

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 8 entitled “An act relating to establishing the State Ethics Commission
4 and standards of governmental ethical conduct” respectfully reports that it has
5 considered the same and recommends that the House propose to the Senate that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

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

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

10 § 266. PROHIBITED CONDUCT

11 * * *

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

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

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

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

1 (2) “Executive officer” means:

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

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

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

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

8 § 267. EXECUTIVE OFFICERS; POSTEMPLOYMENT RESTRICTIONS

9 (a) Prior participation while in State employ.

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

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

15 (B) the Executive officer had participated personally and

16 substantively while in State employ.

17 (2) The prohibition set forth in subdivision (1) of this subsection applies

18 to any matter the Executive officer directly handled, supervised, or managed,

19 or gave substantial input, advice, or comment, or benefited from, either

20 through discussing, attending meetings on, or reviewing materials prepared

21 regarding the matter.

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

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

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

14 (e) Definitions. As used in this section:

15 (1) “Advocate” means a person who assists, defends, or pleads.

16 (2) “Executive officer” means:

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

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

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

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

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

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

10 § 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;

11 DISCLOSURE FORM

12 (a) Each candidate for State office, State Senator, or State Representative
13 shall file with the officer with whom consent of candidate forms are filed,
14 along with his or her consent, a disclosure form prepared by the State Ethics
15 Commission that contains the following information in regard to the previous
16 calendar year:

17 (1) Each source, but not amount, of personal taxable income of the
18 candidate or of his or her spouse or domestic partner, or the candidate together
19 with his or her spouse or domestic partner, that totals more than \$5,000.00,
20 ranked in order from highest to lowest income, including any of the sources
21 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
3 self-employment without needing to disclose any individual clients; and

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

5 (2) Any board, commission, association, or other entity on which the
6 candidate served and a description of that position.

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

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

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

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

15 (b)(1) In addition, if a candidate’s spouse or domestic partner is a lobbyist,
16 the candidate shall disclose that fact and provide the name of his or her spouse
17 or domestic partner and, if applicable, the name of his or her lobbying firm.

18 (2) In this subsection, “lobbyist” and “lobbying firm” shall have the
19 same meanings as in 2 V.S.A. § 261.

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

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

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

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

8 § 2950. STATE OFFICERS AND STATE OFFICE CANDIDATES;

9 CONTRACTOR CONTRIBUTION RESTRICTIONS

10 (a) Contributor restrictions on contracting.

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

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

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

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

4 (b) Contractor restrictions on contributions.

5 (1)(A) A person who enters into a sole source contract valued at
6 \$50,000.00 or more or multiple sole source contracts valued in the aggregate at
7 \$100,000.00 or more with the office of a State officer or with the State on
8 behalf of that office, or that person’s principal or spouse, shall not make a
9 contribution to a candidate for that State office or to that State officer.

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

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

17 (c) As used in this section:

18 (1) “Contract” means a “contract for services,” as that term is defined in
19 3 V.S.A. § 341.

1 (2) “Person’s principal” means an individual who:

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

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

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

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

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

15 § 347. CONTRACTOR CONTRIBUTION RESTRICTIONS

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

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

2 § 2904a. REPORTS TO STATE ETHICS COMMISSION

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

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

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

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

15 CHAPTER 31. GOVERNMENTAL ETHICS

16 Subchapter 1. General Provisions

17 § 1201. DEFINITIONS

18 As used in this chapter:

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

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

3 (3) “Executive officer” means:

4 (A) a State officer; or

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

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

9 (B) “Gift” does not mean printed educational material such as books,
10 reports, pamphlets, or periodicals.

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

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

15 (B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006

16 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

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

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

19 (E) owning or being financially interested in an entity subject to a

20 department’s supervision pursuant to section 204 of this title;

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

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

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

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

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

15 § 1202. STATE CODE OF ETHICS

16 The Ethics Commission, in consultation with the Department of Human
17 Resources, shall create and maintain a State Code of Ethics that sets forth
18 general principles of governmental ethical conduct.

1 Subchapter 2. Disclosures

2 § 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 previous calendar year:

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

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

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

15 (2) Any board, commission, association, or other entity on which the
16 officer served and a description of that position.

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

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

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

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

4 (b)(1) In addition, if an Executive officer’s spouse or domestic partner is a
5 lobbyist, the officer shall disclose that fact and provide the name of his or her
6 spouse or domestic partner and, if applicable, the name of his or her lobbying
7 firm.

8 (2) In this subsection, “lobbyist” and “lobbying firm” shall have the
9 same meanings as in 2 V.S.A. § 261.

10 (c)(1) An officer shall file his or her disclosure on or before January 15 of
11 the odd-numbered year or, if he or she is appointed after January 15, within
12 10 days after that appointment.

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

17 § 1212. COMMISSION MEMBERS AND EXECUTIVE DIRECTOR;

18 BIENNIAL DISCLOSURE

19 (a) Biennially, each member of the Commission and the Executive Director
20 of the Commission shall file with the Executive Director a disclosure form that

1 contains the information that Executive officers are required to disclose under
2 section 1211 of this subchapter.

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

7 § 1213. DISCLOSURES; GENERALLY

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

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

14 Subchapter 3. State Ethics Commission

15 § 1221. STATE ETHICS COMMISSION

16 (a) Creation. There is created within the Executive Branch an independent
17 commission named the State Ethics Commission to accept, review, make
18 referrals regarding, and track complaints of alleged violations of governmental
19 conduct regulated by law, of the Department of Human Resources Code of
20 Ethics, and of the State’s campaign finance law set forth in 17 V.S.A.

1 chapter 61; to provide ethics training; and to issue guidance and advisory
2 opinions regarding ethical conduct.

3 (b) Membership.

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

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

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

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

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

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

16 (2) A member shall not:

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

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

1 (C) be a lobbyist;

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

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

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

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

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

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

18 (c) Executive Director.

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

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

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

6 (e) Meetings. Meetings of the Commission:

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

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

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

12 (f) Reimbursement. Each member of the Commission shall be entitled to
13 per diem compensation and reimbursement of expenses pursuant to
14 32 V.S.A. § 1010.

15 § 1222. COMMISSION MEMBER DUTIES AND PROHIBITED

16 CONDUCT

17 (a) Conflicts of interest.

18 (1) Prohibition; recusal.

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

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

4 (2) Disclosure of conflict of interest.

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

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

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

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

19 (4) Definition. As used in this subsection, “conflict of interest” means
20 an interest of a member that is in conflict with the proper discharge of his or
21 her official duties due to a significant personal or financial interest of the

1 member, of a person within the member’s immediate family, or of the
2 member’s business associate. “Conflict of interest” does not include any
3 interest that is not greater than that of any other persons generally affected by
4 the outcome of a matter.

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

7 § 1223. PROCEDURE FOR HANDLING COMPLAINTS

8 (a) Accepting complaints.

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

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

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

1 (1) Governmental conduct regulated by law.

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

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

9 (2) Department of Human Resources Code of Ethics.

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

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

16 (3) Campaign finance.

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

20 (B) The Attorney General or State’s Attorney shall file a report with
21 the Executive Director regarding his or her decision as to whether to bring an

1 enforcement action as a result of a complaint referred under subdivision (A) of
2 this subdivision (3) as set forth in 17 V.S.A. § 2904a.

3 (4) Legislative and Judicial Branches; attorneys.

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

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

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

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

20 (E) If any of the complaints described in subdivisions (A)–(D) of this
21 subdivision (4) also allege that a crime has been committed, the Executive

1 Director shall also refer the complaint to the Attorney General and the State's
2 Attorney of jurisdiction.

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

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

8 § 1224. COMMISSION ETHICS TRAINING

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

14 § 1225. EXECUTIVE DIRECTOR GUIDANCE AND ADVISORY

15 OPINIONS

16 (a) Guidance.

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

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

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

7 (b) Advisory opinions.

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

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

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

16 § 1226. COMMISSION REPORTS

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

19 (1) Complaints. The number and a summary of the complaints made to
20 it, separating the complaints by topic, and the disposition of those complaints.

1 including any prosecution, enforcement action, or dismissal. This summary of
2 complaints shall not include any personal identifying information.

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

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

8 * * * Implementation * * *

9 Sec. 8. APPLICABILITY OF EMPLOYMENT RESTRICTIONS

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

12 Sec. 9. STATE ETHICS COMMISSION; STATE CODE OF ETHICS
13 CREATION

14 The State Ethics Commission shall create the State Code of Ethics in
15 consultation with the Department of Human Resources as described in
16 3 V.S.A. § 1202 in Sec. 7 of this act on or before July 1, 2018.

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, 2018.

20 (b) Members of the Commission shall be appointed on or before
21 October 15, 2017 in order to prepare as they deem necessary for the

1 establishment of the Commission, including the hiring of the Commission's
2 Executive Director. Terms of members shall officially begin on
3 January 1, 2018.

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

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

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

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

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

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

17 (2) After the expiration of the initial terms set forth in subdivision (1) of
18 this subsection, Commission member terms shall be as set forth in
19 3 V.S.A. § 1221(b)(4)(A) in Sec. 7 of this act.

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

2 COMMISSION

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

6 Sec. 12. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

7 The Commissioner of Buildings and General Services shall allocate space
8 for the State Ethics Commission established in Sec. 7 of this act. This space
9 shall be allocated on or before October 15, 2017.

10 Sec. 13. STATE ETHICS COMMISSION FUNDING SOURCE

11 SURCHARGE; REPEAL

12 (a) Surcharge.

13 (1) In fiscal year 2018 and thereafter, a surcharge of up to 2.3 percent,
14 but no greater than the cost of the activities of the State Ethics Commission set
15 forth in Sec. 7 of this act, on the per-position portion of the charges authorized
16 in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies,
17 departments, and offices and shall be paid by all assessed entities solely with
18 State funds.

19 (2) The amount collected shall be accounted for within the Human
20 Resource Services Internal Service Fund and used solely for the purposes of

1 funding the activities of the State Ethics Commission set forth in Sec. 7 of
2 this act.

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

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

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

6 § 1984. CONFLICT OF INTEREST PROHIBITION

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

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

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

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

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

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

19 (2) The requirement set forth in subdivision (1) of this subsection shall
20 not apply if, pursuant to the provisions of subdivision 2291(20) of this title, the

1 municipality has established a conflict of interest policy that is in substantial
2 compliance with subdivision (1).

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

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

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

16 § 2291. ENUMERATION OF POWERS

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

20 * * *

1 to municipal ethics along with its report of complaints and recommendations
2 described in Sec. 7 of this act in 3 V.S.A. § 1226(1) and (3) (Commission
3 reports; complaints; recommendations).

4 * * * Effective Dates * * *

5 Sec. 18. EFFECTIVE DATES

6 This act shall take effect as follows:

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

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

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

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

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

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

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

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

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

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

4

5

6

7 (Committee vote: _____)

8

9

Representative _____

10

FOR THE COMMITTEE