

106TH CONGRESS
1ST SESSION

S. 1290

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 1999

Referred to the Committee on the Judiciary

AN ACT

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”.

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

2 (a) IN GENERAL.—Part B of subtitle II of title 36,
3 United States Code, is amended by inserting after chapter
4 215 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.

5 **“§ 21601. Organization**

6 “(a) FEDERAL CHARTER.—The American Indian
7 Education Foundation (referred to in this chapter as the
8 ‘foundation’) is a federally chartered corporation.

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

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

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

17 “(e) DEFINITIONS.—In this chapter:

18 “(1) AMERICAN INDIAN.—The term ‘American
19 Indian’ has the meaning given the term ‘Indian’ in

1 section 4(d) of the Indian Self-Determination and
2 Assistance Act (25 U.S.C. 450b(d)).

3 “(2) BUREAU FUNDED SCHOOL.—The term
4 ‘Bureau funded school’ has the meaning given that
5 term in section 1146 of the Education Amendments
6 of 1978 (25 U.S.C. 2026).

7 **“§ 21602. Purposes**

8 “The purposes of the foundation are—

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

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

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

1 **“§ 21603. Governing body**

2 “(a) BOARD OF DIRECTORS.—

3 “(1) IN GENERAL.—The board of directors (re-
4 ferred to in this chapter as the ‘board’) is the gov-
5 erning body of the foundation. The board may exer-
6 cise, or provide for the exercise of, the powers of the
7 foundation.

8 “(2) COMPOSITION OF BOARD.—Subject to sec-
9 tion 3 of the American Indian Education Founda-
10 tion Act of 1999—

11 “(A) the number of members of the board,
12 the manner of selection of those members, the
13 filling of vacancies for the board, and terms of
14 office of the members of the board shall be as
15 provided in the constitution and bylaws of the
16 foundation; except that

17 “(B) the board shall have at least 11 mem-
18 bers, 2 of whom shall be the Secretary of the
19 Interior and the Assistant Secretary of the In-
20 terior for Indian Affairs, who shall serve as ex
21 officio nonvoting members.

22 “(3) CITIZENSHIP OF MEMBERS.—The mem-
23 bers of the board shall be United States citizens who
24 are knowledgeable or experienced in American In-
25 dian education and shall, to the extent practicable,

1 represent diverse points of view relating to the edu-
2 cation of American Indians.

3 “(b) OFFICERS.—

4 “(1) IN GENERAL.—The officers of the founda-
5 tion shall be a secretary elected from among the
6 members of the board and any other officers pro-
7 vided for in the constitution and bylaws of the foun-
8 dation.

9 “(2) QUALIFICATIONS AND DUTIES OF SEC-
10 RETARY.—The secretary shall—

11 “(A) serve, at the direction of the board,
12 as its chief operating officer; and

13 “(B) be knowledgeable and experienced in
14 matters relating to education in general and
15 education of American Indians in particular.

16 “(3) ELECTION, TERMS, AND DUTIES OF MEM-
17 BERS.—The manner of election, term of office, and
18 duties of the officers shall be as provided in the con-
19 stitution and bylaws of the foundation.

20 “(c) COMPENSATION.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graph (2), no compensation shall be paid to a mem-
23 ber of the board by reason of service as a member.

24 “(2) TRAVEL EXPENSES.—A member of the
25 board shall be reimbursed for actual and necessary

1 travel and subsistence expenses incurred by that
2 member in the performance of the duties of the
3 foundation.

4 **“§ 21604. Powers**

5 “The foundation—

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

9 “(2) shall adopt and alter a corporate seal;

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

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

16 “(5) may sue and be sued; and

17 “(6) may carry out any other act necessary and
18 proper to carry out the purposes of the foundation.

19 **“§ 21605. Principal office**

20 “The principal office of the foundation shall be in the
21 District of Columbia. The activities of the foundation may
22 be conducted, and offices may be maintained, throughout
23 the United States in accordance with the constitution and
24 bylaws of the foundation.

1 **“§ 21606. Service of process**

2 “The foundation shall comply with the law on service
3 of process of each State in which it is incorporated and
4 of each State in which the foundation carries on activities.

5 **“§ 21607. Liability of officers and agents**

6 “The foundation shall be liable for the acts of its offi-
7 cers and agents acting within the scope of their authority.
8 Members of the board shall be personally liable only for
9 gross negligence in the performance of their duties.

10 **“§ 21608. Restrictions**

11 “(a) LIMITATION ON SPENDING.—Beginning with
12 the fiscal year following the first full fiscal year during
13 which the foundation is in operation, the administrative
14 costs of the foundation may not exceed 10 percent of the
15 sum of—

16 “(1) the amounts transferred to the foundation
17 under section 21609 during the preceding fiscal
18 year; and

19 “(2) donations received from private sources
20 during the preceding fiscal year.

21 “(b) APPOINTMENT AND HIRING.—The appointment
22 of officers and employees of the foundation shall be subject
23 to the availability of funds.

24 “(c) STATUS.—The members of the board, and the
25 officers, employees, and agents of the foundation shall not,
26 by reason of their association with the foundation, be con-

1 sidered to be officers, employees, or agents of the United
2 States.

3 **“§ 21609. Transfer of donated funds**

4 “The Secretary of the Interior may transfer to the
5 foundation funds held by the Department of the Interior
6 under the Act of February 14, 1931 (46 Stat. 1106, chap-
7 ter 171; 25 U.S.C. 451), if the transfer or use of such
8 funds is not prohibited by any term under which the funds
9 were donated.”.

10 (b) CLERICAL AMENDMENT.—The table of chapters
11 for part B of subtitle II of title 36, United States Code,
12 is amended by inserting after the item relating to chapter
13 215 the following:

“216. American Indian Education Foundation21601”.

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

15 (a) BOARD OF DIRECTORS.—

16 (1) INITIAL BOARD.—Not later than 6 months
17 after the date of enactment of this Act, the Sec-
18 retary of the Interior shall appoint the initial voting
19 members of the board of directors under section
20 21603 of title 36, United States Code (referred to
21 in this section as the “board”). The initial members
22 of the board shall have staggered terms (as deter-
23 mined by the Secretary of the Interior).

24 (2) SUCCESSIVE BOARDS.—The composition of
25 all successive boards after the initial board shall be

1 in conformity with the constitution and bylaws of
2 the American Indian Education Foundation orga-
3 nized under chapter 216 of title 36, United States
4 Code (referred to in this section as the “founda-
5 tion”).

6 (b) ADMINISTRATIVE SERVICES AND SUPPORT.—

7 (1) PROVISION OF SUPPORT BY SECRETARY.—

8 Subject to paragraph (2), during the 5-year period
9 beginning on the date of enactment of this Act, the
10 Secretary of the Interior—

11 (A) may provide personnel, facilities, and
12 other administrative support services to the
13 foundation;

14 (B) may provide funds to reimburse the
15 travel expenses of the members of the board
16 under section 21603(c)(2) of title 36, United
17 States Code; and

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

20 (i) services provided under subpara-
21 graph (A); and

22 (ii) funds provided under subpara-
23 graph (B).

24 (2) REIMBURSEMENT.—Reimbursements ac-
25 cepted under paragraph (1)(C) shall be deposited in

1 the Treasury to the credit of the appropriations then
2 current and chargeable for the cost of providing
3 services described in paragraph (1)(A) and the travel
4 expenses described in paragraph (1)(B).

5 (3) CONTINUATION OF CERTAIN SERVICES.—
6 Notwithstanding any other provision of this section,
7 the Secretary of the Interior may continue to pro-
8 vide facilities and necessary support services to the
9 foundation after the termination of the 5-year period
10 specified in paragraph (1), on a space available, re-
11 imburseable cost basis.

Passed the Senate November 4, 1999.

Attest:

GARY SISCO,
Secretary.