

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred Senate  
3 Bill No. 171 entitled “An act relating to adoption of a State code of ethics”  
4 respectfully reports that it has considered the same and recommends that the  
5 bill be amended by striking out all after the enacting clause and inserting in  
6 lieu thereof the following:

7 Sec. 1. 3 V.S.A. chapter 31, subchapter 1 is amended to read:

8 Subchapter 1. General Provisions; State Code of Ethics

9 § 1201. DEFINITIONS

10 As used in this chapter:

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

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

15 (3) “Confidential information” means information that is exempt from  
16 public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise  
17 designated by law as confidential.

18 (4) “Domestic partner” means an individual in an enduring domestic  
19 relationship of a spousal nature with the Executive officer or the public  
20 servant, provided the individual and Executive officer or public servant:

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

1           (B) are at least 18 years of age;

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

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

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

8           ~~(3)~~(5) “Executive officer” means:

9           (A) a State officer; or

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

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

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

16           ~~(5)~~(6) “Governmental conduct regulated by law” means conduct by an  
17 individual in regard to the operation of State government that is restricted or  
18 prohibited by law and includes:

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

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

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

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

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

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

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

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

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

14 (7) “Immediate family” means an individual’s spouse, domestic partner,  
15 or civil union partner; child or foster child; sibling; parent; or such relations by  
16 marriage or by civil union or domestic partnership; or an individual claimed as  
17 a dependent for federal income tax purposes.

18 ~~(6)~~(8) “Lobbyist” shall and “lobbying firm” have the same meaning  
19 meanings as in 2 V.S.A. § 261.

20 (9) “Person” means any individual, group, business entity, association,  
21 or organization.

1           ~~(7)~~(10) “Political committee” and “political party” shall have the same  
2 meanings as in 17 V.S.A. § 2901.

3           ~~(8)~~(11) “State officer” means the Governor, Lieutenant Governor,  
4 Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

5 § 1202. STATE CODE OF ETHICS; APPLICABILITY

6           ~~The Ethics Commission, in consultation with the Department of Human~~  
7 ~~Resources, shall create and maintain the State Code of Ethics that sets forth~~  
8 ~~general principles of governmental ethical conduct.~~

9           Applicability.

10           (1) Unless excluded under this section, the Code of Ethics applies to all  
11 individuals elected or appointed to serve as officers of the State, all individuals  
12 elected or appointed to serve as members of the General Assembly, all State  
13 employees, all individuals appointed to serve on State boards and  
14 commissions, and individuals who in any other way are authorized to act or  
15 speak on behalf of the State. This code refers to them all as “public servants.”

16           (2) The Code of Ethics established by this section does not prohibit  
17 branches of State government, agencies, or departments from adopting  
18 additional personnel policies regarding ethical conduct not covered by this  
19 Code of Ethics or provisions that exceed the requirements of this Code of  
20 Ethics. Nothing herein shall be interpreted to require a lawyer or judicial  
21 officer to violate their respective professional codes of conduct.

1           (3) The application of this Code of Ethics does not in any way abrogate  
2           or alter the sole authority of each house of the General Assembly to judge the  
3           elections and qualifications of its own members under Chapter II, Sections 14  
4           and 19 of the Vermont Constitution.

5           § 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF  
6           INTEREST

7           (a) Conflict of interest; appearance of conflict of interest.

8           (1) In the public servant’s official capacity, the public servant shall  
9           avoid any conflict of interest or the appearance of a conflict of interest. The  
10          appearance of a conflict shall be determined from the perspective of a  
11          reasonable individual with knowledge of the relevant facts.

12          (2) Except as otherwise provided in subsections (b) and (c) of this  
13          section, when confronted with a conflict of interest, a public servant shall  
14          recuse themselves from the matter and not take further action.

15          (3) As used in this section, “conflict of interest” means a direct or  
16          indirect interest of a public servant or such an interest, known to the public  
17          servant, of a member of the public servant’s immediate family or household, or  
18          of a business associate, in the outcome of a particular matter pending before  
19          the public servant or the public servant’s public body, or that is in conflict with  
20          the proper discharge of the public servant’s duties. “Conflict of interest” does

1 not include any interest that is not greater than that of other individuals  
2 generally affected by the outcome of a matter.

3 (b) Course of action.

4 (1) Legislative Branch. A member of the General Assembly shall  
5 comply with Legislative Branch rules and policies regarding the course of  
6 action a public servant may take when confronted with a conflict of interest, or  
7 the appearance of a conflict of interest, that is related to core legislative  
8 functions or duties.

9 (2) Judicial Branch. A judicial officer shall comply with the Vermont  
10 Code of Judicial Conduct regarding the course of action a judicial officer may  
11 take when confronted with a conflict of interest, or the appearance of a conflict  
12 of interest, that falls under the Rules of Judicial Conduct, including in  
13 situations where a conflict of interest, or the appearance of a conflict of  
14 interest, falls under both the Vermont Code of Judicial Conduct and the Code  
15 of Ethics.

16 (3) Government attorneys. A public servant who is a licensed attorney  
17 shall comply with the Vermont Rules of Professional Conduct regarding the  
18 course of action the attorney may take when confronted with a conflict of  
19 interest, or the appearance of a conflict of interest, that falls under the Vermont  
20 Rules of Professional Conduct, including situations where a conflict of interest.

1 or the appearance of a conflict of interest, falls under both the Vermont Rules  
2 of Professional Responsibility and the Code of Ethics.

3 (4) Public servants; other. Any public servant facing a conflict of  
4 interest not covered by subdivisions (1)–(3) of this subsection shall comply  
5 with requirements prescribed in this subdivision. Each time a public servant is  
6 confronted with a conflict of interest, other than that for which the public  
7 servant’s action is solely ministerial or clerical, the public servant shall either  
8 make a public statement, which may consist of a statement made to the public  
9 servant’s immediate supervisor, recusing themselves from the matter or, if the  
10 public servant chooses to proceed with the matter, prepare a written statement  
11 regarding the nature of the conflict. A public servant may request either  
12 guidance or an advisory opinion from the State Ethics Commission in making  
13 an initial determination whether a conflict of interest exists, or whether good  
14 cause to proceed exists as set forth in subsection (c) of this section. Once  
15 recused, a public servant shall not in any way participate in or act to influence  
16 a decision regarding the matter. If the public servant chooses to proceed with  
17 the matter, the public servant’s prepared written statement shall:

18 (A) describe the matter requiring action;

19 (B) disclose the nature of the potential conflict or actual conflict of  
20 interest;

1           (C) explain why good cause, as set forth in subsection (c) of this  
2           section, exists so that the public servant can take action in the matter fairly,  
3           objectively, and in the public interest;

4           (D) include sufficient detail so that the matter may be understood by  
5           the public; and

6           (E) be filed in accordance with the policies and procedures set forth  
7           by the agency or entity governing the matter in question, including any  
8           requirement that the statement be made public.

9           (c) Good cause. As used in this section, “good cause to proceed” may  
10          include any of the following:

11           (1) the identified conflict or potential conflict is de minimis in nature;

12           (2) the conflict is amorphous, intangible, or otherwise speculative; or

13           (3) the public servant cannot legally or practically delegate the matter.

14          (d) Confidential information. Nothing in this section shall require a public  
15          servant to disclose confidential information or information that is otherwise  
16          privileged under law.

17          § 1203a. DIRECTING UNETHICAL CONDUCT

18          A public servant shall not direct another person to act in a manner that  
19          would be unethical for the public servant or the other person to act. A public  
20          servant who has a conflict of interest shall not direct others to act to the public



1 servant’s benefit where such action would be a violation of the Code of Ethics  
2 if the public servant were to perform the act.

3 § 1203b. APPEARANCE OF UNETHICAL CONDUCT

4 A public servant shall avoid any actions creating the appearance that the  
5 public servant is violating the Code of Ethics. Whether particular  
6 circumstances create an appearance that the Code of Ethics have been violated  
7 shall be determined from the perspective of a reasonable individual with  
8 knowledge of the relevant facts.

9 § 1203c. PREFERENTIAL TREATMENT

10 A public servant in the course of conducting State business shall act  
11 impartially, showing no favor toward or prejudice against any person. A  
12 public servant shall not give or represent an ability to give preference or  
13 special treatment to any person because of the person’s wealth, position, or  
14 status or because of any personal relationship with the public servant. When  
15 permitted by law and written policy or rule, a public servant may give  
16 preference to designated persons.

17 § 1203d. MISUSE OF POSITION

18 A public servant shall not use the public servant’s official position for  
19 personal or financial gain.

1     § 1203e. MISUSE OF INFORMATION

2           A public servant shall not use nonpublic government information or  
3     confidential information acquired during the course of State service for  
4     personal or financial gain or for the personal or financial gain of any other  
5     person.

6     § 1203f. MISUSE OF GOVERNMENT RESOURCES

7           A public servant shall not make use of State materials, funds, property,  
8     personnel, facilities, or equipment, or permit another person to do so, for any  
9     purpose other than for official State business unless the use is expressly  
10    permitted or required by law or by a written agency, departmental, or  
11    institutional policy or rule. A public servant shall not engage in or direct  
12    another person to engage in work other than the performance of official duties  
13    during working hours, except as permitted or required by law or by written  
14    agency, departmental, or institutional policy or rule.

15    § 1203g. GIFTS

16           (a) Gift limitations and exceptions. A public servant shall not solicit or  
17    accept a gift unless permitted under this section. For purposes of this  
18    subchapter, “gift” means anything of value, tangible or intangible, that is given  
19    for less than adequate consideration. A public servant may accept:

20            (1) A devise or inheritance. A public servant may accept a devise or  
21    inheritance.

1           (2) Gifts to the State. A public servant may accept goods or services  
2           that are provided to a State agency for use on State agency property or for use  
3           by the public servant while serving in an official capacity.

4           (3) Ceremonial awards. A public servant may accept a certificate,  
5           plaque, or other ceremonial award, provided the cost does not exceed the limit  
6           established pursuant to subsection (b) of this section.

7           (4) Rebates, discounts, and promotions. A public servant may accept a  
8           rebate, discount, or promotional item that is available to the general public or  
9           to a definable subset of the general public.

10           (5) Printed or recorded material. A public servant may accept printed or  
11           recorded informational or educational material germane to State action or  
12           functions.

13           (6) Food or beverages. A public servant may accept food or beverages,  
14           or both, under the following circumstances:

15           (A) The food or beverage, or both, is consumed on an occasion or  
16           occasions at which the person paying, directly or indirectly, for the food or  
17           beverage or the person's representative is in attendance, provided the cost does  
18           not exceed the limit established pursuant to subsection (b) of this section.

19           (B) The food or beverage, or both, is incidental to the performance of  
20           a legitimate State function.

1           (C) The food or beverage, or both, is provided at a charitable,  
2           cultural, political, or civic event at which the public servant participates in the  
3           public servant’s official capacity.

4           (7) Admission fees and tickets. A public servant may accept tickets or  
5           admission to a charitable, cultural, political, or civic event at which a public  
6           servant participates in the public servant’s official capacity, provided such  
7           tickets or admission is provided by the primary sponsoring entity.

8           (8) Private employment gifts. A public servant may accept anything of  
9           value provided by an employer of the public servant, provided such benefits  
10           are customarily and ordinarily provided to others in similar circumstances.

11           (9) Public-servant-to-public-servant gifts. A public servant may accept  
12           a gift from another public servant under the following circumstances:

13           (A) If the recipient is not in a supervisor-supervisee relationship with  
14           the giver, the public servant may accept a gift for a holiday or occasion of  
15           significance.

16           (B) If the recipient is in a supervisor-supervisee relationship, the  
17           public servant may accept a gift for a holiday or occasion of significance,  
18           provided the value does not exceed the limit established pursuant to subsection  
19           (b) of this section.



1                   (B) Food or beverages, or both:                   Less than \$100.00  
2                   in the aggregate per recipient, per source, in a calendar year.

3                   (C) A supervisor-supervisee relationship gift:                   Less than \$100.00  
4                   for any single gift, and the value of all gifts does not exceed \$200.00 in the  
5                   aggregate per year.

6                   (D) De minimis gift:                   \$50.00 or less per  
7                   source per occasion, provided that the aggregate market value of individual  
8                   gifts received from any one person does not exceed \$150.00 in a calendar year.

9                   (2) On or after July 1, 2026, the State Ethics Commission may increase  
10                  the value or cost limit set in subdivision (1) of this subsection, provided:

11                  (A) the State Ethics Commission presents its proposed increase to the  
12                  House and Senate Committees on Government Operations at least 180 days  
13                  prior to proposed implementation and after consultation with the Department  
14                  of Human Resources and the Judicial Branch;

15                  (B) the cost or value limit is not increased more than once in a five-  
16                  year period; and

17                  (C) the increased cost or value limit is posted on the State Ethics  
18                  Commission website and the Commission sends a notice of increase to public  
19                  servants not less than 60 days prior to the increase's effective date.

1     § 1203h. UNAUTHORIZED COMMITMENTS

2             A public servant shall not make unauthorized commitments or promises of  
3     any kind purporting to bind State government.

4     § 1203i. EMPLOYMENT RESTRICTIONS

5             (a) Outside employment. A public servant shall not seek or engage in  
6     outside employment or activities that are inconsistent, incompatible, or in  
7     conflict with the public servant’s official duties.

8             (b) Post-government employment.

9                 (1) Executive officers. Executive officers shall comply with the post-  
10     government employment restrictions prescribed in section 267 of this title and  
11     2 V.S.A. § 266(b) and (c).

12                 (2) Legislators. Legislators shall comply with the post-government  
13     employment restrictions prescribed in 2 V.S.A. § 266(b).

14                 (3) Legislative Branch employees. Except as permitted in subdivision  
15     (4) of this subsection, for one year after leaving office, a former Legislative  
16     Branch employee may not, for compensation, appear before the General  
17     Assembly or its subparts, or the office in which the employee served in at the  
18     time of leaving service, to advocate for anyone other than the State, concerning  
19     any matter in which the State has a direct and substantial interest.

20                 (4) Contracting exception. The limitations in subdivisions (1) through  
21     (3) of this subsection do not apply to individuals providing information or

1 services to the State pursuant to contracts of the State unless the public servant  
2 is otherwise prohibited from doing so by State or federal law.

3 (5) Representation restrictions. After leaving State service or  
4 employment, a public servant shall not knowingly, with the intent to advocate  
5 for an outcome of an investigation, application, ruling, license, contract, claim,  
6 rulemaking, charge, arrest, or quasi-judicial or judicial proceeding,  
7 communicate with or appear before the State on matters involving specific  
8 parties in which the employee participated personally and substantially during  
9 government service and in which the State is a party or has a direct and  
10 substantial interest.

11 § 1203j. COMPLIANCE WITH LAWS, RULES, AND POLICIES

12 A public servant shall comply with applicable State and federal laws and  
13 regulations, including anti-discrimination and equal opportunity laws, and  
14 comply with applicable governmental codes of conduct. A public servant shall  
15 comply with any other applicable rules or policies established by executive  
16 order, agency rule, or policy.

17 § 1204. WHISTLEBLOWER PROTECTIONS FOR ETHICS COMPLAINTS

18 Consistent with section 971–978 of this title, a public servant shall be free  
19 to disclose waste, fraud, abuse of authority, violations of law, or violations of  
20 this or other applicable codes regarding ethical conduct to the State Ethics  
21 Commission without fear of reprisal, intimidation, or retaliation.



1     § 1205. MANDATORY ETHICS EDUCATION AND TRAINING

2             Within the first 120 days of public service, a public servant shall engage in  
3     ethics training, which may be in person or online. Completion of ethics  
4     training shall be documented by the department where the public servant is  
5     employed. A public servant shall participate in continuing ethics education,  
6     which may be in person or online, at least once every three years thereafter.  
7     Approved continuing ethics education providers are the State Ethics  
8     Commission, the Department of Human Resources – Center for Achievement  
9     in Public Service (CAPS), the Vermont House of Representatives Ethics Panel  
10    for the House of Representatives, the Vermont Senate Ethics Panel for the  
11    Senate, the Vermont Judiciary, and any education providers approved by the  
12    State Ethics Commission. Copies of ethics training materials by ethics  
13    education providers shall be provided to the State Ethics Commission. On  
14    request, the State Ethics Commission may collaborate with or assist ethics  
15    education providers.

16    Sec. 2. REPEAL

17             3 V.S.A. § 1211(e) is repealed.

18    Sec. 3. EFFECTIVE DATE

19             This act shall take effect on July 1, 2022.

1

2 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

4

Senator \_\_\_\_\_

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FOR THE COMMITTEE