

106TH CONGRESS
1ST SESSION

H. R. 2661

To amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1999

Mr. KILDEE (for himself, Mr. KENNEDY of Rhode Island, Mr. GEORGE MILLER of California, Mr. UDALL of New Mexico, Mr. HAYWORTH, Mr. POMEROY, and Mr. KOLBE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 36 of the United States Code to establish the American Indian Education 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 “American Indian Edu-
5 cation Foundation Act of 1999”.

6 **SEC. 2. AMERICAN INDIAN EDUCATION FOUNDATION.**

7 (a) IN GENERAL.—Part B of subtitle II of title 36,
8 United States Code, is amended by inserting after chapter
9 215 the following:

**“CHAPTER 216. AMERICAN INDIAN EDUCATION
FOUNDATION**

“Sec.

“21601. Organization.

“21602. Purposes.

“21603. Governing body.

“21604. Powers.

“21605. Principal office.

“21606. Service of process.

“21607. Liability of officers and agents.

“21608. Restrictions.

“21609. Transfer of donated funds.

1 “§ 21601. Organization

2 “(a) FEDERAL CHARTER.—The American Indian
3 Education Foundation (herein in this chapter referred to
4 as the ‘foundation’) is a federally chartered corporation.

5 “(b) PERPETUAL EXISTENCE.—Except as otherwise
6 provided, the foundation has perpetual existence.

7 “(c) NATURE OF CORPORATION.—The foundation is
8 a charitable and nonprofit corporation and is not an agen-
9 cy or instrumentality of the United States.

10 “(d) PLACE OF INCORPORATION AND DOMICILE.—
11 The foundation is declared to be incorporated and domi-
12 ciled in the District of Columbia.

13 “(e) DEFINITIONS.—In this chapter—

14 “(1) the term ‘American Indian’ has the mean-
15 ing given the term ‘Indian’ in section 4(d) of the In-
16 dian Self-Determination and Assistance Act (25
17 U.S.C. 450b(d)); and

1 “(2) the term ‘Bureau funded school’ has the
2 meaning given that term in section 1146 of the Edu-
3 cation Amendments of 1978 (25 U.S.C. 2026).

4 **“§ 21602. Purposes**

5 “The purposes of the foundation are—

6 “(1) to encourage, accept, and administer pri-
7 vate gifts of real and personal property or any in-
8 come therefrom or other interest therein for the ben-
9 efit of, or in support of, the mission of the Office of
10 Indian Education Programs of the Bureau of Indian
11 Affairs (or its successor office);

12 “(2) to undertake and conduct such other ac-
13 tivities as will further the educational opportunities
14 of American Indians who attend a Bureau funded
15 school; and

16 “(3) to participate with, and otherwise assist,
17 Federal, State, and tribal governments, agencies, en-
18 tities, and individuals in undertaking and conducting
19 activities that will further the educational opportuni-
20 ties of American Indians attending Bureau funded
21 schools.

22 **“§ 21603. Governing body**

23 “(a) BOARD OF DIRECTORS.—

24 “(1) The board of directors (hereinafter in this
25 chapter referred to as the ‘board’) is the governing

1 body of the foundation. The board may exercise, or
2 provide for the exercise of, the powers of the founda-
3 tion.

4 “(2) The number of members of the board, the
5 manner of their selection (including the filling of va-
6 cancies), and their terms of office are as provided in
7 the constitution and bylaws of the foundation. How-
8 ever, the board shall have at least 11 members, 2 of
9 whom shall be the Secretary of the Interior and the
10 Assistant Secretary of the Interior for Indian Af-
11 fairs, who shall serve as ex officio nonvoting mem-
12 bers, and the initial members of the board shall be
13 appointed by the Secretary of the Interior pursuant
14 to section 3(a) of the American Indian Education
15 Foundation Act of 1999.

16 “(3) The members of the board shall be United
17 States citizens who are knowledgeable or experienced
18 in American Indian education and shall, to the ex-
19 tent practicable, represent diverse points of view re-
20 lating to the education of American Indians.

21 “(b) OFFICERS.—

22 “(1) The officers of the foundation are a sec-
23 retary, elected from among the members of the
24 board, and any other officers provided for in the
25 constitution and bylaws of the foundation.

1 “(2) The secretary shall serve, at the direction
2 of the board, as its chief operating officer and shall
3 be knowledgeable and experienced in matters relat-
4 ing to education in general and education of Amer-
5 ican Indians in particular.

6 “(3) The manner of election, term of office, and
7 duties of the officers are as provided in the constitu-
8 tion and bylaws of the foundation.

9 “(c) COMPENSATION.—Members of the board shall
10 not receive compensation for their services as members,
11 but shall be reimbursed for actual and necessary travel
12 and subsistence expenses incurred by them in the perform-
13 ance of the duties of the foundation.

14 **“§ 21604. Powers**

15 “The foundation—

16 “(1) shall adopt a constitution and bylaws for
17 the management of its property and the regulation
18 of its affairs, which may be amended;

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

20 “(3) may make contracts, subject to the limita-
21 tions of this chapter;

22 “(4) may acquire (through a gift or otherwise),
23 own, lease, encumber, and transfer real or personal
24 property as necessary or convenient to carry out the
25 purposes of the foundation;

1 “(5) may sue and be sued; and

2 “(6) may perform any other act necessary and
3 proper to carry out the purposes of the foundation.

4 **“§ 21605. Principal office**

5 “The principal office of the foundation shall be in the
6 District of Columbia. However, the activities of the foun-
7 dation may be conducted, and offices may be maintained,
8 throughout the United States in accordance with the con-
9 stitution and bylaws of the foundation.

10 **“§ 21606. Service of process**

11 “The foundation shall comply with the law on service
12 of process of each State in which it is incorporated and
13 of each State in which the foundation carries on activities.

14 **“§ 21607. Liability of officers and agents**

15 “The foundation is liable for the acts of its officers
16 and agents acting within the scope of their authority.
17 Members of the board are personally liable only for gross
18 negligence in the performance of their duties.

19 **“§ 21608. Restrictions**

20 “(a) LIMITATION ON SPENDING.—Beginning with
21 the fiscal year following the first full fiscal year during
22 which the foundation is in operation, the administrative
23 costs of the foundation may not exceed 10 percent of the
24 sum of—

1 “(1) the amounts transferred to the foundation
2 under section 21609 during the preceding fiscal
3 year; and

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

6 “(b) APPOINTMENT AND HIRING.—The appointment
7 of officers and employees of the foundation shall be subject
8 to the availability of funds.

9 “(c) STATUS.—The members of the board, and the
10 officers, employees, and agents of the foundation are not,
11 by reason of their association with the foundation, officers,
12 employees, or agents of the United States.

13 **“§ 21609. Transfer of donated funds**

14 “The Secretary of the Interior may transfer to the
15 foundation funds held by the Department of the Interior
16 under the Act of February 14, 1931 (Chap. 171; 46 Stat.
17 1106) (25 U.S.C. 451), if the transfer or use of such funds
18 is not prohibited by any term under which the funds were
19 donated.”.

20 (b) CLERICAL AMENDMENT.—The table of chapters
21 for part B of subtitle II of title 36, United States Code,
22 is amended by inserting after the item relating to chapter
23 215 the following new item:

“216. American Indian Education Foundation21601”.

24 **SEC. 3. INITIAL PERIOD AFTER ESTABLISHMENT.**

25 (a) BOARD OF DIRECTORS.—

1 (1) INITIAL BOARD.—Notwithstanding the first
2 sentence of section 21603(a)(2) of title 36, United
3 States Code, not later than 6 months after the date
4 of enactment of this Act, the Secretary of the Inte-
5 rior shall appoint the initial voting members of the
6 board of directors under section 21603 of title 36,
7 United States Code (hereinafter in this section re-
8 ferred to as the “board”). The initial members of
9 the board shall have staggered terms (as determined
10 by the Secretary of the Interior).

11 (2) SUCCESSIVE BOARDS.—The composition of
12 all successive boards after the initial board shall be
13 in conformity with the constitution and bylaws of
14 the American Indian Education Foundation orga-
15 nized under chapter 216 of title 36, United States
16 Code (hereinafter in this section referred to as the
17 “foundation”).

18 (b) ADMINISTRATIVE SERVICES AND SUPPORT.—

19 (1) PROVISION OF SUPPORT BY SECRETARY.—
20 Subject to paragraph (2), during the 5-year period
21 beginning on the date of enactment of this Act, the
22 Secretary of the Interior—

23 (A) may provide personnel, facilities, and
24 other administrative support services to the
25 foundation;

1 (B) may provide funds to reimburse the
 2 travel expenses of the members of the board
 3 under section 21603(c)(2) of title 36, United
 4 States Code; and

5 (C) shall require and accept reimburse-
 6 ments from the foundation for any—

7 (i) services provided under subpara-
 8 graph (A); and

9 (ii) funds provided under subpara-
 10 graph (B).

11 (2) REIMBURSEMENT.—Reimbursements ac-
 12 cepted under paragraph (1)(C) shall be deposited in
 13 the Treasury to the credit of the appropriations then
 14 current and chargeable for the cost of providing
 15 services described in paragraph (1)(A) and the travel
 16 expenses described in paragraph (1)(B).

17 (3) CONTINUATION OF CERTAIN SERVICES.—
 18 Notwithstanding any other provision of this section,
 19 the Secretary of the Interior may continue to pro-
 20 vide facilities and necessary support services to the
 21 foundation after the termination of the 5-year period
 22 specified in paragraph (1), on a space available, re-
 23 imburseable cost basis.

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