

113TH CONGRESS
2D SESSION

H. R. 4908

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2014

Mr. COLE introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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;

(III) juvenile justice programs relating to prevention and reducing incarceration and rates of recidivism; and

(IV) social service programs that are used by Native children and designed to address basic needs, such as food, shelter, and safety, including child protective services, group homes, and shelters.

(B) EXPERTS.—

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

(I) meet the requirements under subparagraph (A); and

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

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

(I) meet the requirements of subparagraph (A); and

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

1 (3) TERMS.—

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

5 (B) VACANCIES.—

6 (i) IN GENERAL.—A vacancy in the
7 Commission shall be filled in the manner
8 in which the original appointment was
9 made.

10 (ii) TERMS.—Any member appointed
11 to fill a vacancy shall be appointed for the
12 remainder of that term.

13 (c) OPERATION.—

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

19 (2) MEETINGS.—

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

22 (B) INITIAL MEETING.—The initial meet-
23 ing of the Commission shall take place not later
24 than 30 days after the date described in para-
25 graph (1).

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

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

8 (d) NATIVE ADVISORY COMMITTEE.—

9 (1) ESTABLISHMENT.—The Commission shall
10 establish a committee, to be known as the “Native
11 Advisory Committee”.

12 (2) MEMBERSHIP.—

13 (A) COMPOSITION.—The Native Advisory
14 Committee shall consist of—

15 (i) 1 representative of Indian tribes
16 from each region of the Bureau of Indian
17 Affairs who is 25 years of age or older;
18 and

19 (ii) 1 Native Hawaiian who is 25
20 years of age or older.

21 (B) QUALIFICATIONS.—Each member of
22 the Native Advisory Committee shall have expe-
23 rience relating to matters to be studied by the
24 Commission.

1 (3) DUTIES.—The Native Advisory Committee
2 shall—

3 (A) serve as an advisory body to the Com-
4 mission; and

5 (B) provide to the Commission advice and
6 recommendations, submit materials, documents,
7 testimony, and such other information as the
8 Commission determines to be necessary to carry
9 out the duties of the Commission under this
10 section.

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

19 (e) COMPREHENSIVE STUDY OF NATIVE CHILDREN
20 ISSUES.—

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

1 (A) the impact of concurrent jurisdiction
2 on child welfare systems;

3 (B) the barriers Indian tribes and Native
4 Hawaiians face in applying, reporting on, and
5 using existing public and private grant re-
6 sources, including identification of any Federal
7 cost-sharing requirements;

8 (C) the obstacles to nongovernmental fi-
9 nancial support, such as from private founda-
10 tions and corporate charities, for programs ben-
11 efitting Native children;

12 (D) the issues relating to data collection,
13 such as small sample sizes, large margins of er-
14 rors, or other issues related to the validity and
15 statistical significance of data on Native chil-
16 dren;

17 (E) the barriers to the development of sus-
18 tainable, multidisciplinary programs designed to
19 assist high-risk Native children and families of
20 those high-risk Native children, as well as any
21 examples of successful program models and use
22 of best practices; and

23 (F) the barriers to interagency coordina-
24 tion on programs benefitting Native children.

1 (2) COORDINATION.—In conducting the study
2 under paragraph (1), to avoid duplication of efforts,
3 the Commission shall, to the maximum extent prac-
4 ticable, collaborate with other workgroups focused on
5 similar issues, such as the Task Force on American
6 Indian/Alaska Native Children Exposed to Violence
7 of the Attorney General.

8 (3) RECOMMENDATIONS.—Taking into consid-
9 eration the results of the study under paragraph (1)
10 and the analysis of any existing data relating to Na-
11 tive children received from Federal agencies, the
12 Commission shall—

13 (A) develop goals, and plans for achieving
14 those goals, for Federal policy relating to Na-
15 tive children in the short-, mid-, and long-term,
16 which shall be informed by the development of
17 accurate child well-being measures;

18 (B) make recommendations on necessary
19 modifications and improvements to programs
20 that serve Native children at the Federal, State,
21 and tribal level that integrate the cultural
22 strengths of the communities of the Native chil-
23 dren and will result in—

24 (i) improvements to the child welfare
25 system that—

1 (I) reduce the disproportionate
2 rate at which Native children enter
3 child protective services and the pe-
4 riod of time spent in the foster sys-
5 tem;

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

12 (III) encourage the hiring and re-
13 tention of licensed social workers in
14 Native communities;

15 (IV) address the lack of available
16 foster homes in Native communities;
17 and

18 (V) improve the academic pro-
19 ficiency and graduation rates of Na-
20 tive children in the foster system;

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

1 (I) an analysis of the increased
2 access of Native children to Medicaid
3 under the Patient Protection and Af-
4 fordable Care Act (Public Law 111–
5 148) and the effect of that increase
6 on the ability of Indian tribes and Na-
7 tive Hawaiians to develop sustainable
8 health programs; and

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

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

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

22 (II) scholarship opportunities at
23 a Tribal College or University and
24 other public and private postsecondary
25 institutions;

1 (III) increased participation of
2 the immediate families of Native chil-
3 dren;

4 (IV) coordination among schools
5 and Indian tribes that serve Native
6 children, including in the areas of
7 data sharing and student tracking;

8 (V) accurate identification of stu-
9 dents as Native children; and

10 (VI) increased school counseling
11 services, improved access to quality
12 nutrition at school, and safe student
13 transportation;

14 (iv) improved policies and practices by
15 local school districts that would result in
16 improved academic proficiency for Native
17 children;

18 (v) increased access to extracurricular
19 activities for Native children that are de-
20 signed to increase self-esteem, promote
21 community engagement, and support aca-
22 demic excellence while also serving to pre-
23 vent unplanned pregnancy, membership in
24 gangs, drug and alcohol abuse, and suicide,
25 including activities that incorporate tradi-

1 tional language and cultural practices of
2 Indians and Native Hawaiians;

3 (vi) improvements to Federal, State,
4 and tribal juvenile detention programs—

5 (I) to provide greater access to
6 educational opportunities and social
7 services for incarcerated Native chil-
8 dren;

9 (II) to promote prevention and
10 reduce incarceration and recidivism
11 rates among Native children;

12 (III) to incorporate families and
13 the traditional cultures of Indians and
14 Native Hawaiians in the process, in-
15 cluding through the development of a
16 family court for juvenile offenses; and

17 (IV) to prevent unnecessary de-
18 tentions and identify successful re-
19 entry 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
preschool programs;

(II) programs, including home
visiting and family resource and sup-
port programs, that increase the ca-
pacity of parents to support the learn-
ing 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 de-
velopmental 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 minimizing
11 administrative time, cost, and expense
12 and reducing the burden of Federal
13 paperwork requirements; and

14 (II) allowing unexpended Federal
15 funds to be used flexibly across Fed-
16 eral agencies to support programs
17 benefitting Native children, while tak-
18 ing into account—

19 (aa) the 477 Demonstration
20 Initiative of the Department of
21 the Interior;

22 (bb) the Coordinated Tribal
23 Assistance Solicitation program
24 of the Department of Justice;

1 (cc) the Federal policy of
2 self-determination; and

3 (dd) any consolidated grant
4 programs; and

5 (x) solutions to other issues that, as
6 determined by the Commission, would im-
7 prove the health, safety, and well-being of
8 Native children;

9 (C) based on the use by the Commission of
10 the existing data, make recommendations for
11 improving data collection methods that con-
12 sider—

13 (i) the adoption of standard defini-
14 tions and compatible systems platforms to
15 allow for greater linkage of data sets
16 across Federal agencies;

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

19 (iii) the development of quality data
20 and measures, such as by ensuring suffi-
21 cient sample sizes and frequency of sam-
22 pling, for Federal, State, and tribal pro-
23 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
13 on which all members of the Commission are appointed
14 and amounts are made available to carry out this Act, the
15 Commission shall submit to the President, Congress, and
16 the White House Council on Native American Affairs a
17 report that contains—

18 (1) a detailed statement of the findings and
19 conclusions of the Commission; and

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

23 (g) POWERS.—

24 (1) HEARINGS.—

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

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

12 (2) WITNESS EXPENSES.—

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

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

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

23 (A) IN GENERAL.—The Commission may
24 secure directly from a Federal agency such in-

1 formation as the Commission considers to be
2 necessary 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
7 to 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
17 Commission shall be allowed travel expenses, includ-
18 ing per diem in lieu of subsistence, at rates author-
19 ized for an employee of an agency under subchapter
20 I of chapter 57 of title 5, United States Code, while
21 away from the home or regular place of business of
22 the member in the performance of the duties of the
23 Commission.

24 (2) DETAIL OF FEDERAL EMPLOYEES.—

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

3 (i) the Attorney General, the Sec-
4 retary, the Secretary of Education, and the
5 Secretary of Health and Human Services
6 shall each detail, without reimbursement,
7 one or more employees of the Department
8 of Justice, the Department of the Interior,
9 the Department of Education, and the De-
10 partment of Health and Human Services;
11 and

12 (ii) with the approval of the appro-
13 priate Federal agency head, an employee of
14 any other Federal agency may be, without
15 reimbursement, detailed to the Commis-
16 sion.

17 (B) EFFECT ON DETAILEES.—Detail
18 under this paragraph shall be without interrup-
19 tion or loss of civil service status, benefits, or
20 privileges.

21 (3) PROCUREMENT OF TEMPORARY AND INTER-
22 MITTENT SERVICES.—

23 (A) IN GENERAL.—On request of the Com-
24 mission, the Attorney General shall provide to
25 the Commission, on a reimbursable basis, rea-

1 sonable and appropriate office space, supplies,
2 and administrative assistance.

3 (B) NO REQUIREMENT FOR PHYSICAL FA-
4 CILITIES.—The Administrator of General Serv-
5 ices shall not be required to locate a permanent,
6 physical office space for the operation of the
7 Commission.

8 (4) MEMBERS NOT FEDERAL EMPLOYEES.—No
9 member of the Commission, the Native Advisory
10 Committee, or the Native Children Subcommittee
11 shall be considered to be a Federal employee.

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

15 (j) NONAPPLICABILITY OF FACA.—The Federal Ad-
16 visory Committee Act (5 U.S.C. App.) shall not apply to
17 the Commission, the Native Advisory Committee, or the
18 Native Children Subcommittee.

19 (k) FUNDING.—Out of any unobligated amounts
20 made available to the Secretary, the Attorney General, or
21 the Secretary of Health and Human Services, the Attor-
22 ney General shall make not more than \$2,000,000 avail-
23 able to the Commission to carry out this Act.

○