

individual before they carried out the attack.

Now, the threshold for my colleagues who say this program has not served any useful purpose, meaning we have to have an attack to be able to prove we thwarted an attack—that is not why we have this program in place. We are trying to get ahead of the terrorist act. In the case of the subway bombings in New York, we did that in 2009.

There was a Chicago terrorist investigation in 2009. David Coleman Headley, a Chicago businessman and dual U.S. and Pakistan citizen, was arrested by the FBI as he tried to depart Chicago O'Hare Airport to go to Europe. At the time of his arrest, Headley and his colleagues, at the behest of Al Qaeda, were plotting to attack the Danish newspaper that published the unflattering cartoons of Prophet Mohammed. Section 215 metadata analysis was used along with other FBI authorities to investigate Headley's overseas associates and their involvement in Headley's activities.

I am not sure how it gets any clearer than this. We have an individual who is radicalized, who intends to carry out an act, who has overseas connections that we never would have understood without section 215. I think that as my good friend from Maine knows, when we connect one dot, typically it leads to another dot and that leads to another dot. To say to law enforcement, to say to our intelligence community that we are not going to give you the tools to connect these dots is to basically stand up in front of the American people and say that we are supposed to keep you safe, but we are not going to do that.

So I thank my good friend, the Senator from Maine, for his support.

I say to my colleagues, I hope we are going to be able to reinstitute this program shortly after lunch tomorrow. Hopefully, we will be able to do it with three amendment votes and a final passage vote. One will be a substitute to the full bill. It has all the USA FREEDOM Act language, with two changes. It would require the telecom companies to provide 6 months' notification of any change in the retention program of their company. That language was the suggestion of the Senator from Maine, and it works extremely well.

The second piece of the substitute amendment will deal with the certification of the Director of National Intelligence that we have made the technological changes necessary for the telecom companies to actually query that data they are holding.

There will be two additional amendments. The first one will be to change the transition period from 6 months to 12 months, and I think the Senator from Maine would agree with me that—I would like to see it longer—anything longer than 6 months is beneficial as we talk about the safety and security of the American people.

The last amendment is the change in the amicus language or the friend of

the court language. I will get into that in a little while. The current bill says the courts shall—"shall" means they will do it. The administrator of the court has provided us with language that they think will allow the court the flexibility, when they need a friend of the court, to solicit a friend of the court in FISA Court but not require them, with the word "shall," to always have a friend of the court.

Again, I think, as my good friend from Maine knows, the process we go through in section 215 through the FISA Court in many cases is an accelerated process. Any delay can defeat the purpose of what we are doing; that is, trying to be in front of an attack versus in the back of an attack. I say one last time for my colleagues, NSA, under the metadata program, collects a few things: They collect the telephone number, they collect a date, they collect the duration of time that the call took place. They don't get content. They don't get the person's name. They have no idea whose number it is. Were they to tie a domestic number to a foreign terrorist number, that then goes directly to the FBI because they say to the Bureau: We have a suspicious American because they have communicated with a terrorist, at which time it is out of the 215 program for the purposes of investigation of the individual. If there was ever a need to find out whose telephone number it was or if there was a need to see content, that would be sought by the FBI under an investigation through the normal court processes that are not part of the 215 program. Section 215 is limited to a telephone number, with no identifier for whose number it is, the collection of the date, and the duration of the call.

I think the Senator from Maine would agree with me. I would just as soon see the program stay at NSA, but that decision is a fait accompli. It is going to transition out. We would just like to make sure we have enough time so this can seamlessly happen versus an artificial date of 6 months and not knowing whether it can happen.

I thank the Senator from Maine.  
Mr. President, I yield the floor.

#### NATIVE AMERICAN CHILDREN'S SAFETY ACT

#### ALYCE SPOTTED BEAR AND WALTER SOBOLLEFF COMMISSION ON NATIVE CHILDREN ACT

Mr. HOEVEN. I ask unanimous consent that the Senate proceed to the consideration of the following bills en bloc: Calendar No. 77, S. 184, and Calendar No. 79, S. 246.

The PRESIDING OFFICER. The clerk will report the bills by title.

The bill clerk read as follows:

A bill (S. 184) to amend the Indian Child Protection and Family Violence Prevention Act to require background checks before foster care placements are ordered in tribal court proceedings, and for other purposes.

A bill (S. 246) to establish the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, S. 184.

There being no objection, the Senate proceeded to consider the bill, S. 246, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 246

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Alyce Spotted Bear and Walter Soboleff Commission on Native Children Act".*

#### SEC. 2. FINDINGS.

*Congress finds that—*

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

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

(3) Native children are the most at-risk population in the United States, confronting serious disparities in education, health, and safety, with 37 percent living in poverty;

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

(5) suicide is the second leading cause of death in Native children aged 15 through 24, a rate that is 2.5 times the national average, and violence, including intentional injuries, homicide, and suicide, account for 75 percent of the deaths of Native children aged 12 through 20;

(6) 58 percent of 3- and 4-year-old Native children 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 foster care at a rate more than 2.1 times the general population and have the third highest rate of victimization; and

(9) there is no resource that is more vital to the continued existence and integrity of Native communities 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 Commission on Native Children established by section 4.

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

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

(4) NATIVE CHILD.—The term "Native child" means—

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

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

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

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

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

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

#### SEC. 4. COMMISSION ON NATIVE CHILDREN.

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

(b) MEMBERSHIP.—

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

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

- (i) the Attorney General;
- (ii) the Secretary;
- (iii) the Secretary of Education; and
- (iv) the Secretary of Health and Human Services;

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

(C) 1 shall be appointed by the Minority 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 Natural Resources of the House of Representatives; and

(E) 1 shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Natural Resources of the House of Representatives.

(2) REQUIREMENTS FOR ELIGIBILITY.—

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

- (i) Indian affairs; and
- (ii) matters to be studied by the Commission, including—

(I) health care issues facing Native 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 colleges or universities, early childhood education programs, and the development 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 of 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.

(3) TERMS.—

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

(B) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) OPERATION.—

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

(2) MEETINGS.—

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

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

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

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

(d) NATIVE ADVISORY COMMITTEE.—

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

(2) MEMBERSHIP.—

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

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

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

(B) QUALIFICATIONS.—Each member of the Native Advisory Committee shall have experience relating to matters to be studied by the Commission.

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

(A) serve as an advisory body to the Commission; and

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

(4) NATIVE CHILDREN SUBCOMMITTEE.—The Native Advisory Committee shall establish a subcommittee that shall consist of at least 1 member from each region of the Bureau of Indian Affairs and 1 Native Hawaiian, each of whom shall be a Native child, and have experience serving on the council of a tribal, regional, or national youth organization.

(e) COMPREHENSIVE STUDY OF NATIVE CHILDREN ISSUES.—

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

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

(B) the barriers Indian tribes and Native Hawaiians face in applying, reporting on, and using existing public and private grant resources, including identification of any Federal cost-sharing requirements;

(C) the obstacles to nongovernmental financial support, such as from private foundations and corporate charities, for programs benefiting Native children;

(D) the issues relating to data collection, such as small sample sizes, large margins of error, or other issues related to the validity and statistical significance of data on Native children;

(E) the barriers to the development of sustainable, multidisciplinary programs designed to assist high-risk Native children and families of those high-risk Native children;

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

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

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

(I) the use of memoranda of agreement or interagency agreements to facilitate or improve agency coordination, including the effects of existing memoranda or interagency agreements on program service delivery and efficiency.

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

(A) to avoid duplication of efforts, collaborate with other workgroups focused on similar issues, such as the Task Force on American Indian/Alaska Native Children Exposed to Violence of the Attorney General; and

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

(3) RECOMMENDATIONS.—Taking into consideration the results of the study under paragraph (1) and the analysis of any existing data relating to Native children received from Federal agencies, the Commission shall—

(A) develop recommendations for goals, and plans for achieving those goals, for Federal policy relating to Native children in the short-, mid-, and long-term, which shall be informed by the development of accurate child well-being measures, except that the Commission shall not consider or recommend the recognition or the establishment of a government-to-government relationship with—

(i) any entity not recognized on or before the date of enactment of this Act by the Federal Government through an Act of Congress, Executive action, judicial decree, or any other action; or

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

(B) make recommendations on necessary modifications and improvements to programs that serve Native children at the Federal, State, and tribal levels, on the condition that the recommendations recognize the diversity in cultural values, integrate the cultural strengths of the communities of the Native children, and will result in—

(i) improvements to the child welfare system that—

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

(II) increase coordination among social workers, police, and foster families assisting Native children while in the foster system to result in the increased safety of Native children while in the foster system;

(III) encourage the hiring and retention of licensed social workers in Native communities;

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

(V) reduce truancy and improve the academic proficiency and graduation rates of Native children in the foster system;

(ii) improvements to the mental and physical health of Native children, taking into consideration the rates of suicide, substance abuse, and access to nutrition and health care, including—

(I) an analysis of the increased access of Native children to Medicaid under the Patient Protection and Affordable Care Act (Public Law 111u09148) and the effect of that increase on the ability of Indian tribes and Native Hawaiians to develop sustainable health programs; and

(II) an evaluation of the effects of a lack of public sanitation infrastructure, including in-home sewer and water, on the health status of Native children;

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

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

(II) localized strategies developed by educators, tribal and community leaders, and law enforcement to prevent and reduce truancy among Native children;

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

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

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

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

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

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

(v) increased access to extracurricular activities for Native children that are designed to increase self-esteem, promote community engagement, and support academic excellence while also serving to prevent unplanned pregnancy, membership in gangs, drug and alcohol abuse, and suicide, including activities that incorporate traditional language and cultural practices of Indians and Native Hawaiians;

(vi) taking into consideration the report of the Indian Law and Order Commission issued pursuant to section 15(f) of the Indian Law Enforcement Reform Act (25 U.S.C. 2812(f)), improvements to Federal, State, and tribal juvenile justice systems and detention programs—

(I) to provide greater access to educational opportunities and social services for incarcerated Native children;

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

(III) to identify intervention approaches and alternatives to incarceration of Native children;

(IV) to incorporate families and the traditional cultures of Indians and Native Hawaiians in the juvenile justice process, including through the development of a family court for juvenile offenses; and

(V) to prevent unnecessary detentions and identify successful reentry 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

(IV) professional development opportunities for Native providers of early development and learning services;

(viii) the development of a system that delivers wrap-around services to Native children in a way that is comprehensive and sustainable, including through increased coordination among Indian tribes, schools, law enforcement, health care providers, social workers, and families;

(ix) more flexible use of existing Federal programs, such as by—

(I) providing Indians and Native Hawaiians with more flexibility to carry out programs, while maintaining accountability, minimizing administrative time, cost, and expense and reducing the burden of Federal paperwork requirements; and

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

(aa) the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 note; 106 Stat. 2302);

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

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

(dd) any consolidated grant programs; and

(c) solutions to other issues that, as determined by the Commission, would improve the health, safety, and well-being of Native children;

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

(i) the adoption of standard definitions and compatible systems platforms to allow for greater linkage of data sets across Federal agencies;

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

(iii) the development of quality data and measures, such as by ensuring sufficient sample sizes and frequency of sampling, for Federal, State, and tribal programs that serve Native children;

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

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

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

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

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

(1) a detailed statement of the findings and 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.

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

(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers to be necessary to carry out this section.

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

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

(5) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property related to the purpose of the Commission.

(h) COMMISSION PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates au-

thorized for an employee of an agency under subchapter 1 of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) DETAIL OF FEDERAL EMPLOYEES.—

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

(i) the Attorney General, the Secretary, the Secretary of Education, and the Secretary of the Health and Human Services shall each detail, without reimbursement, 1 or more employees of the Department of Justice, the Department of the Interior, the Department of Education, and the Department of Health and Human Services; and

(ii) with the approval of the appropriate Federal agency head, an employee of any other Federal agency may be, without reimbursement, detailed to the Commission.

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

(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—

(A) IN GENERAL.—On request of the Commission, the Attorney General shall provide to the Commission, on a reimbursable basis, reasonable and appropriate office space, supplies, and administrative assistance.

(B) NO REQUIREMENT FOR PHYSICAL FACILITIES.—The Administrator of General Services shall not be required to locate a permanent, physical office space for the operation of the Commission.

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

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

(j) NONAPPLICABILITY OF FACAA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission, the Native Advisory Committee, or the Native Children Subcommittee.

(k) EFFECT.—This Act shall not be construed to recognize or establish a government-to-government relationship with—

(1) any entity not recognized on or before the date of enactment of this Act by the Federal Government through an Act of Congress, Executive action, judicial decree, or any other action; or

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

(l) FUNDING.—There is authorized to be appropriated to carry out this Act \$2,000,000.

Mr. HOEVEN. I ask unanimous consent that the committee-reported substitute amendment to S. 246 be agreed to, the bills be read a third time and passed en bloc, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 184) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Children’s Safety Act”.

#### SEC. 2. CRIMINAL RECORDS CHECKS.

Section 408 of the Indian Child Protection and Family Violence Prevention Act (25

U.S.C. 3207) is amended by adding at the end the following:

“(d) BY TRIBAL SOCIAL SERVICES AGENCY FOR FOSTER CARE PLACEMENTS IN TRIBAL COURT PROCEEDINGS.—

“(1) DEFINITIONS.—In this subsection:

“(A) COVERED INDIVIDUAL.—The term ‘covered individual’ includes—

“(i) any individual 18 years of age or older; and

“(ii) any individual who the tribal social services agency determines is subject to a criminal records check under paragraph (2)(A).

“(B) FOSTER CARE PLACEMENT.—The term ‘foster care placement’ means any action removing an Indian child from a parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator if—

“(i) the parent or Indian custodian cannot have the child returned on demand; and

“(ii) (I) parental rights have not been terminated; or

“(II) parental rights have been terminated but the child has not been permanently placed.

“(C) INDIAN CUSTODIAN.—The term ‘Indian custodian’ means any Indian—

“(i) who has legal custody of an Indian child under tribal law or custom or under State law; or

“(ii) to whom temporary physical care, custody, and control has been transferred by the parent of the child.

“(D) PARENT.—The term ‘parent’ means—

“(i) any biological parent of an Indian child; or

“(ii) any Indian who has lawfully adopted an Indian child, including adoptions under tribal law or custom.

“(E) TRIBAL COURT.—The term ‘tribal court’ means a court—

“(i) with jurisdiction over foster care placements; and

“(ii) that is—

“(I) a Court of Indian Offenses;

“(II) a court established and operated under the code or custom of an Indian tribe; or

“(III) any other administrative body of an Indian tribe that is vested with authority over foster care placements.

“(F) TRIBAL SOCIAL SERVICES AGENCY.—The term ‘tribal social services agency’ means the agency of an Indian tribe that has the primary responsibility for carrying out foster care licensing or approval (as of the date on which the proceeding described in paragraph (2)(A) commences) for the Indian tribe.

“(2) CRIMINAL RECORDS CHECK BEFORE FOSTER CARE PLACEMENT.—

“(A) IN GENERAL.—Except as provided in paragraph (3), no foster care placement shall be finally approved and no foster care license shall be issued until the tribal social services agency—

“(i) completes a criminal records check of each covered individual who resides in the household or is employed at the institution in which the foster care placement will be made; and

“(ii) concludes that each covered individual described in clause (i) meets such standards as the Indian tribe shall establish in accordance with subparagraph (B).

“(B) STANDARDS OF PLACEMENT.—The standards described in subparagraph (A)(ii) shall include—

“(i) requirements that each tribal social services agency described in subparagraph (A)—

“(I) perform criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(f)(3) of title 28, United States Code);

“(II) check any abuse registries maintained by the Indian tribe; and

“(III) check any child abuse and neglect registry maintained by the State in which the covered individual resides for information on the covered individual, and request any other State in which the covered individual resided in the preceding 5 years, to enable the tribal social services agency to check any child abuse and neglect registry maintained by that State for such information; and

“(ii) any other additional requirement that the Indian tribe determines is necessary and permissible within the existing authority of the Indian tribe, such as the creation of voluntary agreements with State entities in order to facilitate the sharing of information related to the performance of criminal records checks.

“(C) RESULTS.—Except as provided in paragraph (3), no foster care placement shall be ordered in any proceeding described in subparagraph (A) if an investigation described in clause (i) of that subparagraph reveals that a covered individual described in that clause has been found by a Federal, State, or tribal court to have committed any crime listed in clause (i) or (ii) of section 471(a)(20)(A) of the Social Security Act (42 U.S.C. 671(a)(20)(A)).

“(3) EMERGENCY PLACEMENT.—Paragraph (2) shall not apply to an emergency foster care placement, as determined by a tribal social services agency.

“(4) RECERTIFICATION OF FOSTER HOMES OR INSTITUTIONS.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each Indian tribe shall establish procedures to recertify homes or institutions in which foster care placements are made.

“(B) CONTENTS.—The procedures described in subparagraph (A) shall include, at a minimum, periodic intervals at which the home or institution shall be subject to recertification to ensure—

“(i) the safety of the home or institution for the Indian child; and

“(ii) that each covered individual who resides in the home or is employed at the institution is subject to a criminal records check in accordance with this subsection, including any covered individual who—

“(I) resides in the home or is employed at the institution on the date on which the procedures established under subparagraph (A) commences; and

“(II) did not reside in the home or was not employed at the institution on the date on which the investigation described in paragraph (2)(A)(i) was completed.

“(C) GUIDANCE ISSUED BY THE SECRETARY.—The procedures established under subparagraph (A) shall be subject to any regulation or guidance issued by the Secretary that is in accordance with the purpose of this subsection.

“(5) GUIDANCE.—Not later than 2 years after the date of enactment of this subsection and after consultation with Indian tribes, the Secretary shall issue guidance regarding—

“(A) procedures for a criminal records check of any covered individual who—

“(i) resides in the home or is employed at the institution in which the foster care placement is made after the date on which the investigation described in paragraph (2)(A)(i) is completed; and

“(ii) was not the subject of an investigation described in paragraph (2)(A)(i) before the foster care placement was made;

“(B) self-reporting requirements for foster care homes or institutions in which any covered individual described in subparagraph (A) resides if the head of the household or

the operator of the institution has knowledge that the covered individual—

“(i) has been found by a Federal, State, or tribal court to have committed any crime listed in clause (i) or (ii) of section 471(a)(20)(A) of the Social Security Act (42 U.S.C. 671(a)(20)(A)); or

“(ii) is listed on a registry described in clause (II) or (III) of paragraph (2)(B)(i);

“(C) promising practices used by Indian tribes to address emergency foster care placement procedures under paragraph (3); and

“(D) procedures for certifying compliance with this Act.”.

The committee-reported amendment to S. 246 in the nature of a substitute was agreed to.

The bill (S. 246), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. HOEVEN. Mr. President, I rise to speak about the Native American Children’s Safety Act, S. 184. This legislation, which I have introduced along with Senator TESTER, is about one thing: making sure that foster children in Native American communities are placed in safe homes.

Without this legislation, there will continue to be inconsistent rules guiding the placement of Native American children in foster care. At this time, Native American tribes and their tribal courts use procedures and guidelines when placing a Native American child in a foster home that vary significantly from tribe to tribe.

S. 184 addresses this problem by creating a transparent pathway for the Federal Government and the tribes to partner together to establish safety standards and policies to ensure the safety of Native American foster care children. Moreover, this bill will strengthen the governance of the tribes and create safeguards for their foster care placement programs and the individuals those programs serve.

The Native American Children’s Safety Act specifically includes the following reforms: It requires that all prospective foster care parents and adults living in the home undergo a background check prior to the placement of a Native American foster child in that home; it requires that background checks include checking for criminal activity as well as State and tribal child abuse and neglect registries; it requires adults who join the household after the foster care child has been placed there also undergo background checks; and, it requires that foster care homes undergo recertification periodically to ensure they remain safe for foster care children.

We worked on this legislation with the tribes, with the National Indian Child Welfare Association, with the Bureau of Indian Affairs, and the U.S. Department of Health and Human Services Administration for Children and Families. The reforms are just commonsense measures designed to protect those Native American children who are in need of a good, safe home. In fact, S. 184 has been endorsed by the National Indian Child Welfare Association as well as the Spirit Lake and

Turtle Mountain tribes in my home State of North Dakota.

This bill has undergone many thoughtful efforts on the part of many people and plenty of thoughtful consideration, and it has gone through regular order in the Senate. It passed unanimously out of the Senate Committee on Indian Affairs on February 4, 2015. I am pleased this bill now has passed the full Senate so these children can receive the protection they deserve.

With that, I yield the floor.

Ms. HEITKAMP. Mr. President, I today can say that I am elated that the Senate unanimously passed my legislation that would create a commission on the status of Native American children.

This bipartisan bill, which was first introduced when I came to the Senate—in fact, it was my first bill—will study the challenges facing Native American kids, including poverty, crime, high unemployment, substance abuse, domestic violence, and dire economic opportunities, as well as making recommendations on how to make sure Native American youth receive the tools and educational resources they need to thrive.

This is not a new issue for me. This is an issue I worked on when I was North Dakota's attorney general and I saw the challenges for so many of our children living in Indian Country. I saw that sometimes they are the most forgotten children in America. I fought for Native families all during my time as North Dakota's attorney general, pledging to improve the lives of Native American youth once I was positioned to do so.

So this is truly an important day for tribes and Native communities, as well as Native children and their families. But we can't stop the momentum. I look forward to working with my colleagues in the House of Representatives to uphold the Federal Government's trust responsibility to Indian tribes and to pass this bill, because standing up for Native children is an issue on which we should all agree.

The Commission on Native Children will work to identify complex challenges faced by Native kids in North Dakota and across the United States. The comprehensive and first-of-its-kind commission would conduct an intensive study on issues affecting Native American youth.

The 11-member commission will issue a report to provide recommendations ensuring Native kids have access to sustainable wraparound systems, as well as the protection, economic resources, and educational tools necessary for success in both academia and in their careers.

In addition to the Commission on Native Children, the subcommittee will also provide advice in order to ensure that those in Washington don't lose sight of these children.

I thank all of my colleagues who have joined me in this effort, but I par-

ticularly want to single out Senator LISA MURKOWSKI from Alaska. She has been a cochampion and a copartner. She sees the same issues among Alaska Natives as I see among the Plains Indians in my State. And we have named this bill after two great educational and spiritual leaders of our States.

In my case, my bill is named after Alyce Spotted Bear, former tribal chairwoman of the Mandan, Hidatsa, and Arikara Nation in North Dakota. Alyce was a passionate advocate for Native children and a recognized leader in education. Unfortunately, she passed away much too soon, but I know her spirit is here in this bill.

I look forward to getting this bill passed in the House of Representatives. I look forward to the report, and I look forward to all of us pulling in the same direction to make sure all of our children are protected, all of our children are loved, and all of our children are given equal opportunity, including those children in Native American homes and those children in Indian Country.

I yield the floor.

#### USA FREEDOM ACT OF 2015— Continued

The PRESIDING OFFICER. The majority whip.

Mr. CORNYN. Mr. President, I would ask the Senate's indulgence. I actually have three topics that I need to discuss here today. One topic involves the historic flooding that we have experienced in Texas and the consequences of that, also the President's signing the Justice for Victims of Trafficking Act, and lastly, the bill that is before us on the floor today, which is another tool in the toolbox of the national security apparatus in this country to help keep Americans safe.

#### TEXAS FLOODS

First, Mr. President, let me talk about the flooding and storm damage that has affected Texas this last week or so. Over the course of a month, Texas has faced a deluge of storms and rain, and according to Texas A&M climatologists, May was the wettest month on record. Texas has been in a drought for a number of years now, and we are glad to get the rain, but we just wish that Mother Nature had spread it out over a longer period of time. The National Weather Service reported yesterday that in May Texas skies shed 37.3 trillion gallons of water, which translates into almost 8 inches of water covering the entire State—a state more than 268,000 square miles large.

Unfortunately, this historic volume of water quickly turned into tragedy and massive destruction. Many Texans have experienced great loss. Some have lost their homes as the rivers came down without any warning and washed their houses from their foundation. But, of course, losing your home does not compare to the heartbreak of losing a loved one, and tragically, at least

24 people have lost their lives in the floods.

As usual, despite the direst of circumstances, the Texas spirit remains alive, and we see many volunteers continuing to dedicate their time and efforts to lend a helping hand. In Wimberley, in central Texas, a town hit particularly hard by flooding and the overflowing Blanco River, a group of students and adults helped to organize a makeshift market in the high school gym. This same group helped consolidate and coordinate donations to give to those most in need. Locals in the town of about 2,500 people have come to refer to this as the "Wimberley Walmart."

Fortunately, stories such as these of Texans helping one another are not isolated—far from it, in fact. Communities across the State are organizing donation drives to help those who have lost all their material possessions, and many individuals have selflessly risked their own lives to help rescue strangers from the floodwaters and the rubble. To these volunteers, and to the many first responders who are working tirelessly, we all thank you from the bottom of our heart. During these hard times, you not only provided relief but you also provided perhaps something more important, and that is hope.

I spoke to several local officials over the last couple of days, including Nim Kidd, who is chief of the Texas Department of Emergency Management. Nim is doing a terrific job in this very difficult position, and he is performing like the experienced public servant that you would come to expect, particularly in dealing with disasters such as this. Nim has said there is a lot of work to be done. He told me that the rivers may not actually be within their banks for 2 more weeks, assuming that we don't get more rain.

This weekend, with recovery efforts in full swing and Texans beginning the painstakingly slow process of answering the painful question of what now, several Texas rivers remain at flood stage in more than 100 different locations. So as we start to recover, we are reminded that we need to remain vigilant.

I was encouraged to hear Nim's report that the assistance of FEMA and other Federal agencies has been making a big difference. He was highly complimentary of their contributions. FEMA, as just one example, has rapidly deployed resources to help assess the damage done in local communities, and we were both glad to see the President quickly grant Governor Abbott's request for a major disaster declaration on Friday night, which will help Texans get the resources they need. I promised Nim and others I spoke to that I would continue to work with Governor Abbott and our State's congressional delegation to make sure that the Federal Government provides all the help Texans deserve during this difficult time.

So, to those suffering today, I want to offer my deepest condolences and