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.

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

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”. 
Sec. 102. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to North America, specifically Indians, Eskimos, and Aleuts;

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

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequalled assemblage of over 1,000,000 Indian art objects and artifacts and is the largest such collection in the world;

(4) the library of the Museum of the American Indian houses 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens and books is inadequately housed in 3 separate facilities totalling 90,000 square feet, with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;
(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) the transfer of the collection of the Museum of the American Indian, Heye Foundation to the Smithsonian Institution would—

(A) create an institution whose capabilities for exhibition and research would be unrivaled in scope and would give all Americans the opportunity to learn of the cultural legacy and historic grandeur of the American Indian people; and

(B) provide—

(i) a meeting place for scholars,

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

(iii) a stage for the performing arts,

(iv) curation and other learning opportunities for American Indian people, and

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

(8) approximately 300 skeletal remains of Indians were collected from battlefields and burial grounds and sent to the Army Medical Museum by orders of the Surgeon General of the United States Army and were
afterwards transferred to the Smithsonian Institution where they are still stored;

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

(A) archaeological excavations,

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

(C) donations from private individuals and museums;

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

(11) a national memorial should be constructed in a suitable location on the Mall in the District of Columbia for the purpose of—

(A) interring those skeletal remains presently in the custody of the Smithsonian Institution which are not suitable for scientific inquiry, giving due regard to the religious and ceremonial beliefs and practices of those Indians, Aleuts, and Eskimos whose ancestors may be included in the Smithsonian collection,
(B) commemorating and memorializing those Indian nations that have disappeared in the process of European settlement on this continent, and (C) recognizing the Indian tribes and nations that live on their ancestral lands within the United States and acknowledging their historical contribution to American society;

(12) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for construction of a suitable building to permanently house the collection of the Museum of the American Indian, Heye Foundation; and

(13) the site should also contain a memorial to inter the remains of American Indians and Alaska Natives whose tribal affiliation is not capable of identification and whose remains are also unsuited for scientific inquiry.

Sec. 103. (a) There is established within the Smithsonian Institution a living memorial to American Indian people and their traditions which shall be known as the "National Museum of the American Indian, Heye Foundation" (hereinafter referred to in the Act as the "Museum") which shall provide for—
(1) the advancement of the study of anthropology, particularly in connection with that of the aboriginal peoples of the Americans and the study of their language, literature, history, art, and life;

(2) for the collection, preservation, and exhibition of objects of artistic, historic, literary, and scientific interest related thereto; and

(3) programs of research and study.

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

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

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

(2) to prepare architectural and engineering designs, plans, and specifications, and to construct at the site specified in subsection (b) of this section a building
at least 400,000 square feet in size to house the
Museum;

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

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

Sec. 104. (a) The identity of the Heye Foundation col-
collection and its name and purposes shall be preserved, and the
collection shall not be merged with the collection of the
Smithsonian Institution.

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

(c) All endowments for the benefit of the Museum of the American Indian, Heye Foundation in existence at the time of the transfer authorized in section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

Sec. 105. (a) There is established within the Smithsonian Institution a Board of Trustees to be known as the Trustees of the National Museum of the American Indian, Heye Foundation (hereinafter referred to in the Act as the "Board of Trustees"). The Board of Trustees—

(1) shall provide advice and assistance to the Board of Regents of the Smithsonian Institution on all matters relating to the administration, operation, maintenance, and preservation of the Museum; and

(2) shall have sole authority to—

(A) preserve, maintain, restore, loan, exchange, sell or otherwise dispose of property acquired pursuant to section 103(c)(1);

(B) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or other-
wise dispose of any property of whatever nature acquired pursuant to the provisions of this Act, provided, that the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be designated for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution;

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

(D) preserve, maintain, restore, loan, exchange, sell or otherwise dispose of such additional artifacts or any other real or personal property;

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

(b) The Board of Trustees shall—

(1) designate a chairman from among its members;

(2) adopt bylaws to carry out its functions;

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

(4) submit an annual report to the Congress which shall include the proceedings of the Board and a full
account of the Board’s financial operations for the pre-
ceding fiscal year.

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

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

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

(2) the Secretary of the Smithsonian Institution,
and an Assistant Secretary of the Smithsonian Institu-
tion to be appointed by the Secretary, who shall serve as ex officio, nonvoting members.

(e) Following the expiration of the term of the initial Board of Trustees, the terms of office of the successor members of the Board of Trustees shall be as designated by the Board of Regents at the time of appointment on recommendation by the Board of Trustees, and shall expire one-third at the end of 1 year, one-third at the end of 2 years, and one-third at the end of 3 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

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

(g) Members of the Board of Trustees shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

Sec. 106. (a) The Board of Regents may appoint and fix the compensation and duties of the Director, in consultation with the Board of Trustees, and of such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum.
(b) The Director and 2 other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States code governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code.

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

Sec. 107. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of collections acquired by the Board of Regents, so that Museum shall at all times be properly maintained and collections contained therein shall be exhibited regularly to the general public free of charge.

Sec. 108. (a) There is authorized to be appropriated to the Smithsonian Institution the sum of $3,000,000 in fiscal
year 1988, and such sums as may be necessary for the succeeding fiscal years to carry out the purposes of this Act.

(b) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, in consultation with the Board of Trustees, of the museum building authorized in section 103(c)(2).

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

d (d) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, or other acquisition, of a permanent exhibition facility as authorized in section 103(c)(4).

e (e) Any sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

TITLE II

Sec. 201. (a) Within the structure authorized in section 103(c)(2), there shall be established a memorial to the American Indian which shall—
(1) honor and commemorate the contributions made by Indians and Alaska Natives to the United States; and

(2) provide a suitable place for the permanent disposition of certain skeletal remains, as identified in section 202 of this title, of American Indians and Alaska Natives.

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

Sec. 202. Before the close of the fifth fiscal year after the date of enactment of this Act, the Secretary of the Smithsonian Institution shall determine, to the fullest extent possible, the geographical and tribal origin of all skeletal remains of Indians and Alaska Natives that are under the control of the Smithsonian Institution.

Sec. 203. (a) Upon completion of the construction of the memorial authorized in section 201 of this title, the Secretary of the Smithsonian Institution shall inter in the memorial all skeletal remains of Indians and Alaska Natives under the control of the Smithsonian Institution with respect to which the Secretary of the Smithsonian Institution has submitted to the Congress a written statement certifying after completion of the determinations required under section 202 of this title—
(1) that such remains—

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

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

(ii) acquired from a specific archaeo logical or burial site, and

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

(2) that—

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

(B) such tribe or group requests the interment of such remains in the memorial, and

(C) such remains are not likely to be the subject of any claim or dispute by any Indian tribe or group of Alaska Natives.

(b) The Secretary of the Smithsonian Institution shall consult with Indian tribes and groups of Alaska Natives to develop proper interment ceremonies, in accordance with Indian and Alaska Native religious practices, that shall be followed in interring skeletal remains.
Sec. 204. (a) The Board of Trustees of the Museum of the American Indian, Heye Foundation shall establish a Board of Design for the memorial which shall consist of 7 members, a majority of whom shall be of American Indian or Alaska Native ancestry.

(b) The Board of Design is authorized to:

1. receive designs for the memorial, and where practicable, to extend a preference to designs submitted by American Indians and Alaska Natives, and

2. in consultation with and subject to the approval of the Board of Trustees and the Board of Regents, make a final selection from among the designs submitted.

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

Sec. 206. For the purposes of this Act—

1. The term "Indian" means a person who is a member of an Indian tribe, including any individual who is an Alaska Native.

2. The term "Alaska Native" means any Eskimo, Aleut, Alaska Indian, Inuit, or Inupiat.

3. The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as de-
fined in, or established pursuant to, the Alaska Native Claims Settlement Act), which—

(A) is recognized by the Federal Government as eligible for special programs and services provided to Indians because of their status as Indians, or

(B) was terminated by Federal law after 1940.

(4) The term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian, Heye Foundation.

(5) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.