



**Transparency and Accountability:  
Necessary Reforms For  
South Carolina Government**

**The South Carolina Policy Council**

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## Executive Summary

The massive growth in state government over the last several years was inevitably followed by an economic downturn and a shortage of revenue to fund programs that were created during surplus years. While spending levels are not much above the levels they were only a few years ago, government administrators and elected officials argue that we are in a crisis for providing critical services.

In order to communicate spending priorities, South Carolina citizens need to be fully informed about how their dollars are currently being spent, and be assured that taxpayer priorities for those dollars are considered before government programs are created or continued.

In 2009 the South Carolina General Assembly has an opportunity to advance many needed reforms in South Carolina government. Lawmakers should embrace every available opportunity to streamline government, identify waste, and reform practices that would result in a more efficient use of taxpayer resources.

Over the past several years, the General Assembly has engaged to a large degree in funding the private sector and in driving the economy. It is clear that is a trend within government. It is one that should be carefully and fully debated, but that cannot be done adequately until taxpayers have all the information necessary to make informed decisions about our spending policies. The only way to ensure an informed debate is to provide a fully open and transparent government.

Many other states have already implemented needed practices that open government to the public and encourage accountability and transparency. South Carolina can learn from these examples, which are contained in this report.

The General Assembly is largely in control of state government, to a much greater degree than in other states. As such, all of their practices should be fully open to the public, and greater measures should be taken to ensure no conflicts of interest on the part of lawmakers who allocate dollars and pick winners and losers in the marketplace through funding and regulatory policies. All public funds and the organizations that spend them should be open to the public.

It is time for reform. South Carolina must embrace government accountability and transparency, and should look to the many working examples in place today throughout the nation in other states. The role of government in a free society is to establish the framework for the free market and then allow individuals to operate unfettered within these established boundaries. South Carolina has strayed far from the vision of our nation's founding fathers by injecting government into nearly all aspects of life. Incorporating essential transparency reforms would establish a foundation of good government principles upon which to build a strong economic recovery.

### **Transparency Reforms**

- Online Check Registers
- Open Records Reform
- Taxpayer Funded Lobbying Ban
- Voting on the Record
- Lawmaker Income Disclosure

The following sections offer a detailed framework and explanations for these government accountability and transparency measures at work today throughout the nation. Many of these examples could serve as models for reform in our state. Citizens are clearly demanding greater accountability. The following sections offer clear guidance for implementing government transparency.

## Online Check Registers

Online check registers are a tool to provide accessibility to citizens of government entities' spending. 14 other states and five of the nation's 40 largest public school districts have working online check registers in place today. Governor Sanford's Executive Order 05-07 mandated the establishment of similar database in South Carolina in 2007, however this authority only extends to the Governor's cabinet agencies and exempts all county and local governments in addition to school districts.

Legislation has been introduced to mandate spending disclosure, but many officials have argued it would be too expensive and burdensome to implement. The experience of other states demonstrates that it can be done easily and with little cost.

Many local governments charge high fees to release public information that would be freely available online. This allows local government to conceal records by making disclosure prohibitively expensive. Many counties also employ a full-time lobbyist to actively work against their own constituents to thwart public accountability and transparency.

### Table I Exorbitant Costs of Freedom of Information Act Requests

- Anderson County officials responded to a March 2008 Freedom of Information Act request by claiming it would cost \$17,110 to find and copy five years of county legal invoices
  - This response quoted 545 hours of labor at \$29 per hour to provide public records
  
- The South Carolina Policy Council submitted a Freedom of Information Act request in April 2008 to Spartanburg County school districts requesting copies of food and janitorial spending records.
  - Cost of Compliance: School District Four                   \$1,200
  - Cost of Compliance: School District Five                   \$85

Each district received an identical Freedom of Information Act request, yet these wildly different costs illustrate the arbitrary nature of fees imposed on citizens seeking public records from their government. The charges are also needless considering the state government has a no-cost spending transparency website already in place for more than 85 agencies.

Comptroller General Richard Eckstrom has stated his office can incorporate local governments and school districts into the existing system or help them develop their own at minimal cost.

Since 2007, 14 other states have passed spending accountability and transparency legislation into law at the state level and dozens have considered such legislation. The public is clearly aware that today's modern technology makes it easy for government to provide real-time spending information and legislative bodies across the nation have responded in force. South Carolina has a clear opportunity to embrace the coming transparency revolution by being proactive and expanding its transparency requirements now to include local governments and school districts.

**Table II**  
**Spending Transparency Legislation Passed Since 2007 – 14 States Plus South Carolina**

- *Georgia*  
**SB 300**-Transparency in Government Act: to create a website with information on the expenditure of funds for state departments, commissions, authorities, agency of the executive branch and Board of Regents of the University System of Georgia. Information contains the State of Georgia Comprehensive Annual Financial Report, the annual Budgetary Compliance Report, the annual State of Georgia Single Audit Report, Salaries/expenses, State Budget in Brief, etc. Information is to be updated as “soon as practical” after end of fiscal year. (5/12/08-signed by Governor)
- *Hawaii*  
**HB 122**-to create a website regarding state awards (grant, sub grant, loan, awards cooperative agreement, contract, subcontract, purchase order, task order, delivery

order, etc) in excess of \$25,000. It is only a pilot program at the moment.  
(7/11/07-Enacted without Governor's Signature)

- *Indiana*  
**Executive Order 05-07**-to summarize and log all State contracts onto the internet. (1/10/05)  
**SB 37**-to require the commissioner of administration to create a website with reports of state agency spending. Information is to be updated in the "most expeditious manner possible". (3/10/08-Signed by governor and is effective)
- *Maryland*  
**HB 358**-Maryland Funding Accountability and Transparency Act of 2008: to create a website under the Department of Budget and Management on information with state payments (grants, sub grants, loans, awards, cooperative agreements, contracts, subcontracts, purchase orders, etc) that exceed \$25,000 by state agencies. (5/22/08-approved by governor and is now Chapter 659 of statutes)
- *Minnesota*  
**HF 548**-State Government Omnibus Bill: incorporated HF 376 and SF 416 in Art. 2, Sect. 34. It requires the commissioner of administration to maintain a website with information on state contracts in excess of \$25,000. Information must be put online within 30 days of the contract being entered into and must stay online for 10 years. (5/25/07-governor's approval)
- *Missouri*  
**Executive Order 07-24**-to require the Commissioner of Administration to establish a Missouri Accountability Portal (website) as an electronic database of financial transactions with information of purchases and distribution of funds for state programs. Information is to be updated daily. (7/11/07)
- *Mississippi*  
**HB 101**-Mississippi Transparency Act of 2008: to create a website with information of state funds (grant, contract, subcontract, purchase order) and bonds transferred by any state office, department, agency, division, bureau, commission or board, set up by the Department of Finance and Administration. The Department will set up timelines, individual to each other department, agencies and entities. (4/14/08-approved by Governor)
- *Nebraska*  
**State Treasurer**- created the website NebraskaSpending.com. The state used a grant from the Nebraska Records Board to establish the program.

- *Nevada*  
**Executive Order**-to create an electronic database of financial transactions by state agencies and departments with regards to budgets, expenditures, contracts and grants. (3/18/08)
- *New York*  
**State Comptroller**-set up Open Book New York, an electronic database of state agencies and public authorities use of tax dollars, contracts, grants, contractual services, travel, benefits, etc.
- *Oklahoma*  
**SB 1-Taxpayer Transparency Act:** to create a website with information about the expenditure of state funds and tax credits. (5/4/07-signed by governor)
- *South Carolina*  
**Executive Order 07-14**-to require the Comptroller General to create a website with information about state fund expenditures from state agencies. Recommended to update reports on a monthly basis, as well as require each cabinet agency to create a website off of home websites to show agency specific expenditures on a monthly basis (travel, supplies over \$100, and contractual expenses over \$100). (9/30/07)
- *Texas*  
**Governor**-outlined budget reform measures that include requiring state agencies to publish expenditures online in a consistent format, using his office as an example, by making the governor's office expenditures available online. (1/31/07)  
**HB 3430**-incorporates HB 42, HB 640 and HB 1007. It mandates that the comptroller create an electronic database of state expenditures (contracts and grants) that exceed \$50,000 from state agencies. (6/15/07-signed by Governor)
- *Utah*  
**SB 38-Transparency in Government:** to create the Utah Public Finance Website administrated by the Division of Finance to have financial reports, audits, budgets, etc of participating state agencies/entities available in a database online. The Division of Finance would specify time periods and form of reporting. (5/17/08-signed by governor)
- *Washington*  
**SB 6818**-to create a website with at least information pertaining to state expenditures (fund, account, agency, program, subprogram, object, sub object), state revenues, state agency workloads, and state agency budget data. Information is to be updated as it comes available. There is also to be the online availability of state agency contracts. The veto was about a presentation of funding proposed by the financial omnibus bill every year. (4/1/08-partially vetoed by Governor, now chapter 326)

## South Carolina School Districts Demand Excessive Fees For Public Records

South Carolina's 85 public school districts responded to a June 2008 Policy Council Freedom of Information Act request for public records on employee travel, catered meals and training services by demanding nearly half a million dollars in fees before making the data available. This same information would have been free of charge had a Senate proviso requiring such information to be posted online not been removed from the state budget last year.

The state Freedom of Information Act allows districts to collect fees not to exceed the actual cost of searching for and making copies of records, and the act states records must be furnished at the lowest possible cost to the person requesting the records.

Despite the legislature's clear intent to make public records available at low cost, the estimated charges quoted by districts of similar size and budget varied substantially. The majority of district FOIA responses cited costs for staff time and copy expenses associated with gathering the requested information. Their responses for **identical records requests** were as follows:

- 12 districts quoted more than \$10,000 for expense records
- 10 districts quoted \$1,000 or less for the same request

The Policy Council request to school districts asked for information already posted by the Comptroller for state agencies as well as what would have been required under the defeated Senate proviso.

The Freedom of Information Act request sought records from 2006 to present for the following:

- Documentation of funds spent on all in-state and out-of-state employee travel
- Documentation of funds spent in relation to non-employee travel
- Documentation of funds spent on in-state/out-of-state conference fees or seminars
- Documentation of funds spent on catered meals
- Documentation of funds spent on management and consultant services
- Documentation of funds spent on education and training services – non-state
- Documentation of funds spent on education and training services – state
- Copies of any correspondence sent from teachers to students requesting they bring supplies or money to buy supplies, school trips, or any other school related needs

Sumter County School District Two and Aiken County each responded it would make expense data available at no charge. Beaufort County responded to the identical records request with a quoted charge of \$214,580. The county later acknowledged a clerical error and revised its figure to \$55,388.

### **Table III**

#### **Excessive Costs Cited by School Districts to Freedom of Information Act Requests**

- Beaufort County’s revised quote of \$55,388 claimed 10,800 copies at 25 cents per page plus six months of staff time to gather the records
  - After discounting 10,800 copies at 25 cents per page, labor amounts to \$52.69 per hour. At that salary, a clerical worker would receive \$105,376 annually.
- Greenville County’s quote of \$35,045 claimed 280.5 hours of staff time and 15 cents per copy
  - After discounting for 10,000 pages, labor amounts to \$119.59 per hour. At that salary, a clerical worker would receive \$239,180 annually.

**Table IIIA  
Highest Quoted Charges**

School District	Dollar Amount Requested	Reason Given
Beaufort County School District	\$214,580; revised to \$55,388	10,800 pages to copy at .25 cents per page and six months of staff time
Greenville County School District	\$35,045.95	280.5 hours of staff time plus .15 cents per page for copy expenses
McCormick County School District	\$26,405	Hiring a temporary employee at \$20 per hour for 6 weeks and .35 cents for copy expenses
Lexington County School District 1	\$24,000	20 weeks work at \$30 per hour plus copy expenses

**Table IIIB  
Lowest Quoted Charges**

School District	Dollar Amount Requested	Reason Given
Sumter County School District 2	\$0	n/a
Aiken County School District	\$0	n/a
Richland County School District 1	\$337.80	Labor - \$131.00 1034 pages copied at .20 cents per page - \$206.80
Florence County School District 5	\$464.80	No reason given
Cherokee County School District	\$525	No reason given

The following chart is a comparison of the size and total expenditures of each school district, a comparison of the percentage of dollars that are siphoned off prior to reaching the classroom, and the dollar amount quoted under the Policy Council FOIA request. Note approximately half of allocated per-pupil expenditures do not reach the classroom for instruction.

Table IIIC  
 District Size and Expenditures Not Correlated to FOIA Cost

School District	Student Population	Total District Expenditures	Per-Pupil Total Expenditure	Per-Pupil Amount of Total Spent on Instruction	Amount of Total Expenditures Not Going to Instruction	Dollar Amount Requested
Greenwood School District 52	1,597	\$14,696,190	\$8,412	\$4,565	\$6,477,943	\$217,192.09
Beaufort School District	19,276	\$250,596,640	\$9,614	\$5,387	\$8,478,771	\$214,580; revised to \$55,388
Greenville School District	67,928	\$608,495,455	\$7,621	\$4,443	\$215,880,371	\$35,045.95
McCormick School District	924	\$12,469,986	\$11,500	\$5,500	\$5,543,862	\$26,405
Lexington School District 1	20,161	\$271,275,608	\$8,558	\$5,127	\$69,164,804	\$24,000
Sumter School District 2	9,007	\$80,232,825	\$7,886	\$4,248	\$32,767,200	\$0
Aiken School District	25,068	\$230,801,991	\$7,510	\$4,661	\$1,413,677	\$0
Richland School District 1	24,663	\$408,930,023	\$11,324	\$6,581	\$116,973,388	\$337.80
Florence School District 5	1,583	\$14,841,263	\$8,797	\$4,493	\$6,813,186	\$464.80
Cherokee School District	9,286	\$101,959,143	\$8,678	\$4,845	\$35,592,839	\$525

## National Online Check Register Facts

The expense and difficulty faced by South Carolinians interested in determining how their school tax dollars are spent becomes even more unacceptable when compared to the nationwide push for online transparency in public education spending.

- Since 2006, five of the 40 largest U.S. school districts created online check registers
- Miami (4<sup>th</sup> largest) and Houston (7<sup>th</sup> largest) each created in 60 days at zero cost
- At least six districts with enrollment under 10,000 also implemented check registers

Since 2006, at least five of the nation's 40 largest public school districts have implemented searchable online check registers at absolutely no cost to the taxpayer. Miami-Dade County Public Schools, the nation's fourth-largest public school district, launched its online spending database in October 2007 and posts a weekly update of each district transaction including the vendor name, vendor ID number, amount of the expense and a description of the expense. Houston Independent School District, the nation's seventh-largest district, launched its online spending transparency website in April 2007 at no cost to the taxpayer and included the same information.

Online spending transparency has also been accomplished by much smaller districts with significantly fewer resources. Sun Prairie School District in Wisconsin (enrollment 6,163) launched its online spending transparency website in June 2007. All district spending information is converted to an Adobe PDF file and placed online twice per month. Not only was this a zero-cost solution to providing information to the taxpayer, but the district claims posting the data online reduced paper waste.

**Table IV**  
**National Sample of School Districts Requiring Mandatory Online Check Registers**

	Student Population	How Posted	Cost? Ongoing cost?	Additional Staff?	Data Posted	Update Frequency	Launch	Implementation Timeframe
Clovis Unified School District- California	45,752	Wrote program to capture needed data	Minimal cost because data is from financial program	No	Object Code, Vendor Name & ID, Amount, Description	Weekly		Within one year of decision
Miami-Dade County Public School- Florida	385,655	Data extracted using MSAF finance system & rendered via Reporting Services	None	No	Vendor Name, Vendor #, Date, Amount	Weekly	Oct. 2007	Implemented within 6 months of School Board's decision
Ocean Springs SD- Mississippi	5,061	Info put in PDF format & posted on website	None	No	Statement of expenses & receipts	Monthly	Since 2006	
St. Cloud Public SD- Minnesota	9,489	Info put in PDF format & posted on website	None	No	Check #, Payee, Date, Amount	Monthly	July 2007	A few months after decision made
Liberty Public SD- Missouri	8,463	Info put in PDF format & posted on website	Purchased program. Has reduced paper costs.	No	Posted five days before School Board meetings	Twice monthly	August 2007	School Board voted on May 2007 & implemented August 2007
Cypress Fairbanks Independent SD- Texas	100,603	Info put in PDF format & posted on website	None	No	Vendor Name, Date, Amount	Monthly	April 2007	Implemented within a month following decision
Fairfield Independent SD- Texas	1,822	Info put in PDF format & posted on website	None	No	Vendor Name, Date, Amount	Yearly	Since 2006	Implemented immediately
Fort Worth Independent SD- Texas	80,000	Info sent to webmaster/ IT Dept. & uploaded	Initially purchased software (\$100). Now done internally by IT Dept.	No	Vendor Name, Month (no exact date), Amount	Monthly	Nov. 2007	
Houston Independent SD- Texas	199,534	Custom built program	None. Developed internally by HISD Applications Dept.	HISD employs staff to create custom applications for the district	Check #, Vendor Name, Date, Amount	Weekly	April 2007	Implemented in 60-90 days
Sun Prairie SD- Wisconsin	6,163	Info put in PDF format & posted on website	None. Reduced paper waste.	No	Check #, Vendor Name, Date, Invoice #, Amount	Twice monthly	July 2007	Implemented within a week of School Board's decision

## **The Texas Example: Financial Accountability Rating System**

The purpose of the Texas Financial Accountability Rating System is to ensure that school districts will be held accountable for the quality of their financial management practices and achieve improved performance in the management of their financial resources. The system is designed to encourage Texas public schools to manage their financial resources better in order to provide the maximum allocation possible for direct instructional purposes. The system also discloses the allocation of financial resources in Texas public schools.

Specifically, the system requires to Texas Education Agency to do several key things;

- Each school district must be assigned a financial accountability rating
- For fiscal year 2008-2009 and beyond, the state accountability standard requires each district to allocate 65 percent of operating expenditures to classroom instruction
- Districts that fail to meet this standard face state sanctions
- Any district that fails to meet the 65 percent instructional expenditure standard must publish the district check register (excluding its payroll register)

Beginning in 2002, Texas began assigning ratings to each school district based on the percentage of allocated dollars that reached the classroom for instruction. School districts are required to report this percentage, and the Texas Education Agency issues a rating on the district's overall performance on certain financial measurements, ratios, and other indicators established by the commissioner of education. Districts that fail to allocate a sufficient percentage of dollars to classroom instruction not only receive a substandard ranking, but are subsequently required by statute to post all district expenditures online. This standard is a good first step toward demanding accountability for public dollars, and is a working example in place today.

## Open Records Reform

Any public or private entity receiving public dollars either directly or indirectly must be required to open its books to the public. Investor-taxpayers are committing millions of dollars for research projects and special promotions. They deserve to know how that money is spent. Some publicly funded organizations argue that they are not officially part of government, and therefore not subject to the state Freedom of Information Act. That should not be true – public dollars should come with open records.

The Attorney General's office has consistently stated the definition of a public body subject to the state Freedom of Information Act is to be construed as broadly as possible in the interest of full disclosure to the taxpayer. However, taxpayers are continually forced into expensive, protracted legal battles to obtain this public information. The legislature should codify existing Attorney General opinions into statutory law to plainly state that any entity receiving any amount of public money either directly or indirectly is subject to the Freedom of Information Act.

### **Attorney General Opinion Condensed Outcome:**

The Freedom of Information Act (FOIA) was adopted in its present form by Act No. 593, 1978 Acts and Joint Resolutions and was amended by Act No. 118, 1987 Acts and Joint Resolutions. The Act's preamble best expresses both the Legislature's intent in enacting the statute, as well as the public policy underlying it. The preamble, set forth in § 30-4-15, provides as follows:

- [t]he General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and fully report the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

On numerous occasions, in construing the Freedom of Information Act, we have emphasized the Legislature's expression of public policy as articulated in § 30-4-15.

## Table V Online Freedom of Information Act Assistance

Many Southeastern states provide assistance to citizens with the Freedom of Information Act process on websites, most often in the Attorney General's office. In addition, other states such as Arkansas have language in their statutes that more clearly define a "public entity."

### South Carolina

Open Government: <http://www.sccountneygeneral.org/newsroom/pdf/foia.pdf>

- ❖ *Geared toward Public Officials*
  - *Difficult to find on AG website*
- ❖ *Outdated (2003)*
- ❖ *Includes legal text*
  - *Tries to simplify*
- ❖ *No Sample Letters*
- ❖ *No Contacts/resources*

### Florida

Sunshine Manual: <http://myfloridalegal.com/sun.nsf/manual>

Abridged pdf: [http://myfloridalegal.com/webfiles.nsf/WF/MRAY-6Y8SEM/\\$file/Sunshine.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-6Y8SEM/$file/Sunshine.pdf)

- ❖ *Organized, user-friendly*
- ❖ *Several options (abridged, complete)*
- ❖ *Ability to easily search online*

### Arkansas

Arkansas Code, Title 25, Chapter 19

[www.arkleg.state.ar.us/NXT/gateway.dll?f=templates&fn=default.htm&vid=blr:code](http://www.arkleg.state.ar.us/NXT/gateway.dll?f=templates&fn=default.htm&vid=blr:code)

- ❖ *Records are open to FOIA if "any agency whole or partially supported by public funds or expending public funds"*
- ❖ *Nongovernmental entities that accept any public funds are subject to FOIA disclosure*

## **Freedom of Information Act Excessive Cost**

South Carolina's 85 public school districts responded to a June 2008 Policy Council Freedom of Information Act request for public records on employee travel, catered meals and training services by demanding more than \$400,000 in fees before making the data available. The state Freedom of Information Act allows districts to collect fees not to exceed the actual cost of searching for and making copies of records, and the act states records must be furnished at the lowest possible cost to the person requesting the records.

Despite the legislature's clear intent to make public records available at low cost, the estimated charges quoted by districts of similar size and budget varied substantially. The majority of district FOIA responses cited costs for staff time and copy expenses associated with gathering the requested information. Their responses for identical records ranged from free to more than \$200,000 for identical documents.

A proviso in last year's state budget would have required local governments and school districts to post spending records online free of charge. That proviso was removed during the final days of state budget negotiations. Comptroller General Richard Eckstrom already posts similar spending information for state agencies, including the state Department of Education, and claimed his office could do the same for school districts at no cost. There is no reason why the public should be subjected to thousands of dollars in fees for public records when the same information can be posted electronically free of charge. The current system creates a clear barrier to access and poses a threat to representative democracy.

## Taxpayer Funded Lobbying

Taxpayer-funded lobbying presents a clear conflict of interest for government officials. It puts them in the position of lobbying to government on behalf of government, often pitting government agency interests against citizens' interests. Citizens routinely find their own tax dollars used against them to drown out public voices and put them at a distinct disadvantage. This practice impinges on the Constitutional rights of all South Carolinians to speech, assembly, and petition.

Fortunately, taxpayer-funded lobbying is a practice that can be easily stopped with a full ban on that cuts off government money flowing to lobbyists, eliminates staff lobbyists, and prohibits membership by government bodies in lobbying organizations.

Lobbyists for state agencies and local governments are paid for with taxpayers' dollars to petition lawmakers for even more public spending, resulting not only in costs for their services but also in untold costs to the state budget. In addition, the process of lobbying by government does not take place in the open in the same way that agencies submitting budgets to lawmakers does. It adds an extra and unnecessary layer of government access that conflicts with good, open-government policies.

In the first half of 2008, state and local government agencies spent more than \$1.46 million of taxpayer funds on lobbyists. At that rate, the projected total for all of 2008 would be more than \$2.9 million. That is nearly identical to the amount of public money spent lobbying in 2006 - taxpayers spent almost \$3 million on publicly financed lobbyists - and is a 31 percent increase from the \$2.2 million spent in 2005.

Private organizations such as chambers of commerce and dozens of private business entities throughout the state also hire lobbyists and received millions more in direct state aid. These private entities are not included in the direct cost of taxpayer-funded lobbying, but represent just how large the cost to taxpayers has become.

Taxpayer funded lobbyists present a conflict of interest and waste taxpayer money. The Legislature's annual budget process gives state agencies and local governments many opportunities to explain and justify their budgetary needs, and to make the case for important projects. University presidents, state agency heads and other public entities should have many qualified employees to answer legislators' questions and present information to the General Assembly.

The public should never finance lobbying, especially when they pay to fight for an agenda they often do not support. There were more than 60 taxpayer-funded lobbyists during the 2008 legislative session, according to the South Carolina Ethics Commission. The public can view a list of registered lobbyists online, but any detailed information about dollar amounts must be purchased by citizens from the Ethics Commission.

Local governments pay a range of lobbyists, each working to influence specific bills or line items. Greenville is an example of how many different lobbyists are on the public payroll of just one city:

- Greenville County ~ \$21,000
- City of Greenville ~ \$32,100
- Greenville school district ~ \$7,522
- Greenville's public charter high school ~ \$13,853
- Greenville County Commission on Alcohol and Drug Abuse - \$12,319

The government entities of Greenville also paid dues to associations that have registered lobbyists. These include:

- The Municipal Association ~ \$148,820
- The Association of Counties ~ \$80,032
- The Cities Coalition \$22,500
- The School Boards Association ~ \$35,951

The public university and community college systems employ a majority of South Carolina's taxpayer financed lobbyists. Higher education was allocated over \$3 billion in

2008 and received hundreds of millions more through tuition lottery scholarships. Higher education spent more than \$368,000 of those public dollars to lobby in the first half of 2008 alone. The Ethics Commission filings list a total of \$1.46 million in taxpayer money spent on lobbyists in the first half of 2008. But that is not the whole picture.

The South Carolina lobbying laws define lobbying as the “promotion or opposition through direct communication with public officials” of legislation, executive orders, elections and appointments. This definition allows lobbyists to report just a fraction of their actual fees. The remaining portion of their retainer, including compensation for time spent drafting a bill, conducting legal research or developing a legislative strategy, need not be reported to the commission. Some lawmakers in Columbia have begun to recognize the dangers of taxpayer-funded lobbyists.

Since 2001, several bills have been introduced in the House prohibiting state agencies, instrumentalities and departments from hiring lobbyists with public money. Those bills have not made it to the floor. Governor Sanford also issued an executive order banning cabinet agencies from contracting lobbyists. Dozens of state legislatures have considered bans on taxpayers funded lobbying in recent years. Texas prohibits public bodies from using public money received from the state tobacco settlement trust fund to pay for lobbying. This is a very narrow portion of the budget, and Americans for Prosperity estimates Texas still spent more than \$50 million of taxpayer funds on lobbying in 2007. Regardless, the law is a first step that could be expanded to include all state government and limit the ability of government to feed upon itself by using public resources to lobbying for even more money to spend.

## **Texas Ban on Taxpayer Funded Lobbying**

Texas state law prohibits any entity receiving compensation under the state's tobacco settlement trust fund from using any of those dollars to pay for lobbying expenditures. This limitation is admittedly very narrow in scope and exempts the vast majority of state spending from this restriction – in fact Americans for Prosperity Foundation has found that taxpayer-funded lobbying expenditures in Texas may be as high as \$50 million annually – however, the statutory language of this Texas ban could serve as a strong model for other states if this narrow application were removed and instead applied to state spending as a whole.

## **Text of Texas Ban on Taxpayer Funded Lobbying**

Sec. 403.1043. RESTRICTIONS ON LOBBYING EXPENDITURES. (a) A political subdivision receiving a distribution under Section 403.1041(f) may not use the distribution to pay:

- (1) lobbying expenses incurred by the recipient of the distribution;
  - (2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;
  - (3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or
  - (4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.
- (b) The persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the distributions made under Section 403.1041(f).

Added by Acts 1999, 76th Leg., ch. 753, Sec. 1.01, eff. Aug. 30, 1999.

**South Carolina Public Spending on Statehouse Lobbying**  
2005 through First Half 2008

Data compiled from the South Carolina Ethics Commission Principal Disclosure Reports

CITIES, TOWNS & COUNTIES	Jan-May 2008	Jan-May 2007	2006	2005
City of Anderson	\$10,000	\$10,000	\$12,000	\$12,000
City of Columbia	\$73,834	\$80,770	\$117,003	\$138,812
City of Greenville	\$32,010	\$28,459	\$32,347	\$34,000
City of Greer	\$14,680	\$18,148	\$51,275	-
City of Myrtle Beach	\$25,000	\$5,000	-	-
City of Sumter	\$12,000	\$10,000	\$26,000	-
City of Walterboro	\$14,000	-	-	-
City of Welford	\$10,800	\$9,000	\$19,800	-
Town of Atlantic Beach	\$14,000	\$4,117	-	-
Town of Lexington	\$12,800	\$16,000	\$44,664	\$22,246
Town of Pawley's Island	-	-	-	\$12,032
Greenville County	\$21,000	\$15,000	\$36,000	\$15,000
Sumter County	\$22,500	-	-	-
Union County	\$2,750	-	-	-
York County Council	\$20,000	\$20,000	\$40,000	\$40,000
	<b><u>\$285,374</u></b>	<b><u>\$216,494</u></b>	<b><u>\$379,089</u></b>	<b><u>\$274,090</u></b>

K-12 EDUCATION	Jan-May 2008	Jan-May 2007	2006	2005
Greenville School District	\$7,522	\$5,346	\$9,085	-
Horry County Schools	\$20,000	\$20,371	\$22,492	\$17,147
Greenville Technical Charter High School	\$13,853	\$4,377	\$13,067	-
Western Piedmont Educational Consortium	\$677	\$430	\$1,277	\$722
	<b><u>\$42,052</u></b>	<b><u>\$30,524</u></b>	<b><u>\$45,921</u></b>	<b><u>\$17,869</u></b>

HIGHER EDUCATION	Jan-May 2008	Jan-May 2007	2006	2005
Florence-Darlington Technical College	\$8,334	\$8,334	\$10,002	\$10,012
Spartanburg Community College	-	\$7,414	\$5,219	-
Tri-County Technical College	\$25,793	\$20,663	-	-
Citadel	\$32,806	\$33,023	\$39,702	\$31,965
Clemson University	\$55,433	\$44,922	\$110,465	\$96,090
Costal Carolina University	\$13,236	\$12,942	\$30,703	\$15,267
College of Charleston	-	-	\$31,394	\$82,579
Francis Marion University	\$41,238	\$21,739	\$46,413	\$32,317
Lander University	\$23,256	\$5,000	-	-

Medical University of South Carolina	\$54,325	\$48,227	\$104,808	\$103,174
SC State University	\$59,665	\$32,186	\$58,489	\$23,786
University of South Carolina	\$24,748	\$43,954	\$65,946	\$44,287
University of South Carolina - Upstate	\$5,500	\$5,500	\$5,500	\$5,200
Winthrop University	\$24,474	\$10,311	\$15,027	\$20,101
	<b><u>\$368,808</u></b>	<b><u>\$294,215</u></b>	<b><u>\$523,668</u></b>	<b><u>\$464,778</u></b>

	Jan-May 2008	Jan-May 2007	2006	2005
STATE AGENCIES & DEPT.				
SC Department of Health and Environmental Control	\$37,552	\$37,551	\$47,537	\$46,393
SC Department of Natural Resources	\$10,613	\$9,414	\$15,687	\$17,444
SC Department of Transportation	-	\$18,946	\$37,341	\$34,977
SC Judicial Department	\$55,000	\$55,000	\$55,000	\$29,167
SC Administrative Law Court	\$7,667	\$1,667	-	-
SC Commission on Prosecution Coordination	\$17,024	\$17,024	\$16,859	\$16,848
SC Public Service Authority	\$26,787	\$25,801	\$42,754	\$42,206
SC Ports Authority	\$59,005	\$46,879	\$124,772	\$115,468
Santee Cooper Counties Promotion Commission	\$5,000	\$10,000	\$10,000	-
Edventure	\$10,300	\$12,900	-	\$200
ETV	\$26,388	\$26,388	\$26,388	-
Medical University Hospital Authority	\$54,325	\$48,227	\$43,123	\$103,173
	<b><u>\$309,661</u></b>	<b><u>\$309,797</u></b>	<b><u>\$419,461</u></b>	<b><u>\$405,876</u></b>

ASSOCIATIONS OF GOVERNMENTS & OFFICIALS	Jan-May 2008	Jan-May 2007	2006	2005
SC Technical College System	\$43,009	\$39,715	\$61,246	\$84,310
Municipal Association of South Carolina	\$148,820	\$124,269	\$244,104	\$245,997
SC Association of Counties	\$80,032	\$63,589	\$97,519	\$151,502
SC Association of Developing Colleges	\$30,000	-	-	-
SC Association of Special Purpose Districts	\$20,697	\$24,723	\$21,417	\$27,817
SC Cities Coalition	\$22,500	\$22,500	\$54,000	\$54,000
SC Library Association	\$11,250	\$11,250	\$24,250	\$9,100
SC Recreation and Parks Association	\$10,000	\$8,433	\$18,333	\$21,968
SC School Boards Association	\$35,951	\$27,516	\$68,237	\$69,554

SC Association of School Administrators	\$34,973	\$53,220	\$123,635	\$97,620
SC Association of Technical College Commissioners	\$4,621	\$5,241	\$11,583	-
SC State Employee Association	\$13,245	\$13,025	\$18,975	\$22,600
	<b><u>\$455,098</u></b>			

	Jan-May 2008	Jan-May 2007	2006	2005
Total Cost of Taxpayer Funded Lobbying in South Carolina	<u>\$1,460,993</u>	<u>\$1,477,437</u>	<u>\$2,615,270</u>	<u>\$2,229,816</u>
Projected Total for Year	<u>\$2,921,986</u>			

## VOTING ON THE RECORD

In January 2009 the South Carolina House and Senate each adopted new rules requiring more recorded votes in both chambers. This was a good first step toward strengthening accountability and transparency. House rules now require a recorded vote on each section of the state budget if one member requests it. The Senate embraced transparency as well, although Senators are still not required to vote on each section of the budget. Both chambers exempted uncontested bills, which leaves the decision to leadership what gets a recorded vote.

House rules require a recorded vote for:

- Each section of the state budget if one member requests (now voted on as a whole)
- Second reading of contested bills (where debate and amendments occur)
- Third reading of amended bills (the final step prior to a bill becoming law)
- Conference committee reports (compromise when House, Senate versions of a bill differ)

Senate rules require a recorded vote for:

- The state budget as a whole
- Second reading of contested bills (one Senator can make a bill contested)
- Second reading of bills authorizing expenditure of funds or with fiscal impact of \$10,000
- Third reading of amended bills
- Conference committee reports

Both bodies still exempt legislation on the uncontested calendar from a mandatory recorded vote, which makes it possible for lawmakers to quietly pass legislation without a recorded vote if they all deem it beneficial to do so. Passing additional measures to address the shortcomings is critical, but lawmakers still took a good first step standing up for greater transparency protections.

An October South Carolina Policy Council study of the Constitutional and legislative procedural rules in all 50 states found that South Carolina had the nation's weakest requirements for legislative accountability. The rules change passed by the House and

Senate now rank South Carolina as a state with some of the nation's most stringent voting accountability requirements. Lawmakers should continue to support measures that would implement full transparency in the legislative process.

Constitutions in 36 states require lawmakers to hold a recorded vote on final passage of every bill they pass into law. Among the 14 states without any constitutional requirement, joint House and Senate rules in three states mandate recorded votes on final passage. In three states, House rules mandate recorded votes, and Senate rules mandate them in three other states, for a total of 45 states with a constitutional or procedural requirement that votes be recorded before a bill may become law. South Carolina's allowance for bills on the uncontested calendar to become law without a recorded vote creates a needless loophole that should be closed.

States with a Constitutional requirement to record votes on final passage of bills:

- Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia\*, Hawaii, Idaho, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina\*, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, Washington, Wisconsin\* and Wyoming (\*Only for revenue bills)

States where House and/or Senate rules address recorded votes on final passage of all bills:

- House and Senate Rules require: Kansas, Texas and West Virginia
- Senate Rules require: Minnesota\*, Missouri, Rhode Island (\*Only for revenue bills)
- House Rules require: Connecticut, Illinois, Indiana
- No requirement: Maine, Massachusetts, New Hampshire, South Carolina, Vermont

South Carolina's new House and Senate rules requiring more recorded votes move the state from last in legislative voting accountability to near the top. However, 45 states mandate elected officials vote on the record when passing every single bill into law. South Carolina's lack of such a requirement for items on the uncontested calendar continues to leave it behind this national standard. There should be no vote taken off the record except the most perfunctory and frivolous resolutions. Every vote is taken on behalf of the

people, and every vote affects the public – that means every vote should be on the record so citizens can hold their legislators directly accountable. South Carolina’s long-held weak voting accountability rules are responsible for its archaic form of government and last-in-the-nation status in many areas. The best way to expose the nation’s most-secretive legislature is to implement the nation’s strongest recorded voting standards. Tough new recorded voting measures that apply to all legislation would restore power to the people as the ultimate check on government, and establish South Carolina as the national model for government transparency.

## Lawmaker Income Disclosure

South Carolina law requires elected officials to disclose the source, type and amount of income greater than \$500 received from a government entity. There is no requirement to disclose any income received through the private sector, which makes it impossible for citizens to determine if private financial dealings could hold undue influence in policy making.

South Carolina trails the nation with its lack of such a disclosure requirement. 31 states currently require its elected officials to disclose the name and address of private-sector sources from which they receive income.

Of these 31 states, more than half (16 states) set the reporting threshold at \$1,000.

- Alaska, Arizona, Arkansas, Connecticut, Delaware, Hawaii, Iowa, Maine, Massachusetts, Missouri, Nebraska, New Jersey, New York, Tennessee, West Virginia and Wisconsin

In addition to income disclosure, the majority of states also require comprehensive reporting of business associations, clients, creditors and debtors and family connections to lobbyists. 16 States require a categorized disclosure of income of ownership. South Carolina does not require this release, which makes it difficult to know the amount of money involved in any personal financial dealings. The strongest disclosure requirements exist in the U.S. House and Senate and serve as a model for state legislation.

### U.S. House and Senate Financial Disclosure Requirements

Since the passage of the Ethics in Government Act of 1978 members of Congress and staff members above a certain pay level have been required to file personal financial disclosure documents with the Clerk of the House or the Secretary of the Senate depending on which House of Congress they are a part of.

Personal financial disclosure documents have a number of categories that each Member of Congress must fill out. These categories include earned income, payments in lieu of charity, assets and "unearned" income, transactions, liabilities, gifts, travel payments and reimbursements, and outside positions. South Carolina would be well served to follow this national example by adopting new more-inclusive legislative income disclosure requirements.

#### **Earned Income**

Each filer is required to list all earned income, including the source, type, and amount from any source exceeding \$200 in the past year. Filers must also list the source and amount of earned income totaling more than \$1,000 for their spouse. Spouses must also list all honoraria received.

#### **Payments made to charity in lieu of honoraria**

Filers must disclose any payments they received that were diverted to a charity instead of going to the filer. Each payment listed must include the source, activity and amount of the charitable payment as well as the date. A separate, private list of the charities receiving the money must be filed as well but is not made publicly available.

#### **Assets and "unearned" income**

Filers must list all of their holdings with an estimated value greater than \$1,000. This includes stock, real estate, retirement plan, and IRA holdings. Filers must also disclose this information for their spouse. Personal residences and debt owed to the filer by a spouse, children, parents, or siblings is exempted from this requirement.

#### **Transactions**

The transaction section is an extension of the assets and "unearned" income section where the filer lists all sales, purchases, and exchanges of assets exceeding \$1,000 in the previous year. Spouses and any dependent children are required to disclose this information as well.

#### **Liabilities**

The liabilities section requires filers to list all liabilities owed by them, their spouse, or any dependent child that totals more than \$10,000. The value ranges employed in the assets and transactions sections are used in the liabilities section. Mortgages on a personal residence are excluded unless the property is rented. Loans secured by automobiles, furniture, or appliances; and liabilities owed to certain relatives are also exempted.

#### **Gifts**

All gifts totaling more than \$335 must be disclosed. The filer must list the source, description of the gift, and the gift's total value. Gifts given to the filer's spouse or dependent child must also be disclosed.

#### **Travel Payments and Reimbursements**

Filers are required to list all travel paid by a third party totaling more than \$335. Information for the filer, a spouse, and family must be listed including an itinerary of dates, locations, and the name of the trip sponsor.

## Conclusion

An informed citizenry is necessary to preserve democracy. South Carolina has one of the least transparent governments in the nation – along with one of the nation’s lowest per capita income levels and highest dropout rates in the country. But the size and scope of government has continued to grow, with far too little accountability for the spending.

Opening government in South Carolina would give citizens the ability to communicate their spending priorities to their elected officials. That is especially important when the economy is in trouble and citizens are facing difficult financial decisions at home and at work. Public officials have articulated the need to cut core government services, but the public is largely in the dark as to which ones are adequately funded and which are not. Taxpayers cannot make informed decisions about which programs are priorities when they cannot easily access the information.

All decisions made by public officials on behalf of citizens must be done in the open, with no room for conflicts of interest. Information about all public dollars spent should be readily available for easy viewing by the public -- there is no excuse not to open up the books on any entity that receives or spends public money. Other states are far ahead of South Carolina in implementing transparency. The public is demanding reform, and there are a number of practical ways to achieve that in our state with little cost to taxpayers and minimal effort on the part of elected officials.

The South Carolina Policy Council exists to educate members and all South Carolinians about state and local public policy based on the traditional South Carolina values of individual liberty and responsibility, free enterprise and limited government

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