

UNEDITED DRAFT **FOR DISCUSSION ONLY**
TO THE HOUSE OF REPRESENTATIVES:

The Committee on General, Housing, and Military Affairs to which was referred House Bill No. 96 entitled “An act relating to creating the Truth and Reconciliation Commission Development Task Force” respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intent of the General Assembly to establish the Vermont Truth and Reconciliation Commission to examine and begin the process of dismantling institutional, structural, and systemic discrimination in Vermont, both past and present.

Sec. 2. 1 V.S.A. chapter 25 is added to read:

CHAPTER 25. TRUTH AND RECONCILIATION COMMISSION

§ 901. DEFINITIONS

As used in this chapter:

(1) “Commission” means the Vermont Truth and Reconciliation Commission, including its commissioners, committees, and staff.

Commented [DX1]: its

(2) “Panel” means the Selection and Advisory Panel established pursuant to section 904 of this chapter.

§ 902. VERMONT TRUTH AND RECONCILIATION COMMISSION;

ESTABLISHMENT; ORGANIZATION

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(a) There is created and established a body corporate and politic to be known as the Vermont Truth and Reconciliation Commission to carry out the provisions of this chapter. The Truth and Reconciliation Commission is constituted a public instrumentality exercising public and essential government functions and the exercise by the Commission of the power conferred by this chapter shall be deemed and held to be the performance of an essential governmental function.

Commented [DL2]:
This is a placeholder and will change when there is a consensus on what to call the body

Commented [TS3]:
Yes.

(b)(1) The Commission shall consist of three commissioners appointed pursuant to section 905 of this chapter and shall include the following three committees:

(A) The Indigenous Vermonters Truth Committee;

(B) The Vermonters with a Disability Truth Committee; and

(C) The Vermonters of Color Truth Committee.

Commented [DX4]: How is "Vermonters" defined? Minimum tenure? Does this mean only current Vermonters or past ones too? This might matter if looking to engage with people who have left or the descendants of people who used to be in VT.

Commented [DX5]: Is this language meant to distinguish this subcommittee from the Indigenous one? Seems like this term overlaps but the new goal here appears to treat them as mutually exclusive constituencies

(2)(A) Each committee shall be chaired by a commissioner and shall include four additional citizen members appointed by the Selection and Advisory Panel pursuant to section 904 of this chapter.

Commented [DL6]:
Should we establish the scope of inquiry for the Committees in statute or let the Commissioners determine that scope in consultation with the Selection and Advisory Panel?

Commented [DX7]: Can we find a different term? Resident?

(B) The commissioners shall adopt rules and procedures for the conduct of each committee's work.

§ 903. COMMISSIONERS

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(a) Commissioners shall be full-time State employees and shall be exempt from the State classified system.

(b) The Chair of the Commission shall receive compensation equal to two-thirds that of a Superior Court Judge and other members shall receive compensation equal to one-half that of a Superior Court Judge.

(c)(1) The term of each commissioner shall begin on the date of appointment and end on July 1, 2026.

(2) Commissioners may be removed by the Selection and Advisory Panel for incompetency, failure to discharge the commissioner's duties, malfeasance, or illegal acts.

(3) A vacancy occurring during the term of a commissioner shall be filled by the Panel for the remainder of the unexpired term.

§ 904. SELECTION AND ADVISORY PANEL; MEMBERSHIP; DUTIES

(a) The Selection and Advisory Panel shall have the following 17 members:

(1) the Executive Director of Racial Equity or designee;

(2) the Executive Director of the Human Rights Commission or designee;

Commented [DL8]:
Equal to roughly \$110,500

Commented [DL9]:
Equal to \$83,724.50

Commented [DL10]:
Another option is to not have a chair, but rather just three commissioners. Not sure how that would work from a functional standpoint.

Commented [DL11]:
I have kept these two members from the last draft of the bill. Please let me know if you would like to keep them as part of the selection and advisory panel.

Commented [TS12]:
I think the set up may be that the stakeholders/advisory panel create a selection panel that shouldn't have more than 6 or 7 people. So this list, whatever it ends up being, chooses a lesser number of people they trust.

Commented [DX13R12]: I don't understand this explanation. How many panels are there?

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(3) four members representing the Native American Indian tribes recognized pursuant to 1 V.S.A. chapter 23, one from each recognized tribe, who shall be appointed according to a procedure determined by the tribe;

(4) one member appointed by the Vermont Commission of Native American Affairs, who shall identify as a Native American Indian but shall not be a member of a tribe recognized by the State pursuant to 1 V.S.A. chapter 23;

(5) an individual with a developmental disability, appointed by the Green Mountain Self Advocates;

(6) an individual with a psychiatric disability, appointed by the Vermont Psychiatric Survivors;

(7) an individual who has a disability or advocates for individuals with a disability, or both, appointed by the Vermont Developmental Disability Council;

(8) an individual who has a disability or advocates for individuals with a disability, or both, appointed by the Vermont Center for Independent Living;

(9) an individual who has a disability or advocates for individuals with a disability, or both, appointed by the Vermont Coalition for Disability Rights;

(10) an individual appointed by the Racial Equity Advisory Panel;

Commented [DL14]:
This is based on the last draft of the bill with one less at-large member. Please let me know if this list works or if changes need to be made.

Commented [TS15]:
I think keep it at two at large for now.

Commented [DL16]:
This is the list from the TRC bill from the last biennium. Please let me know if the list or organizations should change, or if other organizations should be added for consideration.

Please note, the distinction between who may be appointed pursuant to 5 and 6, and who may be appointed pursuant to 7-9 is from last biennium's bill. I am not sure that distinction is appropriate.

Commented [TS17]:
This is okay for now. We can share it with Susan Aranoff, maybe tomorrow

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(11) an individual jointly appointed by the Champlain Area, Rutland Area, and Windham County branches of the NAACP;

(12) an individual appointed by Black Lives Matter of Vermont;

(13) an individual appointed by Justice for All; and

(14) an individual appointed by the Vermont Racial Justice Alliance.

(b)(1) The Selection and Advisory Panel shall select and appoint the commissioners of the Truth and Reconciliation Commission and the citizen members of the Commission's committees as provided pursuant to section 905 of this chapter.

(2) Beginning on January 1, 2023, the Selection and Advisory Panel shall oversee the work of the Truth and Reconciliation Commission provide advice to the Commission regarding:

(A) the administration and operation of the Commission; and

(B) the work of the Indigenous Vermonters Truth Committee; the Vermonters with a Disability Truth Committee; and the Vermonters of Color Truth Committee.

(c)(1) The term of each member of the Panel shall begin on the date of appointment and end on July 1, 2026.

(2) Members of the Panel may be removed by the appropriate appointing authority for incompetency, failure to discharge the member's duties, malfeasance, or illegal acts.

Commented [DL18]:
Is this the appropriate list? Should it include other groups like Migrant Justice, AALV, or someone else?

Commented [TS19]:
I dont' think BLM is appropriate. Check list from H.387

Commented [DX20]: On paper these are two different entities, but is there substantial overlap? Are we missing anyone else who could benefit from being present?

Commented [DX21]: "and"

Commented [DX22]: Would like more detail about this, unless this is commonly understood language already?

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(3) A vacancy occurring during the term of a member of the Panel shall be filled by the appropriate appointing authority for the remainder of the unexpired term.

(d) Annually, the Panel shall select a chair and a vice chair from among its members.

(e)(1) Meetings shall be held at the call of the Chair or at the request of nine or more members of the Panel.

(2) A majority of the current membership of the Panel shall constitute a quorum and actions of the Panel may be authorized by a majority of the members present and voting at a meeting of the Panel.

(f) Notwithstanding 32 V.S.A. § 1010, members shall be entitled to per diem compensation of \$.00 plus reimbursement of expenses for attendance at meetings. These payments shall be made from the Truth and Reconciliation Commission Special Fund.

§ 905. SELECTION OF COMMISSIONERS; COMMITTEE MEMBERS

(a)(1) On or before December 31, 2022, the Selection and Advisory Panel shall select three individuals to serve as commissioners of the Vermont Truth and Reconciliation Commission.

(2) In carrying out its duty to select the commissioners, the Panel shall:

(A) establish a public, transparent, and simple process for candidates to apply to serve as a commissioner;

Commented [DX23]: This seems to me like an odd requirement for a process that is inherently designed to question and revise Westernized governance practices, and the history of autonomy/decision-making...

Commented [DX24]: Is it unreasonable to suggest this should be untaxable?

Commented [DL25]: Do you want to set a limit on the number of meetings per calendar year?

Commented [DX26R25]: Similar to my comment above, predetermining arbitrary parameters around meetings seems antithetical to the goals of the inquest and decision-making process. I do understand that it's helpful to have a predictable per diem estimate, but this should be one of those "it takes however long it takes" kind of things...

Commented [TS27]: Start with 20

Commented [DL28]: 6-month timeline for selecting Commissioners (from effective date of legislation).

Commented [TS29]: Could be shorter? October 31? Hiring of commissioners by 12/31? Too fast?

Commented [DL30]: Another option discussed was allowing the Panel to establish the process entirely. The approach drafted here is a hybrid approach with some requirements for the process and the flexibility to establish additional aspects that the Panel deems necessary.

Commented [DX31]: "serve as Commissioners"

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(B) publicize the application process, deadlines, and requirements to serves as a commissioner through media outlets, civil society organizations, and any other forms of public outreach that the Panel determines to be appropriate;

(C) solicit nominations for individuals to serve as commissioners from civil society organizations in Vermont whose work relates to the mission of the Commission;

(D) invite Vermont residents to submit applications to serve as commissioners;

(E) publish the names of all applicant who have applied to serve as commissioners and provide not less than 30 days for members of the public to submit information regarding the suitability of any applicant to serve as a commissioner;

(F) hold private interviews for each individual selected by the Panel as a finalist for selection as a commissioner; and

(G) take any other actions that the Panel deems appropriate or necessary to carry out its duties in relation to the selection of commissioners.

(3)(A) The three commissioners selected by the Panel shall each:

(i) be a resident of Vermont;

(ii) have knowledge of the problems and challenges facing racial,

indigenous, tribal, and disabled populations in Vermont;

Commented [DL32]:
Publication could also be limited to finalists

Commented [DX33R32]: Limiting it to finalists could be good as a privacy measure, but if relevant information remains unknown and that could have made the difference between someone being a finalist or not being a finalist, it would be best to know it before finalists are selected. So I suppose if we were going to support such a process, then I would prefer the full list be available instead of the narrowed one.

Commented [DL34]:
Public input could also be limited to finalists

Commented [DL35]:
An alternative would be to allow the panel to establish its own criteria. This establishes some general requirements and allows panel to establish additional criteria.

Commented [DX36]: Should "ethnic" go here?

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(iii) have experience advocating in relation to the issues of racial, indigenous, tribal, or disabled populations in Vermont;

(iv) have demonstrated leadership in programs or activities to improve opportunities for racial, indigenous, tribal, or disabled populations in Vermont; and

(v) satisfy any additional criteria established by the Panel.

(B) The three commissioners selected by the Panel shall include at least:

(i) one individual who identifies as a Native American Indian;

(ii) one individual who identifies as a person of color;

(iii) one individual with a disability; and

(iv) one woman.

(C) The Panel shall designate one of the Commissioners as the Chair of the Commission.

(b)(1) On or before March 31, 2023, the Selection and Advisory Panel shall select individuals to serve as citizen members of the Indigenous Vermonters Truth Committee; the Vermonters with a Disability Truth Committee; and the Vermonters of Color Truth Committee.

Commented [DL37]:
Any additional criteria that should be included in this list?

Commented [TS38]:
Not now

Commented [DL39]:
This attempts to ensure representation of each broad group that is the subject of the Commission's work.

Commented [TS40]:
I am subscribing to the ICTJ advice of emphasizing experience over inclusion. The inclusion is found in the selection panel and advisory panel. So I would not include these criteria. Maybe TBD

Commented [DX41]: Woman-identified person? Or does that conflict with the goal?

Commented [DL42]:
Based on ICTJ recommendation.

Commented [DL43]:
This assumes that the Selection Panel will select citizen members of each Committee.

Commented [TS44]:
I think we would need to give them that. Or we separate them after the selection and the named members of the selection panel just become a board of advisors

Commented [DX45R44]: I don't understand what the end result would be in terms of how many panels there are and what their respective functions are.

Commented [DL46]:
Is this term OK, or would you prefer a different term?

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(2)(A) The Panel shall appoint four citizen members to each committee listed in subdivision (1) of this subsection.

Commented [DL47]:
Is the number OK? I selected it so that each committee has 5 members, which is right in the middle of the range recommended by ICTJ.

(B) The members of each committee shall, to the greatest extent possible, be diverse with respect to socioeconomic status, geographic location, gender, and sexual identity.

(C)(i) Not less than two citizen members of the Indigenous Vermonters Truth Committee shall be individuals who identify as Native American Indians.

(ii) Not less than two citizen members of the Vermonters with a Disability Truth Committee shall be individuals with a disability.

(iii) Not less than two citizen members of the Vermonters of Color Truth Committee shall be individuals who identify as a person of color.

(D) The Panel shall determine the application process, qualifications, and criteria for the selection and appointment of citizen members to each of the committees.

(3)(A) The Panel shall publicize the application process, deadlines, and qualifications and criteria for serving as a citizen member of each committee through media outlets, civil society organizations, and any other forms of public outreach that the Panel determines to be appropriate.

(B) The Panel shall solicit nominations for individuals to serve as citizen members of the committees from civil society organizations in Vermont whose work relates to the work of each committee.

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(C) The Panel shall invite members of the public to apply to serve as citizen members of the committees.

(4)(A) The term of each citizen member shall begin on the date of appointment and end on July 1, 2026.

(B) Citizen members may be removed by the Selection and Advisory Panel for incompetence, failure to discharge the member's duties, malfeasance, or illegal acts.

Commented [DX48]: Who determines the process for how the removal happens?

(C) A vacancy occurring during the term of a citizen member shall be filled by the Selection and Advisory Panel for the remainder of the unexpired term.

(c) Not later than 5 days after selecting the commissioners pursuant to subsection (a) of this section and the citizen members of the committees pursuant to subsection (b) of this section, the Panel shall submit a brief report to the Governor and the General Assembly identifying the individuals selected. The names of the individuals selected shall be made available to the public on the same day that the reports required pursuant to this subsection are submitted.

§ 906. POWERS AND DUTIES OF THE COMMISSIONERS

(a) Duties. The Commissioners shall:

(1) Establish, in consultation with the Selection and Advisory Panel, the scope and objectives of the work to be carried out by the Indigenous

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Vermonters Truth Committee; the Vermonters with a Disability Truth Committee; and the Vermonters of Color Truth Committee.

(2) Develop and implement a process for truth and reconciliation to address the institutional, structural, and systemic discrimination experienced by racial, indigenous, tribal, and disabled populations in Vermont, both past and present.

(3) Work with the committees and Commission staff to carry out research necessary to:

(A) identify and examine historic and ongoing institutional, structural, and systemic discrimination against members of racial, indigenous, tribal, and disabled populations in Vermont;

(B) determine the current status of members of racial, indigenous, tribal, and disabled populations in Vermont; and

(C) satisfy the scope of work and the objectives established pursuant to subdivision (1) of this subsection.

(4) Work with the committees and Commission staff to promote, implement, and coordinate programs and activities to create and improve opportunities for or to eliminate disparities experienced by members of racial, indigenous, tribal, and disabled populations in Vermont.

(5) Work with the committees and Commission staff to promote, implement, and coordinate educational programs related to historic and

Commented [DX49]: "historical"

Commented [DX50]: What does this actually mean?

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ongoing institutional, structural, and systemic discrimination against members of racial, indigenous, tribal, and disabled populations in Vermont.

(6) Work in consultation with the Panel to ensure that the work of the Commission is open, transparent, inclusive, and meaningful for members of racial, indigenous, tribal, and disabled populations in Vermont.

(7) Supervise the work of the Executive Director of the Commission.

(b) Powers. To carry out its duties pursuant to this chapter, the Commissioners may:

(1) Adopt rules in accordance with 3 V.S.A. chapter 25 as necessary to implement the provisions of this chapter.

(2) Adopt procedures as necessary to carry out the duties set forth in subsection (a) of this section.

(3) Establish and maintain a principal office.

(4) Meet and hold hearings at any place in this State.

(5) Issue subpoenas to compel testimony or access to or production of records, documents, and other evidence or possible sources of evidence or the appearance of persons, provided that the subpoena is issued pursuant to an investigation commenced by the Commission pursuant to this chapter and that there is reasonable cause to believe that those materials or the testimony of the person are relevant to the investigation. Subpoenas issued under this subdivision shall be accompanied with a notice that informs the person that the person has a right to contest the subpoena at a hearing before not less than two

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Commissioners and that the person has the additional right to contest the subpoena in court. Subpoenas issued under this subdivision shall be enforced as provided in 3 V.S.A. §§ 809a and 809b.

(6) Consult with local, national, and international experts on issues related to discrimination, truth and reconciliation, and restorative justice.

(7) Take statements from members of racial, indigenous, tribal, and disabled populations in Vermont; members of the public; and persons with knowledge of the institutional, structural, and systemic discrimination experienced by such populations.

(8) Study, research, investigate, and report on the impact of State actions in relation to racial, indigenous, tribal, and disabled populations in Vermont. If the Commission determines that the actions constituted institutional, structural, and systemic discrimination against a population, regardless of whether the discrimination was intentional or adversely impacted a population, the Commission may propose legislative or administrative action to the General Assembly or Governor, as appropriate, to remedy the impacts on the population.

(9) Enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the provisions of this chapter.

(10) Make and execute legal documents necessary or convenient for the exercise of its powers and duties under this chapter.

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(11) Hire consultants and independent contractors to assist the

Commission in carrying out the provisions of this chapter.

(12) Take any other actions necessary to carry out the provisions of this chapter.

§ 907. EXECUTIVE DIRECTOR; DUTIES

(a) The Commissioners shall appoint an Executive Director, who shall be an individual with experience in relation to racial justice or advocating on behalf of historically disadvantaged groups. The Executive Director shall be a full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the Commissioners.

(b) The Executive Director shall be responsible for the following:

(1) supervising and administering the implementation of the provisions of this chapter on behalf of the Commission;

(2) assisting the Commission in carrying out its duties;

(3) ensuring that the Commission has the resources and staff assistance necessary to collect historical materials, take statements from individuals, hold public hearings and events, and prepare and publish reports and other documents;

(4) facilitating communications between the Commission and stakeholders and members of the public;

(5) hiring staff, including researchers and administrative and legal professionals, as necessary to carry out the duties of the Commission; and

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(6) preparing an annual budget for submission to the Commissioners.

§ 908. REPORTS

(a) Notwithstanding 2 V.S.A. § 20(d), the Commission shall annually, on or before January 15, submit to the Governor and General Assembly a report on the Commission's activities during the prior year, its findings, and any recommendations for legislative or other action necessary to further the mission of the Commission or to address instances of institutional, structural, and systemic discrimination identified by the Commission.

(b) On or before June 15, 2026, the Commission shall submit final reports from the Indigenous Vermonters Truth Committee; the Vermonters with a Disability Truth Committee; and the Vermonters of Color Truth Committee. Each report shall detail the findings and recommendations of the relevant committee and shall include recommendations for actions that can be taken to eliminate ongoing instances of institutional, structural, and systemic discrimination and to address the harm caused by historic instances institutional, structural, and systemic discrimination.

§ 909. TRUTH AND RECONCILIATION COMMISSION SPECIAL FUND

(a) There is established the Truth and Reconciliation Commission Special Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund shall consist of amounts appropriated by the State and any gifts or grants received by the Vermont Truth and Reconciliation Commission. The Fund shall be available to the Commissioners to carry out

Commented [DL51]:
Victoria's truth commission had just a single interim report "detailing progress to date, emerging themes and issues, and, if available, any initial findings or thematic areas that should be considered immediate priorities." We could replace these annual reports with one or two interim reports along those lines.

Commented [TS52]:
We can try that...

Commented [DL53]:
Based on ICTJ's testimony I pushed out the final report by one year to 2026.

Commented [TS54]:
Yep. No shame in finishing earlier but let's start here.

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the work of the Commission pursuant to this chapter and to the Selection and Advisory Panel to carry out its duties pursuant to this chapter.

(b) The Commissioners may seek and accept gifts, donations, and grants from any source, public or private, to be dedicated for deposit into the Fund.

Commented [DX55]: ...are we sure?

(c) All interest earned on Fund balances shall be credited to the Fund.

Sec. 3. APPROPRIATION

The sum of \$ _____ is appropriated to the Truth and Reconciliation Commission Special Fund in fiscal year 2023.

Sec. 4. REPEAL

1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on July 1, 2026.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.
and that after passage the title of the bill be amended to read: “An act relating to creating the Vermont Truth and Reconciliation Commission”

(Committee vote: _____)

Representative _____
FOR THE COMMITTEE