

1 TO THE HONORABLE SENATE:

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

8 Sec. 1. LEGISLATIVE INTENT

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

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

13 § 2102. POWERS AND DUTIES

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

17 (b) The Cabinet shall work collaboratively with the Executive Director of  
18 Racial Equity and shall provide the Director with access to all relevant records  
19 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 the position of Executive  
5 Director of Racial Equity to identify and work to eradicate systemic racism  
6 within State 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 (c) The Director shall be housed within and have the administrative, legal,  
13 and technical support of the Agency of Administration.

14 § 5002. RACIAL EQUITY ADVISORY PANEL

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

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

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

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

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

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

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

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

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

1 be made by the authority that made the initial appointment to the vacated or  
2 expired term. Members shall serve until their successors are elected or  
3 appointed. Members shall serve not more than three consecutive terms in any  
4 capacity.

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

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

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

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

19 (d) Only the Panel may remove the Executive Director of Racial Equity.  
20 The Panel shall adopt rules pursuant to chapter 25 of this title to define the  
21 basis and process for removal.

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

3       § 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

4       (a) The Executive Director of Racial Equity (Director) shall work with the  
5       agencies and departments to implement a program of continuing coordination  
6       and improvement of activities in State government in order to combat systemic  
7       racial disparities and measure progress toward fair and impartial governance,  
8       including:

9               (1) overseeing a comprehensive organizational review to identify  
10              systemic racism in each of the three branches of State government and  
11              inventory systems in place that engender racial disparities;

12              (2) managing and overseeing the statewide collection of race-based data  
13              to determine the nature and scope of racial discrimination within all systems of  
14              State government; and

15              (3) developing a model fairness and diversity policy and review and  
16              make recommendations regarding the fairness and diversity policies held by all  
17              State government systems.

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

1       (c) The Director shall work with the agencies and departments and with the  
2       Chief Performance Officer to develop performance targets and performance  
3       measures for the General Assembly, the Judiciary, and the agencies and  
4       departments to evaluate respective results in improving systems. These  
5       performance measures shall be included in the agency’s or department’s  
6       quarterly reports to the Director, and the Director shall include each agency’s  
7       or department’s performance targets and performance measures in his or her  
8       annual reports to the General Assembly.

9       (d) The Director shall, in consultation with the Department of Human  
10       Resources and the agencies and departments, develop and conduct trainings for  
11       agencies and departments regarding the nature and scope of systemic racism  
12       and the institutionalized nature of race-based bias. Nothing in this subsection  
13       shall be construed to discharge the existing duty of the Department of Human  
14       Resources to conduct trainings.

15       (e) On or before January 15, 2020, and annually thereafter, the Director  
16       shall report to the House and Senate Committees on Government Operations  
17       demonstrating the State’s progress in identifying and remediating systemic  
18       racial bias within State government.

1     § 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

2             (a) Confidentiality of records.

3                     (1) Any records transmitted to or obtained by the Executive Director of  
4             Racial Equity and the Racial Equity Advisory Panel that are exempt from  
5             public inspection and copying under the Public Records Act shall remain  
6             exempt and shall be kept confidential to the extent required by law.

7                     (2) Draft reports, working papers, and internal correspondence between  
8             the Director and the Panel shall be exempt from public inspection and copying  
9             under the Public Records Act and shall be kept confidential. The completed  
10            reports shall be public records.

11            (b) Exceptions.

12                    (1) The Director and Panel members may make records available to  
13            each other, the Governor, and the Governor’s Cabinet as necessary to fulfill  
14            their duties as set forth in this chapter. They may also make records pertaining  
15            to any alleged violations of antidiscrimination statutes available to any State or  
16            federal law enforcement agency authorized to enforce such statutes.

17                    (2) Absent a court order for good cause shown or the prior written  
18            consent of an individual providing information or lawfully-obtained records to  
19            the Director or the Panel, the Director and Panel Members may decline to  
20            disclose:

1           (A) the identity of the individual if good cause exists to protect his or  
2           her confidentiality; and

3           (B) materials pertaining to the individual, including written  
4           communications among the individual, the Director and the Panel, and  
5           recordings, notes, or summaries reflecting interviews or discussions among the  
6           individual, the Director and the Panel.

7           § 5005. NOMINATION AND APPOINTMENT PROCESS

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

12           (b) The Panel shall submit to the Governor the names of the candidates  
13           deemed most qualified to be appointed to fill the position.

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

18           Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL  
19           EQUITY POSITION

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



1       Sec. 5. EXECUTIVE DIRECTOR OF RACIAL EQUITY; RACIAL EQUITY  
2                ADVISORY PANEL; FUNDING SOURCE; SURCHARGE;  
3                REPEAL

4                (a) Surcharge.

5                   (1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth  
6                the purpose and rate of charges collected in the Human Resource Services  
7                Internal Service Fund, in fiscal year 2019, a surcharge of up to 1.65 percent,  
8                and in fiscal year 2020 and thereafter, a surcharge of up to 3.3 percent, but not  
9                greater than the cost of both the Racial Equity Advisory Panel and the position  
10               of Executive Director of Racial Equity set forth in Sec. 3 of this act, on the per-  
11               position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be  
12               assessed to all Executive Branch agencies, departments, and offices and shall  
13               be paid by all assessed entities solely with State funds.

14                   (2) The amount collected shall be accounted for within the Human  
15                Resource Services Internal Service Fund and used solely for the purposes of  
16                funding the Racial Equity Advisory Panel and the position of the Executive  
17                Director of Racial Equity set forth in Sec. 3 of this act.

18                (b) Repeal. This section shall be repealed on June 30, 2024.

19       Sec. 6. FISCAL YEAR 2019 APPROPRIATION

20                There is appropriated to the Agency of Administration from the Human  
21                Resource Services Internal Service Fund for fiscal year 2019 the amount of

1 \$75,000.00 for the Racial Equity Advisory Panel and the position of Executive  
2 Director of Racial Equity.

3 Sec. 7. SECRETARY OF ADMINISTRATION; RACIAL EQUITY

4 ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL

5 EQUITY; REPORT

6 (a) On or before September 1, 2018, the Racial Equity Advisory Panel shall  
7 be appointed.

8 (b) On or before November 1, 2018, the Racial Equity Advisory Panel  
9 shall, in consultation with the Secretary of Administration and with the  
10 assistance and advice of the Department of Human Resources, have developed  
11 and posted a job description for the Executive Director of Racial Equity.

12 (c) On or before January 1, 2019, the Racial Equity Advisory Panel shall  
13 submit to the Governor the names of the candidates for the Executive Director  
14 of Racial Equity position.

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

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

1       Sec. 8. REPEAL

2             On June 30, 2024:

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

6                 (2) Sec. 4 of this act (authorization for the Executive Director of Racial  
7                 Equity position) is repealed.

8       Sec. 9. EFFECTIVE DATE

9             This act shall take effect on passage.

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

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Senator \_\_\_\_\_

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FOR THE COMMITTEE