

Bingham



## State of South Carolina Office of the Governor

NIKKI R. HALEY  
GOVERNOR

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COLUMBIA 29201

April 8, 2014

Dear Mr. Speaker and Members of the House,

As you once again take up H. 3945, the Ethics Reform Bill, I want to re-emphasize the priorities recognized by all South Carolinians for true ethics reform.

Since the beginning of the ethics reform debate, I have consistently supported the McMaster-Medlock Commission recommendations which, I believe, are the gold standard for comprehensive ethics reform. Both the Senate and House have adopted some of the Commission's recommendations, for which I am grateful. However, the House now has a momentous opportunity to make H. 3945 stronger and give the people of South Carolina what they deserve – true and meaningful ethics reform. I firmly believe that if we are going to change our ethics laws, we need to get it right the first time. To get it right, I ask that you include the following two critical changes as this bill moves through the House:

- **South Carolina must have an independent ethics investigation process.** Public officials must not be allowed to investigate and police themselves. Both structure and enforcement must be changed. In addition to the McMaster-Medlock proposal, I have supported the “Working Group Amendment” proposed in the Senate (attached).
- **South Carolina must have broad, strong income disclosure.** We can no longer allow our state to be one of four states that do not require public officials to disclose private sources of income. Full transparency also must contain any income associated with government, including government contracts and any legal fees earned by a public official when the state is the opposing party. In addition to the McMaster-Medlock proposal, the Senate Version also provides for broader income disclosure.

To be clear, without **both** of these changes, we have not achieved true ethics reform.

I also want to strongly emphasize that I will not support efforts to weaken our current ethics laws. Ethics reform is not about making public officials comfortable; it's about making the public comfortable knowing their elected officials are representing their constituents' best interest.

Finally, **I ask that you work diligently to send the bill to the Senate, the conference committee, and ultimately my desk this session.** I look forward to the day when we can tell the citizens of South Carolina that 2014 was the year for ethics reform, and that we delivered. God bless.

My very best,

A handwritten signature in black ink, appearing to read "Nikki R. Haley".

Nikki R. Haley

**SIDE-BY-SIDE: INDEPENDENT ETHICS INVESTIGATION PROCESS**

*McMaster Medlock Proposal and the Working Group Amendment*

	<b>McMaster-Medlock Recommendation #14</b>	<b>H.3945 Working Group Amendment (proposed in Senate)</b>
<b><u>Summary</u></b>	Proposes to keep intact the House/Senate Ethics Committees to discipline members for internal behavior but all ethics complaints are investigated and adjudicated by the reconstituted State Ethics Commission.	Keeps intact the House/Senate Ethics Committees with jurisdiction limited to adjudications and reconstitutes the State Ethics Commission which handles investigations of all public officials, including legislators.
<b>MEMBERSHIP</b>	Proposes to reconstitute the State Ethics Commission to be composed of 8 members: <ul style="list-style-type: none"> <li>• 4 appointed by the Governor;</li> <li>• 4 appointed by the General Assembly.</li> </ul>	Reconstitutes the State Ethics Commission to be composed of 8 members with bipartisan requirements: <ul style="list-style-type: none"> <li>• 4 appointed by the Governor (no more than two members may be from her political party);</li> <li>• 2 nominated by Pres Pro Temp (one each nominated in consultation with the Majority and Minority Leaders; vetted by a public hearing);</li> <li>• 2 nominated by the Speaker (one each nominated in consultation with the Majority and Minority Leaders; vetted by a public hearing).</li> </ul>
<b>COMPLAINTS</b>	Proposes that complaints against all public officials, including legislators, are filed with the reconstituted State Ethics Commission.	The Commission may initiate complaints, upon a majority vote of total membership, and may receive complaints against legislators and non-legislators.
<b>INITIAL DETERMINATION</b>	Does not change current ethics law - initial determinations of complaints against all public officials, including legislators are made by the Executive Director the reconstituted State Ethics Commission.	<p>If the Commission or Executive Director determines that facts are sufficient, then an investigation must be conducted.</p> <p>If the Commission or Executive Director determines that facts in a complaint about a legislator are NOT sufficient, then a report must be sent to the appropriate Committee to either concur or request to continue the investigation.</p> <p>Findings of probable cause to support criminal violations must be referred to the Attorney General.</p>
<b>INVESTIGATIONS</b>	Proposes to give the reconstituted State Ethics Commission the authority to investigate members of the legislative branch in addition to all other public officials, except judges.	<p>The Commission may investigate legislators and non-legislators. The Commission may seek assistance from other agencies. Upon completion of an investigation, the Commission must make a finding whether there is probable cause.</p> <p>If probable cause is found for legislators, then the Commission must send the report to the appropriate Committee.</p> <p>If probable cause is found for non-legislators, then the Commission must render an advisory opinion or convene a formal public hearing.</p>
<b>ADJUDICATION</b>	Proposes to give the reconstituted State Ethics Commission the authority to adjudicate and take appropriate action, where necessary, against members of the legislative branch in addition to all other public officials, except judges.	After a hearing, the Committees shall determine findings of fact and shall administer a public reprimand, recommend expulsion, and/or refer the matter to the Attorney General.
<b>CONFIDENTIALITY</b>	No specific recommendations made.	All hearings must be open to the public. All documents are confidential until there is a finding probable cause.