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SENATE

{ REPORT
{ 117-45

DURBIN FEELING NATIVE AMERICAN LANGUAGES ACT OF 2021

DECEMBER 2, 2021.—Ordered to be printed

Mr. SCHATZ, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 1402]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 1402) to amend the Native American Languages Act to ensure the survival and continuing vitality of Native American languages, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1402 is to ensure the survival and continuing vitality of Native American languages by amending the *Native American Languages Act* (NALA).

BACKGROUND & NEED FOR LEGISLATION

With enactment of NALA, Congress affirmed the U.S. responsibility to act together with Native American communities to ensure the survival of their languages.¹ Congress has since undertaken substantial work to uphold the principles set out in NALA and support Native American community-led initiatives to maintain and revitalize these communities' languages.²

¹NALA §102(1), 25 U.S.C. § 2901(1).

²For example, Congress enacted the Native American Languages Act of 1992, Pub. L. No. 102-524 (1992); Esther Martinez Native American Languages Preservation Act of 2006, Pub. L. No. 109-394 (2006); Native American and Alaska Native language immersion schools and program, [20 U.S.C. § 7453] (2015); and, Esther Martinez Native American Languages Programs

Continued

However, aside from a first-year evaluation provision contained in the 1990 law,³ Congress has not directed any assessments to determine if federal agencies and polices comply with NALA or meet the goal of protecting and promoting Native American languages. In the 1990s and early 2000s, Native American language advocates, researchers, and international organizations sought to conduct evaluations of Native American language vitality.⁴ And while the U.S. Census Bureau published a report in 2011 estimating the number of Native American language speakers,⁵ there have been no consistent, on-going efforts to document and survey Native American language use and vitality nationwide.

Tribal leaders and Native American languages advocates point to the challenge of identifying the unmet needs of Native American language communities as preventing the U.S. from living up to the principles set forth in NALA. At a hearing to consider S. 1402, National Coalition of Native American Language Schools and Programs President Leslie Harper noted, “Timely, relevant data regarding the number of Native American language speakers, our unique community contexts, and capacity needs will provide support to justify increasing the resources available to Native American languages.”⁶ Cherokee Nation Principal Chief Chuck Hoskin, Jr., testified at the same hearing that S. 1402 “will ensure that the federal government is upholding its promises and carrying out the policies designed to support Native languages.”⁷ ‘Aha Pūnana Leo CEO Ka’Iulani Laehā also testified that S. 1402 is a crucial step vital to Native American language normalization, stating:

S. 1402 requires more effective coordination between federal entities that will minimize the current interdepartmental disconnect and lack of understanding of what is needed in the communities doing the work. This bill requires increased reporting to understand areas of importance to support our efforts and will better evidence and communicate the progress or shortcomings of the programs in place.⁸

SUMMARY OF THE BILL

This bill would require:

- The President to submit a report to Congress within 1 year of enactment, that—
 - Describes recent evaluations undertaken by federal agencies to ensure their policies and procedures comply with NALA policies; and

Reauthorization Act, Pub. L. No. 116–101 (2019). Congress also provides annual and emergency supplemental funding to support the various Native American languages grant programs its authorized (e.g., Congress appropriated \$13.6 million in FY2021 to Native American language programs at the Administration for Native Americans (Pub. L. No. 117–2 § 11004) and \$20 million in emergency COVID–19 supplemental funding for Native American languages in section 11004 of the American Rescue Plan Act (Pub. L. No. 117–2 § 11004 (2021)).

³NALA § 106, 25 U.S.C. § 2905.

⁴For example: UNESCO, *ATLAS OF WORLD’S LANGUAGES IN DANGER* (Christopher Moseley ed., 3rd ed. 2010); and, LEANNE HINTON & KEN HALE, *THE GREEN BOOK OF LANGUAGE REVITALIZATION IN PRACTICE* (2013).

⁵U.S. CENSUS BUREAU, *ACSBR/10–10, AMERICAN COMMUNITIES SURVEY BRIEFS—NATIVE AMERICAN LANGUAGES SPOKEN AT HOME IN THE UNITED STATES AND PUERTO RICO: 2006–2010* (2011), <https://www2.census.gov/library/publications/2011/acs/acsbr10-10.pdf>.

⁶*Examining the COVID–19 Response in Native Communities: Native Languages One Year Later: Hearing Before the S. Comm. on Indian Affairs*, 117th Cong. 17 (2021) (statements of Leslie Harper, Pres., Nat’l Coalition of Native American Language Schools and Programs).

⁷[*Id.* at 13 (statement of Chuck Hoskin, Jr., Principal Chief, Cherokee Nation).]

⁸[*Id.* at 19 (statement of Ka’Iulani Laehā CEO, Aha Pūnana Leo).]

- Makes recommendations, developed in consultation with Tribes and Native American language communities, to improve interagency coordination and reduce any potential inefficiencies federal programs supporting Native American languages

- The Secretary of Health and Human Services, acting through the ANA Commissioner, to conduct surveys every five years of Native American languages in the United States.

This bill also authorizes \$1,500,000 in funding for the ANA for each year the Commissioner undertakes a required survey.

SECTION-BY-SECTION ANALYSIS OF S. 1402, AS ORDERED REPORTED

Section 1. Short title

Section 1 sets forth the short title of the bill as the “Durbin Feeling Native American Languages Act of 2021.”

Section 2. Ensuring the Survival and continuing vitality of Native American languages

Section 2(a) amends section 106 of NALA to require the President to conduct an evaluation of federal agencies’ policies and procedures comply with NALA and submit a report to Congress describing the results of that evaluation within one year of enactment of this Act. The report must describe the results of evaluation and include recommendations, developed in consultation with Tribes and Native American language communities, to improve interagency coordination and reduce any potential inefficiencies federal programs supporting Native American languages.

Section 2(b) amends NALA by adding a new section that requires the Secretary of Health and Human Services, acting through the ANA Commissioner, to design and deploy quinquennial surveys of Native American languages use in the U.S.

The Commissioner must design these surveys in consultation with Tribes and after considering feedback from Native American language communities. Additionally, within one year of enactment of the bill and prior to deploying any survey for enumeration, the Commissioner must provide a description of the survey design process and results to the public, the Senate Committee on Indian Affairs, and the House Natural Resources Committee.

The survey must include information on—

- Which Native American languages are currently spoken and indicators of their vitality or endangerment;
- Maintenance and revitalization projects and practices currently in use;
- Unmet Native American language resource needs; and
- Any other areas determined necessary by the Secretary, Tribes, and Native American language communities.

Within 90 days of completing a survey, the Commissioner must provide the results to the public, the Senate Committee on Indian Affairs, and the House of Natural Resources Committee.

The Commissioner must also conduct outreach and engagement activities to inform Native American language communities about the goals, purposes, and benefits of the survey for Native American language communities. Additionally, the Commissioner may coordinate and enter into cooperative agreements with the Director of the Census Bureau for the purposes of carrying out this section.

This section also authorizes \$1,500,000 in funding for the ANA for each fiscal year preceding the fiscal year the ANA will deploy a required survey and each fiscal year during which the ANA is conducting a required survey.

LEGISLATIVE HISTORY

On April 28, 2021, Senators Schatz and Murkowski introduced S. 1402, the *Durbin Feeling Native American Languages Act of 2021*. The Senate referred the bill to the Committee on the same day. The Committee held an oversight and legislative hearing on the bill on May 26, 2021. The Committee then held a duly called business meeting to consider two bills, including S. 1402, on August 4, 2021, where the Committee ordered S. 1402 reported favorably by voice vote.

At this time, there is no House companion bill for S. 1402.

116th Congress. On November 10, 2020, Senators Udall and Murkowski introduced S. 4886, an identical predecessor bill to S. 1402. The Senate referred the bill to the Committee, but the Committee took no further action on the legislation prior to the end of the 116th Congress.

COST AND BUDGETARY CONSIDERATIONS

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 29, 2021.

Hon. BRIAN SCHATZ,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1402, the *Durbin Feeling Native American Languages Act of 2021*.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 1402, Durbin Feeling Native American Languages Act of 2021			
As ordered reported by the Senate Committee on Indian Affairs on August 4, 2021			
By Fiscal Year, Millions of Dollars			
	2022	2022-2026	2022-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	3	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 1402 would require the Department of Health and Human Services to conduct a survey every five years on the use of Native American languages in the United States. The bill would authorize the appropriation of \$1.5 million in each survey year and in each year prior to the survey. The bill also would require federal agencies, including the Departments of the Interior, Education, and Health and Human Services, to consult with Indian tribes to evaluate their policies and procedures regarding Native American languages. Within a year, those agencies would need to report to the Congress with legislative recommendations.

For this estimate, CBO assumes that S. 1402 will be enacted before the end of calendar year 2021. Based on the timeline specified in the bill, CBO expects that the first survey on Native American languages would be conducted in 2023. CBO estimates that implementing that requirement would cost \$3 million over the 2022–2026 period, assuming appropriation of the authorized amounts.

CBO estimates that implementing the requirements for various agencies to evaluate their policies and procedures regarding Native American languages would cost about \$300,000 over the 2022–2026 period.

The costs of the legislation, detailed in Table 1, fall within budget functions 450 (community and regional development) and 500 (education, training, employment, and social services).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1402

	By fiscal year, millions of dollars—					
	2022	2023	2024	2025	2026	2022–2026
Survey on Native American languages:						
Authorization	2	2	0	0	0	3
Estimated Outlays	*	1	1	1	*	3
Evaluation and report:						
Estimated Authorization	*	0	0	0	0	*

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1402—
Continued

	By fiscal year, millions of dollars—					
	2022	2023	2024	2025	2026	2022– 2026
Estimated Outlays	*	0	0	0	0	*
Total Changes Estimated:						
Authorization	2	2	0	0	0	3
Estimated Outlays	*	1	1	1	*	3

Components may not sum to totals because of rounding; * = between zero and \$500,000.

The CBO staff contacts for this estimate are Jennifer Gray (for the Department of Health and Human Services) and Jon Sperl (for the Department of the Interior). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1402 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 1402.

CHANGES IN EXISTING LAW

On February 11, 2021 the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.

