

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 proposes to modify disclosure requirements for certain elected  
8 officers both running for and holding office. This bill will create penalties for  
9 delinquent disclosures for candidates for State office, county office, State  
10 Senator, and State Representative. It will grant the State Ethics Commission  
11 powers to perform supplemental investigations and hearings and to issue  
12 warnings, reprimands, and recommended actions. This bill will create a full-  
13 time, exempt Legal Counsel position in the State Ethics Commission and  
14 reclassify the Executive Director of the State Ethics Commission from a part-  
15 time to a full-time, exempt State employee. It will also add a member to the  
16 State Ethics Commission to be appointed by the Vermont League of Cities and  
17 Towns.

18 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 candidate's employer or business  
17 name 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 the  
20 names of any clients, known to the candidate or the candidate's domestic  
21 partner, whose principal business activities are regulated by or that have a

1 contract with any municipal or State office, department, or agency, provided  
2 that the disclosed information is not confidential 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 candidate served and the  
6 candidate’s position on that entity;

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

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

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

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

20 (A) the candidate or ~~his or her~~ the candidate’s spouse or domestic  
21 partner; or

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

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

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

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

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

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

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

18           (c) In addition, each candidate for State office shall attach to the disclosure  
19 form described in subsection (a) of this section a copy of ~~his or her~~ the  
20 candidate's most recent U.S. Individual Income Tax Return Form 1040;

1 provided, however, that the candidate may redact from that form the following  
2 information:

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

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

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

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

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

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

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

21 \* \* \*

1 (e) As used in this section:

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

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

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

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

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

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

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

17 \* \* \*

18 ~~(2)~~(5) “Lobbyist” and “lobbying firm” shall have the same meanings as  
19 in 2 V.S.A. § 261.

20 \* \* \* In-Office Financial Disclosure Requirements \* \* \*

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

1 § 1201. DEFINITIONS

2 As used in this chapter:

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

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

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

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

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

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

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

13                   (A) a State officer; or

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

15 including an agency secretary or deputy, ~~or~~ and a department commissioner or  
16 deputy.

17           ~~(6)~~(8) “Governmental conduct regulated by law” means conduct by an  
18 individual in regard to the operation of State government that is restricted or  
19 prohibited by law and includes:

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



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

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

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

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

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

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

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

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

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

18 ~~(7)~~(9) “Immediate family” means an individual’s spouse, domestic  
19 partner, or civil union partner; child or foster child; sibling; parent; or such  
20 relations by marriage or by civil union or domestic partnership; or an  
21 individual claimed as a dependent for federal income tax purposes.

1           ~~(8)~~(10) “Lobbyist” and “lobbying firm” have the same meanings as in  
2           2 V.S.A. § 261.

3           ~~(9)~~(11) “Person” means any individual, group, business entity,  
4           association, or organization.

5           ~~(10)~~(12) “Political committee” and “political party” have the same  
6           meanings as in 17 V.S.A. § 2901.

7           (13) “Public servant” means an individual elected or appointed to serve  
8           as a State officer, an individual elected or appointed to serve as a member of  
9           the General Assembly, a State employee, an individual appointed to serve on a  
10          State board or commission, or an individual who in any other way is  
11          authorized to act or speak on behalf of the State.

12          ~~(11)~~(14) “State officer” means the Governor, Lieutenant Governor,  
13          Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

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

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, known to the candidate or the candidate's domestic  
19 partner, whose principal business activities are regulated by or that have a  
20 contract with any municipal or State office, department, or agency, provided  
21 that the disclosed information is not confidential information; ~~and~~

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

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

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

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

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

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

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

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

1           (6) a description, but not amount, to the best of the officer's knowledge,  
2           of the following investments held by an officer or the officer's spouse or  
3           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 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) Notwithstanding subdivision (3) of this subsection (a), the State  
14 Ethics Commission may reduce or waive any penalty imposed under this  
15 section if the candidate for State office, county office, State Senator, or State  
16 Representative demonstrates good cause, as determined by the State Ethics  
17 Commission and in the sole discretion of the State Ethics 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, of the State Code of  
7 Ethics, and of the State’s campaign finance law set forth in 17 V.S.A. chapter  
8 61; to provide ethics training; and to issue guidance and advisory opinions  
9 regarding ethical 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) Consultation on unethical conduct. If the Executive Director refers a complaint under subsection (b) of this section, the Executive Director shall signify any likely unethical conduct described in the complaint. Any entity receiving a referred complaint shall consult with the Commission regarding the application of the State Code of Ethics to facts presented in the complaint. **The consultation shall occur within 60 days after an entity receiving a referred complaint and prior to the entity making a determination on the complaint, meaning either closing a complaint without further investigation or issuing findings following an investigation. The Commission and the entity receiving a referred complaint shall memorialize the content of the consultation in writing.**

(d) 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 alleged unethical conduct after receiving a**

1 complaint pursuant to section 1223 of this title. The Commission may also  
2 investigate suspected unethical conduct without receiving any complaint.

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

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

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

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

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

18 (g) Timeline of investigation. An investigation shall conclude within six  
19 months of either the date of the complaint received or, in the event no  
20 complaint was received, the date of the investigation's initiation by the  
21 Executive Director.

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

4        (i) Determination after investigation.

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

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

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

19       § 1228. HEARINGS BEFORE THE COMMISSION

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

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

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

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

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

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

20            (3) A reference to the particular sections of the statutes and rules  
21       involved.

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

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

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

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

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

19          § 1229. WARNINGS; REPRIMANDS; RECOMMENDED ACTIONS;

20                   AGREEMENTS

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

6        (b) Factors in determination.

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

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

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

20        (c) Determination after hearing.



1           (1) If a majority of current members of the Commission who have not  
2 recused themselves find that the public servant committed unethical conduct as  
3 specified in the investigation report the Executive Director pursuant to section  
4 1227 of this title alone, the Commission shall then, in writing or stated in the  
5 record, issue a warning, reprimand, or recommended action.

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

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

12           (d) Timeline for determination. The Commission shall make its  
13 determination within 30 days of concluding the Commission’s last hearing  
14 under this section. Parties shall be notified forthwith either personally or by  
15 mail of the Committee’s determination and of any warning, reprimand, or  
16 recommended action. This timeline may be extended by the Commission for  
17 good cause or pursuant to an agreement made between the Commission and  
18 the public servant.

19           (e) Referral of unethical conduct. Notwithstanding subsection 1223(c) of  
20 this title, the Commission shall notify the Attorney General or the State’s  
21 Attorney of jurisdiction of any alleged violations of governmental conduct

1 regulated by law or the relevant federal agency of any alleged violations of  
2 federal law, if discovered in the course of the Commission’s investigations.

3 (f) Power to enter into resolution agreements.

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

7 (2) A resolution agreement shall:

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

10 (B) be in writing;

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

12 and

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

15 (3) A resolution agreement may be entered into at any point in time  
16 before or during Commission proceedings. Any procedural deadlines  
17 described in this chapter or rules adopted pursuant to this chapter shall be  
18 paused at the time of execution of the resolution agreement. The Executive  
19 Director shall verify compliance with the resolution agreement within three  
20 months following execution of the agreement, and if the Executive Director is

1 not satisfied that compliance has been achieved, the Commission may resume  
2 its initial proceedings.

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

4 § 1230. PROCEDURE; RULEMAKING

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

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

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

15 (d) Subpoenas and oaths. The Commission, the Executive Director, and  
16 the Commission’s legal counsel and investigators shall have the power to issue  
17 subpoenas and administer oaths in connection with any investigation or  
18 hearing, including compelling the provision of materials or the attendance of  
19 witnesses at any investigation or hearing. The Commission, the Executive  
20 Director, and the Commission’s legal counsel and investigators may take or  
21 cause depositions to be taken as needed in any investigation or hearing.

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

2 § 1231. RECORD; CONFIDENTIALITY

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

8 (b) Public Records. Public records relating to the Commission’s handling  
9 of complaints, alleged unethical conduct, investigations, and proceedings are  
10 exempt from public inspection and copying under the Public Records Act and  
11 shall be kept confidential, except those public records required or permitted to  
12 be released under this chapter. Records subject to public inspection and  
13 copying under the Public Records Act shall include:

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

18 (2) at the request of the public servant or the public servant’s designated  
19 representative, investigation reports relating to alleged unethical conduct  
20 determined to not warrant a hearing warranted pursuant to section 1227 of this

1 title, but not any undisclosed records gathered or created in the course of an  
2 investigation;

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

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

7 (5) any executed resolution agreements; and

8 (6) any records, as determined by the Commission, that support a  
9 warning, reprimand, recommendation, or executed resolution agreement.

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

15 \* \* \* State Ethics Commission Membership \* \* \*

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

17 (b) Membership.

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

20 (A) one member, appointed by the Chief Justice of the Supreme  
21 Court;

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

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

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

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

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

12 \* \* \*

13 \* \* \* State Ethics Commission Staffing \* \* \*

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

15 (c) Executive Director.

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

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

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

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

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

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

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

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

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

17 \* \* \* Citation Correction \* \* \*

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

19 (e) Meetings. Meetings of the Commission:

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

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

3           (3) shall be conducted in accordance with ~~1 V.S.A. § 172~~ 1 V.S.A.  
4 § 310 et seq.

5                                   \* \* \* Ethics Data Collection \* \* \*

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

7           § 1226. ETHICS DATA COLLECTION; COMMISSION REPORTS

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

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

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

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



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

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

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

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

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

13                  (1) Complaints.

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

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

20    \* \* \*

21    \* \* \* Effective Dates \* \* \*

1       Sec. 20. EFFECTIVE DATES

2           This act shall take effect on passage, except that Sec. 1 (amending  
3           17 V.S.A. § 2414) shall take effect on January 1, 2026 and Secs. 7 (amending  
4           3 V.S.A. § 1221(a)), 8 (amending 3 V.S.A. § 1222), 9 (amending 3 V.S.A. §  
5           1223), 10 (adding 3 V.S.A. § 1227), 11 (adding 3 V.S.A. § 1228), 12 (adding 3  
6           V.S.A. § 1229), and 14 (adding 3 V.S.A. § 1231) shall take effect on January  
7           1, 2025.