITTEE.—The term ‘Committee’
 14 means the Committee for the Establishment of Na-
 15 tive American Health and Wellness Foundation es-
 16 tablished under section 802(f).

17 “(3) FOUNDATION.—The term ‘Foundation’
 18 means the Native American Health and Wellness
 19 Foundation established under section 802.

20 “(4) SECRETARY.—The term ‘Secretary’ means
 21 the Secretary of Health and Human Services.

22 “(5) SERVICE.—The term ‘Service’ means the
 23 Indian Health Service of the Department of Health
 24 and Human Services.

1 **“SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS**
2 **FOUNDATION.**

3 “(a) **IN GENERAL.**—As soon as practicable after the
4 date of enactment of this title, the Secretary shall estab-
5 lish, under the laws of the District of Columbia and in
6 accordance with this title, the Native American Health
7 and Wellness Foundation.

8 “(b) **PERPETUAL EXISTENCE.**—The Foundation
9 shall have perpetual existence.

10 “(c) **NATURE OF CORPORATION.**—The Foundation—

11 “(1) shall be a charitable and nonprofit feder-
12 ally chartered corporation; and

13 “(2) shall not be an agency or instrumentality
14 of the United States.

15 “(d) **PLACE OF INCORPORATION AND DOMICILE.**—

16 The Foundation shall be incorporated and domiciled in the
17 District of Columbia.

18 “(e) **DUTIES.**—The Foundation shall—

19 “(1) encourage, accept, and administer private
20 gifts of real and personal property, and any income
21 from or interest in such gifts, for the benefit of, or
22 in support of, the mission of the Service;

23 “(2) undertake and conduct such other activi-
24 ties as will further the health and wellness activities
25 and opportunities of Native Americans; and

1 “(3) participate with and assist Federal, State,
2 and tribal governments, agencies, entities, and indi-
3 viduals in undertaking and conducting activities that
4 will further the health and wellness activities and op-
5 portunities of Native Americans.

6 “(f) COMMITTEE FOR THE ESTABLISHMENT OF NA-
7 TIVE AMERICAN HEALTH AND WELLNESS FOUNDA-
8 TION.—

9 “(1) IN GENERAL.—The Secretary shall estab-
10 lish the Committee for the Establishment of Native
11 American Health and Wellness Foundation to assist
12 the Secretary in establishing the Foundation.

13 “(2) DUTIES.—Not later than 180 days after
14 the date of enactment of this section, the Committee
15 shall—

16 “(A) carry out such activities as are nec-
17 essary to incorporate the Foundation under the
18 laws of the District of Columbia, including act-
19 ing as incorporators of the Foundation;

20 “(B) ensure that the Foundation qualifies
21 for and maintains the status required to carry
22 out this section, until the Board is established;

23 “(C) establish the constitution and initial
24 bylaws of the Foundation;

1 “(D) provide for the initial operation of
2 the Foundation, including providing for tem-
3 porary or interim quarters, equipment, and
4 staff; and

5 “(E) appoint the initial members of the
6 Board in accordance with the constitution and
7 initial bylaws of the Foundation.

8 “(g) BOARD OF DIRECTORS.—

9 “(1) IN GENERAL.—The Board of Directors
10 shall be the governing body of the Foundation.

11 “(2) POWERS.—The Board may exercise, or
12 provide for the exercise of, the powers of the Foun-
13 dation.

14 “(3) SELECTION.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (B), the number of members of the
17 Board, the manner of selection of the members
18 (including the filling of vacancies), and the
19 terms of office of the members shall be as pro-
20 vided in the constitution and bylaws of the
21 Foundation.

22 “(B) REQUIREMENTS.—

23 “(i) NUMBER OF MEMBERS.—The
24 Board shall have at least 11 members, who
25 shall have staggered terms.

1 “(ii) INITIAL VOTING MEMBERS.—The
2 initial voting members of the Board—

3 “(I) shall be appointed by the
4 Committee not later than 180 days
5 after the date on which the Founda-
6 tion is established; and

7 “(II) shall have staggered terms.

8 “(iii) QUALIFICATION.—The members
9 of the Board shall be United States citi-
10 zens who are knowledgeable or experienced
11 in Native American health care and related
12 matters.

13 “(C) COMPENSATION.—A member of the
14 Board shall not receive compensation for service
15 as a member, but shall be reimbursed for actual
16 and necessary travel and subsistence expenses
17 incurred in the performance of the duties of the
18 Foundation.

19 “(h) OFFICERS.—

20 “(1) IN GENERAL.—The officers of the Founda-
21 tion shall be—

22 “(A) a secretary, elected from among the
23 members of the Board; and

24 “(B) any other officers provided for in the
25 constitution and bylaws of the Foundation.

1 “(2) SECRETARY.—The secretary of the Foun-
2 dation shall serve, at the direction of the Board, as
3 the chief operating officer of the Foundation.

4 “(3) ELECTION.—The manner of election, term
5 of office, and duties of the officers of the Founda-
6 tion shall be as provided in the constitution and by-
7 laws of the Foundation.

8 “(i) POWERS.—The Foundation—

9 “(1) shall adopt a constitution and bylaws for
10 the management of the property of the Foundation
11 and the regulation of the affairs of the Foundation;

12 “(2) may adopt and alter a corporate seal;

13 “(3) may enter into contracts;

14 “(4) may acquire (through a gift or otherwise),
15 own, lease, encumber, and transfer real or personal
16 property as necessary or convenient to carry out the
17 purposes of the Foundation;

18 “(5) may sue and be sued; and

19 “(6) may perform any other act necessary and
20 proper to carry out the purposes of the Foundation.

21 “(j) PRINCIPAL OFFICE.—

22 “(1) IN GENERAL.—The principal office of the
23 Foundation shall be in the District of Columbia.

24 “(2) ACTIVITIES; OFFICES.—The activities of
25 the Foundation may be conducted, and offices may

1 be maintained, throughout the United States in ac-
2 cordance with the constitution and bylaws of the
3 Foundation.

4 “(k) SERVICE OF PROCESS.—The Foundation shall
5 comply with the law on service of process of each State
6 in which the Foundation is incorporated and of each State
7 in which the Foundation carries on activities.

8 “(l) LIABILITY OF OFFICERS, EMPLOYEES, AND
9 AGENTS.—

10 “(1) IN GENERAL.—The Foundation shall be
11 liable for the acts of the officers, employees, and
12 agents of the Foundation acting within the scope of
13 their authority.

14 “(2) PERSONAL LIABILITY.—A member of the
15 Board shall be personally liable only for gross neg-
16 ligence in the performance of the duties of the mem-
17 ber.

18 “(m) RESTRICTIONS.—

19 “(1) LIMITATION ON SPENDING.—Beginning
20 with the fiscal year following the first full fiscal year
21 during which the Foundation is in operation, the ad-
22 ministrative costs of the Foundation shall not exceed
23 10 percent of the sum of—

1 “(A) the amounts transferred to the Foun-
2 dation under subsection (o) during the pre-
3 ceding fiscal year; and

4 “(B) donations received from private
5 sources during the preceding fiscal year.

6 “(2) APPOINTMENT AND HIRING.—The ap-
7 pointment of officers and employees of the Founda-
8 tion shall be subject to the availability of funds.

9 “(3) STATUS.—A member of the Board or offi-
10 cer, employee, or agent of the Foundation shall not
11 by reason of association with the Foundation be con-
12 sidered to be an officer, employee, or agent of the
13 United States.

14 “(n) AUDITS.—The Foundation shall comply with
15 section 10101 of title 36, United States Code, as if the
16 Foundation were a corporation under part B of subtitle
17 II of that title.

18 “(o) FUNDING.—

19 “(1) AUTHORIZATION OF APPROPRIATIONS.—
20 There is authorized to be appropriated to carry out
21 subsection (e)(1) \$500,000 for each fiscal year, as
22 adjusted to reflect changes in the Consumer Price
23 Index for all-urban consumers published by the De-
24 partment of Labor.

1 “(2) TRANSFER OF DONATED FUNDS.—The
2 Secretary shall transfer to the Foundation funds
3 held by the Department of Health and Human Serv-
4 ices under the Act of August 5, 1954 (42 U.S.C.
5 2001 et seq.), if the transfer or use of the funds is
6 not prohibited by any term under which the funds
7 were donated.

8 **“SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.**

9 “(a) PROVISION OF SUPPORT BY SECRETARY.—Sub-
10 ject to subsection (b), during the 5-year period beginning
11 on the date on which the Foundation is established, the
12 Secretary—

13 “(1) may provide personnel, facilities, and other
14 administrative support services to the Foundation;

15 “(2) may provide funds to reimburse the travel
16 expenses of the members of the Board; and

17 “(3) shall require and accept reimbursements
18 from the Foundation for—

19 “(A) services provided under paragraph
20 (1); and

21 “(B) funds provided under paragraph (2).

22 “(b) REIMBURSEMENT.—Reimbursements accepted
23 under subsection (a)(3)—

1 “(1) shall be deposited in the Treasury of the
2 United States to the credit of the applicable appro-
3 priations account; and

4 “(2) shall be chargeable for the cost of pro-
5 viding services described in subsection (a)(1) and
6 travel expenses described in subsection (a)(2).

7 “(c) CONTINUATION OF CERTAIN SERVICES.—The
8 Secretary may continue to provide facilities and necessary
9 support services to the Foundation after the termination
10 of the 5-year period specified in subsection (a) if the facili-
11 ties and services—

12 “(1) are available; and

13 “(2) are provided on reimbursable cost basis.”.

14 (b) TECHNICAL AMENDMENTS.—The Indian Self-De-
15 termination and Education Assistance Act is amended—

16 (1) by redesignating title V (as added by sec-
17 tion 1302 of the American Indian Education Foun-
18 dation Act of 2000) (25 U.S.C. 458bbb et seq.) as
19 title VII;

20 (2) by redesignating sections 501, 502, and 503
21 (as added by section 1302 of the American Indian
22 Education Foundation Act of 2000) as sections 701,
23 702, and 703, respectively; and

24 (3) in subsection (a)(2) of section 702 and
25 paragraph (2) of section 703 (as redesignated by

1 paragraph (2)), by striking “section 501” and in-
2 serring “section 701”.

Passed the Senate July 16, 2003.

Attest:

Secretary.

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