

**Key:**

**Yellow highlighting** = language potentially added to bill as introduced

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**DRAFT; NOT YET EDITED; FOR COMMITTEE DISCUSSION**

TO THE HONORABLE SENATE:

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

\* \* \* Former Legislators; Lobbying Restriction \* \* \*

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

§ 266. PROHIBITED CONDUCT

\* \* \*

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

**Comment [BAW1]:** 2 V.S.A. § 262 of the lobbying chapter exempts certain persons from registering as a lobbyist.

For ex., under this new language, a former legislator would be permitted to lobby the Leg. as an Exec. Branch employee under 2 V.S.A. § 262(2).

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1           \* \* \* Former Executive Officers; Postemployment Restrictions \* \* \*

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

3           § 267. EXECUTIVE OFFICERS; POSTEMPLOYMENT RESTRICTIONS

4           (a) Prior participation while in State employ.

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

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

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

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

17           (b) Prior official responsibility. An Executive officer, for one year after  
18           leaving office, shall not, for pecuniary gain, be an advocate for any private  
19           entity before any public body or the General Assembly or its committees

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1 regarding any particular matter in which the officer had exercised any official  
2 responsibility.

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

**Comment [BAW2]:** Applies the [2 V.S.A. § 262](#) exemptions to this section's prohibition.

In this context, a former Exec. officer may not be subject to this section's revolving door prohibitions if the officer:  
- under § 262(1) is testifying to provide info; or  
- under § 262(4) owns, publishes, or is employed by a news medium and is acquiring or disseminating news on behalf of the news medium.

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

11 ~~(d)~~(e) Definitions. As used in this section:

12 ~~(1)~~(1) "Advocate" means a person who assists, defends, or pleads.

**Comment [BAW3]:** Defining what it means to "be an advocate" for a private entity.

Definition taken from Black's Law Dictionary.

13 ~~(1)~~(2) "Executive officer" means:

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

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

18 ~~(2)~~(3) "Private entity" means any person, corporation, partnership, joint  
19 venture, or association, whether organized for profit or not for profit, except

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1 one specifically chartered by the State of Vermont or that relies upon taxes for  
2 at least 50 percent of its revenues.

3 ~~(3)~~(4) “Public body” means any agency, department, division, or office  
4 and any board or commission of any such entity, or any independent board or  
5 commission, in the Executive Branch of the State.

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

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

8 § 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE:

9 DISCLOSURE FORM

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

15 (1) Each source, but not amount, of personal taxable income ~~totaling of~~  
16 the candidate or his or her spouse that totals more than \$10,000.00, including  
17 any of the sources meeting that total described as follows:

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

**Comment [BAW4]:** Items (A)-(C) under this subdivision (1) would apply to both the candidate as well as his/her spouse.

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1           (B) aggregated investment income, described generally as  
2           “investments”; and

3           (C) a lease or contract with the State held or entered into by:

4           (i) the candidate or his or her spouse; or ~~by~~

5           (ii) a company ~~in~~ of which the candidate or his or her spouse, or  
6           the candidate together with his or her spouse, ~~holds a controlling interest~~  
7           owned more than 10 percent.

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

10          (3) Any company ~~in~~ of which the candidate or his or her spouse, or the  
11          candidate together with his or her spouse, ~~held a controlling interest~~ owned  
12          more than 10 percent.

13          (b) In addition, each candidate for State office shall attach to the disclosure  
14          form described in subsection (a) of this section a copy of his or her most recent  
15          U.S. Individual Income Tax Return Form 1040; provided, however, that the  
16          candidate may redact from that form the following information:

17           (1) the candidate’s social security number and that of his or her spouse,  
18           if applicable;

19           (2) the names of any dependent and the dependent’s social security  
20           number; and

**Comment [BAW5]:** Should this include immediate family and business associates? See (C), above, as well.  
10% the right threshold?

**Comment [BAW6]:** Requires State office candidates to also file a copy of their most recent U.S. Tax Return Form 1040, but allows them to redact personal identifying info.

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1           (3) the signature of the candidate and that of his or her spouse, if  
2 applicable.

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

6           (2)(A) The Secretary of State shall post a copy of any disclosure forms  
7 and tax returns he or she receives under this section on his or her official State  
8 website.

9           (B) Prior to posting, the Secretary may redact from a tax return the  
10 information permitted to be redacted under subsection (b) of this section, if the  
11 candidate fails to do so.

12           ~~(c) A candidate who fails to file a disclosure form as required by this~~  
13 ~~section shall not have his or her name printed on the primary ballot, if~~  
14 ~~applicable, or the general election ballot, except that if the candidate wins the~~  
15 ~~primary as a write in candidate, he or she shall have one week from the date of~~  
16 ~~the primary to file the disclosure form in order to be placed on the general~~  
17 ~~election ballot.~~

**Comment [BAW7]:** Allows the Sec. of State to redact the State office candidate's personal identifying info from the candidate's tax return, if s/he fails to redact.

**Comment [BAW8]:** Eliminating the penalty of not being printed on the ballot if the candidate fails to file these disclosures.

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1           \* \* \* Campaign Finance; Contractor Contribution Restrictions \* \* \*

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

3           § 2950. STATE OFFICERS AND STATE OFFICE CANDIDATES;

4                     CONTRACTOR CONTRIBUTION RESTRICTIONS

5           (a)(1) A person or his or her principal or spouse who makes a contribution  
6           to a State officer or a candidate for a State office shall not bid for or enter into  
7           a sole source contract valued at \$50,000.00 or more or multiple sole source  
8           contracts valued in the aggregate at \$100,000.00 with that State office or with  
9           the State on behalf of that office within one year following that contribution.

10           (2) The prohibition set forth in subdivision (1) of this subsection shall  
11           only apply if the person to whom the contribution was made holds the office  
12           during the timeframe of the prohibition.

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

18           (B) The candidate for State office or his or her candidate's committee  
19           or the State officer shall not solicit or accept a contribution from a person if

**Comment [BAW9]:** What if it's a \$1.00 contribution?  
BAW; 1/24/17

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1 that candidate, **candidate's committee**, or State officer knows the person is  
2 prohibited from making that contribution under this subdivision (1).

3 (2) The prohibitions set forth in subdivision (1) of this subsection:

4 ~~(A)~~ shall be limited to a period beginning from the earlier of either  
5 the date on which the person submits a bid for the contract or the date of  
6 execution of the contract and ending with the rejection of that person's bid or  
7 the completion of the contract, as applicable; ~~and~~

8 ~~(B) shall not apply to any contract that is exclusively federally~~  
9 ~~funded.~~

10 ~~(b)~~(c) As used in this section, ~~a~~:

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

13 (2) A "person's principal" means an individual who:

14 ~~(1)(A) has a controlling interest in~~ owns more than 10 percent of the  
15 person, if the person is a business entity;

16 (B) is vested with the authority to conduct, manage, or supervise the  
17 business affairs of the person, which may include the president, vice-president,  
18 secretary, treasurer, manager, or similar executive officer of a business; a  
19 director of a corporation, nonprofit corporation, or mutual benefit enterprise; a

**Comment [BAW10]:** 3 V.S.A. § 341 is set forth in T.3's chapter re: standards for contracts.

**Comment [BAW11]:** Do you want to substitute the "more than 10% ownership" standard for "controlling interest" here?  
BAW; 1/24/17



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1 member of a nonprofit corporation, cooperative, or member-managed limited  
2 liability company; or a partner of a partnership; or

3 ~~(2)~~(C) is an employee of the person and has direct, extensive, and  
4 substantive responsibilities with respect to the negotiation of the contract.

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

6 **§ 347. CONTRACTOR CONTRIBUTION RESTRICTIONS**

7 The Secretary of Administration shall include in Administrative Bulletin 3.5  
8 a notice regarding the contractor contribution restrictions set forth in  
9 17 V.S.A. § 2950.

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

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

12 § 2904. CIVIL INVESTIGATION

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

20 \* \* \*

**Comment [BAW12]:** This statute would be added to the State contracting chapter of T.3 in order to notify State contactors and bidders of these prohibitions.

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1 (5) Nothing in this subsection is intended to prevent the Attorney  
2 General or a State’s Attorney from disclosing the results of an investigation  
3 conducted under this section, including the grounds for his or her decision as to  
4 whether to bring an enforcement action alleging a violation of this chapter or  
5 of any rule ~~or regulation~~ made pursuant to this chapter.

6 \* \* \*

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

8 § 2904a. REPORTS TO STATE ETHICS COMMISSION

9 Upon receipt of a complaint made in regard to a violation of this chapter or  
10 of any rule made pursuant to this chapter, ~~or upon his or her investigation of~~  
11 ~~such an alleged violation without receiving a complaint,~~ the Attorney General  
12 or a State’s Attorney shall:

13 (1) Forward a copy of the complaint ~~or a description of the investigation~~  
14 to the State Ethics Commission established in 3 V.S.A. chapter 31. The  
15 Attorney General or State’s Attorney shall provide this information to the  
16 Commission within 10 days of his or her receipt of the complaint ~~or the start of~~  
17 ~~the investigation.~~

18 (2) ~~Report to~~ **File a report with** the Commission regarding his or her  
19 decision as to whether to bring an enforcement action as a result of that

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1 complaint ~~or investigation~~. The Attorney General or State’s Attorney shall  
2 make this report within 10 days of that decision.

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

4 CHAPTER 31. GOVERNMENTAL ETHICS

5 Subchapter 1. General Provisions

6 § 1201. DEFINITIONS

7 As used in this chapter:

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

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

12 (3) “Executive officer” means:

13 (A) a State officer; or

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

16 (4) “Governmental conduct regulated by law” includes:

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

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

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

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

2 (E) owning or being financially interested in an entity subject to a  
3 department’s supervision pursuant to 3 V.S.A. § 204;

4 (F) failing to devote time to duties of office pursuant to  
5 3 V.S.A. § 205;

6 (G) a former legislator serving as a lobbyist pursuant to  
7 2 V.S.A. § 266(b); and

8 (H) a former Executive officer serving as an advocate pursuant to  
9 3 V.S.A. § 267.

10 ~~(4)~~<sup>(5)</sup> “Lobbyist” shall have the same meaning as in 2 V.S.A. § 261.

11 ~~(5)~~<sup>(6)</sup> “Political committee” and “political party” shall have the same  
12 meanings as in 17 V.S.A. § 2901.

13 ~~(6)~~<sup>(7)</sup> “State officer” means the Governor, Lieutenant Governor,  
14 Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

15 § 1202. STATE CODE OF ETHICS

16 (a) The Department of Human Resources shall create and maintain the  
17 State Code of Ethics in accordance with section 315 of this title **and in**  
18 **consultation with the State Ethics Commission.**

**Comment [BAW13]:** Added (G) and (H) b/c it seems cleaner to do so considering the Commission’s review of complaints.  
BAW; 1/24/17

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1        (b) In consultation with the Commissioner of Human Resources, each State  
2        officer may supplement the State Code of Ethics for the specific needs of his or  
3        her office.

4    Subchapter 2. Disclosures

5        § 1211. EXECUTIVE OFFICERS; BIENNIAL DISCLOSURE

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

9                          (1) Each source, but not amount, of personal taxable income ~~totaling~~ of  
10        ~~the officer or his or her spouse that totals~~ more than \$10,000.00, including any  
11        of the sources meeting that total described as follows:

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

15                         (B) aggregated investment income, described generally as  
16        “investments”; and

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- 1            (C) a lease or contract with the State held or entered into by:
- 2            (i) the officer or his or her spouse; or
- 3            (ii) by a company ~~in~~ of which the officer or his or her spouse, or
- 4 the officer together with his or her spouse, ~~holds a controlling interest~~ owned
- 5 more than 10 percent.
- 6            (2) Any board, commission, association, or other entity on which the
- 7 officer served and a description of that position.
- 8            (3) Any company ~~in~~ of which the officer or his or her spouse, or the
- 9 officer together with his or her spouse, ~~held a controlling interest~~ owned more
- 10 than 10 percent.
- 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
- 13 10 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

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1 January 15, within 10 days after that appointment, and shall file subsequent  
2 disclosures 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) The Executive Director shall post a copy of any disclosure form the  
8 Commission receives on the Commission's website.

9 Subchapter 3. State Ethics Commission

10 § 1221. STATE ETHICS COMMISSION

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

17 (b) Membership.

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

19 (A) a chair of the Commission, who shall be appointed by the Chief  
20 Justice of the Supreme Court;

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1           (B) one member appointed by the Vermont affiliate of the American

2 Civil Liberties Union;

3           (C) one member appointed by the ~~League of Women Voters of~~

4 ~~Vermont~~ Board of Directors of the Vermont Society of Certified Public

5 Accountants;

6           (D) one member appointed by the Vermont Bar Association; and

7           (E) one member appointed by the ~~Executive Director of the Human~~

8 ~~Rights Commission~~ Board of Directors of the Vermont Human Resource

9 Association.

10          (2) A member shall not:

11           (A) hold any office in the Legislative, Executive, or Judicial Branch

12 of State government or otherwise be employed by the State;

13           (B) hold or enter into any lease or contract with the State, or have a

14 controlling interest in a company that holds or enters into a lease or contract

15 with the State;

16           (C) be a lobbyist;

17           (D) be a candidate; or

18           (E) hold any office in a candidate's committee, a political committee,

19 or a political party.



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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 consecutive terms. A  
12 member appointed to fill a vacancy created before the expiration of a term shall  
13 not be 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                CONDUCT

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

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1 belief and disclose the nature of the conflict of interest. Alternatively, a  
2 Commission member may request that another Commission member recuse  
3 himself or herself from a Commission matter due to a conflict of interest.

4 (B) Once there has been a disclosure of a member’s conflict of  
5 interest, members of the Commission shall be afforded the opportunity to ask  
6 questions or make comments about the situation 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, of a person within the member’s immediate family, or of the  
16 member’s business associate. “Conflict of interest” does not include any  
17 interest that is not greater than that of any other persons generally affected by  
18 the outcome of 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.

**Comment [BAW14]:** SGO: Is it okay that the Ethics Commission members’ conflict of interest could involve something related to an immediate family member or business associate, while the disclosure forms only relate to spouses?

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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,~~  
5     governmental ethics in any of the three branches of State government or of the  
6     State's campaign finance law set forth in 17 V.S.A. chapter 61.

7           (b) Preliminary review by Executive Director. The Executive Director  
8     shall conduct a preliminary review of complaints made to the Commission in  
9     order to take action as set forth in this subsection.

10           ~~(2)~~<sup>(1)</sup> Governmental conduct regulated by law. If the Executive  
11     Director finds that a State officer or employee may have committed a violation  
12     of governmental conduct regulated by law, ~~that a former legislator may have~~  
13     ~~violated 2 V.S.A. § 266(b), or that a former Executive officer may have~~  
14     ~~violated 3 V.S.A. § 267,~~ the Executive Director shall submit the complaint to  
15     the Commission for its review as set forth in subsection (c) of this section.

16           ~~(1)~~<sup>(2)</sup> State Code of Ethics.

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

**Comment [BAW15]:** I added these two violations of "revolving door" to the definition of "governmental conduct regulated by law."  
BAW; 1/24/17

**Key:**

**Yellow highlighting** = language potentially added to bill as introduced

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1           (B) The Commissioner shall report back to the Executive Director  
2 regarding the final disposition of a complaint referred under subdivision (A) of  
3 this subdivision ~~(1)~~(2) within 10 days of that final disposition.

4           (3) Campaign finance.

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

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

12          (4) Legislative and Judicial Branches; attorneys.

13          (A) If the complaint is in regard to conduct committed by a State  
14 Senator, the Executive Director shall refer the complaint to the Senate Ethics  
15 Panel.

16          (B) If the complaint is in regard to conduct committed by a State  
17 Representative, the Executive Director shall refer the complaint to the House  
18 Ethics Panel.

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1           (C) If the complaint is in regard to conduct committed by a judicial  
2 officer, the Executive Director shall refer the complaint to the Judicial Conduct  
3 Board.

4           (D) If the complaint is in regard to an attorney employed by the State,  
5 the Executive Director shall refer the complaint to the Professional  
6 Responsibility Board.

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

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

14           (c) Commission reviews and referrals.

15           (1) For any complaint regarding an alleged violation of governmental  
16 conduct regulated by law that the Executive Director submits to it under  
17 subdivision (b)~~(2)~~(1) of this section, the Commission shall meet to review the  
18 complaint. This meeting shall not be open to the public and is exempt from the  
19 requirements of the Open Meeting Law.

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1           (2)(A) If, after its review, the Commission finds that there may have  
2 been a violation of governmental conduct regulated by law, it shall refer the  
3 complaint to the Attorney General and the State’s Attorney of jurisdiction.

4           (B) If, after its review, the Commission finds that there has not been  
5 a violation of governmental conduct regulated by law, it shall close the  
6 complaint.

7           (d) Confidentiality. ~~Except for complaints regarding alleged campaign~~  
8 ~~finance law violations referred under subdivision (b)(3) of this section,~~  
9 ~~complaints~~ **Complaints** and related documents in the custody of the  
10 Commission shall be exempt from public inspection and copying under the  
11 Public Records Act and kept confidential.

12 § 1224. COMMISSION ETHICS TRAINING

13 At least annually, in collaboration with the Department of Human  
14 Resources, the Commission shall make available to legislators, State officers,  
15 and State employees training on issues related to governmental ethics.

16 § 1225. EXECUTIVE DIRECTOR ADVISORY OPINIONS

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

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1           (2) The Executive Director may consult with members of the  
2           Commission in preparing an advisory opinion.

3           (b) An advisory opinion issued under this section shall be exempt from  
4           public inspection and copying under the Public Records Act ~~and kept~~  
5           ~~confidential.~~ The Commission shall keep an advisory opinion confidential  
6           unless the receiving entity has publicly disclosed it.

7           § 1226. COMMISSION REPORTS

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

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

14           (2) Advisory opinions. The number and a summary of the advisory  
15           opinions the Executive Director issued, separating the opinions by topic. This  
16           summary of advisory opinions shall not include any personal identifying  
17           information.

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



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1    \* \* \* Implementation \* \* \*

2        Sec. 8. APPLICABILITY OF EMPLOYMENT RESTRICTIONS

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

5        Sec. 9. DEPARTMENT OF HUMAN RESOURCES; STATE CODE OF  
6                ETHICS CREATION

7                The Department of Human Resources shall create the State Code of Ethics  
8        in consultation with the State Ethics Commission as described in  
9        3 V.S.A. § 1202 in Sec. 7 of this act on or before January 1, 2018.

10       Sec. 10. IMPLEMENTATION OF THE STATE ETHICS COMMISSION

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

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

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

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

3           (B) the Vermont affiliate of the American Civil Liberties Union shall  
4 appoint a member for a two-year term;

5           (C) the ~~League of Women Voters of Vermont~~ Board of Directors of  
6 the Vermont Society of Certified Public Accountants shall appoint a member  
7 for a one-year term;

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

10           (E) the ~~Executive Director of the Human Rights Commission~~ Board  
11 of Directors of the Vermont Human Resource Association shall appoint a  
12 member for a two-year term.

13           (2) After the expiration of the initial terms set forth in subdivision (1) of  
14 this subsection, Commission member terms shall be as set forth in 3 V.S.A.  
15 § 1221(b)(4)(A) in Sec. 7 of this act.

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

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

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1 Sec. 12. 3 V.S.A. § 260 is amended to read:

2 § 260. LOCATION OF OFFICES

3 \* \* \*

4 (c) The principal office of each of the following boards and divisions shall  
5 be located in Montpelier: Division for Historic Preservation ~~and~~, Board of  
6 Libraries, and State Ethics Commission.

7 \* \* \*

8 Sec. 13. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

9 The Commissioner of Buildings and General Services, in accordance with  
10 3 V.S.A. § 260 set forth in Sec. 12 of this act, shall allocate space for the State  
11 Ethics Commission established in Sec. 7 of this act. This space shall be  
12 allocated on or before October 15, 2017.

13 Sec. 14. STATE ETHICS COMMISSION FUNDING SOURCE

14 SURCHARGE; REPEAL

15 (a) Surcharge.

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

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1 departments, and offices and shall be paid by all assessed entities solely with  
2 State funds.

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

7 (b) Repeal. This section shall be repealed on June 30, 2019.

8 \* \* \* Municipal Conflicts of Interest \* \* \*

9 ~~Sec. 15. GENERAL ASSEMBLY RECOMMENDATION; ISSUES~~

10 ~~RELATING TO ETHICS AND CONFLICTS OF INTEREST IN~~

11 ~~MUNICIPALITIES~~

12 ~~(a) The General Assembly recommends that municipalities use existing~~  
13 ~~statutory authority to address municipal issues relating to ethics and conflicts~~  
14 ~~of interest. Provisions of law addressing those issues include the following:~~

15 ~~(1) 24 V.S.A. § 1202, regarding the ability of a local board to use the~~  
16 ~~Municipal Administrative Procedure Act set forth in 24 V.S.A. chapter 36,~~  
17 ~~which includes compliance with 12 V.S.A. § 61(a), regarding disqualifications~~  
18 ~~for interest for persons acting in a judicial capacity;~~

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1           ~~(2) 24 V.S.A. § 1984, regarding the ability of the voters of a town, city,~~  
2           ~~or incorporated village to adopt a conflict of interest policy for their elected~~  
3           ~~and appointed officials;~~

4           ~~(3) 24 V.S.A. § 2291(20), regarding the ability of a town, city, or~~  
5           ~~incorporated village to establish a conflict of interest policy to apply to all~~  
6           ~~elected or appointed officials in the municipality; and~~

7           ~~(4) 24 V.S.A. § 4461(a), regarding the requirement that an appropriate~~  
8           ~~municipal panel adopt rules of ethics with respect to conflicts of interest as part~~  
9           ~~of its development review procedure.~~

10           ~~(b) On or before January 1, 2018, the Secretary of State shall report to the~~  
11           ~~General Assembly on the number of towns that are using the statutory~~  
12           ~~authority described in subsection (a) of this section, and which of those~~  
13           ~~authorities are used.~~

14           Sec. 15. 24 V.S.A. § 1984 is amended to read:

15           § 1984. CONFLICT OF INTEREST PROHIBITION

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

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- 1           ~~(1)~~(A) A definition of "conflict of interest."
- 2           ~~(2)~~(B) A list of the elected and appointed officials covered by such
- 3 prohibition.
- 4           ~~(3)~~(C) A method to determine whether a conflict of interest exists.
- 5           ~~(4)~~(D) Actions that must be taken if a conflict of interest is determined
- 6 to exist.
- 7           ~~(5)~~(E) A method of enforcement against individuals violating such
- 8 prohibition.
- 9           (2) The requirement set forth in subdivision (1) of this subsection shall
- 10 not apply if, pursuant to the provisions of subdivision 2291(20) of this title, the
- 11 municipality has established a conflict of interest policy that is in substantial
- 12 compliance with subdivision (1).
- 13           (b)(1) Unless the prohibition adopted pursuant to subsection (a) of this
- 14 section contains a different definition of "conflict of interest," for the purposes
- 15 of a prohibition adopted under this section, "conflict of interest" means a direct
- 16 personal or pecuniary interest of a public official, or the official's spouse,
- 17 household member, business associate, employer, or employee, in the outcome
- 18 of a cause, proceeding, application, or any other matter pending before the
- 19 official or before the agency or public body in which the official holds office
- 20 or is employed.

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

5   \* \* \* Effective Dates \* \* \*

6           Sec. 16. EFFECTIVE DATES

7           This act shall take effect as follows:

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

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

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

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

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

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

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

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1           (3) Secs. 4, 17 V.S.A. § 2950 (State officers and State office candidates;  
2 contractor contribution restrictions) and 5, 3 V.S.A. § 347 (contractor  
3 contribution restrictions) shall take effect on December 16, 2018.

4           (4) Sec. 15, 24 V.S.A. § 1984 (municipalities; conflict of interest  
5 prohibition) shall take effect on July 1, 2020.

6           ~~(4)~~(5) This section and all other sections shall take effect on passage.

7  
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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Senator \_\_\_\_\_

FOR THE COMMITTEE