

1 H.362

2 Introduced by Representative Headrick of Burlington

3 Referred to Committee on

4 Date:

5 Subject: General provisions; Native American Indian People; Truth and
6 Reconciliation Commission

7 Statement of purpose of bill as introduced: This bill proposes to make changes
8 to the State recognition process of Native American tribes and to implement
9 restorative justice projects in collaboration with Odanak leadership. This bill
10 also proposes to increase transparency and reduce conflicts of interest for the
11 Truth and Reconciliation Commission. This bill also proposes to create a task
12 force to review the validity of prior recognition of State tribes and to establish
13 a legislative committee to oversee the Truth and Reconciliation Commission.
14 This bill also proposes to seek a third-party audit of the Commission's
15 activities.

16 An act relating to State recognition of Native American tribes and the Truth
17 and Reconciliation Commission

18 It is hereby enacted by the General Assembly of the State of Vermont:

19 Sec. 1. FINDINGS

20 The General Assembly finds:

1 (1) Deliberations of the Truth and Reconciliation Commission are not
2 subject to Vermont’s Open Meeting law, raising transparency concerns.

3 (2) The process for State-recognition of Native American Indian tribes
4 has been flawed, excluding key voices, particularly those of the Odanak
5 Abenaki.

6 (3) The State’s recognition of certain Native American Indian tribes has
7 perpetuated cultural erasure and undermined authentic Indigenous heritage.

8 (4) Effective truth and reconciliation processes prioritize transparency,
9 community inclusion, and restorative justice, as outlined in the United Nations
10 Declaration of the Rights of Indigenous People.

11 Sec. 2 1 V.S.A. § 852 is amended to read:

12 § 852. VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS
13 ESTABLISHED; AUTHORITY

14 (a) In order to recognize the historic and cultural contributions of Native
15 Americans to Vermont, to protect and strengthen their heritage, and to address
16 their needs in State policy, programs, and actions, there is hereby established
17 the Vermont Commission on Native American Affairs (the “Commission”).

18 (b) The Commission shall be composed of nine members appointed by the
19 Governor for staggered two-year terms from a list of candidates compiled by
20 the Division for Historic Preservation. The Governor shall appoint members
21 who have been residents of Vermont for a minimum of three years and reflect

1 a diversity of affiliations and geographic locations in Vermont. A member
2 may serve for ~~no~~ not more than two consecutive terms, unless there are
3 insufficient eligible candidates. No individual affiliated with or employed by a
4 group or band seeking formal State recognition as a Native American Indian
5 tribe shall serve on the Commission during the pendency of the application.

6 The Division shall compile a list of candidates from the following:

7 * * *

8 Sec. 3. 1 V.S.A. § 853 is amended to read:

9 § 853. CRITERIA AND PROCESS FOR STATE RECOGNITION OF
10 NATIVE AMERICAN INDIAN TRIBES

11 * * *

12 (c) The recognition process shall require genealogical evidence of
13 Indigenous ancestry verified by independent experts and based upon input
14 from federally or internationally recognized Indigenous communities. In
15 addition, in order to be eligible for recognition, an applicant must file an
16 application with the Commission and demonstrate compliance with
17 subdivisions (1) through (8) of this subsection, which may be supplemented by
18 subdivision (9) of this subsection:

19 (1) A majority of the applicant's members currently reside in a specific
20 geographic location within Vermont.

1 (2) A substantial number of the applicant's members are related to each
2 other by kinship and trace their ancestry to a kinship group through genealogy
3 or other methods. Genealogical documents ~~shall be limited to~~ include those
4 that show a ~~deseendency~~ descendancy from identified Vermont or regional
5 native people.

6 (3) The applicant has a connection with Native American Indian tribes
7 and bands that have historically inhabited Vermont.

8 (4) The applicant has historically maintained an organizational structure
9 that exerts influence and authority over its members that is supported by
10 documentation of the structure, membership criteria, the names and residential
11 addresses of its members, and the methods by which the applicant conducts its
12 affairs.

13 (5) The applicant has an enduring community presence within the
14 boundaries of Vermont that is documented by archaeology, ethnography,
15 physical anthropology, history, folklore, or any other applicable scholarly
16 research and data.

17 (6) The applicant is organized in part:

18 (A) to preserve, document, and promote its Native American Indian
19 culture and history, and this purpose is reflected in its bylaws; and

20 (B) to address the social, economic, political, or cultural needs of the
21 members with ongoing educational programs and activities.

1 (7) The applicant can document traditions, customs, oral stories, and
2 histories that signify the applicant’s Native American heritage and connection
3 to their historical homeland.

4 (8) The applicant has not been recognized as a tribe in any other state,
5 province, or nation.

6 (9) Submission of letters, statements, and documents from:

7 (A) municipal, State, or federal authorities that document the
8 applicant’s history of tribe-related business and activities; and

9 (B) tribes in and outside Vermont that attest to the Native American
10 Indian heritage of the applicant.

11 (d) The Commission shall consider the application pursuant to the
12 following process, which shall include at least the following requirements:

13 * * *

14 (3) A process for appointing a three-member review panel for each
15 application to review the supporting documentation and determine its
16 sufficiency, accuracy, and relevance. The review panel shall provide a detailed
17 written report of its findings and conclusions to the Commission, the applicant,
18 and legislative committees. Members of each review panel shall be appointed
19 cooperatively by the Commission and the applicant from a list of professionals
20 and academic scholars with expertise in cultural or physical anthropology,
21 Indian law, archaeology, Native American Indian genealogy, history, or

1 another related Native American Indian subject area. If the applicant and the
2 Commission are unable to agree on a panel, the State Historic Preservation
3 Officer shall appoint the panel. ~~No member of the review panel may be a~~
4 ~~member of the Commission or affiliated with or on the tribal rolls of the~~
5 ~~applicant~~ No individual affiliated with or employed by a group or band
6 seeking formal State recognition as a Native American Indian tribe shall serve
7 on a review panel.

8 * * *

9 Sec. 4. 1 V.S.A. § 857 is added to read:

10 § 857. RESTORATIVE JUSTICE FOR ODANAK ABENAKI

11 (a) The Commission shall consult with Odanak Abenaki leadership on all
12 matters relating to Indigenous policy and recognition of Native American
13 Indian tribes in Vermont.

14 (b) To support cultural revitalization, the Commission shall allocate grant
15 funding to projects led by the Odanak Abenaki, including cultural preservation
16 and education initiatives.

17 Sec. 5. STATE RECOGNITION OF NATIVE AMERICAN INDIAN

18 TRIBES TASK FORCE; REPORT

19 (a) Creation. There is created the State Recognition of Native American
20 Indian Tribes Task Force to review the validity of the prior recognition of
21 Native American Indian tribes by the State.

1 (b) Membership. The Task Force shall be composed of the following
2 members:

3 (1) two current members of the House of Representatives, not all from
4 the same political party, who shall be appointed by the Speaker of the House;

5 (2) two current members of the Senate, not all from the same political
6 party, who shall be appointed by the Committee on Committees;

7 (3) two experts in Indigenous genealogy, who shall be appointed by the
8 Vermont Commission on Native American Affairs, in consultation with the
9 Executive Director of the Office of Racial Equity;

10 (4) one representative from the Odanak First Nation, who shall be
11 appointed by Odanak leadership;

12 (5) one representative from the Wôlinak First Nation, who shall be
13 appointed by Wôlinak leadership;

14 (6) one member of the public with expertise in the legal standards for
15 Indigenous recognition, who shall be appointed by the Governor; and

16 (7) one representative from the Vermont Attorney General's Office,
17 who shall be appointed by the Attorney General and who will serve in an ex
18 officio, nonvoting capacity.

19 (c) Powers and duties. The Task Force shall study the validity of the prior
20 recognition of Native American Indian tribes by the State, with a focus on

1 genealogical evidence and historical continuity and shall consider the
2 following questions:

3 (1) whether past recognition practices were consistent with best
4 practices and legal standards;

5 (2) whether the rescission of any previous recognitions should be
6 recommended;

7 (3) what alternative pathways exist for cultural recognition while
8 ensuring historical integrity; and

9 (4) what impact State recognition has had on federal recognition efforts,
10 the allocation of State funding, and Indigenous cultural preservation.

11 (d) Assistance. The Task Force shall have administrative support from the
12 Office of Legislative Operations for the purpose of scheduling and staffing
13 meetings and from the Office of Legal Counsel for the purpose of providing
14 legal research and preparing recommended legislation. The Task Force may
15 also seek technical assistance from the Vermont Historical Society, the
16 University of Vermont and State Agricultural College, the University of
17 Ottawa, and recognized experts in Indigenous law.

18 (e) Report. On or before December 1, 2025, the Task Force shall submit an
19 interim written report to the House Committee on General and Housing, the
20 Senate Committee on Economic Development, Housing and General Affairs,
21 and the Governor with its findings and any recommendations for legislative

1 action. On or before June 15, 2026, the Task Force shall submit a final written
2 report to the House Committee on General and Housing, the Senate Committee
3 on Economic Development, Housing and General Affairs, and the Governor
4 with its final conclusions and any further recommendations for legislative
5 action.

6 (f) Meetings.

7 (1) The representative from the Attorney General's office shall call the
8 first meeting of the Task Force to occur on or before July 15, 2025.

9 (2) The Task Force shall select a chair from among its members at the
10 first meeting.

11 (3) A majority the voting members shall constitute a quorum.

12 (4) The Task Force shall meet a minimum of four times and not more
13 than six times.

14 (5) The Task Force shall cease to exist on June 30, 2026.

15 (g) Compensation and reimbursement.

16 (1) For attendance at meetings during adjournment of the General
17 Assembly, a legislative member of the Task Force serving in the member's
18 capacity as a legislator shall be entitled to per diem compensation and
19 reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six
20 meetings. These payments shall be made from monies appropriated to the
21 General Assembly.

1 (2) Other members of the Task Force shall be entitled to per diem
2 compensation and reimbursement of expenses as permitted under
3 32 V.S.A. § 1010 for not more than six meetings. These payments shall be
4 made from monies appropriated to the General Assembly.

5 Sec. 6. 1 V.S.A. § 902 is amended to read:

6 § 902. VERMONT TRUTH AND RECONCILIATION COMMISSION;
7 ESTABLISHMENT; ORGANIZATION

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

15 (b)(1) The Commission shall consist of three commissioners appointed
16 pursuant to section 905 of this chapter and shall include one or more
17 committees established by the commissioners to examine institutional,
18 structural, and systemic discrimination caused or permitted by State laws and
19 policies experienced by each of the following populations and communities in
20 Vermont:

- 1 (A) individuals who identify as Native American or Indigenous;
- 2 (B) individuals with a physical, psychiatric, or mental condition or
- 3 disability and the families of individuals with a physical, psychiatric, or mental
- 4 condition or disability;
- 5 (C) Black individuals and other individuals of color;
- 6 (D) individuals with French Canadian, French-Indian, or other mixed
- 7 ethnic or racial heritage; ~~and~~
- 8 (E) individuals from marginalized communities, including Odanak
- 9 Abenaki, and other affected groups; and
- 10 (F) in the commissioners' discretion, other populations and
- 11 communities that have experienced institutional, structural, and systemic
- 12 discrimination caused or permitted by State laws and policies.

13 (2)(A) Each committee shall consist of the commissioners and members

14 appointed by the commissioners in consultation with the populations and

15 communities identified pursuant to subdivision (1) of this subsection (b).

16 (B) The commissioners shall ensure that the members of each

17 committee shall be broadly representative of the populations and communities

18 who are the subject of that committees' work. In addition, the commissioners

19 shall ensure that committee members:

20 (i) demonstrate expertise in Indigenous rights, reconciliation

21 processes, or systemic racism; and

1 (ii) do not have direct ties to any group subject to an investigation
2 by the Commission.

3 * * *

4 Sec. 7. 1 V.S.A. § 906 is amended to read:

5 § 906. POWERS AND DUTIES OF THE COMMISSIONERS

6 (a) Duties. The commissioners shall:

7 (1) establish, in consultation with the populations and communities
8 identified pursuant to subdivision 902(b)(1) of this chapter and other interested
9 parties in the commissioners' discretion, committees to examine institutional,
10 structural, and systemic discrimination caused or permitted by State laws and
11 policies that have been experienced by the populations and communities
12 identified pursuant to subdivision 902(b)(1) of this chapter;

13 (2) determine, in consultation with the populations and communities
14 identified pursuant to subdivision 902(b)(1) of this chapter, historians, social
15 scientists, experts in restorative justice, and other interested parties in the
16 commissioners' discretion, the scope and objectives of the work to be carried
17 out by each committee established pursuant to subdivision (1) of this
18 subsection;

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

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

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

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

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

11 (5) work with the committees and Commission staff to identify potential
12 programs and activities to create and improve opportunities for or to eliminate
13 disparities experienced by the populations and communities that are the subject
14 of the committees' work;

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

19 (7) work in consultation with the populations and communities
20 identified pursuant to subdivision 902(b)(1) of this chapter, experts in
21 restorative justice, and, in the commissioners' discretion, other interested

1 parties to ensure that the work of the Commission is open, transparent,
2 inclusive, and meaningful; ~~and~~

3 (8) adopt global best practices by aligning the work of the Commission
4 and the committees with the principles outlined in the United Nations
5 Declaration on the Rights of Indigenous Peoples;

6 (9) include restorative justice to repair the harm caused to affected
7 communities and accountability for past errors by the Commission; and

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

9 * * *

10 Sec. 8. 1 V.S.A. § 908 is amended to read:

11 § 908. REPORTS

12 * * *

13 (c) The Commission shall submit to the General Assembly a quarterly
14 report on progress, challenges, and expenditures.

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

17 Sec. 9. 1 V.S.A. § 911 is amended to read:

18 § 911. ~~DELIBERATIVE DISCUSSIONS; EXCEPTION TO OPEN~~

19 MEETING LAW

20 (a) ~~Notwithstanding any provision of chapter 5, subchapter 2 of this title,~~
21 ~~the deliberations of a quorum or more of the members of the Commission shall~~

1 ~~not be subject to the Vermont Open Meeting Law~~ The Commission is subject
2 to the provisions of the Vermont Open Meeting Law in chapter 5, subchapter 2
3 of this title, except as provided in subsection 909(d) (private proceedings) and
4 section 912 (group sessions) of this chapter.

5 (b) ~~The Commission shall regularly post to the Commission's website a~~
6 ~~short summary of all deliberative meetings held by the commissioners pursuant~~
7 ~~to this subsection~~ The Commission shall open its meetings to the public and
8 publish agendas, meeting minutes, and records of its decisions in accordance
9 with the Vermont Open Meeting Law.

10 (c)(1) ~~As used in this section, "deliberations" means weighing, examining,~~
11 ~~and discussing information gathered by the Commission and the reasons for~~
12 ~~and against an act or decision.~~

13 (2) ~~"Deliberations" expressly excludes:~~

14 (A) ~~taking evidence, except as otherwise provided pursuant to section~~
15 ~~909 of this chapter;~~

16 (B) ~~hearing arguments for or against an act or decision of the~~
17 ~~Commission;~~

18 (C) ~~taking public comment; and~~

19 (D) ~~making any decision related to an act or the official duties of the~~
20 ~~Commission~~ The Commission shall be subject to the penalty and enforcement
21 provisions of the Vermont Open Meeting Law for any violations of the law.

1 Sec. 10. 1 V.S.A. § 913 is added to read:

2 § 913. AUDIT; SCOPE; REPORT

3 (a) Scope. The State Auditor shall evaluate the operation and effectiveness
4 of the Commission including:

5 (1) the Commission's compliance with the Vermont Open Meeting Law
6 and transparency standards;

7 (2) the integrity of the Commission's past decisions, including potential
8 biases and exclusion of key voices;

9 (3) the effectiveness of the Commission's recommendations in
10 achieving reconciliation goals; and

11 (4) any recommendations with respect to the scheduled repeal of the
12 Commission.

13 (b) Report. The Auditor shall submit a written report of the results of the
14 audit to the House Committee on General and Housing and the Senate
15 Committee on Economic Development, Housing and General Affairs on or
16 before December 15, 2026.

1 Sec. 11. 1 V.S.A. § 914 is added to read:

2 § 914. LEGISLATIVE OVERSIGHT COMMITTEE

3 (a) Creation. There is created the legislative Truth and Reconciliation
4 Commission Oversight Committee.

5 (b) Membership. The Committee shall be composed of the following
6 members:

7 (1) three members of the House of Representatives, not all from the
8 same political party, appointed by the Speaker of the House; and

9 (2) three members of the Senate, not all from the same political party,
10 appointed by the Committee on Committees.

11 (c) Chair. The Committee shall elect a chair and a vice chair from among
12 its members, one from each chamber, at the first meeting of each biennium.

13 (d) Meetings. The Committee shall meet at the call of the Chair a
14 minimum of three times when the General Assembly is in session and a
15 minimum of two times and a maximum of four times when the General
16 Assembly is not in session.

17 (e) Quorum. A majority of the membership of the Committee shall
18 constitute a quorum.

19 (f) Records. The Committee shall keep minutes of and record its meetings.

20 (g) Powers and duties. The Committee shall:

- 1 (1) monitor the Commission’s compliance with transparency, public
2 access, and ethical standards;
- 3 (2) ensure reporting requirements are timely met;
- 4 (3) review complaints and concerns raised about the Commission’s
5 decisions and decision-making process;
- 6 (4) oversee the audit pursuant to section 913 of this chapter;
- 7 (5) recommend legislative changes if systemic issues emerge; and
- 8 (6) prepare for the prospective repeal of the Commission by ensuring an
9 appropriate transition of the Commission’s responsibilities.
- 10 (h) Assistance. The Committee shall have the assistance of the staff of the
11 Office of Legislative Counsel and of the Joint Fiscal Office.
- 12 (i) Reimbursement. For attendance at a meeting when the General
13 Assembly is not in session, members of the Committee shall be entitled to per
14 diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23
15 for not more than four meetings.
- 16 Sec. 12. EFFECTIVE DATE
- 17 This act shall take effect on passage.