

House Proposal of Amendment

S. 8

An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Former Legislators and Executive Officers; Lobbying Restriction * * *

Sec. 1. 2 V.S.A. § 266 is amended to read:

§ 266. PROHIBITED CONDUCT

* * *

(b)(1) A legislator or an Executive officer, for one year after leaving office, shall not be a lobbyist in this State.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to a lobbyist exempted under section 262 of this chapter.

(c) As used in this section, “candidate’s:

(1) “Candidate’s committee,” “contribution,” and “legislative leadership political committee” shall have the same meanings as in 17 V.S.A. § 2901 chapter 61 (campaign finance).

(2) “Executive officer” means:

(A) the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

* * * Former Executive Officers; Postemployment Restrictions * * *

Sec. 2. 3 V.S.A. § 267 is added to read:

§ 267. EXECUTIVE OFFICERS; POSTEMPLOYMENT RESTRICTIONS

(a) Prior participation while in State employ.

(1) An Executive officer, for one year after leaving office, shall not, for pecuniary gain, be an advocate for any private entity before any public body or the General Assembly or its committees regarding any particular matter in which:

(A) the State is a party or has a direct and substantial interest; and

(B) the Executive officer had participated personally and substantively while in State employ.

(2) The prohibition set forth in subdivision (1) of this subsection applies to any matter the Executive officer directly handled, supervised, or managed, or gave substantial input, advice, or comment, or benefited from, either through discussing, attending meetings on, or reviewing materials prepared regarding the matter.

(b) Prior official responsibility. An Executive officer, for one year after leaving office, shall not, for pecuniary gain, be an advocate for any private entity before any public body or the General Assembly or its committees regarding any particular matter in which the officer had exercised any official responsibility.

(c) Exemption. The prohibitions set forth in subsections (a) and (b) of this section shall not apply if the former Executive officer's only role as an advocate would exempt that former officer from registration and reporting under 2 V.S.A. § 262.

(d) Public body enforcement. A public body shall disqualify a former Executive officer from his or her appearance or participation in a particular matter if the officer's appearance or participation is prohibited under this section.

(e) Definitions. As used in this section:

(1) "Advocate" means a person who assists, defends, or pleads.

(2) "Executive officer" means:

(A) the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

(3) "Private entity" means any person, corporation, partnership, joint venture, or association, whether organized for profit or not for profit, except one specifically chartered by the State of Vermont or that relies upon taxes for at least 50 percent of its revenues.

(4) "Public body" means any agency, department, division, or office and any board or commission of any such entity, or any independent board or commission, in the Executive Branch of the State.

* * * State Office and Legislative Candidates; Disclosure Form * * *

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

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;
DISCLOSURE FORM

(a) Each candidate for State office, State Senator, or State Representative

shall file with the officer with whom consent of candidate forms are filed, along with his or her consent, a disclosure form prepared by the State Ethics Commission that contains the following information in regard to the previous calendar year:

(1) Each source, but not amount, of personal income of the candidate or of his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, that totals more than \$5,000.00, ranked in order from highest to lowest income, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients; and

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

(2) Any board, commission, or other entity that is regulated by law or that receives funding from the State on which the candidate served and the candidate’s position on that entity.

(3) Any company of which the candidate or his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the candidate or his or her spouse or domestic partner; or

(B) a company of which the candidate or his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, owned more than 10 percent.

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

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

(2) The Secretary of State shall post a copy of any disclosure forms he or she receives under this section on his or her official State website.

(d) As used in this section:

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

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

(B) are at least 18 years of age;

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

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

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

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

* * * Campaign Finance; Contractor Contribution Restrictions * * *

Sec. 4. 17 V.S.A. § 2950 is added to read:

§ 2950. STATE OFFICERS AND STATE OFFICE CANDIDATES;
CONTRACTOR CONTRIBUTION RESTRICTIONS

(a) Contributor restrictions on contracting.

(1) If a person makes a contribution to a State officer or a candidate for a State office, or if his, her, or its principal or spouse makes such a contribution, that person shall not negotiate or enter into a sole source contract valued at \$50,000.00 or more or multiple sole source contracts valued in the aggregate at \$100,000.00 or more with that State office or with the State on behalf of that office within one year following:

(A) that contribution, if the contribution was made to the incumbent State officer; or

(B) the beginning of the term of the office, if the contribution was made to a candidate for the State office who is not the incumbent.

(2) The prohibition set forth in subdivision (1) of this subsection shall end after the applicable one-year period described in subdivision (1) or upon the State officer vacating the office, whichever occurs first.

(b) Contractor restrictions on contributions.

(1)(A) A person who enters into a sole source contract valued at \$50,000.00 or more or multiple sole source contracts valued in the aggregate at \$100,000.00 or more with the office of a State officer or with the State on behalf of that office, or that person's principal or spouse, shall not make a contribution to a candidate for that State office or to that State officer.

(B) The candidate for State office or his or her candidate's committee or the State officer shall not solicit or accept a contribution from a person if that candidate, candidate's committee, or State officer knows the person is prohibited from making that contribution under this subdivision (1).

(2) The prohibitions set forth in subdivision (1) of this subsection shall be limited to a period beginning from the date of execution of the contract and ending with the completion of the contract.

(c) As used in this section:

(1) "Contract" means a "contract for services," as that term is defined in 3 V.S.A. § 341.

(2) "Person's principal" means an individual who:

(A) has a controlling interest in the person, if the person is a business entity;

(B) is the president, chair of the board, or chief executive officer of a business entity or is any other individual that fulfills equivalent duties as a president, chair of the board, or chief executive officer of a business entity;

(C) is an employee of the person and has direct, extensive, and substantive responsibilities with respect to the negotiation of the contract; or

(D) is an employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by the State to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with the State shall not constitute "compensation" under this subdivision (D).

Sec. 4a. 3 V.S.A. § 347 is added to read:

§ 347. CONTRACTOR CONTRIBUTION RESTRICTIONS

The Secretary of Administration shall include in the terms and conditions of sole source contracts a self-certification of compliance with the contractor contribution restrictions set forth in 17 V.S.A. § 2950.

* * * Campaign Finance Investigations; Reports to Ethics Commission * * *

Sec. 5. 17 V.S.A. § 2904 is amended to read:

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a State's Attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule or regulation made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

* * *

(5) Nothing in this subsection is intended to prevent the Attorney General or a State's Attorney from disclosing the results of an investigation

conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter.

* * *

Sec. 6. 17 V.S.A. § 2904a is added to read:

§ 2904a. REPORTS TO STATE ETHICS COMMISSION

Upon receipt of a complaint made in regard to a violation of this chapter or of any rule made pursuant to this chapter, the Attorney General or a State's Attorney shall:

(1) Forward a copy of the complaint to the State Ethics Commission established in 3 V.S.A. chapter 31. The Attorney General or State's Attorney shall provide this information to the Commission within 10 days of his or her receipt of the complaint.

(2) File a report with the Commission regarding his or her decision as to whether to bring an enforcement action as a result of that complaint. The Attorney General or State's Attorney shall make this report within 10 days of that decision.

Sec. 7. 3 V.S.A. Part 1, chapter 31 is added to read:

CHAPTER 31. GOVERNMENTAL ETHICS

Subchapter 1. General Provisions

§ 1201. DEFINITIONS

As used in this chapter:

(1) "Candidate" and "candidate's committee" shall have the same meanings as in 17 V.S.A. § 2901.

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

(3) "Executive officer" means:

(A) a State officer; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

(4)(A) "Gift" means anything of value, tangible or intangible, that is bestowed for less than adequate consideration.

(B) "Gift" does not mean printed educational material such as books, reports, pamphlets, or periodicals.

(5) "Governmental conduct regulated by law" means conduct by an

individual in regard to the operation of State government that is restricted or prohibited by law and includes:

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

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

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

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

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

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

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

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

(I) a former Executive officer serving as an advocate pursuant to section 267 of this title.

(6) "Lobbyist" shall have the same meaning as in 2 V.S.A. § 261.

(7) "Political committee" and "political party" shall have the same meanings as in 17 V.S.A. § 2901.

(8) "State officer" means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

§ 1202. STATE CODE OF ETHICS

The Ethics Commission, in consultation with the Department of Human Resources, shall adopt by rule a State Code of Ethics that sets forth general principles of governmental ethical conduct.

Subchapter 2. Disclosures

§ 1211. EXECUTIVE OFFICERS; BIENNIAL DISCLOSURE

(a) Biennially, each Executive officer shall file with the State Ethics Commission a disclosure form that contains the following information in regard to the previous calendar year:

(1) Each source, but not amount, of personal income of the officer or of his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, that totals more than \$5,000.00, ranked in order from highest to lowest income, including any of the sources meeting that total

described as follows:

(A) employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients; and

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

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

(3) Any company of which the officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the officer or his or her spouse or domestic partner; or

(B) a company of which the officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, owned more than 10 percent.

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

(c)(1) An officer shall file his or her disclosure on or before January 15 of the odd-numbered year or, if he or she is appointed after January 15, within 10 days after that appointment.

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

(d) As used in this section:

(1) “Domestic partner” means an individual with whom the Executive officer has an enduring domestic relationship, as long as the officer and the domestic partner:

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

(B) are at least 18 years of age;

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

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

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

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

§ 1212. COMMISSION MEMBERS AND EXECUTIVE DIRECTOR;
BIENNIAL DISCLOSURE

(a) Biennially, each member of the Commission and the Executive Director of the Commission shall file with the Executive Director a disclosure form that contains the information that Executive officers are required to disclose under section 1211 of this subchapter.

(b) A member and the Executive Director shall file their disclosures on or before January 15 of the first year of their appointments or, if the member or Executive Director is appointed after January 15, within 10 days after that appointment, and shall file subsequent disclosures biennially thereafter.

§ 1213. DISCLOSURES; GENERALLY

(a) The Executive Director of the Commission shall prepare on behalf of the Commission any disclosure form required to be filed with it and the candidate disclosure form described in 17 V.S.A. § 2414, and shall make those forms available on the Commission's website.

(b) The Executive Director shall post a copy of any disclosure form the Commission receives on the Commission's website.

Subchapter 3. State Ethics Commission

§ 1221. STATE ETHICS COMMISSION

(a) Creation. There is created within the Executive Branch an independent commission named the State Ethics Commission to accept, review, make referrals regarding, and track complaints of alleged violations of governmental conduct regulated by law, of the Department of Human Resources Code of Ethics, and of the State's campaign finance law set forth in 17 V.S.A. chapter 61; to provide ethics training; and to issue guidance and advisory opinions regarding ethical conduct.

(b) Membership.

(1) The Commission shall be composed of the following five members:

(A) a chair of the Commission, who shall be appointed by the Chief Justice of the Supreme Court and who shall have a background or expertise in ethics;

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

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

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

(E) one member appointed by the Board of Directors of the Vermont Human Resource Association, who shall be a member of the Association.

(2) A member shall not:

(A) hold any office in the Legislative, Executive, or Judicial Branch of State government or otherwise be employed by the State;

(B) hold or enter into any lease or contract with the State, or have a controlling interest in a company that holds or enters into a lease or contract with the State;

(C) be a lobbyist;

(D) be a candidate for State or legislative office; or

(E) hold any office in a State or legislative office candidate's committee, a political committee, or a political party.

(3) A member may be removed for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(4)(A) A member shall serve a term of three years and until a successor is appointed. A term shall begin on January 1 of the year of appointment and run through December 31 of the last year of the term. Terms of members shall be staggered so that not all terms expire at the same time.

(B) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(C) A member shall not serve more than two consecutive terms. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subdivision (C).

(c) Executive Director.

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

(2) The Executive Director shall maintain the records of the Commission and shall provide administrative support as requested by the

Commission, in addition to any other duties required by this chapter.

(d) Confidentiality. The Commission and the Executive Director shall maintain the confidentiality required by this chapter.

(e) Meetings. Meetings of the Commission:

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

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

(3) shall be conducted in accordance with 1 V.S.A. § 172.

(f) Reimbursement. Each member of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 1222. COMMISSION MEMBER DUTIES AND PROHIBITED CONDUCT

(a) Conflicts of interest.

(1) Prohibition; recusal.

(A) A Commission member shall not participate in any Commission matter in which he or she has a conflict of interest and shall recuse himself or herself from participation in that matter.

(B) The failure of a Commission member to recuse himself or herself as described in subdivision (A) of this subdivision (1) may be grounds for the Commission to discipline or remove that member.

(2) Disclosure of conflict of interest.

(A) A Commission member who has reason to believe he or she has a conflict of interest in a Commission matter shall disclose that he or she has that belief and disclose the nature of the conflict of interest. Alternatively, a Commission member may request that another Commission member recuse himself or herself from a Commission matter due to a conflict of interest.

(B) Once there has been a disclosure of a member's conflict of interest, members of the Commission shall be afforded the opportunity to ask questions or make comments about the situation to address the conflict.

(C) A Commission member may be prohibited from participating in a Commission matter by at least three other members of the Commission.

(3) Postrecusal or -prohibition procedure. A Commission member who has recused himself or herself or was prohibited from participating in a Commission matter shall not sit or deliberate with the Commission or otherwise act as a Commission member on that matter.

(4) Definition. As used in this subsection, “conflict of interest” means an interest of a member that is in conflict with the proper discharge of his or her official duties due to a significant personal or financial interest of the member, of a person within the member’s immediate family, or of the member’s business associate. “Conflict of interest” does not include any interest that is not greater than that of any other persons generally affected by the outcome of a matter.

(b) Gifts. A Commission member shall not accept a gift given by virtue of his or her membership on the Commission.

§ 1223. PROCEDURE FOR HANDLING COMPLAINTS

(a) Accepting complaints.

(1) On behalf of the Commission, the Executive Director shall accept complaints from any source regarding governmental ethics in any of the three branches of State government or of the State’s campaign finance law set forth in 17 V.S.A. chapter 61.

(2) Complaints shall be in writing and shall include the identity of the complainant.

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection, which shall include referring complaints to all relevant entities.

(1) Governmental conduct regulated by law.

(A) If the complaint alleges a violation of governmental conduct regulated by law, the Executive Director shall refer the complaint to the Attorney General or to the State’s Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State’s Attorney shall file a report with the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under subdivision (A) of this subdivision (1) within 10 days of that decision.

(2) Department of Human Resources Code of Ethics.

(A) If the complaint alleges a violation of the Department of Human Resources Code of Ethics, the Executive Director shall refer the complaint to the Commissioner of Human Resources.

(B) The Commissioner shall report back to the Executive Director regarding the final disposition of a complaint referred under subdivision (A) of this subdivision (2) within 10 days of that final disposition.

(3) Campaign finance.

(A) If the complaint alleges a violation of campaign finance law, the Executive Director shall refer the complaint to the Attorney General or to the State's Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State's Attorney shall file a report with the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under subdivision (A) of this subdivision (3) as set forth in 17 V.S.A. § 2904a.

(4) Legislative and Judicial Branches; attorneys.

(A) If the complaint is in regard to conduct committed by a State Senator, the Executive Director shall refer the complaint to the Senate Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.

(B) If the complaint is in regard to conduct committed by a State Representative, the Executive Director shall refer the complaint to the House Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.

(C) If the complaint is in regard to conduct committed by a judicial officer, the Executive Director shall refer the complaint to the Judicial Conduct Board and shall request a report back from the Board regarding the final disposition of the complaint.

(D) If the complaint is in regard to an attorney employed by the State, the Executive Director shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

(E) If any of the complaints described in subdivisions (A)–(D) of this subdivision (4) also allege that a crime has been committed, the Executive Director shall also refer the complaint to the Attorney General and the State's Attorney of jurisdiction.

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

(c) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential.

§ 1224. COMMISSION ETHICS TRAINING

At least annually, in collaboration with the Department of Human Resources, the Commission shall make available to State officers and State employees training on issues related to governmental ethics. The training shall include topics related to those covered in any guidance or advisory opinion issued under section 1225 of this subchapter.

§ 1225. EXECUTIVE DIRECTOR GUIDANCE AND ADVISORY
OPINIONS

(a) Guidance.

(1) The Executive Director may issue to an Executive officer or other State employee, upon his or her request, guidance regarding any provision of this chapter or any issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission and the Department of Human Resources in preparing this guidance.

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

(b) Advisory opinions.

(1) The Executive Director may issue advisory opinions that provide general advice or interpretation regarding this chapter or any issue related to governmental ethics.

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

(3) The Executive Director shall post on the Commission's website any advisory opinions that he or she issues.

§ 1226. COMMISSION REPORTS

Annually, on or before January 15, the Commission shall report to the General Assembly regarding the following issues:

(1) Complaints. The number and a summary of the complaints made to it, separating the complaints by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal. This summary of complaints shall not include any personal identifying information.

(2) Guidance. The number and a summary of the guidance documents the Executive Director issued, separating the guidance by topic. This summary of guidance shall not include any personal identifying information.

(3) Recommendations. Any recommendations for legislative action to address State governmental ethics or provisions of campaign finance law.

* * * Implementation * * *

Sec. 8. APPLICABILITY OF EMPLOYMENT RESTRICTIONS

The provisions of Secs. 1 and 2 of this act that restrict employment shall not apply to any such employment in effect on the effective date of those sections.

Sec. 9. STATE ETHICS COMMISSION; STATE CODE OF ETHICS;
RULE-MAKING PROCEDURE REQUIREMENTS

On or before July 1, 2018 and prior to prefiling of a rule under 3 V.S.A. § 837, the Ethics Commission shall submit to the House and Senate Committees on Government Operations the draft rule creating the State Code of Ethics described in 3 V.S.A. § 1202 in Sec. 7 of this act.

Sec. 10. IMPLEMENTATION OF THE STATE ETHICS COMMISSION

(a) The State Ethics Commission, created in Sec. 7 of this act, is established on January 1, 2018.

(b) Members of the Commission shall be appointed on or before October 15, 2017 in order to prepare as they deem necessary for the establishment of the Commission, including the hiring of the Commission's Executive Director. Terms of members shall officially begin on January 1, 2018.

(c)(1) In order to stagger the terms of the members of the State Ethics Commission as described in 3 V.S.A. § 1221(b)(4)(A) in Sec. 7 of this act, the initial terms of those members shall be as follows:

(A) the Chief Justice of the Supreme Court shall appoint the Chair for a three-year term;

(B) the League of Women Voters of Vermont shall appoint a member for a two-year term;

(C) the Board of Directors of the Vermont Society of Certified Public Accountants shall appoint a member for a one-year term;

(D) the Vermont Bar Association shall appoint a member for a three-year term; and

(E) the Board of Directors of the Vermont Human Resource Association shall appoint a member for a two-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Commission member terms shall be as set forth in 3 V.S.A. § 1221(b)(4)(A) in Sec. 7 of this act.

Sec. 11. CREATION OF STAFF POSITION FOR STATE ETHICS
COMMISSION

One part-time exempt Executive Director position is created in the State Ethics Commission set forth in Sec. 7 of this act by using an existing position in the position pool.

Sec. 12. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space

for the State Ethics Commission established in Sec. 7 of this act. This space shall be allocated on or before October 15, 2017.

Sec. 13. STATE ETHICS COMMISSION FUNDING SOURCE
SURCHARGE; REPEAL

(a) Surcharge.

(1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth the purpose and rate of charges collected in the Human Resource Services Internal Service Fund, in fiscal year 2018 and thereafter, a surcharge of up to 2.3 percent, but no greater than the cost of the activities of the State Ethics Commission set forth in Sec. 7 of this act, on the per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the activities of the State Ethics Commission set forth in Sec. 7 of this act.

(b) Repeal. This section shall be repealed on June 30, 2020.

* * * Municipal Ethics and Conflicts of Interest * * *

Sec. 14. 24 V.S.A. § 1984 is amended to read:

§ 1984. CONFLICT OF INTEREST PROHIBITION

(a)(1) A Each town, city, ~~or~~ and incorporated village, by majority vote of those present and voting at an annual or special meeting warned for that purpose, ~~may~~ shall adopt a conflict of interest prohibition for its elected and appointed officials, which shall contain:

(~~1~~)(A) A definition of “conflict of interest.”

(~~2~~)(B) A list of the elected and appointed officials covered by such prohibition.

(~~3~~)(C) A method to determine whether a conflict of interest exists.

(~~4~~)(D) Actions that must be taken if a conflict of interest is determined to exist.

(~~5~~)(E) A method of enforcement against individuals violating such prohibition.

(2) The requirement set forth in subdivision (1) of this subsection shall not apply if, pursuant to the provisions of subdivision 2291(20) of this title, the municipality has established a conflict of interest policy that is in substantial compliance with subdivision (1).

(b)(1) Unless the prohibition adopted pursuant to subsection (a) of this section contains a different definition of “conflict of interest,” for the purposes of a prohibition adopted under this section, “conflict of interest” means a direct personal or pecuniary interest of a public official, or the official’s spouse, household member, business associate, employer, or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the official or before the agency or public body in which the official holds office or is employed.

(2) “Conflict of interest” does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision.

Sec. 15. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(20) To establish a conflict-of-interest policy to apply to all elected and appointed officials of the town, city, or incorporated village or ethical conduct policies to apply to all elected and appointed officials and employees of the municipality, or both.

* * *

Sec. 16. GENERAL ASSEMBLY; RECOMMENDATION REGARDING MUNICIPAL ETHICS

The General Assembly recommends that each town, city, and incorporated village adopt ethical conduct policies for its elected and appointed officials and employees.

Sec. 17. TRANSITIONAL PROVISION; MUNICIPAL ETHICS
COMPLAINTS; SECRETARY OF STATE; ETHICS
COMMISSION; REPORTS

(a) Until December 15, 2020, the Secretary of State shall accept complaints in writing regarding municipal governmental ethical conduct and:

(1) forward those complaints to the applicable municipality; and

(2) report those complaints annually on or before December 15 to the Executive Director of the State Ethics Commission in the form requested by the Executive Director.

(b) The State Ethics Commission shall include a summary of these municipal complaints and any recommendations for legislative action in regard to municipal ethics along with its report of complaints and recommendations described in Sec. 7 of this act in 3 V.S.A. § 1226(1) and (3) (Commission reports; complaints; recommendations).

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

This act shall take effect as follows:

(1) The following sections shall take effect on July 1, 2017:

(A) Sec. 1, 2 V.S.A. § 266 (former legislators and Executive officers; lobbying; prohibited employment); and

(B) Sec. 2, 3 V.S.A. § 267 (former Executive officers; prohibited employment).

(2) The following sections shall take effect on January 1, 2018:

(A) Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form);

(B) Sec. 6, 17 V.S.A. § 2904a (Attorney General or State's Attorney; campaign finance; reports to State Ethics Commission); and

(C) Sec. 7, 3 V.S.A. Part 1, chapter 31 (governmental ethics).

(3) Secs. 4, 17 V.S.A. § 2950 (State officers and State office candidates; contractor contribution restrictions) and 4a, 3 V.S.A. § 347 (contractor contribution restrictions) shall take effect on December 16, 2018.

(4) Sec. 14, 24 V.S.A. § 1984 (municipalities; conflict of interest prohibition) shall take effect on July 1, 2019.

(5) This section and all other sections shall take effect on passage.