

SUMMARY OF PROPOSALS

A. ENHANCEMENT OF ETHICS LAWS AND STATE ETHICS COMMISSION'S AUTHORITY

1. *Rulemaking Authority of State Ethics Commission*

Currently: The Ethics Commission has rulemaking authority to create exemptions. G.L. c. 268B, § 3(a).

Proposal: Amend G.L. c. 268B, § 3(a) to expand the Commission's rulemaking authority to allow it to prescribe and publish rules and regulations to implement chapters 268A.

2. *Summons Authority of State Ethics Commission*

Currently: The Commission has summons authority, but must file suit to enforce; the Superior Court has the discretion to decide whether to enforce the Commission's summons. G.L. c. 268B, § 4(d).

Proposal: Amend G.L. c. 268B, § 4(d) to make compliance with the Commission's summons mandatory and leave it to the recipient to seek a court order quashing the summons.

3. *Statute of Limitations for Ethics Violations*

Currently: Pursuant to regulation, the Commission has 3 years from the date it learns of an alleged violation to issue an Order to Show Cause. 930 CMR § 1.02(10). Pursuant to the Commission's website, the Commission will not issue an Order to Show Cause more than 6 years after the alleged violation occurred. http://www.mass.gov/ethics/statute_limitations.html. There is no statutory limitations period for ethical violations.

Proposal: Amend G.L. c. 268B to include a section that allows the Commission to bring an action up to 5 years from the date the Commission learns of the alleged violation, but not more than 6 years from the date of the last conduct relating to the alleged violation.

4. *Gratuities Statute*

Currently: Gifts of substantial value given to public employees violate the gratuities statute only if given for or because of any specific official act performed or to be performed. G.L. c. 268A, § 3; *see Scaccia v. State Ethics Commission*, 431 Mass. 351 (2000).

Proposal: Amend G.L. c. 268A, § 3 to clarify that gifts of substantial value given "for or because of the employee's official position" violate the gratuities law, and provide the Commission with specific direction to adopt regulations to define "substantial value" (which shall not be less than \$50) and establish exceptions where the circumstances do not present a genuine risk of a conflict or appearance of a conflict.

5. *Authority of State Ethics Commission to Recover Economic Advantage*

Currently: The Commission may bring a civil action against someone who acted to his economic advantage to recover damages in the amount of the economic advantage. G.L. c. 268A, §§ 9 (state), 15 (county), 21 (municipality).

Proposal: Amend G.L. c. 268A, §§ 9, 15, and 21 to allow the Commission to recover the amount of the economic advantage up to \$25,000 without filing a separate lawsuit, subject to review in Superior Court in accordance with G.L. c. 268B, § 4(k) or G.L. c. 30A, while requiring the Commission to file an action in Superior Court to seek to recover a greater amount of economic advantage.

6. Enforcement of False Claims by Public Employees

Currently: The Commission does not have jurisdiction over false claims by public employees (e.g., lying on time sheets or submitting false reimbursement requests).

Proposal: Amend G.L. c. 268A § 23 to explicitly bring such violations within the authority of the Commission.

7. Information and Resource Sharing

Currently: The Commission may share information with the Attorney General, the United States Attorney, and the District Attorneys offices when the information may be used in a criminal proceeding. G.L. c. 268B, § 4(a). The Commission may also receive personnel and other assistance from the State Police, the State Auditor, the Comptroller, the Attorney General, and the Director of OCPF. G.L. c. 268B, § 2(m).

Proposal: Amend G.L. c. 268B, § 4 to expand the Commission's authority to share information to the Inspector General, the Secretary of State, the Office of Campaign and Political Finance, and the Attorney General, consistent with the confidentiality restrictions in G.L. c. 268B, § 4. Amend G.L. c. 268B, § 2(m) to allow the Secretary of State and the Inspector General to provide personnel and other assistance to the Commission.

8. Budget of State Ethics Commission

Currently: The Commission's budget must be approved annually.

Proposal: File legislation to provide the Commission with a guaranteed annual base budget which shall be no lower than the prior fiscal year.

B. ENHANCEMENT OF LOBBYING LAWS AND SECRETARY OF STATE'S AUTHORITY

1. Definition of Lobbying

Currently: The term "lobbying" is undefined. G.L. c. 3, § 39.

Proposal: Amend G.L. c. 3, § 39 to include a definition of legislative lobbying and executive lobbying based on clarified definitions of executive and legislative agents

2. Revolving Door Provision

Currently: Prohibits a former state employee or elected official, including members of the Legislature, from acting as a *legislative* agent before the governmental body with which he was associated for one year after he leaves that body. G.L. c. 268A, § 5(e), c. 268B, §§ 1, 5, 6.

Proposal: Amend G.L. c. 268A, § 5(e) and c. 268B, §§ 1, 5 and 6 to expand the revolving door provision to include executive agents.
Allow the Ethics Commission to establish by regulation the meaning of “governmental body with which he has been associated.”

3. *“Incidental” Lobbying*

Currently: Authorizes up to 50 hours of incidental lobbying in each 6-month reporting period without triggering filing requirements. G.L. c. 3, § 39.

Proposal: Amend G.L. c. 3, § 39 to reduce the amount of allowable incidental lobbying to not more than 10 hours or not more than \$2,500 in any 3-month reporting period.

4. *Clarification of Registration and Reporting Requirements*

Currently: Persons required to register as a lobbyist under G.L. c. 3, § 41 are required to file semi-annual reports under § 43, and the lobbyist entity must do so under § 47. The current language creates a loophole that does not require lobbyists or lobbyist entities whose names do not “appear on the docket” to file reports, even if the lobbyist or lobbyist entity should have lawfully registered.

Proposal: File legislation to close this loophole.

5. *Periodic Disclosure Requirements*

Currently: Requires semiannual reporting of lobbying activities. G.L. c. 3, §§ 43, 44, 47.

Proposal: Amend G.L. c. 3, §§ 43, 44, and 47 to increase the reporting requirement to quarterly reporting (Apr. 15; July 15; Oct. 15; Jan. 15).

6. *Disclosure of Lobbyist Activities*

Currently: Confusing statutory requirements create uncertainty regarding the scope of information that must be reported by legislative and executive agents.

Proposal: Amend G.L. c. 3, § 43 to specify information that must be reported by legislative and executive agents, including the identity of the client on whose behalf they acted; the identity of the legislative bills or other governmental action that they sought to influence for each client; the positions that they took; the compensation they received; and any direct business relationships with public officials.

7. *Availability of Lobbying Information Online*

Currently: Docket of lobbyists and their employers and other filings related to lobbying are required to be available for public inspection at the Public Records Division. G.L. c. 3, § 47. The Secretary of State maintains an

electronic database with legislative and executive agents and lobbyist entities' registration information.

Proposal: Recommend that the Secretary of State's Office explore ways to expand and improve its searchable database.

8. Rulemaking Authority of Secretary of State

Currently: The Secretary has no authority to issue regulations implementing the lobbying laws.

Proposal: File legislation to provide the Secretary of State rulemaking authority to implement the lobbying laws, and to provide confidential, binding advisory opinions.

9. Enforcement Authority of Lobbying Laws

Currently: The Secretary of State may disqualify a person from acting as a lobbyist, but has no other enforcement authority. G.L. c. 3, § 45.

Proposal: Amend G.L. c. 3, § 45 to allow the Secretary of State to impose fines and to have the same civil enforcement authority over violations of the lobbying laws as the Ethics Commission has over violations of the ethics laws.

C. ENHANCED AUTHORITY OF ATTORNEY GENERAL

1. Civil Enforcement Authority over Ethics Violations

Currently: A civil violation of any conflict of interest law is enforced by the Ethics Commission under G.L. c. 268B, § 4(j)(3).

Proposal: File legislation to provide the Attorney General with concurrent jurisdiction to enforce this section.

2. Civil Enforcement Authority over Lobbying Violations

Currently: The Attorney General may institute civil proceedings or refer the case to the proper district attorney for violations of § 43 (filing requirement of statement of expenditures and contributions for legislative and executive agents), § 44 (same for organizations or groups), or § 47 (same for employers of legislative and executive agents). G.L. c. 3, §§ 48, 49.

Proposal: Amend G.L. c. 3, § 49 to provide the Attorney General with civil enforcement authority for violations of §§ 41 and 42.

3. Recording of Conversations in Corruption Investigations

Currently: G.L. c. 272, § 99 requires that the case involve "organized crime" to record a conversation.

Proposal: Amend G.L. c. 272, § 99 to allow one-party consent monitoring and recording of conversations with judicial approval in state corruption investigations.

4. Criminal Penalties for Fraudulent Violations of Standards of Conduct

Currently: No criminal penalties for violations of section 23.

Proposal: File legislation imposing criminal penalties on persons who, with fraudulent intent, violate or cause another to violate section 23(b)(1), (2) or 23(c) of up to \$10,000, up to 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

5. *Obstruction of Justice Statute*

Currently: Obstruction of justice is a common law offense under *Commonwealth. v. Triplett*, 426 Mass. 26 (1997).

Proposal: File legislation that imposes penalties for obstruction of justice, including but not limited to the destruction of evidence.

6. *Statewide Grand Jury*

Currently: No statewide grand jury.

Proposal: File legislation authorizing the convening of a statewide grand jury with jurisdiction extending throughout the Commonwealth.

D. ENHANCED PENALTIES FOR CONFLICT OF INTEREST VIOLATIONS

1. *Bribery*

Currently: Penalty for giving or receiving a bribe to influence an official act is up to \$5,000, or up to 3 years imprisonment in a state prison (or up to 2 1/2 years in a house of correction), or both. G.L. c. 268A, § 2.

Proposal: Amend G.L. c. 268A, § 2 to increase the penalty to up to \$100,000, or up to 10 years imprisonment in a state prison (or up to 2 1/2 years in a house of correction), or both.

2. *Other Criminal Violations*

a. *Gifts and Gratuities (G.L. c. 268A § 3)*

b. *Receiving Compensation for State Action (G.L. c. 268A §§ 4, 11, 17)*

c. *Revolving Door Violations (G.L. c. 268A §§ 5, 12, 18)*

d. *Participation in a Matter in Which Employee has a Financial Interest (G.L. c. 268A §§ 6, 13, 19)*

e. *Financial Interest in Contract of State Agency (G.L. c. 268A §§ 7, 14, 20)*

f. *Directing Bidder to particular Insurer on Public Building or Construction Contract (G.L. c. 268A § 8)*

Currently: Penalty for violations of (a) through (e) is up to \$3,000, and up to 2 years imprisonment, or both. The penalty for (f) is up to \$5,000, and up to 2 years imprisonment, or both.

Proposal: Amend G.L. c. 268A to increase the maximum penalty for each violation to up to \$10,000, or up to 5 years imprisonment in a state prison (or up to 2 1/2 years in a house of correction), or both.

3. *Civil Violations of Conflict of Interest Laws*

Currently: Penalty for a civil violation of any conflict of interest law under G.L. c. 268A is up to \$2,000 for each violation. G.L. c. 268B, § 4(j)(3).

Proposal: Amend G.L. c. 268B, § 4(j)(3) to increase the civil penalty to up to \$10,000 for each civil violation of the conflict of interest laws other than bribery, and increase the civil penalty for bribery to \$25,000.

E. ENHANCED PENALTIES FOR FINANCIAL DISCLOSURE VIOLATIONS

1. False Statements in Ethics Proceeding and Filing False Disclosures

Currently: Penalty for willfully making materially false statements in a proceeding before the Ethics Commission or filing a false Statement of Financial Interest (SFI) (no explicit willful or material requirement for the SFI) is up to \$1,000, or up to 3 years imprisonment in state prison (or up to 2 ½ years in a house of correction), or both. G.L. c. 268B, § 7.

Proposal: Amend G.L. c. 268B, § 7 to increase the penalty to up to \$10,000, or up to 5 years imprisonment in a state prison (or up to 2 1/2 years in a house of correction), or both for willfully making materially false statements in a proceeding before the Commission or willfully filing a materially false SFI.

2. Civil Violations of Financial Disclosure Laws

Currently: Penalty for a violation of any financial disclosure law under G.L. c. 268B is up to \$2,000 for each violation. G.L. c. 268B, § 4(j)(3).

Proposal: Amend G.L. c. 268B, § 4(j)(3) to increase the penalty to up to \$10,000 for each violation.

F. ENHANCED PENALTIES FOR LOBBYING VIOLATIONS

1. Late Filings

Currently: Penalty for filing a late statement is \$250 (if less than 10 days late) or \$500 (if more than 10 days late). G.L. c. 3, § 43 (for legislative and executive agents) and § 47 (for employers of legislative and executive agents). Secretary may waive fees for good cause.

Proposal: Amend G.L. c. 3, §§ 43, 47 to increase the penalty to \$50 per day for the first 20 days and \$100 per day for every day after the twentieth day.

2. Registration Violations

Currently: Penalty for violating registration-related lobbying rules under G.L. c. 3, §§ 41, 42, 43, 44, and 47, is a misdemeanor punishable by not less than \$100 and not more than \$5,000, with no possibility of imprisonment. G.L. c. 3, § 48. The Attorney General may prosecute when appropriate for violations of § 41 (annual registration and payment of filing fee) and § 42 (prohibition on agreements to influence legislation for compensation). The Attorney General may institute civil proceedings or refer the case to the proper district attorney for violations of § 43 (filing requirement of statement of expenditures and contributions for legislative and executive agents), § 44 (same for organizations or groups), or § 47 (same for employers of legislative and executive agents).

Proposal: Amend G.L. c. 3, § 48 to increase the criminal penalty to up to \$10,000, or up to 5 years imprisonment in a state prison (or up to 2 1/2 years in a house of correction), or both.

3. Disqualification for Lobbying Violations

Currently: The Secretary of State may, upon cause shown, disqualify a person from acting as a lobbyist for 3 regular sessions following the disqualification. G.L. c. 3, § 45.

Proposal: Amend G.L. c. 3, § 45 to allow the Secretary of State, upon cause shown, to suspend or permanently revoke a legislative or executive agent's license.

4. Gift Restriction

Currently: Penalty for a lobbyist providing anything of value to a public official or employee (or a member of their family) is not less than \$100 and not more than \$5,000. G.L. c. 3, §§ 43, 48. The ethics laws prohibit gifts from a lobbyist to public officials of \$100 or more in value in a calendar year and impose a penalty of up to \$2,000 for violating that restriction. G.L. c. 268B, §§ 6 and 4(j)(3).

Proposal: Amend G.L. c. 3, § 48 to increase the penalty to up to \$10,000, or up to 5 years imprisonment in a state prison (or up to 2 1/2 years in a house of correction), or both for a lobbyist providing anything of value to a public official (or a member of their family). Update G.L. c. 268B, § 6 to remove the inconsistent \$100 per year prohibition and bring the language in line with G.L. c. 3, § 43.

G. MANDATORY TRAINING AND EDUCATION

1. Summary of Conflict of Interest Laws

Currently: No statutory requirement that government employees receive a summary of the conflict of interest laws.

Proposal: File legislation to require the Ethics Commission to make a summary of the conflict of interest laws available on its website. Require that all state, county, and municipal employees, within 30 days of becoming an employee and every year thereafter, be furnished with the summary by and file an acknowledgement with: (i) the city or town clerk for municipal employees; (ii) the appointing authority or his designee for appointed state and county employees; or (iii) the Commission for elected state and county employees. Require the Commission to establish procedures for implementing this section and ensuring compliance.

2. Periodic Online Training

Currently: No statutory requirement that government employees take an online training course on the conflict of interest laws. (The Commission has an online training program for state employees).

Proposal: File legislation to require the Commission to make an online training program available on its website. Require that all state, county, and municipal employees, within 30 days of becoming an employee and every 2 years thereafter, take the online training program. Require the Commission to log and maintain a record of completion. Require the Commission to establish procedures for implementing this section and ensuring compliance.

3. Training Program for Municipalities

Currently: No statutory training requirement for municipal employees.

Proposal: File legislation to require the Commission to develop a certification program for municipalities (so that each municipality has at least one person knowledgeable about conflict of interest laws). Require that each municipality designate a senior level employee as its liaison to the Commission. Require the Commission to conduct seminars for designated liaisons.

4. Training for Lobbyists

Currently: No statutory requirement that lobbyists receive training on lobbying laws.

Proposal: Amend G.L. c. 3, § 41 to require all legislative and executive agents, within 90 days of the date of the effective date of the act and every year thereafter, to take either an in-person or online certification course from the Secretary of State's Office and receive a certificate of completion to be filed with the Secretary of State, prior to being able to register as a legislative or executive agent. Require the Secretary of State's Office to issue regulations to implement this section.

SECTION BY SECTION SUMMARY OF PROPOSED LEGISLATION

AN ACT IMPROVING THE LAWS RELATING TO ETHICS AND LOBBYING

SECTIONS 1 & 2. Amends section 39 of chapter 3 to update the definitions of “legislative agent” and “executive agent” to include the terms “legislative lobbying” and “executive lobbying” and to reduce the amount of permissible incidental lobbying from 50 hours or \$5,000 in any 6-month reporting period to 10 hours or \$2,500 in any 3-month reporting period.

SECTIONS 3 & 4. Amends section 39 of chapter 3 to add definitions of “legislative lobbying” and “executive lobbying” that include municipal lobbying connected to state lobbying and acts done in preparation for an actual communication with a government employee.

SECTION 5. Amends section 39 of chapter 3 to update the definition of “client” to include persons, corporations, partnerships, associations, and other entities.

SECTION 6 & 65. Amends section 41 of chapter 3 to require all legislative and executive agents to annually complete a certification course offered by the Secretary of State’s Office prior to registering as a legislative or executive agent.

SECTION 7. Amends section 41 of chapter 3 to require the Secretary of State to issue each legislative and executive agent a license every year.

SECTION 8. Amends section 41 of chapter 3 to direct the Secretary of State to enact regulations to implement the lobbying laws, and to provide confidential, binding advisory opinions.

SECTION 9, 13 & 15. Amends sections 43, 44, and 37 of chapter 3 to require lobbying reports filed by legislative and executive agents, lobbyist organizations, and employers of legislative and executive agents to be filed quarterly.

SECTION 10 & 16. Amends sections 43 and 47 of chapter 3 to require all executive and legislative agents to file reports, regardless of whether they are registered and their names appear on the docket.

SECTION 11. Amends section 43 of chapter 3 to update the information that must be reported by legislative and executive agents to include: the identification of the client for whom the agent provided lobbying services; the legislative bills or government action that the agent sought to influence; the position the agent took on each bill or government action; the amount of compensation the agent received; and business associations the agent has with public officials.

SECTION 12 & 17. Amends sections 43 and 47 of chapter 3 to increase the penalty applicable to legislative and executive agents and employers of legislative and executive agents who file late statements from \$250 if the statement is less than 10 days late or \$500 if the statement is more than 10 days late to \$50 per day for the first 20 days late and \$100 per day for every day after the twentieth day.

SECTION 14. Amends section 45 of chapter 3 to provide the Secretary of State with civil enforcement authority over the lobbying laws, including authority to subpoena documents and testimony; conduct adjudicatory proceedings; impose civil fines of up to \$10,000 per violation; and suspend and revoke a violator's license.

SECTION 18. Amends section 48 of chapter 3 to increase the criminal penalty for violating the lobbying laws from a fine of not less than \$100 and not more than \$5,000, to a fine of up to \$10,000, or up to 5 years imprisonment in a state prison, or up to 2 1/2 years in a house of correction, or both.

SECTION 19. Amends section 49 of chapter 3 to provide the Attorney General with civil enforcement authority over violations of registration, filing fee, identification card requirements, and violations concerning improper agreements to influence decisions of executive branch employees or legislation.

SECTION 20. Adds a new section 13E to chapter 268 providing penalties of up to \$25,000, or up to 10 years imprisonment in a state prison, or up to 2 1/2 years in a house of correction, or both for obstruction of justice.

SECTION 21. Amends section 2 of chapter 268A to increase the maximum criminal penalty for giving or receiving a bribe to influence an official act from a fine of \$5,000, or 3 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both to a fine of up to \$100,000, or up to 10 years imprisonment in a state prison (or up to 2 1/2 years in a house of correction), or both.

SECTIONS 22 & 24. Amends section 3 of chapter 268A to clearly prohibit gratuities of substantial value given to a state, county, or municipal employee for or because of the employee's official position. The Commission is required to adopt regulations to define substantial value (which shall not be less than \$50) and establish exceptions where the circumstances do not present a genuine risk of a conflict or appearance of a conflict.

SECTIONS 23, 25, 28-31, 33-36, 38-41. Amends sections 3 to 8, 11 to 14, and 17 to 20 of chapter 268A to increase the penalties for gifts and gratuities, receiving compensation for state action, revolving door violations, participation in a matter in which employee has a financial interest, financial interest in the contract of a state agency, and directing a bidder to a particular insurer on public building or construction contract from a maximum of \$3,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both (a maximum of \$5,000, or 2 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both for directing a bidder to a particular insurer)

to a maximum of \$10,000, 5 years imprisonment in a state prison (or 2 1/2 years in a house of correction), or both.

SECTIONS 26, 27, 47, 48 & 59. Amends section 5(e) of chapter 268A and section 1 of chapter 268B to include executive agents and executive lobbying to the revolving door provisions.

SECTIONS 32, 37 & 42. Amends sections 9, 15, and 21 of chapter 268A to allow the Commission to recover, after an adjudicatory proceeding, the amount of the economic advantage resulting from a violation or restitution up to \$25,000 without filing a separate lawsuit. The violator may obtain review of the Commission's decision in Superior Court.

SECTION 43. Amends section 23 of chapter 268A to give the Commission jurisdiction over false claims by government employees.

SECTION 45. Amends chapter 268A to add section 26 to impose criminal penalties for fraudulently violating section 23(b)(1), (2) or 23(c) or, with fraudulent intent, causing another person to violate section 23(b)(1), (2) or 23(c), of a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTIONS 44, 46, 66 & 67. Amends chapter 268A to add sections 27 to 29 to provide that all government employees receive a summary of the conflict of interest laws from the Ethics Commission within 30 days of becoming a government employee and every year thereafter (with a 90-day transition period for current employees); to provide that the Ethics Commission establish an online training program on the conflict of interest laws and that all government employees must take the online training program within 30 days of becoming a government employee and every 2 years thereafter (with a 90-day transition period for current employees); and to provide that each municipality designate a senior level employee to serve as its liaison to the Ethics Commission and that the Ethics Commission develop a certification program for municipalities and provide training to the designated liaisons.

SECTION 49. Amends section 2 of chapter 268B to provide that the Commission will be guaranteed an annual base budget of no less than the preceding year.

SECTION 50. Amends section 2(m) of chapter 268B to authorize the Secretary of State and the Inspector General to provide personnel and other assistance to the Commission, just as the State Police, the State Auditor, the Comptroller, the Attorney General, and the Director of OCPF are currently authorized to do.

SECTION 51. Amends section 3(a) of chapter 268B to provide the Ethics Commission with rulemaking authority to implement the conflict of interest laws.

SECTION 52. Amends section 4 of chapter 268B to expand the Commission's authority to share information with the offices of: the Attorney General, the United States

Attorney, the District Attorney, the Inspector General, the Secretary of State, and the Office of Campaign and Political Finance.

SECTION 53. Amends section 4(c) of chapter 268B to include a 5 year statute of limitations for ethics violations, beginning from the date the Commission learns of the violation. Notwithstanding the 5 year statute of limitations, the Commission is prohibited from bringing any action for a violation that occurred more than 6 years from the date of the most recent alleged misconduct.

SECTION 54. Amends section 4(d) of chapter 268B to mandate compliance with summonses issued by the Ethics Commission and allow the recipient to seek a court order quashing the summons.

SECTION 55. Amends section 4(j)(3) of chapter 268B to increase the penalty for a civil violation of any conflict of interest law other than bribery or any financial disclosure law from a maximum of \$2,000 per violation to a maximum of \$10,000 per violation. The civil penalty for bribery is increased to \$25,000.

SECTIONS 56 & 57. Amends sections 4(j) and 4(k) of chapter 268B to clarify that the Ethics Commission's authority to file an action in Superior Court to enforce an order and the Superior Court's ability to review the order applies to orders issued in accordance with chapter 268A in addition to chapter 268B.

SECTION 58. Amends section 4 of chapter 268 B to allow the Attorney General, along with the Ethics Commission, to civilly enforce the conflict of interest laws.

SECTION 60. Amends section 6 of chapter 268B to conform to the existing gift prohibition in the lobbying laws by prohibiting gifts from legislative or executive agents to government officials or employees.

SECTIONS 61 & 62. Amends section 7 of chapter 268B to increase the penalty for willfully making false statements in a proceeding before the Ethics Commission or for willfully filing a materially false SFI from a maximum of a \$1,000 fine, or 3 years imprisonment in a state prison or 2 1/2 years in a house of correction, or both to a maximum of a \$10,000 fine, 5 years imprisonment in a state prison or 2 1/2 years in a house of correction, or both.

SECTION 63. Amends section 99 of chapter 272 to allow one-party consent monitoring and recording of conversations with judicial approval in state corruption cases.

SECTION 64. Adds a new chapter 277A to provide for a statewide grand jury with jurisdiction throughout Massachusetts.

PROPOSED LEGISLATION

AN ACT IMPROVING THE LAWS RELATING TO ETHICS AND LOBBYING

SECTION 1. Section 39 of chapter 3 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the definition of “Executive agent” and inserting in place thereof the following definition:-

“Executive agent”, a person who for compensation or reward engages in executive lobbying, which includes at least one communication with a government employee. The term “executive agent” shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, engages in executive lobbying, whether or not any compensation in addition to the salary for such activities is received for such services. For the purposes of this definition a person shall be presumed to engage in activity covered by this definition in a manner that is simply incidental to his regular and usual business or professional activities if he: (i) engages in any activity or activities covered by this definition for not more than 10 hours during any reporting period; and (ii) receives less than \$2,500 during any reporting period, for any activity or activities covered by this definition.

SECTION 2. Section 39 of chapter 3, as so appearing, is hereby further amended by striking out the definition of “Legislative agent” and inserting in place thereof the following definition:-

“Legislative agent”, a person who for compensation or reward engages in legislative lobbying, which includes at least one communication with a government employee. The term “legislative agent” shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, engages in legislative lobbying, whether or not any compensation in addition to the salary for such activities is received for such services. For purposes of this definition a person shall be presumed to engage in activity covered by this definition in a manner that is simply incidental to his regular and usual business or professional activities if he: (i) engages in any activity or activities covered by this definition for not more than 10 hours during any reporting period; and (ii) receives less than \$2,500 during any reporting period, for any activity or activities covered by this definition.

SECTION 3. Section 39 of chapter 3, as so appearing, is hereby further amended by inserting after the definition of “Executive agent” the following definition:-

“Executive lobbying,” any act to influence or to attempt to influence the decision of any officer or employee of the executive branch or an authority, including but not limited to statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation pursuant thereto, or any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement. The term includes acts to influence or attempt to influence the decision

of any officer or employee of a city or town when those acts are intended to carry out a common purpose with executive lobbying at the state level; and includes strategizing, planning, research, and other background work only if performed in connection with or for use in an actual communication with a government employee for purposes of the acts described in this definition.

SECTION 4. Section 39 of chapter 3, as so appearing, is hereby further amended by inserting after the definition of "Legislative agent" the following definition:-

"Legislative lobbying," any act to promote, oppose or influence legislation, or to promote, oppose or influence the governor's approval or veto thereof. Acts to influence legislation shall include, without limitation, any action to influence the introduction, sponsorship, consideration, action or nonaction with respect to any legislation. The term includes acts to influence or attempt to influence the decision of any officer or employee of a city or town when those acts are intended to carry out a common purpose with legislative lobbying at the state level; and includes strategizing, planning, research, and other background work only if performed in connection with or for use in an actual communication with a government employee for purposes of the acts described in this definition.

SECTION 5. Section 39 of chapter 3, as so appearing, is hereby further amended by striking out the definition of "Client" and inserting in place thereof the following definition:-

"Client", any person, corporation, partnership, association, or other entity that contracts with another person, corporation, partnership, association, or other entity to receive lobbying services.

SECTION 6. Section 41 of chapter 3, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The state secretary shall offer educational seminars on the requirements of sections 39 to 50, inclusive, for all legislative agents and executive agents. The seminars shall be conducted in-person or offered online through the state secretary's website. All new legislative and executive agents, as defined by section 39, shall, before registering with the state secretary, and every year thereafter, complete an in-person or online seminar offered by the state secretary. Completion of the in-person or online seminar shall be a requirement for annual registration with the state secretary. If requested by the state secretary, the commonwealth, acting through the superintendent of the state bureau of office buildings, shall provide, at no cost to the state secretary, suitable facilities for such seminars. The state secretary shall adopt regulations for implementing this section.

SECTION 7. The last paragraph of section 41 of chapter 3, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 3 sentences:- Upon registration, the state secretary shall issue to each legislative agent and executive agent a license

which shall entitle the holder to act as an executive or legislative agent for a client that has filed a registration statement under this section. A nontransferable identification card shall evidence this license and shall include the agent's name and photograph. Each license shall expire on December 31 of each year, unless sooner suspended or revoked under section 45.

SECTION 8. Section 41 of chapter 3, as so appearing, is hereby further amended by adding the following 2 paragraphs:-

The state secretary shall adopt regulations under chapter 30A to carry out sections 39 to 50, inclusive.

The state secretary shall, upon written request from a person who is or may be subject to sections 39 to 50, inclusive, render advisory opinions on the requirements of those sections. An opinion rendered by the state secretary, until and unless amended or revoked, shall be a defense in a criminal action brought under sections 39 to 50, inclusive, and shall be binding on the state secretary and the attorney general in any subsequent proceedings concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such requests shall be confidential; but the state secretary may publish such opinions if the name of the requesting person and any other identifying information is not included in such publication unless the requesting person consents to such inclusion.

SECTION 9. Section 43 of chapter 3, as so appearing, is hereby further amended by striking out, in lines 1 to 3, the words "On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year" and inserting in place thereof the following words:- On or before April 15, complete from January 1 through March 31; on or before July 15, complete from April 1 through June 30; on or before October 15, complete from July 1 through September 30; and on or before January 15, complete from October 1 to December 31 of the preceding year.

SECTION 10. Section 43 of chapter 3, as so appearing, is hereby amended by striking out, in line 4, the words "appearing on the docket".

SECTION 11. Section 43 of chapter 3, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

Every executive and legislative agent shall include in the statement required by this section for the relevant reporting period: (1) the identification of each client for whom the legislative or executive agent provided lobbying services; (2) a list of all bill numbers of legislation and other governmental action that the executive or legislative agent acted to promote, oppose or influence; (3) a statement of the executive or legislative agent's position on each such bill or other governmental action; (4) the identification of the client or clients on whose behalf the executive

or legislative agent was acting with respect to each such bill or governmental action; and (5) the amount of compensation received for executive or legislative lobbying from each client with respect to each such bill or action. The disclosure shall be required regardless of whether the executive or legislative agent specifically referenced the bill number or other governmental action while acting to promote, oppose or influence legislation, and shall be as complete as practicable.

Every executive and legislative agent shall also include in the statement required by this section all direct business associations with public officials.

SECTION 12. The fourth paragraph of section 43 of chapter 3, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- This penalty shall be in the amount of \$50 per day up to the twentieth day and an additional \$100 per day for every day after the twentieth day until the statement is filed. The state secretary may waive the above penalties for good cause.

SECTION 13. Section 44 of chapter 3, as so appearing, is hereby amended by striking out, in lines 1 to 3, the words "On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year" and inserting in place thereof the following words:- On or before April 15, complete from January 1 through March 31; on or before July 15, complete from April 1 through June 30; on or before October 15, complete from July 1 through September 30; and on or before January 15, complete from October 1 to December 31 of the preceding year.

SECTION 14. Chapter 3 of the General Laws is hereby further amended by striking out section 45 and inserting in place thereof the following section:-

Section 45. (a) Upon receipt of a sworn complaint signed under pains and penalties of perjury, or upon receipt of evidence which is deemed sufficient by the state secretary, the state secretary shall initiate a preliminary inquiry into any alleged violation of sections 39 to 50, inclusive, of this chapter. At the beginning of a preliminary inquiry into any such alleged violation, the state secretary shall notify the attorney general of such action. All proceedings and records relating to a preliminary inquiry or initial staff review to determine whether to initiate an inquiry shall be confidential, except that the state secretary may provide to: (1) the attorney general, the United States Attorney or a district attorney of competent jurisdiction evidence which may be used in a criminal proceeding; (2) the inspector general information concerning fraud, waste, or abuse in the expenditure of public funds; (3) the state ethics commission concerning violations of chapters 268A and 268B; and (4) the director of the office of campaign and political finance information concerning violations of chapter 55. Any information provided by the state secretary pursuant to this section shall be confidential in accordance with this section and section 4 of chapter 268B, except that such information may be used by the officer or agency to whom it was provided in any investigation or subsequent proceedings. The state secretary shall notify any person who is

the subject of the preliminary inquiry of the existence of such inquiry and the general nature of the alleged violation within 30 days of the commencement of the inquiry.

(b) If a preliminary inquiry fails to indicate reasonable cause for belief that any provision of sections 39 to 50, inclusive, of this chapter has been violated, the state secretary shall immediately terminate the inquiry and so notify, in writing, the complainant, if any, and the person who had been the subject of the inquiry.

(c) If a preliminary inquiry indicates reasonable cause for belief that any provision of sections 39 to 50, inclusive, of this chapter has been violated, the state secretary may initiate an adjudicatory proceeding to determine whether there has been such a violation.

(d) The state secretary may require by summons the attendance and testimony of witnesses and the production of books, papers and other records relating to any matter being investigated by it pursuant to this chapter. Such summons may be issued by the state secretary and shall be served in the same manner as summonses for witnesses in civil cases, and all provisions of law relative to summonses issued in such cases, including the compensation of witnesses, shall apply to summonses issued by the state secretary. Such summonses shall have the same force, and be obeyed in the same manner, and under the same penalties in case of default, as if issued by order of a justice of the superior court and may be quashed only upon motion of the summonsed party and by order of a justice of the superior court .

(e) The state secretary or his designee may administer oaths and may hear testimony or receive other evidence in any proceeding.

(f) All testimony in an adjudicatory proceeding shall be under oath. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify, to submit evidence, and to be represented by counsel. Before testifying, all witnesses shall be given a copy of the regulations governing adjudicatory proceedings. All witnesses shall be entitled to be represented by counsel.

(g) Any person whose name is mentioned during an adjudicatory proceeding of the state secretary and who may be adversely affected thereby may appear personally before the state secretary on his own behalf, with or without an attorney, to give a statement in opposition to such adverse mention or file a written statement of such opposition for incorporation into the record of the proceeding.

(h) All hearings in adjudicatory proceedings of the state secretary carried out pursuant to the provisions of this section shall be public.

(i) Within 30 days after completion of deliberations, the state secretary shall publish a written report of his findings and conclusions.

(j) Upon a finding pursuant to an adjudicatory proceeding that there has been a violation of this chapter, the state secretary may issue an order:

- (1) requiring the violator to cease and desist such violation of sections 39 to 50, inclusive, of this chapter;
- (2) requiring the violator to file any report, statement or other information as required by sections 39 to 50, inclusive, of this chapter;
- (3) suspending for a specified period or revoking the license and registration of the violator; or
- (4) requiring the violator to pay a civil penalty of not more than \$10,000 for each violation of this chapter.

The state secretary may file a civil action in superior court to enforce this order.

(k) Final action by the state secretary under this section shall be subject to review in superior court upon petition of any party in interest filed within 30 days after the action for which review is sought. The court shall enter a judgment enforcing, modifying, or setting aside the order of the state secretary, or it may remand the proceedings to the state secretary for such further action as the court may direct. If the court modifies or sets aside the state secretary's order or remands the proceedings to the state secretary, the court shall determine whether such modification, set aside, or remand is substantial. If the court does find such modification, set aside, or remand to be substantial, the petitioner shall be entitled to be reimbursed from the treasury of the commonwealth for reasonable attorneys' fees and all court costs incurred by him in the defense of the charges contained in the proceedings. The amount of such reimbursement shall be awarded by the court but shall not exceed \$20,000 per person, per case.

SECTION 15. Section 47 of chapter 3, as so appearing, is hereby amended by striking out, in lines 1 to 3, the words "On or before the fifteenth day of July, complete from January first through June thirtieth; and the fifteenth day of January, complete from July first to December thirty-first of the preceding year" and inserting in place thereof the following words:- On or before April 15, complete from January 1 through March 31; on or before July 15, complete from April 1 through June 30; on or before October 15, complete from July 1 through September 30; and on or before January 15, complete from October 1 to December 31 of the preceding year.

SECTION 16. Section 47 of chapter 3, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the words "whose name appears upon the docket".

SECTION 17. The second paragraph of section 47 of chapter 3, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- This penalty shall be in the amount of \$50 per day up to the twentieth day and an additional \$100 per day for every day after the twentieth day until the statement is filed. The state secretary may waive these penalties for good cause.

SECTION 18. Section 48 of chapter 3, as so appearing, is hereby amended by striking out, in line 3, the words "five thousand dollars" and inserting in place thereof the following words:-

\$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 19. Section 49 of chapter 3, as so appearing, is hereby amended by inserting after the first sentence the following 2 sentences:- These courts may also, upon application of the attorney general, grant equitable or mandamus relief to enforce sections 41 and 42 and the provisions of section 43 prohibiting the offering or giving of or paying for gifts, meals, beverages, or other items. Relief under this section may include (a) an order to pay to the commonwealth an amount equal to the value of any compensation or thing paid or received in violation of section 42, or the value of any gift, meal, beverage, or other item given or received in violation of section 43; and (b) a civil penalty of up to \$10,000 for each violation of sections 41 to 47, inclusive.

SECTION 20. Chapter 268 of the General Laws is hereby amended by inserting after section 13D the following section:-

Section 13E. (a) As used in this section, "official proceeding" means a proceeding before a court or grand jury of the commonwealth, or a proceeding before a state agency or commission, which proceeding is authorized by law and relates to an alleged violation of a criminal statute or the laws and regulations enforced by the state ethics commission, the state secretary, the office of the inspector general, or the office of campaign and political finance, or for which the attorney general may issue a civil investigative demand.

(b) Whoever alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the record, document or object's integrity or availability for use in an official proceeding, whether or not the proceeding is pending at that time, shall be punished, by (i) a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment, or (ii) if the official proceeding involves a violation of a criminal statute, by a fine of not more than \$25,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

(c) The record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(d) A prosecution under this section may be brought in the county where the official proceeding was or would have been convened or where the alleged conduct constituting an offense occurred.

SECTION 21. Section 2 of chapter 268A of the General Laws, as so appearing, is hereby amended by striking out, in lines 46 to 49, the words "five thousand dollars or by imprisonment in the state prison for not more than three years or in a jail or house of correction for not more than two and one half years, or by both such fine and imprisonment in a jail or house of correction" and inserting in place thereof the following words:- \$100,000, or by imprisonment in

the state prison for not more than 10 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 22 . Section 3 of chapter 268A, as so appearing, is hereby amended by striking out clauses (a) and (b) and inserting in place thereof the following 2 clauses:-

(a) Whoever, otherwise than as provided by law for the proper discharge of his official duties, directly or indirectly gives, offers, or promises anything of substantial value to any present or former state, county, or municipal employee or to any member of the judiciary, or to any person selected to be such an employee or member of the judiciary for or because of the employee's official position; or

(b) Whoever, being a present or former state, county, or municipal employee or member of the judiciary, or person selected to be such an employee or member of the judiciary, otherwise than as provided by law for the proper discharge of his official duties, directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of substantial value for himself for or because of the employee's official position; or.

SECTION 23 . Section 3 of chapter 268A, as so appearing, is hereby further amended by striking out, in lines 30 and 31, the words "three thousand dollars or by imprisonment for not more than three years, or both" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 24 . Section 3 of chapter 268A, as so appearing, is hereby further amended by adding the following paragraph:-

The commission shall adopt regulations: (i) defining "substantial value," provided however that "substantial value" shall not be less than \$50; (ii) establishing exclusions for ceremonial gifts; (iii) establishing exclusions for gifts given solely because of family or friendship; and (iv) establishing additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest.

SECTION 25 . Section 4 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "three thousand dollars or by imprisonment for not more than two years, or both" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 26 . Section 5 of chapter 268A, as so appearing, is hereby amended by inserting after the word "legislative", in line 26, the following words:- or executive.

SECTION 27. Section 5 of chapter 268A, as so appearing, is hereby further amended by inserting after the word “body”, in line 28, the following words:- , as determined by the commission pursuant to regulation.

SECTION 28. Section 5 of chapter 268A, as so appearing, is hereby further amended by striking out, in lines 41 and 42, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 29. Section 6 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “three thousand dollar or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 30. Section 7 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “three thousand dollar or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 31. Section 8 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words “five thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 32. Chapter 268A is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. (a) In addition to any other remedies provided by law, any violation of sections 2 to 8, inclusive, which has substantially influenced the action taken by any state agency in any particular matter, shall be grounds for avoiding, rescinding or canceling the action on such terms as the interests of the commonwealth and innocent third persons require.

(b) In addition to the remedies set forth in subsection (a), the state ethics commission upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of sections 2 to 8, inclusive, or section 23, may issue an order: (1) requiring the

violator to pay the commission on behalf of the commonwealth damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the attorney general, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation.

The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the state ethics commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

SECTION 33. Section 11 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 34. Section 12 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 24 and 25, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 35. Section 13 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 36. Section 14 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 37. Chapter 268A of the General Laws is hereby further amended by striking out section 15 and inserting in place thereof the following section:-

Section 15. (a) In addition to any other remedies provided by law, a violation of sections 2, 3, 8, or 11 to 14, inclusive, which has substantially influenced the action taken by any county agency in any particular matter, shall be grounds for avoiding, rescinding, or canceling the action on such terms as the interests of the county and innocent third persons require.

(b) In addition to the remedies set forth in subsection (a), the state ethics commission, upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of sections 2, 3, 8, 11 to 14, inclusive, or 23, may issue an order (1) requiring the violator to pay the commission on behalf of the county damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the attorney general and the district attorney, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation.

The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

SECTION 38. Section 17 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 39. Section 18 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 40. Section 19 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 41. Section 20 of chapter 268A, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 42. Chapter 268A is hereby further amended by striking out section 21 and inserting in place thereof the following section:-

Section 21. (a) In addition to any other remedies provided by law, a finding by the commission pursuant to an adjudicatory proceeding that there has been any violation of sections 2, 3, 8, or 17 to 20, inclusive, which has substantially influenced the action taken by any municipal agency in any particular matter, shall be grounds for avoiding, rescinding, or canceling the action of said municipal agency upon request by said municipal agency on such terms as the interests of the municipality and innocent third persons require.

(b) In addition to the remedies set forth in subsection (a), the commission, upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of sections 2, 3, 8, 17 to 20, inclusive, or 23, may issue an order (1) requiring the violator to pay the commission on behalf of the municipality damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the district attorney, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation.

The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

SECTION 43. Section 23 of chapter 268A, as so appearing, is hereby amended by inserting after clause (3) of subsection (b), the following clause:-

(4) present a false or fraudulent claim to his employer for any payment or benefit of substantial value.

SECTION 44. Section 23 of chapter 268A, as so appearing, is hereby further amended by striking out subsection (f).

SECTION 45. Chapter 268A is hereby further amended by adding the following section:-

Section 26. Any person who, with fraudulent intent, violates subsection (b)(1), (b)(2) or (c) of Section 23, and any person who, with fraudulent intent, causes any other person to violate subsection (b)(1), (2) or (c) of Section 23 shall be punished by a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 46. Chapter 268A is hereby further amended by adding the following 3 sections:-

Section 27. The state ethics commission shall prepare, and update as necessary, summaries of this chapter for state, county, and municipal employees, respectively, which the commission shall publish on its official website. Every state, county, and municipal employee shall, within 30 days of becoming such an employee, and on an annual basis thereafter, be furnished with a summary of this chapter prepared by the commission and sign a written acknowledgment that he has been provided with such a summary. Municipal employees shall be furnished with the summary by, and file an acknowledgment with, the city or town clerk. Appointed state and county employees shall be furnished with the summary by, and file an acknowledgment with, the employee's appointing authority or his designee. Elected state and county employees shall be furnished with the summary by, and file an acknowledgment with, the commission. The commission shall establish procedures for implementing this section and ensuring compliance.

Section 28. The state ethics commission shall prepare and update from time to time the following online training programs, which the commission shall publish on its official website:

(1) a program which shall provide a general introduction to the requirements of this chapter. Every state, county, and municipal employee shall, within 30 days after becoming such an employee, and every 2 years thereafter, complete the online training program. Upon completion of the online training program, the Commission shall log and maintain an electronic record of completion for 6 years.

(2) a program which shall provide information on the requirements of this chapter applicable to former state, county, and municipal employees.

The state ethics commission shall establish procedures for implementing this section and ensuring compliance.

Section 29. Each municipality, acting through its city council, board of selectmen, or board of aldermen, shall designate a senior level employee of the municipality as its liaison to the state ethics commission. The municipality shall notify the commission in writing of any change to such designation within 30 days of such change. The commission shall disseminate information

to the designated liaisons and conduct educational seminars for designated liaisons on a regular basis on a schedule to be determined by the commission in consultation with the municipalities.

SECTION 47. Section 1 of chapter 268B, as so appearing, is hereby amended by inserting after clause (f) the following clause:-

(f 1/2) “executive agent” means any person who is an executive agent as defined in section 39 of chapter 3;.

SECTION 48. Section 1 of chapter 268B, as so appearing, is hereby further amended by striking out clause (k) and inserting in place thereof the following clause:-

(k) “legislative agent” means any person who is a legislative agent as defined in section 39 of chapter 3;.

SECTION 49. Section 2 of chapter 268B, as so appearing, is hereby amended by adding the following subsection:-

(n) Subject to appropriation, the commission shall receive an appropriation for the operations of the commission in an amount no less than the amount of the appropriation for the immediately preceding fiscal year. The general court shall appropriate additional amounts to the state ethics commission as may be necessary and appropriate.

SECTION 50. Section 2 of chapter 268B, as so appearing, is hereby further amended by inserting after the words “attorney general,” in line 61, the following words:- inspector general, state secretary,.

SECTION 51. Section 3 of chapter 268B, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words “; provided, however, that the rules and regulations shall be” and inserting in place thereof the following words:- , including but not.

SECTION 52. Subsection (a) of section 4 of chapter 268B of the General Laws, is hereby amended by striking out the third sentence and inserting in place thereof the following 2 sentences:- All commission proceedings and records relating to a preliminary inquiry or initial staff review to determine whether to initiate an inquiry shall be confidential, except that the commission may provide to: (1) the attorney general, the United States Attorney or a district attorney of competent jurisdiction information which may be used in a criminal proceeding; (2) the inspector general information concerning fraud, waste, or abuse in the expenditure of public funds; (3) the state secretary information concerning violations of sections 39 to 50, inclusive, of chapter 3; and (4) the director of the office of campaign and political finance information concerning violations of chapter 55. Any information provided by the commission pursuant to

this section shall be confidential in accordance with this section, except that such information may be used by the officer or agency to whom it was provided in any investigation or subsequent proceedings.

SECTION 53. Subsection (c) of section 4 of chapter 268B, as so appearing, is hereby amended by adding the following sentence:- The commission shall initiate such an adjudicatory hearing within 5 years from the date the commission learns of the alleged violation, but not more than 6 years from the date of the last conduct relating to the alleged violation.

SECTION 54. Subsection (d) of section 4 of chapter 268B, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Such summonses shall have the same force, and be obeyed in the same manner, and under the same penalties in case of default, as if issued by order of a justice of the superior court and may be quashed only upon motion of the summonsed party and by order of a justice of the superior court.

SECTION 55. Subsection (j) of section 4 of chapter 268B, as so appearing, is hereby further amended by striking out, in lines 73 and 74, the words “two thousand dollars for each violation of this chapter or said chapter two hundred and sixty-eight A” and inserting in place thereof the following words:- \$10,000 for each violation of this chapter or chapter 268A, with the exception of a violation of section 2 of chapter 268A, which shall be subject to a civil penalty of not more than \$25,000.

SECTION 56. Subsection (j) of section 4 of chapter 268B, as so appearing, is hereby further amended by inserting after the word “order”, in line 76, the following words:- and any order issued by the commission in accordance with chapter 268A.

SECTION 57. Subsection (k) of section 4 of chapter 268B, as so appearing, is hereby further amended by inserting after the words “pursuant to this chapter”, in line 77, the following words:- or chapter 268A.

SECTION 58. Section 4 of chapter 268B, as so appearing, is hereby further amended by inserting after subsection (k) the following subsection:-

(l) The superior court shall have concurrent jurisdiction to issue orders under subsection (j) in a civil action brought by the attorney general. In any such action, an advisory opinion of the commission under clause (g) of section 3 shall be binding to the same extent as it is against the commission under that clause.

SECTION 59. Section 5 of chapter 268B, as so appearing, is hereby amended by inserting after the word “legislative”, in line 68, the following words:- or executive

SECTION 60. Chapter 268B, is hereby further amended by striking out section 6 and inserting in place thereof the following section:-

Section 6. No executive or legislative agent shall knowingly and willfully offer or give to any public official or public employee or a member of such person's immediate family, and no public official or public employee or member of such person's immediate family shall knowingly and willfully solicit or accept from any executive or legislative agent, any gift of any kind or nature; provided, however, that these prohibitions shall not apply to gifts given by an executive or legislative agent to a public official or public employee who is a member of his immediate family or a relative within the third degree of consanguinity or of such agent's spouse or the spouse of any such relative.

SECTION 61. Section 7 of chapter 268B, as so appearing, is hereby amended by striking out, in line 7, the words “files a false” and inserting in place thereof the following words:- willfully files a materially false

SECTION 62. Section 7 of chapter 268B, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words “one thousand dollars or by imprisonment in the state prison for not more than three years” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or by both such fine and imprisonment.

SECTION 63. Paragraph 4 of subsection B of section 99 of chapter 272, as so appearing, is hereby amended by adding the following 2 sentences:- Furthermore, it shall not constitute an interception for an investigative or law enforcement officer, as defined in this section, to record or transmit a wire or oral communication if the officer is a party to such communication or has been given prior authorization to record or transmit the communication by such a party and (a) the recording or transmission is made in the course of an investigation of bribery or other crime involving the use or prospective use of an official position by a state, municipal, or county employee; and (b) a judge of competent jurisdiction determines pursuant to the procedures set out in chapter 276 that there is probable cause that evidence of such a crime will be recorded or transmitted. There shall not be a requirement that any investigation of bribery or other crime involving the use or prospective use of an official position by a state, municipal, or county employee involves organized crime in order to obtain such judicial approval.

SECTION 64. The General Laws are hereby further amended by inserting after chapter 277 the following chapter:-

CHAPTER 277A Statewide Grand Jury

Section 1. Upon written application of the attorney general to the chief justice of the superior court department, with good cause stated therein, the chief justice may authorize the convening of a statewide grand jury with jurisdiction extending throughout the commonwealth.

Section 2. The chief justice of the superior court department shall, upon granting an application, receive recommendations from the attorney general as to the county in which the statewide grand jury shall sit. Upon receiving the attorney general's recommendations, the chief justice shall choose 1 of those recommended locations as the site where the grand jury shall sit. Once a county has been selected, the chief justice shall direct the regional administrative judge from the county selected to appoint, and reappoint as necessary, a superior court judge to preside over the statewide grand jury.

Section 3. The presiding superior court judge shall consult with the attorney general and district attorney for the relevant district about the nature and scope of the investigation and shall thereafter designate and authorize an existing county grand jury to serve as a statewide grand jury for purposes of the investigation specified in the written application, or, alternatively, convene and preside over a specially empaneled statewide grand jury.

Section 4. A specially empaneled statewide grand jury shall be drawn and selected in the same manner as the county grand jury in the county in which the specially empaneled statewide grand jury sits. A specially empaneled statewide grand jury may, at the discretion of the presiding superior court judge, draw jurors from counties adjoining the one in which the statewide grand jury is to sit.

Section 5. A specially empaneled statewide grand jury convened pursuant to this chapter shall sit for a period not to exceed 18 months. The presiding superior court judge may extend this period if, in accordance with section 1A of chapter 277 and section 41 of chapter 234A, public necessity requires further time by the grand jury to complete an investigation then in progress.

Section 6. The attorney general or her assistant shall attend each session of a statewide grand jury and may prosecute any indictment returned by it. The attorney general or her assistant shall have the same powers and duties in relation to a statewide grand jury that she has in relation to a county grand jury, except as otherwise provided by law.

Section 7. Indictments shall be returned in the county where the statewide grand jury sits and shall thereafter be transferred to the county specified by the grand jury on the indictment. Venue for purposes of trial of offenses indicted by a statewide grand jury shall be in any county where venue would otherwise be proper.

Section 8. No provision of this chapter shall be construed as limiting the jurisdiction of county grand juries or district attorneys in the commonwealth. Except as otherwise provided by law, an investigation by a statewide grand jury shall not preempt an investigation by any other grand jury or agency having jurisdiction over the same subject matter.

SECTION 65. Every person who is a legislative agent or executive agent as defined by section 39 of chapter 3 of the General Laws on the effective date of this act, shall, within 90 days after the effective date of this act, and every year thereafter, complete an in-person or online seminar offered by the state secretary in accordance with section 41 of chapter 3.

SECTION 66. In accordance with section 26 of chapter 268A of the General Laws, inserted by this act, within 90 days after the effective date of this act every state, county, and municipal employee shall be provided a summary of chapter 268A prepared by the state ethics commission and shall file a written acknowledgment as required by that section.

SECTION 67 . Within 90 days after the effective date of this act, each municipality shall provide written notification to the state ethics commission of the liaison designated under section 28 of chapter 268A of the General Laws.