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### TRUTH AND HEALING COMMISSION ON INDIAN BOARDING SCHOOL POLICIES ACT OF 2023

JULY 8, 2024.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1723]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 1723) to establish the Truth and Healing Commission on Indian Boarding School Policies in the United States, and for other purposes, having considered the same, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

#### PURPOSE

To establish a Truth and Healing Commission on Indian Boarding School Policies (Commission) in the United States, and other advisory committees and subcommittees; formally investigate, document, and report on the histories of Indian Boarding Schools and their systematic and long-term effects on Native American peoples; develop recommendations for federal action based on the findings of the Commission; and promote healing for survivors, descendants, and communities affected by Indian Boarding Schools.

#### BACKGROUND

Before European contact, Native peoples maintained unique educational systems rooted in community and designed to meet the needs of their environments and cultures.<sup>1</sup> The arrival of Euro-

<sup>1</sup>K. Tsianina Lomawaima & Teresa McCarty, *To Remain an Indian: Lessons in Democracy from a Century of Native American Education* (2006).

peans to North America and the Pacific Islands ushered in an era of attempted assimilation of Native peoples into European-American ways of life.<sup>2</sup> Systemic attempts to eliminate Native languages, religions, and cultures, and end resistance to colonization, began as early as the 17th and 18th centuries, with the founding of some of the country's oldest educational institutions.<sup>3 4</sup>

Assimilationist practices and policies through compelled education were not limited to formal institutions. For example, in the 1780s, Russian fur trading companies in Alaska took Native boys hostage, sent them to training schools, and forced them into servitude as navigators, interpreters, and seamen.<sup>5</sup> In other cases, training schools were founded by religious institutions and later funded by the federal government. In 1878, Presbyterian missionaries established a day school in Sitka, Alaska, at a former military barracks. The Sheldon Jackson School, so called after its founder, sought to "house and educate . . . 'with the intent to encourage Native Americans to adopt Euro-American culture.'" <sup>6</sup> Jackson was named the General Agent of Education in Alaska in 1885, and in this position, created "contract schools" in which the federal government contracted with religious missionary associations to establish schools in remote villages across Alaska.<sup>7</sup> Whether carried out in formal educational settings or in day, industrial, training, contract, or other schools, the forced "education" of Native children has a long history in the United States that implicates a number of institutions, including the federal government, all with the same mission: "kill the Indian in him, and save the man."<sup>8</sup>

#### *Federal Support for Forced Assimilation Through Education of Native Children*

By the early 1800s, the United States began a campaign of forced assimilation under the guise of educating Native youth, formalizing the practice after the War of 1812. In 1819, Congress passed the *Indian Civilization Fund Act* to provide for federal oversight of the education of Native peoples and to establish an annual "civilization

<sup>2</sup>See generally COHEN'S HANDBOOK OF FEDERAL INDIAN LAW, 22.03[1][a] (2012 ed. & 2019 Supp.).

<sup>3</sup>Indian Education: A National Tragedy, A National Challenge, S. Comm. on Labor and Public Welfare, Special Subcomm. on Indian Educ., S. REP. NO. 91-501 (1969) (highlighting examples such as King James IV of Scotland (James I of England) calling for Anglican clergy to fund the education of the "children of these Barbarians in Virginia" in 1617). See also Harvard University Charter of 1650 (1650), <https://guides.library.harvard.edu/c.php?g=880222&p=6323072> ("[for purposes of, among other things] the education of the English and Indian youths of this country, in knowledge and godliness"); Royal Charter establishing the College of William & Mary in Virginia (1693), <https://scrc-kb.libraries.wm.edu/royal-charter#Transcription+of+the+Royal+Charter> (establishing the college so that, among other things, "the Christian faith may be propagated amongst the Western Indians").

<sup>4</sup>Dartmouth College Charter (1769), <https://www.dartmouth.edu/library/rauner/dartmouth/dartmouth-college-charter.html> (establishing the "design of spreading Christin knowledge among the saves of [the] American Wilderness" by means of "education and instruction of youth of the Indian tribes . . . which shall appear necessary and expedient for civilizing and christianizing children of pagans"); see Colin Calloway, *The Indian History of an American Institution: Native Americans at Dartmouth* (2010); see also Stephen W. Haycox, *Alaska: An American Colony* 146 (2002).

<sup>5</sup>Svetlana G. Fedorova, *The Russian Population in Alaska and California Late 18th Century—1867* 242–243 (Richard A. Pierce et al., ed. & trans., 1973). Following admission to statehood, some former Russian schools in Alaska continued to operate through church parishes. *Id.* at 266.

<sup>6</sup>NAT'L PARK SERV. NATIONAL HISTORIC LANDMARK NOMINATION, SHELDON JACKSON SCHOOL (2001) at 5.

<sup>7</sup>Stephen W. Haycox, *Sheldon Jackson in Historical Perspective: Alaska Native Schools and Mission Contracts, 1885–1894*, 28 *THE PAC. HIST.* 1, 18–28 (1984).

<sup>8</sup>See Captain R.H. Pratt, *The Advantages of Mingling Indians with Whites*, in *AMERICANIZING THE AMERICAN INDIANS: WRITINGS BY THE "FRIENDS OF THE INDIAN," 1880–1900* (Francis Paul Prucha ed., 1973).

fund” of \$10,000 per year for the purposes of converting them to European ways of living, speaking, and acting.<sup>9</sup> Most of these funds were provided to churches and their mission schools;<sup>10</sup> in Hawai‘i, missionaries from the United States established day schools and boarding schools primarily aimed at “civilizing” and converting Native Hawaiians to Christianity.<sup>11</sup> Over time, the federal government centralized administration of Indian educational efforts under the Commission of Indian Affairs within the Department of the Interior (DOI), the successor in jurisdiction to the Department of War.<sup>12</sup> By 1838, the federal government operated 16 manual training schools with approximately 800 Native students, and 87 boarding schools with approximately 2,900 Native students.<sup>13</sup> The policies of these schools were rooted in a belief that Native peoples were “barbarous and heathen . . . [and] ‘wedded to savage habits, customs, and prejudices’” which could be “cured” through manual training and labor.<sup>14</sup>

Accordingly, in 1879, the federal government opened one of the first off-reservation boarding schools, the Carlisle Indian Industrial School, in an abandoned U.S. Army barracks in Carlisle, Pennsylvania.<sup>15</sup> Richard Henry Pratt, an Army officer and founder of the School, established a “rapid coercive assimilation” approach that became the model for the federal Indian boarding school system, and required “severe [military] discipline . . . to separate a child from his reservation and family, strip him of tribal lore and mores, force the complete abandonment of his native language, and prepare him in such a way that he would never return to his people.”<sup>16</sup> General Pratt’s approach at Carlisle was rooted in his experience with American Indians held as prisoners of war at the Hampton Agricultural and Industrial School,<sup>17</sup> which is regarded as the nation’s first *residential* experiment in educating American Indians as a means of preparing them for citizenship.<sup>18</sup> Hampton’s founder, General Samuel C. Armstrong, was influenced by his parents and other missionaries in Hawai‘i who were involved in the education of Native Hawaiian children. Believing that “the Polynesian, like the Negro, suffered from a ‘deficiency of character,’”<sup>19</sup> General Armstrong modeled Hampton after the Hilo Boys’ Board-

<sup>9</sup> Act of March 3, 1819, ch. 85, 3 Stat. 516 (codified at 25 U.S.C. § 271). Annual appropriations to fund Indian education continued under the *Indian Civilization Fund Act* until repealed in 1873 by the Act of Feb. 14, 1873, Ch. 138, 17 Stat. 437, 461. See generally COHEN’S HANDBOOK OF FEDERAL INDIAN LAW, 22.03[1][a] at 1329–30 & n.6.

<sup>10</sup> See S. REP. NO. 91–501 at 11, 143 (1969).

<sup>11</sup> See U.S. DEPT. OF THE INTERIOR, FEDERAL INDIAN BOARDING SCHOOL INITIATIVE INVESTIGATIVE REPORT (2022) (“In 1836 . . . missionaries formed the Hilo Boarding School . . . [t]he Charter of the Hilo Boarding School . . . required schooling of Native Hawaiian male children in . . . Christian living . . . coupled with manual labor to promote good citizenship training.”).

<sup>12</sup> See Letter from John C. Calhoun, U.S. Sec’y of War, to Thomas L. McKenney (Mar. 11, 1824), in H.R. DOC. NO. 19–146, at 6 (1826); 25 U.S.C. § 1; Act of July 9, 1832, Ch. 174, 4 Stat. 564.

<sup>13</sup> S. REP. NO. 91–501, at 11 (1969).

<sup>14</sup> *Id.* at 8.

<sup>15</sup> *Id.* at 147.

<sup>16</sup> *Id.* at 148.

<sup>17</sup> Jon L. Brudvig, “Make Haste Slowly:” *The Experiences of American Indian Women at Hampton Institute, 1878–1923* 1 (2005), <https://www.se.edu/native-american/wp-content/uploads/sites/49/2019/09/Proceedings-2005-Brudvig.pdf> (“Hampton . . . was established in 1868 to serve the . . . needs of recently emancipated slaves . . . American Indian students [formerly prisoners of war] came to Hampton . . . [and] their presence . . . spawned the development of off-reservation boarding schools”).

<sup>18</sup> *Id.*

<sup>19</sup> Ralph Canevali, *Hilo Boarding School: Hawai‘i’s Experiment in Vocational Education* 92 (1977), <https://core.ac.uk/download/pdf/5014889.pdf>.

ing School in Hawai'i, a missionary-run boarding school established to primarily convert Native Hawaiians to Christianity and, ultimately, "civilize" them through manual labor and training.<sup>20</sup> Hampton continued as a boarding school for American Indians, Alaska Natives, and Native Hawaiians until 1923.<sup>21</sup>

As mission-run boarding schools expanded their reach throughout the country and to the Hawai'i territory, Congress authorized the Commissioner of Indian Affairs to promulgate regulations "to secure the attendance" of Indian children at such schools in 1891.<sup>22</sup> These regulations applied to all Indian children between the ages of five and eighteen (whether living on or off-reservation), permitted the use of law enforcement to compel attendance,<sup>23</sup> and authorized the withholding of clothes, rations, and other annuities from non-compliant parents or guardians.<sup>24</sup> The overarching federal goal of compelled schooling was to reduce the cost of fighting with Indian Tribes and, ultimately, dispossess them of their homelands through the complete elimination of their languages, cultures, and social bonds.<sup>25</sup>

Once at the schools, Native children were subject to systematic violence, including corporal and psychological punishment such as shaving heads to remove traditional hairstyles; confinement; flogging and whipping for speaking a Native language or engaging in other prohibited conduct; handcuffing; having older children punish younger ones; sexual abuse; neglect; and malnourishment.<sup>26</sup> In some cases, children would be "lent" to nearby communities or adjacent states to work as servants and farm laborers, in what were commonly known as "outing programs."<sup>27</sup> Placement at these schools led to disease, death, and the fraying of Native languages, cultural practices, and social life;<sup>28</sup> the physical and psychological effects of these experiences created lasting intergenerational trauma for survivors and their families.<sup>29</sup>

<sup>20</sup> C. Kalani Beyer, *The Connection of Samuel Chapman Armstrong as Both Borrower and Architect of Education in Hawai'i* (2007), <https://www.cambridge.org/core/journals/history-of-education-quarterly/article/abs/connection-of-samuel-chapman-armstrong-as-both-borrower-and-architect-of-education-in-hawaii/15E99DC33C913D9485CE7773D158C046>.

<sup>21</sup> See generally Ralph Canevali, *Hilo Boarding School: Hawai'i's Experiment in Vocational Education* (1977), <https://core.ac.uk/download/pdf/5014889.pdf>.

<sup>22</sup> Act of March 3, 1891, ch. 543, 26 Stat. 989, 1014.

<sup>23</sup> U.S. CONG. SERIAL SET, VOL. 2934, at 158–159 (1891).

<sup>24</sup> Act of March 3, 1891, Ch. 543, 26 Stat. 989, 1035. See S. REP. NO. 91–501 at 151 (1969).

<sup>25</sup> *Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res.*, 117th Cong. (2022) (statement of Deborah Parker, Nat'l Native Boarding School Healing Coalition).

<sup>26</sup> U.S. DEPT OF THE INTERIOR, FEDERAL INDIAN BOARDING SCHOOL INITIATIVE INVESTIGATIVE REPORT 7–8 (2022).

<sup>27</sup> See, e.g., Kevin Whalen, *Beyond School Walls: Race, Labor, and Indian Education in Southern California, 1902–1940* (2014) (Ph.D. dissertation, University of California Riverside); Kevin Whalen, *NATIVE STUDENTS AT WORK: AMERICAN INDIAN LABOR AND SHERMAN INSTITUTE'S OUTING PROGRAM, 1900–1945* (University of Washington Press 2018).

<sup>28</sup> See *supra* notes 7 & 25; see also, Juliet Larking-Gilmore, *Homesick: Disease and Distance in American Indian Boarding Schools*, REMEDIA (Nov. 18, 2016), <https://remediationnetwork.wordpress.com/2016/11/18/homesick-disease-and-distance-in-american-indian-boarding-schools/>; *Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res.*, 117th Cong. (2022) (statement of James LaBelle Sr., National Native Boarding School Healing Coalition); *Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res.*, 117th Cong. (2022) (statement of Matthew War Bonnet, boarding school survivor).

<sup>29</sup> See e.g., *Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res.*, 117th Cong. (2022) (statement of James LaBelle Sr., National Native Boarding School Healing Coalition); *Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on*

Compounding such cruelty, official school policies (or in some cases, simple geography) kept children and their parents and families apart. In an 1886 report to the Secretary of the Interior, Indian School Superintendent John B. Riley wrote, “[i]f it be admitted that education affords the true solution to the Indian problem, then it must be admitted that the boarding school is the very key to the situation.”<sup>30</sup> Riley went on to say, “[o]nly by complete isolation of the Indian child from his savage antecedents can he be satisfactorily educated . . . .”<sup>31</sup> Such techniques were also used by mission-run schools. For example, in 1887, an Alaska Native mother sought a writ of habeas corpus to free her child from a government-funded Presbyterian Boarding School in Sitka, Alaska. While the judge allowed limited visitation, he required the child to stay at the school, writing, “It is the experience of those who have been engaged in these Indian schools that, to make them effectual as disseminators of civilization, Indian children should, at a tender and impressionable age, be entirely withdrawn from the camp, and placed under the control of these schools. [Allowing parents to take their children home] would render all efforts of both the government and missions to civilize them abortive.”<sup>32</sup>

According to DOI’s Federal Indian Boarding School Initiative Investigative Report, as of May 2022, the federal government supported or operated at least 408<sup>33</sup> Indian boarding schools between 1819 and 1969, across 37 states or territories.<sup>34</sup> The total number of Native children who attended these schools is unknown, but many did not survive and their remains never returned home.

#### FEDERAL INVESTIGATIONS INTO INDIAN EDUCATION<sup>35</sup>

##### *The Problem of Indian Administration (Meriam Report)—1928*

On June 12, 1926, Secretary of the Interior Huber Work commissioned the Institute for Government Research, later renamed the Brookings Institute, to conduct a comprehensive survey of Indian affairs in the United States.<sup>36</sup> The survey, named the “Meriam Report” after its author, focused on a number of areas, including industrial, social, and medical activities, property rights, economic

*Nat. Res.*, 117th Cong. (2022) (statement of Matthew War Bonnet, boarding school survivor); Amy Bombay et al., *The Intergenerational Effects of Indian Residential Schools: Implications for the Concept of Historical Trauma*, 51 *Transcultural Psychiatry* 3 (2014); Hope MacDonald Lone-tree, *Healing from the Trauma of Federal Residential Indian Boarding Schools*, ADMINISTRATION FOR CHILDREN AND FAMILIES (Nov. 24, 2021), <https://www.acf.hhs.gov/blog/2021/11/healing-trauma-federal-residential-indian-boarding-schools>.

<sup>30</sup> Annual Report of the Indian School Superintendent to the Secretary of the Interior 137 (1886).

<sup>31</sup> *Id.*

<sup>32</sup> *In re Can-ah-couqua*, 29 F. 687, 690 (D. Alaska 1887).

<sup>33</sup> The National Native American Boarding School Coalition, *Indian Boarding Schools in the United States* (2023), <https://boardingschoolhealing.org/wp-content/uploads/2023/08/National-Native-American-Boarding-School-Healing-Coalition-List-of-Indian-boarding-schools-in-US-August-2023.pdf> (identifying a total of 523 Indian Boarding Schools operating between 1801 and the present).

<sup>34</sup> U.S. DEPT OF THE INTERIOR, FEDERAL INDIAN BOARDING SCHOOL INITIATIVE INVESTIGATIVE REPORT 83 (2022) (reporting 21 schools in Alaska, 7 in Hawai’i, 12 in Kansas, 21 in Minnesota, 16 in Montana, 3 in Nevada, 43 in New Mexico, 12 in North Dakota, 76 in Oklahoma, 30 in South Dakota, and 15 in Washington).

<sup>35</sup> See Indian Education: A National Tragedy, A National Challenge, S. Comm. on Labor and Public Welfare, Special Subcomm. on Indian Educ., S. REP. NO. 91-501 (1969). Although not explicitly focused on Indian Boarding Schools, in 1928 and again in 1969, DOI and the United States Senate, respectively, conducted investigations into the state of Indian education in the United States.

<sup>36</sup> Lewis Meriam, Institute for Government Research, *The Problem of Indian Administration* (1928) [hereinafter Meriam Report].

conditions, and education of Indian peoples. The Report compared these activities as carried out within the DOI's Office of Indian Services to similar programs implemented by other federal agencies.

Generally, the Report laid bare Interior's ineffective and inadequate oversight of Indian affairs, finding that "an overwhelming majority of the Indians are poor, even extremely poor . . ." and suffer from a "vicious circle of poverty . . . ."<sup>37</sup> On Indian education, and boarding schools specifically, the Report concluded that "the provisions for the care of the Indian children in boarding schools are grossly inadequate," and that "even at the best schools these sources do not fully meet the requirements for the health and development of the children. At the worst schools, the situation is serious in the extreme."<sup>38</sup> It specified four general deficiencies in Indian education at the time: inappropriate pedagogy;<sup>39</sup> lack of funds;<sup>40</sup> lack of personnel;<sup>41</sup> and lack of qualified personnel.<sup>42</sup> These findings provided a foundation for the passage of the *Johnson O'Malley Act*<sup>43</sup> and the *Indian Self Determination and Education Assistance Act*.<sup>44</sup>

*Indian Education: A National Tragedy—A National Challenge (Kennedy Report)—1969*

In 1967, the United States Senate established the Special Subcommittee on Indian Education within the Committee on Labor and Public Welfare, and specifically authorized it to examine, investigate, and make a complete study of all matters pertaining to the education of Indian children and related issues.<sup>45</sup> For over two years, the Subcommittee held hearings, conducted document-based research, and traveled throughout Indian country. Its final report, known as the Kennedy Report, contained 60 recommendations and concluded that Indian education was a failure and a "national tragedy." The Kennedy Report led to enactment of the *Indian Education Act of 1972*, landmark legislation that established the U.S. Department of Education's Office of Indian Education and the National Advisory Council on Indian Education.<sup>46</sup>

FEDERAL INVESTIGATION INTO INDIAN BOARDING SCHOOLS

*Department of the Interior Boarding School Initiative*

On June 22, 2021, Secretary of the Interior Deb Haaland directed DOI, under the supervision of the Assistant Secretary—Indian Affairs, to investigate and prepare a report detailing the impacts of the federal Indian boarding school program that operated between 1819 and 1969.<sup>47</sup> The first volume of the report, released

<sup>37</sup> *Id.* at 11.

<sup>38</sup> Meriam Report at 12.

<sup>39</sup> *Id.* at 346.

<sup>40</sup> *Id.* at 347.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> 25 U.S.C. § 5342 et seq. (1934).

<sup>44</sup> 25 U.S.C. § 5301 et seq. (1975).

<sup>45</sup> S. Res. 165, 90th Cong. (1967).

<sup>46</sup> Indian Education: A National Tragedy, A National Challenge, S. Comm. on Labor and Public Welfare, Special Subcomm. on Indian Educ., S. REP. NO. 91-510, at 105-136 (1969).

<sup>47</sup> Memorandum from the Sec'y of the Interior to Assistant Sec'ys, Principal Deputy Assistant Sec'ys, Heads of Bureaus, and Offices (Jun. 22, 2021) (on file with the U.S. Dep't of the Interior), <https://doi.gov/sites/doi.gov/files/secint-memo-esb46-01914-federal-indian-boarding-school-truth-initiative-2021-06-22-final508-1.pdf>.

on May 11, 2022, documents and affirms that the United States targeted American Indian, Alaska Native, and Native Hawaiian children as part of its assimilation and territorial dispossession efforts,<sup>48</sup> and presents evidence that the Federal Indian boarding school system engaged in systematic, militarized, and identity-altering practices<sup>49</sup> to culturally assimilate American Indian, Alaska Native, and Native Hawaiian children as a “cost saving” method to decrease the likelihood of war with Native nations and ultimately dispossess them of their lands.<sup>50</sup> In light of such evidence, the Assistant Secretary—Indian Affairs recommended *inter alia* that the DOI “renounce forced assimilation of Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community as a legitimate policy objective,” as well as produce a second report, with additional investigation that includes a full accounting of federal support for the federal Indian boarding school system.<sup>51</sup>

#### TRUTH AND RECONCILIATION ACTIVITIES IN NORTH AMERICA

##### *National Native American Boarding School Healing Coalition*

The National Native American Boarding School Healing Coalition (NABS) was formed in 2011 to develop a national strategy to raise public awareness of federal Indian Boarding School policies and support healing for survivors, their families, and communities.<sup>52</sup> Comprised of over 1,200 Native and non-Native members and organizations, NABS conducts historic and contemporary research and engages in public education and advocacy.

Notably, NABS maintains a first of its kind “National Indian Boarding School Digital Archive” of digitized records and collections documenting information related to Indian boarding schools, as well as an interactive map showing the locations of each of the 523 Indian boarding schools identified to date.<sup>53</sup> NABS also collaborates with organizations, including Canada’s National Centre for Truth and Reconciliation and the National Indian Education Association, to develop culturally-based curriculum for educators, and works with the American Indian College Fund to provide scholarships to descendants of former Indian boarding school students. And, through a grant from the DOI, NABS is building a record of survivor testimony through an oral history project to document the experiences of boarding school survivors and promote healing.<sup>54</sup>

As the leading advocacy organization dedicated to understanding and addressing the legacy of federal Indian Boarding School poli-

<sup>48</sup>U.S. DEPT OF THE INTERIOR, FEDERAL INDIAN BOARDING SCHOOL INITIATIVE INVESTIGATIVE REPORT 5 (2022).

<sup>49</sup>*Id.* at 7 (Such practices included renaming children in English, cutting their hair, discouraging or preventing the use of Native languages and religious and cultural practices, organizing children into units to perform military-style drills, and employing various forms of corporal and psychological punishment).

<sup>50</sup>*Id.* at 37, 38.

<sup>51</sup>*Id.* at 95, 97.

<sup>52</sup>See THE NATIONAL NATIVE AMERICAN BOARDING SCHOOL HEALING COALITION, <https://boardingschoolhealing.org/> (last visited June 20, 2024).

<sup>53</sup>*Interactive Digital Map of Indian Boarding Schools*, THE NATIONAL NATIVE AMERICAN BOARDING SCHOOL HEALING COALITION, <https://boardingschoolhealing.org/digitalmap/> (last visited June 20, 2024).

<sup>54</sup>Press Release, U.S. Department of the Interior, Interior Department Launches Effort to Preserve Federal Indian Boarding School Oral History (Sept. 6, 2023) <https://www.doi.gov/pressreleases/interior-department-launches-effort-preserve-federal-indian-boarding-school-oral>.

cies,<sup>55</sup> NABS has provided extensive testimony and subject matter expertise to Congress about the need for legislation to create a federal commission to fully investigate, document, and acknowledge these policies, and promote healing for survivors.<sup>56</sup>

#### *Maine-Wabanaki Truth and Reconciliation Commission*

In 2012, the Wabanaki Confederacy<sup>57</sup> and Maine Governor Paul LePage signed a mandate establishing the first Tribal-State Truth and Reconciliation Commission (MWTRC).<sup>58</sup> The MWTRC's purpose was to address the high rates at which Indian children were being removed from Indian homes and placed in foster care following enactment of the *Indian Child Welfare Act of 1978*.<sup>59</sup> Between February 2013 and June 2015, the MWTRC engaged in a truth-seeking process by interviewing over 150 people and traveling to numerous villages and communities to receive testimony. In June 2015, the MWTRC published its final report, which included sixteen findings and fourteen recommendations for future action.<sup>60</sup>

#### *Alaska Native Heritage Center: Lach'qu Sukdu Research Program*

In 2021, the Alaska Native Heritage Center (ANHC) created an Indigenous-led research program, *Lach'qu Sukdu* ("True Story" in the Dena'ina language), to investigate Federal Indian boarding school system, among other goals. Such research includes identifying the scope of the system, location of schools and burial sites, and identification of children who were part of the system. To date, *Lach'qu Sukdu* has identified over 100 sites of former Indian boarding schools or institutions in Alaska.

ANHC's *Lach'qu Sukdu* provides a place for Alaska Native people to share information concerning assimilative boarding schools in Alaska, increases access to information and education, supports Alaska Native culture and heritage, and promotes healing through the recognition of the history and impacts of assimilative boarding schools. *Lach'qu Sukdu* is partnering with ecclesial institutions, providing access to Alaska Native community members, and leveraging research and curatorial staff to catalogue primary source material, conduct interviews, and map school locations.

<sup>55</sup> See, THE NATIONAL NATIVE AMERICAN BOARDING SCHOOL HEALING COALITION, 2023 ANNUAL REPORT 5 (2023), [https://boardingschoolhealing.org/wp-content/uploads/2024/04/Annual-Report-NABS-2023\\_V2.pdf](https://boardingschoolhealing.org/wp-content/uploads/2024/04/Annual-Report-NABS-2023_V2.pdf).

<sup>56</sup> See, e.g., *Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res.*, 117th Cong. (2022); *Oversight Hearing on "Volume 1 of the Department of the Interior's Federal Indian Boarding School Initiative Investigative Report" and Legislative Hearing on S. 2907 Before the S. Comm. on Indian Affs.*, 117th Cong. (2022).

<sup>57</sup> FOUR DIRECTIONS, <https://fourdirectionsmaine.org/about-four-directions/wabanaki-tribes/> (last visited Mar. 8, 2024) (the Wabanaki Confederacy is a confederation of Eastern Algonquin Nations and includes the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe at Motahkmikuk (Indian Township), the Passamaquoddy Tribe at Sipayik (Pleasant Point), and the Penobscot Indian Nation).

<sup>58</sup> MAINE WABANAKI-STATE CHILD WELFARE TRUTH AND RECONCILIATION COMMISSION MANDATE (June 29, 2012) (on file with the Senate Committee on Indian Affairs) [hereinafter MAINE TRC].

<sup>59</sup> *Id.* Because of the terms of the Maine Indian Claims Settlement Act (P.L. 96-420), the application of the Indian Child Welfare Act to Tribes in Maine varies among the Maine Tribes. See *Remote Legislative Hearing, House Natural Resources Subcommittee for Indigenous Peoples of the United States*, 117th Cong. (2022).

<sup>60</sup> Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission, Report, BEYOND THE MANDATE: CONTINUING THE CONVERSATION (2015), [https://d3n8a8pro7vhmx.cloudfront.net/mainewabanakireach/pages/17/attachments/original/1468974047/TRC-Report-Expanded\\_July2015.pdf?1468974047](https://d3n8a8pro7vhmx.cloudfront.net/mainewabanakireach/pages/17/attachments/original/1468974047/TRC-Report-Expanded_July2015.pdf?1468974047).



Through these inputs and activities, *Lach'qu Sukdu* will promote accurate representations of the Alaska Native experience of Federal Indian boarding schools, create new models to facilitate healing from historical trauma, and over the long-term improve linguistic and cultural revitalization and promote reconciliation between Alaska Native communities and assimilative institutions.<sup>61</sup>

*First Alaskans Institute—Alaska Truth, Racial Healing and Transformation Movement*

Starting in 2017, the First Alaskans Institute, in partnership with Truth, Racial Healing and Transformation: Alaska, developed a relational platform for transformation, including a network of accountability partners to support efforts related to Indigenous language education, transformation of public education, and the advancement of policies that center Alaska Native stewardship and protect Alaska Native ways of being.<sup>62</sup>

The Truth, Racial Healing and Transformation: Alaska movement incorporates the knowledge and vision of Alaska Native healers to foster healing and connectedness for thriving communities.<sup>63</sup> In connection with this movement, the First Alaskans Institute trained media outlets on racial equity, invited them to be accountability partners, and developed a “How We Heal Toolkit” to guide healing and reconciliation processes.<sup>64</sup> The toolkit is based on advice from traditional healers about how to prepare for truth telling gatherings, including preparation of the gathering place, resources, and participants; how to support participants as they go through the truth telling process; and how to incorporate ancestral wisdom, cultures, and traditions.

*California Truth & Healing Council*

In 2019, the State of California established the California Truth & Healing Council to witness, record, and examine existing documentation of, and receive California Native American narratives on, the historical relationship between California Native Americans and the State, and to clarify the historical record of that relationship in the spirit of truth and healing.<sup>65</sup> The Council is led and convened by the Governor’s Tribal Affairs Secretary—a position currently held by an enrolled member of a California Tribe<sup>66</sup>—and is governed by a Council of Tribal leaders representing Central, Eastern, Northern, and Southern California.<sup>67</sup>

By 2025, the Council will submit a final written report of findings that will reflect a holistic understanding of the historical relationship between California Native Americans and the State, may include recommendations aimed at reparation and restoration, and

<sup>61</sup> ALASKA NATIVE HERITAGE CENTER, *Cultural Programming*, <https://www.alaskanative.net/cultural-programming/> (last visited Mar. 8, 2024) (on file with the Senate Committee on Indian Affairs).

<sup>62</sup> W.K. KELLOGG FOUNDATION, *Truth, Racial Healing & Transformation*, <https://healourcommunities.org/> (last visited Mar. 8, 2024).

<sup>63</sup> First Alaskans Institute, *How We Heal Toolkit: Communities and Collective* (2019), <https://firstalaskans.org/wp-content/uploads/2019/01/How-We-Heal-Toolkit-final-1-22-19.pdf>.

<sup>64</sup> *Id.*

<sup>65</sup> Cal. Exec. Order No. N–15–19 (June 18, 2019), <https://www.gov.ca.gov/wp-content/uploads/2019/06/6.18.19-Executive-Order.pdf>.

<sup>66</sup> See GOVERNOR’S OFFICE OF TRIBAL AFFAIRS, *Tribal Affairs Secretary*, <https://tribalaffairs.ca.gov/tribal-affairs-secretary/> (last visited Mar. 8, 2024).

<sup>67</sup> California Truth & Healing Council, Charter of the California Truth & Healing Council (2020), Ch. II, Art. 3, [https://cthcupdates.files.wordpress.com/2021/05/cthc-charter\\_final.pdf](https://cthcupdates.files.wordpress.com/2021/05/cthc-charter_final.pdf).

may consider how to prevent similar depredations and policies in the future.<sup>68</sup>

*Indian Residential Schools Truth and Reconciliation Commission of Canada*

Like the United States, Canada has a centuries-long history of boarding or “residential” schools that were established as part of a larger policy of termination and assimilation of Native peoples.<sup>69 70</sup> Between at least the 1830s and the late 1990s, Canadian residential schools directly affected approximately 150,000 children.

Following a series of class action lawsuits filed by residential school survivors against the Canadian federal government, the Canadian federal government agreed to negotiate a settlement.<sup>71</sup> Indian Residential Schools Settlement Agreement included a mandate the Canadian Truth and Reconciliation Commission (TRC), which had several goals.<sup>72</sup>

Between 2008 to 2015, the TRC received testimony from more than 6,500 witnesses, including many survivors of residential schools, hosted seven large national events to engage the Canadian public in a process of education, conducted 238 days of local hearings in 77 communities, and produced a six-volume report providing a historical overview of Canadian residential schools and their legacy, as well as a path to reconciliation with 94 action items.<sup>73</sup>

*Federal Reconciliation Efforts With the Native Hawaiian Community*

In 1993, on the 100th anniversary of the overthrow of the Kingdom of Hawai‘i, United States formally apologized and committed to a process of reconciliation with Native Hawaiians by acknowledging its actions to usurp their sovereignty over land and natural resources and their right to self-determination through the overthrow and eventual annexation by the United States.<sup>74</sup> A Joint Resolution of Congress<sup>75</sup> recognized that the overthrow resulted in the suppression of Native Hawaiians’ “inherent sovereignty” and deprived them of their “rights to self-determination” and that

<sup>68</sup> GOVERNOR’S OFFICE OF TRIBAL AFFAIRS, *About the California Truth & Healing Council*, <https://tribalaffairs.ca.gov/cthc/about/> (last visited Mar. 8, 2024).

<sup>69</sup> Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, (2015), [https://irsi.ubc.ca/sites/default/files/inline-files/Executive\\_Summary\\_English\\_Web.pdf](https://irsi.ubc.ca/sites/default/files/inline-files/Executive_Summary_English_Web.pdf) [hereinafter TRC Canada Summary].

<sup>70</sup> TRC Canada Summary at 54 (speaking to Canada’s overarching policy towards First Nations in 1920, Deputy Minister of Indian Affairs Duncan Campbell stated, “our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic”).

<sup>71</sup> TRC Canada Summary at 129–134.

<sup>72</sup> Acknowledge residential school experiences, impacts, and consequences; provide a holistic, culturally appropriate, and safe setting for survivors and their families to provide testimony to the TRC; witness, support, and promote national and community-level reconciliation events; promote public awareness and education about residential schools and their impacts; create as complete a historical record as possible; submit a final report describing the history, purpose, operation, effect, and consequences of residential schools; and support commemoration of former residential school students and their families. INDIAN RESIDENTIAL SCHOOLS SETTLEMENT AGREEMENT, SCHEDULE N, at 1–2 (2006).

<sup>73</sup> NATIONAL CENTER FOR TRUTH AND RECONCILIATION, Reports, <https://nctr.ca/records/reports/> (last visited Mar. 8, 2024).

<sup>74</sup> See generally COHEN’S HANDBOOK OF FEDERAL INDIAN LAW, 4.07[4][a]–[c] (2012 ed. & 2023 Supp.) (providing overview and historical background of Kingdom of Hawai‘i and federal relationship with Native Hawaiians as a result of the overthrow).

<sup>75</sup> The Apology Resolution of 1993, Pub. L. No. 103–150, 107 Stat. 1510 (1993).

“long-range economic and social changes in Hawai‘i over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Hawaiian people.”<sup>76</sup> It further recognized that “the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.”<sup>77</sup> In light of these findings, Congress “express[ed] its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawai‘i, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people.”<sup>78</sup>

Accordingly, following a series of hearings and meetings with the Native Hawaiian community in 1999, the DOI and Department of Justice issued “From Mauka to Makai: The River of Justice Must Flow Freely,” a report on the reconciliation process between the Federal Government and Native Hawaiians. The report concluded that “the past history of the United States-Native Hawaiian relations reveals many instances in which the United States actions were less than honorable. Native Hawaiians continue to suffer the effects of these actions, for which our Nation continues to have moral responsibility,” and recommended that, “[f]or justice to be served, past wrongs suffered by the Native Hawaiian people should be addressed . . . through . . . efforts to promote the welfare of the Native Hawaiian people, respect their rights, and address the wrongs that their community has suffered . . . to ensure true reconciliation.”<sup>79</sup> And in 2016, the DOI issued regulations to create a pathway for reestablishing a formal government-to-government relationship with the Native Hawaiian community to more effectively implement the special political and trust relationship that Congress established between the community and the United States. The rule sets out an administrative procedure and criteria that the U.S. Secretary of the Interior would use if the Native Hawaiian community forms a unified government that determines to seek a formal government-to-government relationship with the United States.<sup>80</sup>

#### NEED FOR LEGISLATION

Indian Boarding schools and institutions used systematic and often violent methods—including physical, psychological, and sexual abuse—to assimilate Native children as young as three years old, and to eradicate Native languages, cultures, and lifeways for federal gain, including reduction of the cost of war and acquisition of Native land.<sup>81</sup>

<sup>76</sup>*Id.* at 1512–13.

<sup>77</sup>*Id.*

<sup>78</sup>*Id.*

<sup>79</sup>U.S. DEPT OF THE INTERIOR & DEPT OF JUSTICE, FROM MAUKA TO MAKAI: THE RIVER OF JUSTICE MUST FLOW FREELY 4 (2000), <https://www.doi.gov/sites/doi.gov/files/uploads/mauka-to-makai-report-2.pdf>.

<sup>80</sup>43 C.F.R. part 50 (2016).

<sup>81</sup>*Oversight Hearing on “Volume 1 of the Department of the Interior’s Federal Indian Boarding School Initiative Investigative Report” and Legislative Hearing on S. 2907 Before the S. Comm. on Indian Affs., 117th Cong. (2022); Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res., 117th Cong. (2022)* (statement of Deborah Parker, Nat’l Native Boarding School Healing Coalition). *See also*, Rebecca Nagle, *The U.S. has Spent More Money*

Continued

The traumatic effects of Indian Boarding School policies and practices on Native communities had far-reaching effects that are still felt by survivors, their descendants, and their communities to the present day.<sup>82</sup> While the *Native American Languages Act of 1991* found that the United States initiated “acts of suppression and extermination of Native American languages and cultures,”<sup>83</sup> Congress has not fully acknowledged past policies that sought to assimilate Native peoples of the United States or established a Native-led process for Native communities to examine and heal from such policies.

Further, while some non-profit organizations,<sup>84</sup> religious institutions,<sup>85</sup> and the DOI have conducted investigations into the impacts of Indian Boarding School policies, and other religious institutions are beginning to acknowledge their role in carrying out these policies and offering actions they can take to address those harms,<sup>86</sup> the federal government has yet to take comprehensive, concerted action commensurate with the harms inflicted by its own policies. Current public and private efforts to address this issue cannot, by themselves, fully address the history or consequences of federal Indian Boarding School policies without Congressional acknowledgment and support.<sup>87</sup> S. 1723 provides the thorough, nationwide process warranted by the breadth and severity of the federal Indian Boarding School legacy.

#### SUMMARY OF THE BILL AS ORDERED REPORTED

S. 1723 builds on an extensive Congressional record and robust bipartisan work that started in the 116th Congress.<sup>88</sup> Over 100 written comments for the record were submitted by Indian Tribes, Native communities, organizations and individuals, the DOI, and religious organizations after the Committee conducted oversight by examining Volume One of the DOI’s Federal Boarding School Initiative Investigative Report and held a legislative hearing on S. 2907 in June 2022.<sup>89</sup> This input and Committee work resulted in the development of the amendment in the nature of a substitute adopted to S.1723 and several additional amendments offered and adopted at the Committee’s business meeting held on June 7, 2023.

The legislation reflects extensive bipartisan review, analysis, and debate of comments in three key areas related to the Commission

*Erasing Native Languages than Saving Them*, HIGH COUNTRY NEWS (Nov. 15, 2019), <https://www.hcn.org/issues/51-21-22/indigenous-affairs-the-u-s-has-spent-more-money-erasing-native-languages-than-saving-them/>.

<sup>82</sup> *Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res.*, 117th Cong. (2022).

<sup>83</sup> *Native American Languages Act*, Pub. L. No. 101–477, § 102, 101 Stat. 1153, 1154 (1990).

<sup>84</sup> See e.g. THE NATIONAL NATIVE AMERICAN BOARDING SCHOOL HEALING COALITION, at <https://boardingschoolhealing.org/> (last visited Mar. 8, 2024).

<sup>85</sup> The Episcopal Church, *A127—Resolution for Telling the Truth about the Episcopal Church’s History with Indigenous Boarding Schools* (2022), <https://www.episcopalarchives.org/sites/default/files/gc—resolutions/2022-A127.pdf>.

<sup>86</sup> See e.g. United States Conference of Catholic Bishops, *Keeping Christ’s Sacred Promise: A Pastoral Framework for Indigenous Ministry* (2024), [www.usccb.org/resources/Indigenous%20Pastoral%20Framework%20-June%202024-Final%20Text.pdf](http://www.usccb.org/resources/Indigenous%20Pastoral%20Framework%20-June%202024-Final%20Text.pdf).

<sup>87</sup> U.S. DEPT OF THE INTERIOR, FEDERAL INDIAN BOARDING SCHOOL INITIATIVE INVESTIGATIVE REPORT 6 (2022) (noting the limitation of the scope of its investigation).

<sup>88</sup> *Truth and Healing Commission on Boarding School Policy Act*, S. 4752, 116th Cong. (2020); *Truth and Healing Commission on Boarding School Policies Act*, S. 2907, 117th Cong. (2022).

<sup>89</sup> *Oversight Hearing on “Volume 1 of the Department of the Interior’s Federal Indian Boarding School Initiative Investigative Report” and Legislative Hearing on S. 2907 Before the S. Comm. on Indian Affs.*, 117th Cong. (2022).

and its advisory bodies: (1) structure, (2) establishment, and (3) operation.

### Structure

S. 1723 establishes a five-member Truth and Healing Commission, a 19-member Native American Truth and Healing Advisory Committee, a 17-member Federal Truth and Healing Advisory Committee, and a 15-member Native American Survivors Truth and Healing Subcommittee, with certain members of the Commission and Survivors Subcommittee cross-appointed to leadership positions on the different advisory bodies (Figure 1).

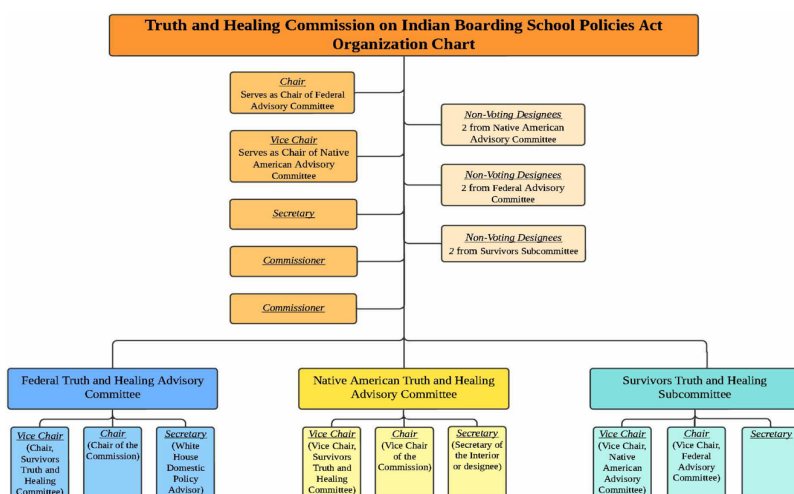


Figure 1. Organizational Chart of the Commission and its advisory bodies, indicating assignments and cross-appointments

This structure was created in response to testimony from Tribal leaders regarding their experiences working with existing Tribal advisory committees, as well as advocates and federal agencies regarding the range of offices, entities, and individuals that would be necessary for the Commission to efficiently and successfully exercise its duties and responsibilities.<sup>90</sup>

### Establishment

S. 1723 requires candidates for all positions on the Commission, the Native American Advisory Committee, and the Survivors Subcommittee to be nominated by Native entities and peoples, and establishes a bipartisan and bicameral Congressional process for appointing Commissioners based on five enumerated categories of expertise: (1) research; (2) Tribal courts, restorative justice, and federal agencies; (3) trauma informed care; (4) Indigenous human

<sup>90</sup>U.S. DEPT OF THE INTERIOR, FEDERAL INDIAN BOARDING SCHOOL INITIATIVE INVESTIGATIVE REPORT 14–15 (2022) (emphasizing that the Indian boarding school system was complex and its records expansive). DOI reported finding almost 40,000 boxes and almost 100,000 sheets of paper in the American Indian Records Repository (AIRR) related to federal Indian boarding schools.

rights; and (5) cultural knowledge. The bill also establishes deadlines for nominations and appointments, as well as publication of an interim and final report to include related agency responses (Figure 2).

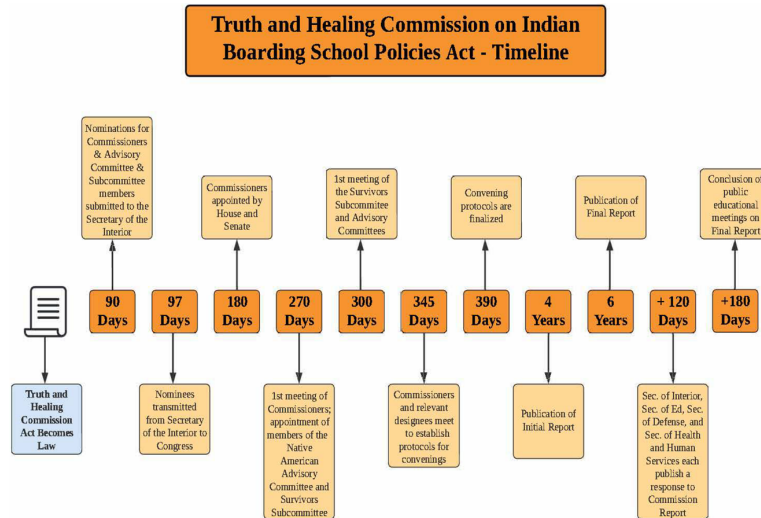


Figure 2. Timeline of key milestones for establishment and operation of the Commission and its advisory bodies.

### Operation

S. 1723 addresses the operation of the Commission and its advisory bodies in four key areas—coordination, costs, investigation, and healing.

#### Coordination

The Commission must coordinate with and consider the needs of various stakeholders, including boarding school survivors and descendants, Native communities, relevant organizations, and federal agencies. The legislation facilitates such coordination through the appointment of non-voting designees from the Advisory Committees and Subcommittee to the Commission, and cross-appointment of certain Commissioners and members of the Survivors Subcommittee to leadership positions in various advisory committees. See Figure 1.

In addition, the Commission may coordinate with federal entities by requesting detailees, contracting with public agencies, utilizing the Government Services Administration, exercising *Buy Indian Act* authority, and engaging with various federal archiving and curatorial facilities. It may also utilize resources provided by Native communities, individuals, churches, and other private organizations; and it may accept voluntary services from a range of sources, including universities and law schools.

### *Funding Authorization*

S. 1723 authorizes appropriations of \$15,000,000 per fiscal year, to remain available until expended, for the Commission to carry out its work for six years, and it permits the Commission to supplement its funding through fundraising and donations from the private sector. The Committee developed this funding framework through careful consideration of the costs associated with past and contemporary examples of similar commissions, for example, the Canadian Truth and Reconciliation Commission, the DOI's Federal Indian Boarding School Initiative, and the current truth and healing initiative in California, among others. The Committee also considered the broad scope of the Commission's anticipated duties, including public and private meetings with potentially tens of thousands of individuals from all 50 states,<sup>91</sup> directing research activities involving over one hundred million pages of documents,<sup>92</sup> providing trauma informed care to participants, and ensuring survivor participation through financial support for travel. To balance these anticipated costs, the Committee reduced the amount of compensation for members of the Commission and its advisory bodies, and limited compensation to 14 days per month and reimbursement to travel related expenses.

### *Investigation and Information Access*

Obtaining information is core to the Commission's investigatory function and its duty to deliver written findings and recommendations to Congress. The Committee learned through extensive feedback from Tribal stakeholders and religious organizations that for the Commission to accomplish the purposes of this Act and make accurate recommendations, it must have a full suite of information gathering tools, including the authority to issue subpoenas.<sup>93</sup>

Congress has recognized the need for subpoena authority to assist other Congressional Advisory Commissions with information access.<sup>94</sup> S. 1723 reflects thorough consideration and debate by

<sup>91</sup>Legislative Hearing on H.R. 5444, *Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res.*, *supra* note 25. The Canadian Truth and Reconciliation Commission received over 1,000 hours of testimony from over 6,000 individuals to address 139 boarding schools. Given the 521 known boarding schools in the United States, the Commission is expected to receive approximately four times the amount of testimony.

<sup>92</sup>U.S. DEP'T OF THE INTERIOR, *FEDERAL INDIAN BOARDING SCHOOL INITIATIVE INVESTIGATIVE REPORT* (2022). DOI's report cites a total of 98.4 million pages at the American Indian Records Repository alone, not accounting for the additional eight million pages believed to be within the current and former boarding schools' possession, custody, or control.

<sup>93</sup>For example, delayed information resulted in the Canadian Truth and Reconciliation Commission's final report inaccurately citing a total of 6,000 child deaths at Canadian Residential Schools, when, almost 10 years later, and because of untimely obtained information, the number is better understood to be between 10,000 and 25,000. Additionally, the discovery of 215 children buried in a mass grave in Kamloops, Canada was made after the conclusion of the Canadian Commission's work. See e.g., *Oversight Hearing on "Volume 1 of the Department of the Interior's Federal Indian Boarding School Initiative Investigative Report" and Legislative Hearing on S. 2907 Before the S. Comm. on Indian Affs.*, 117th Cong. (2022) (statement of Sandra White Hawk, Nat'l Native Boarding School Healing Coalition).

<sup>94</sup>Since the 101st Congress, 12 congressional advisory commissions have been identified as having subpoena authority. See U.S. Congressional Research Service, *Information Access for Congressional Advisory Commissions*, R47173 (July 7, 2022) by Jacob R. Straus, Congressional Research Digital Collection, Accessed June 19, 2024).

both the House of Representatives<sup>95</sup> and the Senate<sup>96</sup> on the nature and extent of the Commission’s subpoena authority in order to ensure that the Commission uses this authority responsibly, appropriately, and in a nonpartisan manner. Accordingly, the Commission’s authority to issue a subpoena is limited by the following requirements: (1) all five commissioners must vote in favor to issue a subpoena (unanimous vote);<sup>97</sup> (2) a subpoena may only issue to compel written or recorded evidence, not to compel oral testimony from individuals; and (3) the Commission must give a 10-day confidential notice of its intent to issue a subpoena to the Attorney General of the United States, who, upon a showing of procedural or substantive defect, may prohibit issuance of the subpoena. If the Attorney General prohibits the Commission from issuing the subpoena, the Attorney General must submit a report to Congress outlining its reasons. Additionally, S. 1723 includes an enforcement requirement that the Commission seek a court order directing compliance, and applies the Federal Rules of Civil Procedure to the subpoena process. These provisions, approved unanimously by the Committee, provide important safeguards to protect constitutional due process.

### *Healing*

The Commission fulfills its responsibility to promote healing in four primary ways. First, the five-member Commission will include at least one Commissioner with experience in coordinating and providing trauma-informed care, one Commissioner recognized as a traditional cultural leader, and one Commissioner with restorative justice and other relevant experience. These three Commissioners will work closely with the Survivors Subcommittee to ensure that the Commission meets its duties with respect to healing and trauma-informed care. Second, the Commission will collaborate with the Survivors Subcommittee to establish culturally appropriate protocols for receiving testimony. Third, the Commission may use its contracting authority to provide adequate trauma-informed care options to all those involved in its work. Finally, the Commission will approach research about—and possible repatriation of—students’ human remains with diligence and care, documenting, preserving, and appropriately sharing information regarding the discovery of burials with affected parties in accordance with the *Native American Graves Protection and Repatriation Act* and its applicable uniform repatriation processes.

### LEGISLATIVE HISTORY

On May 18, 2023, Senator Warren (D–MA) along with Senators Schatz (D–HI), Murkowski (R–AK) and 24 other original cosponsors, introduced S. 1723, the *Truth and Healing Commission on In-*

<sup>95</sup> *Legislative Hearing on H.R. 5444, Truth and Healing Commission on Indian Boarding Schools Policies Act Before the Subcomm. on Indigenous Peoples of the H. Comm. on Nat. Res.*, 117th Cong. (2022) (statement of Deborah Parker, Nat’l Native Boarding School Healing Coalition).

<sup>96</sup> *Business Meeting to Consider S. 1723 Before the S. Comm. on Indian Affs.*, 118th Cong. (2023).

<sup>97</sup> The Commission’s membership is jointly appointed by the majority and minority leadership in the Congress, in consultation with the leadership of the relevant committees of jurisdiction in the House of Representatives and Senate. Each commissioner must meet certain criteria outlined in the S. 1723 and must be nominated to serve. These requirements for membership should also prevent misuse of the limited subpoena authority extended to the Commission.



*dian Boarding School Policies Act of 2023*. The bill was referred to the Committee on Indian Affairs. To date, S. 1723 has 32 cosponsors.

On June 7, 2023, the Committee met at a duly convened Business Meeting to consider S. 1723. Senators Schatz (D–HI) and Murkowski (R–AK) timely filed an amendment in the nature of a substitute that was treated as base text for amendment purposes. Fourteen amendments were filed; six were adopted *en bloc* by voice vote.<sup>98</sup> The Committee ordered S. 1723, as amended, reported favorably by voice vote.

On February 5, 2024, Representatives Davids (D–KS) and Cole (R–OK) introduced H.R. 7227, the *Truth and Healing Commission on Indian Boarding School Policies Act of 2024*. To date, H.R. 7227 has 61 additional cosponsors. The bill was referred to the Committees on Education and Workforce, Natural Resources, and Energy and Commerce. At a markup meeting held on June 13, 2024, the Committee on Education and Workforce considered H.R. 7227. Representative Kiley (R–CA) offered an amendment in the nature of a substitute. No other amendments were offered. The Committee ordered H.R. 7227 reported, as amended, by a vote of 34–4. To date, the House has taken no further action on H.R. 7227.

*117th Congress*. On September 30, 2021, Senator Warren (D–MA), along with Senator Schatz (D–HI) and 12 other original cosponsors, introduced S. 2907, the *Truth and Healing Commission on Indian Boarding School Policies Act*. The bill was referred to the Committee on Indian Affairs. Senator Murkowski (R–AK) and 12 other Senators later joined as cosponsors. On June 22, 2022, the Committee held a Legislative Hearing on S. 2907 and an Oversight Hearing on “Volume 1 of the Department of the Interior’s Federal Indian Boarding School Initiative Investigative Report.”<sup>99</sup> The Committee took no further action on the bill prior to the conclusion of the 117th Congress.

On September 30, 2021, Representatives Davids (D–KS) and Cole (R–OK), introduced H.R. 5444, the *Truth and Healing Commission on Indian Boarding School Policies Act*, an identical companion bill to S. 2907. Representatives Davids (D–KS) and Cole (R–OK) were joined by 86 cosponsors. H.R. 5444 was referred to the Committees on Education and Labor and Natural Resources.

On October 3, 2021, the Committee on Natural Resources referred H.R. 5444 to the Subcommittee for Indigenous Peoples of the United States. On May 12, 2022, the Subcommittee held a hearing on the bill. On June 15, 2022, the Committee considered H.R. 5444 at a markup meeting. Representative Grijalva (D–AZ) offered an amendment in the nature of a substitute, which was treated as the base text for amendment purposes.<sup>100</sup> The Committee on Natural

<sup>98</sup> Senator Daines (R–MT) timely filed eight amendments and untimely filed one amendment, Senator Mullin (R–OK) timely filed four amendments, and Senator Rounds (R–SD) untimely filed one amendment, which was not offered. With the concurrence of the Vice Chairman, the Chairman allowed for consideration of all timely and untimely filed amendments offered by sponsors.

<sup>99</sup> *Oversight Hearing on “Volume 1 of the Department of the Interior’s Federal Indian Boarding School Initiative Investigative Report” and Legislative Hearing on S. 2907 Before the S. Comm. on Indian Affs.*, 117th Cong. (2022), <https://www.congress.gov/117/chrhg/CHRG-117shrg50193/CHRG-117shrg50193.pdf>.

<sup>100</sup> Representative Westerman (R–AR) offered two amendments, Representatives Obernolte (R–CA) and Boebert (R–CO) each offered an amendment. One of Representative Westerman’s

Resources ordered H.R. 5444, as amended, reported favorably by voice vote.<sup>101</sup> The House of Representatives took no further action on the legislation prior to the conclusion of the 117th Congress.

*116th Congress.* On September 29, 2020, Senators Warren (D-MA), Merkley (D-OR), and Smith (D-MN) introduced S. 4752, the *Truth and Healing Commission on Indian Boarding School Policy Act*. The bill was referred to the Committee on Indian Affairs. The Senate took no further action on the legislation prior to the conclusion of the 116th Congress.

On September 29, 2020, Representative Haaland (D-NM), introduced H.R. 8420, the *Truth and Healing Commission on Indian Boarding School Policy Act*, an identical companion bill to S. 4752. Representative Haaland (D-NM) was joined by 17 co-sponsors. H.R. 8420 was referred to the Committees on Education and Labor and Natural Resources. The House of Representatives took no further action on the legislation prior to the conclusion of the 116th Congress.

#### SECTION BY SECTION ANALYSIS OF S. 1723 AS ORDERED REPORTED

##### *Section 1—Short title; Table of Contents*

This section sets forth the short title as the “Truth and Healing Commission on Indian Boarding School Policies Act of 2023” and provides a table of contents for the bill.

##### *Section 2—Findings*

This section contains Congress’ findings and establishes the need for this legislation.

##### *Section 3—Purposes*

This section establishes four purposes of the bill:

- To establish a Truth and Healing Commission and other necessary advisory committees and subcommittees;
- To formally investigate, document, and report on the histories of Indian Boarding School Policies and their systematic and long-term impacts on Native American peoples;
- To develop recommendations for federal action based on the findings of the Commission; and
- To promote healing for survivors of Indian Boarding Schools, their descendants, and their communities.

##### *Section 4—Definitions*

This Section provides definitions for various terms used throughout the bill.

(R-AR) amendments was agreed to by unanimous consent. Representatives Obernolte (R-CA) and Boebert’s (R-CO) amendments were not agreed to by roll call votes.

<sup>101</sup> U.S. House of Representatives, *Committee Repository*, Markup of H.R. 263, H.R. 5444, H.R. 6063, H.R. 6181, H.R. 6337, H.R. 6427, H.R. 6707, H.R. 6734, H.R. 7002, H.R. 7025, H.R. 7075, and S. 789, <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=114898>.

## TITLE I—COMMISSION AND SUBCOMMITTEES

*Subtitle A—Truth and Healing Commission on Indian Boarding School Policies in the United States*

Section 101(a) establishes a commission to be known as the “Truth and Healing Commission on Indian Boarding School Policies in the United States.”

Section 101(b) sets forth criteria for the 5 members of the Commission and requirements for nominations, appointments, vacancies, removals, termination, and limitations of these members.

Section 101(c) establishes procedures for the first business meeting of the Commission and a basic framework for subsequent business meetings, including format, rules, quorum, and inclusion of Advisory Committee and Subcommittee designees.

Section 101(d) that a simple majority of Commission members constitutes a quorum for a business meeting.

Section 101(e) authorizes the Commission to establish additional rules for Commission business.

Section 101(f) establishes the rates for Commissioner compensation and travel expenses, and authorizes federal employees to be detailed to the Commission upon request.

Section 101(g) establishes the powers of the Commission including:

- Holding hearings and receiving testimony and evidence;
- Conducting independent research and securing relevant information;
- Subject to certain limitations, issuing subpoenas to compel the production of evidence necessary to accomplish the purposes of the Act;
- Overseeing, directing, and collaborating with Advisory Committees and Subcommittees;
- Coordinating with federal and non-federal agencies to carry out preservation and archival activities;
- Securing additional personnel and services through contracting, volunteers, and the General Services Administration;
- Using the U.S. Postal Service;
- Accepting gifts, engaging in fundraising, disbursing funds, issuing tax-deductions for gifts; and
- Coordinating with the Library of Congress and the National Museum of the American Indian to archive and preserve relevant gifts and donations.

Section 101(h) sets forth the framework for the Commission to create rules and protocols for public convenings, establishes deadlines for announcing convenings, sets the minimum number of convenings, and clarifies that testimony shall be permitted at the convenings subject to the discretion of the Commission’s Chairperson.

Section 101(i) authorizes the Commission to issue subpoenas within the United States for written or recorded evidence pursuant to a unanimous vote of the Commission and with prior notice to the Attorney General; upon showing procedural or substantive defect, the Attorney General may prohibit the issuance of a subpoena and must supply Congress a report detailing reasons for such prohibition; and establishes processes for service and enforcement in accordance with the Federal Rules of Civil Procedure.

Section 101(j) clarifies that the *Privacy Act of 1974*, the *Freedom of Information Act*, and the *Federal Advisory Committee Act* shall not apply to the Commission.

Section 101(k) directs the Committee to consult or engage, as appropriate, with relevant individuals, Tribes, and Native organizations.

Section 101(l) authorizes appropriations of \$15,000,000, to remain available until expended, for each fiscal year of the Commission.

*Subtitle B—Duties of the Commission*

Section 111(a) establishes the investigatory duties of the Commission, including:

- Conducting a comprehensive interdisciplinary investigation into Indian Boarding School Policies and their effects on the social, cultural, economic, emotional, and physical health of Native communities, Indian Tribes, survivors of Indian Boarding Schools, and families and descendants of survivors;
- Conducting a comprehensive review of historical and archival materials;
- Collaborating with the Federal Truth and Healing Advisory Committee to obtain relevant information from federal agencies and other relevant institutions, as well as relevant information from Native entities and institutions;
- Conducting a comprehensive review of the impacts of Indian Boarding School Policies on American Indian, Alaska Native, and Native Hawaiian cultures, traditions, and languages; and
- Authorizing the Commission to enter into a contract or agreement to acquire, hold, curate, or maintain objects, artifacts, or other property from private individuals and entities, provided that federal funds are not used to purchase such items.

Section 111(b) establishes Commission duties regarding meetings and convenings, including:

- Holding safe, trauma-informed, and culturally appropriate public or private meetings or convenings to receive testimony; and
- Providing access to adequate trauma-informed care services during and following such meetings and convenings.

Section 111(c) establishes Commission duties regarding recommendations to Congress, including:

- Considering and evaluating, in light of Tribal, Native Hawaiian, and Tribal customary law, how the federal government can meaningfully acknowledge the federal government's role in supporting Indian Boarding School Policies;
- Determining how modification of existing laws, procedures, regulations, policies, budgets, and practices will address the findings of the Commission and the ongoing effects of Indian Boarding School Policies; and
- Considering how the federal government can promote public awareness and education of Indian Boarding School Policies and their impacts.

Section 111(d) establishes Commission duties regarding burial sites, including:

- Coordinating, as appropriate, with relevant parties to locate and identify, in a culturally appropriate manner, marked and unmarked burials;
- Locating, documenting, analyzing, and coordinating the preservation or continued preservation of records and information relating to the interment of students; and
- Sharing with relevant parties, to the extent practicable, the burial locations and identities of children who attended Indian Boarding Schools.

Section 111(e) establishes Commission duties regarding reporting, including:

- Delivering annual progress reports to Congress;
- Publishing the initial report of the Commission's findings 4 years after appointment of a majority of the Commissioners;
- Publishing the final report of the Commission's findings 6 years after appointment of a majority of the Commissioners;
- Providing the final report to the listed recipients and making the report publicly available on the Commission's website, along with the Departments of the Interior, Education, Defense, and Health and Human Services, which are also required to make the report available on their websites;
- Conducting public education and outreach regarding the initial and final reports; and
- Monitoring responses from the Secretaries of the Interior, Education, Defense, Health and Human Services, who are required to publish a written response to the final report within 120 days after receipt, and to transmit their response to the President, the Senate Committee on Indian Affairs, the House Committee on Natural Resources, and the Comptroller General of the United States.

#### *Subtitle C—Survivors Truth and Healing Subcommittee*

Section 121(a) establishes a subcommittee to be known as the "Survivors Truth and Healing Subcommittee."

Section 121(b) sets forth criteria for the 15 members of the Subcommittee and requirements for nominations, appointments, vacancies, removals, termination, and limitations.

Section 121(c) establishes procedures for the first meeting of the Subcommittee and a basic framework for subsequent meetings, including format and quorum.

Section 121(d) states that a simple majority of Subcommittee members constitutes a quorum for a business meeting.

Section 121(e) authorizes the Subcommittee to establish additional rules for the conduct of its business.

Section 121(f) establishes the duties of the Subcommittee, including: providing advice to the Commission on criteria and protocols for convenings, providing advice and evaluating Committee recommendations relating to commemoration and public education, and providing such other advice as may be required by the Commission.

Section 121(g) directs the Subcommittee to consult or engage, as appropriate, with relevant individuals, Tribes, and Native organizations.

Section 121(h) clarifies that the *Privacy Act of 1974*, the *Freedom of Information Act*, and the *Federal Advisory Committee Act* shall not apply to the Subcommittee.

Section 121(i) establishes the compensation and travel expense rates for Subcommittee members.

## TITLE II—ADVISORY COMMITTEES

### *Subtitle A—Native American Truth and Healing Advisory Committee*

Section 201(a) establishes an advisory committee to be known as the “Native American Truth and Healing Advisory Committee” (Native Advisory Committee).

Section 201(b) sets forth criteria for the 19 members of the Native Advisory Committee and requirements for nominations, appointments, term lengths, vacancies, termination, and limitations.

Section 201(c) states that a simple majority of Native Advisory Committee members constitutes a quorum.

Section 201(d) permits a quorum of the Native Advisory Committee to remove a member for neglect of duty or malfeasance.

Section 201(e) establishes procedures for the first business meeting of the Native Advisory Committee and a basic framework for subsequent meetings, including format and quorum.

Section 201(f) authorizes the Native Advisory Committee to establish additional rules for the conduct of its business.

Section 201(g) establishes the duties of the Native Advisory Committee, including:

- Serving as an advisory body to the Commission;
- Assisting the Commission in organizing and carrying out culturally appropriate convenings;
- Assisting the Commission in determining what documentation from Federal and religious organizations and institutions may be necessary;
- Assisting the Commission in the production of the initial and final report;
- Coordinating with the Federal Truth and Healing Advisory Committee and the Survivors Subcommittee; and
- Providing such other advice or services as the Commission may require.

Section 201(h) directs the Native Advisory Committee to consult or engage, as appropriate, with relevant individuals, Tribes, and Native organizations.

Section 201(i) clarifies that the *Privacy Act of 1974*, the *Freedom of Information Act*, and the *Federal Advisory Committee Act* shall not apply to the Advisory Committee.

Section 201(j) establishes the compensation and travel expense rates for members of the Advisory Committee.

### *Subtitle B—Federal Truth and Healing Advisory Committee*

Section 211(a) establishes an advisory committee within the Department of the Interior to be known as the “Federal Truth and Healing Advisory Committee” (Federal Advisory Committee).

Section 211(b) sets forth criteria for the 17 members of the Federal Advisory Committee and requirements for appointments, term lengths, vacancies, removals, and termination.

Section 211(c) establishes procedures for the first business meeting of the Federal Advisory Committee, and a basic framework for subsequent meetings, including format and quorum.

Section 201(d) states that a simple majority of Federal Advisory Committee members constitutes a quorum.

Section 201(e) authorizes the Federal Advisory Committee to establish additional rules for the conduct of its business.

Section 211(f) establishes the duties of the Federal Advisory Committee, including:

- Ensuring effective and timely coordination between Federal agencies;
- Assisting the Commission and the Native American Truth and Healing Advisory Committee in coordinating meetings and convenings, and the collection, organization, and preservation of information; and
- Ensuring the timely submission to the Commission of relevant evidence.

Section 211(g) directs the Federal Advisory Committee to consult or engage, as appropriate, with relevant individuals, Tribes, and Native organizations.

Section 211(h) clarifies that the *Privacy Act of 1974*, the *Freedom of Information Act*, and the *Federal Advisory Committee Act* shall not apply to the Advisory Committee.

### TITLE III—GENERAL PROVISIONS

Section 301 clarifies that the *Native American Graves Protection and Repatriation Act* (NAGPRA) applies to human remains and funerary objects relating to an Indian Boarding School that are located on federal lands, located on lands managed by a federal agency, or curated by a federal agency.

Section 302 authorizes federal agencies to rebury remains pursuant to NAGPRA on other federal lands, consistent with Tribal practices and subject to the agreement of the relevant parties.

Section 303 authorizes federal agencies to enter into co-stewardship agreements for the management of a cemetery or Indian Boarding School.

Section 304 clarifies that nothing in the Act creates a private right of action to seek administrative or judicial relief.

## COST AND BUDGETARY CONSIDERATIONS

<b>S. 1723, Truth and Healing Commission on Indian Boarding School Policies Act</b> As ordered reported by the Senate Committee on Indian Affairs on June 7, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	<b>7</b>	<b>82</b>	<b>90</b>
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	Yes
		<b>Mandate Effects</b>	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

S. 1723 would establish a commission and advisory committees to document and remedy the effects of the federal Indian boarding school policies, under which the government forcibly removed children from their families and placed them in federally run boarding schools. Nonfederal employees would be compensated and reimbursed for travel expenses. Specifically, the bill would:

- Establish the Truth and Healing Commission on Indian Boarding School Policies in the United States, consisting of five members and lasting up to six years. The commission would work to locate, analyze, preserve records, and identify unmarked graves related to Indian boarding schools; hold public hearings; and report on its findings.
- Create a federal advisory committee, a Native American advisory committee, and a survivors subcommittee.
- Apply the Native American Graves Protection and Repatriation Act to human remains and funerary objects located on federal land or land managed or curated by a federal agency.

The estimated budgetary effects of S. 1723 are shown in Table 1. The costs of the legislation fall within budget function 500 (education, training, employment, and social services).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 1723

	By fiscal year, millions of dollars—						
	2024	2025	2026	2027	2028	2029	2024–2029
Authorization .....	15	15	15	15	15	15	90
Estimated Outlays .....	7	15	15	15	15	15	82

CBO estimates that enacting S. 1723 also would have insignificant effects on direct spending and revenues.

S. 1723 would authorize the appropriation of \$15 million annually for the commission. Based on spending patterns for similar activities and assuming appropriation of the specified amounts from 2024 through 2029, CBO estimates that implementing the bill would cost \$82 million over the 2024–2029 period and \$8 million after 2029.



S. 1723 would authorize the commission to issue subpoenas to obtain documents, pending review by the Attorney General. The commission may apply to a district court requesting an order to comply with a subpoena. Failure to comply with a district court order may result in penalties; such penalties are recorded as revenues. CBO estimates that any additional revenues collected would total less than \$500,000 over the 2024–2034 period because the number of violations would probably be small.

The bill also would authorize the commission to solicit donations and other funds from the private sector, which could be spent without further appropriation; such receipts are recorded as reductions in direct spending. Because donations would probably be spent soon after their receipt, CBO estimates that the net effect on direct spending over the 2024–2034 period would be negligible.

On February 22, 2024, CBO transmitted a revised version of this estimate, which was originally transmitted on February 20, 2024. The revised estimate clarifies that any penalties would be assessed by district courts rather than by the commission. The estimated budgetary effects of the legislation are unchanged.

The CBO staff contact for this estimate is Garrett Quenneville. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,  
*Director, Congressional Budget Office.*

#### REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1723, as reported, will have minimal impact on regulatory or paperwork requirements.

#### EXECUTIVE TESTIMONY

The Department of the Interior provided testimony to the Committee at a hearing on S. 2907, similar legislation that was introduced during the 117th Congress, on June 22, 2022. That testimony is below.

#### STATEMENT OF DEB HAALAND, SECRETARY OF THE UNITED STATES DEPARTMENT OF THE INTERIOR—JUNE 22, 2022

Hello and good afternoon, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. My name is Deb Haaland, and I serve as the Secretary of the Interior. It is an honor and privilege for me to be here with you today to represent the Department of the Interior (Department) and our tens of thousands of dedicated professionals. It is deeply meaningful for me to speak to you from the ancestral homelands of the Anacostan and Piscataway people. Thank you for the opportunity to present the Department's testimony at this important oversight hearing on the Federal Indian Boarding School Initiative and S. 2907, a bill to establish the Truth and Healing Commission on Indian Boarding School Policies in the United States.

The Biden-Harris administration is determined to make a lasting positive difference in response to the trauma that these policies have caused, not just in the past but for current generations. I would also like to thank Senator Warren and the Co-chairs of the Congressional Native American Caucus, Representatives Sharice Davids and Tom Cole, for prioritizing legislation to address the federal Indian boarding school policies for the first time in United States history and find solutions to further shed light on its ongoing impacts on Native American and Native Hawaiian people.

Starting in 1819, and lasting for over a century and a half, the federal government, including the Department of the Interior, forcibly removed and assimilated tens of thousands of American Indian, Alaska Native, and Native Hawaiian children from tribal communities across the United States. Many children who entered the boarding schools were involuntarily removed from their communities and never returned home. This intentional targeting and removal of American Indian, Alaska Native, and Native Hawaiian children to achieve the goal of forced assimilation of Native people was both traumatic and violent.

The consequences of federal Indian boarding school policies—including the intergenerational trauma caused by forced family separation and cultural eradication—were inflicted on generations of children as young as 4 years old and are heartbreaking and undeniable. As the head of the Department of the Interior and as the first Native American cabinet secretary, I am in a unique position to address the lasting impacts of these policies. I now have direct oversight over the very Department that operated and oversaw the implementation of the federal Indian boarding school system.

Like all Native people, I am a product of these horrific assimilation era policies, as my grandparents were removed from their families to federal Indian boarding schools when they were only 8 years old and forced to live away from their parents, culture, and Pueblos until they were 13 years old. My family's story is similar to many Indigenous families' stories in this country, which is why, on June 22, 2021, I announced the Federal Indian Boarding School Initiative, a comprehensive effort to address the troubled legacy of federal Indian boarding school policies. On that same date, through a memorandum, I directed the Assistant Secretary—Indian Affairs to lead the first-ever departmental investigation into the federal Indian boarding school system.

I am incredibly proud of the work that Assistant Secretary Newland and his entire team did on the first volume of this report. I particularly want to acknowledge the staff at the Bureau of Trust Funds Administration, which is managing the document collection, review, and records management of this Initiative. The vast majority of the work being released today was done by Indigenous staff in

this department who worked through their own trauma and pain.

The Department released Volume 1 of the investigative report on May 11, 2022. This report lays the groundwork for the continued efforts of the Department to address the intergenerational trauma created by historical federal policy. It marks the first time in over two hundred years, since the Indian boarding school policies were implemented, that the United States has formally reviewed or acknowledged the extensive scope and breadth of these policies. The Department welcomes Congress' and this Committee's engagement in this important and continuing effort.

The Department's investigation focuses on the historical Indian boarding school system, which was implemented to further cultural assimilation and removal policies. The Department fully recognizes that unlike the federal Indian boarding school system we are investigating, contemporary Native residential schools are vital to advancing modern, culturally sensitive education.

Some key highlights of Volume 1 of the Department's investigation of our federal records include evidence that the United States targeted American Indian, Alaska Native, and Native Hawaiian children through forced removal to Indian boarding schools in furtherance of territorial dispossession of Indigenous lands in the United States. The initial investigation shows that, between 1819 and 1969, the federal Indian boarding school system consisted of 408 federal Indian boarding schools across 37 states or then-territories, including 21 schools in Alaska and 7 schools in Hawai'i.<sup>1</sup>

Additionally, the Department's initial investigation results show that approximately 50 percent of federal Indian boarding schools may have received support or involvement from a religious institution or organization, including funding,<sup>2</sup> infrastructure, and personnel. Further, the federal government at times paid religious institutions and organizations for Native children to enter federal Indian boarding schools that these institutions and organizations operated.

Another important finding published in Volume 1 identifies approximately 53 different schools that contain marked or unmarked burial sites. While this report lays the groundwork for the efforts of the Department to address the full scope of the federal Indian boarding school policies and the intergenerational trauma endured by Indigenous peoples in this country, the Department is moving forward to develop Volume 2 to further expand on these preliminary report findings. As the investigation continues, we expect the number of identified burial sites to

<sup>1</sup> Some individual federal Indian boarding schools accounted for multiple sites. The 408 federal Indian boarding schools includes 431 separate sites.

<sup>2</sup> As the U.S. Senate has recognized, funds from the 1819 Civilization Fund "were apportioned among those societies and individuals—usually missionary organizations—that had been prominent in the effort to 'civilize' the Indians.

increase, along with the potential expansion or more definite numbers of identified Indian boarding school sites, children, and operating dates of facilities.

As we add to the list of burial sites, the Department, working with relevant sister federal agencies, will expand our collaborative work, including increasing Tribal communities' access to mental health resources. These healing actions will help strengthen Native communities in a manner that I hope will be pursuant to each of the various traditional and religious protocols and beliefs. This effort may include disinterment, repatriation, documentation, and memorial efforts, where appropriate, in consultation with Indian Tribes, Alaska Native Villages, and the Native Hawaiian Community.

The Federal Indian Boarding School Initiative constitutes the first time the federal government has reviewed the scope of these policies. This is an important step for intergenerational healing from the ongoing effects these policies caused, and we will take an all-of-government approach. I believe that our obligations to Native communities mean that federal policies should fully support and revitalize Native health care, education, Native languages, and cultural practices that prior federal Indian policies, like those supporting Indian boarding schools, sought to destroy. We can heal from the harm and violence caused by Indian assimilation by effecting government-wide policies of revitalization for the Indigenous people of our country.

I recently announced that we will embark on the "Road to Healing," a tour throughout the nation to hear directly from survivors of federal Indian boarding schools and their descendants about their experiences. A necessary part of this journey will be to connect survivors and their families with mental health support, and to create a permanent collection of oral histories. We know this won't be easy, but it is a history that we must learn from if we are to heal from this tragic era in our country.

As part of the Federal Indian Boarding School Initiative, I look forward to continuing our work alongside sister federal agencies that administer the sites of former Indian boarding schools or possess or control records pertaining to the federal Indian boarding school system and those that currently provide medical and mental health services for Native communities. I am confident that, together, we can support the individuals and communities that have been shaped by detrimental federal Indian boarding school policies.

I am proud of the work the Department is accomplishing to confront its role in these assimilation policies through education and am deeply grateful to Congress for its support as well. In particular, the Department appreciates the \$7 million in funding provided for this work in Fiscal Year 2022, and we look forward to working with Congress on our Fiscal Year 2023 request of an additional \$7 million. These funds are crucial in order for this work to be thor-

ough and effective, in particular the labor-intensive work of gathering and examining records and identifying and characterizing various sites.

This funding will enable the Department to help expand existing school profiles following Volume 1 of the report, including detailing the number of children that attended federal Indian boarding schools; identifying marked and unmarked burial sites; identifying interred children, where possible; and detailing the amount of federal support for the system including support to non-federal entities.

S. 2907—A BILL TO ESTABLISH THE TRUTH AND HEALING COMMISSION ON INDIAN BOARDING SCHOOL POLICIES IN THE UNITED STATES

I am grateful for the Committee's leadership in also considering S. 2907 as part of this hearing. This legislation, which I led with my colleagues when I served in the U.S. House of Representatives, would establish a Truth and Healing Commission on Indian Boarding School Policies in the United States. The Commission would be required to investigate the impacts and ongoing effects of the Indian Boarding School Policies where Native children were forcibly removed from their homes. The Commission would be directed to develop recommendations on: (1) how to protect unmarked graves and accompanying land protections; (2) support repatriation and identify the Tribal Nations from which children were taken; and (3) to prevent the continued removal of American Indian, Alaska Native, and Native Hawaiian children from their families and Native communities under modern-day assimilation practices carried out by State social service departments, foster care agencies, and adoption services.

The Administration strongly supports this legislation, especially the development of national survivor resources to address intergenerational trauma, and the inclusion of the Commission's formal investigation and documentation practices. In addition to our support, we would welcome an opportunity to work with the Committee, especially on access to records pertaining to the federal Indian boarding school system under the control of non-federal entities as set forth in the legislation to supplement the Department's Initiative.

#### CONCLUSION

Some of the most influential decisions by the Department on the lives of American Indian, Alaska Native, and Native Hawaiian children involve those related to federal Indian boarding schools. That is part of America's story that we must tell. While we cannot change that history, I believe that our nation will benefit from a full understanding of the truth of what took place and a focus on healing the wounds of the past.

I am grateful for your work to help address the atrocities that Indian boarding school survivors and families have endured for decades.

Thank you again for your focus on the Federal Indian Boarding School Initiative and consideration of S. 2907. I am confident that, together, we can start to help Tribal communities to heal and strengthen Indian Country and the Native Hawaiian Community now and for future generations.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 1723, or its reported version.

CHANGES IN EXISTING LAW

On February 9, 2023, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.

