

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) individual stock holdings 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 that a
19 candidate or the candidate’s spouse or domestic partner has the ability to
20 exercise control over, which shall be listed individually;

1 (C) interests in virtual currencies, as defined in 8 V.S.A. § 2500,

2 valued at \$25,000.00 or more, which shall be listed individually;

3 (D) interests in trusts valued at \$25,000.00 or more, which shall be
4 listed individually;

5 (E) municipal or State bonds issued in the State of Vermont of any
6 value, which shall be listed individually; and

7 (F) the details of any loan made to the candidate or the candidate's
8 spouse that is not a commercially reasonable loan made in the ordinary course
9 of business; and

10 (7) the full name of the candidate's spouse or domestic partner.

11 (b) In addition, if a candidate's spouse or domestic partner is a lobbyist, the
12 candidate shall disclose that fact and provide the name of ~~his or her~~ the
13 candidate's spouse or domestic partner and, if applicable, the name of ~~his or~~
14 ~~her~~ the lobbying firm.

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

20 (1) the candidate's Social Security number and that of ~~his or her~~ the
21 candidate's spouse, if applicable;

1 (2) the names of any dependent and the dependent's Social Security
2 number; ~~and~~

3 (3) the signature of the candidate and that of ~~his or her~~ the candidate's
4 spouse, if applicable;

5 (4) the candidate's street address; and

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

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

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

17 * * *

18 (e) As used in this section:

19 (1) "Commercially reasonable loan made in the ordinary course of
20 business" means a loan made:

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

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

4 * * * In-Office Financial Disclosure Requirements * * *

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

6 § 1201. DEFINITIONS

7 As used in this chapter:

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

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

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

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

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

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

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

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

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

11 ~~(4)~~(7) “Domestic partner” means an individual in an enduring domestic
12 relationship of a spousal nature with the Executive officer or the public
13 servant, provided the individual and Executive officer or public servant:

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

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

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

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

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

1 ~~(5)~~(8) “Executive officer” means:

2 (A) a State officer; or

3 (B) a deputy under ~~the Office of the Governor~~ a State officer,

4 including an agency secretary or deputy ~~or~~ and a department commissioner or
5 deputy.

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

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

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

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

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

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

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

18 (G) engaging in retaliatory action due to a State employee’s

19 involvement in a protected activity pursuant to chapter 27, subchapter 4A of
20 this title;

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

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

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

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

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

16 ~~(8)~~(12) “Lobbyist” and “lobbying firm” have the same meanings as in
17 2 V.S.A. § 261.

18 ~~(9)~~(13) “Person” means any individual, group, business entity,
19 association, or organization.

20 ~~(10)~~(14) “Political committee” and “political party” have the same
21 meanings as in 17 V.S.A. § 2901.

1 (15) “Public servant” means an individual elected or appointed to serve
2 as a State officer, an individual elected or appointed to serve as a member of
3 the General Assembly, a State employee, an individual appointed to serve on a
4 State board or commission, or an individual who in any other way is
5 authorized to act or speak on behalf of the State.

6 ~~(14)~~(16) “State officer” means the Governor, Lieutenant Governor,
7 Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

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

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

14 Sec. 2a. REPEAL

15 24 V.S.A. § 314 (Sheriffs; annual disclosure) is repealed.

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

17 § 1202. STATE CODE OF ETHICS; APPLICABILITY

18 (a) Unless excluded under this section, the Code of Ethics applies to all
19 ~~individuals elected or appointed to serve as officers of the State, all individuals~~
20 ~~elected or appointed to serve as members of the General Assembly, all State~~
21 ~~employees, all individuals appointed to serve on State boards and~~

1 ~~commissions, and individuals who in any other way are authorized to act or~~
2 ~~speak on behalf of the State. This code refers to them all as public servants.~~

3 * * *

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

5 § 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF
6 INTEREST

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

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

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

15 (3) ~~As used in this section, "conflict of interest" means a direct or~~
16 ~~indirect interest of a public servant or such an interest, known to the public~~
17 ~~servant, of a member of the public servant's immediate family or household, or~~
18 ~~of a business associate, in the outcome of a particular matter pending before~~
19 ~~the public servant or the public servant's public body, or that is in conflict with~~
20 ~~the proper discharge of the public servant's duties. "Conflict of interest" does~~

1 ~~not include any interest that is not greater than that of other individuals~~
2 ~~generally affected by the outcome of a matter. [Repealed.]~~

3 * * *

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

5 § 1211. EXECUTIVE OFFICERS; ANNUAL DISCLOSURE

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

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

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

16 (B) if self-employed, a description of the nature of the self-
17 employment ~~without needing to disclose any individual clients, including the~~
18 names of any clients whose principal business activities are regulated by or
19 that have a contract with any municipal or State office, department, or agency,
20 provided that this information is known to the candidate or the candidate's

1 domestic partner and that the disclosed information is not confidential
2 information; and

3 ~~(B) investments, described generally as “investment income.”~~

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

7 (3)(A) ~~Any any~~ company of which the officer or ~~his or her~~ the officer’s
8 spouse or domestic partner, or the officer together with ~~his or her~~ the officer’s
9 spouse or domestic partner, owned more than 10 percent; and

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

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

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

19 (A) the officer or ~~his or her~~ the officer’s spouse or domestic partner;

20 or

1 (B) a company of which the officer or ~~his or her~~ the officer's spouse
2 or domestic partner, or the officer together with ~~his or her~~ the officer's spouse
3 or domestic partner, owned more than 10 percent-;

4 (6) a generalized description, but not amount, to the best of the
5 candidate's knowledge, of the following investments held by a candidate or the
6 candidate's spouse or domestic partner:

7 (A) individual stock holdings valued at \$25,000.00 or more, which a
8 candidate exercises control over or has the ability to exercise control over,
9 which shall be listed individually;

10 (B) interests in investment funds valued at \$25,000.00 or more that a
11 candidate or the candidate's spouse or domestic partner has the ability to
12 exercise control over, which shall be listed individually;

13 (C) interests in virtual currencies, as defined in 8 V.S.A. § 2500,
14 valued at \$25,000 or more, which shall be listed individually;

15 (D) interests in trusts valued at \$25,000.00 or more, which shall be
16 listed individually;

17 (E) municipal or State bonds issued in the State of Vermont of any
18 value, which shall be listed individually; and

19 (F) the details of any loan made to the candidate or the candidate's
20 spouse that is not a commercially reasonable loan made in the ordinary course
21 of business; and

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

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

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

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

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

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

19 (e) [Repealed.]

1 * * * Delinquent Disclosures for Candidates for State Office, County Office,
2 State Senator, and State Representative * * *

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

4 § 2415. FAILURE TO FILE; PENALTIES

5 (a) If any disclosure required of a candidate for State office, county office,
6 State Senator, or State Representative by section 2414 of this title is not filed in
7 the time and manner set forth in sections 2356, 2361, and 2402 of this title, the
8 candidate for State office, county office, State Senator, or State Representative
9 shall be addressed as follows:

10 (1) The State Ethics Commission, after notification by the Office of the
11 Secretary of State of the names of delinquent filers, shall issue a notice of
12 delinquency to the candidate for State office, county office, State Senator, or
13 State Representative for any disclosure required of a candidate for State office,
14 county office, State Senator, or State Representative by section 2414 of this
15 title that is not filed in the time and manner set forth in sections 2356, 2361,
16 and 2402 of this title.

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

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

6 (4) Notwithstanding subdivision (3) of this subsection (a), the State
7 Ethics Commission may reduce or waive any penalty imposed under this
8 section if the candidate for State office, county office, State Senator, or State
9 Representative demonstrates good cause, as determined by the State Ethics
10 Commission and in the sole discretion of the State Ethics Commission.

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

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

17 (d)(1) A candidate for State office, county office, State Senator, or State
18 Representative who files a disclosure with intent to defraud, falsify, conceal, or
19 cover up by any trick, scheme, or device a material fact, or, with intent to
20 defraud, make any false, fictitious, or fraudulent claim or representation as to a
21 material fact, or, with intent to defraud, make or use any writing or document

1 knowing the same to contain any false, fictitious, or fraudulent claim or entry
2 as to a material fact shall be considered to have made a false claim for the
3 purposes of 13 V.S.A. § 3016.

4 (2) Pursuant to 3 V.S.A. § 1223 and section 2904a of this title,
5 complaints regarding any candidate for State office, county office, State
6 Senator, or State Representative who fails to properly file a disclosure required
7 under this subchapter may be filed with the State Ethics Commission. The
8 Executive Director of the State Ethics Commission shall refer complaints to
9 the Attorney General or to the State’s Attorney of jurisdiction for investigation,
10 as appropriate.

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

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

13 (a) Creation. There is created within the Executive Branch an independent
14 commission named the State Ethics Commission to accept, review, investigate;
15 hold hearings; issue warnings and reprimands; and recommended actions,
16 make referrals regarding, and track complaints of alleged violations of
17 governmental conduct regulated by law, of the Department of Human
18 Resources Personnel Policy and Procedure Manual, of the State Code of
19 Ethics, and of the State’s campaign finance law set forth in 17 V.S.A. chapter
20 61; to provide ethics training; and to issue guidance and advisory opinions
21 regarding ethical conduct.

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

2 § 1222. COMMISSION MEMBER ~~DUTIES AND~~ PROHIBITED
3 CONDUCT

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

5 § 1223. PROCEDURE FOR ~~HANDLING~~ ACCEPTING AND REFERRING
6 COMPLAINTS

7 * * *

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

13 * * *

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

17 (5)(6) Closures. The Executive Director shall close any complaint that
18 he or she the Executive Director does not refer as set forth in subdivisions (1)–
19 (4)(5) of this subsection.

20 (c) Consultation on unethical conduct. If the Executive Director refers a
21 complaint under subsection (b) of this section, the Executive Director shall

1 signify any likely unethical conduct described in the complaint. Any entity
2 receiving a referred complaint, **except those in subdivision (b)(5) of this**
3 **section,** shall consult with the Commission regarding the application of the
4 State Code of Ethics to facts presented in the complaint. The consultation shall
5 be in writing and occur within 60 days after an entity receives a referred
6 complaint and prior to the entity making a determination on the complaint,
7 meaning either closing a complaint without further investigation or issuing
8 findings following an investigation.

9 (d) Confidentiality. Complaints and related documents in the custody of
10 the Commission shall be exempt from public inspection and copying under the
11 Public Records Act and kept confidential, except as provided for in section
12 1231 of this title.

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

14 § 1227. INVESTIGATIONS

15 (a) Power to investigate. The Commission, through its Executive Director,
16 may investigate public servants for alleged unethical conduct. The
17 Commission may investigate alleged unethical conduct after receiving a
18 complaint pursuant to section 1223 of this title. The Commission may also
19 investigate suspected unethical conduct without receiving any complaint.

20 (b) Initiation of investigation by Commission vote. The Executive Director
21 shall only initiate an investigation upon an affirmative vote to proceed with the

1 investigation of unethical conduct by a majority of current members of the
2 Commission who have not recused themselves.

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

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

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

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

14 (g) Timeline of investigation. An investigation shall conclude within six
15 months after either the date of the complaint received or, in the event no
16 complaint was received, the date of the investigation's initiation by the
17 Executive Director.

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

21 (i) Determination after investigation.

1 (1) Upon investigating the alleged unethical conduct, if the Executive
2 Director determines that an evidentiary hearing is warranted, the Executive
3 Director shall notify the Commission. If a majority of current members of the
4 Commission who have not recused themselves vote in concurrence with the
5 Executive Director’s determination that an evidentiary hearing is warranted,
6 the Executive Director shall prepare an investigation report specifying the
7 public servant’s alleged unethical conduct, a copy of which shall be served
8 upon the public servant and any complainant, together with the notice of
9 hearing set forth in section 1228 of this title.

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

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

15 § 1228. HEARINGS BEFORE THE COMMISSION

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

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

1 (c) Time of hearing. The Chair of the Commission shall set a time for the
2 hearing as soon as convenient following the Director’s determination that an
3 evidentiary hearing is warranted, subject to the discovery needs of the public
4 servant and any complainant as established in any prehearing or discovery
5 conference or in any orders regulating discovery and depositions, or both, but
6 not earlier than 30 days after service of the charge upon the public servant.
7 The public servant or a complainant may file motions to extend the time of the
8 hearing for good cause, which may be granted by the Chair.

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

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

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

14 (3) A reference to the particular sections of the statutes and rules
15 involved.

16 (4) A short and plain statement of the matters at issue. If the
17 Commission is unable to state the matters in detail at the time the notice is
18 served, the initial notice may be limited to a statement of the issues involved.
19 Thereafter, upon application by either the public servant or any complainant, a
20 more definite and detailed statement shall be furnished.

1 (5) A reference and copy of any rules adopted by the Commission
2 regarding the hearing’s procedures, rules of evidence, and other aspects of the
3 hearing.

4 (e) Rights of public servants and complainants. Opportunity shall be given
5 to the public servant and any complainant to be heard at the hearing, present
6 evidence, respond to evidence, and argue on all issues related to the alleged
7 unethical misconduct.

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

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

14 § 1229. WARNINGS; REPRIMANDS; RECOMMENDED ACTIONS;

15 AGREEMENTS

16 (a) Power to issue warnings, reprimands, and recommended actions. The
17 Commission may issue warnings, reprimands, and recommended actions, not
18 inconsistent with the Vermont Constitution and laws of the State, including
19 facilitated mediation, additional training and education, referrals to counseling
20 and wellness support, or other remedial actions.

21 (b) Factors in determination.

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

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

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

14 (c) Determination after hearing.

15 (1) If a majority of current members of the Commission who have not
16 recused themselves find that the public servant committed unethical conduct as
17 specified in the investigation report the Executive Director pursuant to section
18 1227 of this title alone, the Commission shall then, in writing or stated in the
19 record, issue a warning, reprimand, or recommended action.

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

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

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

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

18 (f) Power to enter into resolution agreements.

19 (1) Notwithstanding any provisions of this chapter to the contrary, the
20 Commission may, by a majority vote of its current members who have not

1 recused themselves, enter into a resolution agreement with a public servant
2 who is the subject of a complaint or investigation.

3 (2) A resolution agreement shall:

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

6 (B) be in writing; and

7 (C) be executed by both the public servant and Executive Director.

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

16 (4) The Commission shall create a summary of any resolution
17 agreement. A summary of any resolution agreement shall be a public record
18 subject to public inspection and copying under the Public Records Act. A
19 resolution agreement shall be exempt from public inspection and copying
20 under the Public Records Act and shall be considered confidential.

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

2 § 1230. PROCEDURE; RULEMAKING

3 (a) Procedure. Unless otherwise controlled by statute or rules adopted by
4 the Commission, the Vermont Rules of Civil Procedure and the Vermont Rules
5 of Evidence shall apply in the Commission’s investigations and hearings.

6 (b) Rulemaking. The Commission shall adopt rules pursuant to 3 V.S.A.
7 chapter 25 regarding procedural and evidentiary aspects of the Commission’s
8 investigations and hearings.

9 (c) Waiver of rules. To prevent unnecessary hardship, delay, or injustice,
10 or for other good cause, a vote of two-thirds of the Commission’s members
11 present and voting may waive the application of a rule upon such conditions as
12 the Chair may require, unless precluded by rule or by statute.

13 (d) Subpoenas and oaths. The Commission, the Executive Director, and
14 the Commission’s legal counsel and investigators shall have the power to issue
15 subpoenas and administer oaths in connection with any investigation or
16 hearing, including compelling the provision of materials or the attendance of
17 witnesses at any investigation or hearing. The Commission, the Executive
18 Director, and the Commissioner’s legal counsel shall seek voluntary
19 compliance prior to issuing a subpoena, except in cases where there is
20 reasonable suspicion that materials will not be produced in a timely manner.

21 The Commission, the Executive Director, and the Commission’s legal counsel

1 and investigators may take or cause depositions to be taken as needed in any
2 investigation or hearing.

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

4 § 1231. RECORDS; CONFIDENTIALITY

5 (a) Intent. It is the intent of this section both to protect the reputation of
6 public servants from public disclosure of frivolous complaints against them
7 and to fulfill the public's right to know any unethical conduct committed by a
8 public servant that results in issued warnings, reprimands, or recommended
9 actions.

10 (b) Public records. Except as where otherwise provided in this chapter,
11 public records relating to the Commission's handling of complaints, alleged
12 unethical conduct, investigations, proceedings, and executed resolution
13 agreements are exempt from public inspection and copying under the Public
14 Records Act and shall be kept confidential, except those public records
15 required or permitted to be released under this chapter. Records subject to
16 public inspection and copying under the Public Records Act shall include:

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

20 (2) at the request of the public servant or the public servant's designated
21 representative, investigation reports relating to alleged unethical conduct

1 determined to not warrant a hearing pursuant to section 1227 of this title, but
2 not any undisclosed records gathered or created in the course of an
3 investigation;

4 (3) evidence produced in the open and public portions of Commission
5 hearings;

6 (4) any warnings, reprimands, and recommendations issued by the
7 Commission;

8 (5) any summaries of executed resolution agreements; and

9 (6) any records, as determined by the Commission, that support a
10 warning, reprimand, recommendation, or summary of an executed resolution
11 agreement, including consultations created pursuant to subsection 1223(c) of
12 this title and investigation reports in accordance with subdivisions (1) and (2)
13 of this subsection.

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

19 * * * State Ethics Commission Membership * * *

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

21 (b) Membership.

1 (1) The Commission shall be staffed by an Executive Director who shall
2 be appointed by and serve at the pleasure of the Commission ~~and who shall be~~
3 ~~a part time exempt State employee.~~

4 (2) The Executive Director shall maintain the records of the
5 Commission and shall provide administrative support as requested by the
6 Commission, in addition to any other duties required by this chapter.

7 Sec. 17. [Deleted.]

8 * * * Citation Correction * * *

9 Sec. 18. 3 V.S.A. § 1221(e) is amended to read:

10 (e) Meetings. Meetings of the Commission:

11 (1) shall be held at least quarterly for the purpose of the Executive
12 Director updating the Commission on ~~his or her~~ the Executive Director's work;

13 (2) may be called by the Chair and shall be called upon the request of
14 any other two Commission members; and

15 (3) shall be conducted in accordance with ~~1 V.S.A. § 172~~ 1 V.S.A.
16 § 310 et seq.

17 * * * Ethics Data Collection * * *

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

19 § 1226. ETHICS DATA COLLECTION; COMMISSION REPORTS

20 (a) Annually, on or before November 15, the following entities shall report
21 to the State Ethics Commission aggregate data on ethics complaints not

1 submitted to the Commission, with the complaints separated by topic, and the
2 disposition of those complaints, including any prosecution, enforcement action,
3 or dismissal:

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

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

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

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

14 (5) the Judicial Conduct Board, of alleged unethical conduct committed
15 by a judicial officer;

16 (6) the Professional Responsibility Board, of alleged unethical conduct
17 committed by an attorney employed by the State; and

18 (7) the Office of the State Court Administrator, of complaints alleging
19 conduct that violates the ethical provisions of the Judicial Branch Personnel
20 Policy or of the State Code of Ethics, including for attorneys employed by the
21 State.

1 ~~policies to apply to all elected and appointed officials and employees of the~~
2 ~~municipality, or both.~~ [Repealed.]

3 * * *

4 * * * Creation of Municipal Code of Ethics * * *

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

6 CHAPTER 60. MUNICIPAL CODE OF ETHICS

7 § 1991. DEFINITIONS

8 As used in this chapter:

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

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

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

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
20 municipal officer or such an interest, known to the officer, of a member of the
21 officer’s immediate family or household, or of a business associate, in the

1 outcome of a particular matter pending before the officer or the officer’s public
2 body, or that is in conflict with the proper discharge of the officer’s duties.

3 “Conflict of interest” does not include any interest that is not greater than that
4 of other individuals generally affected by the outcome of a matter.

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

7 (7) “Designated complaint recipient” means:

8 (A) a department head or employee specifically designated or
9 assigned to receive a complaint that constitutes protected activity, as set forth
10 in section 1997 of this title;

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

12 (C) the Vermont State Auditor;

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

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

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

18 (G) the legislative body of the municipality, the General Assembly or
19 the U.S. Congress; or

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

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

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

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

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

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

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

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

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

18 (11) “Legislative body” means the selectboard in the case of a town, the
19 mayor, alderpersons, and city council members in the case of a city, the
20 president and trustees in the case of an incorporated village, the members of

1 the prudential committee in the case of a fire district, and the supervisor in the
2 case of an unorganized town or gore.

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

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

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

6 (C) any individual who holds the position of, or exercises the
7 function of, any of the following positions in or on behalf of any municipality:

8 (i) advisory budget committee member;

9 (ii) auditor;

10 (iii) building inspector;

11 (iv) cemetery commissioner;

12 (v) chief administrative officer;

13 (vi) clerk;

14 (vii) collector of delinquent taxes;

15 (viii) department heads;

16 (ix) first constable;

17 (x) lister or assessor;

18 (xi) mayor;

19 (xii) moderator;

20 (xiii) planning commission member;

21 (xiv) road commissioner;

1 (xv) town or city manager;

2 (xvi) treasurer;

3 (xvii) village or town trustee;

4 (xviii) trustee of public funds; or

5 (xix) water commissioner.

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

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

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

11 (16) “Retaliatory action” includes any adverse performance or
12 disciplinary action, including discharge, suspension, reprimand, demotion,
13 denial of promotion, imposition of a performance warning period, or
14 involuntary transfer or reassignment; that is given in retaliation for the
15 protected employee’s involvement in a protected activity, as set forth in section
16 1997 of this title.

17 § 1992. CONFLICTS OF INTEREST

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

1 (b) Recusal.

2 (1) If a municipal officer is confronted with a conflict of interest or the
3 appearance of one, the officer shall immediately recuse themselves from the
4 matter, except as otherwise provided in subdivisions (2) and (5) of this
5 subsection, and not take further action on the matter or participate in any way
6 or act to influence a decision regarding the matter. After recusal, an officer
7 may still take action on the matter if the officer is a party, as defined by section
8 1201 of this title, in a contested hearing or litigation and acts only in the
9 officer’s capacity as a member of the public. The officer shall make a public
10 statement explaining the officer’s recusal.

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

14 (i) determines there is good cause for the officer to proceed,
15 meaning:

16 (I) the conflict is amorphous, intangible, or otherwise
17 speculative;

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

20 (III) the action to be taken by the officer is purely ministerial
21 and does not involve substantive decision-making; and

1 (ii) the officer submits a written nonrecusal statement to the
2 legislative body of the municipality regarding the nature of the conflict that
3 shall:

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

5 (II) include a description of the nature of the potential conflict
6 or actual conflict of interest;

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

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

12 (V) be signed by the municipal officer.

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

19 (C) Notwithstanding subsection (A) of this subdivision (2), a
20 municipal officer shall not continue to act in a matter involving the officer’s
21 conflict of interest or appearance of a conflict of interest if authority granted to

1 another official or public body elsewhere under law is exercised to preclude
2 the municipal officer from continuing to act in the matter.

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

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

12 (5) If, at a meeting of a public body, an officer becomes aware of a
13 conflict of interest or the appearance of a conflict of interest for the officer and
14 the officer determines there is good cause to proceed, the officer may proceed
15 with the matter after announcing and fully stating the conflict on the record.

16 The officer shall submit a written nonrecusal statement pursuant to subdivision
17 (2) of this subsection within five business days after the meeting. The meeting
18 minutes shall be subsequently amended to reflect the submitted written
19 nonrecusal statement.

20 (c) Authority to inquire about conflicts of interest. If a municipal officer is
21 a member of a public body, the other members of that body shall have the

1 authority to inquire of the officer about any possible conflict of interest or any
2 appearance of a conflict of interest and to recommend that the member recuse
3 themselves from the matter.

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

7 § 1993. PROHIBITED CONDUCT

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

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

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

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

16 (b) Preferential treatment. A municipal officer shall act impartially and not
17 unduly favor or prejudice any person in the course of conducting official
18 business. An officer shall not give, or represent an ability to give, undue
19 preference or special treatment to any person because of the person's wealth,
20 position, or status or because of a person's personal relationship with the
21 officer, unless otherwise permitted or required by State or federal law.

1 (c) Misuse of position. A municipal officer shall not use the officer’s
2 official position for the personal or financial gain of the officer, a member of
3 the officer’s immediate family or household, or the officer’s business
4 associate.

5 (d) Misuse of information. A municipal officer shall not use nonpublic or
6 confidential information acquired during the course of official business for
7 personal or financial gain of the officer or for the personal or financial gain of
8 a member of the officer’s immediate family or household or of an officer’s
9 business associate.

10 (e) Misuse of government resources. A municipal officer shall not make
11 use of a town’s, city’s, or village’s materials, funds, property, personnel,
12 facilities, or equipment, or permit another person to do so, for any purpose
13 other than for official business unless the use is expressly permitted or required
14 by State law; ordinance; or a written agency, departmental, or institutional
15 policy or rule. An officer shall not engage in or direct another person to
16 engage in work other than the performance of official duties during working
17 hours, except as permitted or required by law or a written agency,
18 departmental, or institutional policy or rule.

19 (f) Gifts.

20 (1) No person shall offer or give to a municipal officer or candidate, or
21 the officer’s or candidate’s immediate family, anything of value, including a

1 gift, loan, political contribution, reward, or promise of future employment
2 based on any understanding that the vote, official action, or judgment of the
3 municipal officer or candidate would be, or had been, influenced thereby.

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

9 (3) Nothing in subdivision (1) or (2) of this subsection shall be
10 construed to apply to any campaign contribution that is lawfully made to a
11 candidate or candidate’s committee pursuant to 17 V.S.A. chapter 61 or to
12 permit any activity otherwise prohibited by 13 V.S.A. chapter 21.

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

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

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

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

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

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

5 § 1994. GUIDANCE AND ADVISORY OPINIONS

6 (a) Guidance.

7 (1) The Executive Director of the State Ethics Commission may provide
8 guidance only to a municipal officer and only with respect to the officer's
9 duties regarding any provision of this chapter or regarding any other issue
10 related to governmental ethics.

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

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

16 (b) Advisory opinions.

17 (1) On the written request of any municipal officer, the Executive
18 Director may issue an advisory opinion to that officer that provides general
19 advice or interpretation with respect to the officer's duties regarding any
20 provision of this chapter or regarding any other issue related to governmental
21 ethics.

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

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

5 (4) The Executive Director shall post on the Commission’s website any
6 advisory opinions that the Executive Director issues. Personally identifiable
7 information is exempt from public inspection and copying under the Public
8 Records Act and shall be kept confidential unless the municipal officer who is
9 the subject of the advisory opinion authorizes the publication of the personally
10 identifiable information.

11 § 1995. ETHICS TRAINING

12 (a) Initial ethics training. Within 120 days after the election or
13 appointment of a member of a legislative body or a quasi-judicial body, or a
14 chief administrative officer, mayor, town or city manager, that individual shall
15 complete ethics training, as approved by the State Ethics Commission. A
16 municipality shall make a reasonable effort to provide training to all other
17 municipal officers. The officer, the officer’s employer, or another individual
18 designated by the municipality shall document the officer’s completed ethics
19 training.

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

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

14 (d) Training provided by the Commission.

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

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

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

12 § 1996. **DUTIES OF MUNICIPALITIES**

13 Each municipality shall:

14 (1) Ensure that the following are posted on the town’s, city’s, or
15 village’s website or, if no such website exists, ensure that a copy of each is
16 received by all municipal officers and is made available to the public upon
17 request:

18 (A) the Municipal Code of Ethics;

19 (B) procedures for the investigation and enforcement of complaints
20 that allege a municipal officer has violated the Municipal Code of Ethics, as
21 required by section 1997 of this title; and

1 (C) any supplemental or additional ordinances, rules, and personnel
2 policies regarding ethics adopted by a municipality.

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) Maintain a record of received complaints and the disposition of each
8 complaint made against a municipal officer for the duration of the municipal
9 officer’s service plus a minimum of five years.

10 (5) Upon request of the State Ethics Commission, promptly provide the
11 State Ethics Commission with a summary of complaints received by the
12 municipality and the outcome of each complaint, but excluding any personally
13 identifiable information.

14 § 1997. ENFORCEMENT AND REMEDIES

15 Each municipality shall adopt, by ordinance, rule, or personnel policy,
16 procedures for the investigation of complaints that allege a municipal officer
17 has violated the Municipal Code of Ethics and the enforcement in instances of
18 substantiated complaints, including methods of enforcement and available
19 remedies.

20 § 1998. WHISTLEBLOWER PROTECTION

21 (a) Protected activity.

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

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

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

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

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

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

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

8 (b) Communications with legislative bodies of municipalities and the
9 General Assembly.

10 (1) No entity of a municipality may prohibit a protected employee from
11 engaging in discussion with a member of a legislative body or the General
12 Assembly or from testifying before a committee of a municipality or a
13 committee of the General Assembly; provided, however, that a protected
14 employee may not divulge confidential information, and an employee shall be
15 clear that the employee is not speaking on behalf of an entity of a municipality.

16 (2) No protected employee shall be subject to discipline, discharge,
17 discrimination, or other adverse employment action as a result of the employee
18 providing information to a member of a legislative body, a legislator, or a
19 committee of a municipality or a committee of the General Assembly;
20 provided, however, that the protected employee does not divulge confidential
21 information and that the employee is clear that the employee is not speaking on

1 behalf of any entity of the municipality. The protections set forth in this
2 section shall not apply to statements that constitute hate speech or threats of
3 violence against a person.

4 (3) In the event that an appearance before a committee of a municipality
5 or committee of the General Assembly will cause a protected employee to miss
6 work, the employee shall request to be absent from work and shall provide as
7 much notice as is reasonably possible. The request shall be granted unless
8 there is good cause to deny the request. If a request is denied, the decision and
9 reasons for the denial shall be in writing and shall be provided to the protected
10 employee in advance of the scheduled appearance. The protections set forth in
11 this subsection (b) are subject to the efficient operation of municipal
12 government, which shall prevail in any instance of conflict.

13 (c) Enforcement and preemption.

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

19 (2) A protected employee who files a claim of retaliation for protected
20 activity with the Vermont Labor Relations Board or through binding

1 arbitration under a grievance procedure or similar process available to the
2 employee may not bring such a claim in Superior Court.

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

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

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

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

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

14 (4) other compensatory damages;

15 (5) interest on back pay;

16 (6) appropriate injunctive relief; and

17 (7) reasonable costs and attorney's fees.

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

1 (f) Limitations of actions. An action alleging a violation of this section
2 brought under a grievance procedure or similar process shall be brought within
3 the period allowed by that process or procedure. An action brought in Superior
4 Court shall be brought within 180 days following the date of the alleged
5 retaliatory action.

6 § 1999. MUNICIPAL CHARTERS; SUPPLEMENTAL ETHICS POLICIES

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

10 (b) A municipality may adopt additional ordinances, rules, and personnel
11 policies regarding ethics, provided that these are not in conflict with the
12 provisions of this chapter.

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

14 Sec. 23. INITIAL ETHICS TRAINING FOR IN-OFFICE MUNICIPAL
15 OFFICERS

16 On or before September 30, 2025, all municipal officers shall complete
17 ethics training, which may be in person or online, as approved by the State
18 Ethics Commission, unless they have otherwise completed ethics training
19 pursuant to 24 V.S.A § 1995 (ethics training). The State Ethics Commission
20 shall require ethics training to be designed in a manner as to achieve improved
21 competency in the subject matter rather than rely on fixed hours of training as

1 a measure of completed training. The officer, the officer’s employer, or
2 another individual designated by the municipality shall document the officer’s
3 completed ethics training.

4 * * * Effective Dates * * *

5 Sec. 24. EFFECTIVE DATES

6 This act shall take effect on passage, except that Sec. 13 (adding 3 V.S.A.
7 § 1230) shall take effect on July 1, 2025, Secs. 7 (amending 3 V.S.A.
8 § 1221(a)), 8 (amending 3 V.S.A. § 1222), 9 (amending 3 V.S.A. § 1223),
9 10 (adding 3 V.S.A. § 1227), 11 (adding 3 V.S.A. § 1228), 12 (adding
10 3 V.S.A. § 1229), and 14 (adding 3 V.S.A. § 1231) shall take effect on
11 September 1, 2025, and Sec. 1 (amending 17 V.S.A. § 2414) shall take effect
12 on January 1, 2026.

13

14 (Committee vote: _____)

15

16

Senator _____

17

FOR THE COMMITTEE