



To: Senate Committee on Government Operations
Fr: Paul Burns, Executive Director, VPIRG
Dt: January 31, 2020
Re: S.198 (Ethics)

On behalf of the Vermont Public Interest Research Group (VPIRG), I offer the following comments with respect to S.198, and Vermont's ethics legislation generally.

In earlier oral testimony, I expressed our concerns about the weakness of the Ethics Commission, including its lack of resources and authority. VPIRG's position is that the Commission needs a substantial upgrade in order to be worth preserving. Otherwise, the toothless Commission may give Vermonters a false sense of security that the state has taken real and meaningful steps to guard against unethical behavior on the part of state officials.

I appreciate the Government Operations Committee's interest in taking steps to remedy this problem. I believe that S.198 can become a vehicle for improving the current law. However, I urge you to take a more ambitious approach by adding the following elements to S.198:

- Give the independent Commission the capacity to investigate complaints and, as necessary, the authority to sanction all state government personnel. We recognize that Vermont's Constitution limits the type of enforcement action that may be taken against members of the House and Senate. However, we believe that even giving the Commission the authority to investigate complaints against legislators and issue a public finding in cases where a violation is found would be an important step forward.
- Open the proceedings of the Ethics Commission to the public once there is a determination that probable cause exists that a violation has occurred. It is our position that there should be no difference in terms of transparency between a criminal indictment, which is public, and a finding of probable cause of an ethics violation.
- In all cases where the Ethics Commission determines that a violation has occurred, its findings and sanctions should be publicly available.
- The opportunity to request an Advisory Opinion of the Commission should once again be made open to the public. Any opinions issued should be written in such a way as to provide general advice that could be applicable to more than a single office holder.

There are additional elements that could be added to S.198 that could offer some program improvement beginning in July of 2020. These more immediate improvements include:

- A limit on the amount of time that agencies have to consider and respond to a complaint forwarded by the Ethics Commission. Sixty days would seem to be a reasonable amount of time. The response should state whether an investigation occurred, and whether a violation was found.
- A requirement that any agency that determines that a violation has occurred, must share its findings and sanctions with the Ethics Commission, which shall make them publicly available.
- A requirement that the Agency of Human Services take immediate steps to make it possible for members of the public to easily locate sections of the Personnel Policy and Procedure Manual that essentially serve as its code of ethics. As it stands now, the law refers to an AHS code of ethics that does not exist.
- Any clarification that may be necessary to ensure that statewide office holders are considered employees for the purposes of this law. This would make clear that they are not exempt from having to comply with ethical requirements.