

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House
3 Bill No. 875 entitled “An act relating to the State Ethics Commission and the
4 State Code of Ethics” 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 * * * Candidate Financial Disclosure Requirements * * *

9 Sec. 1. 17 V.S.A. § 2414 is amended to read:

10 § 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;

11 DISCLOSURE FORM

12 (a) Each candidate for State office, county office, State Senator, or State
13 Representative shall file with the officer with whom consent of candidate
14 forms are filed, along with ~~his or her~~ the candidate’s consent, a disclosure form
15 ~~prepared~~ created and maintained by the State Ethics Commission that contains
16 the following information in regard to the previous ~~calendar year~~ 12 months:

17 (1) ~~Each~~ each source, but not amount, of personal income of the
18 candidate and of ~~his or her~~ the candidate’s spouse or domestic partner, and of
19 the candidate together with ~~his or her~~ the candidate’s spouse or domestic
20 partner, that totals more than \$5,000.00, ~~including any of the sources meeting~~
21 ~~that total described as follows:~~

1 (A) ~~employment~~, including the candidate's employer or business
2 name and address; and;

3 (B) if self-employed, a description of the nature of the self-
4 employment ~~without needing to disclose any individual clients, including the~~
5 names of any clients whose principal business activities are regulated by or
6 that have a contract with any municipal or State office, department, or agency,
7 provided that this information is known to the candidate or the candidate's
8 domestic partner and that the disclosed information is not confidential
9 information; ~~and~~

10 ~~(B) investments, described generally as "investment income."~~

11 (2) ~~Any~~ any board, commission, or other entity that is regulated by law
12 ~~or that receives funding from the State~~ on which the candidate served and the
13 candidate's position on that entity;:

14 (3)(A) ~~Any~~ any company of which the candidate or ~~his or her~~ the
15 candidate's spouse or domestic partner, or the candidate together with ~~his or~~
16 ~~her~~ the candidate's spouse or domestic partner, owned more than 10 percent;:
17 and

18 (B) the details of any loan made to or by any applicable company in
19 subdivision (A) of this subdivision (3) that is not a commercially reasonable
20 loan made in the ordinary course of business, including any borrower and
21 lender;

1 (4) any company of which the candidate or the candidate’s spouse or
2 domestic partner, or the candidate together with the candidate’s spouse or
3 domestic partner, had an ownership or controlling interest in any amount, and
4 in the previous 12 months the company had business before or with any
5 municipal or State office, agency, or department;

6 (5) Any any lease or contract with the State held or entered into by:

7 (A) the candidate or ~~his or her~~ the candidate’s spouse or domestic
8 partner; or

9 (B) a company of which the candidate or ~~his or her~~ the candidate’s
10 spouse or domestic partner, or the candidate together with ~~his or her~~ the
11 candidate’s spouse or domestic partner, owned more than 10 percent;

12 (6) a generalized description, but not amount, to the best of the
13 candidate’s knowledge, of the following investments held by a candidate or the
14 candidate’s spouse or domestic partner:

15 (A) publicly traded assets valued at \$25,000.00 or more, which a
16 candidate exercises control over or has the ability to exercise control over,
17 which shall be listed individually;

18 (B) interests in investment funds valued at \$25,000.00 or more, in
19 which a candidate neither exercises control over nor has the ability to exercise
20 control over the financial interests held by a fund, which shall be listed
21 individually;

1 (C) interests in trusts valued at \$25,000.00 or more, which shall be
2 listed individually; and

3 (D) municipal bonds issued in the State of Vermont of any value,
4 which shall be listed individually; and

5 (7) the full name of the candidate’s spouse or domestic partner.

6 (b) In addition, if a candidate’s spouse or domestic partner is a lobbyist, the
7 candidate shall disclose that fact and provide the name of ~~his or her~~ the
8 candidate’s spouse or domestic partner and, if applicable, the name of ~~his or~~
9 ~~her~~ the lobbying firm.

10 (c) In addition, each candidate for State office shall attach to the disclosure
11 form described in subsection (a) of this section a copy of ~~his or her~~ the
12 candidate’s most recent U.S. Individual Income Tax Return Form 1040;
13 provided, however, that the candidate may redact from that form the following
14 information:

15 (1) the candidate’s Social Security number and that of ~~his or her~~ the
16 candidate’s spouse, if applicable;

17 (2) the names of any dependent and the dependent’s Social Security
18 number; ~~and~~

19 (3) the signature of the candidate and that of ~~his or her~~ the candidate’s
20 spouse, if applicable;

21 (4) the candidate’s street address; and

1 (5) any identifying information and signature of a paid preparer.

2 (d)(1) A senatorial district clerk or representative district clerk who
3 receives a disclosure form under this section shall forward a copy of the
4 disclosure to the Secretary of State within three business days ~~of~~ after
5 receiving it.

6 (2)(A) The Secretary of State shall post a copy of any disclosure forms
7 and tax returns ~~he or she~~ the Secretary receives under this section on ~~his or her~~
8 the Secretary’s official State website. The forms shall remain posted on the
9 Secretary’s website until the date of the filing deadline for petition and consent
10 forms for major party candidates for the statewide primary in the following
11 election cycle.

12 * * *

13 (e) As used in this section:

14 (1) “Commercially reasonable loan made in the ordinary course of
15 business” means a loan made:

16 (A) in the usual manner on any recognized market;

17 (B) at the price current in any recognized market at the time of
18 making the loan; or

19 (C) otherwise in conformity with reasonable commercial practices
20 among lenders typically dealing in the type of loan made.

1 (2) “Confidential information” means information that is exempt from
2 public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise
3 designated by law as confidential.

4 (3) “County office” means the office of assistant judge of the Superior
5 Court, high bailiff, judge of Probate, sheriff, or State’s Attorney.

6 (4) “Domestic partner” means an individual with whom the candidate
7 has an enduring domestic relationship of a spousal nature, as long as provided
8 the candidate and the domestic partner:

9 * * *

10 (2)(5) “Lobbyist” and “lobbying firm” shall have the same meanings as
11 in 2 V.S.A. § 261.

12 (6) “Investment fund” means a widely held investment fund that is
13 publicly traded or available and has assets that are widely diversified.
14 Investment funds include a mutual fund, regulated investment company,
15 common trust fund maintained by a bank or similar financial institution,
16 pension or deferred compensation plan, and any other pooled investment fund.

17 (7) “Widely diversified” means a fund that does not have a stated policy
18 of concentrating its investments in any industry, business, or single country
19 other than the United States or bonds of a single state within the United States.

1 * * * In-Office Financial Disclosure Requirements * * *

2 Sec. 2. 3 V.S.A. § 1201 is amended to read:

3 § 1201. DEFINITIONS

4 As used in this chapter:

5 (1) “Candidate” and “candidate’s committee” have the same meanings
6 as in 17 V.S.A. § 2901.

7 (2) “Commission” means the State Ethics Commission established
8 under subchapter 3 of this chapter.

9 (3) “Commercially reasonable loan made in the ordinary course of
10 business” means a loan made:

11 (A) in the usual manner on any recognized market;

12 (B) at the price current in any recognized market at the time of
13 making the loan; or

14 (C) otherwise in conformity with reasonable commercial practices
15 among lenders typically dealing in the type of loan made.

16 (4) “Confidential information” means information that is exempt from
17 public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise
18 designated by law as confidential.

19 (5) “Conflict of interest” means a direct or indirect interest of a public
20 servant or such an interest, known to the public servant, of a member of the
21 public servant’s immediate family, or of a business associate, in the outcome

1 of a particular matter pending before the public servant or the public servant’s
2 public body, or that is in conflict with the proper discharge of the public
3 servant’s duties. “Conflict of interest” does not include any interest that is not
4 greater than that of other individuals generally affected by the outcome of a
5 matter.

6 (6) “County officer” means an individual holding the office of high
7 bailiff, sheriff, or State’s Attorney.

8 ~~(4)~~(7) “Domestic partner” means an individual in an enduring domestic
9 relationship of a spousal nature with the Executive officer or the public
10 servant, provided the individual and Executive officer or public servant:

11 (A) have shared a residence for at least six consecutive months;

12 (B) are at least 18 years of age;

13 (C) are not married to or considered a domestic partner of another
14 individual;

15 (D) are not related by blood closer than would bar marriage under
16 State law; and

17 (E) have agreed between themselves to be responsible for each
18 other’s welfare.

19 ~~(5)~~(8) “Executive officer” means:

20 (A) a State officer; or

1 (B) a deputy under the Office of the Governor a State officer,
2 including an agency secretary or deputy ~~or, and~~ a department commissioner or
3 deputy.

4 ~~(6)~~(9) “Governmental conduct regulated by law” means conduct by an
5 individual in regard to the operation of State government that is restricted or
6 prohibited by law and includes:

7 (A) bribery pursuant to 13 V.S.A. § 1102;

8 (B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006
9 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

10 (C) taking illegal fees pursuant to 13 V.S.A. § 3010;

11 (D) false claims against government pursuant to 13 V.S.A. § 3016;

12 (E) owning or being financially interested in an entity subject to a
13 department’s supervision pursuant to section 204 of this title;

14 (F) failing to devote time to duties of office pursuant to section 205
15 of this title;

16 (G) engaging in retaliatory action due to a State employee’s
17 involvement in a protected activity pursuant to chapter 27, subchapter 4A of
18 this title;

19 (H) a former legislator or former Executive officer serving as a
20 lobbyist pursuant to 2 V.S.A. § 266(b); ~~and~~

1 (I) a former Executive officer serving as an advocate pursuant to
2 section 267 of this title; and

3 (J) creating or permitting to persist any unlawful employment
4 practice pursuant to 21 V.S.A. § 495.

5 ~~(7)~~(10) “Immediate family” means an individual’s spouse, domestic
6 partner, or civil union partner; child or foster child; sibling; parent; or such
7 relations by marriage or by civil union or domestic partnership; or an
8 individual claimed as a dependent for federal income tax purposes.

9 (11) “Investment fund” means a widely held investment fund, that is
10 publicly traded or available and has assets that are widely diversified.
11 Investment funds include a mutual fund, regulated investment company,
12 common trust fund maintained by a bank or similar financial institution,
13 pension or deferred compensation plan, and any other pooled investment fund.

14 ~~(8)~~(12) “Lobbyist” and “lobbying firm” have the same meanings as in
15 2 V.S.A. § 261.

16 ~~(9)~~(13) “Person” means any individual, group, business entity,
17 association, or organization.

18 ~~(40)~~(14) “Political committee” and “political party” have the same
19 meanings as in 17 V.S.A. § 2901.

20 (15) “Public servant” means an individual elected or appointed to serve
21 as a State officer, an individual elected or appointed to serve as a member of

1 the General Assembly, a State employee, an individual appointed to serve on a
2 State board or commission, or an individual who in any other way is
3 authorized to act or speak on behalf of the State.

4 (16) “State officer” means the Governor, Lieutenant Governor,
5 Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

6 (17) “Unethical conduct” means any conduct of a public servant in
7 violation of the Code of Ethics, as provided for in this chapter.

8 (18) “Widely diversified” means a fund that does not have a stated
9 policy of concentrating its investments in any industry, business, or single
10 country other than the United States or bonds of a single state within the
11 United States.

12 Sec. 2a. REPEAL

13 24 V.S.A. § 314 (Sheriffs; annual disclosure) is repealed.

14 Sec. 3. 3 V.S.A. § 1202 is amended to read:

15 § 1202. STATE CODE OF ETHICS; APPLICABILITY

16 (a) Unless excluded under this section, the Code of Ethics applies to all
17 ~~individuals elected or appointed to serve as officers of the State, all individuals~~
18 ~~elected or appointed to serve as members of the General Assembly, all State~~
19 ~~employees, all individuals appointed to serve on State boards and~~
20 ~~commissions, and individuals who in any other way are authorized to act or~~
21 ~~speak on behalf of the State. This code refers to them all as public servants.~~

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Sec. 4. 3 V.S.A. § 1203 is amended to read:

§ 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST

(a) Conflict of interest; appearance of conflict of interest.

(1) In the public servant’s official capacity, the public servant shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(2) Except as otherwise provided in subsections (b) and (c) of this section, when confronted with a conflict of interest, a public servant shall recuse themselves from the matter and not take further action.

~~(3) As used in this section, “conflict of interest” means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant’s immediate family or household, or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant’s public body, or that is in conflict with the proper discharge of the public servant’s duties. “Conflict of interest” does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter. [Repealed.]~~

* * *

1 Sec. 5. 3 V.S.A. § 1211 is amended to read:

2 § 1211. EXECUTIVE OFFICERS; ANNUAL DISCLOSURE

3 (a) Annually, each Executive officer and county officer shall file with the
4 State Ethics Commission a disclosure form that contains the following
5 information in regard to the previous 12 months:

6 (1) ~~Each~~ each source, but not amount, of personal income of the officer
7 and of ~~his or her~~ the officer's spouse or domestic partner, and of the officer
8 together with ~~his or her~~ the officer's spouse or domestic partner, that totals
9 more than \$5,000.00, including ~~any of the sources meeting that total described~~
10 ~~as follows:~~

11 (A) ~~employment, including the~~ officer's employer or business name
12 and address; and;

13 (B) if self-employed, a description of the nature of the self-
14 employment ~~without needing to disclose any individual clients, including the~~
15 names of any clients whose principal business activities are regulated by or
16 that have a contract with any municipal or State office, department, or agency,
17 provided that this information is known to the candidate or the candidate's
18 domestic partner and that the disclosed information is not confidential
19 information; ~~and~~

20 (B) ~~investments, described generally as "investment income."~~

1 (2) ~~Any~~ any board, commission, or other entity that is regulated by law
2 ~~or that receives funding from the State~~ on which the officer served and the
3 officer's position on that entity;

4 (3)(A) ~~Any~~ any company of which the officer or ~~his or her~~ the officer's
5 spouse or domestic partner, or the officer together with ~~his or her~~ the officer's
6 spouse or domestic partner, owned more than 10 percent; and

7 (B) the details of any loan made to any applicable company in
8 subdivision (A) of this subdivision (3) that is not a commercially reasonable
9 loan made in the ordinary course of business, including any borrower and
10 lender;

11 (4) any company of which the officer or the officer's spouse or domestic
12 partner, or the officer together with the officer's spouse or domestic partner,
13 had an ownership or controlling interest in any amount, and the company had
14 business before or with any municipal or State office, agency, or department;

15 (5) ~~Any~~ any lease or contract with the State held or entered into by:

16 (A) the officer or ~~his or her~~ the officer's spouse or domestic partner;
17 or

18 (B) a company of which the officer or ~~his or her~~ the officer's spouse
19 or domestic partner, or the officer together with ~~his or her~~ the officer's spouse
20 or domestic partner, owned more than 10 percent;

1 (6) a generalized description, but not amount, to the best of the
2 candidate’s knowledge, of the following investments held by a candidate or the
3 candidate’s spouse or domestic partner:

4 (A) publicly traded assets valued at \$25,000.00 or more, which a
5 candidate exercises control over or has the ability to exercise control over,
6 which shall be listed individually;

7 (B) interests in investment funds valued at \$25,000.00 or more in
8 which a candidate neither exercises control over nor has the ability to exercise
9 control over the financial interests held by a fund, which shall be listed
10 individually;

11 (C) interests in trusts valued at \$25,000.00 or more, which shall be
12 listed individually; and

13 (D) municipal bonds issued in the State of Vermont of any value,
14 which shall be listed individually; and

15 (7) the full name of the officer’s spouse or domestic partner.

16 (b) In addition, if an Executive officer’s or county officer’s spouse or
17 domestic partner is a lobbyist, the officer shall disclose that fact and provide
18 the name of ~~his or her~~ the officer’s spouse or domestic partner and, if
19 applicable, the name of ~~his or her~~ the lobbying firm.

1 (c)(1) Disclosure forms shall contain the statement, “I certify that the
2 information provided on all pages of this disclosure form is true to the best of
3 my knowledge, information, and belief.”

4 (2) Each Executive officer and county officer shall sign ~~his or her~~ the
5 officer’s disclosure form in order to certify it in accordance with this
6 subsection.

7 (d)(1) ~~An~~ Each Executive officer and county officer shall file ~~his or her~~ the
8 officer’s disclosure on or before January 15 of each year or, if ~~he or she~~ the
9 officer is appointed after January 15, within 10 days after that appointment.

10 (2) ~~An officer who filed this disclosure form as a candidate in~~
11 ~~accordance with 17 V.S.A. § 2414 in the preceding year and whose disclosure~~
12 ~~information has not changed since that filing may update that filing to indicate~~
13 ~~that there has been no change.~~ [Repealed.]

14 (e) [Repealed.]

15 * * * Delinquent Disclosures for Candidates for State Office, County Office,

16 State Senator, and State Representative * * *

17 Sec. 6. 17 V.S.A. § 2415 is added to read:

18 § 2415. FAILURE TO FILE; PENALTIES

19 (a) If any disclosure required of a candidate for State office, county office,
20 State Senator, or State Representative by section 2414 of this title is not filed in
21 the time and manner set forth in sections 2356, 2361, and 2402 of this title, the

1 candidate for State office, county office, State Senator, or State Representative
2 shall be addressed as follows:

3 (1) The State Ethics Commission, after notification by the Office of the
4 Secretary of State of the names of delinquent filers, shall issue a notice of
5 delinquency to the candidate for State office, county office, State Senator, or
6 State Representative for any disclosure required of a candidate for State office,
7 county office, State Senator, or State Representative by section 2414 of this
8 title that is not filed in the time and manner set forth in sections 2356, 2361,
9 and 2402 of this title.

10 (2) Following notice of delinquency sent by the State Ethics
11 Commission to the candidate for State office, county office, State Senator, or
12 State Representative, the candidate shall have five working days from the date
13 of the issuance of the notice to cure the delinquency.

14 (3) Beginning six working days from the date of notice, the delinquent
15 candidate for State office, county office, State Senator, or State Representative
16 shall pay a \$10.00 penalty for each day thereafter that the disclosure remains
17 delinquent; provided, however, that in no event shall the amount of any penalty
18 imposed under this subdivision exceed \$1,000.00.

19 (4) Notwithstanding subdivision (3) of this subsection (a), the State
20 Ethics Commission may reduce or waive any penalty imposed under this
21 section if the candidate for State office, county office, State Senator, or State

1 Representative demonstrates good cause, as determined by the State Ethics
2 Commission and in the sole discretion of the State Ethics Commission.

3 (b) The Commission shall send a notice of delinquency to the e-mail
4 address provided by the candidate for State office, county office, State Senator,
5 or State Representative in the candidate’s consent of candidate form.

6 (c) The State Ethics Commission may avail itself of remedies available
7 under the Vermont Setoff Debt Collection Act, as set forth in 32 V.S.A.
8 chapter 151, subchapter 12, to collect any unpaid penalty.

9 (d)(1) A candidate for State office, county office, State Senator, or State
10 Representative who files a disclosure with intent to defraud, falsify, conceal, or
11 cover up by any trick, scheme, or device a material fact, or, with intent to
12 defraud, make any false, fictitious, or fraudulent claim or representation as to a
13 material fact, or, with intent to defraud, make or use any writing or document
14 knowing the same to contain any false, fictitious, or fraudulent claim or entry
15 as to a material fact shall be considered to have made a false claim for the
16 purposes of 13 V.S.A. § 3016.

17 (2) Pursuant to 3 V.S.A. § 1223 and section 2904a of this title,
18 complaints regarding any candidate for State office, county office, State
19 Senator, or State Representative who fails to properly file a disclosure required
20 under this subchapter may be filed with the State Ethics Commission. The
21 Executive Director of the State Ethics Commission shall refer complaints to

1 the Attorney General or to the State’s Attorney of jurisdiction for investigation,
2 as appropriate.

3 * * * Expansion of State Ethics Commission’s Powers * * *

4 Sec. 7. 3 V.S.A. § 1221(a) is amended to read:

5 (a) Creation. There is created within the Executive Branch an independent
6 commission named the State Ethics Commission to accept, review, investigate;
7 hold hearings; issue warnings and reprimands; and recommended actions,
8 make referrals regarding, and track complaints of alleged violations of
9 governmental conduct regulated by law, of the Department of Human
10 Resources Personnel Policy and Procedure Manual, of the State Code of
11 Ethics, and of the State’s campaign finance law set forth in 17 V.S.A. chapter
12 61; to provide ethics training; and to issue guidance and advisory opinions
13 regarding ethical conduct.

14 Sec. 8. 3 V.S.A. § 1222 is redesignated to read:

15 § 1222. COMMISSION MEMBER ~~DUTIES AND~~ PROHIBITED

16 CONDUCT

17 Sec. 9. 3 V.S.A. § 1223 is amended to read:

18 § 1223. PROCEDURE FOR ~~HANDLING~~ ACCEPTING AND REFERRING

19 COMPLAINTS

20 * * *

1 (b) Preliminary review by Executive Director. The Executive Director
2 shall conduct a preliminary review of complaints made to the Commission in
3 order to take action as set forth in this subsection and section 1223a of this
4 title, which shall include referring complaints to all relevant entities, including
5 the Commission itself.

6 * * *

7 (5) Municipal Code of Ethics. If the complaint alleges a violation of the
8 Municipal Code of Ethics, the Executive Director shall refer the complaint to
9 the designated ethics liaison of the appropriate municipality.

10 (5)(6) Closures. The Executive Director shall close any complaint that
11 he or she the Executive Director does not refer as set forth in subdivisions (1)–
12 (4)(5) of this subsection.

13 (c) Consultation on unethical conduct. If the Executive Director refers a
14 complaint under subsection (b) of this section, the Executive Director shall
15 signify any likely unethical conduct described in the complaint. Any entity
16 receiving a referred complaint, except those in subdivision (b)(5) of this
17 section, shall consult with the Commission regarding the application of the
18 State Code of Ethics to facts presented in the complaint. The consultation shall
19 be in writing and occur within 60 days after an entity receives a referred
20 complaint and prior to the entity making a determination on the complaint,

1 meaning either closing a complaint without further investigation or issuing
2 findings following an investigation.

3 (d) Confidentiality. Complaints and related documents in the custody of
4 the Commission shall be exempt from public inspection and copying under the
5 Public Records Act and kept confidential, except as provided for in section
6 1231 of this title.

7 Sec. 10. 3 V.S.A. § 1227 is added to read:

8 § 1227. INVESTIGATIONS

9 (a) Power to investigate. The Commission, through its Executive Director,
10 may investigate public servants for alleged unethical conduct. The
11 Commission may investigate alleged unethical conduct after receiving a
12 complaint pursuant to section 1223 of this title. The Commission may also
13 investigate suspected unethical conduct without receiving any complaint.

14 (b) Initiation of investigation by Commission vote. The Executive Director
15 shall only initiate an investigation upon an affirmative vote to proceed with the
16 investigation of unethical conduct by a majority of current members of the
17 Commission who have not recused themselves.

18 (c) Statute of limitations. The Commission shall only initiate an
19 investigation relating to unethical conduct that last occurred within the prior
20 two years.

1 (d) Outside legal counsel and investigators. The Executive Director may
2 appoint legal counsel, who shall be an attorney admitted to practice in this
3 State, and investigators to assist with investigations, hearings, and issuance of
4 warnings, reprimands, and recommended actions.

5 (e) Notice. The Executive Director shall notify the complainant and public
6 servant, in writing, of any complaint being investigated.

7 (f) Complainant participation. A complainant shall have the right to be
8 heard in an investigation resulting from the complaint.

9 (g) Timeline of investigation. An investigation shall conclude within six
10 months after either the date of the complaint received or, in the event no
11 complaint was received, the date of the investigation’s initiation by the
12 Executive Director.

13 (h) Burden of proof. For a hearing to be warranted subsequent to an
14 investigation, the Executive Director shall find that there is a reasonable basis
15 to believe that the public servant’s conduct constitutes an unethical violation.

16 (i) Determination after investigation.

17 (1) Upon investigating the alleged unethical conduct, if the Executive
18 Director determines that an evidentiary hearing is warranted, the Executive
19 Director shall notify the Commission. If a majority of current members of the
20 Commission who have not recused themselves vote in concurrence with the
21 Executive Director’s determination that an evidentiary hearing is warranted,

1 the Executive Director shall prepare an investigation report specifying the
2 public servant’s alleged unethical conduct, a copy of which shall be served
3 upon the public servant and any complainant, together with the notice of
4 hearing set forth in section 1228 of this title.

5 (2) Upon investigating the alleged unethical conduct, if the Executive
6 Director determines that an evidentiary hearing is not warranted, the Executive
7 Director shall notify the Commission, the public servant, and any complainant,
8 in writing, of the result of the investigation and the termination of proceedings.

9 Sec. 11. 3 V.S.A. § 1228 is added to read:

10 § 1228. HEARINGS BEFORE THE COMMISSION

11 (a) Power to hold hearings. The Commission may meet and hold hearings
12 for the purpose of gathering evidence and testimony if found warranted
13 pursuant to section 1227 of this title and to make determinations.

14 (b) All Commission hearings shall be considered meetings of the
15 Commission as described in subsection 1221(e) of this title, and shall be
16 conducted in accordance with 1 V.S.A. § 310 et seq.

17 (c) Time of hearing. The Chair of the Commission shall set a time for the
18 hearing as soon as convenient following the Director’s determination that an
19 evidentiary hearing is warranted, subject to the discovery needs of the public
20 servant and any complainant as established in any prehearing or discovery
21 conference or in any orders regulating discovery and depositions, or both, but

1 not earlier than 30 days after service of the charge upon the public servant.

2 The public servant or a complainant may file motions to extend the time of the
3 hearing for good cause, which may be granted by the Chair.

4 (d) Notice of hearing. The Chair shall give the public servant and any
5 complainant reasonable notice of a hearing, which shall include:

6 (1) A statement of the time, place, and nature of the hearing.

7 (2) A statement of the legal authority and jurisdiction under which the
8 hearing is to be held.

9 (3) A reference to the particular sections of the statutes and rules
10 involved.

11 (4) A short and plain statement of the matters at issue. If the
12 Commission is unable to state the matters in detail at the time the notice is
13 served, the initial notice may be limited to a statement of the issues involved.

14 Thereafter, upon application by either the public servant or any complainant, a
15 more definite and detailed statement shall be furnished.

16 (5) A reference and copy of any rules adopted by the Commission
17 regarding the hearing's procedures, rules of evidence, and other aspects of the
18 hearing.

19 (e) Rights of public servants and complainants. Opportunity shall be given
20 to the public servant and any complainant to be heard at the hearing, present

1 evidence, respond to evidence, and argue on all issues related to the alleged
2 unethical misconduct.

3 (f) Executive session. In addition to the provisions of 1 V.S.A. § 313(a),
4 the Commission may enter executive session if the Commission deems it
5 appropriate in order to protect the confidentiality of an individual or any other
6 protected information pertaining to any identifiable person that is otherwise
7 confidential under State or federal law.

8 Sec. 12. 3 V.S.A. § 1229 is added to read:

9 § 1229. WARNINGS; REPRIMANDS; RECOMMENDED ACTIONS;

10 AGREEMENTS

11 (a) Power to issue warnings, reprimands, and recommended actions. The
12 Commission may issue warnings, reprimands, and recommended actions, not
13 inconsistent with the Vermont Constitution and laws of the State, including
14 facilitated mediation, additional training and education, referrals to counseling
15 and wellness support, or other remedial actions.

16 (b) Factors in determination.

17 (1) Circumstances of unethical conduct. In this determining, the
18 Commission shall consider the degree of unethical conduct, the timeline over
19 which the unethical conduct occurred and whether the conduct was repeated,
20 and the privacy, rights, and responsibilities of the parties.

1 (2) Determination based on evidence. The Commission shall render its
2 determination on the allegation on the basis of the evidence in the record
3 before it, regardless of whether the Commission makes its determination on the
4 investigation report of the Executive Director pursuant to section 1227 of this
5 title alone, on evidence and testimony presented in the hearing pursuant to
6 section 1228 of this title, or on its own findings.

7 (3) Burden of proof. The Commission shall only issue a warning,
8 reprimand, or recommended action if it finds that, by a preponderance of the
9 evidence, the public servant committed unethical conduct.

10 (c) Determination after hearing.

11 (1) If a majority of current members of the Commission who have not
12 recused themselves find that the public servant committed unethical conduct as
13 specified in the investigation report the Executive Director pursuant to section
14 1227 of this title alone, the Commission shall then, in writing or stated in the
15 record, issue a warning, reprimand, or recommended action.

16 (2) If the Commission does not find that the public servant committed
17 unethical conduct, the Commission shall issue a statement that the allegations
18 were not proved.

19 (3) When a determination or order is approved for issue by the
20 Commission, the decision or order may be signed by the Chair on behalf of the
21 Commission.

1 (d) Timeline for determination. The Commission shall make its
2 determination within 30 days after concluding the Commission’s last hearing
3 under this section and notify the public servant and any complainant of the
4 Committee’s determination. This timeline may be extended by the
5 Commission for good cause or pursuant to an agreement made between the
6 Commission and the public servant.

7 (e) Referral of unethical conduct. Notwithstanding subsection 1223(c) of
8 this title, the Commission shall notify the Attorney General or the State’s
9 Attorney of jurisdiction of any alleged violations of governmental conduct
10 regulated by law or the relevant federal agency of any alleged violations of
11 federal law, if discovered in the course of the Commission’s investigations.

12 (f) Power to enter into resolution agreements.

13 (1) Notwithstanding any provisions of this chapter to the contrary, the
14 Commission may, by a majority vote of its current members who have not
15 recused themselves, enter into a resolution agreement with the public servant.

16 (2) A resolution agreement shall:

17 (A) include an agreed course of remedial action to be taken by the
18 public servant;

19 (B) be in writing;

20 (C) be executed by both the public servant and Executive Director;

21 and

1 (D) be a public record subject to public inspection and copying under
2 the Public Records Act.

3 (3) A resolution agreement may be entered into at any point in time
4 before or during Commission proceedings. Any procedural deadlines
5 described in this chapter or rules adopted pursuant to this chapter shall be
6 paused at the time of execution of the resolution agreement. The Executive
7 Director shall verify compliance with the resolution agreement within three
8 months following execution of the agreement, and if the Executive Director is
9 not satisfied that compliance has been achieved, the Commission may resume
10 its initial proceedings.

11 Sec. 13. 3 V.S.A. § 1230 is added to read:

12 § 1230. PROCEDURE; RULEMAKING

13 (a) Procedure. Unless otherwise controlled by statute or rules adopted by
14 the Commission, the Vermont Rules of Civil Procedure and the Vermont Rules
15 of Evidence shall apply in the Commission's investigations and hearings.

16 (b) Rulemaking. The Commission shall adopt rules pursuant to 3 V.S.A.
17 chapter 25 regarding procedural and evidentiary aspects of the Commission's
18 investigations and hearings.

19 (c) Waiver of rules. To prevent unnecessary hardship, delay, or injustice,
20 or for other good cause, a vote of two-thirds of the Commission's members

1 present and voting may waive the application of a rule upon such conditions as
2 the Chair may require, unless precluded by rule or by statute.

3 (d) Subpoenas and oaths. The Commission, the Executive Director, and
4 the Commission’s legal counsel and investigators shall have the power to issue
5 subpoenas and administer oaths in connection with any investigation or
6 hearing, including compelling the provision of materials or the attendance of
7 witnesses at any investigation or hearing; provided, however, the Commission
8 shall first request voluntary cooperation before issuing a subpoena. The
9 Commission, the Executive Director, and the Commission’s legal counsel and
10 investigators may take or cause depositions to be taken as needed in any
11 investigation or hearing.

12 Sec. 14. 3 V.S.A. § 1231 is added to read:

13 § 1231. RECORDS; CONFIDENTIALITY

14 (a) Intent. It is the intent of this section both to protect the reputation of
15 public servants from public disclosure of frivolous complaints against them
16 and to fulfill the public’s right to know any unethical conduct committed by a
17 public servant that results in issued warnings, reprimands, or recommended
18 actions.

19 (b) Public records. Public records relating to the Commission’s handling of
20 complaints, alleged unethical conduct, investigations, and proceedings are
21 exempt from public inspection and copying under the Public Records Act and

1 shall be kept confidential, except those public records required or permitted to
2 be released under this chapter. Records subject to public inspection and
3 copying under the Public Records Act shall include:

4 (1) investigation reports relating to alleged unethical conduct
5 determined to warrant a hearing pursuant to section 1227 of this title, but not
6 any undisclosed records gathered or created in the course of an investigation;

7 (2) at the request of the public servant or the public servant’s designated
8 representative, investigation reports relating to alleged unethical conduct
9 determined to not warrant a hearing pursuant to section 1227 of this title, but
10 not any undisclosed records gathered or created in the course of an
11 investigation;

12 (3) evidence produced in the open and public portions of Commission
13 hearings;

14 (4) any warnings, reprimands, and recommendations issued by the
15 Commission; and

16 (5) any records, as determined by the Commission, that support a
17 warning, reprimand, recommendation, or executed resolution agreement,
18 including consultations created pursuant to subsection 1223(c) of this title and
19 investigation reports in accordance with subdivisions (1) and (2) of this
20 subsection.

1 (c) Court orders. Nothing in this section shall prohibit the disclosure of any
2 information regarding alleged unethical conduct pursuant to an order from a
3 court of competent jurisdiction, or to a State or federal law enforcement agency
4 in the course of its investigation, provided the agency agrees to maintain the
5 confidentiality of the information as provided in subsection (b) of this section.

6 * * * State Ethics Commission Membership * * *

7 Sec. 15. 3 V.S.A. § 1221(b) is amended to read:

8 (b) Membership.

9 (1) The Commission shall be composed of the following ~~five~~ six
10 members:

11 (A) one member, appointed by the Chief Justice of the Supreme
12 Court;

13 (B) one member, appointed by the League of Women Voters of
14 Vermont, who shall be a member of the League;

15 (C) one member, appointed by the Board of Directors of the Vermont
16 Society of Certified Public Accountants, who shall be a member of the Society;

17 (D) one member, appointed by the Board of Managers of the
18 Vermont Bar Association, who shall be a member of the Association; ~~and~~

19 (E) one member, appointed by the Board of Directors of the SHRM
20 (Society for Human Resource Management) Vermont State Council, who shall
21 be a member of the Council; and

1 (3) shall be conducted in accordance with ~~1 V.S.A. § 172~~ 1 V.S.A.
2 § 310 et seq.

3 * * * Ethics Data Collection * * *

4 Sec. 19. 3 V.S.A. § 1226 is amended to read:

5 § 1226. ETHICS DATA COLLECTION; COMMISSION REPORTS

6 (a) Annually, on or before November 15, the following entities shall report
7 to the State Ethics Commission aggregate data on ethics complaints not
8 submitted to the Commission, with the complaints separated by topic, and the
9 disposition of those complaints, including any prosecution, enforcement action,
10 or dismissal:

11 (1) the office of the Attorney General and State’s Attorneys’ offices, of
12 alleged violations of governmental conduct regulated by law and associated
13 crimes and including campaign finance requirements;

14 (2) the Department of Human Resources, of complaints alleging conduct
15 that violates the ethical provisions of the Department of Human Resources
16 Personnel Policy and Procedure Manual or of the State Code of Ethics;

17 (3) the Senate Ethics Panel, of alleged unethical conduct committed by
18 State Senators;

19 (4) the House Ethics Panel, of alleged unethical conduct committed by
20 State Representatives;

1 Sec. 21. 24 V.S.A. § 2291 is amended to read:

2 § 2291. ENUMERATION OF POWERS

3 For the purpose of promoting the public health, safety, welfare, and
4 convenience, a town, city, or incorporated village shall have the following
5 powers:

6 * * *

7 ~~(20) To establish a conflict-of-interest policy to apply to all elected and~~
8 ~~appointed officials of the town, city, or incorporated village or ethical conduct~~
9 ~~policies to apply to all elected and appointed officials and employees of the~~
10 ~~municipality, or both. [Repealed.]~~

11 * * *

12 * * * Creation of Municipal Code of Ethics * * *

13 Sec. 22. 24 V.S.A. chapter 60 is added to read:

14 CHAPTER 60. MUNICIPAL CODE OF ETHICS

15 § 1991. DEFINITIONS

16 As used in this chapter:

17 (1) “Advisory body” means a public body that does not have
18 supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or
19 budgetary matters.

20 (2) “Candidate” and “candidate’s committee” have the same meanings
21 as in 17 V.S.A. § 2901.

1 (3) “Commission” means the State Ethics Commission established
2 under 3 V.S.A. chapter 31, subchapter 3.

3 (4) “Confidential information” means information that is exempt from
4 public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise
5 designated by law as confidential.

6 (5) “Conflict of interest” means a direct or indirect interest of a
7 municipal officer or such an interest, known to the officer, of a member of the
8 officer’s immediate family or household, or of a business associate, in the
9 outcome of a particular matter pending before the officer or the officer’s public
10 body, or that is in conflict with the proper discharge of the officer’s duties.
11 “Conflict of interest” does not include any interest that is not greater than that
12 of other individuals generally affected by the outcome of a matter.

13 (6) “Department head” means any authority in charge of an agency,
14 department, or office of a municipality.

15 (7) “Designated complaint recipient” means:

16 (A) a department head or employee specifically designated or
17 assigned to receive a complaint that constitutes protected activity, as set forth
18 in section 1997 of this title.

19 (B) a board or commission of the State or a municipality;

20 (C) the Vermont State Auditor;

1 (D) a State or federal agency that oversees the activities of an agency,
2 department, or office of the State or a municipality;

3 (E) a law enforcement officer as defined in 20 V.S.A. § 2358;

4 (F) a federal or State court, grand jury, petit jury, law enforcement
5 agency, or prosecutorial office;

6 (G) the General Assembly or the U.S. Congress; or

7 (H) an officer or employee of an entity listed in this subdivision (7)
8 when acting within the scope of the officer’s or employee’s duties.

9 (8) “Domestic partner” means an individual in an enduring domestic
10 relationship of a spousal nature with the municipal officer, provided the
11 individual and municipal officer:

12 (A) have shared a residence for at least six consecutive months;

13 (B) are at least 18 years of age;

14 (C) are not married to or considered a domestic partner of another
15 individual;

16 (D) are not related by blood closer than would bar marriage under
17 State law; and

18 (E) have agreed between themselves to be responsible for each
19 other’s welfare.

20 (9) “Illegal order” means a directive to violate, or to assist in violating, a
21 federal, State, or local law.

1 (10) “Immediate family” means an individual’s spouse, domestic
2 partner, or civil union partner; child or foster child; sibling; parent; or such
3 relations by marriage or by civil union or domestic partnership; or an
4 individual claimed as a dependent for federal income tax purposes.

5 (11) “Legislative body” means the selectboard in the case of a town, the
6 mayor, alderpersons, and city council members in the case of a city, the
7 president and trustees in the case of an incorporated village, the members of
8 the prudential committee in the case of a fire district, and the supervisor in the
9 case of an unorganized town or gore.

10 (12) “Municipal officer” or “officer” means:

11 (A) any member of a legislative body of a municipality;

12 (B) any member of a quasi-judicial body of a municipality; or

13 (C) any individual who holds the position of, or exercises the

14 function of, any of the following positions in or on behalf of any municipality:

15 (i) advisory budget committee member;

16 (ii) auditor;

17 (iii) building inspector;

18 (iv) cemetery commissioner;

19 (v) chief administrative officer;

20 (vi) clerk;

21 (vii) collector of delinquent taxes;

- 1 (viii) first constable;
- 2 (ix) lister or assessor;
- 3 (x) mayor;
- 4 (xi) moderator;
- 5 (xii) planning commission member;
- 6 (xiii) road commissioner;
- 7 (xiv) town or city manager;
- 8 (xv) treasurer;
- 9 (xvi) village or town trustee;
- 10 (xvii) trustee of public funds; or
- 11 (xviii) water commissioner.

12 (13) “Municipality” has the same meaning as in 1 V.S.A. § 126 but does
13 not include town or incorporated school districts.

14 (14) “Protected employee” means an individual employed on a
15 permanent or limited status basis by a municipality.

16 (15) “Public body” has the same meaning as in 1 V.S.A. § 310.

17 (16) “Retaliatory action” includes any adverse performance or
18 disciplinary action, including discharge, suspension, reprimand, demotion,
19 denial of promotion, imposition of a performance warning period, or
20 involuntary transfer or reassignment that is given in retaliation for the

1 protected employee’s involvement in a protected activity, as set forth in section
2 1997 of this title.

3 § 1992. CONFLICTS OF INTEREST

4 (a) Duty to avoid conflicts of interest. In the municipal officer’s official
5 capacity, the officer shall avoid any conflict of interest or the appearance of a
6 conflict of interest. The appearance of a conflict shall be determined from the
7 perspective of a reasonable individual with knowledge of the relevant facts.

8 (b) Recusal.

9 (1) If a municipal officer is confronted with a conflict of interest or the
10 appearance of one, the officer shall immediately recuse themselves from the
11 matter, except as otherwise provided in subdivisions (2) and (5) of this
12 subsection, and not take further action on the matter or participate in any way
13 or act to influence a decision regarding the matter. After recusal, an officer
14 may still take action on the matter if the officer is a party, as defined by section
15 1201 of this title, in a contested hearing or litigation and acts only in the
16 officer’s capacity as a member of the public. The officer shall make a public
17 statement explaining the officer’s recusal.

18 (2)(A) Notwithstanding subdivision (1) of this subsection (b), an officer
19 may continue to act in a matter involving the officer’s conflict of interest or
20 appearance of a conflict of interest if the officer first:

1 (i) determines there is good cause for the officer to proceed,

2 meaning:

3 (I) the conflict is amorphous, intangible, or otherwise

4 speculative;

5 (II) the officer cannot legally or practically delegate the matter;

6 or

7 (III) the action to be taken by the officer is purely ministerial

8 and does not involve substantive decision-making; and

9 (ii) the officer submits a written nonrecusal statement to the
10 legislative body of the municipality regarding the nature of the conflict that
11 shall:

12 (I) include a description of the matter requiring action;

13 (II) include a description of the nature of the potential conflict
14 or actual conflict of interest;

15 (III) include an explanation of why good cause exists so that
16 the municipal officer can take action in the matter fairly, objectively, and in the
17 public interest;

18 (IV) be written in plain language and with sufficient detail so
19 that the matter may be understood by the public; and

20 (V) be signed by the municipal officer.

1 (B) Notwithstanding subsection (A) of this subdivision (2), a
2 municipal officer that would benefit from any contract entered into by the
3 municipality and the officer, the officer’s immediate family, or an associated
4 business of the officer or the officer’s immediate family, and whose official
5 duties include execution of that contract, shall recuse themselves from any
6 decision-making process involved in the awarding of that contract.

7 (C) Notwithstanding subsection (A) of this subdivision (2), a
8 municipal officer shall not continue to act in a matter involving the officer’s
9 conflict of interest or appearance of a conflict of interest if authority granted to
10 another official or public body elsewhere under law is exercised to preclude
11 the municipal officer from continuing to act in the matter.

12 (3) If an officer’s conflict of interest or the appearance of a conflict of
13 interest concerns an official act or actions that take place outside a public
14 meeting, the officer’s nonrecusal statement shall be filed with the clerk of the
15 municipality and be available to the public for the duration of the officer’s
16 service plus a minimum of five years.

17 (4) If an officer’s conflict of interest is related to an official municipal
18 act or actions considered at a public meeting, the officer’s nonrecusal
19 statement shall be filed as part of the minutes of the meeting of the public body
20 in which the municipal officer serves.

1 (5) If, at a meeting of a public body, an officer becomes aware of a
2 conflict of interest or the appearance of a conflict of interest for the officer and
3 the officer determines there is good cause to proceed, the officer may proceed
4 with the matter after announcing and fully stating the conflict on the record.
5 The officer shall submit a written nonrecusal statement pursuant to subdivision
6 (2) of this subsection within five business days after the meeting. The meeting
7 minutes shall be subsequently amended to reflect the submitted written
8 nonrecusal statement.

9 (c) Authority to inquire about conflicts of interest. If a municipal officer is
10 a member of a public body, the other members of that body shall have the
11 authority to inquire of the officer about any possible conflict of interest or any
12 appearance of a conflict of interest and to recommend that the member recuse
13 themselves from the matter.

14 (d) Confidential information. Nothing in this section shall require a
15 municipal officer to disclose confidential information or information that is
16 otherwise privileged under law.

17 § 1993. PROHIBITED CONDUCT

18 (a) Directing unethical conduct. A municipal officer shall not direct any
19 individual to act in a manner that would:

20 (1) benefit a municipal officer in a manner related to the officer's
21 conflict of interest;

1 (2) create a conflict of interest or the appearance of a conflict of interest
2 for the officer or for the directed individual; or

3 (3) otherwise violate the Municipal Code of Ethics as described in this
4 chapter.

5 (b) Preferential treatment. A municipal officer shall act impartially and not
6 unduly favor or prejudice any person in the course of conducting official
7 business. An officer shall not give, or represent an ability to give, undue
8 preference or special treatment to any person because of the person’s wealth,
9 position, or status or because of a person’s personal relationship with the
10 officer, unless otherwise permitted or required by State or federal law.

11 (c) Misuse of position. A municipal officer shall not use the officer’s
12 official position for the personal or financial gain of the officer, a member of
13 the officer’s immediate family or household, or the officer’s business
14 associate.

15 (d) Misuse of information. A municipal officer shall not use nonpublic or
16 confidential information acquired during the course of official business for
17 personal or financial gain of the officer or for the personal or financial gain of
18 a member of the officer’s immediate family or household or of an officer’s
19 business associate.

20 (e) Misuse of government resources. A municipal officer shall not make
21 use of a town’s, city’s, or village’s materials, funds, property, personnel,

1 facilities, or equipment, or permit another person to do so, for any purpose
2 other than for official business unless the use is expressly permitted or required
3 by State law; ordinance; or a written agency, departmental, or institutional
4 policy or rule. An officer shall not engage in or direct another person to
5 engage in work other than the performance of official duties during working
6 hours, except as permitted or required by law or a written agency,
7 departmental, or institutional policy or rule.

8 (f) Gifts.

9 (1) No person shall offer or give to a municipal officer or candidate, or
10 the officer's or candidate's immediate family, anything of value, including a
11 gift, loan, political contribution, reward, or promise of future employment
12 based on any understanding that the vote, official action, or judgment of the
13 municipal officer or candidate would be, or had been, influenced thereby.

14 (2) A municipal officer or candidate shall not solicit or accept anything
15 of value, including a gift, loan, political contribution, reward, or promise of
16 future employment based on any understanding that the vote, official action, or
17 judgment of the municipal officer or candidate would be or had been
18 influenced thereby.

19 (3) Nothing in subdivision (1) or (2) of this subsection shall be
20 construed to apply to any campaign contribution that is lawfully made to a

1 candidate or candidate’s committee pursuant to 17 V.S.A. chapter 61 or to
2 permit any activity otherwise prohibited by 13 V.S.A. chapter 21.

3 (g) Unauthorized commitments. A municipal officer shall not make
4 unauthorized commitments or promises of any kind purporting to bind the
5 municipality unless otherwise permitted by law.

6 (h) Benefit from contracts. A municipal officer shall not benefit from any
7 contract entered into by the municipality and the officer, the officer’s
8 immediate family, or an associated business of the officer or the officer’s
9 immediate family, unless:

10 (1) the benefit is not greater than that of other individuals generally
11 affected by the contract;

12 (2) the contract is a contract for employment with the municipality;

13 (3) the contract was awarded through an open and public process of
14 competitive bidding; or

15 (4) the total value of the contract is less than \$2,000.00.

16 § 1994. GUIDANCE AND ADVISORY OPINIONS

17 (a) Guidance.

18 (1) The Executive Director of the State Ethics Commission may provide
19 guidance only to a municipal officer and only with respect to the officer’s
20 duties regarding any provision of this chapter or regarding any other issue
21 related to governmental ethics.

1 (2) The Executive Director may consult with members of the State
2 Ethics Commission and the municipality in preparing this guidance.

3 (3) Guidance provided under this subsection shall be exempt from
4 public inspection and copying under the Public Records Act and shall be kept
5 confidential unless the receiving entity has publicly disclosed it.

6 (b) Advisory opinions.

7 (1) On the written request of any municipal officer, the Executive
8 Director may issue an advisory opinion to that officer that provides general
9 advice or interpretation with respect to the officer’s duties regarding any
10 provision of this chapter or regarding any other issue related to governmental
11 ethics.

12 (2) The Executive Director may consult with members of the
13 Commission and the municipality in preparing these advisory opinions.

14 (3) The Executive Director may seek comment from persons interested
15 in the subject of an advisory opinion under consideration.

16 (4) The Executive Director shall post on the Commission’s website any
17 advisory opinions that the Executive Director issues. Personally identifiable
18 information is exempt from public inspection and copying under the Public
19 Records Act and shall be kept confidential unless the municipal officer who is
20 the subject of the advisory opinion authorizes the publication of the personally
21 identifiable information.

1 § 1995. ETHICS TRAINING

2 (a) Initial ethics training. Within 120 days after a municipal officer is
3 elected or appointed, the officer shall complete ethics training, as approved by
4 the State Ethics Commission. The officer, the officer’s employer, or another
5 individual designated by the municipality shall document the officer’s
6 completed ethics training.

7 (b) Continuing ethics training. Upon completing initial ethics training, a
8 municipal officer shall complete additional ethics training, as determined by
9 the State Ethics Commission, every three years.

10 (c) Approval of training. Ethics trainings shall at minimum reflect the
11 contents of the Municipal Ethics Code and be approved by the State Ethics
12 Commission. Approval of ethics trainings shall not be unreasonably withheld.
13 Ethics trainings shall be conducted by the State Ethics Commission, the
14 municipality, or a third party approved in advance by the State Ethics
15 Commission. The State Ethics Commission may approve trainings that are in
16 person, online, and synchronous or asynchronous. The State Ethics
17 Commission shall require ethics training to be designed in a manner as to
18 achieve improved competency in the subject matter rather than rely on fixed
19 hours of training as a measure of completed training.

20 (d) Training provided by the Commission.

1 (1) The State Ethics Commission shall develop and make available to
2 municipalities ethics training required of municipal officers by subsections (a)
3 and (b) of this section.

4 (2) The Commission shall develop and make available to municipalities
5 trainings regarding how to investigate and resolve complaints that allege
6 violations of the Municipal Code of Ethics.

7 (e) State Ethics Commission liaisons. Each municipality, acting through its
8 legislative body, shall designate an employee as its liaison to the State Ethics
9 Commission. If a municipality does not have any employees, the legislative
10 body shall designate one of its members as its liaison to the State Ethics
11 Commission. The municipality shall notify the Commission in writing of any
12 newly designated liaison within 30 days after such change. The Commission
13 shall disseminate information to the designated liaisons and conduct
14 educational seminars for designated liaisons on a regular basis on a schedule to
15 be determined by the Commission, in consultation with the municipality. The
16 Commission shall report any ethics training conducted by the Commission and
17 completed by an officer to the liaison of that officer’s municipality.

18 § 1996. ENFORCEMENT AND REMEDIES

19 Each municipality shall:

20 (1) ensure that the Municipal Code of Ethics is posted on the town’s,
21 city’s, or village’s website or, if no such website exists, ensure that a copy of

1 the Municipal Code of Ethics is received by all municipal officers and is made
2 available to the public upon request;

3 (2) maintain a record of municipal officers who have received ethics
4 training pursuant to section 1995 of this title;

5 (3) designate a municipal officer or body to receive complaints alleging
6 violations of the Municipal Code of Ethics;

7 (4) where appropriate or necessary, investigate complaints that allege
8 violations of the Municipal Code of Ethics;

9 (5) maintain a record of received complaints and the disposition of each
10 complaint made against a municipal officer for the duration of the municipal
11 officer’s service plus a minimum of five years; and

12 (6) upon request of the State Ethics Commission, promptly provide the
13 State Ethics Commission with a summary of complaints received by the
14 municipality and the outcome of each complaint, but excluding any personally
15 identifiable information.

16 **§ 1997. WHISTLEBLOWER PROTECTION**

17 **(a) Protected activity.**

18 **(1) An agency, department, appointing authority, official, or employee**
19 **of a municipality shall not engage in retaliatory action against a protected**
20 **employee because the protected employee refuses to comply with an illegal**
21 **order or engages in any of the following:**

1 (A) providing to a designated complaint recipient a good faith report
2 or good faith testimony that alleges an entity of a municipality, employee or
3 official of a municipality, or a person providing services to a municipality
4 under contract has engaged in a violation of law or in waste, fraud, abuse of
5 authority, or a threat to the health of employees, the public, or persons under
6 the care of a municipality; or

7 (B) assisting or participating in a proceeding to enforce the
8 provisions of this section.

9 (2) No agency, department, appointing authority, official, or employee
10 of a municipality shall attempt to restrict or interfere with, in any manner, a
11 protected employee’s ability to engage in any of the protected activity
12 described in subdivision (1) of this subsection.

13 (3) No agency, department, appointing authority, or manager of a
14 municipality shall require any protected employee to discuss or disclose the
15 employee’s testimony, or intended testimony, prior to the employee’s
16 appearance to testify before the General Assembly if the employee is not
17 testifying on behalf of an entity of the municipality.

18 (4) No protected employee may divulge information that is confidential
19 under State or federal law. An act by which a protected employee divulges
20 such information shall not be considered protected activity under this
21 subsection.

1 (5) In order to establish a claim of retaliation based upon the refusal to
2 follow an illegal order, a protected employee shall assert at the time of the
3 refusal the employee’s good faith and reasonable belief that the order is illegal.

4 (b) Communication with General Assembly.

5 (1) No entity of a municipality may prohibit a protected employee from
6 engaging in discussion with a member of the General Assembly or from
7 testifying before a legislative committee; provided, however, that a protected
8 employee may not divulge confidential information, and an employee shall be
9 clear that the employee is not speaking on behalf of an entity of a municipality.

10 (2) No protected employee shall be subject to discipline, discharge,
11 discrimination, or other adverse employment action as a result of the employee
12 providing information to a legislator or legislative committee; provided,
13 however, that the protected employee does not divulge confidential
14 information and that the employee is clear that the employee is not speaking on
15 behalf of any entity of the municipality. The protections set forth in this
16 section shall not apply to statements that constitute hate speech or threats of
17 violence against a person.

18 (3) In the event that an appearance before a committee of the General
19 Assembly will cause a protected employee to miss work, the employee shall
20 request to be absent from work and shall provide as much notice as is
21 reasonably possible. The request shall be granted unless there is good cause to

1 deny the request. If a request is denied, the decision and reasons for the denial
2 shall be in writing and shall be provided to the protected employee in advance
3 of the scheduled appearance. The protections set forth in this subsection (c)
4 are subject to the efficient operation of municipal government, which shall
5 prevail in any instance of conflict.

6 (c) Enforcement and preemption.

7 (1) Nothing in this section shall be deemed to diminish the rights,
8 privileges, or remedies of a protected employee under other federal, State, or
9 local law, or under any collective bargaining agreement or employment
10 contract, except the limitation on multiple actions as set forth in this
11 subsection.

12 (2) A protected employee who files a claim of retaliation for protected
13 activity with the Vermont Labor Relations Board or through binding
14 arbitration under a grievance procedure or similar process available to the
15 employee may not bring such a claim in Superior Court.

16 (3) A protected employee who files a claim under this section in
17 Superior Court may not bring a claim of retaliation for protected activity under
18 a grievance procedure or similar process available to the employee.

19 (d) Remedies. A protected employee who brings a claim in Superior Court
20 may be awarded the following remedies:

1 (1) reinstatement of the employee to the same position, seniority, and
2 work location held prior to the retaliatory action;

3 (2) back pay, lost wages, benefits, and other remuneration;

4 (3) in the event of a showing of a willful, intentional, and egregious
5 violation of this section, an amount up to the amount of back pay in addition to
6 the actual back pay;

7 (4) other compensatory damages;

8 (5) interest on back pay;

9 (6) appropriate injunctive relief; and

10 (7) reasonable costs and attorney’s fees.

11 (e) Posting. Every agency, department, and office of a municipality shall
12 post and display notices of protected employee protection under this section in
13 a prominent and accessible location in the workplace.

14 (f) Limitations of actions. An action alleging a violation of this section
15 brought under a grievance procedure or similar process shall be brought within
16 the period allowed by that process or procedure. An action brought in Superior
17 Court shall be brought within 180 days following the date of the alleged
18 retaliatory action.

1 § 1998. MUNICIPAL CHARTERS; SUPPLEMENTAL ETHICS POLICIES

2 (a) To the extent any provisions of this chapter conflict with the provisions
3 of any municipal charter listed in Title 24 Appendix, the provisions of this
4 chapter shall prevail.

5 (b) A municipality may adopt additional ethics or personnel policies,
6 provided that these are not in conflict with the provisions of this chapter.

7 * * * Initial Ethics Training for In-Office Municipal Officers * * *

8 Sec. 23. INITIAL ETHICS TRAINING FOR IN-OFFICE MUNICIPAL
9 OFFICERS

10 On or before September 30, 2025, all municipal officers shall complete
11 ethics training, which may be in person or online, as approved by the State
12 Ethics Commission, unless they have otherwise completed ethics training
13 pursuant to 24 V.S.A § 1995 (ethics training). The State Ethics Commission
14 shall require ethics training to be designed in a manner as to achieve improved
15 competency in the subject matter rather than rely on fixed hours of training as
16 a measure of completed training. The officer, the officer’s employer, or
17 another individual designated by the municipality shall document the officer’s
18 completed ethics training.

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* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 1 (amending 17 V.S.A. § 2414) shall take effect on January 1, 2026 and Secs. 7 (amending 3 V.S.A. § 1221(a)), 8 (amending 3 V.S.A. § 1222), 9 (amending 3 V.S.A. § 1223), 10 (adding 3 V.S.A. § 1227), 11 (adding 3 V.S.A. § 1228), 12 (adding 3 V.S.A. § 1229), and 14 (adding 3 V.S.A. § 1231) shall take effect on January 1, 2025.

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE