

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House
3 Bill No. 96 entitled “An act relating to creating the Truth and Reconciliation
4 Commission” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. INTENT

9 It is the intent of the General Assembly to establish the Vermont Truth and
10 Reconciliation Commission to:

11 (1) examine and begin the process of dismantling institutional,
12 structural, and systemic discrimination in Vermont, both past and present, that
13 has been caused or permitted by State laws and policies;

14 (2) establish a public record of institutional, structural, and systemic
15 discrimination in Vermont that has been caused or permitted by State laws and
16 policies; and

17 (3) identify potential actions that can be taken by the State to repair the
18 damage caused by institutional, structural, and systemic discrimination in
19 Vermont that has been caused or permitted by State laws and policies and
20 prevent the recurrence of such discrimination in the future.

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

2 CHAPTER 25. TRUTH AND RECONCILIATION COMMISSION

3 § 901. DEFINITIONS

4 As used in this chapter:

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

7 (2) “Consultation” means a meaningful and timely process of seeking,
8 discussing, and considering carefully the views of others in a manner that is
9 cognizant of all parties’ cultural values.

10 (3) “Panel” means the Selection Panel established pursuant to section
11 904 of this chapter.

12 (4) “Record” means any written or recorded information, regardless of
13 physical form or characteristics.

14 § 902. VERMONT TRUTH AND RECONCILIATION COMMISSION;
15 ESTABLISHMENT; ORGANIZATION

16 (a) There is created and established a body corporate and politic to be
17 known as the Vermont Truth and Reconciliation Commission to carry out the
18 provisions of this chapter. The Truth and Reconciliation Commission is
19 constituted a public instrumentality exercising public and essential government
20 functions and the exercise by the Commission of the power conferred by this

1 chapter shall be deemed and held to be the performance of an essential
2 governmental function.

3 (b)(1) The Commission shall consist of three commissioners appointed
4 pursuant to section 905 of this chapter and shall include one or more
5 committees established by the commissioners to examine institutional,
6 structural, and systemic discrimination caused or permitted by State laws and
7 policies experienced by each of the following populations and communities in
8 Vermont:

9 (A) individuals who identify as Native American or Indigenous;

10 (B) individuals with a physical or mental disability and the families
11 of individuals with a physical or mental disability;

12 (C) individuals of color;

13 (D) individuals with French Canadian, French-Indian, or other mixed
14 ethnic or racial heritage; and

15 (E) in the commissioners' discretion, other populations and
16 communities that have experienced institutional, structural, and systemic
17 discrimination caused or permitted by State laws and policies.

18 (2)(A) Each committee shall consist of the commissioners and members
19 appointed by the commissioners in consultation with the populations and
20 communities identified pursuant to subdivision (1) of this subsection (b).

1 (B) The commissioners shall ensure that the members of each
2 committee shall be broadly representative of the populations and communities
3 who are the subject of that committees’ work.

4 (C) The commissioners may appoint not more than 30 committee
5 members in the aggregate across all of the committees established pursuant to
6 subdivision 906(a)(1) of this chapter.

7 (D)(i) Except as otherwise provided pursuant to subdivision (ii) of
8 this subdivision (2)(D), committee members shall be entitled to per diem
9 compensation and reimbursement of expenses as permitted under 32 V.S.A.
10 § 1010 for not more than eight meetings per calendar year. These payments
11 shall be made from monies appropriated to the Commission.

12 (ii) The commissioners may authorize committee members to
13 receive per diem compensation and reimbursement of expenses as permitted
14 under 32 V.S.A. § 1010 for additional meetings in each calendar year.
15 Payments for additional meetings shall be made from grants or additional
16 funding received by the Commissioners pursuant to subdivision 906(b)(11) of
17 this chapter. In no event shall the per diem compensation and reimbursement
18 of expenses for any additional meetings exceed the amounts permitted
19 pursuant to 32 V.S.A. § 1010.

20 (3) Nothing in this subsection shall be construed to require the
21 Commission to examine institutional, structural, and systemic discrimination

1 experienced by the populations and communities identified in subdivision (1)
2 of this subsection in isolation or separately from each other.

3 § 903. COMMISSIONERS

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

6 (b) The commissioners shall receive compensation equal to one-half that of
7 a Superior Court Judge.

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

10 § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

11 (a)(1) The Selection Panel shall be composed of seven members selected
12 on or before September 1, 2022 by a majority vote of the following:

13 (A) the Executive Director of Racial Equity or designee;

14 (B) the Executive Director of the Vermont Center for Independent
15 Living or designee;

16 (C) an individual, who shall not be a current member of the General
17 Assembly, appointed by the Speaker of the House;

18 (D) an individual, who shall not be a current member of the General
19 Assembly, appointed by the Committee on Committees; and

20 (E) an individual appointed by the Chief Justice of the Vermont
21 Supreme Court.

1 (2) The individuals identified in subdivision (1) of this subsection:

2 (A) shall hold their first meeting on or before August 1, 2022 at the
3 call of the individual appointed by the Chief Justice of the Vermont Supreme
4 Court; and

5 (B) are encouraged to appoint individuals to the Selection Panel who
6 include members of the populations and communities identified pursuant to
7 subdivisions 902(b)(1)(A)–(D) of this chapter and who are diverse with respect
8 to socioeconomic status, work, education, geographic location, gender, and
9 sexual identity.

10 (3) Individuals selected pursuant to subdivision (1) of this subsection
11 who are not employees of the State of Vermont and who are not otherwise
12 compensated or reimbursed for their attendance shall be entitled to per diem
13 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010
14 for not more than two meetings. These payments shall be made from amounts
15 appropriated to the Truth and Reconciliation Commission.

16 (b)(1) The Selection Panel shall select and appoint the commissioners of
17 the Truth and Reconciliation Commission as provided pursuant to section 905
18 of this chapter.

19 (2) To enable it to carry out its duty to select and appoint the
20 commissioners of the Truth and Reconciliation Commission as provided
21 pursuant to section 905 of this chapter, the Panel may:

1 (A) adopt procedures as necessary to carry out the duties set forth in
2 section 905 of this chapter;

3 (B) establish and maintain a principal office;

4 (C) meet and hold hearings at any place in this State; and

5 (D) hire temporary staff to provide administrative assistance during
6 the period from September 1, 2022 through January 15, 2023, provided that if
7 the Panel extends the time to select commissioners pursuant to subdivision
8 905(c)(1) of this chapter, it may retain staff to provide administrative
9 assistance through March 31, 2023.

10 (c) The term of each member of the Panel shall begin on the date of
11 appointment and end on January 15, 2023, except if the Panel extends the time
12 to select commissioners pursuant to subdivision 905(c)(1) of this chapter, the
13 term of the Panel members shall end on March 31, 2023.

14 (d) The Panel shall select a chair and a vice chair from among its members.

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

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

20 (f) Members of the Panel shall be entitled to per diem compensation and
21 reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 20

1 meetings during fiscal year 2023. **These payments shall be made from**
2 **amounts appropriated to the Truth and Reconciliation Commission.**

3 § 905. SELECTION OF COMMISSIONERS

4 (a)(1) Except as otherwise provided pursuant to subdivision (c)(1) of this
5 section, the Selection Panel shall, on or before December 31, 2022, select three
6 individuals to serve as the commissioners of the Vermont Truth and
7 Reconciliation Commission.

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

9 (A) Establish a public, transparent, and simple process for candidates
10 to apply to serve as a commissioner.

11 (B) Publicize the application process, deadlines, and requirements to
12 serve as a commissioner through media outlets, civil society organizations, and
13 any other forms of public outreach that the Panel determines to be appropriate.

14 (C) Solicit nominations for individuals to serve as commissioners
15 from civil society organizations in Vermont whose work relates to the mission
16 of the Commission.

17 (D) Invite Vermont residents to submit applications to serve as
18 commissioners.

19 (E) Hold one or more public hearings to provide an opportunity for
20 members of the public to **meet and ask questions of the finalists** to serve as a
21 commissioner.

1 (F) Hold private interviews with each individual selected by the
2 Panel as a finalist for selection as a commissioner.

3 (G) Conduct criminal history record checks for finalists, provided
4 that the Panel shall only consider felony convictions or convictions for crimes
5 involving untruthfulness or falsification. A finalist who has been convicted of
6 a felony or a crime involving untruthfulness or falsification shall be afforded
7 an opportunity to explain the information and the circumstances regarding the
8 conviction, including postconviction rehabilitation.

9 (H) Take any other actions that the Panel deems appropriate or
10 necessary to carry out its duties in relation to the selection of commissioners.

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

12 (A) be residents of Vermont;

13 (B) not be members of the Selection Panel;

14 (C) have knowledge of the problems and challenges facing the
15 populations and communities identified pursuant to subdivisions

16 902(b)(1)(A)–(D) of this chapter; and

17 (D) satisfy any additional criteria established by the Panel.

18 (b) Not later than five days after selecting the commissioners pursuant to
19 subsection (a) of this section, the Panel shall submit a brief report to the

20 Governor and the General Assembly identifying the commissioners. The

1 names of the commissioners shall be made available to the public on the same
2 day that the report is submitted.

3 (c)(1) If the Panel is unable to identify three suitable applicants on or
4 before December 31, 2022, the Panel may by a majority vote extend the time
5 to select commissioners to March 31, 2023.

6 (2) If the Panel extends the time to select commissioners pursuant to this
7 subsection, the Panel shall, on or before January 5, 2023, submit a brief written
8 report to the House Committee on General, Housing, and Military Affairs and
9 the Senate Committee on **Government Operations** providing notice of its
10 decision to extend the time to select commissioners and its reasons for doing so
11 and identifying any changes to the provisions of this chapter that may be
12 necessary to enable the Panel to successfully identify and select
13 commissioners.

14 § 906. POWERS AND DUTIES OF THE COMMISSIONERS

15 (a) Duties. The commissioners shall:

16 (1) establish, in consultation with the populations and communities
17 identified pursuant to subdivision 902(b)(1) of this chapter and other interested
18 parties in the commissioners' discretion, committees to examine institutional,
19 structural, and systemic discrimination caused or permitted by State laws and
20 policies that have been experienced by the populations and communities
21 identified pursuant to subdivision 902(b)(1) of this chapter;

1 (2) determine, in consultation with the populations and communities
2 identified pursuant to subdivision 902(b)(1) of this chapter, historians, social
3 scientists, experts in restorative justice, and other interested parties in the
4 commissioners’ discretion, the scope and objectives of the work to be carried
5 out by each committee established pursuant to subdivision (1) of this
6 subsection;

7 (3) develop and implement a process for each committee established
8 pursuant to subdivision (1) of this subsection to fulfill the objectives
9 established pursuant to subdivision (2) of this subsection;

10 (4) work with the committees and Commission staff to carry out
11 research, public engagement, and other work necessary to:

12 (A) identify and examine historic and ongoing institutional,
13 structural, and systemic discrimination against members of the populations and
14 communities identified pursuant to subdivision 902(b)(1) of this chapter that
15 has been caused or permitted by State laws and policies;

16 (B) determine the current status of members of the populations and
17 communities identified pursuant to subdivision 902(b)(1) of this chapter; and

18 (C) satisfy the scope of work and the objectives established pursuant
19 to subdivision (1) of this subsection (a);

20 (5) work with the committees and Commission staff to identify potential
21 programs and activities to create and improve opportunities for or to eliminate

1 disparities experienced by the populations and communities that are the subject
2 of the committees' work;

3 (6) work with the committees and Commission staff to identify potential
4 educational programs related to historic and ongoing institutional, structural,
5 and systemic discrimination against members of the populations and
6 communities that are the subject of the committees' work;

7 (7) work in consultation with the populations and communities
8 identified pursuant to subdivision 902(b)(1) of this chapter, experts in
9 restorative justice, and, in the commissioners' discretion, other interested
10 parties to ensure that the work of the Commission is open, transparent,
11 inclusive, and meaningful; and

12 (8) supervise the work of the Executive Director of the Commission.

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

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

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

19 (3) Establish and maintain a principal office.

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

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

3 (6) Interview and take statements from members of the populations and
4 communities identified pursuant to subdivision 902(b)(1) of this chapter;
5 members of the public; and persons with knowledge of the institutional,
6 structural, and systemic discrimination experienced by such populations and
7 communities.

8 (7) Study, research, investigate, and report on the impact of State laws
9 and policies on populations and communities identified pursuant to subdivision
10 902(b)(1) of this chapter. If the Commission determines that particular laws or
11 policies caused or permitted institutional, structural, and systemic
12 discrimination against a population or community, regardless of whether the
13 discrimination was intentional or adversely impacted the population or
14 community, the Commission may propose legislative or administrative action
15 to the General Assembly or Governor, as appropriate, to remedy the impacts
16 on the population or community.

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

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

1 (10) Hire consultants and independent contractors to assist the
2 Commission in carrying out the provisions of this chapter.

3 (11) Seek grants or funding other than annual State appropriations to
4 further the work of the Commission.

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

7 § 907. EXECUTIVE DIRECTOR; DUTIES

8 (a) The Commissioners shall appoint an Executive Director. The
9 Executive Director shall be a full-time State employee, shall be exempt from
10 the State classified system, and shall serve at the pleasure of the
11 commissioners.

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

13 (1) supervising and administering the implementation of the provisions
14 of this chapter on behalf of the commissioners;

15 (2) assisting the commissioners in carrying out their duties;

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

1 (4) facilitating communications between the Commission and members
2 of the populations and communities identified pursuant to subdivision
3 902(b)(1) of this chapter, interested parties, and members of the public;

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

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

7 § 908. REPORTS

8 (a) On or before January 15, 2024, the Commission shall submit to the
9 Governor and General Assembly an interim report on the Commission’s
10 progress to date, the committees established pursuant to subdivision 906(a)(1)
11 of this chapter and the scope and objectives of their work, emerging themes
12 and issues that the Commission has identified, and, if available, any
13 preliminary findings and recommendations for legislative or other action that
14 the Commission believes should be prioritized to address instances of
15 institutional, structural, and systemic discrimination identified by the
16 Commission.

17 (b)(1) On or before June 15, 2026, the Commission shall submit a final
18 report incorporating the findings and recommendations of each committee.
19 Each report shall detail the findings and recommendations of the relevant
20 committee and shall include recommendations for actions that can be taken to
21 eliminate ongoing instances of institutional, structural, and systemic

1 discrimination and to address the harm caused by historic instances
2 institutional, structural, and systemic discrimination.

3 (2) The Commission shall, on or before January 15, 2026, make a draft
4 of the final report publicly available and provide copies of the draft to
5 interested parties from the populations and communities identified pursuant to
6 subdivision 902(b)(1) of this chapter and other interested parties. The
7 Commission shall provide the interested parties and members of the public
8 with not less than 60 days to review the draft and provide comments on it. The
9 Commission shall consider fully all comments submitted in relation to the draft
10 and shall include with the final version of the report a summary of all
11 comments received and a concise statement of the reasons why the
12 Commission decided to incorporate or reject any proposed changes.
13 Comments submitted in relation to the final report shall be made available to
14 the public in a manner that complies with the requirements of section 910 of
15 this chapter.

16 (c) The Commission may, in its discretion, issue additional reports to the
17 Governor, General Assembly, and public.

18 § 909. ACCESS TO INFORMATION; CONFIDENTIALITY

19 (a) Access to State records and information.

20 (1) The Commission shall have access to and the right to copy any
21 record or other information held by all executive, administrative, and judicial

1 agencies and departments and all instrumentalities of the State. All executive,
2 administrative, and judicial agencies and departments and all instrumentalities
3 of the State shall cooperate with the Commission with respect to any request
4 for access to any record or other information and shall provide all records or
5 other information requested by the Commission to the extent permitted by law.

6 (2) The Commission shall keep confidential any information received
7 from an executive, administrative, or judicial agency or department or an
8 instrumentality of the State that is confidential or is exempt from the Public
9 Records Act.

10 (b) Confidentiality requirements.

11 (1) Except as otherwise provided pursuant to subsection (c) of this
12 section, information and records acquired by or provided to the Commission
13 that would in any manner reveal an individual's identity shall be kept
14 confidential and shall be exempt from public inspection and copying under the
15 Public Records Act.

16 (2) The Commission shall not include the personally identifying
17 information of any individual in any report that it produces without the
18 express, written consent of the individual.

19 (c) Exceptions.

20 (1) Except as provided in subdivision (2) of this subsection, information
21 and records acquired by or provided to the Commission shall only be available

1 to the public in an anonymized form that does not reveal the identity of any
2 individual.

3 (2) Information or records acquired by or provided to the Commission
4 may be disclosed in a manner that would reveal the identity of an individual if
5 that individual has provided their express, written consent to the disclosure of
6 the information or record in a manner that would reveal their identity.

7 (d) Private proceedings.

8 (1) The Commission shall permit any individual who is interviewed by
9 the Commission to elect to have their interview conducted in a manner that
10 protects the individual’s privacy and to have any recording of the interview
11 kept confidential by the Commission. Any other record or document produced
12 in relation to an interview conducted pursuant to this subdivision (d)(1) shall
13 only be available to the public in an anonymized form that does not reveal the
14 identity of any individual.

15 (2) The Commission shall adopt procedures and safeguards to ensure to
16 the greatest extent possible that it does not conduct any interview in a manner
17 that is open to the public if the interview will reveal the identities of
18 individuals other than the interviewee without the express, written consent of
19 those individuals.

1 Sec. 3. APPROPRIATION

2 The sum of \$748,000.00 is appropriated from the General Fund to the Truth
3 and Reconciliation Commission in fiscal year 2023.

4 Sec. 4. REPEAL

5 1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on
6 July 1, 2026.

7 Sec. 5. EFFECTIVE DATE

8 This act shall take effect on passage.

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13 (Committee vote: _____)

14

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Senator _____

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FOR THE COMMITTEE