

S. 1723, TRUTH AND HEALING COMMISSION ON INDIAN BOARDING SCHOOL POLICIES ACT

Background. On June 22, 2022, the Senate Committee on Indian Affairs held an Oversight hearing on Volume 1 of the Department of the Interior’s Federal Indian Boarding School Initiative and Investigative Report, and a Legislative Hearing to receive testimony on S. 2907, the “*Truth and Healing Commission on Indian Boarding School Policies Act of 2022.*” Following the hearing, the Committee received and analyzed over one hundred written comments for the record submitted by Indian Tribes, Native communities and organizations, individuals, the Department of the Interior, and religious institutions; information shared by elected Tribal leadership and community advocates, including the Honorable Murray Sinclair, former Canadian Senator and Chief Commissioner of Canada’s Indian Residential School Truth and Reconciliation Commission, the Native American Boarding School Healing Coalition, and the Alaska Native Heritage Center; feedback in response to the Secretary of the Interior’s Road to Healing Tour; and technical assistance from the Department of the Interior.

On June 7, 2023, the Senate Committee on Indian Affairs held a business meeting to consider S. 1723. The bill was ordered reported favorably with an amendment in the nature of a substitute and several first-degree amendments by voice vote. It incorporates information gathered from the above sources and reflects robust and extensive bipartisan review, analysis, and debate.

Organization. Creates a 5-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.

Nominations. Requires members of the Commission, the Native American Truth and Healing Advisory Committee, and the Native American Survivors Truth and Healing Subcommittee to be selected from nominations submitted by Native communities.

Balanced Authority & Coordination. Promotes robust coordination and collaboration between the different Committees and Subcommittees and ensures cross-membership in key positions.

Duties and Powers of the Commission. The Commission is authorized to carry out a number of actions, including—

- Investigate the effects of Indian Boarding Schools on Native American communities;
- Hold safe and culturally appropriate public or private convenings to receive testimony;
- Ensure trauma-informed care services are provided during and following convenings;
- Submit a report to Congress containing recommendations for potential action to address the legacy of the Indian Boarding School policies; and
- Issue subpoenas, subject to certain limitations, to obtain relevant documents.

DETAILED OVERVIEW

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COMMISSION ORGANIZATION

- *Commission – Appointed by the House and Senate*
 - 5 members – Chair, Vice Chair, Secretary, 2 Commissioners
 - Collectively, the Commission must have experience and expertise in 5 different areas –
 - Complex research;
 - Indigenous human rights;
 - Tribal courts, restorative justice, and federal agencies;
 - Trauma informed care; and
 - Cultural knowledge.
- *Survivors Truth and Healing Subcommittee – Appointed by the Commission*
 - 15 members – representing the 12 BIA regions, Hawai‘i, survivors, descendants, and recent boarding school graduates and educators.
- *Native American Truth and Healing Advisory Committee – Appointed by the Commission*
 - 19 members – representing the 12 BIA regions, Hawai‘i, certain Tribal organizations, and individuals with experience in traditional healing, health care, mental health, or working with Indian Boarding School survivors.
- *Federal Truth and Healing Advisory Committee – Leadership of each named agency*
 - 17 members – representing relevant federal agencies.

DUTIES AND POWERS OF THE COMMISSION

- Investigate the effects of Indian Boarding Schools on Native American communities;
- Within four years, make an initial report; and within six years, make a final report to Congress;
- Hold safe and culturally appropriate public or private convenings to receive testimony;
- Ensure trauma-informed care services are provided during and following convenings;
- Meaningfully consult and engage with Indian Country and federal partners;
- Engage a wide range of experts, organizations, and agencies to conduct or request interdisciplinary research and analysis;
- Issue subpoenas, subject to certain limitations;
- Solicit funds and accept gifts or donations;
- Incorporate and share information as appropriate;
- Promote awareness and education about Indian Boarding School policies; and
- Locate, document, identify, coordinate preservation, and share, as appropriate, records related to the burial of students at Indian Boarding Schools.

DUTIES OF THE SURVIVORS TRUTH AND HEALING SUBCOMMITTEE

- Advise the Commission on criteria and protocols for convenings;
- Review the Commission's findings and recommendations;
- Assist the Commission and Advisory Committees in coordinating events;
- Provide leadership on the Native American and Federal Advisory Committee;
- Provide other advice the Commissioners may require; and
- Consult or engage, as appropriate, with relevant people and communities.

DUTIES OF THE NATIVE AMERICAN TRUTH AND HEALING ADVISORY COMMITTEE

- Advise the Commission;
- Assist the Commission in organizing and carrying out meetings to receive testimony;
- Assist Commission in determining necessary documentation from federal agencies and religious institution;
- Assist the Commission on its initial and final reports to Congress;
- Coordinate with the Federal Advisory Committee and the Survivors Subcommittee; and
- Consult or engage, as appropriate, with relevant people and communities.

DUTIES OF THE FEDERAL TRUTH AND HEALING ADVISORY COMMITTEE

- Ensure effective and timely coordination between federal agencies to further the Commission's goals;
- Assist in coordinating events;
- Assist in collecting, organizing, and preserving information;
- Ensure timely submission of records by, or to, the Commission; and
- Consult or engage, as appropriate, with stakeholders and communities.

APPLICABILITY OF CERTAIN FEDERAL LAW AND OTHER CLARIFICATIONS

- Clarifies the Freedom of Information Act, the Federal Advisory Committee Act, and the Privacy Act to not apply to the Commission and its Advisory and Subcommittees;
- Clarifies the applicability of the Native American Graves Protection and Repatriation Act to activities related to the Act;
- Authorizes creation of co-stewardship agreements for Indian Boarding School properties;
- Authorizes federal agencies, in consultation with affected Tribes, to rebury individuals on any other federal lands and subject to agreement; and
- Clarifies the Federal Rules of Civil Procedure apply to the subpoena process and enforcement.

AUTHORIZATION OF APPROPRIATIONS

- \$15 million for each fiscal year, to remain available until expended, over a six-year period.