

100TH CONGRESS  
1ST SESSION

# S. 1722

To authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1987

Mr. INOUE (for himself, Mr. EVANS, Mr. BYRD, Mr. CRANSTON, Mr. SIMPSON, Mr. DECONCINI, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. MCCAIN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. CONRAD, Mr. DOMENICI, Mr. GORE, Mr. GRAMM, Mr. LEVIN, Mr. MATSUNAGA, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. STAFFORD, Mr. SANFORD, Mr. SIMON, Mr. WIRTH, Mr. BOREN, and Mr. MELCHER) introduced the following bill; which was read twice and referred jointly to the Committees on Rules and Administration and the Select Committee on Indian Affairs

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## A BILL

To authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes.

### 1 TITLE I

2 *Be it enacted by the Senate and House of Representa-*  
3 *tives of the United States of America in Congress assembled,*  
4 That this Act may be cited as the "National American Indian  
5 Museum and Memorial Act".

1        SEC. 102. The Congress finds that—

2            (1) there is no national museum devoted exclu-  
3 sively to the history and art of cultures indigenous to  
4 North America, specifically Indians, Eskimos, and  
5 Aleuts;

6            (2) although the Smithsonian Institution employs  
7 5,500 people, operates 14 museums and galleries and  
8 5 major research facilities, none of its institutions are  
9 devoted to Native American art and history;

10           (3) the Museum of the American Indian, Heye  
11 Foundation, located in New York City, has an une-  
12 qualled assemblage of over 1,000,000 Indian art ob-  
13 jects and artifacts and is the largest such collection in  
14 the world;

15           (4) the library of the Museum of the American  
16 Indian houses 40,000 volumes relating to the archaeol-  
17 ogy, ethnology, and history of Native American  
18 peoples;

19           (5) the collection of the Museum of the American  
20 Indian, Heye Foundation, of art, artifacts, specimens  
21 and books is inadequately housed in 3 separate facili-  
22 ties totalling 90,000 square feet, with 95 percent of  
23 the collection of art and artifacts stored in 20,000  
24 square feet and the collection of books kept in a  
25 15,000 square foot library;

1 (6) the collection of the Museum of the American  
2 Indian, Heye Foundation needs a minimum of 400,000  
3 square feet to adequately exhibit and store art and arti-  
4 facts and to provide space for scholars and researchers;

5 (7) the transfer of the collection of the Museum of  
6 the American Indian, Heye Foundation to the Smithso-  
7 nian Institution would—

8 (A) create an institution whose capabilities  
9 for exhibition and research would be unrivaled in  
10 scope and would give all Americans the opportu-  
11 nity to learn of the cultural legacy and historic  
12 grandeur of the American Indian people; and

13 (B) provide—

14 (i) a meeting place for scholars,

15 (ii) a significant, national facility for the  
16 exhibition of Indian art and artifacts,

17 (iii) a stage for the performing arts,

18 (iv) curation and other learning opportu-  
19 nities for American Indian people, and

20 (v) traveling exhibitions to other areas  
21 of the country;

22 (8) approximately 300 skeletal remains of Indians  
23 were collected from battlefields and burial grounds and  
24 sent to the Army Medical Museum by orders of the  
25 Surgeon General of the United States Army and were

1 afterwards transferred to the Smithsonian Institution  
2 where they are still stored;

3 (9) the Smithsonian Institution has acquired a  
4 vast collection of Indian skeletal remains through—

5 (A) archaeological excavations,

6 (B) transfers from the United States Army of  
7 specimens collected during the Indian wars era,  
8 and

9 (C) donations from private individuals and  
10 museums;

11 (10) the existence of this collection has been esti-  
12 mated to contain the remains of approximately 18,000  
13 Indians, Eskimos, and Aleuts and has concerned many  
14 Indian tribes and bands who are determined to provide  
15 an appropriate resting place for their ancestors;

16 (11) a national memorial should be constructed in  
17 a suitable location on the Mall in the District of Co-  
18 lumbia for the purpose of—

19 (A) interring those skeletal remains presently  
20 in the custody of the Smithsonian Institution  
21 which are not suitable for scientific inquiry, giving  
22 due regard to the religious and ceremonial beliefs  
23 and practices of those Indians, Aleuts, and Eski-  
24 mos whose ancestors may be included in the  
25 Smithsonian collection,

1 (B) commemorating and memorializing those  
2 Indian nations that have disappeared in the proc-  
3 ess of European settlement on this continent, and

4 (C) recognizing the Indian tribes and nations  
5 that live on their ancestral lands within the  
6 United States and acknowledging their historical  
7 contribution to American society;

8 (12) an extraordinary site on the National Mall in  
9 the District of Columbia (U.S. Government Reserva-  
10 tion No. 6) which has been reserved for the use of the  
11 Smithsonian Institution is available for construction of  
12 a suitable building to permanently house the collection  
13 of the Museum of the American Indian, Heye Founda-  
14 tion; and

15 (13) the site should also contain a memorial to  
16 inter the remains of American Indians and Alaska Na-  
17 tives whose tribal affiliation is not capable of identifica-  
18 tion and whose remains are also unsuited for scientific  
19 inquiry.

20 SEC. 103. (a) There is established within the Smithsoni-  
21 an Institution a living memorial to American Indian people  
22 and their traditions which shall be known as the "National  
23 Museum of the American Indian, Heye Foundation" (herein-  
24 after referred to in the Act as the "Museum") which shall  
25 provide for—

1 (1) the advancement of the study of anthropology,  
2 particularly in connection with that of the aboriginal  
3 peoples of the Americans and the study of their lan-  
4 guage, literature, history, art, and life;

5 (2) for the collection, preservation, and exhibition  
6 of objects of artistic, historic, literary, and scientific in-  
7 terest related thereto; and

8 (3) programs of research and study.

9 (b) The area bounded by Third Street, Maryland  
10 Avenue, Independence Avenue, Fourth Street, and Jefferson  
11 Drive, in the District of Columbia, is hereby appropriated to  
12 the Smithsonian Institution as the permanent site of the  
13 Museum.

14 (c) The Board of Regents of the Smithsonian Institution  
15 is authorized—

16 (1) to accept a deed or other instrument donating  
17 and transferring to the Smithsonian Institution all  
18 assets of the Museum of the American Indian, Heye  
19 Foundation established under the foundation deed  
20 executed and delivered by George Gustav Heye on  
21 May 10, 1916, in the city of New York;

22 (2) to prepare architectural and engineering de-  
23 signs, plans, and specifications, and to construct at the  
24 site specified in subsection (b) of this section a building

1 at least 400,000 square feet in size to house the  
2 Museum;

3 (3) to prepare architectural and engineering de-  
4 signs, plans, and specifications, and to construct at the  
5 Museum Support Center of the Smithsonian Institution  
6 in Suitland, Maryland, a building suitable for the care,  
7 conservation, and study of the collection of the Nation-  
8 al Museum of the American Indian, Heye Foundation;  
9 and

10 (4) to prepare architectural and engineering de-  
11 signs, plans, and specifications, and to construct or oth-  
12 erwise acquire a permanent exhibition facility in the  
13 city of New York as part of the Museum in a site as  
14 may be designated by the city of New York.

15 SEC. 104. (a) The identify of the Heye Foundation col-  
16 lection and its name and purposes shall be preserved, and the  
17 collection shall not be merged with the collection of the  
18 Smithsonian Institution.

19 (b) Subject to limitations expressly provided by law and,  
20 in the case of a gift, subject to applicable restrictions under  
21 the terms of such gift and provided that such gift is made  
22 upon terms and conditions that are in harmony with the pur-  
23 poses of the Heye Foundation deed, the proceeds from the  
24 sale of any property acquired pursuant to section 103(c)(1)  
25 shall be maintained for the exclusive benefit of the Museum

1 and accounted for separately from other funds of the Smith-  
2 sonian Institution.

3 (c) All endowments for the benefit of the Museum of the  
4 American Indian, Heye Foundation in existence at the time  
5 of the transfer authorized in section 103(c)(1) shall be main-  
6 tained for the exclusive benefit of the Museum and accounted  
7 for separately from other funds of the Smithsonian In-  
8 stitution.

9 SEC. 105. (a) There is established within the Smithsoni-  
10 an Institution a Board of Trustees to be known as the Trust-  
11 ees of the National Museum of the American Indian, Heye  
12 Foundation (hereinafter referred to in the Act as the "Board  
13 of Trustees"). The Board of Trustees—

14 (1) shall provide advice and assistance to the  
15 Board of Regents of the Smithsonian Institution on all  
16 matters relating to the administration, operation, main-  
17 tenance, and preservation of the Museum; and

18 (2) shall have sole authority to—

19 (A) preserve, maintain, restore, loan, ex-  
20 change, sell or otherwise dispose of property ac-  
21 quired pursuant to section 103(c)(1);

22 (B) subject to any limitations otherwise ex-  
23 pressly provided by law, and, in the case of any  
24 gift, subject to any applicable restrictions under  
25 the terms of such gift, sell, exchange, or other-



1 wise dispose of any property of whatever nature  
2 acquired pursuant to the provisions of this Act,  
3 provided, that the proceeds from the sale of any  
4 property acquired pursuant to section 103(c)(1)  
5 shall be designated for the exclusive benefit of the  
6 Museum and accounted for separately from other  
7 funds of the Smithsonian Institution;

8 (C) purchase, accept, borrow, or otherwise  
9 acquire additional artifacts or any other real or  
10 personal property for the National Museum of the  
11 American Indian, Heye Foundation;

12 (D) preserve, maintain, restore, loan, ex-  
13 change, sell or otherwise dispose of such addition-  
14 al artifacts or any other real or personal property;

15 (E) determine policy as to method of display  
16 of such artifacts contained in the Museum.

17 (b) The Board of Trustees shall—

18 (1) designate a chairman from among its mem-  
19 bers;

20 (2) adopt bylaws to carry out its functions;

21 (3) report annually to the Board of Regents on  
22 the acquisition, disposition, and display of artifacts and  
23 on other matters within its discretion; and

24 (4) submit an annual report to the Congress which  
25 shall include the proceedings of the Board and a full

1 account of the Board's financial operations for the pre-  
2 ceding fiscal year.

3 (c) The initial Board of Trustees shall consist of those  
4 members of the Board of Trustees of the Museum of the  
5 American Indian, Heye Foundation who are serving as of the  
6 date of the transfer authorized under section 103(c)(1) and  
7 are willing to serve as Trustees of the National Museum of  
8 the American Indian, Heye Foundation and such others ap-  
9 pointed by the Board of Regents for a total of 21 members,  
10 all of whom shall be appointed to serve for a 3-year term. In  
11 addition, the Secretary, and an Assistant Secretary of the  
12 Smithsonian Institution to be appointed by the Secretary,  
13 shall serve as ex officio, nonvoting members of the initial  
14 Board of Trustees.

15 (d) Successor members of the Board of Trustees shall be  
16 appointed by the Board of Regents. The Board of Regents  
17 shall appoint successor members to the Board of Trustees as  
18 follows—

19 (1) 21 members, to be selected from nominations  
20 submitted by the Board of Trustees, of whom at least  
21 7 shall be of American Indian or Alaska Native ances-  
22 try; and

23 (2) the Secretary of the Smithsonian Institution,  
24 and an Assistant Secretary of the Smithsonian Institu-

1 tion to be appointed by the Secretary, who shall serve  
2 as ex officio, nonvoting members.

3 (e) Following the expiration of the term of the initial  
4 Board of Trustees, the terms of office of the successor mem-  
5 bers of the Board of Trustees shall be as designated by the  
6 Board of Regents at the time of appointment on recommen-  
7 dation by the Board of Trustees, and shall expire one-third at  
8 the end of 1 year, one-third at the end of 2 years, and one-  
9 third at the end of 3 years. Any member appointed to fill a  
10 vacancy occurring prior to the expiration of the term for  
11 which his predecessor was appointed shall be appointed for  
12 the remainder of such term.

13 (f) A majority of the members of the Board of Trustees,  
14 not including ex officio members, shall constitute a quorum  
15 and any vacancy in the Board of Trustees shall not affect its  
16 power to function.

17 (g) Members of the Board of Trustees shall be reim-  
18 bursed for travel, subsistence, and other necessary expenses  
19 incurred by them in the performance of their duties.

20 SEC. 106. (a) The Board of Regents may appoint and  
21 fix the compensation and duties of the Director, in consulta-  
22 tion with the Board of Trustees, and of such other officers  
23 and employees of the Museum as may be necessary for the  
24 efficient administration, operation, and maintenance of the  
25 Museum.

1 (b) The Director and 2 other employees of the Museum  
2 may be appointed and compensated without regard to the  
3 provisions of title 5 of the United States code governing ap-  
4 pointments in the competitive service, and chapter 51 and  
5 subchapter III of chapter 53 of title 5 of the United States  
6 Code.

7 (c) All of the employees of the Museum of the American  
8 Indian, Heye Foundation who are serving on the date of the  
9 transfer authorized under section 103(c)(1) shall be offered  
10 employment by the Smithsonian Institution under its usual  
11 terms of employment and may be appointed without regard to  
12 the provisions of title 5 of the United States Code governing  
13 appointments in the competitive service, and chapter 51 and  
14 subchapter III of chapter 53 of title 5 of the United States  
15 Code.

16 SEC. 107. The faith of the United States is pledged that  
17 the United States shall provide such funds as may be neces-  
18 sary for the upkeep of the Museum and the administrative  
19 expenses and costs of operation thereof, including the protec-  
20 tion and care of collections acquired by the Board of Regents,  
21 so that Museum shall at all times be properly maintained and  
22 collections contained therein shall be exhibited regularly to  
23 the general public free of charge.

24 SEC. 108. (a) There is authorized to be appropriated to  
25 the Smithsonian Institution the sum of \$3,000,000 in fiscal

1 year 1988, and such sums as may be necessary for the suc-  
2 ceeding fiscal years to carry out the purposes of this Act.

3 (b) There is authorized to be appropriated to the Smith-  
4 sonian Institution such sums as may be necessary for the  
5 planning and construction, in consultation with the Board of  
6 Trustees, of the museum building authorized in section  
7 103(c)(2).

8 (c) There is authorized to be appropriated to the Smith-  
9 sonian Institution such sums as may be necessary for the  
10 planning and construction, in consultation with the Board of  
11 Trustees, of the building authorized in section 103(c)(3).

12 (d) There is authorized to be appropriated to the Smith-  
13 sonian Institution such sums as may be necessary for the  
14 planning and construction, or other acquisition, of a perma-  
15 nent exhibition facility as authorized in section 103(c)(4).

16 (e) Any sums appropriated to carry out the purposes of  
17 this section may be transferred to the General Services Ad-  
18 ministration which, in consultation with the Smithsonian In-  
19 stitution, is authorized to enter into contracts and take such  
20 other action, to the extent of the sums so transferred to it, as  
21 may be necessary to carry out such purposes.

## 22 TITLE II

23 SEC. 201. (a) Within the structure authorized in section  
24 103(c)(2), there shall be established a memorial to the Ameri-  
25 can Indian which shall—

1 (1) honor and commemorate the contributions  
2 made by Indians and Alaska Natives to the United  
3 States; and

4 (2) provide a suitable place for the permanent dis-  
5 position of certain skeletal remains, as identified in sec-  
6 tion 202 of this title, of American Indians and Alaska  
7 Natives.

8 (b) It is the intent of the Congress that the memorial  
9 and museum authorized in section 103(c)(2) should be com-  
10 pleted within 5 years after the date of enactment of this Act.

11 SEC. 202. Before the close of the fifth fiscal year after  
12 the date of enactment of this Act, the Secretary of the Smith-  
13 sonian Institution shall determine, to the fullest extent possi-  
14 ble, the geographical and tribal origin of all skeletal remains  
15 of Indians and Alaska Natives that are under the control of  
16 the Smithsonian Institution.

17 SEC. 203. (a) Upon completion of the construction of the  
18 memorial authorized in section 201 of this title, the Secretary  
19 of the Smithsonian Institution shall inter in the memorial all  
20 skeletal remains of Indians and Alaska Natives under the  
21 control of the Smithsonian Institution with respect to which  
22 the Secretary of the Smithsonian Institution has submitted to  
23 the Congress a written statement certifying after completion  
24 of the determinations required under section 202 of this  
25 title—

1 (1) that such remains—

2 (A) have not been identified by the Secretary  
3 of the Smithsonian as having been—

4 (i) associated with a specific Indian tribe  
5 or group of Alaska Natives, or

6 (ii) acquired from a specific archaeologi-  
7 cal or burial site, and

8 (B) are not likely to be the subject of any  
9 claim or dispute by any Indian tribe or group of  
10 Alaska Natives, or

11 (2) that—

12 (A) such remains have been identified by the  
13 Secretary of the Smithsonian Institution as having  
14 been associated with a specific Indian tribe or  
15 group of Alaska Natives,

16 (B) such tribe or group requests the inter-  
17 ment of such remains in the memorial, and

18 (C) such remains are not likely to be the sub-  
19 ject of any claim or dispute by any Indian tribe or  
20 group of Alaska Natives.

21 (b) The Secretary of the Smithsonian Institution shall  
22 consult with Indian tribes and groups of Alaska Natives to  
23 develop proper interment ceremonies, in accordance with  
24 Indian and Alaska Native religious practices, that shall be  
25 followed in interring skeletal remains.

1 SEC. 204. (a) The Board of Trustees of the Museum of  
2 the American Indian, Heye Foundation shall a establish a  
3 Board of Design for the memorial which shall consist of 7  
4 members, a majority of whom shall be of American Indian or  
5 Alaska Native ancestry.

6 (b) The Board of Design is authorized to:

7 (1) receive designs for the memorial, and where  
8 practicable, to extend a preference to designs submitted  
9 by American Indians and Alaska Natives, and

10 (2) in consultation with and subject to the approv-  
11 al of the Board of Trustees and the Board of Regents,  
12 make a final selection from among the designs sub-  
13 mitted.

14 SEC. 205. There is authorized to be appropriated for  
15 each fiscal year such sums as are necessary to carry out the  
16 provisions of title II of this Act.

17 SEC. 206. For the purposes of this Act—

18 (1) The term “Indian” means a person who is a  
19 member of an Indian tribe, including any individual  
20 who is an Alaska Native.

21 (2) The term “Alaska Native” means any  
22 Eskimo, Aleut, Alaska Indian, Inuit, or Inupiat.

23 (3) The term “Indian tribe” means any tribe,  
24 band, nation, or other organized group or community  
25 of Indians, including any Alaska Native village (as de-



1        fined in, or established pursuant to, the Alaska Native  
2        Claims Settlement Act), which—

3                (A) is recognized by the Federal Government  
4                as eligible for special programs and services pro-  
5                vided to Indians because of their status as Indi-  
6                ans, or

7                (B) was terminated by Federal law after  
8                1940.

9                (4) The term “Board of Trustees” means the  
10              Board of Trustees of the National Museum of the  
11              American Indian, Heye Foundation.

12              (5) The term “Board of Regents” means the  
13              Board of Regents of the Smithsonian Institution.



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