

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

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

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

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

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

20           (c) In addition, each candidate for State office shall attach to the disclosure  
21 form described in subsection (a) of this section a copy of ~~his or her~~ the

1 candidate's most recent U.S. Individual Income Tax Return Form 1040;  
2 provided, however, that the candidate may redact from that form the following  
3 information:

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

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

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

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

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

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

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

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\* \* \*

(e) As used in this section:

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

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

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

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

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

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

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

\* \* \*

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

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

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

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

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

11           § 1201. DEFINITIONS

12           As used in this chapter:

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

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

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

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

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

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

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

6           (5) “Conflict of interest” means a direct or indirect interest of a 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          (6) “County officer” means an individual holding the office of high  
15          bailiff or State’s Attorney.

16          (4)(7) “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)~~(8) “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)~~(9) “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)~~(10) “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 (11) “Investment fund” means a widely held investment fund, that is  
17 publicly traded or available and has assets that are widely diversified.  
18 Investment funds include a mutual fund, regulated investment company,  
19 common trust fund maintained by a bank or similar financial institution,  
20 pension or deferred compensation plan, and any other pooled investment fund.

1           ~~(8)~~(12) “Lobbyist” and “lobbying firm” have the same meanings as in  
2           2 V.S.A. § 261.

3           ~~(9)~~(13) “Person” means any individual, group, business entity,  
4           association, or organization.

5           ~~(10)~~(14) “Political committee” and “political party” have the same  
6           meanings as in 17 V.S.A. § 2901.

7           (15) “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)~~(16) “State officer” means the Governor, Lieutenant Governor,  
13           Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

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

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

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

21           § 1202. STATE CODE OF ETHICS; APPLICABILITY

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

7 \* \* \*

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

9 § 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF  
10 INTEREST

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

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

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

19 (3) ~~As used in this section, "conflict of interest" means a direct or~~  
20 ~~indirect interest of a public servant or such an interest, known to the public~~  
21 ~~servant, of a member of the public servant's immediate family or household, or~~

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

6 \* \* \*

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

8 § 1211. EXECUTIVE OFFICERS; ANNUAL DISCLOSURE

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

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

17 (A) ~~employment, including the~~ officer’s employer or business name  
18 and address; and,

19 (B) if self-employed, a description of the nature of the self-  
20 employment ~~without needing to disclose any individual clients, including the~~  
21 names of any clients, known to the candidate or the candidate’s domestic

1 partner, whose principal business activities are regulated by or that have a  
2 contract with any municipal or State office, department, or agency, provided  
3 that the disclosed information is not confidential information;~~and~~

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

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

8 (3)(A) ~~Any~~ any company of which the officer or ~~his or her~~ the officer’s  
9 spouse or domestic partner, or the officer together with ~~his or her~~ the officer’s  
10 spouse or domestic partner, owned more than 10 percent; 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 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) interests in investment funds valued at \$25,000.00 or more in  
8           which a candidate neither exercises control over nor has the ability to exercise  
9           control over the financial interests held by a fund, which shall be listed  
10          individually;

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

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

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

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

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

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

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

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

14 (e) [Repealed.]

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

16 State Senator, and State Representative \* \* \*

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

18 § 2415. FAILURE TO FILE; PENALTIES

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 CONDUCT

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

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

19 COMPLAINTS

20 \* \* \*



1 Public Records Act and kept confidential, except as provided for in section  
2 1231 of this title.

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

4 § 1227. INVESTIGATIONS

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

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

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

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

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

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

5       (g) Timeline of investigation. An investigation shall conclude within six  
6       months of either the date of the complaint received or, in the event no  
7       complaint was received, the date of the investigation’s initiation by the  
8       Executive Director.

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

12       (i) Determination after investigation.

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

1           (2) Upon investigating the alleged unethical conduct, if the Executive  
2           Director determines that an evidentiary hearing is not 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 public  
16          servant and any complainant as established in any prehearing or discovery  
17          conference or in any orders regulating discovery and depositions, or both, but  
18          not earlier than 30 days after service of the charge upon the public servant.

19          The public servant or a complainant may file motions to extend the time of the  
20          hearing for good cause, 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 the public servant or any complainant, a  
12           more definite and detailed 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 public servants and complainants. Opportunity shall be given  
17           to the public servant and any complainant to be heard at the hearing, present  
18           evidence, respond to evidence, and argue on all issues related to the alleged  
19           unethical misconduct.

20           (f) Executive session. In addition to the provisions of 1 V.S.A. § 313(a),  
21           the Commission may enter executive session if the Commission deems it



1 appropriate in order to protect the confidentiality of an individual or any other  
2 protected information pertaining to any identifiable person that is otherwise  
3 confidential under State or federal law.

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

5 § 1229. WARNINGS; REPRIMANDS; RECOMMENDED ACTIONS;

6 AGREEMENTS

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

12 (b) Factors in determination.

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

17 (2) Determination based on evidence. The Commission shall render its  
18 determination on the allegation on the basis of the evidence in the record  
19 before it, regardless of whether the Commission makes its determination on the  
20 investigation report of the Executive Director pursuant to section 1227 of this

1 title alone, on evidence and testimony presented in the hearing pursuant to  
2 section 1228 of this title, or on its own findings.

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

6 (c) Determination after hearing.

7 (1) If a majority of current members of the Commission who have not  
8 recused themselves find that the public servant committed unethical conduct as  
9 specified in the investigation report the Executive Director pursuant to section  
10 1227 of this title alone, the Commission shall then, in writing or stated in the  
11 record, issue a warning, reprimand, or recommended action.

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

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

18 (d) Timeline for determination. The Commission shall make its  
19 determination within 30 days of concluding the Commission's last hearing  
20 under this section and notify the public servant and any complainant of the  
21 Committee's determination. This timeline may be extended by the

1 Commission for good cause or pursuant to an agreement made between the  
2 Commission and the public servant.

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

8 (f) Power to enter into resolution agreements.

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

12 (2) A resolution agreement shall:

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

15 (B) be in writing;

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

17 and

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

20 (3) A resolution agreement may be entered into at any point in time  
21 before or during Commission proceedings. Any procedural deadlines

1 described in this chapter or rules adopted pursuant to this chapter shall be  
2 paused at the time of execution of the resolution agreement. The Executive  
3 Director shall verify compliance with the resolution agreement within three  
4 months following execution of the agreement, and if the Executive Director is  
5 not satisfied that compliance has been achieved, the Commission may resume  
6 its initial proceedings.

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

8 § 1230. PROCEDURE; RULEMAKING

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

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

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

19 (d) Subpoenas and oaths. The Commission, the Executive Director, and  
20 the Commission’s legal counsel and investigators shall have the power to issue  
21 subpoenas and administer oaths in connection with any investigation or

1 hearing, including compelling the provision of materials or the attendance of  
2 witnesses at any investigation or hearing. The Commission, the Executive  
3 Director, and the Commission’s legal counsel and investigators may take or  
4 cause depositions to be taken as needed in any investigation or hearing.

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

6 § 1231. RECORD; CONFIDENTIALITY

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

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

18 (1) consultations, pursuant to section 1223 of this title;

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

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

10 (5) any warnings, reprimands, and recommendations issued by the  
11 Commission;

12 (6) any executed resolution agreements; and

13 (7) any records, as determined by the Commission, that support a  
14 warning, reprimand, recommendation, or executed resolution agreement.

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

20 \* \* \* State Ethics Commission Membership \* \* \*

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

1 (b) Membership.

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

4 (A) one member, appointed by the Chief Justice of the Supreme  
5 Court;

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

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

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

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

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

17 \* \* \*

18 \* \* \* State Ethics Commission Staffing \* \* \*

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

20 (c) Executive Director.

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. STATE ETHICS COMMISSION; POSITIONS; APPROPRIATION

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

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

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

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

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





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

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

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

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

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

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

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

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

21               (1) Complaints.

