

AMERICAN INDIAN EDUCATION FOUNDATION ACT OF 1999

DECEMBER 14, 2000.—Ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 3080]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3080) to amend the Indian Self-Determination and Education Assistance Act to direct the Secretary of the Interior to establish the American Indian Education Foundation, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3080 is to amend the Indian Self-Determination and Education Assistance Act to direct the Secretary of the Interior to establish the American Indian Education Foundation, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3080 amends the Indian Self-Determination and Education Assistance Act so as to direct the Secretary of the Interior to establish the American Indian Education Foundation. The Foundation proposed has been modeled after the National Park Foundation created in 1967.

The American Indian Education Foundation would be a charitable, nonprofit, federally-chartered corporation having the purposes of: (a) accepting and administering private gifts of real and personal property in support of the mission of the Office of Indian Education Programs of the Bureau of Indian Affairs (BIA); (b) conducting activities as will further the educational opportunities of American Indians who attend BIA funded schools; and (c) assisting others who undertake activities that will further the educational opportunities of American Indians attending BIA funded schools.

H.R. 3080 provides that the Foundation created shall be located within the District of Columbia and shall be governed by an 11-member, uncompensated board of directors. H.R. 3080 also imposes certain limitations on the administrative costs of the Foundation and allows the Secretary of the Interior to transfer to the Foundation certain donations and bequests which are currently held by the Department for the benefit of Native Americans.

COMMITTEE ACTION

H.R. 3080 was introduced on October 14, 1999, by Congressman Dale Kildee (D-MI). The bill was referred to the Committee on Resources. On October 20, 1999, the Committee met to consider the bill. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.* Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.* As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, transfer of the donated funds from the Department of the Interior to the foundation would increase direct spending in 2000, but that enactment of the bill "would not significantly affect the federal budget over the 2000–2004 period."

3. *Government Reform Oversight Findings.* Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. *Congressional Budget Office Cost Estimate.* Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 26, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3080, the American Indian Education Foundation Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3080—American Indian Education Foundation Act of 1999

H.R. 3080 would establish the American Indian Education Foundation, a charitable and nonprofit corporation to support the mission of the Office of Indian Education Programs within the Bureau of Indian affairs (BIA). The foundation would assist federal, state, tribal, and other entities in efforts to improve educational opportunities for American Indians attending BIA-funded schools. Funding for the foundation would be provided through a transfer of donated funds currently held by the Department of the Interior (DOI) as well as other donations solicited and received by the foundation itself. In addition, H.R. 3080 would allow the Secretary of the Interior to provide reimbursable administrative and financial support to the foundation during the first five years of its operation.

Based on the information from DOI, CBO estimates that implementing H.R. 3080 would not significantly affect the federal budget over the 2000–2004 period. Assistance provided by DOI during the first five years, which would probably not exceed \$500,000 in any year, would be subject to appropriation, and must be fully reimbursed by the foundation. Thus, CBO estimates that this provision would have no net impact on discretionary spending. The transfer of donated funds from DOI to the foundation would increase direct spending in 2000; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that these donations would total less than \$500,000. H.R. 3080 contains no intergovernmental or private-sector mandates as defined by the Unfunded Mandates Reform Act and would impose no costs on tribal, state, or local governments.

On September 1, 1999, CBO transmitted a cost estimate for S. 1290, the American Indian Education Foundation Act of 1999, as ordered reported by the Senate Committee on Indian Affairs on August 4, 1999. The two bills are similar, and the cost estimates are identical.

The CBO staff contact is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**TITLE V OF THE INDIAN SELF-DETERMINATION AND
EDUCATION ASSISTANCE ACT**

TITLE V—AMERICAN INDIAN EDUCATION FOUNDATION

SEC. 501. AMERICAN INDIAN EDUCATION FOUNDATION.

(a) *IN GENERAL.*—As soon as practicable after the date of the enactment of this title, the Secretary of the Interior shall establish, under the laws of the District of Columbia and in accordance with this title, the American Indian Education Foundation.

(b) *PERPETUAL EXISTENCE.*—Except as otherwise provided, the Foundation shall have perpetual existence.

(c) *NATURE OF CORPORATION.*—The Foundation shall be a charitable and nonprofit federally chartered corporation and shall not be an agency or instrumentality of the United States.

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

(e) *PURPOSES.*—The purposes of the Foundation shall be—

(1) to encourage, accept, and administer private gifts of real and personal property or any income therefrom or other interest therein for the benefit of, or in support of, the mission of the Office of Indian Education Programs of the Bureau of Indian Affairs (or its successor office);

(2) to undertake and conduct such other activities as will further the educational opportunities of American Indians who attend a Bureau funded school; and

(3) to participate with, an otherwise assist, Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the educational opportunities of American Indians attending Bureau funded schools.

(f) *BOARD OF DIRECTORS.*—

(1) The Board of Directors shall be the governing body of the Foundation. The Board may exercise, or provide for the exercise of, the powers of the Foundation.

(2) The number of members of the Board, the manner of their selection (including the filling of vacancies), and their terms of office shall be as provided in the constitution and by-laws of the Foundation. However, the Board shall have at least 11 members, 2 of whom shall be the Secretary and the Assistant Secretary of the Interior for Indian Affairs, who shall serve as ex officio nonvoting members, and the initial voting members of the Board shall be appointed by the Secretary not later than 6 months after the date that the Foundation is established and shall have staggered terms (as determined by the Secretary).

(3) *The members of the Board shall be United States citizens who are knowledgeable or experienced in American Indian education and shall, to the extent practicable, represent diverse points of view relating to the education of American Indians.*

(4) *COMPENSATION.—Members of the Board shall not receive compensation for their services as members, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Foundation.*

(g) *OFFICERS.—*

(1) *The officers of the Foundation shall be a secretary, elected from among the members of the Board, and any other officers provided for in the constitution and bylaws of the Foundation.*

(2) *The secretary shall serve, at the direction of the Board, as its chief operating officer and shall be knowledgeable and experienced in matters relating to education in general and education of American Indians in particular.*

(3) *The manner of election, term of office, and duties of the officers shall be as provided in the constitution and bylaws of the Foundation.*

(h) *POWERS.—The Foundation—*

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

(2) *may adopt and alter a corporate seal;*

(3) *may make contracts, subject to the limitations of this Act;*

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

(5) *may sue and be sued; and*

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

(i) *PRINCIPAL OFFICE.—The principal office of the Foundation shall be in the District of Columbia. However, the activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.*

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

(k) *LIABILITY OF OFFICERS AND AGENTS.—The Foundation shall be liable for the acts of its officers and agents acting within the scope of their authority. Members of the Board are personally liable only for gross negligence in the performance of their duties.*

(l) *RESTRICTIONS.—*

(1) *LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation may not exceed 10 percent of the sum of—*

(A) *the amounts transferred to the Foundation under subsection (m) during the preceding fiscal year; and*

(B) *donations received from private sources during the preceding fiscal year.*

(2) *APPOINTMENT AND HIRING.*—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

(3) *STATUS.*—Members of the Board, and the officers, employees, and agents of the Foundation are not, by reason of their association with the Foundation, officers, employees, or agents of the United States.

(m) *TRANSFER OF DONATED FUNDS.*—The Secretary may transfer to the Foundation funds held by the Department of the Interior under the Act of February 14, 1931 (25 U.S.C. 451), if the transfer or use of such funds is not prohibited by any term under which the funds were donated.

(n) *AUDITS.*—The Foundation shall comply with the audit requirements set forth in section 10101 of title 36, United States Code, as if it were a corporation in part B of subtitle II of that title.

SEC. 502. ADMINISTRATIVE SERVICES AND SUPPORT.

(a) *PROVISION OF SUPPORT BY SECRETARY.*—Subject to subsection (b), during the 5-year period beginning on the date that the Foundation is established, the Secretary—

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

(2) may provide funds to reimburse the travel expenses of the members of the Board under section 501; and

(3) shall require and accept reimbursements from the Foundation for any—

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

(B) funds provided under paragraph (2).

(b) *REIMBURSEMENT.*—Reimbursements accepted under subsection (a)(3) shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing services described in subsection (a)(1) and the travel expenses described in subsection (a)(2).

(c) *CONTINUATION OF CERTAIN SERVICES.*—Notwithstanding any other provision of this section, the Secretary of the Interior may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a), on a space available, reimbursable cost basis.

SEC. 503. DEFINITIONS.

For the purposes of this title—

(1) the term “Bureau funded school” has the meaning given that term in title XI of the Education Amendments of 1978;

(2) the term “Foundation” means the Foundation established by the Secretary pursuant to section 501; and

(3) the term “Secretary” shall mean the Secretary of the Interior.