

**DRAFT FOR DISCUSSION**

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was  
3 referred House Bill No. 96 entitled “An act relating to creating the Truth and  
4 Reconciliation Commission Development Task Force” respectfully reports that  
5 it has considered the same and recommends 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.

**DRAFT FOR DISCUSSION**

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 and, where feasible, seeking agreement.

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

**DRAFT FOR DISCUSSION**

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

**DRAFT FOR DISCUSSION**

1           (3) Nothing in this subsection shall be construed to require the  
2           Commission to examine institutional, structural, and systemic discrimination  
3           experienced by the populations and communities identified in subdivision (1)  
4           of this subsection in isolation or separately from each other.

5           § 903. COMMISSIONERS

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

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

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

12          § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

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

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

16                  (B) the Executive Director of the Human Rights Commission or  
17          designee;

18                  (C) a current member of the House of Representatives [one member,  
19          who shall not be a current member of the General Assembly,] appointed by the  
20          Speaker of the House;

**DRAFT FOR DISCUSSION**

1           (D) a current member of the Senate [one member, who shall not be a  
2 current member of the General Assembly,] appointed by the Committee on  
3 Committees; and

4           (E) an individual appointed by the Chief Justice of the Vermont  
5 Supreme Court.

6           (2) The individuals identified in subdivision (1) of this subsection shall  
7 hold their first meeting on or before August 1, 2022 at the call of the Executive  
8 Director of the Human Rights Commission.

9           (3) The members of the General Assembly selected pursuant to  
10 subdivision (1) of this subsection shall be entitled to per diem compensation  
11 and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than  
12 two meetings. Other individuals identified in subdivision (1) of this subsection  
13 who are not employees of the State of Vermont and who are not otherwise  
14 compensated or reimbursed for their attendance shall be entitled to per diem  
15 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010  
16 for not more than two meetings.

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

**DRAFT FOR DISCUSSION**

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

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

6                   (B) establish and maintain a principal office;

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

8                   (D) hire temporary staff to work during the period from September 1,  
9           2022 through December 31, 2022.

10           (c)(1) 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           (2) A vacancy occurring during the term of a member of the Panel shall  
15           be filled as set forth in subdivision (a)(1) of this section for the remainder of  
16           the unexpired term.

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

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

**DRAFT FOR DISCUSSION**

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

4           (f) Notwithstanding 32 V.S.A. § 1010, members shall be entitled to per  
5           diem compensation of \$ \_\_\_\_ .00 [Amount needs to be determined] plus  
6           reimbursement of expenses for attendance at not more than 20 meetings during  
7           fiscal year 2023. These payments shall be made from the Truth and  
8           Reconciliation Commission Special Fund.

9           § 905. SELECTION OF COMMISSIONERS

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

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

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

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

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

**DRAFT FOR DISCUSSION**

1           (D) Invite Vermont residents to submit applications to serve as  
2           commissioners.

3           (E) Publish the names of all applicants who have applied to serve as  
4           commissioners and provide not less than 30 days for members of the public to  
5           submit comments on the suitability of any applicant to serve as a  
6           commissioner. Public comments regarding an applicant shall only be  
7           considered by the Panel if the comment includes the name and contact  
8           information of the commenter. Comments received by the Panel shall be  
9           exempt from public inspection and copying pursuant to the Public Records Act  
10           and shall be kept confidential, except that comments that may be detrimental to  
11           an applicant’s application shall be shared with the applicant and the applicant  
12           shall be provided with an opportunity to provide the Panel with a response to  
13           the comment.

14           (F) Hold one or more public hearings to provide an opportunity for  
15           members of the public to comment on the suitability of any finalist to serve as  
16           a commissioner.

17           (G) Hold public interviews for each individual selected by the Panel  
18           as a finalist for selection as a commissioner.

19           (H) Conduct criminal history record checks for applicants.

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

**DRAFT FOR DISCUSSION**

- 1           (3) The three commissioners selected by the Panel shall:
- 2                   (A) be residents of Vermont;
- 3                   (B) not be members of the Selection Panel;
- 4                   (C) have knowledge of the problems and challenges facing the  
5 populations and communities identified pursuant to subdivision 902(b)(1)(A)–  
6 (D) of this chapter;
- 7                   (D) have experience advocating in relation to the issues of the  
8 populations and communities identified pursuant to subdivision 902(b)(1)(A)–  
9 (D) of this chapter in Vermont;
- 10                  (E) have demonstrated leadership in programs or activities to  
11 improve opportunities for the populations and communities identified pursuant  
12 to subdivision 902(b)(1)(A)–(D) of this chapter; and
- 13                  (F) satisfy any additional criteria established by the Panel.
- 14           (b) Not later than five days after selecting the commissioners pursuant to  
15 subsection (a) of this section, the Panel shall submit a brief report to the  
16 Governor and the General Assembly identifying the commissioners. The  
17 names of the commissioners shall be made available to the public on the same  
18 day that the report is submitted.
- 19           (c)(1) If the Panel is unable identify three suitable applicants on or before  
20 December 31, 2022, the Panel may by a majority vote extend the time to select  
21 commissioners to March 31, 2023.

**DRAFT FOR DISCUSSION**

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

9           § 906. POWERS AND DUTIES OF THE COMMISSIONERS

10           (a) Duties. The commissioners shall:

11           (1) establish, in consultation with the stakeholders from the populations  
12           and communities identified pursuant to subdivision 902(b)(1) of this chapter  
13           and other stakeholders in the commissioners’ discretion, committees to  
14           examine institutional, structural, and systemic discrimination caused or  
15           permitted by State laws and policies that has been experienced by the  
16           populations and communities identified pursuant to subdivision 902(b)(1) of  
17           this chapter.

18           (2) determine, in consultation with the stakeholders from the  
19           populations and communities identified pursuant to subdivision 902(b)(1) of  
20           this chapter, historians, social scientists, experts in restorative justice, and other  
21           stakeholders in the commissioners’ discretion, the scope and objectives of the

**DRAFT FOR DISCUSSION**

1 work to be carried out by each committee established pursuant to subdivision

2 (1) of this subsection;

3 (3) develop and implement a process for each committee established

4 pursuant to subdivision (1) of this subsection to fulfill the objectives

5 established pursuant to subdivision (2) of this subsection;

6 (4) work with the committees and Commission staff to carry out

7 research, public engagement, and other work necessary to:

8 (A) identify and examine historic and ongoing institutional,

9 structural, and systemic discrimination against members of **the populations and**

10 **communities identified pursuant to subdivision 902(b)(1) of this chapter that**

11 has been caused or permitted by State laws and policies;

12 (B) determine the current status of members of **the populations and**

13 **communities identified pursuant to subdivision 902(b)(1) of this chapter; and**

14 (C) satisfy the scope of work and the objectives established pursuant

15 to subdivision (1) of this subsection (a);

16 (5) work with the committees and Commission staff to promote,

17 implement, and coordinate programs and activities to create and improve

18 opportunities for or to eliminate disparities experienced by the populations **and**

19 **communities** that are the subject of the committees' work;

20 (6) work with the committees and Commission staff to promote,

21 implement, and coordinate educational programs related to historic and

**DRAFT FOR DISCUSSION**

1 ongoing institutional, structural, and systemic discrimination against members  
2 of the populations and communities that are the subject of the committees’  
3 work;

4 (7) work in consultation with the stakeholders from the populations and  
5 communities identified pursuant to subdivision 902(b)(1) of this chapter,  
6 experts in restorative justice, and, in the commissioners’ discretion, other  
7 stakeholders to ensure that the work of the Commission is open, transparent,  
8 inclusive, and meaningful;

9 (8) seek gifts, donations, and grants from public and private sources to  
10 support the Commission and its work; and

11 (9) supervise the work of the Executive Director of the Commission.

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

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

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

18 (3) Establish and maintain a principal office.

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

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

**DRAFT FOR DISCUSSION**

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

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

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

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

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

**DRAFT FOR DISCUSSION**

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

3           § 907. EXECUTIVE DIRECTOR; DUTIES

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

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

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

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

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

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

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

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

**DRAFT FOR DISCUSSION**

1     § 908. REPORTS

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

11           (b)(1) On or before June 15, 2026, the Commission shall submit a final  
12    report incorporating the findings and recommendations of each committee.  
13    Each report shall detail the findings and recommendations of the relevant  
14    committee and shall include recommendations for actions that can be taken to  
15    eliminate ongoing instances of institutional, structural, and systemic  
16    discrimination and to address the harm caused by historic instances  
17    institutional, structural, and systemic discrimination.

18           (2) The Commission shall, on or before January 15, 2026, make a draft  
19    of the final report publicly available and provide copies of the draft to  
20    stakeholders from the populations and communities identified pursuant to  
21    subdivision 902(b)(1) of this chapter and other interested parties. The

**DRAFT FOR DISCUSSION**

1 Commission shall provide the stakeholders, interested parties, and members of  
2 the public with not less than 60 days to review the draft and provide comments  
3 on it. The Commission shall consider fully all comments submitted in relation  
4 to the draft and shall include with the final version of the report a summary of  
5 all comments received and a concise statement of the reasons why the  
6 Commission decided to incorporate or reject any proposed changes.  
7 Comments submitted in relation to the final report shall be made available to  
8 the public in a manner that complies with the requirements of section 910 of  
9 this chapter.

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

12 § 909. TRUTH AND RECONCILIATION COMMISSION SPECIAL FUND

13 (a) There is established the Truth and Reconciliation Commission Special  
14 Fund, which shall be managed in accordance with 32 V.S.A. chapter 7,  
15 subchapter 5. The Fund shall consist of amounts appropriated by the State and  
16 any gifts, donations, or grants received by the Vermont Truth and  
17 Reconciliation Commission. The Fund shall be available to the commissioners  
18 to carry out the work of the Commission pursuant to this chapter and to the  
19 Selection Panel to carry out its duties pursuant to this chapter.

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

**DRAFT FOR DISCUSSION**

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

2        § 910. ACCESS TO INFORMATION; CONFIDENTIALITY

3        (a) Access to State records and information.

4                (1) The Commission shall have access to and the right to copy any  
5        record or other information held by all executive, administrative, and judicial  
6        agencies and departments and all instrumentalities of the State. All executive,  
7        administrative, and judicial agencies and departments and all instrumentalities  
8        of the State shall cooperate with the Commission with respect to any request  
9        for access to any record or other information and shall provide all records or  
10       other information requested by the Commission to the extent permitted by law.

11               (2) The Commission shall keep confidential any information received  
12       from an executive, administrative, or judicial agency or department or an  
13       instrumentality of the State that is confidential or is exempt from the Public  
14       Records Act.

15       (b) Confidentiality requirements.

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

**DRAFT FOR DISCUSSION**

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

4           (c) Exceptions.

5           (1) Except as provided in subdivision (2) of this subsection, information  
6 and records acquired by or provided to the Commission shall only be available  
7 to the public in an anonymized form that does not reveal the identity of any  
8 individual.

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

13           (d) Private proceedings.

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

**DRAFT FOR DISCUSSION**

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

6           Sec. 3. APPROPRIATION

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

9           Sec. 4. REPEAL

10           1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on  
11           July 1, 2026.

12           Sec. 5. EFFECTIVE DATE

13           This act shall take effect on July 1, 2022.

14           and that after passage the title of the bill be amended to read: “An act  
15           relating to creating the Vermont Truth and Reconciliation Commission”

16  
17

18           (Committee vote: \_\_\_\_\_)

19  
20

\_\_\_\_\_  
Representative \_\_\_\_\_

21

FOR THE COMMITTEE