

Calendar No. 141

108TH CONGRESS
1ST SESSION**S. 555****[Report No. 108-72]**

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, Mr. INOUE, and Mr. MCCAIN) introduced the
following bill; which was read twice and referred to the Committee on In-
dian Affairs

JUNE 16, 2003

Reported by Mr. CAMPBELL, with amendments
[Omit the part struck through and insert the part printed in *italie*]

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”.

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’ means*
 14 *the Committee for the Establishment of Native Amer-*
 15 *ican Health and Wellness Foundation established*
 16 *under section 802(f).*

17 “~~(2)~~ (3) FOUNDATION.—The term ‘Foundation’
 18 means the Native American Health and Wellness
 19 Foundation established under section 802.

20 “~~(3)~~ (4) SECRETARY.—The term ‘Secretary’
 21 means the Secretary of Health and Human Services.

22 “~~(4)~~ (5) SERVICE.—The term ‘Service’ means
 23 the Indian Health Service of the Department of
 24 Health 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) **PURPOSES DUTIES.**—The ~~purposes of the Foun-~~
 19 ~~ation shall be—~~

20 “(1) ~~to~~ encourage, accept, and administer pri-
 21 vate gifts of real and personal property, and any in-
 22 come from or interest in such gifts, for the benefit
 23 of, or in support of, the mission of the Service;

24 “(2) ~~to~~ undertake and conduct such other ac-
 25 tivities as will further the health and wellness activi-
 26 ties and opportunities of Native Americans; and

1 “(3) ~~to~~ participate with and assist Federal,
 2 State, and tribal governments, agencies, entities, and
 3 individuals in undertaking and conducting activities
 4 that will further the health and wellness activities
 5 and opportunities of Native Americans.

6 “(f) *COMMITTEE FOR THE ESTABLISHMENT OF NATIVE*
 7 *AMERICAN HEALTH AND WELLNESS FOUNDATION.—*

8 “(1) *IN GENERAL.—The Secretary shall establish*
 9 *the Committee for the Establishment of Native Amer-*
 10 *ican Health and Wellness Foundation to assist the*
 11 *Secretary in establishing the Foundation.*

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

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

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

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

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

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

7 “~~(F)~~ (g) BOARD OF DIRECTORS.—

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

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

13 “(3) SELECTION.—

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

21 “(B) REQUIREMENTS.—

22 “(i) NUMBER OF MEMBERS.—The
23 Board shall have at least 11 members, ~~2 of~~
24 ~~whom shall be the Secretary and the Di-~~
25 ~~rector of the Indian Health Service, who~~

1 shall serve as ~~nonvoting~~ members *who shall*
 2 *have staggered terms.*

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

5 “(I) shall be appointed by the
 6 ~~Secretary~~ *Committee* not later than
 7 180 days after the date on which the
 8 Foundation is established; and

9 “(II) shall have staggered terms
 10 ~~(as determined by the Secretary).~~

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

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

22 ~~“(g)~~ (h) OFFICERS.—

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

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

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

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

8 “(3) ELECTION.—The manner of election, term
9 of office, and duties of the officers of the Founda-
10 tion shall be as provided in the constitution and by-
11 laws of the Foundation.

12 “~~(h)~~ (i) POWERS.—The Foundation—

13 “(1) shall adopt a constitution and bylaws for
14 the management of the property of the Foundation
15 and the regulation of the affairs of the Foundation;

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

17 “(3) may enter into contracts;

18 “(4) may acquire (through a gift or otherwise),
19 own, lease, encumber, and transfer real or personal
20 property as necessary or convenient to carry out the
21 purposes of the Foundation;

22 “(5) may sue and be sued; and

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

25 “~~(i)~~ (j) PRINCIPAL OFFICE.—

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

3 “(2) ACTIVITIES; OFFICES.—The activities of
4 the Foundation may be conducted, and offices may
5 be maintained, throughout the United States in ac-
6 cordance with the constitution and bylaws of the
7 Foundation.

8 “~~(j)~~ (k) SERVICE OF PROCESS.—The Foundation
9 shall comply with the law on service of process of each
10 State in which the Foundation is incorporated and of each
11 State in which the Foundation carries on activities.

12 “~~(k)~~ (l) LIABILITY OF OFFICERS, EMPLOYEES, AND
13 AGENTS.—

14 “(1) IN GENERAL.—The Foundation shall be
15 liable for the acts of the officers, employees, and
16 agents of the Foundation acting within the scope of
17 their authority.

18 “(2) PERSONAL LIABILITY.—A member of the
19 Board shall be personally liable only for gross neg-
20 ligence in the performance of the duties of the mem-
21 ber.

22 “~~(l)~~ (m) RESTRICTIONS.—

23 “(1) LIMITATION ON SPENDING.—Beginning
24 with the fiscal year following the first full fiscal year
25 during which the Foundation is in operation, the ad-

1 ministrative costs of the Foundation shall not exceed
2 10 percent of the sum of—

3 “(A) the amounts transferred to the Foun-
4 dation under subsection ~~(m)~~ (o) during the pre-
5 ceding fiscal year; and

6 “(B) donations received from private
7 sources during the preceding fiscal year.

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

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

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

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

1 “(o) *FUNDING.*—

2 “(1) *AUTHORIZATION OF APPROPRIATIONS.*—

3 *There is authorized to be appropriated to carry out*
 4 *subsection (e)(1) \$500,000 for each fiscal year, as ad-*
 5 *justed to reflect changes in the Consumer Price Index*
 6 *for all-urban consumers published by the Department*
 7 *of Labor.*

8 “(2) *TRANSFER OF DONATED FUNDS.*—*The Sec-*

9 *retary shall transfer to the Foundation funds held by*
 10 *the Department of Health and Human Services under*
 11 *the Act of August 5, 1954 (42 U.S.C. 2001 et seq.),*
 12 *if the transfer or use of the funds is not prohibited*
 13 *by any term under which the funds were donated.*

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

15 “(a) *PROVISION OF SUPPORT BY SECRETARY.*—Sub-

16 *ject to subsection (b), during the 5-year period beginning*
 17 *on the date on which the Foundation is established, the*
 18 *Secretary—*

19 “(1) *may provide personnel, facilities, and other*
 20 *administrative support services to the Foundation;*

21 “(2) *may provide funds to reimburse the travel*
 22 *expenses of the members of the Board; and*

23 “(3) *shall require and accept reimbursements*
 24 *from the Foundation for—*

1 “(A) services provided under paragraph
2 (1); and

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

4 “(b) REIMBURSEMENT.—Reimbursements accepted
5 under subsection (a)(3)—

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

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

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

17 “(1) are available; and

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

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

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

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

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

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