

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred Senate  
3 Bill No. 281 entitled “An act relating to mitigation of systemic racism”  
4 respectfully reports that it has considered the same and recommends that the  
5 House propose to the Senate that the bill be amended by striking out all after  
6 the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. LEGISLATIVE INTENT

8 It is the intent of the General Assembly to promote racial justice reform  
9 throughout the State by mitigating systemic racism in all systems of State  
10 government and creating a culture of inclusiveness.

11 Sec. 2. 3 V.S.A. § 2102 is amended to read:

12 § 2102. POWERS AND DUTIES

13 (a) The Governor’s Cabinet shall adopt and implement a program of  
14 continuing coordination and improvement of the activities carried on at all  
15 levels of State and local government.

16 (b) The Cabinet shall work collaboratively with the Executive Director of  
17 Racial Equity and may provide the Director with access to all relevant records  
18 and information as permitted by law.

1 Sec. 3. 3 V.S.A. chapter 68 is added to read:

2 CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

3 § 5001. POSITION

4 (a) There is created within the Executive Branch an Executive Director of  
5 Racial Equity to identify and work to eradicate systemic racism within State  
6 government.

7 (b) The Executive Director of Racial Equity shall have the powers and  
8 duties enumerated within section 2102 of this title and shall work  
9 collaboratively with and act as a liaison between the Governor’s Workforce  
10 Equity and Diversity Council, the Vermont Human Rights Commission, and  
11 the Governor’s Cabinet.

12 § 5002. RACIAL EQUITY ADVISORY PANEL

13 (a) The Racial Equity Advisory Panel is established. The Panel shall be  
14 organized and have the duties and responsibilities as provided in this section.  
15 The Panel shall have administrative, legal, and technical support of the Agency  
16 of Administration.

17 (b)(1) The Panel shall consist of five members, as follows:

18 (A) one member appointed by the Senate Committee on Committees  
19 who shall not be a current legislator;

20 (B) one member appointed by the Speaker of the House who shall not  
21 be a current legislator;

1           (C) one member appointed by the Chief Justice of the Supreme Court  
2           who shall not be a current legislator;

3           (D) one member appointed by the Governor who shall not be a  
4           current legislator; and

5           (E) one member appointed by the Human Rights Commission who  
6           shall not be a current legislator.

7           (2) Members shall be drawn from diverse backgrounds to represent the  
8           interests of communities of color throughout the State, have experience  
9           working to implement racial justice reform and, to the extent possible,  
10          represent geographically diverse areas of the State.

11          (3) The term of each member shall be three years, except that of the  
12          members first appointed, one each shall serve a term of one year, to be  
13          appointed by the Human Rights Commission; two years, to be appointed by  
14          the Governor; three years, to be appointed by the Speaker of the House; four  
15          years, to be appointed by the Senate Committee on Committees; and five  
16          years, to be appointed by the Chief Justice of the Supreme Court, so that the  
17          term of one regular member expires in each ensuing year. As terms of  
18          currently serving members expire, appointments of successors shall be in  
19          accord with the provisions of this subsection. Appointments of members to fill  
20          vacancies or expired terms shall be made by the authority that made the initial  
21          appointment to the vacated or expired term. Members shall serve until their

1 successors are elected or appointed. Members shall serve not more than three  
2 consecutive terms in any capacity.

3 (4) Members of the Panel shall elect by majority vote the Chair of the  
4 Panel, who shall serve for a term of three years after the implementation  
5 period. Members of the Panel shall be appointed on or before September 1,  
6 2018 in order to prepare as they deem necessary for the establishment of the  
7 Panel, including the election of the Chair of the Panel. Terms of members  
8 shall officially begin on January 1, 2019.

9 (c) The Panel shall have the following duties and responsibilities:

10 (1) work with the Executive Director of Racial Equity to implement the  
11 reforms identified as necessary in the comprehensive organizational review as  
12 required by subsection 5003(a) of this title; and

13 (2) advise the Director to ensure ongoing compliance with the purpose  
14 of this chapter, and advise the Governor on strategies for remediating systemic  
15 racial disparities in statewide systems of government.

16 (d) Each member of the Panel shall be entitled to per diem compensation  
17 and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

18 § 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

19 (a) The Executive Director of Racial Equity shall work with the agencies  
20 and departments to implement a program of continuing coordination and  
21 improvement of activities in State government in order to combat systemic

1 racial disparities and measure progress toward fair and impartial governance,

2 including:

3 (1) oversee a comprehensive organizational review to identify systemic  
4 racism in each of the three branches of State government and inventory  
5 systems in place that engender racial disparities;

6 (2) create a strategy for implementing a centralized platform for race-  
7 based data collection and manage the aggregation, correlation, and public  
8 dissemination of the data; and

9 (3) develop a model fairness and diversity policy and review and make  
10 recommendations regarding the fairness and diversity policies held by all State  
11 government systems.

12 (b) Pursuant to section 2102 of this title, work collaboratively with State  
13 agencies and departments to gather relevant existing data and records  
14 necessary to carry out the purpose of this chapter and to develop best practices  
15 for remediating systemic racial disparities throughout State government.

16 (c) The Director shall work with the agencies and departments and with the  
17 Chief Performance Officer to develop performance targets and performance  
18 measures for the General Assembly, the Judiciary, and the agencies and  
19 departments to evaluate respective results in improving systems. These  
20 performance measures shall be included in the agency's or department's  
21 quarterly reports to the Director, and the Director shall include each agency's

1 or department's performance targets and performance measures in his or her  
2 annual reports to the General Assembly.

3 (d) The Director shall, in consultation with the Department of Human  
4 Resources and the agencies and departments, develop and conduct trainings for  
5 agencies and departments regarding the nature and scope of systemic racism  
6 and the institutionalized nature of race-based bias. Nothing in this subsection  
7 shall be construed to discharge the existing duty of the Department of Human  
8 Resources to conduct trainings.

9 (e) On or before January 15, 2020, and annually thereafter, report to the  
10 House and Senate Committees on Government Operations demonstrating the  
11 State's progress in identifying and remediating systemic racial bias within  
12 State government.

13 **§ 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY**

14 (a) Confidentiality of records. Except as provided in subsection (b) of this  
15 section, the records of the Racial Equity Director and the Racial Equity  
16 Advisory Panel shall be exempt from public inspection and copying under the  
17 Public Records Act and shall be kept confidential.

18 (b) Exceptions.

19 (1) The Director and Panel members may make records available to  
20 each other, the Governor, and the Governor's Cabinet as necessary to fulfill  
21 their duties as set forth in this chapter. They may also make records pertaining

1 to any alleged violations of anti-discrimination statutes available to any State  
2 or federal law enforcement agency authorized to enforce such statutes. The  
3 Director may refuse to disclose records or information the release of which  
4 may be prohibited under State or federal law absent court order.

5 (2) Any records or information described in subdivision (1) of this  
6 subsection made available to a party or entity pursuant to a confidentiality  
7 agreement or court order requiring confidentiality shall be kept confidential in  
8 accordance with the agreement or order, unless disclosure is otherwise  
9 authorized by law or court order.

10 § 5005. NOMINATION AND APPOINTMENT PROCESS

11 (a) The Racial Equity Advisory Panel shall select for consideration by the  
12 Panel, by majority vote, provided that a quorum is present, from the  
13 applications for the position of Executive Director of Racial Equity as many  
14 candidates as it deems qualified for the position.

15 (b) The Panel shall submit to the Governor the names of the three  
16 candidates it deems most qualified to be appointed to fill the position.

17 (c) The Governor shall make the appointment to Executive Director  
18 position from the list of qualified candidates submitted pursuant to subsection  
19 (b) of this section. The names of candidates submitted and not selected shall  
20 remain confidential.

1       Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL  
2               EQUITY POSITION

3               One new permanent, exempt position of Executive Director of Racial  
4               Equity is created within the Agency of Administration.

5       Sec. 5. FISCAL YEAR 2019 APPROPRIATION

6               There is appropriated to the Agency of Administration from the General Fund  
7               for fiscal year 2019 the amount of \$75,000.00 for the Racial Justice Advisory  
8               Panel and the position of Executive Director of Racial Equity.

9       Sec. 6. SECRETARY OF ADMINISTRATION; RACIAL JUSTICE

10               ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL  
11               EQUITY; REPORT

12               (a) On or before September 1, 2018, the Racial Justice Advisory Panel shall  
13               be appointed.

14               (b) On or before November 1, 2018, the Racial Justice Advisory Panel  
15               shall, in consultation with the Secretary of Administration and the Department  
16               of Human Resources, have developed and posted a job description for the  
17               Executive Director of Racial Equity.

1        (c) On or before January 1, 2019, the Racial Justice Advisory Panel shall  
2        submit to the Governor the names of the three candidates for the Executive  
3        Director of Racial Equity position.

4        (d) On or before February 1, 2019, the Governor shall appoint the  
5        Executive Director of Racial Equity.

6        (e) On or before May 1, 2019, the Executive Director of Racial Equity  
7        shall update the House and Senate Committees on Government Operations  
8        regarding how best to complete a comprehensive organizational review to  
9        identify systemic racism pursuant to 3 V.S.A. § 5003, and potential private and  
10       public sources of funding to achieve the review.

11       Sec. 7. REPEAL

12       On June 30, 2024:

13       (1) Sec. 3 of this act (creating the Executive Director of Racial Equity  
14       and Racial Justice Advisory Panel in 3 V.S.A. chapter 68) is repealed and the  
15       Officer position and Panel shall cease to exist; and

16       (2) Sec. 4 of this act (authorization for Executive Director of Racial Equity  
17       position) is repealed.

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Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

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

\_\_\_\_\_

Representative \_\_\_\_\_

FOR THE COMMITTEE