



**HOUSE LEGISLATIVE OVERSIGHT COMMITTEE
EXECUTIVE SUBCOMMITTEE**

**2021 STUDY OF THE
STATE ETHICS COMMISSION**

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S.C. House Legislative Oversight Committee



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The purpose of the S.C. House Legislative Oversight Committee's (Committee) work is to determine if agency laws and programs are implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed, or eliminated. The Committee's member-driven process enhances the ability of Representatives to make informed decisions about state government and agency responsiveness to the needs of South Carolinians. The process is also a resource for public access to information about the performance of state agencies and their programs.

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AGENCY OVERVIEW

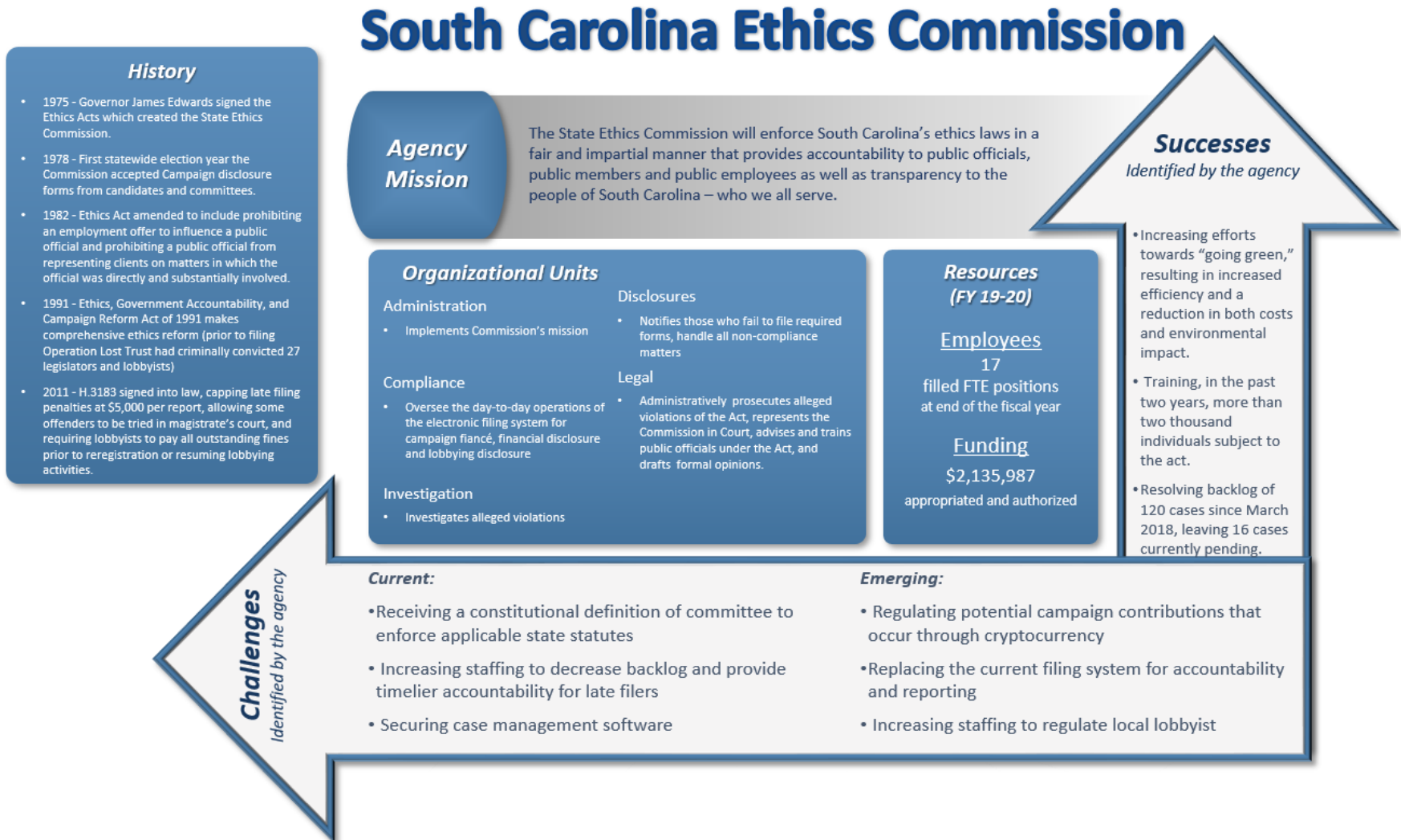


Figure 1. Overview of the agency' history, mission, organizational unit, fiscal year 2019-20 agency resources (employees and funding), successes, and challenges¹

COMMITTEE OVERVIEW

Oversight Purpose and Methods

PURPOSE

To determine if agency laws and programs:

- ➡ are being implemented and carried out in accordance with the intent of the General Assembly; and
- ➡ should be continued, curtailed, or eliminated.

METHODS

The Committee and Subcommittee evaluate:

- ➡ the application, administration, execution, and effectiveness of the agency’s laws and programs;
- ➡ the organization and operation of the agency; and
- ➡ any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

Study Process



Public Input

- 33** Responses to an online public survey
 - 1** Comment received online
 - 1** Constituent testifies

Subcommittee Membership

EXECUTIVE SUBCOMMITTEE

The Honorable Joseph H. Jefferson (chair)
The Honorable Wm. Weston J. Newton

The Honorable Travis A. Moore
The Honorable Melissa Oremus Lackey

Study Milestones

MEETINGS

Full Committee	12.09.2019 4.08.2021
Subcommittee	4.29.2021 5.13.2021 7.20.2021 10.4.2021

AGENCY REPORTS

March 2015	Seven-Year Plan Report
September 2020	FY 2018-19 Accountability Report
March 2021	Program Evaluation Report <i>updated</i>
September 2021	FY 2019-20 Accountability Report

FINDINGS

During the study of the Ethics Commission (agency or commission), the Executive Subcommittee (Subcommittee) of the House Legislative Oversight Committee (Committee) adopts **seven findings**.

Findings note information a member of the public, or General Assembly, may seek to know or on which they may desire to act. The Subcommittee addresses some of these findings through various recommendations.

Accountability

The two findings relating to accountability are summarized in Table 1.

Table 1. Summary of findings relating to accountability

1. Most unresolved ethics filing violations originate from candidates for various offices.
2. There may be an ambiguity in statute enabling governor and lieutenant governor campaigns to receive unlimited contributions.

FINDING #1. Most unresolved ethics filing violations originate from candidates for various offices.

Ethics laws apply to individuals running for office (i.e., candidates) as well as those serving in elected office or appointed positions, and public employees. As of July 2021, more than 50% of the amounts owed on the State Ethics Commission debtors list (\$1.59M of the \$2.85M) are from individuals listed as candidates for office.² Partisan candidates are required to file campaign disclosure reports and statements of economic interests.³ Failure to file results in financial penalties.⁴ A list of required filings is available in Table 2.

Table 2. Required filings

	PUBLIC OFFICIALS - CANDIDATES	PUBLIC OFFICIALS - ELECTED	PUBLIC OFFICIALS - APPOINTED	PUBLIC MEMBERS - APPOINTED	PUBLIC EMPLOYEES	LOBBYISTS	LOBBYISTS PRINCIPALS	COMMITTEE
CAMPAIGN DISCLOSURE REPORTS	X	X						X
STATEMENTS OF ECONOMIC INTERESTS	X ¹	X	X ²	X ²	X ²			
LOBBYIST AND LOBBYIST PRINCIPAL REGISTRATION						X	X	
LOBBYIST AND LOBBYIST PRINCIPAL DISCLOSURES						X	X	
STATEMENT OF ORGANIZATION								X

Table Notes: ¹ Only candidates in partisan elections are required to file statements of economic interest. ² Statements of economic interests are filed annually by (1) public officials and members appointed to a **state** board, commission, or council and Department of Transportation district engineering administrators, and (2) public employees who serve in the capacity of chief administrative officer or chief financial for their governmental entity as well as school district superintendents, county administrators, and city managers. Chief administrative officials for political subdivisions included in S.C. Code of Laws Section 8-13-1110(b).

FINDING #2. There may be an ambiguity in statute enabling governor and lieutenant governor campaigns to receive unlimited contributions.

During the study, agency personnel alerted the Subcommittee to a potential issue.⁵ Ostensibly, a candidate for governor could declare unlimited running mates (i.e., lieutenant governor candidates), then allow the various potential running mates to contribute to a joint campaign.⁶ Modifying S.C. Code Section 8-13-1301 to include language as to when a candidate for governor may declare a running mate for purposes of campaign fundraising may close a theoretical opportunity for unlimited contributions.⁷

Effectiveness

The three findings relating to effectiveness are summarized in Table 3.

Table 3. Summary of findings relating to effectiveness

3. One seat on the State Ethics Commission has been vacant for over a year.
4. State Ethics Commission personnel continue to progress through development of soft skills for management, tracking of customer calls/input, improved technology, and collaboration with other ethics entities.
5. State Ethics Commission personnel are unable to determine all individuals that must comply with the Ethics Act due, in part, to the fluid number of individuals serving in the different roles subject to the Ethics Act.^{See Recommendation #19.}

FINDING #3. One seat on the State Ethics Commission has been vacant for over a year.⁸

The current vacancy has existed since March 2020.⁹ Vacancies on the eight-member State Ethics Commission can impact agency operations.¹⁰ During the study, agency personnel note “Commission vacancies may lead to a delay in findings of probable cause and resolution of cases awaiting a hearing.”¹¹ See Appendix A for an illustration of the complaint process.

FINDING #4. State Ethics Commission personnel continue to progress through development of soft skills for management, tracking of customer calls/input, improved technology, and collaboration with other ethics entities.

Development of Soft Skills

Agency personnel have availed themselves of various training available from the Department of Administration (e.g., Advanced Supervisory Training, Anti-Harassment Training; and Emotional Intelligence Training, Myers Briggs Type Indicator Training).¹²

Tracking customer calls

Agency personnel track and analyze customer call log information to identify frequent issues (e.g., forgotten username and/or password; uploading campaign disclosure spreadsheets, etc.) and address them in training and/or through advisory opinions.¹³ Additionally, information from customer calls (e.g., number of calls answered versus voicemails left, number of calls needed to resolve an issue, duration of calls) is utilized to improve efficiency and effectiveness.¹⁴ Also call volume information is utilized to inform assignments of special projects.¹⁵

Improved technology and collaboration with other ethics entities

Agency personnel have embraced technology (e.g., online portal for commissioners to access materials; online portal for candidate rosters; etc.) and collaboration with others (e.g., working with Senate and House Ethics Committees to obtain more uniformity with legal and practical interpretation) as means to improve the efficiency and effectiveness of agency operations.¹⁶ Table 4 notes agency operation innovations and includes an explanation of past and current procedures.¹⁷

Table 4. Agency operation innovations

	PREVIOUS PROCEDURE	CURRENT PROCEDURE	COST ANALYSIS
COMMUNICATING WITH COMMISSIONERS	Individual notebooks with meeting and hearing materials were created and mailed to each Commissioner.	Commissioners access all meeting and hearing material virtually via web portal.	\$5,022.36 saved per fiscal year.
ONLINE CANDIDATE ROSTER	PDFs were downloaded from the commission’s website and mailed or emailed back to the Commission.	Form completed through online portal.	*
SUCCESSFUL CANDIDATE ROSTER	PDFs were downloaded from the commission’s website and mailed or emailed back to the Commission.	Form completed through online portal.	*
ONLINE ENTITY LIST	Letters and lists were mailed to each governmental entity in the state and then returned by participating entities.	Form completed through online portal.	*

Table Note: An asterisk (*) indicates the change was implemented recently and the cost analysis is to be determined.

New features of the agency’s online accountability portal include:

- allowing required filers to opt-in to receive text message alert notifications of upcoming filing deadlines.
 - Ethics Commission staff believe this will increase adherence to filing requirements and result in decreased non-compliance efforts and costs.¹⁸

- generating, automatically, the required reports based upon the information provided by the filer (i.e., the filer will no longer have to select the correct report).
 - Commission staff believe this will decrease non-compliance as well as decrease the number of calls for assistance.¹⁹
- prohibiting the submission of reports early which leads to the improper filing of reports.
 - Commission staff believe this will decrease non-compliance efforts and costs.²⁰

FINDING #5. State Ethics Commission personnel are unable to determine all individuals that must comply with the Ethics Act due, in part, to the fluid number of individuals serving in the different roles subject to the Ethics Act.²¹

Several factors contribute to the difficulty in determining who must comply with the Ethics, Government Accountability, and Campaign Reform Act of 1991 (i.e., “Ethics Act”).²²

First, although appointed public members of local boards, commissions, and councils are not generally required to file statements of economic interests (SEI), they are required to file if they engage in the duties of chief administrative official, chief financial official, or chief procurement official. Fluctuation in duties tends to occur in smaller political subdivisions that have no employees or are unstaffed for any period.²³

Second, there is not a mandatory reporting requirement for public employees, public members, lobbyists and their principals, and persons appointed to fill the unexpired term of an elective office.²⁴

Third, there is no statutory mandate that a government entity respond to the correspondence the agency sends each year to update their list of individuals at the entity who are required to file a SEI.²⁵

Fourth, state statute is unclear who is responsible for providing public officials, members, and employees ethics brochures. While S.C. Code Section 8-13-350 mandates certain individuals receive a brochure “prepared by” the State Ethics Commission, it does not state who is responsible for disseminating the brochure.²⁶ During the study, agency personnel testified there are insufficient resources at the agency to monitor each employee hired or each individual filing for public office. Presently, the agency makes the brochure accessible to the public online.²⁷ Recommendation #19 seeks to assist with transmittal of this information.

Of interest, the agency’s new accountability portal will allow required filers to opt-in to receiving text message alerts notifying them of upcoming filing deadlines. Agency personnel predict this communication will increase adherence to filing requirements and result in decreased non-compliance efforts and costs.²⁸

Efficiency

The one finding relating to efficiency is summarized in Table 5.

Table 5. Summary of finding relating to efficiency

6. More than 30 state agencies, including the State Ethics Commission, report some amount of redundant, manual reentry of data from another agency. State annually utilizes over \$100M in employee time manually reentering data.^{See Recommendations #16 and #17.}

FINDING #6. More than 30 state agencies, including the State Ethics Commission, report some amount of redundant, manual reentry of data from another agency.²⁹ State annually utilizes over \$100M in employee time manually reentering data.

Multiple examples of opportunities to improve efficiency and accuracy of the transmission of information are observed during prior agency studies.³⁰ Accordingly, the Committee collaborated with the Executive Budget Office within the Department of Administration to collect information from agencies on the type of data they receive that they manually input into their own database/system, from whom the data is received, and the cost to manually enter the data into the agency's system. Analysis of the information indicates State Ethics Commission personnel manually enter information received from three state agencies (i.e., Secretary of State's Office; Department of Revenue; and State Election Commission) into various agency systems.³¹

Recommendations #16 and #17 seek to address this inefficiency.

Transparency

The one finding relating to transparency is summarized in Table 6.

Table 6. Summary of finding relating to transparency

7. Requirements in partisan and nonpartisan elections are not uniform.

FINDING #7. Requirements in partisan and nonpartisan elections are not uniform.

Unlike partisan candidates, candidates for non-partisan public offices (e.g., some mayors, most school boards, public service districts, etc.) are no longer required to file statements of economic interests (SEI).³² A SEI discloses various information about a candidate's income (e.g., source, type, amount, or value received from a governmental entity; source and type of any private income; description, value, and location of real property owned and options to

purchase real property, etc.)³³ Public transparency may be improved if they were required to do so again.³⁴

Also, statement of intent for candidacy forms are different for partisan and nonpartisan elections.³⁵

RECOMMENDATIONS

The Subcommittee has 26 recommendations. These are directed to multiple entities: State Ethics Commission; General Assembly; Office of House Research; State Treasurer’s Office; State Election Commission; and Secretary of State’s Office.

With any study, the Committee recognizes **these recommendations (e.g., continue, curtail, and/or eliminate agency programs, areas for potential improvement, etc.) will not satisfy everyone nor address every issue or potential area of improvement at the agency.** These recommendations are based on the agency’s self-analysis requested by the Committee, discussions with agency personnel during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report, and videos of meetings with agency personnel, is available on the Committee’s website.

Recommendations to the State Ethics Commission

The Subcommittee makes two recommendations to the State Ethics Commission related to accountability, and a summary is in Table 7.

Table 7. Summary of accountability recommendations to the agency

ACCOUNTABILITY	<p>REGULATIONS</p> <ol style="list-style-type: none"> 1. Complete a review of agency regulations; during the review, consider changes necessitated by relevant judicial opinions. Publish a notice of drafting to begin the formal process of updating the regulations. <p>DUTIES</p> <ol style="list-style-type: none"> 2. Post online documents commissioners are required to sign, including, but not limited to, those in which they acknowledge their duties as a commissioner.
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Accountability

RECOMMENDATION #1. Complete a review of agency regulations; during the review, consider changes necessitated by relevant judicial opinions. Publish a notice of drafting to begin the formal process of updating the regulations.

Regulations pertaining to the State Ethics Commission are set forth in Chapter 52 of the South Carolina Code of Regulations and have not been amended in at least two decades.³⁶ Statutory and case law have evolved since then (e.g., candidates no longer must register with the agency as a prerequisite for being on the ballot). Also, state statute requires agencies to conduct a formal review of their regulations every five years.³⁷ During the study, agency personnel indicate they intend to complete a regulation review and publish a notice of drafting by the end of 2021.³⁸ Additionally, agency personnel indicate once the 2021 review is complete, they

intend to review regulations in odd-numbered years to maintain current information on what regulations, if any, should be updated within the five-year period required by law.³⁹

RECOMMENDATION #2. Post online documents commissioners are required to sign, including, but not limited to, those in which they acknowledge their duties as a commissioner.

A state commission may have numerous and diverse responsibilities requiring a significant time commitment. For example, the State Ethics Commission has full meetings six times a year usually lasting three to four hours per meeting; preparation for each meeting may also take three to four hours.⁴⁰ Additionally, there are panel hearings consisting of three commissioners usually requiring similar time commitments; however, the time commitment for preparation and holding panel hearings may vary depending on the complexity of each hearing.⁴¹

Accordingly, the Subcommittee recommends: (1) providing each commissioner with a document outlining the commission’s statutory duties and estimated time commitment; (2) requiring each commissioner sign the document acknowledging awareness of the duties; and (3) posting a blank version of the document each commissioner has signed on the agency’s website. Notably, before a commissioner participates in a first meeting, the commissioner completes training (e.g., statutory duties outlined within the Ethics Act and agency technology protocols to facilitate secure communications) and documents receipt of the information.⁴²

A similar recommendation was adopted during the 2018 study of the Commission on Indigent Defense and directed to the General Assembly to consider requiring, in statute, commission/board members of all agencies affirm acknowledgement of their duties in writing.⁴³

Effectiveness

The Subcommittee makes six recommendations to the State Election Commission regarding effectiveness, and a summary is in Table 8.

Table 8. Summary of effectiveness recommendations to the agency

EFFECTIVENESS	<p>VIOLATION AVOIDANCE</p> <ol style="list-style-type: none"> 3. Survey stakeholders (e.g., candidates and county voter registration boards) to determine methods through which candidates are currently receiving information about ethics requirements and obtain ideas to improve the effectiveness of communication. Provide the Committee a summary of the following: (1) information learned; (2) any ideas the agency will pursue; and (3) how the agency will determine the effectiveness of the ideas it is implementing. 4. Update agency materials and correspondence to include how to follow the agency’s social media accounts that send reminders about filing deadlines.
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	<p>VIOLATION DISCOVERY</p> <p>5. Set a regular schedule to conduct random audits of ethics filings.</p> <p>VIOLATION TREND AND CAUSE IDENTIFICATION</p> <p>6. Request feedback from Ethics Act violators, to the extent feasible, to obtain information to help improve compliance.</p> <p>7. Adapt ethics electronic portal to track noncompliance and violations in total and by type (e.g., fine, appeal, request for information, hearing, etc.) and category of individual (e.g., elected public official, appointed public official, appointed public member, public employee, etc.) in the next twelve months, and track this information going forward.</p> <p>DEBTORS LIST</p> <p>8. Collaborate with the Department of Health and Environmental Control, House Ethics Committee, and Senate Ethics Committee about the possibility of receiving information on a regular basis through which the entities may update their debtors list by removing the names of deceased individuals.</p>
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RECOMMENDATION #3. Survey stakeholders (e.g., candidates and county voter registration boards) to determine methods through which candidates are currently receiving information about ethics requirements and obtain ideas to improve the effectiveness of communication. Provide the Committee a summary of the following: (1) information learned; (2) any ideas the agency will pursue; and (3) how the agency will determine the effectiveness of the ideas it is implementing.

During the study, a Subcommittee member expressed concerns about stakeholder awareness of the numerous and various ethics requirements.⁴⁴ Additionally, agency personnel note some stakeholders are not currently, or consistently, sharing information with the agency as required by statute or regulation.⁴⁵

This recommendation is offered as a potential means for agency personnel to gather information to determine the effectiveness of agency communication about ethics requirements to various stakeholders.⁴⁶ Obtaining this information and analyzing trends among the various types of stakeholders may assist agency personnel with improving the agency’s comprehensive communication strategy. See Appendix A for more information about the agency’s current methods of communication.

RECOMMENDATION #4. Update agency materials and correspondence to include how to follow the agency’s social media accounts that send reminders about filing deadlines.

The agency’s comprehensive communications strategy should include informing public officials about how to access (i.e., follow) the agency’s social media accounts in its brochures mailed to new elected officials. During the study, Subcommittee members expressed they were not aware the State Ethics Commission had social media pages.⁴⁷ Agency personnel testified

information about the social media pages are on the agency webpage but not in the materials mailed or emailed to individuals to whom the Ethics Act applies.⁴⁸ Information posted on the agency's social media pages (e.g., reminders about filing deadlines) may be helpful to these individuals.⁴⁹ Agency personnel should: (1) emphasize how the State Ethics Commission's social media accounts can provide timely reminders about filing deadlines; and (2) track whether the number of social media followers increases as a result.

RECOMMENDATION #5. Set a regular schedule to conduct random audits of ethics filings.

The agency hired an auditor several years ago that developed a method to conduct random audits by pulling reports within zip codes.⁵⁰ Once a zip code is audited, it is removed so the same zip code is not repeatedly audited.⁵¹

However, the agency does not have a regular schedule to conduct random audits of ethics filings.⁵² Conducting random audits efficiently uses agency resources and encourages accuracy in filings due to the possibility of selection. Agency personnel should: (1) set a schedule for performing random audits of required reports; and (2) tie performance metrics to this task to determine if it achieves desired results.

RECOMMENDATION #6. Request feedback from Ethics Act violators, to the extent feasible, to obtain information to help improve compliance.

RECOMMENDATION #7. Adapt ethics electronic portal to track noncompliance and violations in total and by type (e.g., fine, appeal, request for information, hearing, etc.) and category of individual (e.g., elected public official, appointed public official, appointed public member, public employee, etc.) in the next twelve months, and track this information going forward.

These recommendations are offered as a potential means for agency personnel to gather information on why violations occur. The launch of the agency's new electronic portal offers an opportunity for the State Ethics Commission to obtain and analyze noncompliance and violation information.⁵³ Obtaining this information and analyzing trends may assist agency personnel with improving training programs and suggesting recommendations to public policy makers (e.g., General Assembly). Additionally, it will allow the reporting of the information outlined in Recommendations #13 and #14.

RECOMMENDATION #8. Collaborate with the Department of Health and Environmental Control, House Ethics Committee, and Senate Ethics Committee about the possibility of receiving information on a regular basis through which the entities may update their debtors list by removing the names of deceased individuals.

As part of the agency's enforcement efforts, it posts a list of "public officials, public members, public employees, lobbyists, lobbyist's principals, candidates[,] and committees who have failed

to pay late filing penalties and enforcement fines owed to the citizens of South Carolina.”⁵⁴ The agency’s debtor list was first published in 2002 and is updated quarterly.⁵⁵ Likewise, the House of Representatives Ethics Committee posts a list entitled “House Ethics Committee Fines,” and the Senate Ethics Committee posts a list entitled “Senate Ethics Committee Fines.”⁵⁶

This recommendation seeks to assist the State Ethics Commission with obtaining information pertinent to keeping its debtor list accurate (i.e., removing the names of the deceased).⁵⁷ The Department of Health and Environmental Control (DHEC) obtains and records information on deaths that occur within South Carolina. Currently, deceased individuals are removed from the State Ethics Commission’s debtors list when the agency is notified of the death, which typically originates from the family of a deceased individual; otherwise, debtors who have satisfied their debts are removed and amounts are updated to reflect any payments.⁵⁸ Agency personnel support partnering with DHEC.⁵⁹

Efficiency

The Subcommittee makes four recommendations to the State Election Commission regarding efficiency, and a summary is in Table 9.

Table 9. Summary of efficiency recommendations to the State Election Commission

EFFICIENCY	<p>FOR AGENCY</p> <ol style="list-style-type: none"> 9. Complete the Department of Administration’s Division of State Human Resources’ (State HR) telecommuting toolkit and provide a copy to the Committee with an explanation of whether it will submit the information to pursue additional telecommuting options for employees. 10. Update agency policies and/or job requirements to ensure there is a notary in the office during normal business hours. <p>FOR CUSTOMERS</p> <ol style="list-style-type: none"> 11. Track the number of unique individuals who call the agency office over the next 24 months to determine if alternative means of filing complaints are requested, and, based on results, consider options available (e.g., enabling submission of electronic complaints and electronic notarization). Provide the Committee a summary of the results obtained, agency decision, and rationale. 12. Publish online a reference document with a list of the entities to contact for complaints about elected and appointed individuals at different levels of federal, state, and local government (e.g., Federal Ethics Commission, State Ethics Commission, House Ethics Committee, Senate Ethics Committee, etc.).
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RECOMMENDATION #9. Complete the Department of Administration’s Division of State Human Resources’ (State HR) telecommuting toolkit and provide a copy to the Committee with an explanation of whether it will submit the information to pursue additional telecommuting options for employees.

The move to remote work across state government and the private sector has led to a paradigm shift regarding where staff do their work. As private sector industries embrace remote work, state government must also adapt as recruitment and retention is likely to become more challenging as employees seek opportunities for increased flexibility.⁶⁰

During the COVID-19 office closures, all State Ethics Commission staff worked remotely; an in-office presence was maintained with a rotating, skeleton staff.⁶¹ While a formal survey of agency personnel was not conducted to gauge staff interest or support for a continuation of remote work options, many expressed an interest in remote work.⁶² While this option would not be appropriate for all State Ethics Commission departments, telecommuting would be a viable option for some employees.⁶³

Remote work (i.e., telecommuting) that results in greater efficiency and cost savings is authorized by state statute.⁶⁴ Additionally, the Department of Administration’s Division of State Human Resources has made available a Telecommuting Toolkit to assist state agencies with the development of a remote work implementation strategy.⁶⁵ The following items are included in the Toolkit: Agency Telecommuting Checklist; Model Telecommuting Policy; Sample Telecommuting Application; Sample Telecommuting Agreement; Sample Telecommuting Workplace Checklist; Sample Telecommuting Activities Form; Suggested Space Guidelines for Telecommuting Employees; Sample Business Case for Telecommuting; Telecommuting Pilot Tracking Spreadsheet; Spreadsheet to Record Telecommuting in SCEIS; and Required Telecommuting Reporting for Non-SCEIS organizations.

Notably, State Ethics Commissioners found virtual hearings, virtual meetings, and virtual trainings efficient and manageable.⁶⁶ Staff will continue to offer these virtual options to their customers.⁶⁷

RECOMMENDATION #10. Update agency policies and/or job requirements to ensure there is a notary in the office during normal business hours.

The State Ethics Commission’s complaint form requires the complainant’s signature be notarized.⁶⁸ Having a notary in the office, accessible to the public, during normal business hours would be a convenience to those seeking to file complaints directly in the office. The agency should consider having the office receptionist and/or other staff members become a notary to fulfill this function.

RECOMMENDATION #11. Track the number of unique individuals who call the agency office over the next 24 months to determine if alternative means of filing complaints are requested, and, based on results, consider options available (e.g., enabling submission of electronic complaints and electronic notarization). Provide the Committee a summary of the results obtained, agency decision, and rationale.

Many constituents conduct online transactions for a variety of personal and business matters and expect government to provide similar conveniences. The purpose of this recommendation is to encourage agency personnel to obtain data to help inform the decision of whether offering online filing of complaints is warranted.

Online submission of complaints was not an option in the past due to the notary requirement. However, Act 85 of 2021 authorized electronic notarization. Therefore, the new electronic portal could accept submission of complaints electronically, if agency personnel were to determine there is sufficient demand for this option.

RECOMMENDATION #12. Publish online a reference document with a list of the entities to contact for complaints about elected and appointed individuals at different levels of federal, state, and local government (e.g., Federal Ethics Commission, State Ethics Commission, House Ethics Committee, Senate Ethics Committee, etc.).

Some constituents may reach out to the State Ethics Commission about matters or people not within the agency’s jurisdiction. Accordingly, agency personnel should provide information online about where to direct such complaints.⁶⁹ Of interest, the Committee provides a similar resource document online entitled, “Resources for Complaints and Other Issues of Concern.”⁷⁰

Transparency

The Subcommittee makes three recommendations to the State Election Commission regarding transparency, and a summary is in Table 10.

Table 10. Summary of transparency recommendations to the agency

TRANSPARENCY	<p>To PUBLIC</p> <p>13. Enable the public to: (1) download information from the ethics electronic portal in formats for analysis (e.g., CSV, Excel); and (2) request/receive notifications when there are certain changes in the system (e.g., new filings).</p> <p>14. Ensure the ethics electronic portal can provide reports, and supporting data to download, with certain information about Ethics Act violators and violations to assist the agency and General Assembly in continuing to find ways to improve overall compliance.</p>
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15. Update information in the agency’s accountability report to match the Program Evaluation Report, or agency current operations and continue tracking applicable data about services, performance, and organization.

RECOMMENDATION #13. Enable the public to: (1) download information from the ethics electronic portal in formats for analysis (e.g., CSV, Excel); and (2) request/receive notifications when there are certain changes in the system (e.g., new filings).

RECOMMENDATION #14. Ensure the ethics electronic portal can provide reports, and supporting data to download, with certain information about Ethics Act violators and violations to assist the agency and General Assembly in continuing to find ways to improve overall compliance.

The Committee’s mission includes a commitment to transparency by informing the public about state agencies. Accordingly, a key aspect of these recommendations is to increase the public’s ability to obtain and analyze ethics information. The launch of the agency’s new electronic portal offers an opportunity for the State Ethics Commission to increase transparency to the public by providing: (1) information in an electronic format for ease of analysis; and (2) notifications about updates to the information.

The electronic portal allows agency personnel to view and print the reports listed in Table 11. Other than the audit log, the reports listed in Table 11 should be available to the public to view, print, and download in formats to assist with analysis (e.g., CSV, Excel).

Table 11. Reports accessible to agency personnel⁷¹

REPORT TITLE	REPORT DESCRIPTION
CANDIDATE ROSTER	LIST OF CANDIDATES FOR STATE AND LOCAL OFFICE AND THEIR CONTACT INFORMATION
SUCCESSFUL CANDIDATE ROSTER	LIST OF SUCCESSFUL CANDIDATES
DAILY REPORTS	REPORTS FILED THE PREVIOUS DAY
VOLUME REPORTS	NUMBER OF REPORTS FILED OVER A GIVEN PERIOD
POSITIVE BALANCE REPORTS	INDIVIDUALS WITH POSITIVE CAMPAIGN CHECKING ACCOUNT BALANCES
ZERO BALANCE AND OUTSTANDING LOAN REPORTS	INDIVIDUALS WITH A NEGATIVE OR ZERO CAMPAIGN CHECKING ACCOUNT BALANCE
IN-KIND CONTRIBUTIONS AND EXPENDITURES REPORT	IN-KIND CONTRIBUTIONS BY FILING YEAR AND TYPE
AUDIT LOG	CHANGES AUTHORIZED BY ADMINISTRATIVE USERS
<i>FLAGGED ITEM REPORTS</i>	<i>CAMPAIGN CONTRIBUTIONS AND EXPENDITURES THAT HAVE BEEN DEEMED IMPROPER</i>
<i>LATE-FILERS REPORT</i>	<i>INDIVIDUALS WHO FILED A REQUIRED FILING LATE</i>
<i>NON-FILERS REPORT</i>	<i>INDIVIDUALS WHO HAVE FAILED TO FILE REPORTS</i>

Table Note: Shaded, italicized items indicate ethics laws compliance issues.

Also, the electronic portal may further enable agency personnel to analyze existing proactive and reactive methods to ensure individuals act in accordance with ethics laws.⁷² Figure 2 below illustrates reactive methods to obtain compliance. Agency personnel should ensure additional reports, with quantifiable data, are available for analysis. For example, agency reports could indicate the number and percentage of those that:

- opted in for mobile updates and did/did not commit a violation compared to those that did not opt in for mobile updates;

- participated in training that did/did not commit a violation;
- received a noncompliance letter but did not pay the fee or did not respond (i.e., number of individuals that received noncompliance letters and number applicable to each highlighted portion of Figure 2);
- agency was unable to serve a certified letter; and
- Department of Revenue’s debt collection program was not effective against because the individual did not receive a paycheck or tax return.⁷³

Individual required to file report does the following:	Noncompliance letter from agency directs individual to:	Potential Responses from Individual that is Currently Non-Compliant					
		Response Option 1		Response Option 2		Response Option 3	
		Individual's response	Agency response	Individual's response	Agency response	Individual's response	Agency response
Files report late	Pay penalty fee	Pays fee	No further action	Does not pay fee	Debt sent to DOR ¹	No Option 3	
Does not file report completely or at all	Correct deficiency + pay penalty fee	Corrects deficiency + pays fee	No further action	Corrects deficiency, but does not pay fee	Added to Debtor's List ²	No response	Moves to complaint process ^{^^}
				Does not correct deficiency, but pays fee	Moves to complaint process ³		

Figure 2: Required Filings: Reactive methods to ensure individuals act in accordance with ethics laws

Figure Notes: Shaded areas indicate actions of individuals subject to ethics laws. ¹ Unpaid late filing penalties are submitted to the Department of Revenue for collection through the Governmental Enterprise Account Receivable (GEAR) and Setoff Debt programs. ² Debtor’s List is published on the Commission’s website and includes all individuals with debts to the Commission including GEAR, Setoff Debt, and debt filed as judgments with the county court. It was first published online in 2002 and created to inform the public of fines owed by public officials, public members, and public employees. ³ Commission noncompliance staff create non-compliance complaints and submit them to the Executive Director for approval.

Also, for the future, agency personnel should have quantifiable data available at regular intervals on the types of required filings with which the largest number of individuals statewide, by location, and by Ethics Act definition (e.g., public official-candidate; public official-elected), have issues complying over the previous five years, ten years, or single year. This information may assist the General Assembly as it continuously considers updates to the requirements in state code as well as serve as a basis for questions to the agency about changes it made, or is looking to make, to attempt to proactively address the issue.

Example filters the agency may seek to make available from which it, or a member of the public could select one or more to obtain applicable information stored anywhere in the portal (not just required filings) include:

- Year;
- Ethics Act definition;
- County;
- Registered;
- Type of violation;
- Committed violations;

- Participated in direct training from the agency;
- Participated in conference in which agency provided training;
- Opted in for mobile notification;
- Filed report late by less than 1 week;
 - Filed report late by 1-2 weeks
 - Filed report late by 2-4 weeks
 - Filed report late by more than 1 month
 - Filed report late by more than 6 months
- Received noncompliance letter for filing report late; and
- Received noncompliance letter for not filing report or filing an incomplete report.

Also, agency personnel should ensure the public can view, print, and download reports with the following information, by individual subject to the Ethics Act for each candidacy/position and each noncompliance or violation related to the candidacy/position:

- Name or type of noncompliance/violation;
- Description of noncompliance/violation;
- Year;
- Actions taken by the agency to resolve the matter;
- Actions taken by the elected official to resolve the matter;
- Status of the issue (e.g., waiting on offender response, complaint stage, utilizing the Department of Revenue's Governmental Enterprise Accounts Receivable program to collect fine; etc.);
- Current elected or appointed position held, if any; and
- For any that relate to candidates, whether the individual was successful in winning election to the position.

RECOMMENDATION #15. Update information in the agency's accountability report to match the Program Evaluation Report, or agency current operations and continue tracking applicable data about services, performance, and organization.

This recommendation requests the State Ethics Commission provide an updated Program Evaluation Report (PER) to the Committee and make any adjustments necessary in next year's accountability report submission to match the descriptions in the PER. This recommendation encourages the agency to track services and related information, each year going forward to afford those reviewing the information to compare similar material.

Additionally, the Committee's vision is for South Carolina agencies to become, and continuously remain, the most effective state agencies in the country through processes, which eliminate waste and efficiently deploy resources thereby creating greater confidence in state government.⁷⁴

During the study, the Subcommittee reviewed the State Ethics Commission’s performance measures. Agency personnel should research opportunities to track outcomes throughout the agency and determine whether the current set of performance measures assists agency management in determining if the agency is accomplishing its mission. The Department of Administration’s Executive Budget Office provides agencies with assistance in selecting outcome and efficiency measures through trainings and individual agency consultations.

Interagency Collaboration

The Subcommittee makes four recommendations to the State Election Commission regarding interagency collaboration, and a summary is in Table 12.

Table 12. Summary of interagency collaboration recommendations to the agency

INTERAGENCY COLLABORATION	MANUAL DATA RE-ENTRY AVOIDANCE
	16. Evaluate the potential benefits of negotiating, and enter if beneficial, a data sharing agreement with the Department of Revenue to enable receipt of information about collections on fines to avoid the need for manual reentry of the information. <i>See Finding #6.</i>
	17. Evaluate the potential benefits of negotiating, and enter if beneficial, a data sharing agreement with the State Election Commission and Secretary of State’s Office to avoid duplication of efforts and manual reentry related to elections and appointments. <i>See Finding #6.</i>
	COMMUNICATION WITH THE PUBLIC
	18. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.
	19. Collaborate with the Department of Administration’s State Division of Human Resources, Department of Revenue, and Department of Employment and Workforce to determine if there are opportunities for efficiencies in tracking and providing information to public members under the Ethics Act. Provide an update to the Committee.

RECOMMENDATION #16. Evaluate the potential benefits of negotiating, and enter if beneficial, a data sharing agreement with the Department of Revenue to enable receipt of information about collections on fines to avoid the need for manual reentry of the information.

RECOMMENDATION #17. Evaluate the potential benefits of negotiating, and enter if beneficial, a data sharing agreement with the State Election Commission and Secretary of State’s Office to avoid duplication of efforts and manual reentry related to elections and appointments.

As noted in Finding #6, more than 30 state agencies, including the State Ethics Commission, report some amount of redundant, manual reentry of data from another agency.⁷⁵

Agency personnel noted in the Program Evaluation Report receipt of information from the Department of Revenue, Secretary of State's Office, and State Election Commission that must be manually typed into an agency system.⁷⁶ Figures 5 and 7 illustrate the similar data collected by these agencies. Figures 3, 4, and 6 show the process (i.e., flow of information).

Exploration of potential interagency collaboration between these agencies may increase each agency's efficiency; notably, no agency personnel objected to the recommendation.⁷⁷

For example, there are no board or commission positions processed by the Secretary of State's Office that are not subject to the Ethics Act.⁷⁸ Figure 6 illustrates the current flow of information related to board and commission positions. If the State Ethics Commission received information on appointees from the Secretary of State's Office within ten days of appointment, the State Ethics Commission personnel assert they may be able to avoid non-compliance and enforcement efforts related to failure/late filings (e.g., mailing failure to file/late filing notices and follow-up phone calls and emails; research and communication to have individual file a retroactive statement of economic interest, filing complaints, investigations, probable cause hearings and litigation of complaints, etc.).⁷⁹

Additionally, all members of special purpose districts or public service districts, whether elected or appointed, are subject to the Ethics Act and the appointing authority for the majority of the political subdivisions are derived from the Secretary of State's Biennial Directory of Special Purpose Districts.⁸⁰ If information on members of the districts was electronically sent from the Secretary of State's Office to the State Ethics Commission, it may reduce personnel time and possibilities for errors in information.

As another example, those who run for office must comply with various election and ethics requirements. Currently, the State Ethics Commission receives candidate and election winner information from the various county election boards willing to share this information. However, it would be more efficient for the State Ethics Commission to receive candidate and election winner information from a single source (i.e., the State Election Commission), instead of from each of the 46 county election boards.⁸¹ Additionally, this may increase efficiency for county election boards that type the information for the State Election Commission and are asked to do so again by the State Ethics Commission.

Other opportunities for collaboration include combining information in mailings to individuals. For example, the State Ethics Commission would find it helpful if the Secretary of State's Office included information about state ethics policies and trainings available from the State Ethics Commission, in the Secretary of State's Office's official appointment correspondence to streamline the amount of correspondence a newly appointed individual receives.⁸² Currently, the state pays for at least two separate mailings, one from the Secretary of State's Office and a separate one from the State Ethics Commission, to newly appointed individuals.

As part of the evaluation process, the agencies should further vet potential information utilized by each that may be similar as well as communication from each that may go to the same

customers. Upon collection of the information, agency personnel should consult with personnel from the Revenue and Fiscal Affairs Office (RFA) to review and learn about potential off-the-shelf or custom-built applications that may improve efficiency in transmission and/or sharing of the information (e.g., secure central repository of information housed at RFA from which all three agencies were able to securely access information needed by each, etc.). See Appendix B for resources available from RFA.

Depending on the costs of potential applications, the agencies should consider creating documents outlining the following for current processes: (a) costs to the agency including, but not limited to, personnel time and software or hardware; (b) errors experienced in information received, or method of transmission; (c) frequency of errors, (d) potential causes of errors, and (e) impact of errors. This information can then be used when conducting a cost/benefit analysis for proposed applications.

At the end of the evaluation and analysis process, State Ethics Commission personnel should submit information to the Committee outlining the following:

- a. information utilized by each that may be similar as well as communication from each that may go to the same customers;
- b. potential off-the-shelf or custom-built applications or processes that could improve efficiency in transmission and/or sharing of the information; and
- c. results/decisions of the agencies as to ways to improve efficiency and basis for those decisions.

The Committee strives to promote and facilitate cooperation among agencies; similar recommendations for interagency collaboration have been made in prior studies.⁸³

Recommendations #16 and #17 seek to address Finding #6.

CANDIDATES – Current Flow of Information

(Note: There are differences for non-partisan and local only elections)

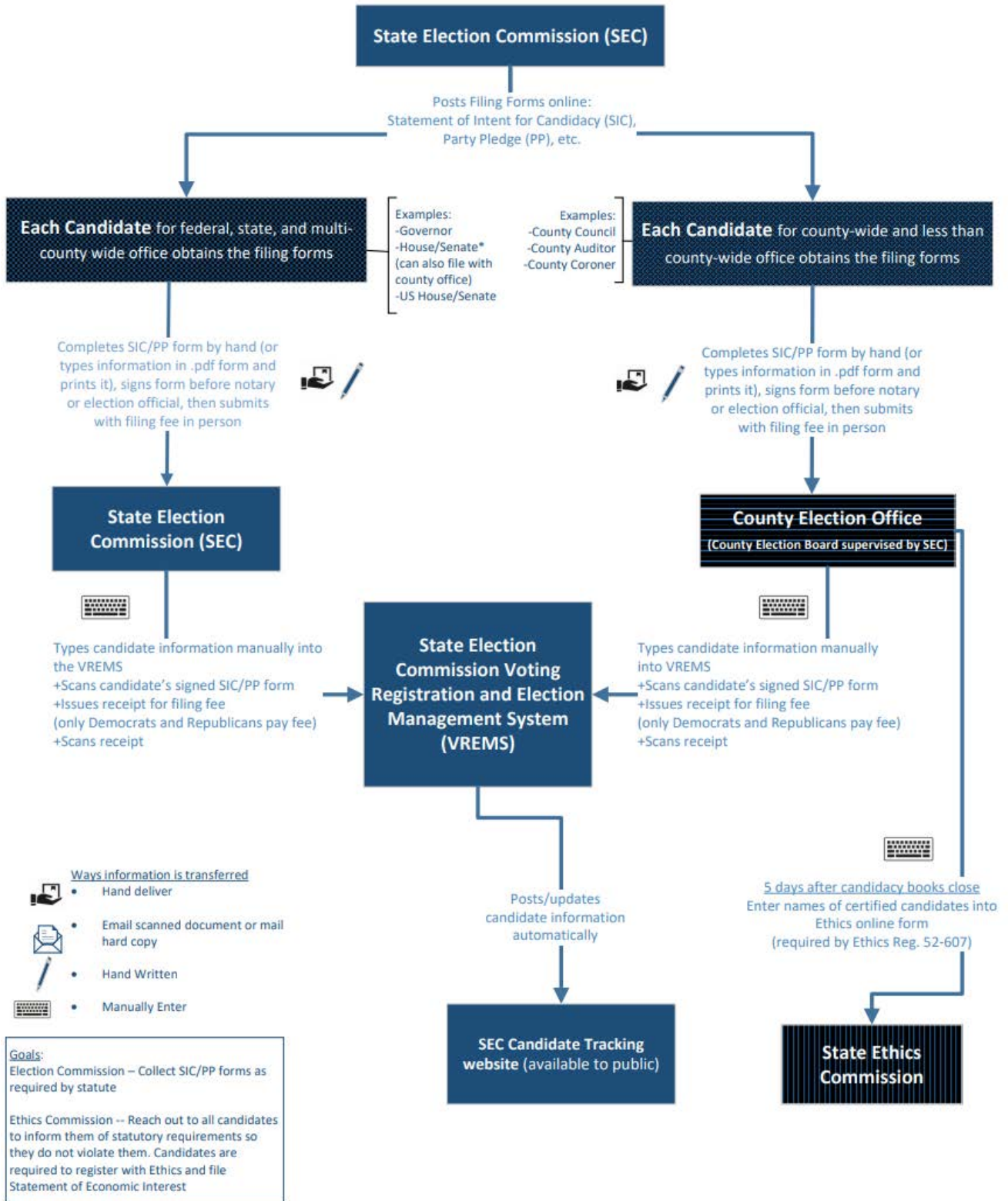


Figure 3: Current flow of information related to candidates as of September 2021⁸⁴

ELECTION WINNERS – Current Flow of Information

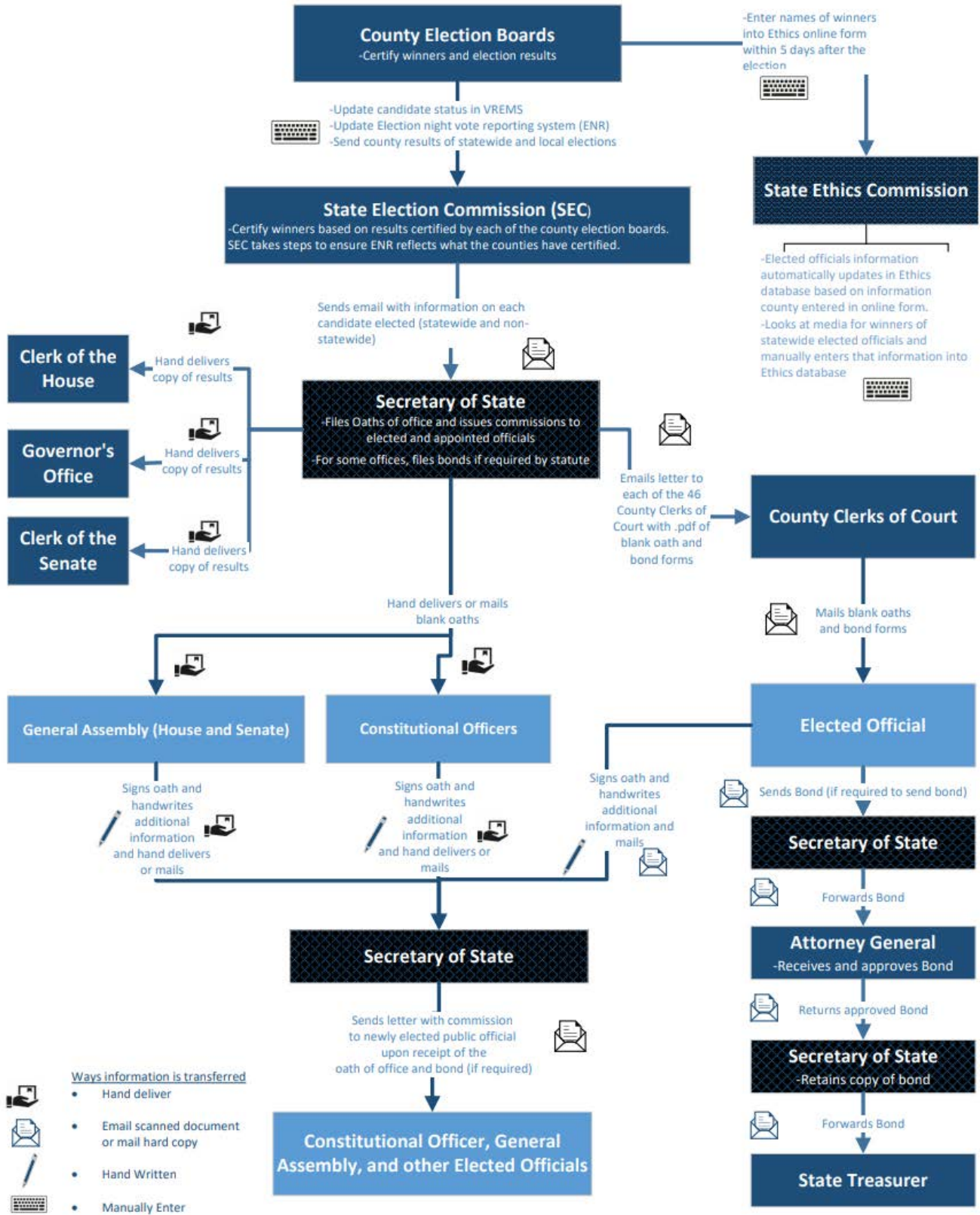


Figure 4. Current flow of information related to election winners as of September 2021⁸⁵

	State Election Commission (SEC)				Ethics Commission			Secretary of State's Office
	Statement of Intent for Candidacy (SIC) / Party Pledge (PP) hard copy and/or scanned filing	Voter Registration and Election Management System (VREMS)	Candidate Tracking System	Election Night Results	Candidate Information from Counties	Ethics Electronic Portal (Registration)	Public Reporting (viewable from website)	
Method of entry	Handwritten or typed, then printed, by candidate	Manually entered by SEC and County Voting Board	Auto-generated from VREMS	Auto-generated from voting system	Manually entered by County Voting Board	Manually entered by individual registering	Auto-generated from Ethics Electronic Portal	Manually entered by Secretary of State's Office
Availability	1) Candidate; 2) Election Commission; 3) County Board of Voter Registration and Elections; 4) Political Parties; 5) Public (available online)	1) Election Commission; 2) County Board of Voter Registration and Elections	1) Public (available online)	1) Public (available online)	1) County Board of Voter Registration and Elections; 2) Ethics Commission	1) Individual to whom Ethics Act applies (i.e., Candidate and Election Winner); 2) Ethics Commission; 3) House Ethics Committee; 4) Senate Ethics Committee	1) Public (available online)	1) Secretary of State's Office
Cells in white show similar information collected by two or more entities →	Election Information				Election Information			Election Information
	Election Date	Election Type Election Date		Election Type Election Date		Election Type (Primary or General) Election Date	Election Type (Primary or General) Election Date	
	Office	Election (required) Office (drop down) (required)	Office	Election (required) Office (drop down) (required)				Office
	Candidate Information				Candidate Information and Election Winner Information			Election Winner Information
	FirstName MiddleName LastName (required) Suffix Voter Registration # Part/Nonpartisan/Petition	FirstName MiddleName LastName (required) Suffix Voter Registration # Part/Nonpartisan/Petition	FirstName MiddleName LastName Suffix	Election Winner	Full Name	FirstName MiddleName (optional) LastName Suffix SSN	FirstName MiddleName (optional) LastName Suffix	FirstName MiddleName LastName (required) Suffix
	Name on Ballot							
	First Middle Nickname Last Suffix (required) Name pronunciation	First Middle Nickname Last Suffix (required)	Ballot Name (first - middle) Ballot Name (last - suffix)	Ballot Name (first - middle) Ballot Name (last - suffix)				
	Contact Information				Contact Information			Contact Information
	Street City, Zip	Street City, Zip			Street City State Zip	Street City State Zip	Street City State Zip	Street City State Zip
	Email Address Phone Number	Email Address Phone Number			Email Address Phone Number	Email Address Office phone Mobile phone (optional)	Office or Mobile phone	
	Filing Information				Other Information			Other Information
	Filing Date (required) Filing Time (required) Filing Location Filing Fee	Filing Date (required) Filing Time (required) Filing Location Filing Fee	Date Filed Time Filed Filing Location Filing Fee					Oath of Office (hard copy) County
	SIC (scanned copy) Other (scanned copy of receipt for filing fee, withdrawal letter if candidate withdraws, etc.)					County of residence		
	District Primary	Associated Counties Filing Level District Primary Status Status Date Running Mate Office Running Mate Ballot Sort Order Code	Associated Counties Filing Level District Primary Status Status Date Running Mate Office Running Mate Ballot Sort Order Code	Winner Number of votes				

Figure 5. Similar information about candidates and elected individuals obtained by the State Election Commission, State Ethics Commission and Secretary of State's Office as of September 2021⁸⁶

BOARD and COMMISSION APPOINTEE – Current Flow of Information
(In practical application)

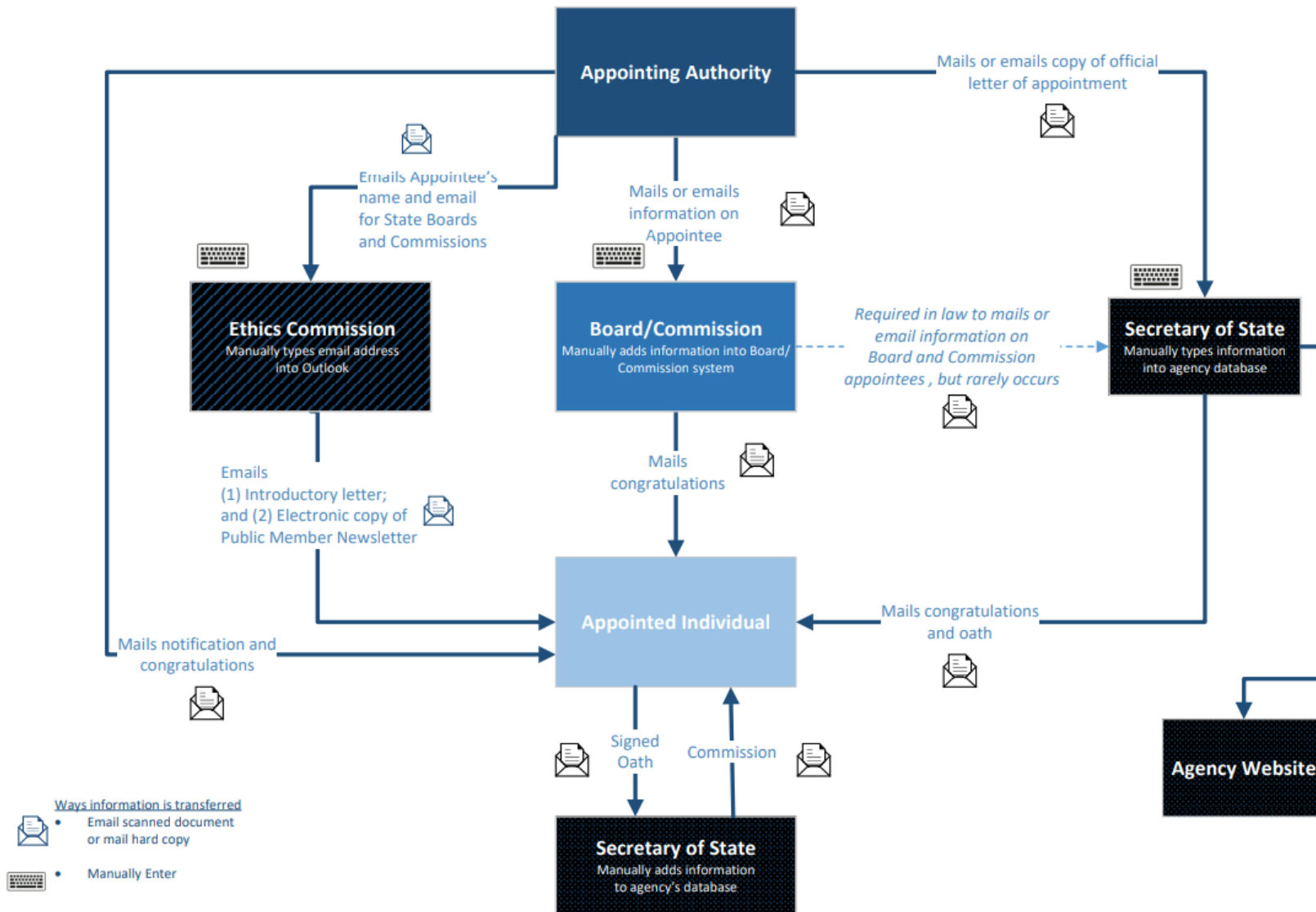


Figure 6. Current flow of information related to board and commission appointees as of September 2021⁸⁷

	Appointing Authority	Board and Commission	Ethics Commission	Secretary of State's
Method of Entry	Manually entered by appointing authority	Manually entered by Board or Commission	Manually entered by individual appointee	Manually entered by Secretary of State's Office
Availability	1) Board or Commission	1) Election Commission; 2) County Board of Voter Registration and Elections	1) Public (available online)	1) Public (available online)
Board / Commission Member Information	Prefix	Prefix		Prefix
	FirstName	FirstName	FirstName	FirstName
	MiddleName	MiddleName	MiddleName	MiddleName
	LastName	LastName	LastName	LastName
	Suffix	Suffix	Suffix	Suffix
	Address	Address	Address	CompanyName
	City	City	City	AddressLine1 & 2
	State	State	State	City
	ZipCode	ZipCode	ZipCode	State
	AppointedDate	AppointedDate	AppointedDate	ZipCode
	TermBeginDate	TermBeginDate	TermBeginDate	ConfirmedDate
	ExpirationDate	ExpirationDate	ExpirationDate	AppointedDate
	Email address	Email address	Email address	AppointedBy
	District, circuit, seat, or position of individual selected, if applicable		TermBeginDate	
	Qualifications and Requirements for the position		ExpirationDate	
	Whether position is eligible to receive compensation Whether it is a reappointment or reelection of incumbent Name of the former member		isAtPleasureOf isCoterminous CommissionDate	
Board Information	Board or Commission Address	Board or Commission Name Address Phone number Email	Board or Commission Name	BondNumber BondReceivedDate BondSentToAG_Date BondApprovedByAG_Date BondSentToTreasure_Date STO_ReferenceNumbers
			TermStatus InactiveReasons InactiveDate PositionTitle	
			PositionName PositionTitle	
			PositionType PositionSubType isBondRequired TermLength isAtPleasureOf isCoterminous Requirements	
			PositionStatus	

Cells in white show similar information collected by two or more entities



Figure 7. Similar information about board and commission appointees obtained by the Appointing Authority, Board and Commission, State Ethics Commission and Secretary of State's Office as of September 2021⁸⁸

RECOMMENDATION #18. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.

The Committee’s mission includes a commitment to transparency by informing the public about state agencies. The Committee is aware the Revenue and Fiscal Affairs Office (RFA) is building an enhanced reporting system for publicly available data as a means of improving efficiency and transparency for the public. For example, RFA offers an online “Locate Me” service, which provides information about South Carolina districts and boundaries (e.g., House districts, Senate districts, school districts, etc.) by address.⁸⁹ See Appendix B for more information on resources, services, and reporting available from RFA.

Data sharing of publicly available information from the State Ethics Commission may help further inform the public about the State Ethics Commission’s operation and those who must comply with ethics requirements. Examples of ways to further inform the public include posting online:

On RFA and State Ethics Commission Website

- Various locations (e.g., municipalities, counties, statewide office jurisdictions, school districts, etc.) of individuals subject to the Ethics Act with a link to the Ethics information about them;
- Various location of companies that are lobbyist principals; and

On State Ethics Commission Website

- Various locations of entities that have hired lobbyists in South Carolina and names of those lobbyists hired.⁹⁰

Agency personnel should work with the developer of the electronic portal to provide all publicly available information to RFA. Additionally, the State Ethics Commission personnel should consult with RFA personnel to determine if any of RFA’s tools or expertise may assist the agency in the creation of reports and interactive tools on the State Ethics Commission webpage or for internal agency operation analysis.

RECOMMENDATION #19. Collaborate with the Department of Administration’s State Division of Human Resources, Department of Revenue, and Department of Employment and Workforce to determine if there are opportunities for efficiencies in tracking and providing information to public members under the Ethics Act. Provide an update to the Committee.

As referenced in the discussion of Finding #5, State Ethics Commission personnel are unable to determine all individuals that must comply with the Ethics Act due, in part, to the fluid number of individuals serving in the different roles subject to the Ethics Act.⁹¹ This recommendation seeks to address some of the factors that contributes to the difficulty in determining who must comply with the Ethics Act through collaboration. Additionally, it seeks to gain efficiencies through combining information provided to similar customers.

For example, there is no mandate that a government entity respond to the correspondence the agency sends each year to update their list of individuals at the entity who are required to file a statement of economic interest. The Department of Administration’s State Division of Human Resources (for cabinet agencies) and Department of Employment and Workforce (for other governmental entities) may have information on the individuals employed by state entities that are required to file information.⁹² Additionally, as part of initial hiring of any new state employee, or tax returns through the Department of Revenue, employee ethics brochures could be provided.

Recommendations to General Assembly

Effectiveness

The Subcommittee makes two recommendations to the General Assembly related to effectiveness, and a summary is in Table 13.

Table 13. Summary of effectiveness recommendation to the General Assembly

EFFECTIVENESS	<p>20. Consider amending the definition of “committee” in the Ethics Act so the State Ethics Commission may fully enforce 21 existing statutes that are currently unenforceable due to court decisions.^{Agency Request}</p> <p>21. Consider correcting a statutory discrepancy regarding the value of gifts those subject to the Ethics Act must report (i.e., make it uniform that all gifts with a value of twenty-five dollars or more in a day, or two hundred dollars or more in a calendar year, must be reported).^{Agency Request}</p>
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RECOMMENDATION #20. Consider amending the definition of “committee” in the Ethics Act so the State Ethics Commission may fully enforce 21 existing statutes that are currently unenforceable due to judicial ruling.

The definition of the term “committee” for purposes of the Ethics Act has been held unconstitutional for overbreadth.⁹³ As a result, since 2010, the State Ethics Commission has been unable to enforce, in full or in part, 21 state statutes. Table 14 lists those laws that, among other things, include various records of contributions and expenditures.

Table 14. State statutes that cannot be enforced either in whole or part by the State Ethics Commission⁹⁴

UNENFORCEABLE STATUTES	
8-13-1302*	Maintenance of records of, contributors, and expenditures
8-13-1304	Committees receiving and spending funds to influence elections required to file statement of organization
8-13-1306	Contents of statement of organization
8-13-1308*	Filing of certified campaign reports by candidates and committees
8-13-1309	Certified campaign reports; filing; contents
8-13-1312*	Campaign bank accounts
8-13-1316	Restrictions on campaign contributions received from political parties; exception for multi-candidate promotions
8-13-1322	Dollar limits on contributions to committees
8-13-1324*	Anonymous campaign contributions
8-13-1331*	Solicitation of contributions by corporations from shareholders, executive personnel, and certain related corporate entities
8-13-1332	Unlawful contributions and expenditures
8-13-1333*	Soliciting contributions from the general public
8-13-1334	Certain solicitation of contributions by corporations and organizations from employees not unlawful
8-13-1340*	Restrictions on contributions by one candidate to another; committees established, financed, maintained, or controlled by a candidate.
8-13-1344*	Contributions by public utilities; seeking endorsement in return for contribution; discrimination by employers based on contributions; reimbursement for contributions
8-13-1348*	Use of campaign funds for personal expenses; expenditures more than twenty-five dollars; expenditures not to exceed fair market value; petty cash funds
8-13-1354	Identification of person independently paying for election-related communication; exemptions
8-13-1362*	Filing of statement of inactivity by candidate or committee having no contributions or expenditures to report
8-13-1368*	Termination of campaign filing requirements; dissolution of committees; final report
8-13-1370*	Use of unexpended contributions by candidate after election; distribution of unexpended funds of committee
8-13-1371	Use of contributions for unintended purposes by ballot measure committee; written authorization; distribution of seized funds

Table Note: An asterisk (*) beside the statute number indicates it is unenforceable only as it relates to committees.

Over the past decade, numerous bills have been filed to address the issue, but none have been enacted.⁹⁵ Agency personnel continue with efforts to obtain a constitutional definition of the term “committee” and have requested this law change.⁹⁶ Table 15 includes agency personnel’s suggested revision, which mirrors North Carolina’s definition of “committee,” which has been held constitutional by the Fourth Circuit Court of Appeals in *N.C. Right to Life, Inc. v. Leake*, 525 F.3d 274 (4th Cir. 2008).⁹⁷

Table 15. Agency's proposed revisions to the definition of "committee" in S.C. Code Section 8-13-1300(6)⁹⁸

CURRENT LANGUAGE	PROPOSED LANGUAGE
<p>Section 8-13-1300(6). Definitions</p> <p>(6) "Committee" means an association, a club, an organization, or a group of persons which, to influence the outcome of an elective office, receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. It also means a person who, to influence the outcome of an elective office makes:</p> <p>(a) contributions aggregating at least twenty-five thousand dollars during an election cycle to or at the request of a candidate or a committee, or a combination of them; or</p> <p>(b) independent expenditures aggregating five hundred dollars or more during an election cycle for the election or defeat of a candidate.</p> <p>"Committee" includes a party committee, a legislative caucus committee, a noncandidate committee, or a committee that is not a campaign committee for a candidate but that is organized for the purpose of influencing an election.</p>	<p>Section 8-13-1300(6). Definitions</p> <p>(6) "Committee" means an association, a club, an organization, or a group of persons which, to influence the outcome of an elective office, receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. It also means a person who, to influence the outcome of an elective office makes:</p> <p>(a) contributions aggregating at least twenty-five thousand dollars during an election cycle to or at the request of a candidate or a committee, or a combination of them; or</p> <p>(b) independent expenditures aggregating five hundred dollars or more during an election cycle for the election or defeat of a candidate.</p> <p>"Committee" includes a party committee, a legislative caucus committee, a noncandidate committee, or a committee that is not a campaign committee for a candidate but that is organized for the purpose of influencing an election.</p> <p><u>a combination of two or more individuals, such as any person, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:</u></p> <p><u>(a) Is controlled by a candidate;</u></p> <p><u>(b) Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party; or</u></p> <p><u>(c) Has the major purpose to support or oppose the nomination or election of one or more clearly identified candidates.</u></p>

Several entities continue to file documents applicable to committees.⁹⁹ When asked why this may occur, agency personnel stated:

On several occasions, entities have expressed the desire to "do the right thing" and continue filing quarterly campaign disclosures for their political action committees (PACs). In other instances, where the PACs are nationwide, it is believed that it is easier for these organizations to continue filing since they are also required to file similar reports in all other states.¹⁰⁰

Notably, agency personnel have enabled the new ethics electronic portal to accept these voluntary filings. This allows for continuation of voluntarily filings, and should the General Assembly amend the definition in the future, applicable committees can file the necessary documents without further changes to the ethics electronic portal.

RECOMMENDATION #21. Consider correcting a statutory discrepancy regarding the value of gifts those subject to the Ethics Act must report (i.e., make it uniform that all gifts with a value of twenty-five dollars or more in a day, or two hundred dollars or more in a calendar year, must be reported).

During the study, agency personnel note a discrepancy exists between S.C. Code Sections 8-13-710(B) and 8-13-1120(A)(9). S.C. Code Section 8-13-710(B) requires statement of economic interest filers to report gifts received in their official capacity only if the amount of those gifts exceeds \$25.00 per day and \$200.00 per year. Conversely, S.C. Code Section 8-13-1120(A)(9) requires these gifts to be reported regardless of their amount. Agency personnel requested a change to either of the statutes to correct the discrepancy.¹⁰¹ Table 16 includes language proposed by the Subcommittee.

Table 16. Subcommittee’s proposed revisions to S.C. Code Section 8-13-1120(A)(9)

CURRENT LANGUAGE	PROPOSED LANGUAGE
<p>Section 8-13-1120(A)(9)</p> <p>(9) the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:</p> <p>(a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official's or employee's office or position; or</p> <p>(b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:</p> <p>(i) has or is seeking to obtain contractual or other business or financial relationship with the official's or employee's agency; or</p> <p>(ii) conducts operations or activities which are regulated by the official's or employee's agency if the value of the gift is twenty-five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year.</p>	<p>Section 8-13-1120(A)(9)</p> <p>(9) the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year, <u>if the value of the gift is twenty-five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year</u>, from:</p> <p>(a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official's or employee's office or position; or</p> <p>(b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:</p> <p>(i) has or is seeking to obtain contractual or other business or financial relationship with the official's or employee's agency; or</p> <p>(ii) conducts operations or activities which are regulated by the official's or employee's agency if the value of the gift is twenty-five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year.</p>

Modernization of Laws

The Subcommittee makes one recommendation to the General Assembly regarding modernization of laws, and a summary is in Table 17.

Table 17. Summary of modernization of laws recommendations to the General Assembly

MODERNIZATION OF LAWS	22. Consider repealing antiquated statutes requiring the agency physically forward copies of information or enact a statute that provides posting the information online satisfies the requirement.
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RECOMMENDATION #22. Consider repealing antiquated statutes requiring the agency physically forward copies of information or enact a statute that provides posting the information online satisfies the requirement.

During the study, agency personnel request “[r]epeal of language that is now obsolete due to Commission’s online filing system” regarding multiple statutes.¹⁰² Table 18 includes a list of applicable statutes. As an efficient means of addressing the issue, the General Assembly could enact a statute as recommended with an instruction to the Code Commissioner to note the update in other applicable statutes; notably, agency personnel do not object.¹⁰³

Table 18. Statutes State Ethics Commission personnel assert are applicable

STATUTE	AGENCY EXPLANATION
<p>Section 8-13-1160. Forwarding of copies of statement to State Ethics Commission and filing person's county of residence.</p> <p>(A) The Senate Ethics Committee and the House of Representatives Ethics Committee must forward a copy of each statement filed with it to the State Ethics Commission within five business days of receipt.</p> <p>(B) Within five business days of receipt, a copy of all statements of economic interests received by the State Ethics Commission must be forwarded to the clerk of court in the county of residence of the filing official or employee.</p>	<p>Commission’s electronic filing system, which is available to the public, includes members of the General Assembly and Clerks of Court. Statements of Economic Interests are publicly available immediately upon filing, removing the need for any paper copies to be forwarded.¹⁰⁴</p>
<p>Section 2-17-20. Registration of lobbyists; notice of termination of lobbying activities; supplemental registration statements; list of lobbyists; recording keeping requirements; reregistration requirements.</p> <p>...</p> <p>(E) The State Ethics Commission annually must furnish to each chairman of standing and special committees of the General Assembly, each member of the General Assembly, and each statewide constitutional officer a list of all lobbyists registered with that office. The State Ethics Commission must furnish monthly updates to the same persons. These lists must be available to state agency heads upon request.</p>	<p>The Commission’s electronic filing system, which is available to the public, includes members of the General Assembly. The Commission is asking S.C. Interactive if they can have an option so an individual can provide their phone number or email address to receive notification anytime there is a change in who is registered in the lobbyist or lobbyist principal system.¹⁰⁵</p>
<p>Section 2-17-25. Registration of lobbyist's principal; notice of termination of lobbying authority; supplemental registration statements; list of lobbyist's principal; recording keeping requirements; reregistration requirements.</p>	<p>The Commission’s electronic filing system, which is available to the public, includes members of the General Assembly. The Commission is asking S.C. Interactive if they can have an option so an individual can provide their phone number or email address to receive notification</p>

<p>...</p> <p>(E) The State Ethics Commission annually must furnish to each chairman of standing and special committees of the General Assembly, each member of the General Assembly, and each statewide constitutional officer a list of all lobbyist’s principal registered with that office. The State Ethics Commission must furnish monthly updates to the same persons. These lists must be available to state agency heads upon request.</p>	<p>anytime there is a change in who is registered in the lobbyist or lobbyist principal system.¹⁰⁶</p>
<p>Section 8-13-1364. Sending of notice of obligation to report and forms.</p> <p>The appropriate supervisory office must send a notice of obligation to report and reporting forms by first-class mail no less than thirty days before the filing date for each reporting period. A candidate or committee is not relieved of reporting responsibilities if the notice or forms are not sent or if the candidate or committee does not receive a notice or forms.</p>	<p>The Commission no longer sends notification of reporting requirements or paper forms to filers. Rather, each candidate in the Commission’s electronic filing system is sent electronic notification using the email address provided by the filer.¹⁰⁷</p>
<p>Section 8-13-1366. Public availability of certified campaign reports.</p> <p>Certified campaign reports must be made available for public inspection at the office of the State Ethics Commission, the Senate Ethics Committee, the House of Representatives Ethics Committee, and the county clerk of court within two business days of receipt. The commission, ethics committees, and county clerks of court shall not require any information or identification as a condition of viewing a report or reports. The commission, ethics committees, and the county clerks of court must ensure that the reports are available for copying or purchase at a reasonable cost.</p>	<p>All Commission filings are made available to the public free of charge by visiting https://apps.sc.gov/PublicReporting/Index.aspx.¹⁰⁸</p>

Recommendation to the State Treasurer’s Office

The Subcommittee makes one recommendation to the State Treasurer’s Office regarding interagency collaboration, and a summary is in Table 19.

Table 19. Summary of recommendation to the State Treasurer’s Office

<p>INTERAGENCY COLLABORATION</p>	<p>23. Continue to monitor issues related to cryptocurrency and its potential application to the receipt of currency by state agencies for goods and services, as well as agencies that monitor receipt of currency (e.g., convene potentially impacted agencies as needed, to discuss issues).</p>
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RECOMMENDATION #23. Continue to monitor issues related to cryptocurrency and its potential application to the receipt of currency by state agencies for goods and services, as well as agencies that monitor receipt of currency (e.g., convene potentially impacted agencies as needed, to discuss issues).

The purpose of this recommendation is to encourage continued interagency collaboration on this emerging issue. As part of the study process, the Subcommittee learned the State Treasurer’s Office is monitoring cryptocurrency and can convene impacted agencies, as necessary, to discuss issues of interest.¹⁰⁹

Recommendation to the Office of House Research

The Subcommittee makes one recommendation to the Office of House Research regarding effectiveness, and a summary is in Table 20.

Table 20. Summary of recommendation to the Office of House Research

EFFECTIVENESS	24. Create a document succinctly identifying House member responsibilities for making appointments or nominations for appointments.
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RECOMMENDATION #24. Create a document succinctly identifying House member responsibilities for making appointments or nominations for appointments.

The Office of House Research for the South Carolina House of Representatives (House Research) provides research services to House members. On an ad hoc basis (i.e., sporadic House member requests), House Research has provided this information to a few counties’ legislative delegations.¹¹⁰ While this recommendation seeks to make this information available to all House members, it is made with an understanding that significant time and resources are necessary to accomplish this task.

Recommendation to the State Election Commission

The Subcommittee makes one recommendation to the State Election Commission regarding interagency collaboration, and a summary is in Table 21.

Table 21. Summary of recommendation to the State Election Commission

INTERAGENCY COLLABORATION	25. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.
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RECOMMENDATION #25. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.

The Committee’s mission includes a commitment to transparency by informing the public about state agencies. The Committee is aware that the Revenue and Fiscal Affairs Office (RFA) is building an enhanced reporting system for publicly available data as a means of improving efficiency and transparency for the public. For example, RFA offers an online “Locate Me” service, which provides information about South Carolina districts and boundaries (e.g., House districts, Senate districts, school districts, etc.) by address.¹¹¹ See Appendix B for more information on resources, services, and reporting available from RFA.

Data sharing of publicly available information from the State Election Commission may help further inform the public about state government operations. Notably, State Election Commission personnel had no objections.¹¹² Examples of information an individual could view if the State Election Commission provided publicly available information to RFA:

On RFA and State Election Commission Website

- Candidates running for office in their area with the candidate’s contact information and date of the election; and
- Elected officials representing their area with the elected official’s contact information.

The State Election Commission should provide all publicly available information to RFA. Additionally, the State Election Commission should consult with RFA to determine if any of RFA’s tools or expertise may assist the agency in creation of reports and interactive tools on the State Election Commission webpage or for internal agency operation analysis.

Recommendation to the Secretary of State’s Office

The Subcommittee makes one recommendation to the Secretary of State’s Office regarding interagency collaboration, and a summary is in Table 22.

Table 22. Summary of recommendation to the State Election Commission

INTERAGENCY COLLABORATION	26. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.
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RECOMMENDATION #26. Work on a data sharing agreement with the Revenue and Fiscal Affairs Office to share publicly available information.

The Committee’s mission includes a commitment to transparency by informing the public about state agencies. The Committee is aware that the Revenue and Fiscal Affairs Office (RFA) is building an enhanced reporting system for publicly available data as a means of improving efficiency and transparency for the public. For example, RFA offers an online “Locate Me”

service, which provides information about South Carolina districts and boundaries (e.g., House districts, Senate districts, school districts, etc.) by address.¹¹³

Data sharing of publicly available information from the Secretary of State's Office may help further inform the public about state government operations. Notably, Secretary of State's Office personnel had no objections.¹¹⁴ Examples of information an individual could view if the Secretary of State's Office provided publicly available information to RFA:

On RFA and Secretary of State's Office Website

- Appointees to state boards and commissions representing the entire state or the individual's area with the board member/commission seat status; contact information for person in the seat, if filled; appointing authority; link to Secretary of State's Office webpage with more information about the specific board/commission; link to webpage of specific board/commission

The Secretary of State's Office should provide all publicly available information to RFA. Additionally, the Secretary of State's Office should consult with RFA to determine if any of RFA's tools or expertise may assist the agency in creation of reports and interactive tools on the Secretary of State's Office webpage or for internal agency operation analysis.

STUDY RELATED INTERNAL CHANGES

During the study process, there are **one** internal change implemented directly related to participation in the study process. The change is listed below.

Implemented by the State Ethics Commission

INTERNAL CHANGE #1. State Ethics Commission takes actions necessary to bring its records back into compliance with its records management policy.¹¹⁵

SELECTED AGENCY INFORMATION

State Ethics Commission. “Program Evaluation Report (PER) – Complete Report (March 9, 2020; updated December 7, 2020; updated March 2021)”

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Commission%20-%20PER%20-%20Full%20Report%20PDF%20\(12.7.20,%20updated%20March%202021\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Commission%20-%20PER%20-%20Full%20Report%20PDF%20(12.7.20,%20updated%20March%202021).pdf)

State Ethics Commission. “Restructuring and Seven-Year Plan Report, 2015.”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20-%202015%20Restructuring%20and%20Seven-Year%20Plan%20Report.pdf>

State Ethics Commission. “Agency Accountability Report, 2020-2021.”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/aar2021/R520.pdf>

S.C. House of Representatives, Legislative Oversight Committee. “Survey Results.”

https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/ArtsCommission/Public_Survey_Responses_2020.PDF

REPORT ACTIONS

FULL COMMITTEE OPTIONS STANDARD PRACTICE 12.4	FULL COMMITTEE ACTION(S)	DATE(S) OF FULL COMMITTEE ACTION(S)
(1) Refer the study and investigation back to the Subcommittee or an ad hoc committee for further evaluation; (2) Approve the Subcommittee’s study; or (3) Further evaluate the agency as a full Committee, utilizing any of the available tools of legislative oversight.	Subcommittee study report available for consideration Subcommittee study presentation and discussion Approval of the Subcommittee’s study	

APPENDIX A – EXPANDED AGENCY SUMMARY

Confirmed accurate by agency in September 15, 2021 letter to Subcommittee

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Ethics Act applies to:

ETHICS ACT DEFINITION	F&/OR A ⁶	APPROX. #	DESCRIPTION	EXAMPLES
PUBLIC OFFICIAL: CANDIDATES	F&A	Unknown ¹	<ul style="list-style-type: none"> Seek appointment, nomination, or election, etc. 	School districts; city councils; county councils; special purpose districts
ELECTED²	F&A	Unknown ¹	<ul style="list-style-type: none"> State, county, municipality, or political subdivision (except House members and Senators) 	County school district; city council; North Greenville Fire District; House of Representatives
APPOINTED	F&A	Unknown ¹	<ul style="list-style-type: none"> State, county, municipality, or political subdivision position that pays more than per diem or expense reimbursement 	Commissioner on Public Service Commission; Spartanburg County Board of Voter Registration and Elections; Greenwood County Auditor
PUBLIC MEMBER: APPOINTED (STATE BOARD)	F&A	Unknown ¹	<ul style="list-style-type: none"> Part-time position on a state board, commission, or council that pays no more than per diem or expense reimbursement 	Abbeville Area Medical Center Board; Columbia Housing Authority Board; State Election Commissioners
APPOINTED (NON-STATE BOARD)	A	Unknown ¹	<ul style="list-style-type: none"> Part-time position on a non-state board, commission, or council that pays no more than per diem or expense reimbursement 	
PUBLIC EMPLOYEE: STATEMENT OF ECONOMIC INTEREST (SEI) FILER	F&A	Unknown ³	<ul style="list-style-type: none"> Chief administrative official, chief financial officer, chief procurement official, and chief administrative official employed by state, county, municipality, or special purpose district/political subdivision Department of Transportation district engineering administrators 	
NON SEI FILER²	A	Unknown ³	<ul style="list-style-type: none"> All non-statement of economic interest employees of state, county, municipality, or special purpose district/political subdivision 	
LOBBYIST	F&A	553 ⁴	<ul style="list-style-type: none"> Seek to influence action/vote, with/without compensation 	See accountability portal for full list
LOBBYISTS PRINCIPAL	F&A	582 ⁴	<ul style="list-style-type: none"> Employ, appoint, or retain lobbyist 	Google, Dominion Energy, Broad River Electric, Bristol-Myers Squibb Company, Charter Schools USA, Christ Church Episcopal Church,
COMMITTEE⁵	F&A	Unknown	<ul style="list-style-type: none"> Association, club, org., or group of persons seeking to influence outcome of elective office or ballot measure by receiving, contributing, or expending certain levels of money. Person who makes certain contributions or independent expenditures to influence outcome of an elective office 	Citizens for Life, Citizens for a Greater Midlands, We the People Aiken 2010, Pennies for Progress, Yes4Schools

¹The Commission’s electronic filing system is unable to break down its filers by public official, public member, or public employee. Recognizing that this type of data could be useful in the future, the Commission intends to discuss this with sc.gov as it moves forward in its implementation of the new filing system. ²Candidates and elected House members and Senators, and their staff, fall under the purview of their respective House and Senate Ethics Committee for training and enforcement of filings. Investigations of complaints related to these individuals are performed by the State Ethics Commission. ³The Commission is unable to determine the number of public employees that fall under its jurisdiction. There is no central database from which to derive this information.

⁴Lobbyist and Lobbyists Principal numbers are for registered Lobbyists and Lobbyists Principals. ⁵The State Ethics Commission, House Ethics Committee, and Senate Ethics Committee are currently unable to enforce laws related to Committees because in 2010 a federal district court found the definition of “committee” was unconstitutional. *South Carolina Citizens for Life v. Krawcheck*, 759 F. Supp.2d 708 (D.S.C. 2010). ⁶“F” means must register in Ethics Commission portal and submit one or more filings; “A” means must abide by prohibitions in Ethics Act.

Information Available: Distribution and Content

ETHICS ACT DEFINITION	SPECIFIC COMMUNICATION	GENERAL COMMUNICATION
PUBLIC OFFICIAL: CANDIDATES ELECTED APPOINTED	NEWSLETTER <u>Distributed:</u> <ul style="list-style-type: none"> Physically given to county elections offices for county election offices to distribute Posted on Commission’s website <u>Contains:</u> <ul style="list-style-type: none"> Information on filing requirements 	<ul style="list-style-type: none"> Website Social Media (reminders about filing deadlines) General Advice (via phone, email) Customer Training Email reminders to filers regarding deadlines
PUBLIC MEMBER: APPOINTED (STATE BOARD) APPOINTED (NON-STATE BOARD)	NEWSLETTER <u>Distributed:</u> <ul style="list-style-type: none"> Posted on Commission’s website LETTER <u>Distributed:</u> <ul style="list-style-type: none"> Emailed via address they provide to Governor’s Office at the time of their appointment (includes letter and digital copy of Public Members Newsletter) <u>Contains:</u> <ul style="list-style-type: none"> Congratulation on appointment Introduction to State Ethics Commission Information on filing requirements 	
PUBLIC EMPLOYEE: STATEMENT OF ECONOMIC INTEREST (SEI) FILER NON SEI FILER	BROCHURE <u>Distributed:</u> <ul style="list-style-type: none"> Posted on Commission’s website <u>Contains:</u> <ul style="list-style-type: none"> Overview of the Ethics Act for public employees 	
LOBBYIST		
LOBBYISTS PRINCIPAL		

WEBSITE

- Commission
- Advisory Opinions
- Brochures/Newsletters
- How to file a complaint
- Meeting agendas and minutes
- Complaints resolved index
- Information on reports filed with Commission
- Debtor's list
- Reports and policies
- Calendar

CUSTOMER TRAINING

- Free of charge
- Conducted by Executive Director or General Counsel
- In person or virtual
- Tailored to each group
- Consists of written material and oral presentation

Information Available: Advice (General, Informal Advisory Opinions, Formal Advisory Opinions)

INFORMAL ADVISORY OPINION

What are they?

- Prospective non-binding opinions, written by staff, concerning requestor's actions
- Based on real or hypothetical circumstances

Who can request one?

- Any individual against whom the Ethics Reform Act can reasonably apply
- Most requestors are public officials, public members, or public employees

How are they distributed?

- Returned directly to the individual that requested it
- Informal Advisory Opinions are not published on the Commission's website

FORMAL ADVISORY OPINION

What are they?

- Prospective binding opinions, written by staff and approved by Commissioners, concerning the requestor's conduct
- Based on real or hypothetical circumstances

Who can request one?

- Any individual against whom the Ethics Reform Act can reasonably apply
- Most requestors are public officials, public members, or public employees

How are they distributed?

- Published on the Commission's website
- Disseminated to public officials, public members and public employees via the Municipal Association, Association of Counties and School Board Association

Prohibited Actions: Applies to Everyone

- Use of official position or office for financial gain
- Disclosure of confidential information for financial gain
- Receiving anything of value for speaking in an official capacity
- Receiving, offering, or giving anything of value to influence action of a public employee, member or official
- Receiving additional money for public assistance
- Representation of another by a public official, member, or employee before certain governmental entities
- Future employment of public employees
- Use of governmental resources to influence the outcome of an election
- Violation of other laws under the Commission's jurisdiction
 - Judicial Canons as applied to Workers' Compensation Commissioners.
 - Judicial Canons as applied to Public Service Commissioner Commissioners.
 - Provisions of the South Carolina Lottery Education Act.

Required Filings: Applies to Some, but not All

	PUBLIC OFFICIALS - CANDIDATES	PUBLIC OFFICIALS - ELECTED	PUBLIC OFFICIALS - APPOINTED	PUBLIC MEMBERS - APPOINTED	PUBLIC EMPLOYEES	LOBBYISTS	LOBBYISTS PRINCIPALS	COMMITTEE
CAMPAIGN DISCLOSURE REPORTS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
STATEMENTS OF ECONOMIC INTERESTS	<input checked="" type="checkbox"/> ¹	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> ²	<input checked="" type="checkbox"/> ²	<input checked="" type="checkbox"/> ²			
LOBBYIST AND LOBBYIST PRINCIPAL REGISTRATION						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
LOBBYIST AND LOBBYIST PRINCIPAL DISCLOSURES						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
STATEMENT OF ORGANIZATION								<input checked="" type="checkbox"/>

Table Note: ¹ Only candidates in partisan elections are required to file Statements of Economic Interest. ² Statements of Economic Interests are filed annually by (1) public officials and members appointed to a **state** board, commission, or council and DOT District Engineering Administrators, and (2) public employees who serve in the capacity of chief administrative officer or chief financial for their governmental entity as well as school district superintendents, county administrators, and city managers. Chief administrative officials for political subdivisions included in Section 8-13-1110(b) of the SC Code of Laws.

Required Filings: Reactive methods to ensure individuals act in accordance with ethics laws

*Note: These steps do not apply to House and Senate officials and staff. House and Senate Ethics Committees each have a similar, but different process.

	Daily Portal Reviews	Random Audits
Daily Portal Review: Review entries flagged the previous day by the Public Disclosure Accountability Reporting System	☑	
Zip Code Audit: Randomly pull and audit all filings for individuals, within a certain zip code, who are required to file		☑
Request for Information Letter: Send letter requesting additional information from individuals with questionable filings		☑
Noncompliance Letter: Send letter directing individual to amend or file and pay penalty fee	☑	☑

Individual required to file report does the following:	Noncompliance letter from agency directs individual to:	Potential Responses from Individual that is Currently Non-Compliant					
		Response Option 1		Response Option 2		Response Option 3	
		Individual's response	Agency response	Individual's response	Agency response	Individual's response	Agency response
Files report late	Pay penalty fee	Pays fee	No further action	Does not pay fee	Debt sent to DOR ¹	No Option 3	
Does not file report completely or at all	Correct deficiency + pay penalty fee	Corrects deficiency + pays fee	No further action	Corrects deficiency, but does not pay fee	Added to Debtor's List ²	No response	Moves to complaint process^^
				Does not correct deficiency, but pays fee	Moves to complaint process ³		

¹Unpaid late filing penalties are submitted to the Department of Revenue for collection through Governmental Enterprise Account Receivable (GEAR) and Setoff Debt.

²Debtor's List is published on the Commission's website and includes all individuals with debts to the Commission including GEAR, Setoff Debt, and debt filed as judgments with the county court. It was first published online in 2002 and created to inform the public of fines owed by public officials, public members and public employees.

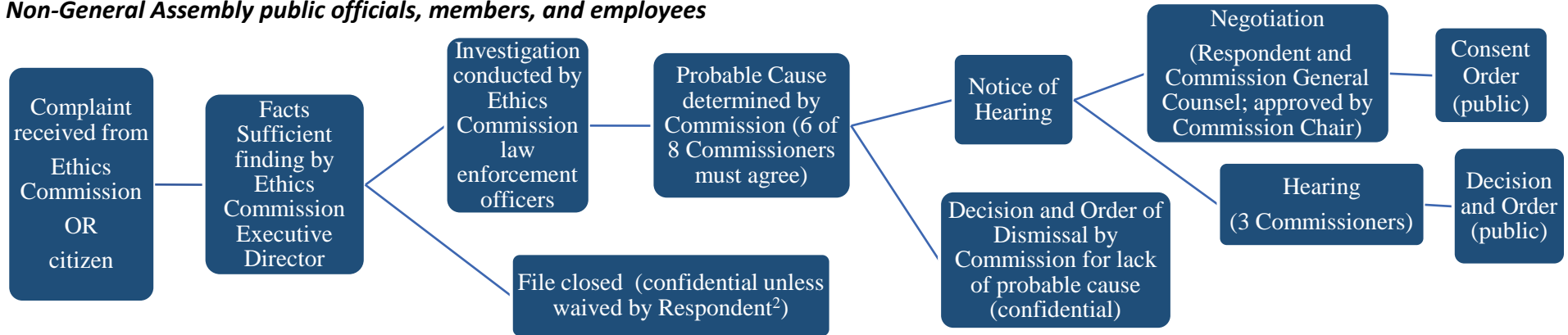
³Commission noncompliance staff create non-compliance complaints and submit them to the Executive Director for approval.

Prohibited Actions
 Complaint → Investigation and Hearing
 → Order → Appeal

Required Filings
 Reviews → Noncompliance Letter →
 Complaint → Investigation and Hearing →
 Order → Appeal

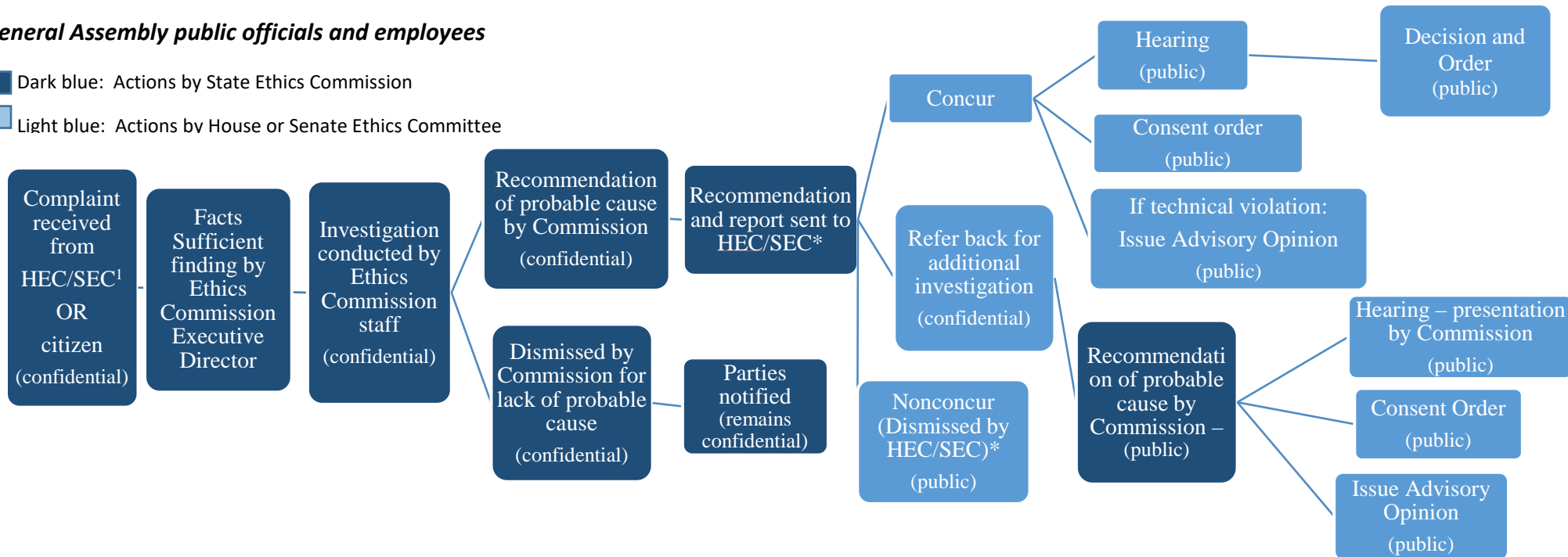
Complaint Process: Flow Charts

Non-General Assembly public officials, members, and employees



General Assembly public officials and employees

■ Dark blue: Actions by State Ethics Commission
 ■ Light blue: Actions by House or Senate Ethics Committee



¹ HEC/SEC: House of Representatives Ethics Committee, the supervisory authority for House members or staff, including staff elected to serve as officers of or candidates for the office. Senate Ethics Committee, which is the supervisory authority for Senators or staff, including staff elected to serve as officers of or candidates for the office of State Senator.
² Respondent: A person charged in a complaint with a violation of the Act.

Complaint Process: Explanation

COMPLAINT	<p><i>Who can file a complaint:</i></p> <ul style="list-style-type: none"> • Commission - Typically arise from an individual not curing deficiencies in required filings (e.g., statements of economic interests, etc.). Complaints also filed after preliminary investigations based upon information provided by a member of the public who is fearful of retaliation if a formal complaint is filed. • Citizen – Must be notarized (a) Individual, on personal behalf; (b) Individual, on behalf of organization; (c) Individual, on behalf of governmental body • House Ethics Committee • Senate Ethics Committee <p><i>What must it include:</i></p> <ul style="list-style-type: none"> • Name, address, and telephone number of a person alleged to have committed a violation (Respondent) • Name, address, and telephone number of the person making the complaint. • Particulars of the alleged violation of the Ethics Reform Act or other provision of state law within the Commission’s jurisdiction. <p><i>Where is it available:</i></p> <ul style="list-style-type: none"> • Blank forms on Commission’s website. Verified complaints are sent to the Respondent and, when appropriate, the House of Representatives or Senate Ethics Committees. If probable cause is found, the complaint is made available to the public upon request. • Information in submitted complaints are entered into the Ethics Commission case management system.
FACTS SUFFICIENT FINDING	<ul style="list-style-type: none"> • Chief investigator and Executive Director of Commission review only the facts as alleged in the complaint. If there would be a violation of the Act, if the facts as alleged were true, it moves to the next step and an investigation is performed.

<p>INVESTIGATION</p>	<ul style="list-style-type: none"> • All the Commission’s investigators are Class I certified law enforcement officers, who are required to maintain their law enforcement certification as well as participate in in-house training at the Commission • Investigations include: Interviews of witness(es); Interview of Respondent (individual alleged to have committed violation); Collection of evidence including meeting minutes, bank records, audio and video recordings and social media postings; and Review of collected evidence • Investigator provides a written summary including a recommendation as to whether probable cause is present
<p>PROBABLE CAUSE DETERMINED</p>	<ul style="list-style-type: none"> • Ethics Commission staff present the investigators summary to the Commissioners. • Six of the Eight Commissioners must agree probable causes exists in order to notice a hearing • Probable cause means based on the evidence available more likely than not a violation of the Act will be found.
<p>HEARING</p>	<p>Panel consists of three Commissioners selected at random to hear contested matters. During the hearing the following occurs:</p> <ul style="list-style-type: none"> • Parties are permitted to make opening statements • Parties are permitted to call witnesses who are sworn and subject to cross-examination • Parties are permitted to introduce exhibits • Parties are permitted to make closing arguments • Hearing panel deliberates and issues a decision and order
<p>ORDERS FROM ETHICS COMMISSION</p>	<p>An Order from the Commission (consent or otherwise), may include one or more of the following:</p> <ul style="list-style-type: none"> • Enforcement/administrative fee, to include costs related to (1) investigator’s time, (2) mileage, meals, and lodging, (3) prosecutor’s time, (4) hearing panel travel, per diem, and meals, (5) administrative time, (6) subpoena costs/witness fees, (7) miscellaneous costs such as postage and supplies.¹ • Civil penalty of up to \$2,000 for each violation.² • Forfeiture of gifts, receipts, or profits, or the value thereof, obtained in violation of the Ethics Act.³ • Voiding non-legislative state action obtained in violation of the Ethics Act.⁴ • Late-filing penalties of up to \$5,000 per report, provided notification requirements are met.⁵ • Oral or written warning or reprimand.⁶

<p>REVIEW OF PANEL DECISION</p>	<ul style="list-style-type: none"> • Respondent may request a review of the panel’s decision and order within ten days of the date of service of the decision and order. The request must be made in writing. • The appellant must provide a written brief within ten days of date of service of the Appellate Hearing notice. • Group of Commissioners, not including the original hearing panel Commissioners review the hearing panel’s decision and order, reconsider the evidence, receive further evidence, rehear the parties, and enter an order amending, affirming or modifying the panel’s decision.
<p>APPEALS FROM APPELLATE PANEL</p>	<ul style="list-style-type: none"> • Appeals from the Commission’s Appellate Panel are made to the South Carolina Court of Appeals then to the South Carolina Supreme Court.

Table Note: ¹ Section 8-13-130. ² Section 8-13-320(10)(l). ³ Section 8-13-320(10)(l) and 8-13-780 ⁴ Section 8-13-320(10)(l). ⁵ Section 8-13-1510. ⁶ Section 8-13-780.

Reporting: Information Available

The reports below are available through the new electronic ethics portal.

Reports those registered in the system will have the ability to view and print:

- Same reports as the Portal currently being used.
- Complete, view, and print Statements of Economic Interests Reports
 - Statements of Economic Interests disclose finances associated with a required filer's household
- Complete, view, and print Campaign Disclosure Reports
 - Campaign Disclosure Reports disclose finances associated with a candidate's campaign.

Report the Commission will have the ability to view and print with aggregated information:

- Candidate Roster
 - List of candidates for state and local office as well as contact information
- Successful Candidate Roster
 - List of successful candidates
- Daily Reports
 - Shows all reports filed the previous day
- Volume Reports
 - Shows the number of reports filed over a given time period
- Flagged Items Reports
 - Shows campaign contributions and expenditures that have been deemed improper
- Late Filers Reports
 - Shows individuals who filed a required filing late
- Non-Filers Reports
 - Shows individuals who have failed to file reports
- Positive Balance Reports
 - Shows all individuals with positive campaign checking account balances
- Zero Balance and Outstanding Loan Reports
 - Shows all individuals with a negative or zero campaign checking account balance
- In-Kind Contributions and Expenditures Report
 - Shows all in-kind contributions by filing year and type
- Audit Log
 - Shows changes authorized by admin users

APPENDIX B – RESOURCES, SERVICES, AND REPORTING AVAILABLE FROM REVENUE AND FISCAL AFFAIRS OFFICE

During the October 4, 2021, House Legislative Oversight Committee’s Executive Subcommittee meeting, personnel from the Revenue and Fiscal Affairs Office (RFA) testified about resources available from RFA, as well as online services and reporting RFA has created. Below is a summary of the testimony.¹¹⁶

Resources Available

Revenue forecasting, budgeting assistance, and fiscal impact statements are about 15% of RFA. Approximately 35-45% of the office includes statisticians and computer developers that work with data management and linkages. They assist agencies in utilizing and sharing data to improve government. This is a function the personnel have been doing for over 20 years. They regularly receive requests from national groups to discuss RFA’s system, as well as insights from other states on how to develop these systems.

When RFA is involved in a data project, RFA is not the data owner. The data is always owned by the agency who collects the data. Any time there is a request to use the data, it requires the approval of the data owner.

RFA is a resource for agencies. They can either consult with agencies to help combine data or find common links to make a process more efficient. Also, they have the technical capabilities to perform programming, if desired by the data owners.

Services and Reporting

Examples of RFA’s work with agencies include: (1) combining Medicaid records with school enrollment, so schools know which one of their students are Medicaid eligible for free and reduced lunch and other funding items; (2) mapping and statistics surveys with the Department of Labor, Licensing, and Regulation data; and (3) identifying how long it takes for students to enter the workforce after finishing high school (pursuant to Education and Workforce Act). 2021 was the third year RFA producing the workforce report.

Another major project RFA completed was a creation of a complete case management and scheduling system for the Department of Health and Human Services’ Continuum of Care, which provides in-home services to avoid the elderly needing to go to nursing homes.

Recently, RFA developed an online service called “Locate Me,” which provides, in a central location, various publicly available information by address (e.g., applicable House District, Senate District, County Council District, School District, etc.). This allows an individual to visit a

single webpage to view ways in which their area is served and the individuals serving it. It is an example of how RFA can combine multiple layers of data using their GIS capabilities to inform the public about agency operations. Appendix B Figure 1 includes examples of opportunities to gain efficiencies for the public through sharing of information with RFA and the “Locate Me” service.

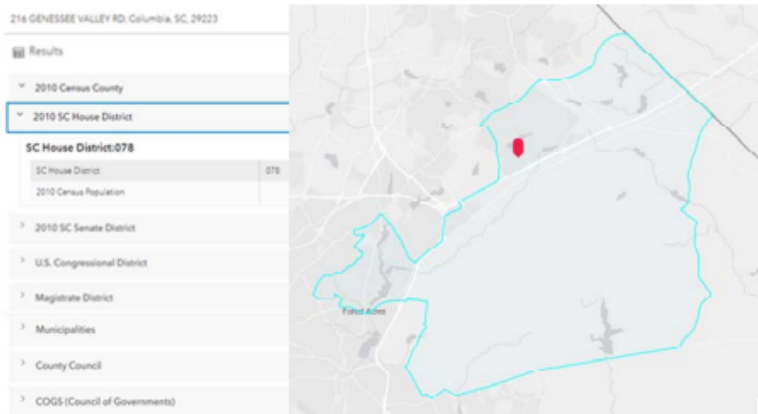
Another application RFA developed recently is a public dashboard. Through this, RFA’s goal is to provide a simple web-based tool to present multiple public data sources with county level maps of key indicators and infographics.¹¹⁷ When visiting the dashboard, an individual can view information or just about their county such as employment and health statistics.¹¹⁸ Appendix B Figures 2 and 3 include screenshots of the public dashboard.

Revenue and Fiscal Affairs Office Locate Me Tool

What does it do?

Individual can enter their address and select different boundaries they want to view (e.g., House district, Judicial district, Council of Governments region, etc.).

Example of address entered in Locate Me Tool



Opportunities to gain efficiencies for the public

- Currently, an individual must navigate to individual agency websites to find different information specifically applicable to them (and know which agency page to visit).
- If an agency shares information with RFA, the information can be added to Locate Me to allow an individual to view information from multiple agencies, in a central location.

Note: Each agency maintains ownership of their information. Also, each agency can add the map to their individual webpage, in addition to information they currently provide.



Election Commission

- 1) Candidates; and
- 2) Elected individuals



Secretary of State's Office

- 1) Appointees to state boards and commissions

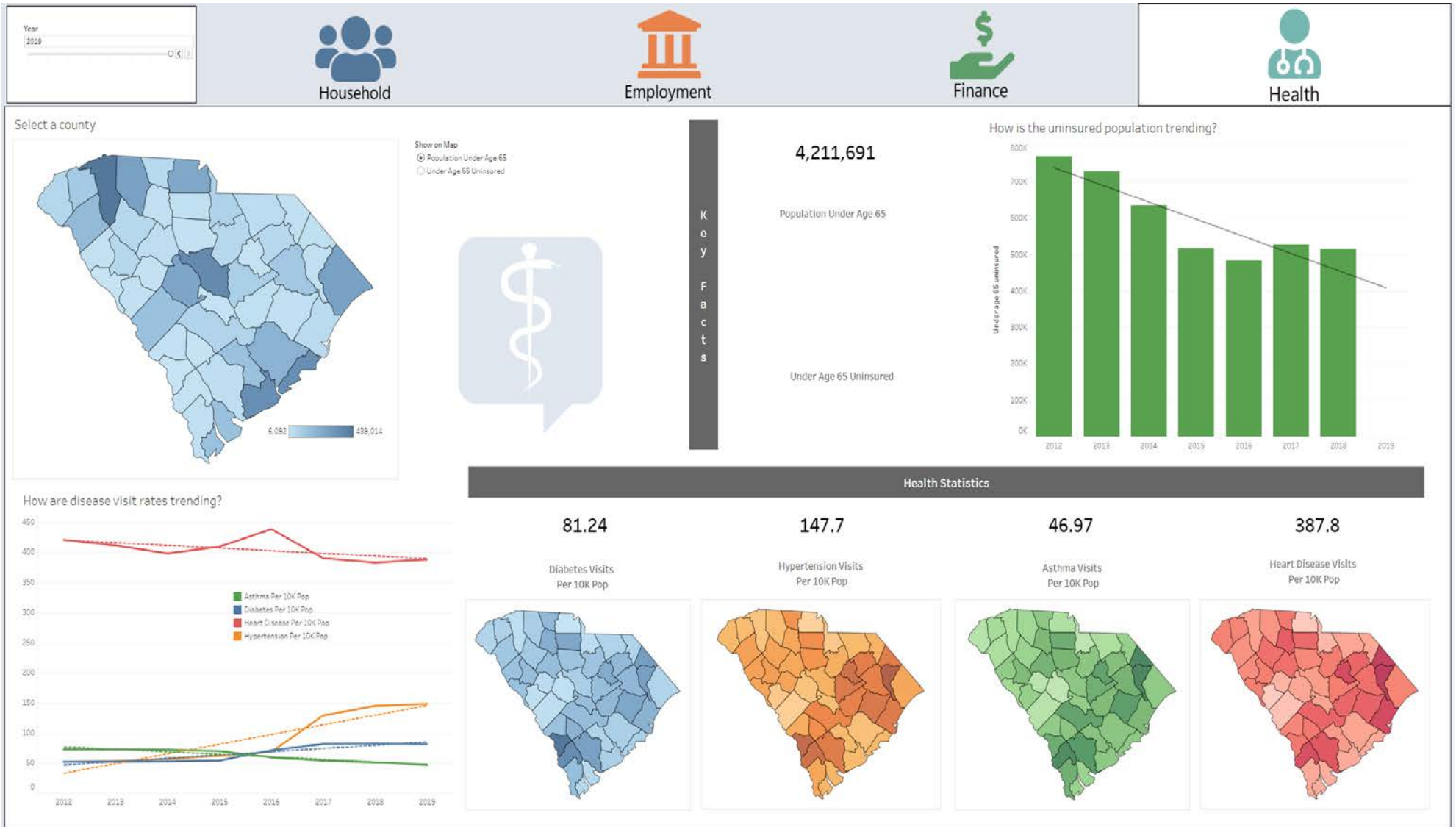
Example of public information an individual could view, if agencies provided the information to RFA:

- **Candidates** – View the names of those running for office in their area;
- **Elected individuals** – View the names of those representing their area in various elected offices; and
- **Appointees to state boards and commissions** - Those that represent the individual on the board or commission.

Appendix B Figure 1: Revenue and Fiscal Affairs Office Locate Me tool and opportunities to gain efficiencies for the public.¹¹⁹



Appendix B Figure 2: Revenue and Fiscal Affairs Office Public Dashboard screenshot of Employment information in Richland County as of November 2021.¹²⁰



Appendix B Figure 3: Revenue and Fiscal Affairs Office Public Dashboard screenshot of Health information statewide as of November 2021.¹²¹

ENDNOTES

¹ Figure 1 is compiled from information in the State Ethics Commission study materials available online under “Citizens’ Interest,” under “House Legislative Oversight Committee Postings and Reports,” and then under “Ethics Commission, State” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyPHPFiles/EthicsCommission.php> (accessed November 15, 2021).


² State Ethics Commission, “State Ethics Commission Debtors List (July 2021)” <https://ethics.sc.gov/sites/default/files/Documents/Debtors/Debtors%20List%20July%202021%202.pdf> (accessed November 15, 2021).

³ State Ethics Commission, “Agency Presentation: Required Filings (July 20, 2021),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Ethics Commission, State” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Presentation%20-%20Required%20Filings.pdf> (accessed November 15, 2021). See slide 31. Hereinafter, “Agency Presentation: Required Filings (July 20, 2021).”

Who is Required to File?

	Public Officials - Candidates	Public Officials – Elected / Appointed	Public Members - Appointed	Public Employees	Lobbyists	Lobbyists Principals	Committee
Campaign Disclosure Reports	☑	☑					☑
Statements of Economic Interests	☑ [^]	☑	☑ [*]	☑ [*]			
Lobbyist and Lobbyist Principal Registration					☑	☑	
Lobbyist and Lobbyist Principal Disclosures					☑	☑	
Statement of Organization							☑

^{*} Statements of Economic Interests are filed annually by public members appointed to a state board, commission, or council and DOT District Engineering Administrators. Public employees who serve in the capacity of chief administrative officer or chief financial for their governmental entity as well as school district superintendents, county administrators, and city managers. Chief administrative officials for political subdivisions included in Section 8-13-1110(b) of the SC Code of Laws.
[^] Only partisan candidates.



Endnote Figure 1. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 31, (accessed November 15, 2021)

⁴ State Ethics Commission, “Election Materials,” <https://ethics.sc.gov/campaigns/election-material> (accessed November 15, 2021).

Election Material

In accordance with state law, it is the responsibility of the election/party official to inform every candidate of the electronic filing requirement for the Statement of Economic Interests and the Campaign Disclosure. Please notify each candidate that if the Campaign Disclosure is not electronically filed within five (5) days of the established deadline, an initial fine of \$100 is required. After notice has been given by certified mail that the form has not been filed, the fine increases at \$10 per day for the first ten (10) days, and \$100 per day for each additional day the form is not filed.

Endnote Figure 2. Screenshot of agency’s website (accessed November 15, 2021)

⁵ S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes” (July 20, 21), under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Ethics Commission, State,” and under “Meetings,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/July%2020,%202021%20-%20Meeting%20Minutes.pdf> (accessed November 15, 2021). A video of the meeting is available at [use.gov/video/archives.php?key=](https://www.scstatehouse.gov/video/archives.php?key=). See video at 00:57:21 - 00:58:59. Hereinafter, “July 20, 2021, Minutes and Video.”

⁶ S.C. Code Section 8-13-1300(4) defines candidate, in part, as anyone exploring whether to run for office. The full text of relevant statutes is listed below.

S.C. Code Section 8-13-1300. Definitions.

(4) "Candidate" means: (a) a person who seeks appointment, nomination for election, or election to a statewide or local office, or authorizes or knowingly permits the collection or disbursement of money for the promotion of his candidacy or election; (b) a person who is exploring whether or not to seek election at the state or local level; or (c) a person on whose behalf write-in votes are solicited if the person has knowledge of such solicitation. "Candidate" does not include a candidate within the meaning of Section 431(b) of the Federal Election Campaign Act of 1976.

S.C. Code Section 8-13-1314 authorizes candidates to contribute unlimited personal funds to their own campaigns. The text of the relevant statute is provided here for convenience.

S.C. Code Section 8-13-1314. Campaign contribution limits and restrictions.

(A) Within an election cycle, a candidate or anyone acting on his behalf shall not solicit or accept, and a person shall not give or offer to give to a candidate or person acting on the candidate's behalf:

- (1) a contribution which exceeds:
 - (a) three thousand five hundred dollars in the case of a candidate for statewide office; or
 - (b) three thousand five hundred dollars in the aggregate for statewide candidates elected jointly pursuant to Section 8, Article IV of the South Carolina Constitution, 1895; or
 - (c) one thousand dollars in the case of a candidate for any other office;
- (2) a cash contribution from an individual unless the cash contribution does not exceed twenty-five dollars and is accompanied by a record of the amount of the contribution and the name and address of the contributor;
- (3) a contribution from, whether directly or indirectly, a registered lobbyist if that lobbyist engages in lobbying the public office or public body for which the candidate is seeking election;
- (4) contributions for two elective offices simultaneously, except as provided in Section 8-13-1318.

(B) The restrictions on contributions in subsection (A)(1) and (2) do not apply to a candidate making a contribution to his own campaign.

S.C. Code Section 8-13-1301. Joint candidates for Governor and Lieutenant Governor considered a single candidate.

For purposes of this article, candidates elected jointly as provided in Section 8, Article IV of the South Carolina Constitution, 1895, must be considered a single candidate. The gubernatorial candidate is responsible for:

- (1) establishing a single candidate committee for contributions solicited and received for the Governor and Lieutenant Governor elected jointly; and
- (2) complying with the requirements of Article 13, Chapter 13, Title 8 for the committee established for the joint election.

⁷ During the study, the agency brought this issue forward as a concept recommendation. Agency Presentation: Required Filings (July 20, 2021). See slide 49.

Law Change #8

Current Law: Section 8-13-1301. Joint candidates for Governor and Lieutenant Governor to be considered a single candidate.

For purposes of this article, candidates elected jointly as provided in Section 8, Article IV of the South Carolina Constitution, 1895, must be considered a single candidate. The gubernatorial candidate is responsible for:

- (1) Establishing a single candidate committee for contributions solicited and received for the Governor and Lieutenant Governor elected jointly; and
- (2) Complying with the requirements of Article 13, Chapter 13, Title 8 for the committee established for the joint election.

Recommendation: Modify to include language as to when a candidate for Governor may declare a running mate/Lieutenant Governor for purposes of campaign fundraising.

- Section 8-13-1314 allows candidates to contribute unlimited personal funds to their own campaigns.
- Section 8-13-1300(4) defines candidate, in part, as anyone exploring whether or not to run for office.
- Therefore, a candidate for Governor could theoretically declare numerous running mates/Lt. Gov. candidates, then allow those candidates for Lt. Gov. to contribute unlimited contributions to their joint campaign.

*Note: The agency does not have a recommendation for specific wording.

Status: Not yet presented to, or approved by, Commissioners
Other Agencies Potentially Impacted: None

SOUTH CAROLINA
State Ethics Commission

Endnote Figure 3. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 49, (accessed November 18, 2021)

⁸S.C. House of Representatives, House Legislative Oversight Committee, "Letter from Ethics Commission to LOC Subcommittee (9.15.21)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Ethics Commission, State," and under

“Correspondence,”

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Letter%20to%20Subcommittee%20\(9.15.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Letter%20to%20Subcommittee%20(9.15.21).pdf) (accessed November 14, 2021). See response to question 10. Hereinafter, “Letter from Ethics Commission to LOC Subcommittee (9.15.21).”

⁹S.C. House of Representatives, House Legislative Oversight Committee, “Letter from Ethics Commission to LOC Subcommittee (6.24.21),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Ethics Commission, State,” and under “Correspondence,”

[https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Letter%20to%20Subcommittee%20with%20attachments%20\(6.24.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Letter%20to%20Subcommittee%20with%20attachments%20(6.24.21).pdf)(accessed November 14, 2021). See response to question 6. Hereinafter, “Letter from Ethics Commission to LOC Subcommittee (6.24.21).”

See also, Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 10.

¹⁰ Four members are appointed by the Governor, and the Senate and House of Representatives each make two appointments.

Members						
Position	Position Title	Current Members	Appointed By	Appointed Date	Expiration Date	Coterm/At Pleasure Of
Governor's Appointee	Member	Wilson, Ashleigh R.	Governor Henry McMaster	6/6/2017	4/1/2020	<input type="checkbox"/>
Governor's Appointee	Member	Pinkston, Brandolyn T.	Governor Henry McMaster	4/9/2020	4/1/2025	<input type="checkbox"/>
Governor's Appointee (Governor's Party)	Member	Barnwell, Brian M.	Governor Henry McMaster	6/6/2017	4/1/2022	<input type="checkbox"/>
Governor's Appointee (Governor's Party)	Member	Thrasher, Childs C.	Governor Henry McMaster	6/6/2017	4/1/2022	<input type="checkbox"/>
House Appointee (Majority Party)	Member	Jackson, Donald H.	South Carolina House of Representatives	6/6/2017	4/1/2022	<input type="checkbox"/>
House Appointee (Minority Party)	Member	Holloway, Alonzo J.	South Carolina House of Representatives	4/9/2020	4/1/2025	<input type="checkbox"/>
Senate Appointee (Majority Party)	Member	Frick, Scott Edward	South Carolina Senate	4/28/2021	4/1/2025	<input type="checkbox"/>
Senate Appointee (Minority Party)	Member	Gist, Donald	South Carolina Senate	6/6/2017	3/31/2022	<input type="checkbox"/>

If you are an appointing authority or administrator of a state board or commission and need to report an appointment, resignation, or other change in membership to the Secretary of State's Office, you may send your written notification to:

SC Secretary of State's Office
 Attn: Boards & Commissions
 1205 Pendleton Street, Suite 525
 Columbia, SC 29201

Endnote Figure 4: Screenshot a search result for “State Ethics Commission” on the Secretary of State’s website (accessed November 17, 2021)

¹¹ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 11.

¹² Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 11.

¹³ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See responses to questions 23 and 24.

¹⁴ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 23.

¹⁵ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 24.

¹⁶ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See responses to questions 28 and 50 – 53. Letter from Ethics Commission to LOC Subcommittee (9.15.21). See responses to questions 6 and 7.

¹⁷ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 50.

¹⁸ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 1.

¹⁹ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 1.

²⁰ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 1.

²¹Letter from Ethics Commission to LOC Subcommittee (6.24.21). Meghan Walker, Executive Director State Ethics Commission, interviewed by Charles L. Appleby, IV, Legal Counsel to House Legislative Oversight Committee.

Below is from spreadsheets that were attachments to the June 24, 2021, letter and verbal statement of Ethics Commission staff to LOC staff that the Ethics Commission did not know the exact number of individuals in each category.

- The Ethics Act applies to individuals serving on several different entities.
 - Nature of Communication

- For all entities, communication with the Ethics Commission about which individuals are serving is voluntary. There is no communication mandated by statute.
- Source of Information
 - There are 46 possible combinations of sources of information about which individuals are serving (e.g., City Council; County Council; Governor; Governor and General Assembly; etc.)
- Method of Communication
 - Ethics Commission manually searches information posted online to determine which individuals are serving on up to 733 entities
 - There is no communication about the individuals serving on 158 entities (130 of these are at the political subdivision level and 25 are state level)
 - Other than positions on the State Ethics Commission and the Holly Springs Volunteer Fire District, there is no communication from members of the General Assembly to the Ethics Commission about individuals serving in any positions for which they appoint or elect.
- Training
 - Up to 205 entities are not within one or more groups to which the agency regularly provides training
- Violations
 - Ethics Commission is unable to determine the annual number of filing or other violations related to any of the specific positions. It can determine this information based on an individual's name.

²² The Ethics, Government Accountability, and Campaign Reform Act of 1991 is codified predominately as Title 2, Chapter 17, and Title 8, Chapter 13 of the South Carolina Code of Laws.

²³ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 29.

²⁴ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 39.

²⁵ July 20, 2021, Minutes and Video. See video at 00:28:05 – 00:29:04.

²⁶ S.C. Code Section 8-13-350. The full text of the statute is listed below.

SECTION 8-13-350. Ethics brochure to be provided to public officials, members, and employees.

When hired, filing for office, or appointed and upon assuming the duties of employment, office, or position in state government, a public official, public member, and public employee shall receive a brochure prepared by the State Ethics Commission describing the general application of this chapter.

²⁷ State Ethics Commission, "Agency Presentation: Education and Training (May 13, 2021)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Ethics Commission, State" [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Education%20and%20Training%20\(5.13.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Education%20and%20Training%20(5.13.21).pdf) (accessed November 18, 2021). See slide 42. Hereinafter, "Agency Presentation: Education and Training (May 13, 2021)."

Law Change #3

Current Law: Section 8-13-350 Ethics brochure to be provided to public officials, members, and employees.

When hired, filing for office, or appointed and upon assuming the duties of employment, office, or position in state government, a public official, public member, and public employee shall receive a brochure prepared by the State Ethics Commission describing the general application of this chapter.

Recommendation: Modify to include which persons/entities are required to be provided the brochure created by the Commission (i.e., election commission officials, all public agencies, etc.)

- Commission provides the brochure electronically via its website
- Commission provides copies of the Candidate Newsletter to every county elections office.
- Commission is unable to monitor each public employee hired or each individual filing for public office.

*Note: The agency does not have a recommendation for specific wording.

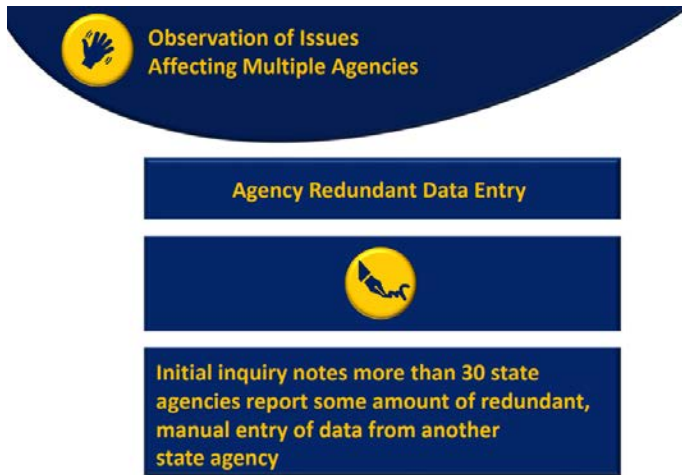
Status: Not yet presented to, or approved by, Commissioners

Other Agencies Potentially Impacted: State and local election officials and all public agencies

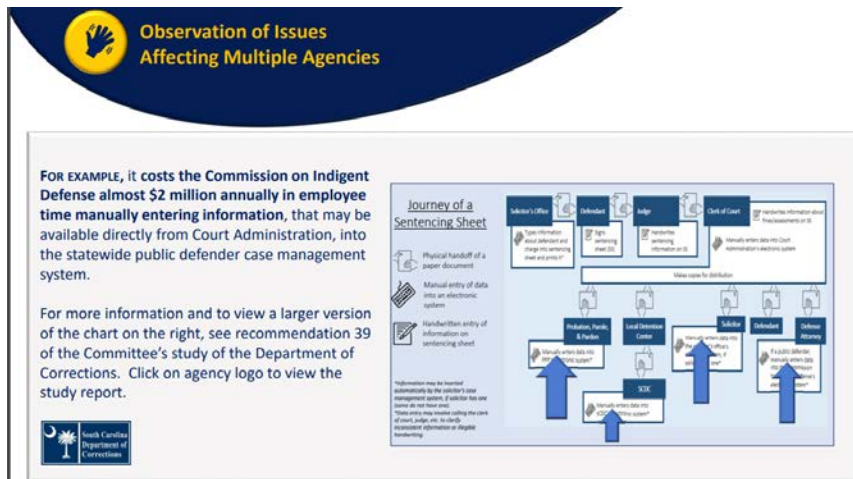
Endnote Figure 5. Screenshot of Agency Presentation: Education and Training (May 13, 2021), slide 42, (accessed November 18, 2021)

²⁸ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 1.

²⁹ S.C. House of Representatives, House Legislative Oversight Committee, “Legislative Oversight Committee 123rd General Assembly Transparency Report to Citizens” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “How the Committee Serves You” and under “Transparency reports to citizens” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Transparency%20Report%20for%20123rd%20General%20Assembly%20\(1.8.201\).PDF](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Transparency%20Report%20for%20123rd%20General%20Assembly%20(1.8.201).PDF) (accessed November 18, 2021). Hereinafter “Legislative Oversight Committee 123rd General Assembly Transparency Report to Citizens.” See slides 18 and 19.



Endnote Figure 6. Screenshot of Legislative Oversight Committee 123rd General Assembly Transparency Report to Citizens, slide 18, (accessed November 18, 2021)



Endnote Figure 7. Screenshot of Legislative Oversight Committee 123rd General Assembly Transparency Report to Citizens, slide 19, (accessed November 18, 2021)

³⁰ For example, it costs the Commission on Indigent Defense almost \$2 million annually in employee time manually entering information, that may be available directly from Court Administration, into the statewide public defender case management system (i.e., Defender Data). This occurs at two points in the criminal process: (1) when the file is opened (i.e., when defendant and charge identifiers are entered into Defender Data) and (2) when the case is closed (i.e., when information from the sentencing sheet is entered into Defender Data). If a defendant receives additional charges during the case, the information regarding those new charges is also manually entered into Defender Data. Two,

information from a handwritten, sometimes difficult to read, forms is transcribed manually by several agencies (e.g., solicitors' offices, public defenders, SCDC, Department of Probation, Pardon, and Parole, and Department of Motor Vehicles) into different databases.

³¹ State Ethics Commission, "PER – Complete report (March 9, 2020; updated December 7, 2020; updated March 2021)," under "Committee Postings and Reports," under "House Legislative Oversight Committee," and under "Ethics Commission, State" [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Commission%20-%20PER%20-%20Full%20Report%20PDF%20\(12.7.20,%20Updated%20March%202021\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Commission%20-%20PER%20-%20Full%20Report%20PDF%20(12.7.20,%20Updated%20March%202021).pdf) (accessed November 18, 2021). See question 16. Hereinafter, "Agency PER."

³² S.C. Code Section 8-13-1356. During the study, the agency brought this issue up for consideration. Agency Presentation: Required Filings (July 20, 2021). See slide 9. See also, July 20, 2021, Minutes and Video. See video at 00:58:59 – 01:00:26).

³³ State Ethics Commission, "Statement of Economic Interests, General Information," <https://ethics.sc.gov/statement-economic-interests> (accessed November 18, 2021).

³⁴ 2013 Act No. 61 amended this statute as shown below. It appears the original language included all candidates, but the amended language only included candidates for partisan offices.

"Section 8-13-1356. (A) This section does not apply to a public official who has a current disclosure statement on file with the appropriate supervisory office pursuant to Sections 8-13-1110 or 8-13-1140.

(B) A person who becomes a candidate by filing a statement of intention of candidacy seeking nomination by political party primary or political party convention must electronically file a statement of economic interests for the preceding calendar year at the same time and with the same official with whom the candidate files pursuant to Section 8-13-365 prior to the close of filing for the particular office a declaration of candidacy or petition for nomination. ..."

³⁵ State Ethics Commission, "Statement of Intention of Candidacy - Nonpartisan," <https://www.scvotes.gov/files/SEC%20FRM%201008-200912%20Statement%20of%20Intention%20of%20Candidacy%20-%20Nonpartisan.pdf> (accessed November 18, 2021). See also, State Ethics Commission, "Statement of Intention of Candidacy & Party Pledge" <https://www.scvotes.gov/sites/default/files/SEC%20FRM%201009-201803%20Statement%20of%20Intention%20of%20Candidacy%20Pledge.pdf>) (accessed November 18, 2021).

³⁶ Regulations pertaining to the State Ethics Commission were added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

³⁷ S.C. Code Section 1-23-120(J). The full text of the relevant subsection is listed below.

(J) Each state agency, which promulgates regulations or to which the responsibility for administering regulations has been transferred, shall by July 1, 1997, and every five years thereafter, conduct a formal review of all regulations which it has promulgated or for which it has been transferred the responsibility of administering, except that those regulations described in subsection (H) are not subject to this review. Upon completion of the review, the agency shall submit to the Code Commissioner a report which identifies those regulations:

- (1) for which the agency intends to begin the process of repeal in accordance with this article;
- (2) for which the agency intends to begin the process of amendment in accordance with this article; and
- (3) which do not require repeal or amendment.

Nothing in this subsection may be construed to prevent an agency from repealing or amending a regulation in accordance with this article before or after it is identified in the report to the Code Commissioner.

³⁸ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 3.

³⁹ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 4.

⁴⁰ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 7.

⁴¹ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 7.

⁴² S.C. House of Representatives, House Legislative Oversight Committee, "Meeting Minutes" (October 4, 21), under "Committee Postings and Reports," under "House Legislative Oversight Committee," under "Ethics Commission, State," and under "Meetings," will be posted online after approval (accessed November 18, 2021). A video of the meeting is available at

<https://www.scstatehouse.gov/video/archives.php?key=11518&part=1>. See video at 00:34:44 – 00:36:26. The meeting packet is available at <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/October%204,%202021%20-%20Meeting%20Packet.pdf>. Hereinafter, "October 4, 2021, Meeting Packet, Minutes, and Video." .

⁴³ H.4076 was introduced during the 123rd General Assembly by various House Legislative Oversight Committee members to implement this recommendation. On January 21, 2021, it was approved by the House of Representatives by a vote of 109 to 0 and was referred to the Senate Judiciary Committee on January 23, 2020. As an internal change related to the study process, the Commission on Indigent Defense creates a resource book, which includes duties of commissioners and is signed by them.

⁴⁴ July 20, 2021, Minutes and Video. See video at 00:15:05 -00:17:13..

⁴⁵ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 2.

⁴⁶ Potential options for the agency's consideration:

- Select one person on each county board to have responsibility for ensure ethics information is provided to candidates and serve as liaison for Ethics Committee;
- Survey Registration and Election Officials (SCARE) to see what they currently do, if anything, to tell candidates to register in ethics portal; and
- Survey elected members to determine how or if they were made aware of requirement.

⁴⁷ S.C. House of Representatives, House Legislative Oversight Committee, “Meeting Minutes” (May 13, 2021), under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Ethics Commission, State,” and under “Meetings,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/May%2013,%202021%20-%20Meeting%20Minutes.pdf> (accessed November 18, 2021). A video of the meeting is available at <https://www.scstatehouse.gov/video/archives.php?key=11384>. See video at 00:37:00 - 00:38:57. Hereinafter, “May 13, 2021, Minutes and Video.”

⁴⁸ May 13, 2021, Minutes and Video. See video at 00:37:00 - 00:38:57.

⁴⁹ May 13, 2021, Minutes and Video. See video at 00:37:00 - 00:38:04.

⁵⁰ July 20, 2021, Minutes and Video. See video at 2:08:39 – 2:09:20.

⁵¹ July 20, 2021, Minutes and Video. See video at 2:12:30-2:13:20.

⁵² July 20, 2021, Minutes and Video. See video at 2:12:30-2:13:20

⁵³ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 5.

⁵⁴ State Ethics Commission, “Debtors: General Information” <https://ethics.sc.gov/debtors> (accessed November 18, 2021).

⁵⁵ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 17.

State Ethics Commission, “Agency Presentation: Investigations (July 20, 2021),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Ethics Commission, State” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Presentation%20-%20Investigations.pdf> (accessed November 18, 2021). See slide 29. Hereinafter, “Agency Presentation: Investigations (July 20, 2021).”

Debtors List

- First published online in 2002
- Created to inform the public of fines owed by public officials, public members and public employees.
- Lists all individuals with debts to the Commission including:
 - Debt the Department of Revenue is collecting for the Commission through GEAR or Setoff debt program.
 - Debt filed as judgments with the county court.

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Endnote Figure 8. Screenshot of Agency Presentation: Investigations (July 20, 2021), slide 29, (accessed November 18, 2021)

⁵⁶ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 17.

See also, S.C. House of Representatives, House Ethics Committee, “House Ethics Committee Fines (Updated September 15, 2021),” under “Committee Postings and Reports,” under “House Ethics Committee,” under “Ethics Commission, State,” and under “Meetings,” <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/May%2013,%202021%20-%20Meeting%20Minutes.pdf> (accessed November 18, 2021).

See also, S.C. Senate, Senate Ethics Committee, “Senate Ethics Fines (Updated June 18, 2018),” <https://www.scstatehouse.gov/CommitteeInfo/HouseEthicsCommittee/Fines%20And%20Reprimands/Unsatisfied%20Fine%20List%20of%20Ethics%20Committee%20Page%209.15.21.pdf> (accessed November 18, 2021).

⁵⁷ State Ethics Commission, “Debtors List (July 2021),” <https://ethics.sc.gov/sites/default/files/Documents/Debtors/Debtors%20List%20July%202021%202.pdf> (accessed November 18, 2021).
⁵⁸ October 4, 2021, Meeting Packet, Minutes, and Video. See video at 36:45-37:21.
 See also, Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 17.
⁵⁹ October 4, 2021, Meeting Packet, Minutes, and Video See video at 36:45-37:21.
⁶⁰ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See responses to questions 14, 15, 16, 18, 20, and 21.

See also, June 22, 2021, Letter from Department of Administration’s Division of Human Resources to Committee.

⁶¹ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 14.
⁶² Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 16.
⁶³ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 16.
⁶⁴ S.C. Code Section 8-11-15(B) authorizes state agencies to “use alternate work locations, including telecommuting, that result in greater efficiency and cost savings.”
⁶⁵ Department of Administration, “Telecommuting Toolkit (Updated June 2021)” https://admin.sc.gov/dshr/model_policies#telecommuting (accessed November 18, 2021).
⁶⁶ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 15.
⁶⁷ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 15.
⁶⁸ State Ethics Commission, “Complaint Form,” <https://ethics.sc.gov/sites/default/files/Documents/Complaints/C102form.pdf> (accessed November 18, 2021).
⁶⁹ Potential options for the agency’s consideration:

- Post on the agency’s website a drop-down menu where members of the public can select the type of official and the topic of the complaint to see the appropriate entity to file the complaint.

Endnote Table 1. Example drop down menu

Office holder	Entity person files complaint with	Topic of complaint
U.S. House Member	FEC	Federal campaign finances
U.S. Senator		
U.S. President		
U.S. Vice President		
S.C. House Member		
S.C. Senator		
Governor		
Lt. Governor		
S.C. Constitutional Officer (CG, Treasurer, etc.)		
County Council member		
Etc.		

⁷⁰ S.C. House of Representatives, House Legislative Oversight Committee, “Resources for Complaints and Other Issues of Concern (Updated September 2021),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “How to Submit Input about Agencies,” https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/Website_%20Resources%20for%20Complaints%20and%20Other%20Issues%20of%20Concern.pdf (accessed November 18, 2021).
⁷¹ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 5.
⁷² Agency personnel strive to provide information to help prevent individuals from violating the Ethics Act. These methods include fliers, offers to conduct training, sending reminders about filing deadlines via social media and mobile updates (if the individual opts in for mobile updates) and being available for questions via phone or email.
 See, also, Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 15.
⁷³ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to questions 14, 16, and 17.
⁷⁴ S.C. House of Representatives, House Legislative Oversight Committee, “Mission”, under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php> (accessed November 18, 2021).
⁷⁵ Legislative Oversight Committee 123rd General Assembly Transparency Report to Citizens. See slides 18 and 19.
⁷⁶ Examples of State Ethics Commission personnel manual entry of data from another state agency include:

- South Carolina Secretary of State - Provides information related to public service districts and special purpose tax districts, which the State Ethics Commission uses to add and delete entities from its electronic filing system for purposes of Statements of Economic Interests.
- South Carolina Department of Revenue - Provides monthly information related to amounts collected on behalf of the State Ethics Commission through setoff and Governmental Enterprise Accounts Receivable (GEAR).
- South Carolina Election Commission - Provides election dates, which the State Ethics Commission uses for purposes of campaign disclosures.

⁷⁷ October 4, 2021, Meeting Packet, Minutes, and Video. See video at 00:45:18 – 00:46:29.

Note: Work with the Department of Revenue and SCI on an application that will automatically transmit information on collections from the Governmental Enterprise Accounts Receivable and setoff debt programs from DOR into a format State Ethics may utilize to update its debtors list and control sheet to avoid the personnel time needed, and potential errors that can occur, from manual reentry of the information.

⁷⁸ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See responses to questions 30 and 33.

⁷⁹ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See responses to questions 34 and 35.

⁸⁰ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See responses to questions 29 and 30.

⁸¹ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 31.

⁸² Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 36.

⁸³S.C. House of Representatives, House Legislative Oversight Committee, “Study of the Secretary of State’s Office (October 21, 2020)”, under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” under “Secretary of State’s Office,”

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/SecretaryofState/SoS%20Full%20Committee%20Report%20-%20Full%20Version.pdf> (accessed November 18, 2021). See recommendations 16 and 17. See also, Legislative Oversight Committee 123rd General Assembly Transparency Report to Citizens. See slide 5.



Endnote Figure 9. Screenshot of Legislative Oversight Committee 123rd General Assembly Transparency Report to Citizens, slide 5, (accessed November 18, 2021)

⁸⁴ October 4, 2021, Meeting Packet, Minutes, and Video. See meeting packet pages 10 – 17.

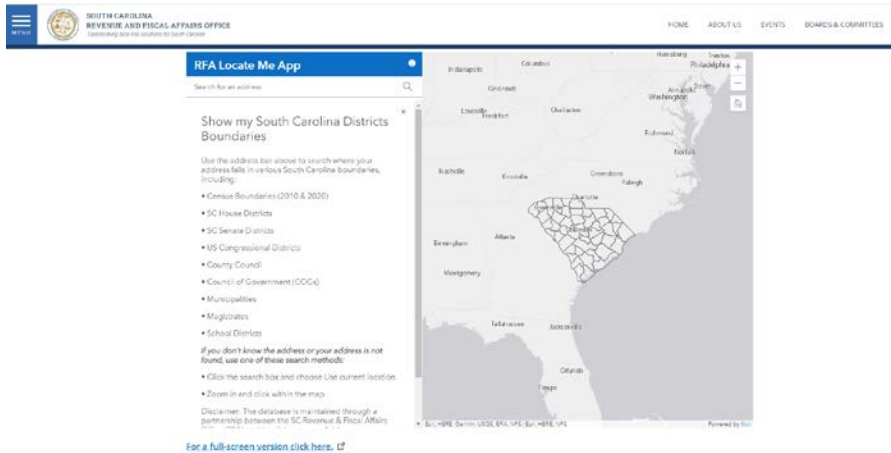
⁸⁵ October 4, 2021, Meeting Packet, Minutes, and Video. See meeting packet pages 10 – 17.

⁸⁶ October 4, 2021, Meeting Packet, Minutes, and Video. See meeting packet pages 10 – 17.

⁸⁷ October 4, 2021, Meeting Packet, Minutes, and Video. See meeting packet pages 10 – 17.

⁸⁸ October 4, 2021, Meeting Packet, Minutes, and Video. See meeting packet pages 10 – 17.

⁸⁹ South Carolina Revenue and Fiscal Affairs Office, “Locate Me” <https://rfa.sc.gov/mapping/locate-me> (accessed November 18, 2021). Hereinafter, “South Carolina Revenue and Fiscal Affairs Office ‘Locate Me’ Application.”



Endnote Figure 10. Screenshot of South Carolina Revenue and Fiscal Affairs Locate Me application (accessed November 18, 2021)

⁹⁰ The names and contact information of lobbyists and lobbyist principals are already publicly available information. State Ethics Commission, “List of Lobbyist Principals,” under “Lobbyist, LP, and Committees, Electronic Filing,” under “Public Disclosure,” under “Lobbying,” <https://apps.sc.gov/lobbyingactivity/principalswithlobbyistsreport.aspx> (accessed November 19, 2021).

See also, State Ethics Commission, “List of Lobbyists” under “Lobbyist, LP, and Committees, Electronic Filing,” under “Public Disclosure,” under “Lobbying,” <https://apps.sc.gov/LobbyingActivity/LobbyistsWithPrincipalsReport.aspx> (accessed November 19, 2021).

⁹¹ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 29.

Below is from spreadsheets that were attachments to the June 24, 2021, letter response to question 29 and verbal statement of Ethics Commission staff to LOC staff that the Ethics Commission did not know the exact number of individuals in each category.

- The Ethics Act applies to individuals serving on several different entities.
 - Nature of Communication
 - For all entities, communication with the Ethics Commission about which individuals are serving is voluntary. There is no communication mandated by statute.
 - Source of Information
 - There are 46 possible combinations of sources of information about which individuals are serving (e.g., city council; county council; governor; governor and General Assembly; etc.)
 - Method of Communication
 - Ethics Commission manually searches information posted online to determine which individuals are serving on up to 733 entities
 - There is no communication about the individuals serving on 158 entities (130 of these are at the political subdivision level and 25 are state level)
 - Other than positions on the State Ethics Commission and the Holly Springs Volunteer Fire District, there is no communication from members of the General Assembly to the Ethics Commission about individuals serving in any positions for which they appoint or elect.
 - Training
 - Up to 205 entities are not within one or more groups to which the agency regularly provides training
 - Violations
 - Ethics Commission is unable to determine the annual number of filing or other violations related to any of the specific positions. It can determine this information based on an individual’s name.

⁹² July 20, 2021, Minutes and Video. See video at 00:29:01 -00:30:41.

⁹³The definition of the term “committee” is set forth in S.C. Code Section 8-13-1300(6). The case that held the definition unconstitutional was *South Carolina Citizens for Life v. Krawcheck*, 759 F. Supp.2d 708 (D.S.C. 2010).

⁹⁴ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 1.

⁹⁵Endnote Table 2. Bills filed from 2013 -2020 to amend the definition of the term “committee” set forth in S.C. Code Section 8-13-1300(6)

LEGISLATIVE SESSION	BILL NUMBERS
123 RD GENERAL ASSEMBLY (2019 – 2020)	H.4191 AND H.4203
122 ND GENERAL ASSEMBLY (2017 – 2018)	S.255; H.3514; AND H.3571
121 ST GENERAL ASSEMBLY (2015 – 2016)	S.1; S.14; H.3187; H.3189; AND H.3227
120 TH GENERAL ASSEMBLY (2013 – 2014)	S.347; S.593; S.1373; H.3249; H.3407; H.3422; H.3772; H.3945; H.4421; AND H.4634;

⁹⁶ State Ethics Commission, “Agency Presentation: Education and Training (May 13, 2021),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Ethics Commission, State” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Education%20and%20Training%20\(5.13.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Education%20and%20Training%20(5.13.21).pdf) (accessed November 19, 2021). See slide 15.

Who must comply with the Ethics Act?

Committees

Required

- filings
- actions
- prohibitions

An association, a club, an organization, or a group of persons which, to influence the outcome of an elective office,

- receives contributions or makes expenditures in excess of \$500 in the aggregate during an election cycle, and
- a person who, to influence the outcome of an elective office, makes:
 - contributions aggregating at least \$25,000 during an election cycle to or at the request of a candidate or a committee, or a combination of them; or
 - independent expenditures aggregating \$500 or more during an election cycle for the election or defeat of a candidate.

"Committee" includes a party committee, a legislative caucus committee, a noncandidate committee, or a committee that is not a campaign committee for a candidate but that is organized for the purpose of influencing an election.

Note: The Commission is currently unable to enforce laws that require Committees to file the information on the next slides because in 2010 a federal district court found the definition of "committee" was unconstitutional. South Carolina Citizens for Life v. Krawcheck, 759 F. Supp.2d 708 (D.S.C. 2010).

However, the Commission has requested a constitutional definition of committee and is working with the Senate Judiciary Committee on proposed language.

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S.C. Code Section 8-13-1300

Endnote Figure 11. Screenshot of Agency Presentation: Education and Training (May 13, 2021), slide 15, (accessed November 19, 2021)

⁹⁷ July 20, 2021, Minutes and Video. See video at 00:54:22-00:56:48.

⁹⁸ Agency Presentation: Required Filings (July 20, 2021). See slide 48.

⁹⁹ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to questions 8.

¹⁰⁰ Letter from Ethics Commission to LOC Subcommittee (9.15.21). See response to question 9.

¹⁰¹ July 20, 2021, Minutes and Video. See video at 00:52:45-00:53:15.

¹⁰² Agency Presentation: Required Filings (July 20, 2021). See slide 46.

Law Change #6

Repeal language that is now obsolete due to Commission's online filing system

Law Change #6


Current Law: Section 8-13-1160. Forwarding copies of statement to State Ethics Commission and filing person's county of residence.

(A) The Senate Ethics Committee and the House of Representatives Ethics Committee must forward a copy of each statement filed with it to the State Ethics Commission within five business days of receipt.

(B) Within five business days of receipt, a copy of all statements of economic interests received by the State Ethics Commission must be forwarded to the clerk of court in the county of residence of the filing official or employee.

Recommendation: Repeal obsolete statute in its entirety based on the Commission's electronic filing system, which is available to the public, including members of the General Assembly and Clerks of Court. Statements of Economic Interests are publicly available immediately upon filing, removing the need for any paper copies to be forwarded.

Status: Not yet presented to, or approved by, Commissioners
Other entities potentially impacted: House and Senate Ethics Committees, Clerks of Court.



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Endnote Figure 12. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 46, (accessed November 19, 2021)

¹⁰³ Endnote Table 3: Potential Language

POTENTIAL LANGUAGE
<p>Any requirements in law for a governmental entity to transmit information, that is otherwise publicly available, to one or more governmental entities, including, but not limited to the clerks of court, may be satisfied by posting such information online and notifying the entity of its availability online. This does not replace any requirement to provide hard copies of information to individuals or other entities pursuant to the Freedom of Information Act.</p> <p>To the extent feasible, the Code Commissioner shall make note of this in any statutes that require transmittal of information between government entities.</p>

¹⁰³ July 20, 2021, Minutes and Video. See video at 00:50:45-00:51:04.

¹⁰⁴ Agency Presentation: Required Filings (July 20, 2021). See slide 46.

See also, July 20, 2021, Minutes and Video. See video at 00:41:36-00:51:40.

¹⁰⁵ Agency Presentation: Required Filings (July 20, 2021). See slides 38-39.

Law Change #1

Repeal language that is now obsolete due to Commission's online filing system


Law Change #1

Current Law: Section 2-17-20 provides the registration and recordkeeping requirements for lobbyists.

Recommendation: Repeal the section below (entire statute on next page) because it is obsolete based on the Commission's electronic filing system, which is available to the public, including members of the General Assembly.

(E) The State Ethics Commission annually must furnish to each chairman of standing and special committees of the General Assembly, each member of the General Assembly, and each statewide constitutional officer a list of all lobbyists registered with that office. The State Ethics Commission must furnish monthly updates to the same persons. These lists must be available to state agency heads upon request.

Status: Not yet presented to, or approved by, Commissioners
Other entities potentially impacted: None



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Endnote Figure 13. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 38, (accessed November 19, 2021)

Law Change #1

Section 2-17-20. Registration of lobbyists; notice of termination of lobbying activities; supplemental registration statements; list of lobbyists; recording keeping requirements; reregistration requirements.

(A) Any person who acts as a lobbyist must, within fifteen days of being employed, appointed, or retained as a lobbyist, register with the State Ethics Commission as provided in this section. Each person registering must pay a fee of one hundred dollars and present to the State Ethics Commission a communication reflecting the authority of the registrant to represent the person by whom he is employed, appointed, or retained: if a partnership, committee, association, corporation, labor organization, or any other organization or group of persons registers as a lobbyist, it must identify each person who will act as a lobbyist on its behalf during the covered period. There is no registration fee for a lobbyist who is a full-time employee of a state agency and limits his lobbying to efforts on behalf of that particular state agency.

(B) The registration must be in a form prescribed by the State Ethics Commission and be limited to and contain:

- (1) the lobbyist's full name and address, telephone number, occupation, name of employer, principal place of business, and position held in that business by the lobbyist;
- (2) an identification of the public office or public body which the lobbyist will engage in lobbying and the subject matter in which the lobbyist will engage in lobbying, including the name of legislation, covered agency actions, or covered gubernatorial actions, if known; and
- (3) certification by the lobbyist that the information contained on the registration statement is true and correct.

(4) If a lobbyist fails to identify the public office or public body for which he is authorized to engage in lobbying, as required by item (2) of this subsection, then the lobbyist's principal for whom the lobbyist is authorized to engage in lobbying is deemed a lobbyist's principal as to all public offices or public bodies of the State.

(C) Each lobbyist who ceases to engage in lobbying requiring him to register pursuant to the provisions of this section shall file a written statement with the State Ethics Commission acknowledging the termination of lobbying. The written statement of termination is effective immediately, except that the provisions of Sections 2-17-80(A)(5), 2-17-80(B)(5), 2-17-110(C), and 2-17-110(F) continue in force and effect for the remainder of the calendar year in which the lobbyist was registered, regardless of the date of the termination statement filed with the State Ethics Commission. Each lobbyist who files a written statement of termination pursuant to the provisions of this section must file reports required by this chapter for any reporting period during which the lobbyist was registered pursuant to the provisions of this section.

(D) A lobbyist must file a supplemental registration statement indicating any substantial change in the information contained in the prior registration statement within fifteen days after the date of the change.

~~(E) The State Ethics Commission annually must furnish to each chairman of standing and special committees of the General Assembly, each member of the General Assembly, and each statewide constitutional officer a list of all lobbyists registered with that office. The State Ethics Commission must furnish monthly updates to the same persons. These lists must be available to state agency heads upon request.~~

(F) Each lobbyist must maintain for not less than four years records which must be available to the State Ethics Commission for inspection and which must contain:

- (1) the identification of each person from whom income attributable to the lobbyist's lobbying is paid or promised and the amount of such income attributable to the lobbyist's lobbying paid or promised; and
- (2) the total expenditures of the lobbyist for lobbying.

(G) A lobbyist must reregister annually with the State Ethics Commission by January fifth of each year.

(H) The State Ethics Commission shall not allow a lobbyist to register, reregister, or continue to be registered pursuant to this section until the lobbyist complies with the reporting requirements pursuant to Section 2-17-30, and pays all late filing penalties in accordance with Section 2-17-50 and all complaint fines in accordance with Section 8-13-320(10)(1).

Endnote Figure 14. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 39, (accessed November 19, 2021)

See also, July 20, 2021, Minutes and Video. See video at 00:41:36-00:51:40.

¹⁰⁶ Agency Presentation: Required Filings (July 20, 2021). See slides 40-41.

Law Change #2

Repeal language that is now obsolete due to Commission's online filing system

Law Change #2

Current Law: Section 2-17-25 provides the registration and recordkeeping requirements for lobbyist's principals.

Recommendation: Repeal the section below (entire statute on next page) because it is obsolete based on the Commission's electronic filing system, which is available to the public, including members of the General Assembly.

(E) The State Ethics Commission annually must furnish to each chairman of standing and special committees of the General Assembly, each member of the General Assembly, and each statewide constitutional officer a list of every lobbyist's principal registered with that office. The State Ethics Commission must furnish monthly updates to the same persons. These lists must be available to state agency heads upon request.

Status: Not yet presented to, or approved by, Commissioners

Other entities potentially impacted: None

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Endnote Figure 15. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 40, (accessed November 19, 2021)

Law Change #2

SECTION 2-17-25. Registration of lobbyist's principal; notice of termination of lobbying authority; supplemental registration statements; list of lobbyist's principal; recording keeping requirements; reregistration requirements.

(A) Any lobbyist's principal must, within fifteen days of employing, appointing, or retaining a lobbyist, register with the State Ethics Commission as provided in this section. Each person registering must pay a fee of one hundred dollars. If a partnership, committee, an association, a corporation, labor organization, or any other organization or group of persons registers as a lobbyist's principal, it must identify each person who will act as a lobbyist on its behalf during the covered period. If the State is a lobbyist's principal, the State is exempt from paying a registration fee and filing a lobbyist's principal registration statement.

(B) The registration must be in a form prescribed by the State Ethics Commission and be limited to and include:

- (1) the full name, address, and telephone number of the lobbyist's principal. If the lobbyist's principal is an individual, the lobbyist's principal also shall include his occupation, name of employer, principal place of business, and position of authority held in that business by the lobbyist's principal;
- (2) an identification of each person the lobbyist's principal expects to employ, appoint, or retain as a lobbyist;
- (3) an identification of the public office or public body which the lobbyist's principal will authorize lobbying and the subject matter in which the lobbyist's principal will authorize lobbying, including the name of legislation, covered agency actions, or covered gubernatorial actions, if known; and
- (4) certification by the lobbyist's principal that the information contained on the registration statement is true and correct.

(5) If a lobbyist's principal fails to identify the public office or public body for which he has authorized lobbying as required by item (3) of this subsection, then the lobbyist's principal is deemed a lobbyist's principal as to all public offices or public bodies of the State.

A lobbyist's principal may comply with the requirements of items (1), (2), and (3) above by attaching a copy of the information submitted by any lobbyist employed, retained, or appointed by the lobbyist's principal if the information requested from the lobbyist's principal is the same as the information supplied by the lobbyist pursuant to Section 2-17-20.

(C) Each lobbyist's principal who ceases to authorize lobbying requiring him to register pursuant to this section must file a written statement with the State Ethics Commission acknowledging the termination of lobbying. The written statement of termination is effective immediately, except that the provisions of Sections 2-17-80(A)(5), 2-17-80(B)(5), 2-17-110(C), and 2-17-110(F) continue in force and effect for the remainder of the calendar year in which the lobbyist's principal was registered, regardless of the date of the termination statement filed with the State Ethics Commission. Each lobbyist's principal who files a written statement of termination pursuant to this section shall file reports required by this chapter for any reporting period during which the lobbyist's principal was registered pursuant to this section.

(D) A lobbyist's principal must file a supplemental registration statement indicating any substantial change in the information contained in the prior registration statement within fifteen days after the date of the change.

~~(E) The State Ethics Commission annually must furnish to each chairman of standing and special committees of the General Assembly, each member of the General Assembly, and each statewide constitutional officer a list of every lobbyist's principal registered with that office. The State Ethics Commission must furnish monthly updates to the same persons. These lists must be available to state agency heads upon request.~~

(F) Each lobbyist's principal must maintain for not less than four years records which must be available to the State Ethics Commission for inspection and which must contain:

- (1) the identification of each person to whom income attributable to lobbying is paid or promised and the amount of such income attributable to lobbying paid or promised;
- (2) the total expenditures of the lobbyist's principal for lobbying; and
- (3) in the case of a voluntary membership organization, dues, fees, or other amounts payable to the organization during any calendar year from a member need be recorded only if the contribution to the organization is more than five hundred dollars and more than twenty percent of the total contributions of the organization during that calendar year.

(G) A lobbyist's principal must reregister annually with the State Ethics Commission by January fifth of each year.

(H) The State Ethics Commission shall not allow a lobbyist's principal to register, reregister, or continue to be registered pursuant to this section until the lobbyist's principal complies with the reporting requirements pursuant to Section 2-17-35, and pays all late filing penalties in accordance with Section 2-17-50 and all complaint fines in accordance with Section 8-13-320(10)(1).

Endnote Figure 16. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 41, (accessed November 19, 2021)

See also, July 20, 2021, Minutes and Video. See video at 00:41:36-00:51:40.

¹⁰⁷ Agency Presentation: Required Filings (July 20, 2021). See slide 52.

Law Change #10

Current Law: Section 8-13-1364. Sending of notice of obligation to report and forms.

The appropriate supervisory office must send a notice of obligation to report and reporting forms by first-class mail no less than thirty days before the filing date for each reporting period. A candidate or committee is not relieved of reporting responsibilities if the notice or forms are not sent or if the candidate or committee does not receive a notice or forms.

Recommendation: Repeal or modify to allow electronic mailing. The Commission no longer sends notification of reporting requirements or paper forms to filers. Rather, each candidate in the Commission's electronic filing system is sent electronic notification using the email address provided by the filer.

*Note: The agency does not have a recommendation for specific wording.

Status: Not yet presented to, or approved by, Commissioners

Other Agencies Potentially Impacted: Senate Ethics Committee and House of Representatives Ethics Committee.

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Endnote Figure 17. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 52, (accessed November 19, 2021)

¹⁰⁸ Agency Presentation: Required Filings (July 20, 2021). See slide 53.

Law Change #11

Repeal language that is now obsolete due to availability of information online

Law Change #11


Current Law: Section 8-13-1366 Public availability of certified campaign reports.

Certified campaign reports must be made available for public inspection at the office of the State Ethics Commission, the Senate Ethics Committee, the House of Representatives Ethics Committee, and the county clerk of court within two business days of receipt. The commission, ethics committees, and county clerks of court shall not require any information or identification as a condition of viewing a report or reports. The commission, ethics committees, and the county clerks of court must ensure that the reports are available for copying or purchase at a reasonable cost.

Recommendation: Repeal obsolete statute in its entirety. All Commission filings are made available to the public free of charge by visiting <https://apps.sc.gov/PublicReporting/Index.aspx>.

Status: Not yet presented to, or approved by, Commissioners

Other entities potentially impacted: House and Senate Ethics Committees and County Clerks of Court.



Endnote Figure 18. Screenshot of Agency Presentation: Required Filings (July 20, 2021), slide 53, (accessed November 19, 2021)

- ¹⁰⁹ Letter from Ethics Commission to LOC Subcommittee (6.24.21). See response to question 47. See also, Edward B. Frazier, Legislative Liaison & Executive Assistant, South Carolina Office of the State Treasurer email message to Charles L. Appleby, IV, Legal Counsel to the House Legislative Oversight Committee, September 27, 2021.
- ¹¹⁰ Information is available for the following counties: Beaufort, Jasper, and Spartanburg.
- ¹¹¹ South Carolina Revenue and Fiscal Affairs Office ‘Locate Me’ Application.
- ¹¹² October 4, 2021, Meeting Packet, Minutes, and Video. See video at 00:45:55-00:46:04 and at 00:46:05-00:46:07.
- ¹¹³ South Carolina Revenue and Fiscal Affairs Office ‘Locate Me’ Application.
- ¹¹⁴ October 4, 2021, Meeting Packet, Minutes, and Video. See video at 00:46:08-00:46:18 and 00:46:18-00:46:29.
- ¹¹⁵ State Ethics Commission, “Agency Presentation: Agency Overview (April 29, 2021),” under “Committee Postings and Reports,” under “House Legislative Oversight Committee,” and under “Ethics Commission, State” [https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Overview%20\(4.29.21\).pdf](https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee/AgencyWebpages/EthicsCommission/Ethics%20Overview%20(4.29.21).pdf)(accessed November 19, 2021). See slide 47.

Records Management

- The Commission, in coordination with the South Carolina Department of Archives and History, is in compliance with our records management policy.
- III. Specific Records Retention Schedule

a. COMPLAINTS (DISMISSED AND MERITED)

i. Documents complaints against public officials, public employees, lobbyists, and lobbyist’s principals filed with the commission alleging a violation of the State Ethics Act. Records contain complaint forms which include the complainant’s name, address, respondent’s name, address, and title. Also included are the actual complaint against the respondent and any public record consisting of the pleadings, decision and orders, and record of hearing. Dismissed complaints are restricted to commission staff; while merited complaints are matters for public review with the exception of the Commission’s internal and investigatory papers, including attorney work product which are confidential.

 1. Dismissed Complaints: Retain 5 years after dismissal stage, destroy.
 2. Merited Complaints:
 - a. Public Records – Includes Complaint, Response, Notice of Hearing and Order. Retain five years after final disposition of complaint. Send to State Archives for permanent retention.
 - b. Attorney-Investigative Statutory – Retain five years after final disposition of complaint and destroy.

Oversight process brought this matter to our attention.

Endnote Figure 18. Screenshot of Agency Presentation: Agency Overview (April 29, 2021), slide 47, (accessed November 19, 2021)

- ¹¹⁶ October 4, 2021, Meeting Packet, Minutes, and Video. See video at 00:23:49--00:28:26.
- ¹¹⁷ October 4, 2021, Meeting Packet, Minutes, and Video. See video at 00:23:49--00:28:26.
- ¹¹⁸ October 4, 2021, Meeting Packet, Minutes, and Video. See video at 00:23:49--00:28:26.
- ¹¹⁹ October 4, 2021, Meeting Packet, Minutes, and Video. See meeting packet page 17.
- ¹²⁰ South Carolina Revenue and Fiscal Affairs Office, “RFA Public Dashboard,” under “Online Analytics” https://public.tableau.com/views/RFAPublicDashboard/Household?%3Adisplay_count=no&%3AshowVizHome=no#1 (accessed November 18, 2021). Hereinafter, “South Carolina Revenue and Fiscal Affairs Office Public Dashboard.”
- See also, South Carolina Revenue and Fiscal Affairs Office ‘Locate Me’ Application.
- ¹²¹ South Carolina Revenue and Fiscal Affairs Office Public Dashboard.