

Union Calendar No. 560

114TH CONGRESS
2D SESSION

S. 246

[Report No. 114–722]

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2015

Referred to the Committee on Natural Resources

SEPTEMBER 6, 2016

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of the Senate passed bill, see copy of the bill as printed in the House of
Representatives on June 1, 2015]

A BILL

To establish the Alyce Spotted Bear and Walter Soboleff
Commission on Native Children, 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 “Alyce Spotted Bear and*
 5 *Walter Soboleff Commission on Native Children Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) **COMMISSION.**—*The term “Commission”*
 9 *means the Alyce Spotted Bear and Walter Soboleff*
 10 *Commission on Native Children established by section*
 11 *3.*

12 (2) **INDIAN.**—*The term “Indian” has the mean-*
 13 *ing given the term in section 4 of the Indian Self-De-*
 14 *termination and Education Assistance Act (25 U.S.C.*
 15 *450b).*

16 (3) **INDIAN TRIBE.**—*The term “Indian tribe” has*
 17 *the meaning given the term in section 4 of the Indian*
 18 *Self-Determination and Education Assistance Act (25*
 19 *U.S.C. 450b).*

20 (4) **NATIVE CHILD.**—*The term “Native child”*
 21 *means—*

22 (A) *an Indian child, as that term is defined*
 23 *in section 4 of the Indian Child Welfare Act of*
 24 *1978 (25 U.S.C. 1903);*

1 (B) an Indian who is between the ages of 18
2 and 24 years old; and

3 (C) a Native Hawaiian who is not older
4 than 24 years old.

5 (5) *NATIVE HAWAIIAN.*—The term “Native Ha-
6 waiian” has the meaning given the term in section
7 7207 of the Elementary and Secondary Education
8 Act of 1965 (20 U.S.C. 7517).

9 (6) *SECRETARY.*—The term “Secretary” means
10 the Secretary of the Interior.

11 (7) *TRIBAL COLLEGE OR UNIVERSITY.*—The term
12 “Tribal College or University” has the meaning given
13 the term in section 316(b) of the Higher Education
14 Act of 1965 (20 U.S.C. 1059c(b)).

15 **SEC. 3. COMMISSION ON NATIVE CHILDREN.**

16 (a) *IN GENERAL.*—There is established a commission
17 in the Office of Tribal Justice of the Department of Justice,
18 to be known as the “Alyce Spotted Bear and Walter Soboleff
19 Commission on Native Children”.

20 (b) *MEMBERSHIP.*—

21 (1) *IN GENERAL.*—The Commission shall be com-
22 posed of 11 members, of whom—

23 (A) 3 shall be appointed by the President,
24 in consultation with—

25 (i) the Attorney General;

1 (ii) the Secretary;

2 (iii) the Secretary of Education; and

3 (iv) the Secretary of Health and
4 Human Services;

5 (B) 3 shall be appointed by the Majority
6 Leader of the Senate, in consultation with the
7 Chairperson of the Committee on Indian Affairs
8 of the Senate;

9 (C) 1 shall be appointed by the Minority
10 Leader of the Senate, in consultation with the
11 Vice Chairperson of the Committee on Indian Af-
12 fairs of the Senate;

13 (D) 3 shall be appointed by the Speaker of
14 the House of Representatives, in consultation
15 with the Chairperson of the Committee on Nat-
16 ural Resources of the House of Representatives;
17 and

18 (E) 1 shall be appointed by the Minority
19 Leader of the House of Representatives, in con-
20 sultation with the Ranking Member of the Com-
21 mittee on Natural Resources of the House of Rep-
22 resentatives.

23 (2) REQUIREMENTS FOR ELIGIBILITY.—

1 (A) *IN GENERAL*.—Subject to subparagraph
2 (B), each member of the Commission shall have
3 significant experience and expertise in—

4 (i) *Indian affairs; and*

5 (ii) *matters to be studied by the Com-*
6 *mission, including—*

7 (I) *health care issues facing Na-*
8 *tive children, including mental health,*
9 *physical health, and nutrition;*

10 (II) *Indian education, including*
11 *experience with Bureau of Indian Edu-*
12 *cation schools and public schools, trib-*
13 *ally operated schools, tribal colleges or*
14 *universities, early childhood education*
15 *programs, and the development of ex-*
16 *tracurricular programs;*

17 (III) *juvenile justice programs re-*
18 *lating to prevention and reducing in-*
19 *carceration and rates of recidivism;*
20 *and*

21 (IV) *social service programs that*
22 *are used by Native children and de-*
23 *signed to address basic needs, such as*
24 *food, shelter, and safety, including*

1 *child protective services, group homes,*
 2 *and shelters.*

3 *(B) EXPERTS.—*

4 *(i) NATIVE CHILDREN.—1 member of*
 5 *the Commission shall—*

6 *(I) meet the requirements of sub-*
 7 *paragraph (A); and*

8 *(II) be responsible for providing*
 9 *the Commission with insight into and*
 10 *input from Native children on the mat-*
 11 *ters studied by the Commission.*

12 *(ii) RESEARCH.—1 member of the*
 13 *Commission shall—*

14 *(I) meet the requirements of sub-*
 15 *paragraph (A); and*

16 *(II) have extensive experience in*
 17 *statistics or social science research.*

18 *(3) TERMS.—*

19 *(A) IN GENERAL.—Each member of the*
 20 *Commission shall be appointed for the life of the*
 21 *Commission.*

22 *(B) VACANCIES.—A vacancy in the Com-*
 23 *mission shall be filled in the manner in which*
 24 *the original appointment was made.*

25 *(c) OPERATION.—*

1 (1) *CHAIRPERSON.*—*Not later than 15 days after*
 2 *the date on which all members of the Commission*
 3 *have been appointed, the Commission shall select 1*
 4 *member to serve as Chairperson of the Commission.*

5 (2) *MEETINGS.*—

6 (A) *IN GENERAL.*—*The Commission shall*
 7 *meet at the call of the Chairperson.*

8 (B) *INITIAL MEETING.*—*The initial meeting*
 9 *of the Commission shall take place not later than*
 10 *30 days after the date described in paragraph*
 11 (1).

12 (3) *QUORUM.*—*A majority of the members of the*
 13 *Commission shall constitute a quorum, but a lesser*
 14 *number of members may hold hearings.*

15 (4) *RULES.*—*The Commission may establish, by*
 16 *majority vote, any rules for the conduct of Commis-*
 17 *sion business, in accordance with this Act and other*
 18 *applicable law.*

19 (d) *NATIVE ADVISORY COMMITTEE.*—

20 (1) *ESTABLISHMENT.*—*The Commission shall es-*
 21 *tablish a committee, to be known as the “Native Advi-*
 22 *sory Committee”.*

23 (2) *MEMBERSHIP.*—

24 (A) *COMPOSITION.*—*The Native Advisory*
 25 *Committee shall consist of—*

1 (i) 1 representative of Indian tribes
 2 from each region of the Bureau of Indian
 3 Affairs who is 25 years of age or older; and

4 (ii) 1 Native Hawaiian who is 25
 5 years of age or older.

6 (B) *QUALIFICATIONS.*—Each member of the
 7 Native Advisory Committee shall have experience
 8 relating to matters to be studied by the Commis-
 9 sion.

10 (3) *DUTIES.*—The Native Advisory Committee
 11 shall—

12 (A) serve as an advisory body to the Com-
 13 mission; and

14 (B) provide to the Commission advice and
 15 recommendations, submit materials, documents,
 16 testimony, and such other information as the
 17 Commission determines to be necessary to carry
 18 out the duties of the Commission under this sec-
 19 tion.

20 (4) *NATIVE CHILDREN SUBCOMMITTEE.*—The
 21 Native Advisory Committee shall establish a sub-
 22 committee that shall consist of at least 1 member from
 23 each region of the Bureau of Indian Affairs and 1
 24 Native Hawaiian, each of whom shall be a Native

1 *child, and have experience serving on the council of*
 2 *a tribal, regional, or national youth organization.*

3 *(e) COMPREHENSIVE STUDY OF NATIVE CHILDREN*
 4 *ISSUES.—*

5 *(1) IN GENERAL.—The Commission shall conduct*
 6 *a comprehensive study of Federal, State, local, and*
 7 *tribal programs that serve Native children, including*
 8 *an evaluation of—*

9 *(A) the impact of concurrent jurisdiction on*
 10 *child welfare systems;*

11 *(B) the barriers Indian tribes and Native*
 12 *Hawaiians face in applying, reporting on, and*
 13 *using existing public and private grant re-*
 14 *sources, including identification of any Federal*
 15 *cost-sharing requirements;*

16 *(C) the obstacles to nongovernmental finan-*
 17 *cial support, such as from private foundations*
 18 *and corporate charities, for programs benefitting*
 19 *Native children;*

20 *(D) the issues relating to data collection,*
 21 *such as small sample sizes, large margins of*
 22 *error, or other issues related to the validity and*
 23 *statistical significance of data on Native chil-*
 24 *dren;*

1 (E) the barriers to the development of sus-
 2 tainable, multidisciplinary programs designed to
 3 assist high-risk Native children and families of
 4 those high-risk Native children;

5 (F) cultural or socioeconomic challenges in
 6 communities of Native children;

7 (G) any examples of successful program
 8 models and use of best practices in programs
 9 that serve children and families;

10 (H) the barriers to interagency coordination
 11 on programs benefitting Native children; and

12 (I) the use of memoranda of agreement or
 13 interagency agreements to facilitate or improve
 14 agency coordination, including the effects of ex-
 15 isting memoranda or interagency agreements on
 16 program service delivery and efficiency.

17 (2) COORDINATION.—In conducting the study
 18 under paragraph (1), the Commission shall, to the
 19 maximum extent practicable—

20 (A) to avoid duplication of efforts, collabo-
 21 rate with other workgroups focused on similar
 22 issues, such as the Task Force on American In-
 23 dian/Alaska Native Children Exposed to Violence
 24 of the Attorney General; and

1 (B) to improve coordination and reduce
2 travel costs, use available technology.

3 (3) *RECOMMENDATIONS.*—Taking into consider-
4 ation the results of the study under paragraph (1)
5 and the analysis of any existing data relating to Na-
6 tive children received from Federal agencies, the Com-
7 mission shall—

8 (A) develop recommendations for goals, and
9 plans for achieving those goals, for Federal pol-
10 icy relating to Native children in the short-,
11 mid-, and long-term, which shall be informed by
12 the development of accurate child well-being
13 measures, except that the Commission shall not
14 consider or recommend the recognition or the es-
15 tablishment of a government-to-government rela-
16 tionship with—

17 (i) any entity not recognized on or be-
18 fore the date of enactment of this Act by the
19 Federal Government through an Act of Con-
20 gress, Executive action, judicial decree, or
21 any other action; or

22 (ii) any entity not included in the list
23 authorized pursuant to the Federally Recog-
24 nized Indian Tribe List Act of 1994 (25
25 U.S.C. 479a et seq.);

1 (B) make recommendations on necessary
2 modifications and improvements to programs
3 that serve Native children at the Federal, State,
4 and tribal levels, on the condition that the rec-
5 ommendations recognize the diversity in cultural
6 values, integrate the cultural strengths of the
7 communities of the Native children, and will re-
8 sult in—

9 (i) improvements to the child welfare
10 system that—

11 (I) reduce the disproportionate
12 rate at which Native children enter
13 child protective services and the period
14 of time spent in the foster system;

15 (II) increase coordination among
16 social workers, police, and foster fami-
17 lies assisting Native children while in
18 the foster system to result in the in-
19 creased safety of Native children while
20 in the foster system;

21 (III) encourage the hiring and re-
22 tention of licensed social workers in
23 Native communities;

1 (IV) address the lack of available
 2 foster homes in Native communities;
 3 and

4 (V) reduce truancy and improve
 5 the academic proficiency and gradua-
 6 tion rates of Native children in the fos-
 7 ter system;

8 (ii) improvements to the mental and
 9 physical health of Native children, taking
 10 into consideration the rates of suicide, sub-
 11 stance abuse, and access to nutrition and
 12 health care, including—

13 (I) an analysis of the increased
 14 access of Native children to Medicaid
 15 under the Patient Protection and Af-
 16 fordable Care Act (Public Law 111–
 17 148) and the effect of that increase on
 18 the ability of Indian tribes and Native
 19 Hawaiians to develop sustainable
 20 health programs; and

21 (II) an evaluation of the effects of
 22 a lack of public sanitation infrastruc-
 23 ture, including in-home sewer and
 24 water, on the health status of Native
 25 children;

1 *(iii) improvements to educational and*
2 *vocational opportunities for Native children*
3 *that will lead to—*

4 *(I) increased school attendance,*
5 *performance, and graduation rates for*
6 *Native children across all educational*
7 *levels, including early education, post-*
8 *secondary, and graduate school;*

9 *(II) localized strategies developed*
10 *by educators, tribal and community*
11 *leaders, and law enforcement to pre-*
12 *vent and reduce truancy among Native*
13 *children;*

14 *(III) scholarship opportunities at*
15 *a Tribal College or University and*
16 *other public and private postsecondary*
17 *institutions;*

18 *(IV) increased participation of the*
19 *immediate families of Native children;*

20 *(V) coordination among schools*
21 *and Indian tribes that serve Native*
22 *children, including in the areas of data*
23 *sharing and student tracking;*

24 *(VI) accurate identification of*
25 *students as Native children; and*

1 (VII) increased school counseling
 2 services, improved access to quality nu-
 3 trition at school, and safe student
 4 transportation;

5 (iv) improved policies and practices by
 6 local school districts that would result in
 7 improved academic proficiency for Native
 8 children;

9 (v) increased access to extracurricular
 10 activities for Native children that are de-
 11 signed to increase self-esteem, promote com-
 12 munity engagement, and support academic
 13 excellence while also serving to prevent un-
 14 planned pregnancy, membership in gangs,
 15 drug and alcohol abuse, and suicide, includ-
 16 ing activities that incorporate traditional
 17 language and cultural practices of Indians
 18 and Native Hawaiians;

19 (vi) taking into consideration the re-
 20 port of the Indian Law and Order Commis-
 21 sion issued pursuant to section 15(f) of the
 22 Indian Law Enforcement Reform Act (25
 23 U.S.C. 2812(f)), improvements to Federal,
 24 State, and tribal juvenile justice systems
 25 and detention programs—

1 (I) to provide greater access to
2 educational opportunities and social
3 services for incarcerated Native chil-
4 dren;

5 (II) to promote prevention and re-
6 duce incarceration and recidivism
7 rates among Native children;

8 (III) to identify intervention ap-
9 proaches and alternatives to incarcer-
10 ation of Native children;

11 (IV) to incorporate families and
12 the traditional cultures of Indians and
13 Native Hawaiians in the juvenile jus-
14 tice process, including through the de-
15 velopment of a family court for juve-
16 nile offenses; and

17 (V) to prevent unnecessary deten-
18 tions and identify successful reentry
19 programs;

20 (vii) expanded access to a continuum
21 of early development and learning services
22 for Native children from prenatal to age 5
23 that are culturally competent, support Na-
24 tive language preservation, and comprehen-
25 sively promote the health, well-being, learn-

ing, and development of Native children,
such as—

(I) high quality early care and
learning programs for children start-
ing from birth, including Early Head
Start, Head Start, child care, and pre-
school programs;

(II) programs, including home
visiting and family resource and sup-
port programs, that increase the capac-
ity of parents to support the learning
and development of the children of the
parents, beginning prenatally, and
connect the parents with necessary re-
sources;

(III) early intervention and pre-
school services for infants, toddlers,
and preschool-aged children with devel-
opmental delays or disabilities; and

(IV) professional development op-
portunities for Native providers of
early development and learning serv-
ices;

(viii) the development of a system that
delivers wrap-around services to Native

1 *children in a way that is comprehensive*
2 *and sustainable, including through in-*
3 *creased coordination among Indian tribes,*
4 *schools, law enforcement, health care pro-*
5 *viders, social workers, and families;*

6 *(ix) more flexible use of existing Fed-*
7 *eral programs, such as by—*

8 *(I) providing Indians and Native*
9 *Hawaiians with more flexibility to*
10 *carry out programs, while maintain-*
11 *ing accountability, minimizing admin-*
12 *istrative time, cost, and expense and*
13 *reducing the burden of Federal paper-*
14 *work requirements; and*

15 *(II) allowing unexpended Federal*
16 *funds to be used flexibly to support*
17 *programs benefitting Native children,*
18 *while taking into account—*

19 *(aa) the Indian Employ-*
20 *ment, Training and Related Serv-*
21 *ices Demonstration Act of 1992*
22 *(25 U.S.C. 3401 note; 106 Stat.*
23 *2302);*

1 *(bb) the Coordinated Tribal*
2 *Assistance Solicitation program of*
3 *the Department of Justice;*

4 *(cc) the Federal policy of self-*
5 *determination; and*

6 *(dd) any consolidated grant*
7 *programs; and*

8 *(x) solutions to other issues that, as de-*
9 *termined by the Commission, would im-*
10 *prove the health, safety, and well-being of*
11 *Native children;*

12 *(C) make recommendations for improving*
13 *data collection methods that consider—*

14 *(i) the adoption of standard definitions*
15 *and compatible systems platforms to allow*
16 *for greater linkage of data sets across Fed-*
17 *eral agencies;*

18 *(ii) the appropriateness of existing*
19 *data categories for comparative purposes;*

20 *(iii) the development of quality data*
21 *and measures, such as by ensuring suffi-*
22 *cient sample sizes and frequency of sam-*
23 *pling, for Federal, State, and tribal pro-*
24 *grams that serve Native children;*

1 (iv) the collection and measurement of
 2 data that are useful to Indian tribes and
 3 Native Hawaiians;

4 (v) the inclusion of Native children in
 5 longitudinal studies; and

6 (vi) tribal access to data gathered by
 7 Federal, State, and local governmental
 8 agencies; and

9 (D) identify models of successful Federal,
 10 State, and tribal programs in the areas studied
 11 by the Commission.

12 (f) *REPORT*.—Not later than 3 years after the date on
 13 which all members of the Commission are appointed and
 14 amounts are made available to carry out this Act, the Com-
 15 mission shall submit to the President, the Committee on
 16 Natural Resources of the House of Representatives, the Com-
 17 mittee on Indian Affairs of the Senate, and the Committees
 18 on Appropriations of the House of Representatives and the
 19 Senate, a report that contains—

20 (1) a detailed statement of the findings and con-
 21 clusions of the Commission; and

22 (2) the recommendations of the Commission for
 23 such legislative and administrative actions as the
 24 Commission considers to be appropriate.

25 (g) *POWERS*.—

1 (1) *HEARINGS.*—

2 (A) *IN GENERAL.*—*The Commission may*
 3 *hold such hearings, meet and act at such times*
 4 *and places, take such testimony, and receive such*
 5 *evidence as the Commission considers to be ad-*
 6 *visable to carry out the duties of the Commission*
 7 *under this section, except that the Commission*
 8 *shall hold not less than 5 hearings in Native*
 9 *communities.*

10 (B) *PUBLIC REQUIREMENT.*—*The hearings*
 11 *of the Commission under this paragraph shall be*
 12 *open to the public.*

13 (2) *WITNESS EXPENSES.*—

14 (A) *IN GENERAL.*—*A witness requested to*
 15 *appear before the Commission shall be paid the*
 16 *same fees and allowances as are paid to wit-*
 17 *nesses under section 1821 of title 28, United*
 18 *States Code.*

19 (B) *PER DIEM AND MILEAGE.*—*The fees and*
 20 *allowances for a witness shall be paid from funds*
 21 *made available to the Commission.*

22 (3) *INFORMATION FROM FEDERAL, TRIBAL, AND*
 23 *STATE AGENCIES.*—

24 (A) *IN GENERAL.*—*The Commission may se-*
 25 *cure directly from a Federal agency such infor-*

1 *mation as the Commission considers to be nec-*
 2 *essary to carry out this section.*

3 (B) *TRIBAL AND STATE AGENCIES.—The*
 4 *Commission may request the head of any tribal*
 5 *or State agency to provide to the Commission*
 6 *such information as the Commission considers to*
 7 *be necessary to carry out this Act.*

8 (4) *POSTAL SERVICES.—The Commission may*
 9 *use the United States mails in the same manner and*
 10 *under the same conditions as other agencies of the*
 11 *Federal Government.*

12 (5) *GIFTS.—The Commission may accept, use,*
 13 *and dispose of gifts or donations of services or prop-*
 14 *erty related to the purpose of the Commission.*

15 (h) *COMMISSION PERSONNEL MATTERS.—*

16 (1) *TRAVEL EXPENSES.—A member of the Com-*
 17 *mission shall be allowed travel expenses, including*
 18 *per diem in lieu of subsistence, at rates authorized for*
 19 *an employee of an agency under subchapter I of chap-*
 20 *ter 57 of title 5, United States Code, while away from*
 21 *the home or regular place of business of the member*
 22 *in the performance of the duties of the Commission.*

23 (2) *DETAIL OF FEDERAL EMPLOYEES.—*

24 (A) *IN GENERAL.—On the affirmative vote*
 25 *of $\frac{2}{3}$ of the members of the Commission—*

1 *(i) the Attorney General, the Secretary,*
 2 *the Secretary of Education, and the Sec-*
 3 *retary of the Health and Human Services*
 4 *shall each detail, without reimbursement, 1*
 5 *or more employees of the Department of*
 6 *Justice, the Department of the Interior, the*
 7 *Department of Education, and the Depart-*
 8 *ment of Health and Human Services; and*

9 *(ii) with the approval of the appro-*
 10 *priate Federal agency head, an employee of*
 11 *any other Federal agency may be, without*
 12 *reimbursement, detailed to the Commission.*

13 *(B) EFFECT ON DETAILEES.—Detail under*
 14 *this paragraph shall be without interruption or*
 15 *loss of civil service status, benefits, or privileges.*

16 *(3) PROCUREMENT OF TEMPORARY AND INTER-*
 17 *MITTENT SERVICES.—*

18 *(A) IN GENERAL.—On request of the Com-*
 19 *mission, the Attorney General shall provide to*
 20 *the Commission, on a reimbursable basis, reason-*
 21 *able and appropriate office space, supplies, and*
 22 *administrative assistance.*

23 *(B) NO REQUIREMENT FOR PHYSICAL FA-*
 24 *CILITIES.—The Administrator of General Serv-*
 25 *ices shall not be required to locate a permanent,*

1 *physical office space for the operation of the*
 2 *Commission.*

3 (4) *MEMBERS NOT FEDERAL EMPLOYEES.*—No
 4 *member of the Commission, the Native Advisory Com-*
 5 *mittee, or the Native Children Subcommittee shall be*
 6 *considered to be a Federal employee.*

7 (i) *TERMINATION OF COMMISSION.*—The Commission
 8 *shall terminate 90 days after the date on which the Com-*
 9 *mission submits the report under subsection (f).*

10 (j) *NONAPPLICABILITY OF FACA.*—The Federal Advi-
 11 *sory Committee Act (5 U.S.C. App.) shall not apply to the*
 12 *Commission, the Native Advisory Committee, or the Native*
 13 *Children Subcommittee.*

14 (k) *EFFECT.*—This Act shall not be construed to recog-
 15 *nize or establish a government-to-government relationship*
 16 *with—*

17 (1) *any entity not recognized on or before the*
 18 *date of enactment of this Act by the Federal Govern-*
 19 *ment through an Act of Congress, Executive action,*
 20 *judicial decree, or any other action; or*

21 (2) *any entity not included in the list authorized*
 22 *pursuant to the Federally Recognized Indian Tribe*
 23 *List Act of 1994 (25 U.S.C. 479a et seq.).*

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