

108TH CONGRESS
1ST SESSION

S. 555

To establish the Native American Health and Wellness Foundation, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2003

Mr. CAMPBELL (for himself and Mr. INOUE) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

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”.

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

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

1 **“TITLE VIII—NATIVE AMERICAN**
 2 **HEALTH AND WELLNESS**
 3 **FOUNDATION**

4 **“SEC. 801. DEFINITIONS.**

5 “In this title:

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

8 “(2) FOUNDATION.—The term ‘Foundation’
 9 means the Native American Health and Wellness
 10 Foundation established under section 802.

11 “(3) SECRETARY.—The term ‘Secretary’ means
 12 the Secretary of Health and Human Services.

13 “(4) SERVICE.—The term ‘Service’ means the
 14 Indian Health Service of the Department of Health
 15 and Human Services.

16 **“SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS**
 17 **FOUNDATION.**

18 “(a) IN GENERAL.—As soon as practicable after the
 19 date of enactment of this title, the Secretary shall estab-
 20 lish, under the laws of the District of Columbia and in
 21 accordance with this title, the Native American Health
 22 and Wellness Foundation.

23 “(b) PERPETUAL EXISTENCE.—The Foundation
 24 shall have perpetual existence.

25 “(c) NATURE OF CORPORATION.—The Foundation—

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

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

5 “(d) PLACE OF INCORPORATION AND DOMICILE.—
6 The Foundation shall be incorporated and domiciled in the
7 District of Columbia.

8 “(e) PURPOSES.—The purposes of the Foundation
9 shall be—

10 “(1) to encourage, accept, and administer pri-
11 vate gifts of real and personal property, and any in-
12 come from or interest in such gifts, for the benefit
13 of, or in support of, the mission of the Service;

14 “(2) to undertake and conduct such other ac-
15 tivities as will further the health and wellness activi-
16 ties and opportunities of Native Americans; and

17 “(3) to participate with and assist Federal,
18 State, and tribal governments, agencies, entities, and
19 individuals in undertaking and conducting activities
20 that will further the health and wellness activities
21 and opportunities of Native Americans.

22 “(f) BOARD OF DIRECTORS.—

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

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

4 “(3) SELECTION.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), the number of members of the
7 Board, the manner of selection of the members
8 (including the filling of vacancies), and the
9 terms of office of the members shall be as pro-
10 vided in the constitution and bylaws of the
11 Foundation.

12 “(B) REQUIREMENTS.—

13 “(i) NUMBER OF MEMBERS.—The
14 Board shall have at least 11 members, 2 of
15 whom shall be the Secretary and the Di-
16 rector of the Indian Health Service, who
17 shall serve as nonvoting members.

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

20 “(I) shall be appointed by the
21 Secretary not later than 180 days
22 after the date on which the Founda-
23 tion is established; and

24 “(II) shall have staggered terms
25 (as determined by the Secretary).

1 “(iii) QUALIFICATION.—The members
2 of the Board shall be United States citi-
3 zens who are knowledgeable or experienced
4 in Native American health care and related
5 matters.

6 “(C) COMPENSATION.—A member of the
7 Board shall not receive compensation for service
8 as a member, but shall be reimbursed for actual
9 and necessary travel and subsistence expenses
10 incurred in the performance of the duties of the
11 Foundation.

12 “(g) OFFICERS.—

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

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

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

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

22 “(3) ELECTION.—The manner of election, term
23 of office, and duties of the officers of the Founda-
24 tion shall be as provided in the constitution and by-
25 laws of the Foundation.

1 “(h) POWERS.—The Foundation—

2 “(1) shall adopt a constitution and bylaws for
3 the management of the property of the Foundation
4 and the regulation of the affairs of the Foundation;

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

6 “(3) may enter into contracts;

7 “(4) may acquire (through a gift or otherwise),
8 own, lease, encumber, and transfer real or personal
9 property as necessary or convenient to carry out the
10 purposes of the Foundation;

11 “(5) may sue and be sued; and

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

14 “(i) PRINCIPAL OFFICE.—

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

17 “(2) ACTIVITIES; OFFICES.—The activities of
18 the Foundation may be conducted, and offices may
19 be maintained, throughout the United States in ac-
20 cordance with the constitution and bylaws of the
21 Foundation.

22 “(j) SERVICE OF PROCESS.—The Foundation shall
23 comply with the law on service of process of each State
24 in which the Foundation is incorporated and of each State
25 in which the Foundation carries on activities.

1 “(k) LIABILITY OF OFFICERS, EMPLOYEES, AND
2 AGENTS.—

3 “(1) IN GENERAL.—The Foundation shall be
4 liable for the acts of the officers, employees, and
5 agents of the Foundation acting within the scope of
6 their authority.

7 “(2) PERSONAL LIABILITY.—A member of the
8 Board shall be personally liable only for gross neg-
9 ligence in the performance of the duties of the mem-
10 ber.

11 “(l) RESTRICTIONS.—

12 “(1) LIMITATION ON SPENDING.—Beginning
13 with the fiscal year following the first full fiscal year
14 during which the Foundation is in operation, the ad-
15 ministrative costs of the Foundation shall not exceed
16 10 percent of the sum of—

17 “(A) the amounts transferred to the Foun-
18 dation under subsection (m) during the pre-
19 ceding fiscal year; and

20 “(B) donations received from private
21 sources during the preceding fiscal year.

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

1 “(3) STATUS.—A member of the Board or offi-
2 cer, employee, or agent of the Foundation shall not
3 by reason of association with the Foundation be con-
4 sidered to be an officer, employee, or agent of the
5 United States.

6 “(m) TRANSFER OF DONATED FUNDS.—The Sec-
7 retary may transfer to the Foundation funds held by the
8 Department of Health and Human Services under the Act
9 of August 5, 1954 (42 U.S.C. 2001 et seq.) if the transfer
10 or use of the funds is not prohibited by any term under
11 which the funds were donated.

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

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

17 “(a) PROVISION OF SUPPORT BY SECRETARY.—Sub-
18 ject to subsection (b), during the 5-year period beginning
19 on the date on which the Foundation is established, the
20 Secretary—

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

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

1 “(3) shall require and accept reimbursements
2 from the Foundation for—

3 “(A) services provided under paragraph
4 (1); and

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

6 “(b) REIMBURSEMENT.—Reimbursements accepted
7 under subsection (a)(3)—

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

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

14 “(c) CONTINUATION OF CERTAIN SERVICES.—The
15 Secretary may continue to provide facilities and necessary
16 support services to the Foundation after the termination
17 of the 5-year period specified in subsection (a) if the facili-
18 ties and services—

19 “(1) are available; and

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

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

23 (1) by redesignating title V (as added by sec-
24 tion 1302 of the American Indian Education Foun-

1 dation Act of 2000) (25 U.S.C. 458bbb et seq.) as
2 title VII;

3 (2) by redesignating sections 501, 502, and 503
4 (as added by section 1302 of the American Indian
5 Education Foundation Act of 2000) as sections 701,
6 702, and 703, respectively; and

7 (3) in subsection (a)(2) of section 702 and
8 paragraph (2) of section 703 (as redesignated by
9 paragraph (2)), by striking “section 501” and in-
10 serting “section 701”.

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