

114TH CONGRESS
1ST SESSION

H. R. 2751

To establish the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2015

Ms. MCCOLLUM (for herself, Mr. COLE, Mr. TAKAI, and Mr. DENHAM) introduced the following bill; which was referred to the Committee on Natural Resources

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
5 and Walter Soboleff Commission on Native Children Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the United States has a distinct legal, trea-
9 ty, and trust obligation to provide for the education,

1 health care, safety, social welfare, and other needs of
2 Native children;

3 (2) chronic underfunding of Federal programs
4 to fulfill the longstanding Federal trust obligation
5 has resulted in limited access to critical services for
6 the more than 2,100,000 Native children under the
7 age of 24 living in the United States;

8 (3) Native children are the most at-risk popu-
9 lation in the United States, confronting serious dis-
10 parities in education, health, and safety, with 37
11 percent living in poverty;

12 (4) 17 percent of Native children have no
13 health insurance coverage, and child mortality has
14 increased 15 percent among Native children aged 1
15 to 14, while the overall rate of child mortality in the
16 United States decreased by 9 percent;

17 (5) suicide is the second leading cause of death
18 in Native children aged 15 through 24, a rate that
19 is 2.5 times the national average, and violence, in-
20 cluding intentional injuries, homicide, and suicide,
21 account for 75 percent of the deaths of Native chil-
22 dren aged 12 through 20;

23 (6) 58 percent of 3- and 4-year-old Native chil-
24 dren are not attending any form of preschool, 15
25 percent of Native children are not in school and not

1 working, and the graduation rate for Native high
2 school students is 50 percent;

3 (7) 22.9 percent of Native children aged 12 and
4 older report alcohol use, 16 percent report substance
5 dependence or abuse, 35.8 percent report tobacco
6 use, and 12.5 percent report illicit drug use;

7 (8) Native children disproportionately enter fos-
8 ter care at a rate more than 2.1 times the general
9 population and have the third highest rate of victim-
10 ization; and

11 (9) there is no resource that is more vital to the
12 continued existence and integrity of Native commu-
13 nities than Native children, and the United States
14 has a direct interest, as trustee, in protecting Native
15 children.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) COMMISSION.—The term “Commission”
19 means the Alyce Spotted Bear and Walter Soboleff
20 Commission on Native Children established by sec-
21 tion 4.

22 (2) INDIAN.—The term “Indian” has the mean-
23 ing given the term in section 4 of the Indian Self-
24 Determination and Education Assistance Act (25
25 U.S.C. 450b).

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

5 (4) NATIVE CHILD.—The term “Native child”
6 means—

7 (A) an Indian child, as that term is de-
8 fined in section 4 of the Indian Child Welfare
9 Act of 1978 (25 U.S.C. 1903);

10 (B) an Indian who is between the ages of
11 18 and 24 years old; and

12 (C) a Native Hawaiian who is not older
13 than 24 years old.

14 (5) NATIVE HAWAIIAN.—The term “Native Ha-
15 waiian” has the meaning given the term in section
16 7207 of the Elementary and Secondary Education
17 Act of 1965 (20 U.S.C. 7517).

18 (6) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 (7) TRIBAL COLLEGE OR UNIVERSITY.—The
21 term “Tribal College or University” has the meaning
22 given the term in section 316(b) of the Higher Edu-
23 cation Act of 1965 (20 U.S.C. 1059c(b)).

1 **SEC. 4. COMMISSION ON NATIVE CHILDREN.**

2 (a) IN GENERAL.—There is established a commission
3 in the Office of Tribal Justice of the Department of Jus-
4 tice, to be known as the “Alyce Spotted Bear and Walter
5 Soboleff Commission on Native Children”.

6 (b) MEMBERSHIP.—

7 (1) IN GENERAL.—The Commission shall be
8 composed of 11 members, of whom—

9 (A) 3 shall be appointed by the President,
10 in consultation with—

11 (i) the Attorney General;

12 (ii) the Secretary;

13 (iii) the Secretary of Education; and

14 (iv) the Secretary of Health and
15 Human Services;

16 (B) 3 shall be appointed by the Majority
17 Leader of the Senate, in consultation with the
18 Chairperson of the Committee on Indian Affairs
19 of the Senate;

20 (C) 1 shall be appointed by the Minority
21 Leader of the Senate, in consultation with the
22 Vice Chairperson of the Committee on Indian
23 Affairs of the Senate;

24 (D) 3 shall be appointed by the Speaker of
25 the House of Representatives, in consultation
26 with the Chairperson of the Committee on Nat-

1 ural Resources of the House of Representatives;
2 and

3 (E) 1 shall be appointed by the Minority
4 Leader of the House of Representatives, in con-
5 sultation with the Ranking Member of the Com-
6 mittee on Natural Resources of the House of
7 Representatives.

8 (2) REQUIREMENTS FOR ELIGIBILITY.—

9 (A) IN GENERAL.—Subject to subpara-
10 graph (B), each member of the Commission
11 shall have significant experience and expertise
12 in—

13 (i) Indian affairs; and

14 (ii) matters to be studied by the Com-
15 mission, including—

16 (I) health care issues facing Na-
17 tive children, including mental health,
18 physical health, and nutrition;

19 (II) Indian education, including
20 experience with Bureau of Indian
21 Education schools and public schools,
22 tribally operated schools, tribal col-
23 leges or universities, early childhood
24 education programs, and the develop-
25 ment of extracurricular programs;

1 (III) juvenile justice programs re-
2 lating to prevention and reducing in-
3 carceration and rates of recidivism;
4 and

5 (IV) social service programs that
6 are used by Native children and de-
7 signed to address basic needs, such as
8 food, shelter, and safety, including
9 child protective services, group homes,
10 and shelters.

11 (B) EXPERTS.—

12 (i) NATIVE CHILDREN.—1 member of
13 the Commission shall—

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

16 (II) be responsible for providing
17 the Commission with insight into and
18 input from Native children on the
19 matters studied by the Commission.

20 (ii) RESEARCH.—1 member of the
21 Commission shall—

22 (I) meet the requirements of sub-
23 paragraph (A); and

24 (II) have extensive experience in
25 statistics or social science research.

1 (3) TERMS.—

2 (A) IN GENERAL.—Each member of the
3 Commission shall be appointed for the life of
4 the Commission.

5 (B) VACANCIES.—A vacancy in the Com-
6 mission shall be filled in the manner in which
7 the original appointment was made.

8 (c) OPERATION.—

9 (1) CHAIRPERSON.—Not later than 15 days
10 after the date on which all members of the Commis-
11 sion have been appointed, the Commission shall se-
12 lect 1 member to serve as Chairperson of the Com-
13 mission.

14 (2) MEETINGS.—

15 (A) IN GENERAL.—The Commission shall
16 meet at the call of the Chairperson.

17 (B) INITIAL MEETING.—The initial meet-
18 ing of the Commission shall take place not later
19 than 30 days after the date described in para-
20 graph (1).

21 (3) QUORUM.—A majority of the members of
22 the Commission shall constitute a quorum, but a
23 lesser number of members may hold hearings.

24 (4) RULES.—The Commission may establish, by
25 majority vote, any rules for the conduct of Commis-

1 sion business, in accordance with this Act and other
2 applicable law.

3 (d) NATIVE ADVISORY COMMITTEE.—

4 (1) ESTABLISHMENT.—The Commission shall
5 establish a committee, to be known as the “Native
6 Advisory Committee”.

7 (2) MEMBERSHIP.—

8 (A) COMPOSITION.—The Native Advisory
9 Committee shall consist of—

10 (i) 1 representative of Indian tribes
11 from each region of the Bureau of Indian
12 Affairs who is 25 years of age or older;
13 and

14 (ii) 1 Native Hawaiian who is 25
15 years of age or older.

16 (B) QUALIFICATIONS.—Each member of
17 the Native Advisory Committee shall have expe-
18 rience relating to matters to be studied by the
19 Commission.

20 (3) DUTIES.—The Native Advisory Committee
21 shall—

22 (A) serve as an advisory body to the Com-
23 mission; and

24 (B) provide to the Commission advice and
25 recommendations, submit materials, documents,

1 testimony, and such other information as the
2 Commission determines to be necessary to carry
3 out the duties of the Commission under this
4 section.

5 (4) NATIVE CHILDREN SUBCOMMITTEE.—The
6 Native Advisory Committee shall establish a sub-
7 committee that shall consist of at least 1 member
8 from each region of the Bureau of Indian Affairs
9 and 1 Native Hawaiian, each of whom shall be a
10 Native child, and have experience serving on the
11 council of a tribal, regional, or national youth orga-
12 nization.

13 (e) COMPREHENSIVE STUDY OF NATIVE CHILDREN
14 ISSUES.—

15 (1) IN GENERAL.—The Commission shall con-
16 duct a comprehensive study of Federal, State, local,
17 and tribal programs that serve Native children, in-
18 cluding an evaluation of—

19 (A) the impact of concurrent jurisdiction
20 on child welfare systems;

21 (B) the barriers Indian tribes and Native
22 Hawaiians face in applying, reporting on, and
23 using existing public and private grant re-
24 sources, including identification of any Federal
25 cost-sharing requirements;

1 (C) the obstacles to nongovernmental fi-
2 nancial support, such as from private founda-
3 tions and corporate charities, for programs ben-
4 efitting Native children;

5 (D) the issues relating to data collection,
6 such as small sample sizes, large margins of
7 error, or other issues related to the validity and
8 statistical significance of data on Native chil-
9 dren;

10 (E) the barriers to the development of sus-
11 tainable, multidisciplinary programs designed to
12 assist high-risk Native children and families of
13 those high-risk Native children;

14 (F) cultural or socioeconomic challenges in
15 communities of Native children;

16 (G) any examples of successful program
17 models and use of best practices in programs
18 that serve children and families;

19 (H) the barriers to interagency coordina-
20 tion on programs benefitting Native children;
21 and

22 (I) the use of memoranda of agreement or
23 interagency agreements to facilitate or improve
24 agency coordination, including the effects of ex-

1 isting memoranda or interagency agreements on
2 program service delivery and efficiency.

3 (2) COORDINATION.—In conducting the study
4 under paragraph (1), the Commission shall, to the
5 maximum extent practicable—

6 (A) to avoid duplication of efforts, collabo-
7 rate with other workgroups focused on similar
8 issues, such as the Task Force on American In-
9 dian/Alaska Native Children Exposed to Vio-
10 lence of the Attorney General; and

11 (B) to improve coordination and reduce
12 travel costs, use available technology.

13 (3) RECOMMENDATIONS.—Taking into consid-
14 eration the results of the study under paragraph (1)
15 and the analysis of any existing data relating to Na-
16 tive children received from Federal agencies, the
17 Commission shall—

18 (A) develop recommendations for goals,
19 and plans for achieving those goals, for Federal
20 policy relating to Native children in the short-
21 , mid-, and long-term, which shall be informed
22 by the development of accurate child well-being
23 measures, except that the Commission shall not
24 consider or recommend the recognition or the

1 establishment of a government-to-government
2 relationship with—

3 (i) any entity not recognized on or be-
4 fore the date of enactment of this Act by
5 the Federal Government through an Act of
6 Congress, Executive action, judicial decree,
7 or any other action; or

8 (ii) any entity not included in the list
9 authorized pursuant to the Federally Rec-
10 ognized Indian Tribe List Act of 1994 (25
11 U.S.C. 479a et seq.);

12 (B) make recommendations on necessary
13 modifications and improvements to programs
14 that serve Native children at the Federal, State,
15 and tribal levels, on the condition that the rec-
16 ommendations recognize the diversity in cul-
17 tural values, integrate the cultural strengths of
18 the communities of the Native children, and will
19 result in—

20 (i) improvements to the child welfare
21 system that—

22 (I) reduce the disproportionate
23 rate at which Native children enter
24 child protective services and the pe-

1 riod of time spent in the foster sys-
2 tem;

3 (II) increase coordination among
4 social workers, police, and foster fami-
5 lies assisting Native children while in
6 the foster system to result in the in-
7 creased safety of Native children while
8 in the foster system;

9 (III) encourage the hiring and re-
10 tention of licensed social workers in
11 Native communities;

12 (IV) address the lack of available
13 foster homes in Native communities;
14 and

15 (V) reduce truancy and improve
16 the academic proficiency and gradua-
17 tion rates of Native children in the
18 foster system;

19 (ii) improvements to the mental and
20 physical health of Native children, taking
21 into consideration the rates of suicide, sub-
22 stance abuse, and access to nutrition and
23 health care, including—

24 (I) an analysis of the increased
25 access of Native children to Medicaid

1 under the Patient Protection and Af-
2 fordable Care Act (Public Law 111-
3 148) and the effect of that increase
4 on the ability of Indian tribes and Na-
5 tive Hawaiians to develop sustainable
6 health programs; and

7 (II) an evaluation of the effects
8 of a lack of public sanitation infra-
9 structure, including in-home sewer
10 and water, on the health status of Na-
11 tive children;

12 (iii) improvements to educational and
13 vocational opportunities for Native children
14 that will lead to—

15 (I) increased school attendance,
16 performance, and graduation rates for
17 Native children across all educational
18 levels, including early education, post-
19 secondary, and graduate school;

20 (II) localized strategies developed
21 by educators, tribal and community
22 leaders, and law enforcement to pre-
23 vent and reduce truancy among Na-
24 tive children;

1 (III) scholarship opportunities at
2 a Tribal College or University and
3 other public and private postsecondary
4 institutions;

5 (IV) increased participation of
6 the immediate families of Native chil-
7 dren;

8 (V) coordination among schools
9 and Indian tribes that serve Native
10 children, including in the areas of
11 data sharing and student tracking;

12 (VI) accurate identification of
13 students as Native children; and

14 (VII) increased school counseling
15 services, improved access to quality
16 nutrition at school, and safe student
17 transportation;

18 (iv) improved policies and practices by
19 local school districts that would result in
20 improved academic proficiency for Native
21 children;

22 (v) increased access to extracurricular
23 activities for Native children that are de-
24 signed to increase self-esteem, promote
25 community engagement, and support aca-

1 demic excellence while also serving to pre-
2 vent unplanned pregnancy, membership in
3 gangs, drug and alcohol abuse, and suicide,
4 including activities that incorporate tradi-
5 tional language and cultural practices of
6 Indians and Native Hawaiians;

7 (vi) taking into consideration the re-
8 port of the Indian Law and Order Com-
9 mission issued pursuant to section 15(f) of
10 the Indian Law Enforcement Reform Act
11 (25 U.S.C. 2812(f)), improvements to Fed-
12 eral, State, and tribal juvenile justice sys-
13 tems and detention programs—

14 (I) to provide greater access to
15 educational opportunities and social
16 services for incarcerated Native chil-
17 dren;

18 (II) to promote prevention and
19 reduce incarceration and recidivism
20 rates among Native children;

21 (III) to identify intervention ap-
22 proaches and alternatives to incarcer-
23 ation of Native children;

24 (IV) to incorporate families and
25 the traditional cultures of Indians and

1 Native Hawaiians in the juvenile jus-
2 tice process, including through the de-
3 velopment of a family court for juve-
4 nile offenses; and

5 (V) to prevent unnecessary de-
6 tentions and identify successful re-
7 entry programs;

8 (vii) expanded access to a continuum
9 of early development and learning services
10 for Native children from prenatal to age 5
11 that are culturally competent, support Na-
12 tive language preservation, and comprehen-
13 sively promote the health, well-being, learn-
14 ing, and development of Native children,
15 such as—

16 (I) high quality early care and
17 learning programs for children start-
18 ing from birth, including Early Head
19 Start, Head Start, child care, and
20 preschool programs;

21 (II) programs, including home
22 visiting and family resource and sup-
23 port programs, that increase the ca-
24 pacity of parents to support the learn-
25 ing and development of the children of

1 the parents, beginning prenatally, and
2 connect the parents with necessary re-
3 sources;

4 (III) early intervention and pre-
5 school services for infants, toddlers,
6 and preschool-aged children with de-
7 velopmental delays or disabilities; and

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

12 (viii) the development of a system that
13 delivers wraparound services to Native
14 children in a way that is comprehensive
15 and sustainable, including through in-
16 creased coordination among Indian tribes,
17 schools, law enforcement, health care pro-
18 viders, social workers, and families;

19 (ix) more flexible use of existing Fed-
20 eral programs, such as by—

21 (I) providing Indians and Native
22 Hawaiians with more flexibility to
23 carry out programs, while maintaining
24 accountability, minimizing administra-
25 tive time, cost, and expense and re-

1 ducing the burden of Federal paper-
2 work requirements; and

3 (II) allowing unexpended Federal
4 funds to be used flexibly to support
5 programs benefitting Native children,
6 while taking into account—

7 (aa) the Indian Employ-
8 ment, Training and Related Serv-
9 ices Demonstration Act of 1992
10 (25 U.S.C. 3401 note; 106 Stat.
11 2302);

12 (bb) the Coordinated Tribal
13 Assistance Solicitation program
14 of the Department of Justice;

15 (cc) the Federal policy of
16 self-determination; and

17 (dd) any consolidated grant
18 programs; and

19 (x) solutions to other issues that, as
20 determined by the Commission, would im-
21 prove the health, safety, and well-being of
22 Native children;

23 (C) make recommendations for improving
24 data collection methods that consider—

- 1 (i) the adoption of standard defini-
2 tions and compatible systems platforms to
3 allow for greater linkage of data sets
4 across Federal agencies;
- 5 (ii) the appropriateness of existing
6 data categories for comparative purposes;
- 7 (iii) the development of quality data
8 and measures, such as by ensuring suffi-
9 cient sample sizes and frequency of sam-
10 pling, for Federal, State, and tribal pro-
11 grams that serve Native children;
- 12 (iv) the collection and measurement of
13 data that are useful to Indian tribes and
14 Native Hawaiians;
- 15 (v) the inclusion of Native children in
16 longitudinal studies; and
- 17 (vi) tribal access to data gathered by
18 Federal, State, and local governmental
19 agencies; and
- 20 (D) identify models of successful Federal,
21 State, and tribal programs in the areas studied
22 by the Commission.
- 23 (f) REPORT.—Not later than 3 years after the date
24 on which all members of the Commission are appointed
25 and amounts are made available to carry out this Act, the

1 Commission shall submit to the President, Congress, and
2 the White House Council on Native American Affairs a
3 report that contains—

4 (1) a detailed statement of the findings and
5 conclusions of the Commission; and

6 (2) the recommendations of the Commission for
7 such legislative and administrative actions as the
8 Commission considers to be appropriate.

9 (g) POWERS.—

10 (1) HEARINGS.—

11 (A) IN GENERAL.—The Commission may
12 hold such hearings, meet and act at such times
13 and places, take such testimony, and receive
14 such evidence as the Commission considers to
15 be advisable to carry out the duties of the Com-
16 mission under this section, except that the
17 Commission shall hold not less than 5 hearings
18 in Native communities.

19 (B) PUBLIC REQUIREMENT.—The hearings
20 of the Commission under this paragraph shall
21 be open to the public.

22 (2) WITNESS EXPENSES.—

23 (A) IN GENERAL.—A witness requested to
24 appear before the Commission shall be paid the
25 same fees and allowances as are paid to wit-

1 nesses under section 1821 of title 28, United
2 States Code.

3 (B) PER DIEM AND MILEAGE.—The fees
4 and allowances for a witness shall be paid from
5 funds made available to the Commission.

6 (3) INFORMATION FROM FEDERAL, TRIBAL,
7 AND STATE AGENCIES.—

8 (A) IN GENERAL.—The Commission may
9 secure directly from a Federal agency such in-
10 formation as the Commission considers to be
11 necessary to carry out this section.

12 (B) TRIBAL AND STATE AGENCIES.—The
13 Commission may request the head of any tribal
14 or State agency to provide to the Commission
15 such information as the Commission considers
16 to be necessary to carry out this Act.

17 (4) POSTAL SERVICES.—The Commission may
18 use the United States mails in the same manner and
19 under the same conditions as other agencies of the
20 Federal Government.

21 (5) GIFTS.—The Commission may accept, use,
22 and dispose of gifts or donations of services or prop-
23 erty related to the purpose of the Commission.

24 (h) COMMISSION PERSONNEL MATTERS.—

1 (1) TRAVEL EXPENSES.—A member of the
2 Commission shall be allowed travel expenses, includ-
3 ing per diem in lieu of subsistence, at rates author-
4 ized for an employee of an agency under subchapter
5 I of chapter 57 of title 5, United States Code, while
6 away from the home or regular place of business of
7 the member in the performance of the duties of the
8 Commission.

9 (2) DETAIL OF FEDERAL EMPLOYEES.—

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

12 (i) the Attorney General, the Sec-
13 retary, the Secretary of Education, and the
14 Secretary of Health and Human Services
15 shall each detail, without reimbursement,
16 one or more employees of the Department
17 of Justice, the Department of the Interior,
18 the Department of Education, and the De-
19 partment of Health and Human Services;
20 and

21 (ii) with the approval of the appro-
22 priate Federal agency head, an employee of
23 any other Federal agency may be, without
24 reimbursement, detailed to the Commis-
25 sion.

1 (B) EFFECT ON DETAILEES.—Detail
2 under this paragraph shall be without interrup-
3 tion or loss of civil service status, benefits, or
4 privileges.

5 (3) PROCUREMENT OF TEMPORARY AND INTER-
6 MITTENT SERVICES.—

7 (A) IN GENERAL.—On request of the Com-
8 mission, the Attorney General shall provide to
9 the Commission, on a reimbursable basis, rea-
10 sonable and appropriate office space, supplies,
11 and administrative assistance.

12 (B) NO REQUIREMENT FOR PHYSICAL FA-
13 CILITIES.—The Administrator of General Serv-
14 ices shall not be required to locate a permanent,
15 physical office space for the operation of the
16 Commission.

17 (4) MEMBERS NOT FEDERAL EMPLOYEES.—No
18 member of the Commission, the Native Advisory
19 Committee, or the Native Children Subcommittee
20 shall be considered to be a Federal employee.

21 (i) TERMINATION OF COMMISSION.—The Commis-
22 sion shall terminate 90 days after the date on which the
23 Commission submits the report under subsection (f).

24 (j) NONAPPLICABILITY OF FACA.—The Federal Ad-
25 visory Committee Act (5 U.S.C. App.) shall not apply to

1 the Commission, the Native Advisory Committee, or the
2 Native Children Subcommittee.

3 (k) EFFECT.—This Act shall not be construed to rec-
4 ognize or establish a government-to-government relation-
5 ship with—

6 (1) any entity not recognized on or before the
7 date of enactment of this Act by the Federal Gov-
8 ernment through an Act of Congress, Executive ac-
9 tion, judicial decree, or any other action; or

10 (2) any entity not included in the list author-
11 ized pursuant to the Federally Recognized Indian
12 Tribe List Act of 1994 (25 U.S.C. 479a et seq.).

13 (l) FUNDING.—There is authorized to be appro-
14 priated to carry out this Act \$2,000,000.

○