1	TO THE HONORABLE SENATE:
2	The Committee on Government Operations to which was referred Senate
3	Bill No. 184 entitled "An act relating to establishing a State Ethics
4	Commission" respectfully reports that it has considered the same and
5	recommends that the bill be amended by striking out all after the enacting
6	clause and inserting in lieu thereof the following:
7	* * * Former Legislators; Lobbying Restriction * * *
8	Sec. 1. 2 V.S.A. § 266 is amended to read:
9	§ 266. PROHIBITED CONDUCT
10	* * *
11	(b) A legislator, for one year after leaving office, shall not be a lobbyist in
12	this State.
13	(c) As used in this section, "candidate's committee," "contribution," and
14	"legislative leadership political committee" shall have the same meanings as in
15	17 V.S.A. § 2901 chapter 61 (campaign finance).
16	* * * Former Executive Officers; Post-Employment Restrictions * * *
17	Sec. 2. 3 V.S.A. § 267 is added to read:
18	§ 267. EXECUTIVE OFFICERS; POST-EMPLOYMENT RESTRICTIONS
19	(a) Prior participation while in State employ.
20	(1) An Executive officer, for one year after leaving office, shall not, for
21	pecuniary gain, be an advocate for any private entity before any public body or

1	the General Assembly or its committees regarding any particular matter in
2	which:
3	(i) the State is a party or has a direct and substantial interest; and
4	(ii) the Executive officer had participated personally and
5	substantively while in State employ.
6	(2) The prohibition set forth in subdivision (1) of this subsection applies
7	to any matter the Executive officer directly handled, supervised, or managed or
8	gave substantial input, advice, or comment or benefited from, either through
9	discussing, attending meetings on, or reviewing materials prepared regarding
10	the matter.
11	(b) Prior official responsibility. An Executive officer, for one year after
12	leaving office, shall not, for pecuniary gain, be an advocate for any private
13	entity before any public body or the General Assembly or its committees
14	regarding any particular matter in which the officer had exercised any official
15	responsibility.
16	(c) Public body enforcement. A public body shall disqualify a former
17	Executive officer from his or her appearance or participation in a particular
18	matter if the officer's appearance or participation is prohibited under this
19	section.

1	(d) Definitions. As used in this section:
2	(1) "Executive officer" means:
3	(A) the Governor, Lieutenant Governor, Treasurer, Secretary of
4	State, Auditor of Accounts, or Attorney General; or
5	(B) under the Office of the Governor, an agency secretary or deputy
6	or a department commissioner or deputy.
7	(2) "Private entity" means any person, corporation, partnership, joint
8	venture, or association, whether organized for profit or not for profit, except
9	one specifically chartered by the State of Vermont or that relies upon taxes for
10	at least 50 percent of its revenues.
11	(3) "Public body" means any agency, department, division, or office and
12	any board or commission of any such entity, or any independent board or
13	commission, in the Executive Branch of the State.
14	* * * State Office and Legislative Candidates; Disclosure Form * * *
15	OPTION A Sec. 3. 17 V.S.A. § 2414 is added to read:
16	§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;
17	DISCLOSURE FORM
18	(a) Each candidate for State office, State Senator, or State Representative
19	shall file with the Secretary of State along with his or her consent a disclosure
20	form prepared by the Secretary that contains the following information in
21	regard to the candidate's previous calendar year:

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1	(1) Each source, but not amount, of employment income totaling
2	\$10,000.00 or more, the employer or business name and address, and if self-
3	employed, a description of the nature of the self-employment without needing
4	to disclose any individual clients.
5	(2) Any board, commission, association, or other entity on which the
6	candidate serves and a description of that position.
7	(3) Any company in which the candidate holds a controlling interest.
8	(b) The Secretary shall post a copy of any disclosure forms he or she
9	receives under this section on his or her official State website.
10	(c) A candidate who fails to file a disclosure form as required by this
11	section shall not have his or her name printed on the primary ballot, if
12	applicable, or on the general election ballot, except if the candidate wins the
13	primary as a write-in candidate, he or she shall have one week from the date of
14	the primary to file the disclosure form in order to be placed on the general
15	election ballot.
16	<b>OPTION B</b> Sec. 3. 17 V.S.A. § 2414 is added to read:
17	§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;
18	DISCLOSURE FORM
19	(a) Each candidate for State office, State Senator, or State Representative
20	shall file with the Secretary of State along with his or her consent a disclosure

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1	form prepared by the Secretary that contains the following information in
2	regard to the candidate's previous calendar year:
3	(1) Each source, but not amount, of income totaling \$10,000.00 or more,
4	including any of the sources meeting that total described as follows:
5	(A) employment, including the employer or business name and
6	address, and if self-employed, a description of the nature of the self-
7	employment without needing to disclose any individual clients;
8	(B) aggregated investment income, described generally as
9	"investments"; and
10	(C) a lease or contract with the State held or entered into by the
11	candidate or a company in which the candidate holds a controlling interest.
12	(2) Any board, commission, association, or other entity on which the
13	candidate serves and a description of that position.
14	(3) Any company in which the candidate holds a controlling interest.
15	(b) The Secretary shall post a copy of any disclosure forms he or she
16	receives under this section on his or her official State website.
17	(c) A candidate who fails to file a disclosure form as required by this
18	section shall not have his or her name printed on the primary ballot, if
19	applicable, or the general election ballot, except if the candidate wins the
20	primary as a write-in candidate, he or she shall have one week from the date of

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1	the primary to file the disclosure form in order to be placed on the general
2	election ballot.
3	* * * Campaign Finance; Contribution Restrictions from Contractors * * *
4	Sec. 4. 17 V.S.A. § 2950 is added to read:
5	§ 2950. STATE OFFICERS AND STATE OFFICE CANDIDATES;
6	CONTRIBUTION RESTRICTIONS FROM CONTRACTORS
7	(a)(1)(A) A person who bids for or enters into a contract with the office of
8	a State officer or with the State on behalf of that office, or that person's
9	principal, shall not make a contribution to a candidate for that State office or to
10	that State officer.
11	(B) The candidate for State office or the State officer shall not solicit
12	or accept a contribution from such persons if that candidate or State officer
13	knows the person is prohibited from making that contribution under this
14	subdivision (1).
15	(2) The prohibitions set forth in subdivision (1) of this subsection shall
16	be limited to a period beginning from any bid for the contract and any entrance
17	into the contract and ending with the rejection of the bid or the completion of
18	the contract, as applicable.
19	(b) As used in subsection (a) of this section, a "person's principal" means

an individual who:

20

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1	(1) has a controlling interest in the person, if the person is a business
2	entity; or
3	(2) is an employee of the person and has managerial or discretionary
4	responsibilities with respect to the contract.
5	* * * Campaign Finance Investigations; Reports to Ethics Commission * * *
6	Sec. 5. 17 V.S.A. § 2904 is amended to read:
7	§ 2904. CIVIL INVESTIGATION
8	(a)(1) The Attorney General or a State's Attorney, whenever he or she has
9	reason to believe any person to be or to have been in violation of this chapter
10	or of any rule or regulation made pursuant to this chapter, may examine or
11	cause to be examined by any agent or representative designated by him or her
12	for that purpose any books, records, papers, memoranda, or physical objects of
13	any nature bearing upon each alleged violation and may demand written
14	responses under oath to questions bearing upon each alleged violation.
15	* * *
16	(5) Nothing in this subsection is intended to prevent the Attorney
17	General or a State's Attorney from disclosing the results of an investigation
18	conducted under this section, including the grounds for his or her decision as to
19	whether to bring an enforcement action alleging a violation of this chapter or
20	of any rule or regulation made pursuant to this chapter.

\* \* \*

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1	Sec. 6. 17 V.S.A. § 2904a is added to read:
2	§ 2904a. REPORTS TO STATE ETHICS COMMISSION
3	Upon his or her receipt of a complaint made in regard to a violation of this
4	chapter or of any rule made pursuant to this chapter, or upon his or her
5	investigation of such an alleged violation without receiving a complaint, the
6	Attorney General or a State's Attorney shall:
7	(1) Forward a copy of the complaint or a description of the investigation
8	to the State Ethics Commission established in 3 V.S.A. chapter 31. The
9	Attorney General or State's Attorney shall provide this information to the
10	Commission within 10 days of his or her receipt of the complaint or the start of
11	the investigation.
12	(2) Report to the Commission regarding his or her decision as to
13	whether to bring an enforcement action as a result of that complaint or
14	investigation. The Attorney General or State's Attorney shall make this report
15	within 10 days of that decision.
16	Sec. 7. 3 V.S.A. Part 1, chapter 31 is added to read:
17	CHAPTER 31. GOVERNMENTAL ETHICS
18	Subchapter 1. General Provisions
19	§ 1201. DEFINITIONS
20	As used in this chapter:

officer may supplement the State Code of Ethics for the specific needs of his or

18

19

her office.

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1	Subchapter 2. Disclosures
2	OPTION A § 1211. EXECUTIVE OFFICERS; BIENNIAL DISCLOSURE
3	(a) Biennially, each Executive officer shall file with the State Ethics
4	Commission a disclosure form that contains the following information in
5	regard to the officer's previous calendar year:
6	(1) Each source, but not amount, of employment income totaling
7	\$10,000.00 or more, the employer or business name and address, and if self-
8	employed, a description of the nature of the self-employment without needing
9	to disclose any individual clients.
10	(2) Any board, commission, association, or other entity on which the
11	officer serves and a description of that position.
12	(3) Any company in which the officer holds a controlling interest.
13	(b) An officer shall file his or her disclosure on or before January 15 of the
14	odd-numbered year or, if he or she is appointed after January 15, within 10
15	days after that appointment.
16	OPTION B § 1211. EXECUTIVE OFFICERS; BIENNIAL DISCLOSURE
17	(a) Biennially, each Executive officer shall file with the State Ethics
18	Commission a disclosure form that contains the following information in
19	regard to the officer's previous calendar year:
20	(1) Each source, but not amount, of income totaling \$10,000.00 or more,
21	including any of the sources meeting that total described as follows:

1	(A) employment, including the employer or business name and
2	address, and if self-employed, a description of the nature of the self-
3	employment without needing to disclose any individual clients;
4	(B) aggregated investment income, described generally as
5	"investments"; and
6	(C) a lease or contract with the State held or entered into by the
7	officer or a company in which the officer holds a controlling interest.
8	(2) Any board, commission, association, or other entity on which the
9	officer serves and a description of that position.
10	(3) Any company in which the officer holds a controlling interest.
11	(b) An officer shall file his or her disclosure on or before January 15 of the
12	odd-numbered year or, if he or she is appointed after January 15, within 10
13	days after that appointment.
14	§ 1212. COMMISSION MEMBERS; BIENNIAL DISCLOSURE
15	(a) Biennially, each member of the State Ethics Commission shall file with
16	the Executive Director of the Commission a disclosure form that contains the
17	information that Executive officers are required to disclose under section 1211
18	of this subchapter.
19	(b) A member shall file his or her disclosure on or before January 15 of the
20	first year of his or her appointment or, if the member is appointed after January

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1	15, within 10 days after that appointment, and shall file subsequent disclosures
2	biennially thereafter.
3	§ 1213. DISCLOSURES; GENERALLY
4	(a) The Executive Director of the Commission shall prepare on behalf of
5	the Commission any disclosure form required to be filed with it, and shall
6	make those forms available on the Commission's website.
7	(b) Any person required to file a disclosure with the Commission shall sign
8	it and declare that it is made under the penalties of perjury.
9	(c) The Executive Director shall post a copy of any disclosure form the
10	Commission receives on the Commission's website.
11	Subchapter 3. State Ethics Commission
12	§ 1221. STATE ETHICS COMMISSION
13	(a) Creation. There is created within the Executive Branch an independent
14	commission named the State Ethics Commission to accept, review, make
15	referrals regarding, and track complaints of alleged violations of the State Code
16	of Ethics, of governmental conduct regulated by law, or of the State's
17	campaign finance law set forth in 17 V.S.A. chapter 61; to provide ethics
18	training; and to issue advisory opinions regarding ethical conduct.

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1	(b) Membership.
2	(1) The Commission shall be composed of the following five members:
3	(A) a chair of the Commission, who shall be appointed by the Chief
4	Justice of the Supreme Court;
5	(B) one member appointed by the Vermont chapter of the American
6	Civil Liberties Union;
7	(C) one member appointed by the League of Women Voters of
8	<u>Vermont;</u>
9	(D) one member appointed by the Vermont Bar Association; and
10	(E) one member appointed by the Executive Director of the Human
11	Rights Commission.
12	(2) A member shall not:
13	(A) hold any office in the Legislative, Executive, or Judicial Branch
14	of State government or otherwise be employed by the State;
15	(B) hold or enter into any lease or contract with the State, or have a
16	controlling interest in a company that holds or enters into a lease or contract
17	with the State;
18	(C) be a lobbyist;
19	(D) be a candidate; or
20	(E) hold any office in a candidate's committee, a political committee.
21	or a political party.

1	(3) A member may be removed for cause by the remaining members
2	of the Commission in accordance with the Vermont Administrative
3	Procedure Act.
4	(4)(A) A member shall serve a term of three years and until a successor
5	is appointed. A term shall begin on January 1 of the year of appointment and
6	run through December 31 of the last year of the term. Terms of members shall
7	be staggered so that not all terms expire at the same time.
8	(B) A vacancy created before the expiration of a term shall be filled
9	in the same manner as the original appointment for the unexpired portion of the
10	term.
11	(C) A member shall not serve more than two terms. A member
12	appointed to fill a vacancy created before the expiration of a term shall not be
13	deemed to have served a term for the purpose of this subdivision (C).
14	(c) Executive Director.
15	(1) The Commission shall be staffed by an Executive Director, who
16	shall be appointed by and serve at the pleasure of the Commission and who
17	shall be a part-time exempt State employee.
18	(2) The Executive Director shall provide administrative support as
19	requested by the Commission, in addition to any other duties required by this
20	chapter.

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1	(d) Confidentiality. The Commission and the Executive Director shall
2	maintain the confidentiality required by this chapter.
3	(e) Meetings. Meetings of the Commission may be called by the Chair and
4	shall be called upon the request of any other two Commission members.
5	(f) Reimbursement. Each member of the Commission shall be entitled to
6	per diem compensation and reimbursement of expenses pursuant to
7	32 V.S.A. § 1010.
8	§ 1222. COMMISSION MEMBER DUTIES AND PROHIBITED
9	<u>CONDUCT</u>
10	(a) Conflicts of interest.
11	(1) Prohibition; recusal.
12	(A) A Commission member shall not participate in any Commission
13	matter in which he or she has a conflict of interest and shall recuse himself or
14	herself from participation in that matter.
15	(B) The failure of a Commission member to recuse himself or herself
16	as described in subdivision (A) of this subdivision (1) may be grounds for the
17	Commission to discipline or remove that member.
18	(2) Disclosure of conflict of interest.
19	(A) A Commission member who has reason to believe he or she has a
20	conflict of interest in a Commission matter shall disclose that he or she has that
21	belief and disclose the nature of the conflict of interest. Alternatively, a

1	Commission member may request that another Commission member recuse
2	himself or herself from a Commission matter due to a conflict of interest.
3	(B) Once there has been a disclosure of a member's conflict of
4	interest, members of the Commission shall be afforded the opportunity to ask
5	questions or make comments about the situation and, if appropriate, enter into
6	executive session to address the conflict.
7	(3) Postrecusal procedure. A Commission member who has recused
8	himself or herself from participating on a Commission matter shall not sit or
9	deliberate with the Commission on that matter or otherwise act as a
10	Commission member on that matter, but may participate in that matter as a
11	member of the public.
12	(4) Definition. As used in this subsection, "conflict of interest" means
13	an interest of a member that is in conflict with the proper discharge of his or
14	her official duties due to a significant personal or financial interest of the
15	member, a person within the member's immediate family, or the member's
16	business associate. "Conflict of interest" does not include any interest that is
17	not greater than that of any other persons generally affected by the outcome of
18	a matter.
19	(b) Gifts. A Commission member shall not accept a gift given by virtue of
20	his or her membership on the Commission.

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1	§ 1223. PROCEDURE FOR HANDLING COMPLAINTS
2	(a) Accepting complaints. On behalf of the Commission, the Executive
3	Director shall accept complaints from any source regarding alleged violations
4	of the State Code of Ethics, of governmental conduct regulated by law, or of
5	the State's campaign finance law set forth in 17 V.S.A. chapter 61.
6	(b) Preliminary review by Executive Director. The Executive Director
7	shall conduct a preliminary review of complaints made to the Commission in
8	order to take action as set forth in this subsection.
9	(1) State Code of Ethics.
10	(A) If the complaint alleges a violation of the State Code of Ethics,
11	the Executive Director shall refer the complaint to the Commissioner of
12	<u>Human Resources.</u>
13	(B) The Commissioner shall report back to the Executive Director
14	regarding the final disposition of a complaint referred under this
15	subdivision (A) within 10 days of that final disposition.
16	(2) Governmental conduct regulated by law. If the Executive Director
17	finds that a State officer or employee may have committed a violation of
18	governmental conduct regulated by law, that a former legislator may have
19	violated 2 V.S.A. § 266(b), or that a former Executive officer may have
20	violated 3 V.S.A. § 267, the Executive Director shall submit the complaint to
21	the Commission for its review.

1	(3) Campaign finance.
2	(A) If the complaint alleges a violation of campaign finance law, the
3	Executive Director shall refer the complaint to the Attorney General or to the
4	State's Attorney of jurisdiction, as appropriate.
5	(B) The Attorney General or State's Attorney shall report back to the
6	Executive Director regarding his or her decision as to whether to bring an
7	enforcement action as a result of a complaint referred under this
8	subdivision (C) as set forth in 17 V.S.A. § 2904a.
9	(4) Closures. The Executive Director shall close any complaint that he
10	or she does not submit or refer as set forth in subdivisions (1)-(3) of this
11	subsection.
12	(c) Commission reviews and referrals.
13	(1) For any complaint regarding an alleged violation of governmental
14	conduct regulated by law that the Executive Director submits to it under
15	subdivision (b)(2) of this section, the Commission shall meet in executive
16	session to review the complaint.
17	(2)(A) If, after its review, the Commission finds that there may have
18	been a violation of governmental conduct regulated by law, it shall refer the
19	complaint to the Attorney General and the State's Attorney of jurisdiction.

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1	(B) If, after its review, the Commission finds that there has not been
2	a violation of governmental conduct regulated by law, it shall close the
3	complaint.
4	(d) Confidentiality. Complaints that are closed shall be exempt from public
5	inspection and copying under the Public Records Act and kept confidential.
6	§ 1224. COMMISSION ETHICS TRAINING
7	At least annually, in collaboration with the Department of Human
8	Resources, the Commission shall make available to legislators, State officers,
9	and State employees training on issues related to governmental ethics.
10	§ 1225. EXECUTIVE DIRECTOR ADVISORY OPINIONS
11	(a)(1) The Executive Director may issue to an Executive officer or other
12	State employee, upon his or her request, an advisory opinion regarding any
13	provision of this chapter or any issue related to governmental ethics.
14	(2) The Executive Director may consult with individual members of the
15	Commission in preparing an advisory opinion.
16	(b) An advisory opinion issued under this section shall be exempt from
17	public inspection and copying under the Public Records Act and kept
18	confidential.
19	§ 1226. COMMISSION REPORTS
20	Annually, on or before January 15, the Commission shall report to the
21	General Assembly regarding the following issues:

1	(1) Complaints. The number and a summary of the complaints made to
2	it, separating the complaints by topic, and the disposition of those complaints,
3	including any prosecution, enforcement action, or dismissal. This summary of
4	complaints shall not include any personal identifying information.
5	(2) Advisory opinions. The number and a summary of the advisory
6	opinions the Executive Director issued, separating the opinions by topic.
7	(3) Recommendations. Any recommendations for legislative action to
8	address governmental ethics or provisions of campaign finance law.
9	* * * Implementation * * *
10	Sec. 8. APPLICABILITY OF EMPLOYMENT RESTRICTIONS
11	The provisions of Secs. 1 and 2 of this act that restrict employment shall no
12	apply to any employment in effect on the effective date of this act.
13	Sec. 9. DEPARTMENT OF HUMAN RESOURCES; STATE CODE OF
14	ETHICS CREATION
15	The Department of Human Resources shall create the State Code of Ethics
16	described in 3 V.S.A. § 1202 in Sec. 7 of this act on or before January 1, 2017.
17	Sec. 10. IMPLEMENTATION OF THE STATE ETHICS COMMISSION
18	(a) The State Ethics Commission, created in Sec. 7 of this act, is
19	established on January 1, 2017.
20	(b) Members of the Commission shall be appointed on or before
21	October 15, 2016 in order to prepare as they deem necessary for the

3 V.S.A. § 1221(b)(4)(A) in Sec. 7 of this act.

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1	Sec. 11. CREATION OF STAFF POSITION FOR STATE ETHICS
2	COMMISSION
3	(a) One (1) part-time exempt Executive Director position is created in the
4	State Ethics Commission set forth in Sec. 7 of this act by using an existing
5	position in the position pool.
6	(b) The amount of \$1.00 is appropriated to fund the position described in
7	subsection (a) of this section.
8	Sec. 12. 3 V.S.A. § 260 is amended to read:
9	§ 260. LOCATION OF OFFICES
10	***
11	(c) The principal office of each of the following boards and divisions shall
12	be located in Montpelier: Aeronautics Board, Division for Historic
13	Preservation, Board of Libraries, and Division of Recreation, and State Ethics
14	Commission.
15	***
16	Sec. 13. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION
17	The Commissioner of Buildings and General Services shall allocate space
18	for the State Ethics Commission established in Sec. 7 of this act in accordance
19	with 3 V.S.A. § 260 set forth in Sec. 11 of this act. This space shall be

allocated on or before October 15, 2016.

20

1	* * * Municipal Conflicts of Interest * * *
2	Sec. 14. GENERAL ASSEMBLY RECOMMENDATION; ISSUES
3	RELATING TO ETHICS AND CONFLICTS OF INTEREST IN
4	MUNICIPALITIES
5	(a) The General Assembly recommends that municipalities use existing
6	statutory authority to address municipal issues relating to ethics and conflicts
7	of interest. Provisions of law addressing those issues include the following:
8	(1) 24 V.S.A. § 1202, regarding the ability of a local board to use the
9	Municipal Administrative Procedure Act set forth in 24 V.S.A. chapter 36,
10	which includes compliance with 12 V.S.A. § 61(a), regarding disqualifications
11	for interest for persons acting in a judicial capacity;
12	(2) 24 V.S.A. § 1984, regarding the ability of the voters of a town, city,
13	or incorporated village to adopt a conflict of interest policy for their elected
14	and appointed officials;
15	(3) 24 V.S.A. § 2291(20), regarding the ability of a town, city, or
16	incorporated village to establish a conflict of interest policy to apply to all
17	elected or appointed officials in the municipality; and
18	(4) 24 V.S.A. § 4461(a), regarding the requirement that an appropriate
19	municipal panel adopt rules of ethics with respect to conflicts of interest as part
20	of its development review procedure.

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(b) On or before January 1, 2017, the Vermont League	ue of Cities and Towns
shall report to the Caparal Assembly on the number of to	owns that are using the

1	(b) On or before January 1, 2017, the Vermont League of Cities and Towns
2	shall report to the General Assembly on the number of towns that are using the
3	statutory authority described in subsection (a) of this section, and which of
4	those authorities are used.
5	* * * Effective Dates * * *
6	Sec. 15. EFFECTIVE DATES
7	This act shall take effect as follows:
8	(1) The following sections shall take effect on July 1, 2016:
9	(A) Sec. 1, 2 V.S.A. § 266 (former legislators; lobbying; prohibited
10	employment);
11	(B) Sec. 2, 3 V.S.A. § 267 (former Executive officers; prohibited
12	employment); and
13	(C) Sec. 4, 17 V.S.A. § 2950 (State officers and State office
14	candidates; contribution restrictions from contractors).
15	(2) The following sections shall take effect on January 1, 2017:
16	(A) Sec. 6, 17 V.S.A. § 2904a (Attorney General or State's Attorney;
17	campaign finance; reports to State Ethics Commission); and
18	(B) Sec. 7, 3 V.S.A. Part 1, chapter 31 (governmental ethics).
19	(3) Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office;
20	disclosure form) shall take effect on January 1, 2018.
21	(4) This section and all other sections shall take effect on passage.

1		
2		
3	(Committee vote:)	
4		
5		Senator
6		FOR THE COMMITTEE