

Calendar No. 537

113TH CONGRESS
2D SESSION

S. 1622

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 30, 2013

Ms. HEITKAMP (for herself, Ms. MURKOWSKI, Mr. BEGICH, Mr. JOHNSON of South Dakota, Mr. TESTER, Mr. SCHATZ, Ms. HIRONO, Mrs. FEINSTEIN, Mr. FRANKEN, Mr. HOEVEN, Mr. UDALL of New Mexico, Ms. KLOBUCHAR, Mrs. MURRAY, Mr. BAUCUS, Mr. CRAPO, Mr. THUNE, Ms. WARREN, Mr. HEINRICH, Mr. MORAN, Mr. WHITEHOUSE, Ms. COLLINS, Mrs. BOXER, Ms. STABENOW, Mrs. FISCHER, Mr. HATCH, Mr. UDALL of Colorado, Mr. WALSH, Ms. CANTWELL, Mrs. HAGAN, Mr. JOHANNIS, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. ROCKEFELLER, Ms. MIKULSKI, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

AUGUST 26, 2014

Reported, under authority of the order of the Senate of August 5 (legislative day, August 1), 2014, by Mr. TESTER, with an amendment

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

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Alyce Spotted Bear
3 and Walter Soboleff Commission on Native Children Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the United States has a distinct legal, trea-
7 ty, and trust obligation to provide for the education,
8 health care, safety, social welfare, and other needs of
9 Native children;

10 (2) chronic underfunding of Federal programs
11 to fulfill the longstanding Federal trust obligation
12 has resulted in limited access to critical services for
13 the more than 2,100,000 Native children under the
14 age of 24 living in the United States;

15 (3) Native children are the most at-risk popu-
16 lation in the United States, confronting serious dis-
17 parities in education, health, and safety, with 37
18 percent living in poverty;

19 (4) 17 percent of Native children have no
20 health insurance coverage, and child mortality has
21 increased 15 percent among Native children aged 1
22 to 14, while the overall rate of child mortality in the
23 United States decreased by 9 percent;

24 (5) suicide is the second leading cause of death
25 in Native children aged 15 through 24, a rate that
26 is 2.5 times the national average, and violence, in-

cluding intentional injuries, homicide, and suicide;
 account for 75 percent of the deaths of Native chil-
 dren aged 12 through 20;

(6) 58 percent of 3- and 4-year-old Native chil-
 dren are not attending any form of preschool; 15
 percent of Native children are not in school and not
 working; and the graduation rate for Native high
 school students is 50 percent;

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

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

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

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term “Commission”
 means the Alyce Spotted Bear and Walter Soboleff

1 Commission on Native Children established by sec-
2 tion 4.

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

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

11 (4) NATIVE CHILD.—The term “Native child”
12 means—

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

16 (B) an Indian who is between the ages of
17 18 and 24 years old; and

18 (C) a Native Hawaiian who is not older
19 than 24 years old.

20 (5) NATIVE HAWAIIAN.—The term “Native Ha-
21 waiian” has the meaning given the term in section
22 7207 of the Elementary and Secondary Education
23 Act of 1965 (20 U.S.C. 7517).

24 (6) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

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

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

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

10 (b) MEMBERSHIP.—

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

13 (A) 3 shall be appointed by the President,
 14 in consultation with—

15 (i) the Attorney General;

16 (ii) the Secretary;

17 (iii) the Secretary of Education; and

18 (iv) the Secretary of Health and
 19 Human Services;

20 (B) 3 shall be appointed by the Majority
 21 Leader of the Senate, in consultation with the
 22 Chairperson of the Committee on Indian Affairs
 23 of the Senate;

24 (C) 1 shall be appointed by the Minority
 25 Leader of the Senate, in consultation with the

Vice Chairperson of the Committee on Indian
Affairs of the Senate;

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

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

~~(2)~~ REQUIREMENTS FOR ELIGIBILITY.—

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

~~(i)~~ Indian affairs; and

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

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

~~(II)~~ Indian education, including
experience with Bureau of Indian

Education schools and public schools,
tribally operated schools, tribal col-
leges or universities, early childhood
education programs, and the develop-
ment of extracurricular programs;

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

(IV) social service programs that
are used by Native children and de-
signed 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.

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

3 (I) meet the requirements of sub-
4 paragraph (A); and

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

7 ~~(3) TERMS.—~~

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

11 ~~(B) VACANCIES.—~~

12 (i) IN GENERAL.—A vacancy in the
13 Commission shall be filled in the manner
14 in which the original appointment was
15 made.

16 (ii) TERMS.—Any member appointed
17 to fill a vacancy shall be appointed for the
18 remainder of that term.

19 ~~(c) OPERATION.—~~

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

25 ~~(2) MEETINGS.—~~

1 (A) ~~IN GENERAL.~~—The Commission shall
2 meet at the call of the Chairperson.

3 (B) ~~INITIAL MEETING.~~—The initial meet-
4 ing of the Commission shall take place not later
5 than 30 days after the date described in para-
6 graph (1).

7 (3) ~~QUORUM.~~—A majority of the members of
8 the Commission shall constitute a quorum, but a
9 lesser number of members may hold hearings.

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

14 (d) ~~NATIVE ADVISORY COMMITTEE.~~—

15 (1) ~~ESTABLISHMENT.~~—The Commission shall
16 establish a committee, to be known as the “Native
17 Advisory Committee”.

18 (2) ~~MEMBERSHIP.~~—

19 (A) ~~COMPOSITION.~~—The Native Advisory
20 Committee shall consist of—

21 (i) 1 representative of Indian tribes
22 from each region of the Bureau of Indian
23 Affairs who is 25 years of age or older;
24 and

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

3 (B) QUALIFICATIONS.—Each member of
4 the Native Advisory Committee shall have expe-
5 rience relating to matters to be studied by the
6 Commission.

7 (3) DUTIES.—The Native Advisory Committee
8 shall—

9 (A) serve as an advisory body to the Com-
10 mission; and

11 (B) provide to the Commission advice and
12 recommendations; submit materials, documents,
13 testimony, and such other information as the
14 Commission determines to be necessary to carry
15 out the duties of the Commission under this
16 section.

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

1 (e) COMPREHENSIVE STUDY OF NATIVE CHILDREN
2 ISSUES.—

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

7 (A) the impact of concurrent jurisdiction
8 on child welfare systems;

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

14 (C) the obstacles to nongovernmental fi-
15 nancial support, such as from private founda-
16 tions and corporate charities, for programs ben-
17 efitting Native children;

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

23 (E) the barriers to the development of sus-
24 tainable, multidisciplinary programs designed to
25 assist high-risk Native children and families of

1 those high-risk Native children, as well as any
 2 examples of successful program models and use
 3 of best practices; and

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

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

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 goals, and plans for achieving
 19 those goals, for Federal policy relating to Na-
 20 tive children in the short-, mid-, and long-term,
 21 which shall be informed by the development of
 22 accurate child well-being measures;

23 (B) make recommendations on necessary
 24 modifications and improvements to programs
 25 that serve Native children at the Federal, State,

1 and tribal level that integrate the cultural
2 strengths of the communities of the Native chil-
3 dren and will result in—

4 (i) improvements to the child welfare
5 system that—

6 (I) reduce the disproportionate
7 rate at which Native children enter
8 child protective services and the pe-
9 riod of time spent in the foster sys-
10 tem;

11 (II) increase coordination among
12 social workers, police, and foster fami-
13 lies assisting Native children while in
14 the foster system to result in the in-
15 creased safety of Native children while
16 in the foster system;

17 (III) encourage the hiring and re-
18 tention of licensed social workers in
19 Native communities;

20 (IV) address the lack of available
21 foster homes in Native communities;
22 and

23 (V) improve the academic pro-
24 ficiency and graduation rates of Na-
25 tive children in the foster system;

1 (ii) improvements to the mental and
2 physical health of Native children, taking
3 into consideration the rates of suicide, sub-
4 stance abuse, and access to nutrition and
5 health care, including—

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

14 (II) an evaluation of the effects
15 of a lack of public sanitation infra-
16 structure, including in-home sewer
17 and water, on the health status of Na-
18 tive children;

19 (iii) improvements to educational and
20 vocational opportunities for Native children
21 that will lead to—

22 (I) increased school attendance,
23 performance, and graduation rates for
24 Native children across all educational

1 levels, including early education, post-
2 secondary, and graduate school;

3 (II) scholarship opportunities at
4 a Tribal College or University and
5 other public and private postsecondary
6 institutions;

7 (III) increased participation of
8 the immediate families of Native chil-
9 dren;

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

14 (V) accurate identification of stu-
15 dents as Native children; and

16 (VI) increased school counseling
17 services, improved access to quality
18 nutrition at school, and safe student
19 transportation;

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

24 (v) increased access to extracurricular
25 activities for Native children that are de-

1 signed to increase self-esteem, promote
2 community engagement, and support aca-
3 demic excellence while also serving to pre-
4 vent unplanned pregnancy, membership in
5 gangs, drug and alcohol abuse, and suicide,
6 including activities that incorporate tradi-
7 tional language and cultural practices of
8 Indians and Native Hawaiians;

9 (vi) improvements to Federal, State,
10 and tribal juvenile detention programs—

11 (I) to provide greater access to
12 educational opportunities and social
13 services for incarcerated Native chil-
14 dren;

15 (II) to promote prevention and
16 reduce incarceration and recidivism
17 rates among Native children;

18 (III) to incorporate families and
19 the traditional cultures of Indians and
20 Native Hawaiians in the process, in-
21 cluding through the development of a
22 family court for juvenile offenses; and

23 (IV) to prevent unnecessary de-
24 tentions and identify successful re-
25 entry programs;

(vii) expanded access to a continuum of early development and learning services for Native children from prenatal to age 5 that are culturally competent, support Native language preservation, and comprehensively promote the health, well-being, learning, and development of Native children, such as—

(I) high quality early care and learning programs for children starting from birth, including Early Head Start, Head Start, child care, and preschool programs;

(II) programs, including home visiting and family resource and support programs, that increase the capacity of parents to support the learning and development of the children of the parents, beginning prenatally, and connect the parents with necessary resources;

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

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

5 (viii) the development of a system that
 6 delivers wrap-around services to Native
 7 children in a way that is comprehensive
 8 and sustainable, including through in-
 9 creased coordination among Indian tribes,
 10 schools, law enforcement, health care pro-
 11 viders, social workers, and families;

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

14 (I) providing Indians and Native
 15 Hawaiians with more flexibility to
 16 carry out programs, while minimizing
 17 administrative time, cost, and expense
 18 and reducing the burden of Federal
 19 paperwork requirements; and

20 (II) allowing unexpended Federal
 21 funds to be used flexibly across Fed-
 22 eral agencies to support programs
 23 benefitting Native children, while tak-
 24 ing into account—

1 (aa) the 477 Demonstration
2 Initiative of the Department of
3 the Interior;

4 (bb) the Coordinated Tribal
5 Assistance Solicitation program
6 of the Department of Justice;

7 (cc) the Federal policy of
8 self-determination; and

9 (dd) any consolidated grant
10 programs; and

11 (x) solutions to other issues that, as
12 determined by the Commission, would im-
13 prove the health, safety, and well-being of
14 Native children;

15 (C) based on the use by the Commission of
16 the existing data, make recommendations for
17 improving data collection methods that con-
18 sider—

19 (i) the adoption of standard defini-
20 tions and compatible systems platforms to
21 allow for greater linkage of data sets
22 across Federal agencies;

23 (ii) the appropriateness of existing
24 data categories for comparative purposes;

1 (iii) the development of quality data
2 and measures, such as by ensuring suffi-
3 cient sample sizes and frequency of sam-
4 pling, for Federal, State, and tribal pro-
5 grams that serve Native children;

6 (iv) the collection and measurement of
7 data that are useful to Indian tribes and
8 Native Hawaiians;

9 (v) the inclusion of Native children in
10 longitudinal studies; and

11 (vi) tribal access to data gathered by
12 Federal, State, and local governmental
13 agencies; and

14 (D) identify models of successful Federal,
15 State, and tribal programs in the areas studied
16 by the Commission.

17 (f) REPORT.—Not later than 3 years after the date
18 on which all members of the Commission are appointed
19 and amounts are made available to carry out this Act, the
20 Commission shall submit to the President, Congress, and
21 the White House Council on Native American Affairs a
22 report that contains—

23 (1) a detailed statement of the findings and
24 conclusions of the Commission; and

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

~~(g)~~ POWERS.—

(1) HEARINGS.—

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

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

(2) WITNESS EXPENSES.—

~~(A) IN GENERAL.~~—A witness requested to appear before the Commission shall be paid the same fees and allowances as are paid to witnesses under section 1821 of title 28, United States Code.

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

1 ~~(3) INFORMATION FROM FEDERAL, TRIBAL,~~
2 ~~AND STATE AGENCIES.—~~

3 ~~(A) IN GENERAL.—~~The Commission may
4 secure directly from a Federal agency such in-
5 formation as the Commission considers to be
6 necessary to carry out this section.

7 ~~(B) TRIBAL AND STATE AGENCIES.—~~The
8 Commission may request the head of any tribal
9 or State agency to provide to the Commission
10 such information as the Commission considers
11 to be necessary to carry out this Act.

12 ~~(4) POSTAL SERVICES.—~~The Commission may
13 use the United States mails in the same manner and
14 under the same conditions as other agencies of the
15 Federal Government.

16 ~~(5) GIFTS.—~~The Commission may accept, use,
17 and dispose of gifts or donations of services or prop-
18 erty related to the purpose of the Commission.

19 ~~(h) COMMISSION PERSONNEL MATTERS.—~~

20 ~~(1) TRAVEL EXPENSES.—~~A member of the
21 Commission shall be allowed travel expenses, includ-
22 ing per diem in lieu of subsistence, at rates author-
23 ized for an employee of an agency under subchapter
24 I of chapter 57 of title 5, United States Code, while
25 away from the home or regular place of business of

1 the member in the performance of the duties of the
2 Commission.

3 ~~(2) DETAIL OF FEDERAL EMPLOYEES.—~~

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

6 ~~(i) the Attorney General, the Sec-~~
7 ~~retary, the Secretary of Education, and the~~
8 ~~Secretary of the Health and Human Serv-~~
9 ~~ices shall each detail, without reimburse-~~
10 ~~ment, 1 or more employees of the Depart-~~
11 ~~ment of Justice, the Department of the In-~~
12 ~~terior, the Department of Education, and~~
13 ~~the Department of Health and Human~~
14 ~~Services; and~~

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

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

24 ~~(3) PROCUREMENT OF TEMPORARY AND INTER-~~
25 ~~MITTENT SERVICES.—~~

1 ~~(A) IN GENERAL.—On request of the Com-~~
 2 ~~mission, the Attorney General shall provide to~~
 3 ~~the Commission, on a reimbursable basis, rea-~~
 4 ~~sonable and appropriate office space, supplies,~~
 5 ~~and administrative assistance.~~

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

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

15 ~~(i) TERMINATION OF COMMISSION.—The Commis-~~
 16 ~~sion shall terminate 90 days after the date on which the~~
 17 ~~Commission submits the report under subsection (f).~~

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

22 ~~(k) FUNDING.—Out of any unobligated amounts~~
 23 ~~made available to the Secretary, the Attorney General, or~~
 24 ~~the Secretary of Health and Human Services, the Attor-~~

1 ney General shall make not more than \$2,000,000 avail-
 2 able to the Commission to carry out this Act.

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. FINDINGS.**

7 *Congress finds that—*

8 *(1) the United States has a distinct legal, treaty,*
 9 *and trust obligation to provide for the education,*
 10 *health care, safety, social welfare, and other needs of*
 11 *Native children;*

12 *(2) chronic underfunding of Federal programs to*
 13 *fulfill the longstanding Federal trust obligation has*
 14 *resulted in limited access to critical services for the*
 15 *more than 2,100,000 Native children under the age of*
 16 *24 living in the United States;*

17 *(3) Native children are the most at-risk popu-*
 18 *lation in the United States, confronting serious dis-*
 19 *parities in education, health, and safety, with 37 per-*
 20 *cent living in poverty;*

21 *(4) 17 percent of Native children have no health*
 22 *insurance coverage, and child mortality has increased*
 23 *15 percent among Native children aged 1 to 14, while*
 24 *the overall rate of child mortality in the United*
 25 *States decreased by 9 percent;*

1 (5) *suicide is the second leading cause of death*
2 *in Native children aged 15 through 24, a rate that is*
3 *2.5 times the national average, and violence, includ-*
4 *ing intentional injuries, homicide, and suicide, ac-*
5 *count for 75 percent of the deaths of Native children*
6 *aged 12 through 20;*

7 (6) *58 percent of 3- and 4-year-old Native chil-*
8 *dren are not attending any form of preschool, 15 per-*
9 *cent of Native children are not in school and not*
10 *working, and the graduation rate for Native high*
11 *school students is 50 percent;*

12 (7) *22.9 percent of Native children aged 12 and*
13 *older report alcohol use, 16 percent report substance*
14 *dependence or abuse, 35.8 percent report tobacco use,*
15 *and 12.5 percent report illicit drug use;*

16 (8) *Native children disproportionately enter fos-*
17 *ter care at a rate more than 2.1 times the general*
18 *population and have the third highest rate of victim-*
19 *ization; and*

20 (9) *there is no resource that is more vital to the*
21 *continued existence and integrity of Native commu-*
22 *nities than Native children, and the United States*
23 *has a direct interest, as trustee, in protecting Native*
24 *children.*

1 **SEC. 3. DEFINITIONS.**

2 *In this Act:*

3 (1) *COMMISSION.*—*The term “Commission”*
 4 *means the Alyce Spotted Bear and Walter Soboleff*
 5 *Commission on Native Children established by section*
 6 *4.*

7 (2) *INDIAN.*—*The term “Indian” has the mean-*
 8 *ing given the term in section 4 of the Indian Self-De-*
 9 *termination and Education Assistance Act (25 U.S.C.*
 10 *450b).*

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

15 (4) *NATIVE CHILD.*—*The term “Native child”*
 16 *means—*

17 (A) *an Indian child, as that term is defined*
 18 *in section 4 of the Indian Child Welfare Act of*
 19 *1978 (25 U.S.C. 1903);*

20 (B) *an Indian who is between the ages of 18*
 21 *and 24 years old; and*

22 (C) *a Native Hawaiian who is not older*
 23 *than 24 years old.*

24 (5) *NATIVE HAWAIIAN.*—*The term “Native Ha-*
 25 *waiian” has the meaning given the term in section*

1 7207 of the *Elementary and Secondary Education*
 2 *Act of 1965* (20 U.S.C. 7517).

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

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

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

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

14 (b) *MEMBERSHIP*.—

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

17 (A) *3 shall be appointed by the President,*
 18 *in consultation with—*

19 (i) *the Attorney General;*

20 (ii) *the Secretary;*

21 (iii) *the Secretary of Education; and*

22 (iv) *the Secretary of Health and*
 23 *Human Services;*

24 (B) *3 shall be appointed by the Majority*
 25 *Leader of the Senate, in consultation with the*

1 *Chairperson of the Committee on Indian Affairs*
 2 *of the Senate;*

3 *(C) 1 shall be appointed by the Minority*
 4 *Leader of the Senate, in consultation with the*
 5 *Vice Chairperson of the Committee on Indian Af-*
 6 *fairs of the Senate;*

7 *(D) 3 shall be appointed by the Speaker of*
 8 *the House of Representatives, in consultation*
 9 *with the Chairperson of the Committee on Nat-*
 10 *ural Resources of the House of Representatives;*
 11 *and*

12 *(E) 1 shall be appointed by the Minority*
 13 *Leader of the House of Representatives, in con-*
 14 *sultation with the Ranking Member of the Com-*
 15 *mittee on Natural Resources of the House of Rep-*
 16 *resentatives.*

17 *(2) REQUIREMENTS FOR ELIGIBILITY.—*

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

21 *(i) Indian affairs; and*

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

1 (I) health care issues facing Na-
 2 tive children, including mental health,
 3 physical health, and nutrition;

4 (II) Indian education, including
 5 experience with Bureau of Indian Edu-
 6 cation schools and public schools, trib-
 7 ally operated schools, tribal colleges or
 8 universities, early childhood education
 9 programs, and the development of ex-
 10 tracurricular programs;

11 (III) juvenile justice programs re-
 12 lating to prevention and reducing in-
 13 carceration and rates of recidivism;
 14 and

15 (IV) social service programs that
 16 are used by Native children and de-
 17 signed to address basic needs, such as
 18 food, shelter, and safety, including
 19 child protective services, group homes,
 20 and shelters.

21 (B) EXPERTS.—

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

24 (I) meet the requirements of sub-
 25 paragraph (A); and

1 (ii) be responsible for providing
 2 the Commission with insight into and
 3 input from Native children on the mat-
 4 ters studied by the Commission.

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

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

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

11 (3) TERMS.—

12 (A) IN GENERAL.—Each member of the
 13 Commission shall be appointed for the life of the
 14 Commission.

15 (B) VACANCIES.—A vacancy in the Com-
 16 mission shall be filled in the manner in which
 17 the original appointment was made.

18 (c) OPERATION.—

19 (1) CHAIRPERSON.—Not later than 15 days after
 20 the date on which all members of the Commission
 21 have been appointed, the Commission shall select 1
 22 member to serve as Chairperson of the Commission.

23 (2) MEETINGS.—

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

1 (B) *INITIAL MEETING.*—*The initial meeting*
 2 *of the Commission shall take place not later than*
 3 *30 days after the date described in paragraph*
 4 *(1).*

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

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

12 (d) *NATIVE ADVISORY COMMITTEE.*—

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

16 (2) *MEMBERSHIP.*—

17 (A) *COMPOSITION.*—*The Native Advisory*
 18 *Committee shall consist of—*

19 (i) *1 representative of Indian tribes*
 20 *from each region of the Bureau of Indian*
 21 *Affairs who is 25 years of age or older; and*

22 (ii) *1 Native Hawaiian who is 25*
 23 *years of age or older.*

24 (B) *QUALIFICATIONS.*—*Each member of the*
 25 *Native Advisory Committee shall have experience*

1 *relating to matters to be studied by the Commis-*
 2 *sion.*

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

5 (A) *serve as an advisory body to the Com-*
 6 *mission; and*

7 (B) *provide to the Commission advice and*
 8 *recommendations, submit materials, documents,*
 9 *testimony, and such other information as the*
 10 *Commission determines to be necessary to carry*
 11 *out the duties of the Commission under this sec-*
 12 *tion.*

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

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

22 (1) *IN GENERAL.—The Commission shall conduct*
 23 *a comprehensive study of Federal, State, local, and*
 24 *tribal programs that serve Native children, including*
 25 *an evaluation of—*

1 (A) the impact of concurrent jurisdiction on
2 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 finan-
9 cial support, such as from private foundations
10 and corporate charities, for programs benefitting
11 Native children;

12 (D) the issues relating to data collection,
13 such as small sample sizes, large margins of
14 error, 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 of
22 best practices; and

23 (F) the barriers to interagency coordination
24 on programs benefitting Native children.

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

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

9 (B) *to improve coordination and reduce*
10 *travel costs, use available technology.*

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

16 (A) *develop goals, and plans for achieving*
17 *those goals, for Federal policy relating to Native*
18 *children in the short-, mid-, and long-term,*
19 *which shall be informed by the development of*
20 *accurate child well-being measures;*

21 (B) *make recommendations on necessary*
22 *modifications and improvements to programs*
23 *that serve Native children at the Federal, State,*
24 *and tribal levels that integrate the cultural*

1 *strengths of the communities of the Native chil-*
2 *dren and will result in—*

3 *(i) improvements to the child welfare*
4 *system that—*

5 *(I) reduce the disproportionate*
6 *rate at which Native children enter*
7 *child protective services and the period*
8 *of time spent in the foster system;*

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

15 *(III) encourage the hiring and re-*
16 *tention of licensed social workers in*
17 *Native communities;*

18 *(IV) address the lack of available*
19 *foster homes in Native communities;*
20 *and*

21 *(V) reduce truancy and improve*
22 *the academic proficiency and gradua-*
23 *tion rates of Native children in the fos-*
24 *ter system;*

1 (ii) improvements to the mental and
2 physical health of Native children, taking
3 into consideration the rates of suicide, sub-
4 stance abuse, and access to nutrition and
5 health care, including—

6 (I) an analysis of the increased
7 access of Native children to Medicaid
8 under the Patient Protection and Af-
9 fordable Care Act (Public Law 111–
10 148) and the effect of that increase on
11 the ability of Indian tribes and Native
12 Hawaiians to develop sustainable
13 health programs; and

14 (II) an evaluation of the effects of
15 a lack of public sanitation infrastruc-
16 ture, including in-home sewer and
17 water, on the health status of Native
18 children;

19 (iii) improvements to educational and
20 vocational opportunities for Native children
21 that will lead to—

22 (I) increased school attendance,
23 performance, and graduation rates for
24 Native children across all educational

1 *levels, including early education, post-*
 2 *secondary, and graduate school;*

3 *(II) localized strategies developed*
 4 *by educators, tribal and community*
 5 *leaders, and law enforcement to pre-*
 6 *vent and reduce truancy among Native*
 7 *children;*

8 *(III) scholarship opportunities at*
 9 *a Tribal College or University and*
 10 *other public and private postsecondary*
 11 *institutions;*

12 *(IV) increased participation of the*
 13 *immediate families of Native children;*

14 *(V) coordination among schools*
 15 *and Indian tribes that serve Native*
 16 *children, including in the areas of data*
 17 *sharing and student tracking;*

18 *(VI) accurate identification of*
 19 *students as Native children; and*

20 *(VII) increased school counseling*
 21 *services, improved access to quality nu-*
 22 *trition at school, and safe student*
 23 *transportation;*

24 *(iv) improved policies and practices by*
 25 *local school districts that would result in*

1 *improved academic proficiency for Native*
 2 *children;*

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

13 *(vi) improvements to Federal, State,*
 14 *and tribal juvenile detention programs—*

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

19 *(II) to promote prevention and re-*
 20 *duce incarceration and recidivism*
 21 *rates among Native children;*

22 *(III) to incorporate families and*
 23 *the traditional cultures of Indians and*
 24 *Native Hawaiians in the process, in-*

1 cluding through the development of a
 2 family court for juvenile offenses; and
 3 (IV) to prevent unnecessary deten-
 4 tions and identify successful reentry
 5 programs;

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

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

19 (II) programs, including home
 20 visiting and family resource and sup-
 21 port programs, that increase the capac-
 22 ity of parents to support the learning
 23 and development of the children of the
 24 parents, beginning prenatally, and

1 *connect the parents with necessary re-*
 2 *sources;*

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

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

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

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

20 *(I) providing Indians and Native*
 21 *Hawaiians with more flexibility to*
 22 *carry out programs, while minimizing*
 23 *administrative time, cost, and expense*
 24 *and reducing the burden of Federal pa-*
 25 *perwork requirements; and*

1 (II) allowing unexpended Federal
 2 funds to be used flexibly across Federal
 3 agencies to support programs benefit-
 4 ting Native children, while taking into
 5 account—

6 (aa) the 477 Demonstration
 7 Initiative of the Department of
 8 the Interior;

9 (bb) the Coordinated Tribal
 10 Assistance Solicitation program of
 11 the Department of Justice;

12 (cc) the Federal policy of self-
 13 determination; and

14 (dd) any consolidated grant
 15 programs; and

16 (x) solutions to other issues that, as de-
 17 termined by the Commission, would im-
 18 prove the health, safety, and well-being of
 19 Native children;

20 (C) based on the use by the Commission of
 21 the existing data, make recommendations for im-
 22 proving data collection methods that consider—

23 (i) the adoption of standard definitions
 24 and compatible systems platforms to allow

1 *for greater linkage of data sets across Fed-*
 2 *eral agencies;*

3 *(ii) the appropriateness of existing*
 4 *data categories for comparative purposes;*

5 *(iii) the development of quality data*
 6 *and measures, such as by ensuring suffi-*
 7 *cient sample sizes and frequency of sam-*
 8 *pling, for Federal, State, and tribal pro-*
 9 *grams that serve Native children;*

10 *(iv) the collection and measurement of*
 11 *data that are useful to Indian tribes and*
 12 *Native Hawaiians;*

13 *(v) the inclusion of Native children in*
 14 *longitudinal studies; and*

15 *(vi) tribal access to data gathered by*
 16 *Federal, State, and local governmental*
 17 *agencies; and*

18 *(D) identify models of successful Federal,*
 19 *State, and tribal programs in the areas studied*
 20 *by the Commission.*

21 *(f) REPORT.—Not later than 3 years after the date on*
 22 *which all members of the Commission are appointed and*
 23 *amounts are made available to carry out this Act, the Com-*
 24 *mission shall submit to the President, Congress, and the*

1 *White House Council on Native American Affairs a report*
 2 *that contains—*

3 (1) *a detailed statement of the findings and con-*
 4 *clusions of the Commission; and*

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

8 *(g) POWERS.—*

9 (1) *HEARINGS.—*

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

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

21 (2) *WITNESS EXPENSES.—*

22 (A) *IN GENERAL.—A witness requested to*
 23 *appear before the Commission shall be paid the*
 24 *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 and*
 4 *allowances for a witness shall be paid from funds*
 5 *made available to the Commission.*

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

8 *(A) IN GENERAL.—The Commission may se-*
 9 *cure directly from a Federal agency such infor-*
 10 *mation as the Commission considers to be nec-*
 11 *essary 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 to*
 16 *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 Com-
 2 mission shall be allowed travel expenses, including
 3 per diem in lieu of subsistence, at rates authorized for
 4 an employee of an agency under subchapter I of chap-
 5 ter 57 of title 5, United States Code, while away from
 6 the home or regular place of business of the member
 7 in the performance of the duties of the Commission.

8 (2) *DETAIL OF FEDERAL EMPLOYEES.*—

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

11 (i) the Attorney General, the Secretary,
 12 the Secretary of Education, and the Sec-
 13 retary of the Health and Human Services
 14 shall each detail, without reimbursement, 1
 15 or more employees of the Department of
 16 Justice, the Department of the Interior, the
 17 Department of Education, and the Depart-
 18 ment of Health and Human Services; and

19 (ii) with the approval of the appro-
 20 priate Federal agency head, an employee of
 21 any other Federal agency may be, without
 22 reimbursement, detailed to the Commission.

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

1 (3) *PROCUREMENT OF TEMPORARY AND INTER-*
 2 *MITTENT SERVICES.*—

3 (A) *IN GENERAL.*—*On request of the Com-*
 4 *mission, the Attorney General shall provide to*
 5 *the Commission, on a reimbursable basis, reason-*
 6 *able and appropriate office space, supplies, and*
 7 *administrative assistance.*

8 (B) *NO REQUIREMENT FOR PHYSICAL FA-*
 9 *CILITIES.*—*The Administrator of General Serv-*
 10 *ices shall not be required to locate a permanent,*
 11 *physical office space for the operation of the*
 12 *Commission.*

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

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

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

24 (k) *FUNDING.*—*Out of any unobligated amounts made*
 25 *available to the Secretary, the Attorney General, or the Sec-*

- 1 *retary of Health and Human Services, the Attorney General*
- 2 *shall make not more than \$2,000,000 available to the Com-*
- 3 *mission to carry out this Act.*

Calendar No. 537

113TH CONGRESS
2^D Session

S. 1622

A BILL

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

AUGUST 26, 2014

Reported with an amendment