

1 Introduced by Committee on Government Operations and Military Affairs

2 Date:

3 Subject: Executive; governmental ethics; State Ethics Commission; State Code
4 of Ethics

5 Statement of purpose of bill as introduced: This bill proposes to require that
6 certain county officers both running for and holding office file financial
7 disclosures. It will create penalties for delinquent disclosures for candidates
8 for State office, county office, State Senator, and State Representative. This
9 bill will grant the State Ethics Commission powers to perform supplemental
10 investigations and hearings and to issue warnings, reprimands, and
11 recommended actions. It will create a full-time, exempt Legal Counsel
12 position in the State Ethics Commission and reclassify the Executive Director
13 of the State Ethics Commission from a part-time to a full-time, exempt State
14 employee. This bill will add a member to the State Ethics Commission to be
15 appointed by the Vermont League of Cities and Towns.

16 An act relating to the State Ethics Commission and the State Code of Ethics

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Candidate Financial Disclosure Requirements * * *

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

4 § 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;

5 DISCLOSURE FORM

6 (a) Each candidate for State office, county office, State Senator, or State
7 Representative shall file with the officer with whom consent of candidate
8 forms are filed, along with ~~his or her~~ the candidate's consent, a disclosure form
9 prepared by the State Ethics Commission that contains the following
10 information in regard to the previous calendar year 12 months:

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

16 (A) employment, including the officer's employer or business name
17 and address; and;

18 (B) if self-employed, a description of the nature of the self-
19 employment without needing to disclose any individual clients, including:

20 (i) the names of any clients, known to the candidate or the
21 candidate's domestic partner to have had business before any municipal or

1 State office, department, or agency, provided that the disclosed information is
2 not confidential information; and

3 (ii) the names of clients from whom the candidate or candidate's
4 spouse or domestic partner has received \$10,000.00 or more, provided that the
5 disclosed information is not confidential information; and

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

7 (2) Any any board, commission, or other entity that is regulated by law
8 or that receives funding from the State on which the candidate served and the
9 candidate's position on that entity;

10 (3)(A) Any any company of which the candidate or his or her the
11 candidate's spouse or domestic partner, or the candidate together with his or
12 her the candidate's spouse or domestic partner, owned more than 10 percent;
13 and

14 (B) the details of any loan made to any applicable company in
15 subdivision (A) of this subdivision (3) that is not a commercially reasonable
16 loan made in the ordinary course of business;

17 (4) any company of which the candidate or the candidate's spouse or
18 domestic partner, or the candidate together with the candidate's spouse or
19 domestic partner, had an ownership or controlling interest in any amount, and
20 in the previous 12 months the company had business before or with any
21 municipal or State office, agency, or department;

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

2 (A) the candidate or ~~his or her~~ the candidate's spouse or domestic
3 partner; or

4 (B) a company of which the candidate or ~~his or her~~ the candidate's
5 spouse or domestic partner, or the candidate together with ~~his or her~~ the
6 candidate's spouse or domestic partner, owned more than 10 percent;

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

10 (A) publicly traded assets valued at \$25,000.00 or more, which shall
11 be listed individually;

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

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

16 (7) the full name of the officer's spouse or domestic partner.

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

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

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

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

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

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

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

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

18 (2)(A) The Secretary of State shall post a copy of any disclosure forms
19 and tax returns ~~he or she~~ the Secretary receives under this section on ~~his or her~~
20 the Secretary's official State website. The forms shall remain posted on the
21 Secretary's website until the date of the filing deadline for petition and consent

1 forms for major party candidates for the statewide primary in the following
2 election cycle.

3 * * *

4 (e) As used in this section:

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

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

10 (3) “Domestic partner” means an individual with whom the candidate
11 has an enduring domestic relationship of a spousal nature, as long as provided
12 the candidate and the domestic partner:

13 * * *

14 (2)(4) “Lobbyist” and “lobbying firm” shall have the same meanings as
15 in 2 V.S.A. § 261.

16 * * * In-Office Financial Disclosure Requirements * * *

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

18 § 1201. DEFINITIONS

19 As used in this chapter:

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

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

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

14 (5) “County officer” means an individual holding the office of high
15 bailiff or State’s Attorney.

16 (6) “Domestic partner” means an individual in an enduring domestic
17 relationship of a spousal nature with the Executive officer or the public
18 servant, provided the individual and Executive officer or public servant:

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

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

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

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

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

7 ~~(5)(7)~~ “Executive officer” means:

8 (A) a State officer; or

9 (B) a deputy under the Office of the Governor a State officer,
10 including an agency secretary or deputy, ~~or~~ and a department commissioner or
11 deputy.

12 ~~(6)(8)~~ “Governmental conduct regulated by law” means conduct by an
13 individual in regard to the operation of State government that is restricted or
14 prohibited by law and includes:

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

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

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

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

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

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

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

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

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

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

12 ~~(7)~~(9) “Immediate family” means an individual’s spouse, domestic
13 partner, or civil union partner; child or foster child; sibling; parent; or such
14 relations by marriage or by civil union or domestic partnership; or an
15 individual claimed as a dependent for federal income tax purposes.

16 ~~(8)~~(10) “Lobbyist” and “lobbying firm” have the same meanings as in
17 2 V.S.A. § 261.

18 ~~(9)~~(11) “Person” means any individual, group, business entity,
19 association, or organization.

20 ~~(10)~~(12) “Political committee” and “political party” have the same
21 meanings as in 17 V.S.A. § 2901.

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

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

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

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

17 * * *

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

19 § 1211. EXECUTIVE OFFICERS; ANNUAL DISCLOSURE

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

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

9 (A) employment, including the officer's employer or business name
10 and address; and,

11 (B) if self-employed, a description of the nature of the self-
12 employment without needing to disclose any individual clients, including:

13 (i) the names of any clients, known to the candidate or the
14 candidate's domestic partner to have had business before any municipal or
15 State office, department, or agency, provided that the disclosed information is
16 not confidential information; and

17 (ii) the names of clients from whom the officer or officer's spouse
18 or domestic partner has received \$10,000.00 or more, provided that the
19 disclosed information is not confidential 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;

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

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

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

16 or

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

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

4 (A) publicly traded assets valued at \$25,000.00 or more, which shall
5 be listed individually;

6 (B) interests in trusts valued at \$25,000.00 or more, which shall be
7 listed individually; and

8 (C) municipal bonds issued in the State of Vermont of any value,
9 which shall be listed individually; and

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

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

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

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

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

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

8 (e) [Repealed.]

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

10 State Senator, and State Representative * * *

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

12 § 2415. FAILURE TO FILE; PENALTIES

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

18 (1) The State Ethics Commission, after notification by the Office of the
19 Secretary of State of the names of delinquent filers, shall issue a notice of
20 delinquency to the candidate for State office, county office, State Senator, or
21 State Representative for any disclosure required of a candidate for State office,

1 county office, State Senator, or State Representative by section 2414 of this
2 title that is not filed in the time and manner set forth in sections 2356, 2361,
3 and 2402 of this title.

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

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

13 (4) The State Ethics Commission may reduce or waive any penalty
14 imposed under this section if the candidate for State office, county office, State
15 Senator, or State Representative demonstrates good cause, as determined by
16 the State Ethics Commission and in the sole discretion of the State Ethics
17 Commission.

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

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

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

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

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

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

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

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

11 § 1222. COMMISSION MEMBER ~~DUTIES AND~~ PROHIBITED
12 CONDUCT

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

14 § 1223. PROCEDURE FOR ~~HANDLING~~ ACCEPTING AND REFERRING
15 COMPLAINTS

16 * * *

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

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

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

§ 1227. INVESTIGATIONS

(a) Power to investigate. The Commission, through its Executive Director, may investigate public servants for alleged unethical conduct. The Commission may investigate either without receiving a complaint or after being referred a complaint to the Commission pursuant to section 1223 of this title.

(b) Executive Director and Chair must agree. The Commission shall only initiate an investigation upon the agreement of the Executive Director and the Chair of the Commission.

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

(d) Outside legal counsel and investigators. The Executive Director may appoint legal counsel, who shall be an attorney admitted to practice in this

1 State, and investigators to assist with investigations, hearings, and issuance of
2 warnings, reprimands, and recommended actions.

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

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

7 (g) Timeline of investigation. An investigation shall conclude within three
8 months either the date of the complaint received or, in the event no complaint
9 was received, the date of the investigation’s initiation by the Executive
10 Director, whichever is earlier.

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

14 (i) Determination after investigation.

15 (1) Upon investigating the alleged unethical conduct, if the Executive
16 Director determines that an evidentiary hearing is warranted, and the Chair of
17 the Commission agrees, the Executive Director shall notify the Commission
18 and prepare an investigation report specifying the public servant’s alleged
19 unethical conduct, a copy of which shall be served upon the public servant and
20 any complainant, together with the notice of hearing set forth in section 1228
21 of this title.

1 (2) 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, the public servant, and any complainant,
4 in writing, of the result of the investigation and the termination of proceedings.

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

6 § 1228. HEARINGS BEFORE THE COMMISSION

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

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

13 (c) Time of hearing. The Chair of the Commission shall set a time for the
14 hearing as soon as convenient following the Director's determination that an
15 evidentiary hearing is warranted, subject to the discovery needs of the parties
16 as established in any prehearing or discovery conference or in any orders
17 regulating discovery and depositions, or both, but not earlier than 30 days after
18 service of the charge upon the public official. The public servant or a
19 complainant may file motions to extend the time of the hearing for good cause,
20 which may be granted by the Chair.

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

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

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

6 (3) A reference to the particular sections of the statutes and rules
7 involved.

8 (4) A short and plain statement of the matters at issue. If the
9 Commission is unable to state the matters in detail at the time the notice is
10 served, the initial notice may be limited to a statement of the issues involved.
11 Thereafter, upon application by either party, a more definite and detailed
12 statement shall be furnished.

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

16 (e) Rights of parties. Opportunity shall be given to the public servant and
17 any complainant to be heard at the hearing, present evidence, respond to
18 evidence, and argue on all issues related to the alleged unethical misconduct.

19 (f) Executive session. In addition to the provisions of 1 V.S.A. § 313(a),
20 the Commission may enter executive session if the Commission deems it
21 appropriate in order to protect the confidentiality of an individual or any other

1 protected information pertaining to any identifiable person that is otherwise
2 confidential under State or federal law.

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

4 § 1229. WARNINGS; REPRIMANDS; RECOMMENDED ACTIONS

5 (a) Power to issue warnings, reprimands, and recommended actions. The
6 Commission may issue warnings, reprimands, and recommended actions, not
7 inconsistent with the Vermont Constitution and laws of the State, including
8 facilitated mediation, additional training and education, referrals to counseling
9 and wellness support, or other remedial actions.

10 (b) Factors in determination.

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

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

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

4 (c) Determination after hearing.

5 (1) If a majority of the members of the Commission present and voting
6 find that the public servant committed unethical conduct as specified in the
7 investigation report the Executive Director pursuant to section 1227 of this title
8 alone, the Commission shall then, in writing or stated in the record, issue a
9 warning, reprimand, or recommended action.

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

13 (3) When a determination or order is approved for issue by a board or
14 commission, the decision or order may be signed by the chair on behalf of the
15 issuing board or commission.

16 (d) Timeline for determination. The Commission will shall make its
17 determination within 30 days after concluding the Commission’s last hearing
18 under this section. Parties shall be notified forthwith either personally or by
19 mail of the Committee’s determination and of any warning, reprimand, or
20 recommended action.

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

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

7 § 1230. PROCEDURE; RULEMAKING

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

11 (b) Rulemaking. The Commission shall adopt rules pursuant to 3 V.S.A.
12 chapter 25 that, regarding procedural and evidentiary aspects of the
13 Commission’s investigations and hearings, are necessary to carry out the
14 provisions of this chapter.

15 (c) Waiver of rules. To prevent unnecessary hardship, delay, or injustice,
16 or for other good cause, a vote of two-thirds of the Commission’s members
17 may waive the application of a rule upon such conditions as the Chair may
18 require, unless precluded by rule or by statute.

19 (d) Subpoenas and oaths. The Commission shall have the power to issue
20 subpoenas and administer oaths in connection with any investigation or
21 hearing, including compelling the provision of materials or the attendance of

1 witnesses at any investigation or hearing. The Commission may take or cause
2 depositions to be taken as needed in any investigation or hearing.

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

4 § 1231. RECORD; 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. Public records relating to the Commission's handling
11 of complaints, alleged unethical conduct, investigations, and proceedings are
12 exempt from public inspection and copying under the Public Records Act and
13 shall be kept confidential, except those public records required or permitted to
14 be released under this chapter. Records subject the public inspection and
15 copying under the Public Records Act shall include:

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

20 (2) evidence produced in the open and public portions of Commission
21 hearings; and

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

8 * * * State Ethics Commission Membership * * *

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

10 (b) Membership.

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

13 (A) one member, appointed by the Chief Justice of the Supreme
14 Court;

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

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

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

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

4 (F) one member, appointed by the Vermont League of Cities and
5 Towns.

6 * * *

7 * * * State Ethics Commission Staffing * * *

8 Sec. 16. 3 V.S.A. § 1221(c) is amended to read:

9 (c) Executive Director.

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

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

16 Sec. 17. STATE ETHICS COMMISSION; POSITIONS; APPROPRIATION

17 (a) The position of one new, permanent, full-time, exempt Legal Counsel is
18 created in the State Ethics Commission.

19 (b) The Executive Director of the State Ethics Commission shall be
20 reclassified as a full-time, exempt State employee.

1 (c) The position of Administrative Assistant in the State Ethics
2 Commission shall be reclassified as a full-time, exempt State employee.

3 (d) The sum of \$150,000.00 is appropriated to the State Ethics Commission
4 from the General Fund in fiscal year 2025 for the creation of the position of
5 Legal Counsel in the State Ethics Commission.

6 (e) The sum of \$150,000.00 is appropriated to the State Ethics Commission
7 from the General Fund in fiscal year 2025 for the reclassification of the
8 position of Executive Director in the State Ethics Commission.

9 (f) The sum of \$57,000.00 is appropriated to the State Ethics Commission
10 from the General Fund in fiscal year 2025 for the reclassification of the
11 position of Administrative Assistant in the State Ethics Commission.

12 * * * Citation Correction * * *

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

14 (e) Meetings. Meetings of the Commission:

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

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

19 (3) shall be conducted in accordance with ~~1 V.S.A. § 172~~ 1 V.S.A.
20 § 310 et seq.

21 * * * Ethics Data Collection * * *

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

2 § 1226. ETHICS DATA COLLECTION; COMMISSION REPORTS

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

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

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

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

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

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

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

1 (7) the Office of the State Court Administrator, of complaints alleging
2 conduct that violates the ethical provisions of the Judicial Branch Personnel
3 Policy or of the State Code of Ethics, including for attorneys employed by the
4 State.

5 (b) Annually, on or before January 15, the State Ethics Commission shall
6 report to the General Assembly regarding the following issues:

7 (1) Complaints.

8 (A) The number and a summary of the complaints made to ~~the~~ the
9 Commission, separating the complaints by topic, and the disposition of those
10 complaints, including any prosecution, enforcement action, or dismissal. This
11 summary of complaints shall not include any personal identifying information.

12 (B) The number and a summary of the complaints data received by
13 the Commission pursuant to subsection (a) of this section.

14 * * *

15 * * * Effective Dates * * *

16 Sec. 20. EFFECTIVE DATES

17 This act shall take effect on passage, except that Sec. 1 (amending
18 17 V.S.A. § 2414) shall take effect on January 1, 2026.