



North Carolina Department of the Secretary of State

2021-22 Lobbying Compliance Report

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Lobbying Compliance Division

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BACKGROUND INFORMATION

N.C. Department of the Secretary of State Mission Statement

The mission of the North Carolina Department of the Secretary of State (“Department”) is to promote economic growth and to protect the public trust by:

- Facilitating financial capital formation;
- Increasing transparency and public access to accurate and timely business and governmental information;
- Fighting business fraud through licensure, enforcement and education;
- Supporting a competitive and ethical business climate; and
- Furnishing other governmental entities data and information needed to execute their duties and enforce related laws.

Lobbying Compliance Division Mission Statement

The mission of the Lobbying Compliance Division (“Division”) of the Department is to administer portions of Chapter 120C of the North Carolina General Statutes (“Lobbying Act”) and the related rules by:

- The registration, reporting, investigation, and enforcement of lobbyists, lobbyists’ principals, and others who are required to report;
- The systematic review of reports to assure the complete and timely disclosure of reportable lobbying expenditures and;
- The publishing of a directory of lobbyists, principals, state government liaisons, and local government liaisons.

Regulatory Authority

The Secretary of State’s statutory authority to regulate lobbying is found in the Lobbying Act. This law grants the Department the authority to regulate, enforce, investigate, and assess sanctions when necessary for violations of Articles 2 (Registration), 4 (Reporting), and 8 (Unregistered individuals and organizations that are required to report expenditures) of the Lobbying Act.

From 1933 until June 2018 and then from December 2018 to the present, the Department has administered North Carolina’s lobbying laws. The Department’s filing system provides registrants the ability to register and to file reports electronically. The system also provides online access to all registrations, reports, and registrant directories. It promptly makes this information easily accessible through a free “public self-service” website. This system enables legislative members, their staff, executive branch officials, their staff, the media, and the public access to this valuable information without asking the departmental staff for approval or assistance.

Purpose of the Lobbying Act

One of the purposes of the Lobbying Act is to provide transparency during the development of public policy. Transparency promotes “the public trust,” which is essential for government to function honestly and fairly, free from all forms of impropriety, threats, favoritism, and undue influence. *See* Preamble to Session Law 2006-201. Because of this transparency, a level playing field is established so that everyone who wants to participate in the development of public policy has the opportunity for the same access.

Transparency supports citizens by making it easier for them to exercise their First Amendment free speech and free press rights under the U.S. Constitution, and the right of assembly and petition under the North Carolina Constitution, Article I, Section 12. Transparency provides notice to citizens that a public policy change may occur, giving citizens the opportunity to weigh in, as they desire. This transparency is produced by the access to information on a timely and free basis. Additionally, it also protects the following groups: (1) Elected and Appointed Officials, (2) The Media, and, (3) The Public. This transparency also discourages violations of ethics laws.

Pursuant to N.C. Gen. Stat. §120C-600(d), the Department provides this Annual Report.

COVID-19 Actions to Make Filing Easier

On March 10, 2020, Governor Roy Cooper declared a state of emergency because of the COVID-19 pandemic. COVID-19 is a highly contagious coronavirus that manifests itself as an upper respiratory disease that is transmitted through respiratory droplets. The Governor issued Executive Order No. 116 in which he declared a state of emergency because of the public health risks associated with COVID-19.

Because of that executive order, the Department closed its offices to public visitors from March 10, 2020 to August 17, 2020¹. In light of the issues with personal appearance before notary publics, on April 1, 2020, Secretary Elaine F. Marshall exercised a Notice of Exercise of Discretionary Authority With Regard to Filing First Quarter 2020 Lobbying Expense Reports.

This exercise of her discretionary authority permitted filers to file a form that allowed the late filing of the first quarter expense report on the second quarter due date of July 22, 2020. In order to avail themselves of this postponement, the filer had to file their second quarter report on time as well. This flexibility gave filers the opportunity to file their first quarter reports on or before the second quarter due date.

On May 2, 2020, the General Assembly passed Senate Bill 704², Sections 4.1 to 4.2 and the Governor signed it into law on May 4, 2020. That law allowed videoconferencing notarization until August 1, 2020. The General Assembly later passed House Bill 308, amending Senate Bill 704, extending videoconferencing notarization to March 1, 2021³. Session Law 2021-3, Section 2.10 extended videoconferencing notarization to December 31, 2021.⁴ In Session Law 2022-54 Section 3.(b) the General Assembly further extended the date for the expiration of the emergency video notarization law to June 30, 2023.⁵

Along with this flexibility, the Department took several other actions to make filing easier for the

¹ The Department closed temporarily as of December 11 because of the worsening Covid-19 conditions in Wake County and in North Carolina.

² [Session Law 2020-3](#), Pages 31 to 34.

³ [Session Law 2020-74](#), Section 27A, Page 20.

⁴ [Session Law 2021-3](#), Section 2.10, Page 16

⁵ [Session Law 2022-54](#) Section 3(b)

filing community:

1. The Department doubled the number of electronic notaries; and The Department added the flexibility for notaries to notarize documents via videoconferencing.
2. The Division updated its applicable forms to allow for the video notarization option in keeping with the passage of the new law by the General Assembly. This made it convenient for filers that wanted to use the facility to notarize documents using video rather than in person.

These actions, along with the later filing date increased the capacity of notaries to serve filers and filers to submit their expense reports on time. Because of this flexibility, the number of delinquent documents was not high.

Coverage

This 2021-22 Annual Report reflects the data from the Secretary of State Knowledge Base Application for the calendar year 2021 and some data from the year 2022.

LOBBYING ACTIVITY DATA BY FILER TYPE

Lobbyists

Who are lobbyists?⁶

Lobbyists are individuals who engage in lobbying for payment and fit one of the following criteria:

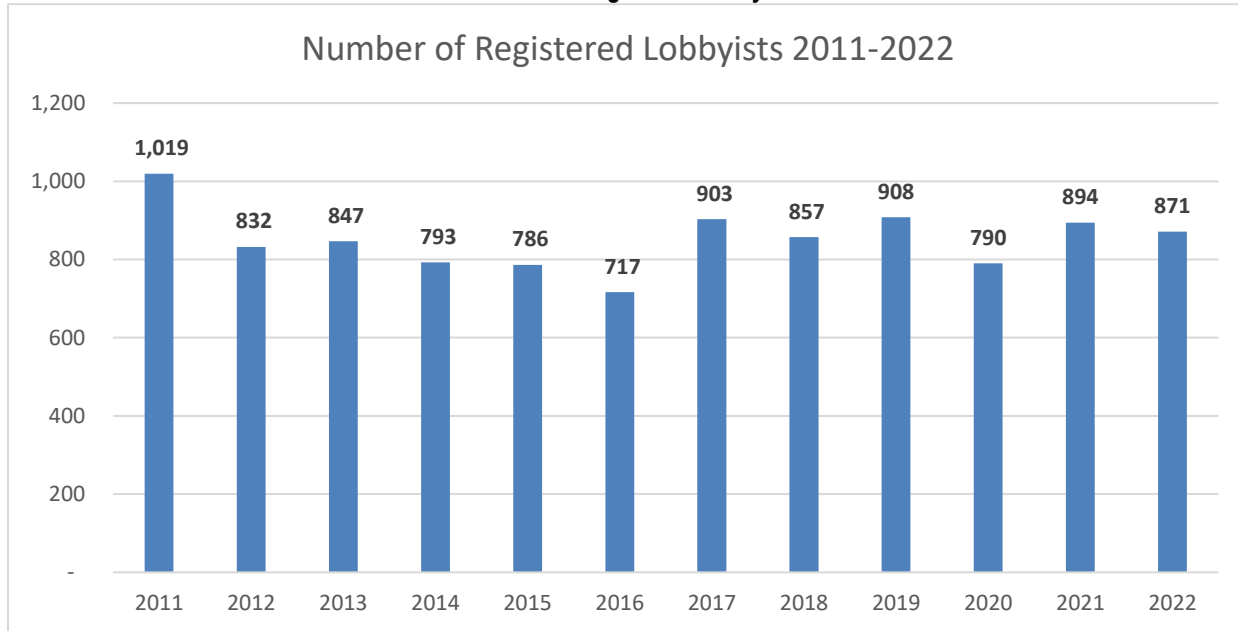
- Represent another person or governmental unit, but are not directly employed by that person or governmental unit;
- Contract for payment for lobbying; or
- Are employed by a person and a significant part of that employee's duties include lobbying.

Lobbyists are required to register within one (1) day of lobbying.⁷ The chart on the next page shows the number of registered lobbyists by calendar year from 2011 to 2022.

⁶ N.C.G.S. §120C-100(a)(19).

⁷ N.C.G.S. §120C-200(a).

Chart 1: Number of Registered Lobbyists 2011- 2022⁸



Lobbyist Subject Matter Categories

Each registered lobbyist must provide a general description of the matters on which he or she expects to act as a lobbyist. Thirty-one subject matter categories apply to lobbyist activities. The lobbyist must select the applicable categories during registration.

For **2021**, these are the top ten categories as designated by lobbyists:

1. Government, state
2. Government, taxation, financing, revenue budget, appropriations, bids, fees, funds
3. Health service, medicine, drugs and controlled substances, health insurance, hospitals
4. Government, county
5. Government, municipal
6. Licenses, permits
7. Education
8. Ecology, environment, pollution, conservation, zoning, land and water use
9. Transportation, highways, streets and roads
10. Consumer affairs

For **2022**, these are the top ten categories as designated by lobbyists:

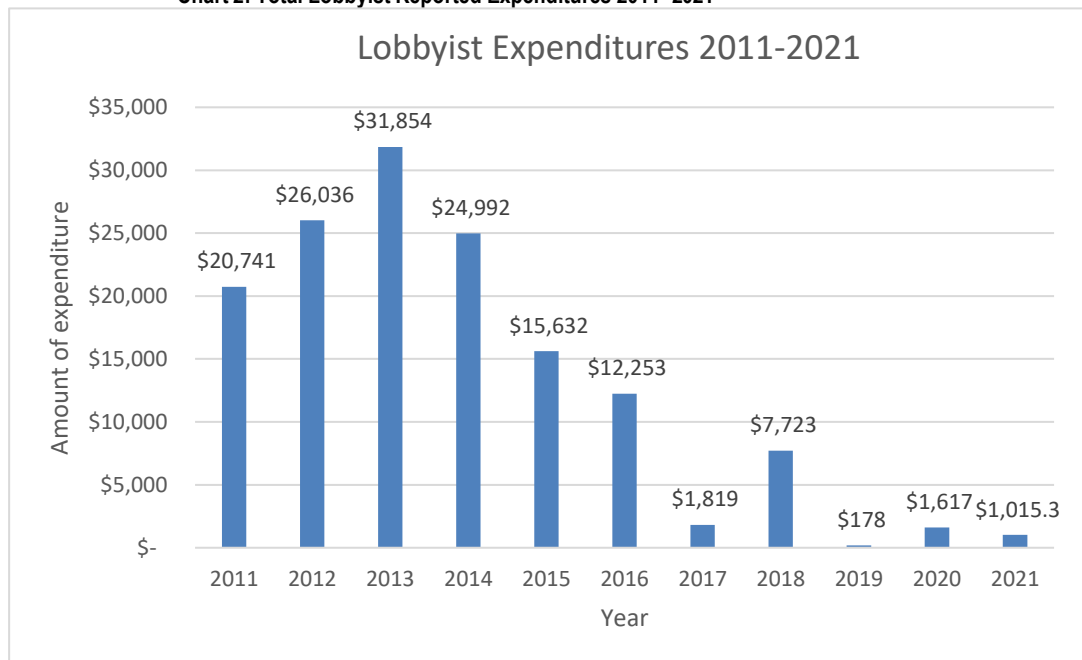
⁸ This report provides the 2022 data when that data is available. All of the data for 2022 is comprised of all the information received on or before December, 2022.

1. Government, taxation, financing, revenue budget, appropriations, bids, fees, funds
2. Government, state
3. Health service, medicine, drugs and controlled substances, health insurance, hospitals
4. Government, county
5. Government, municipal
6. Licenses, permits
7. Ecology, environment, pollution, conservation, zoning, land and water use
8. Transportation, highways, streets and roads
9. Consumer affairs
10. Education

Lobbyists' Expenditures

State ethics laws prohibit gifts from lobbyists to designated individuals⁹ unless the gifts fall within one of the listed exceptions.¹⁰ Lobbyists are required to report their expenditures quarterly, and in some circumstances, monthly.

Chart 2: Total Lobbyist Reported Expenditures 2011- 2021



⁹ The phrase “designated individual” means “[a] legislator, legislative employee, or public servant.” G.S. § 120C-100(a)(3).

¹⁰ See Chapter 138A, Ethics Act.

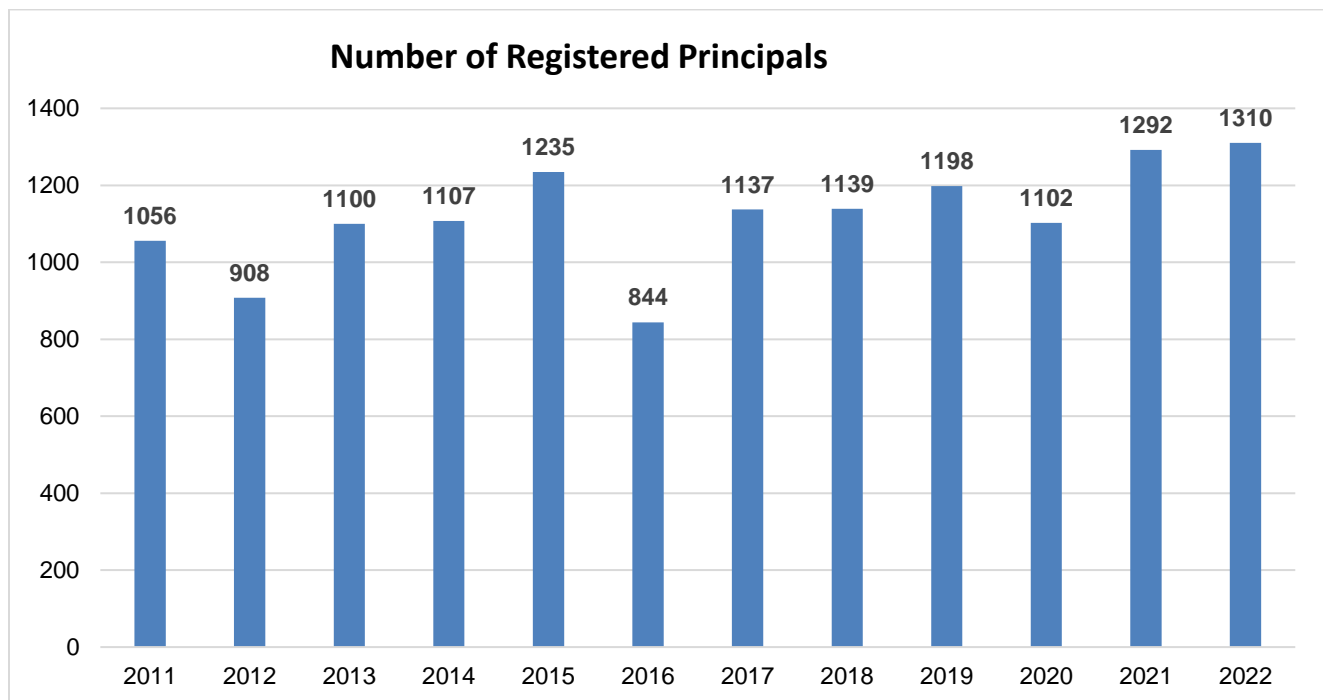
Lobbyist Principals

Who are lobbyist principals?

A lobbyist principal is the person¹¹ or governmental unit on whose behalf the lobbyist lobbies and who provides payment for the lobbying. When a lobbyist is paid by a law firm, consulting firm, or other entity retained by a person or governmental unit for lobbying, the principal is the person or governmental unit whose interests the lobbyist represents while lobbying. When an association or other organization retains or employs a lobbyist, the lobbyist principal is the association or other organization, not the individual members of the association or other organization.¹²

Typically, there are more principals during the odd numbered years in which the General Assembly sits in “long sessions” rather than the even numbered years in which the General Assembly sits in “short sessions.” The following chart displays the number of registered principals from 2011 to December 2022.

Chart 3: Number of Registered Principals 2011- 2022



Principal Expenditures

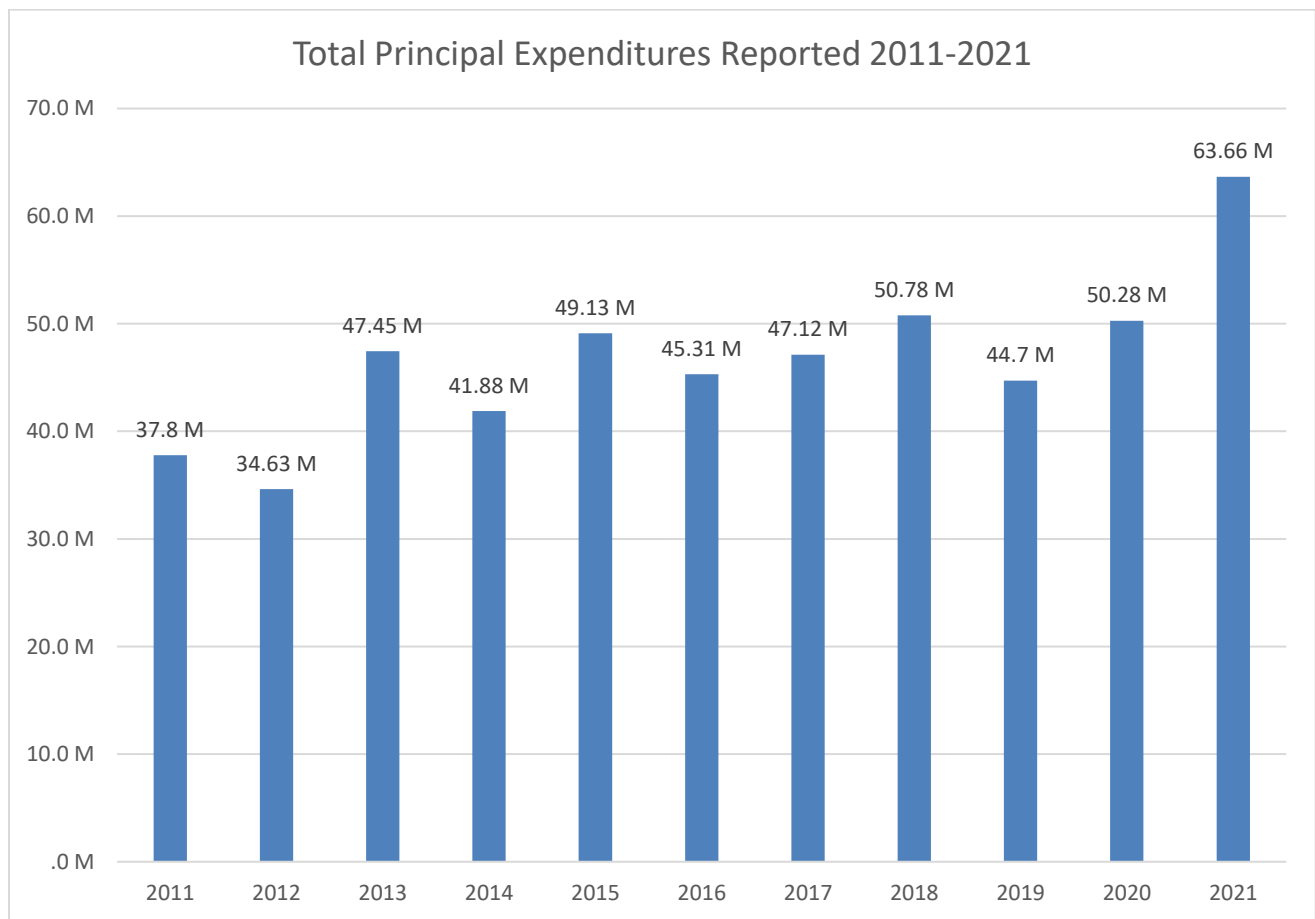
¹¹ Person. – Any individual, firm, partnership, committee, association, corporation, business, or any other organization or group of persons acting together. The term "person" does not include the State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State. G.S. § 138A- 3(62).

¹² G.S. § 120C- 100(a)(21).

Principals must report on a quarterly basis, any reportable expenditure that benefitted a designated individual. When the General Assembly is in session, the principal must file a monthly report if the reportable expenditure benefits a legislator, legislative staff member, or family member of a legislator or staff member. In contrast, reportable expenditures that benefit an executive branch designated individual or his or her family member are only reported on a quarterly basis. Principals only report on an annual basis payments made to lobbyists as compensation for the lobbying performed. This report is filed in the last quarter of the calendar year or the last reporting period of a principal.

The chart below provides the total amount of expenditures reported in dollars by principals from 2011 to 2021. Typically, the total amount of principal expenditures reported in the long sessions continues to be greater than the total amount reported in the short sessions. However, 2018 marked a departure from that trend, as total reported principal expenditures hit a record high of \$50.78 million dollars.

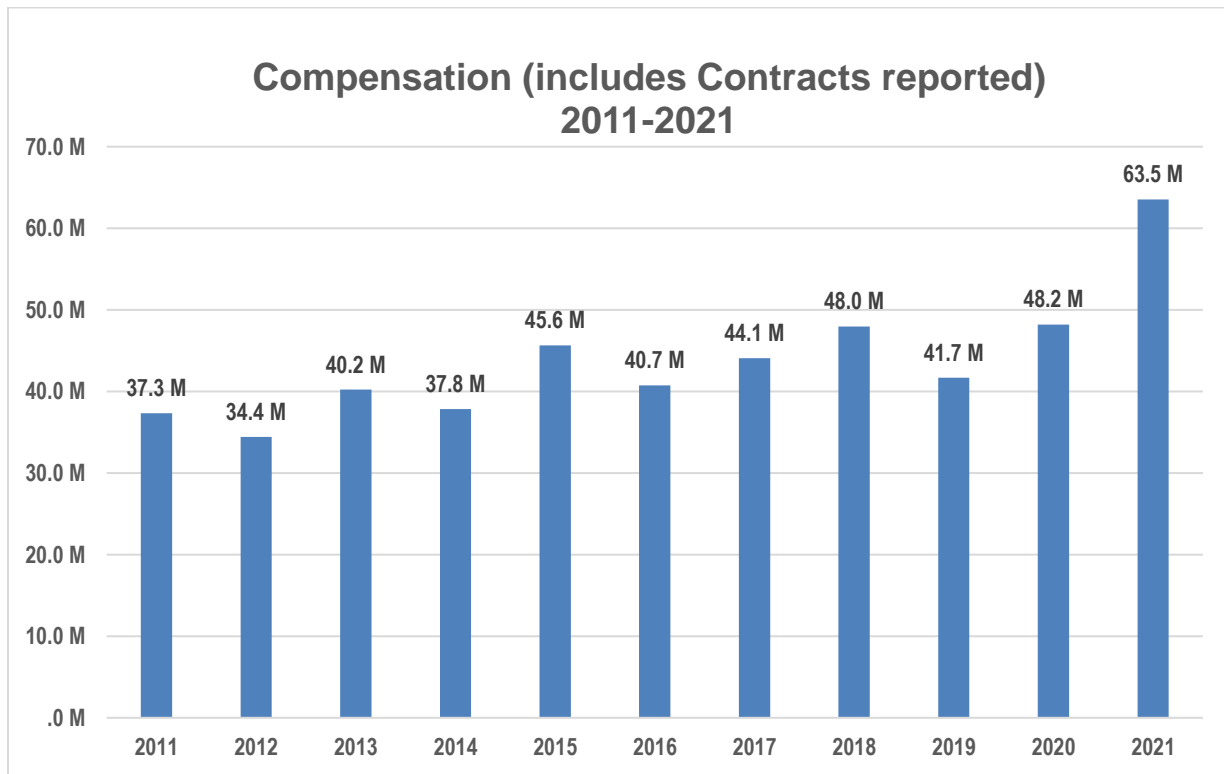
Chart 4: Total Principal Reported Expenditures 2011- 2021



The amount of compensation reported paid to lobbyists has increased over the last six years. Typically, principals have reported the largest amounts during the long sessions (odd numbered years). Except for the calendar years 2018 and 2019, the amount of compensation reported during the long sessions exceed the previous short sessions each year. This trend continued as calendar year 2021 compensation exceeded

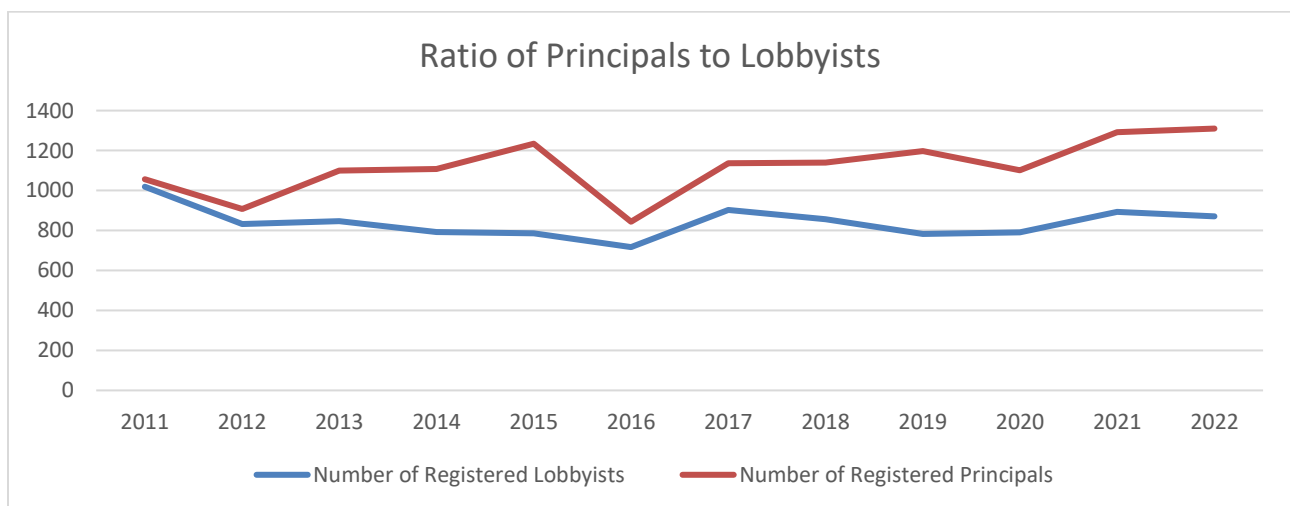
calendar year 2020 compensation.

Chart 5. Compensation paid by Principals to Lobbyists 2011-2021



The number of registered principals has consistently exceeded the number of registered lobbyists for the past decade. The number of lobbyists per principals has remained steady and seen a slight decrease over the past ten years. The chart below shows how the total number of principals and lobbyists has changed over the past decade.

Chart 6. Principals to Lobbyists 2011-2021



ENFORCEMENT

The General Assembly amended the lobbying laws in 2010 permitting the disclosure of annual statistics on complaints received, the number of complaints dismissed, the number of referrals to the Wake County District Attorney, and the number and age of complaints pending. G.S. § 120C-600(d).

Complaints

There were no complaints received by the Division in 2020. The Division received one complaint in 2021. In 2022 the Division received one complaint and one self-report of a possible lobbying violation. All the complaints were investigated by staff and no enforcement actions were taken.

Systematic Reviews

The Lobbying Act requires that Division staff perform systematic reviews of lobbying. Review Officers perform the systematic reviews. The four (4) phases of review are:

- **Phase 1:** Ensure that submitted reports have been completed, the correct lobbyists have been added to the principal reports, the registration information matches what has been reported, and, examine what has been reported. The reports are scanned, then indexed, the data entered is verified to ensure correct calculation, and an appropriate authorized officer has signed the report. Then the reports are promptly made available to the public via the internet. **All expenditure reports are subjected to the first phase review.**
- **Phase 2:** Expenditure amounts submitted by the filers are checked for accuracy. The data is keyed into a database by the Review Officer. Generally, this process takes a month. **All expenditure reports are subjected to this review phase.**
- **Phase 3:** The third review phase involves an examination and comparison of monthly reports with quarterly reports to ensure complete disclosure. This review also compares the lobbyists' report to the principals' and vice versa to ensure consistent and complete disclosure. Resources permitting, the Division also audited lobbyist and principal filings relating to the same event to ensure that there is consistency regarding the description and the amounts being reported when there is more than one sponsor.
- **Phase 4:** This phase is the most intensive phase. It requires the filer to provide supporting documentation upon request. However, because of a significant staff cut in 2011, the capacity to conduct this phase of reviews declined correspondingly and have, practically, been eliminated.

For 2017 -2019, the staffing levels were reduced because of the anticipated transition to the State Board of Elections and the transition to the agency itself. Therefore, there were too few employees to perform the third and fourth phase of the reviews in light of Division other workload.

In October 2022, the Department conducted a systematic review of expense reports filed in 2021. Filings were reviewed for timeliness and completeness. Registered principals who were late multiple times in 2021 were placed in a select pool after which 24 candidates were randomly chosen for the systematic review using a Microsoft Excel search function.

Each of the candidates were then contacted via email and regular mail and asked to submit

verification documents that corroborated their reported expenses in 2021. Multiple letters and emails had to be sent to several filers before the Division received responses to the request for a systematic review. Eight filers reviewed their reports and concluded there were errors in their filings. Some filers had reported too little and others had reported too much in their expense reports. The filers were given the opportunity to correct their reports, and all of them chose to file amended reports with the Division. The remaining 16 filers provided sufficient documentation that verified the amounts reported in their expense reports.

Table 1: Number of Systematic Reviews performed for filings in 2013 to 2022

Review Phases/Year	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
1 st phase	12,981	12,188	13,485	13,012	13,818	14,143	14,996	14,727	16,034	17,068
2 nd phase	12,981	12,188	13,485	13,012	13,818	14,143	14,996	14,727	16,034	17,068
3 rd phase	698	364	316	516	0	0	1	0	32	0
4 th phase	0	0	20	0	0	0	1	0	24	0

Apparent Violations Referred To District Attorney

A 2018 referral to the Wake County District Attorney led to the criminal adjudication of one defendant¹³. The individual was convicted of six misdemeanor charges: four counts of lobbying without registration, one count of criminal contempt, and one count of misdemeanor obstruction of justice.

Civil Fines and Late Fees

Civil Violation Penalty Fines

The statute provides for the assessment of civil penalty fines up to \$5,000 for violations. The Division assessed no civil penalties in 2021.

Late Report Filing Fees

Late filers subject themselves to an assessment of a late report filing fee of \$50.00 per day up to \$500.00 per late report. In 2009, the law was changed and now provides late filers additional time to cure tardy filings and thereby come into compliance when failing to file or filing late.¹⁴ As a result of this

¹³ There are two outstanding cases remaining, felony charges against Lynne Thompson aka Mina Mustian and Dallas McClain.

¹⁴ Fine monies collected are to be transmitted to the school fund for distribution to the school systems by the State. North Carolina Constitution, Article 9, Section 7.

grant of additional time to cure tardy filings, the number of late report filing fees assessed and collected declined in 2019. The Division assessed and collected no fees in 2019.

In 2021, the Department did not assess any late filing fees. In 2022, the Department assessed a total of **\$1,000** for delinquent filers in the first two quarters of 2022. The chart below provides details on the amounts of the fees assessed and the month it was assessed.

Table 2: Fees for late filings assessed in 2022

Month	Amount	Reason
July	\$500	Fees for late filings
August	\$500	Fees for late filings
Total	\$1,000	

Notice letters

Prior to assessing penalties, the Department makes several attempts to notify filers of their obligations to report their expenses on a quarterly basis. The Department sends out letters to non-filers in the following order after the filing deadline date has passed: First, we send out pre-delinquency/courtesy letters via e-mail reminding filers they have not filed by the due date. Next, we send delinquency letters via e-mail and certified mail to alert filers that failure to file would subject them to fines and penalties. Finally, we send out assessment letters via e-mail and certified mail that notify filers the Department is assessing a fine for failure to file on time. The Department began tracking statistics on these letters in 2022. Below is a table of the number of letters that the Department sent out in the first two quarters of the year.

Table 3: Delinquency letters sent to filers

	PRINCIPAL	LOBBYIST
2022 PRE-DELINQUENCY/COURTESY LETTERS		
1st quarter	41	5
2nd Quarter	37	17
2022 NOTICE OF DELINQUENCY LETTERS		
1st Quarter	24	3
2nd Quarter	6	8
2022 ASSESSMENT LETTERS		
1st Quarter	2	0
2nd Quarter	0	0

Filing Statistics

Chart 6: Total Number of Filings Per Year

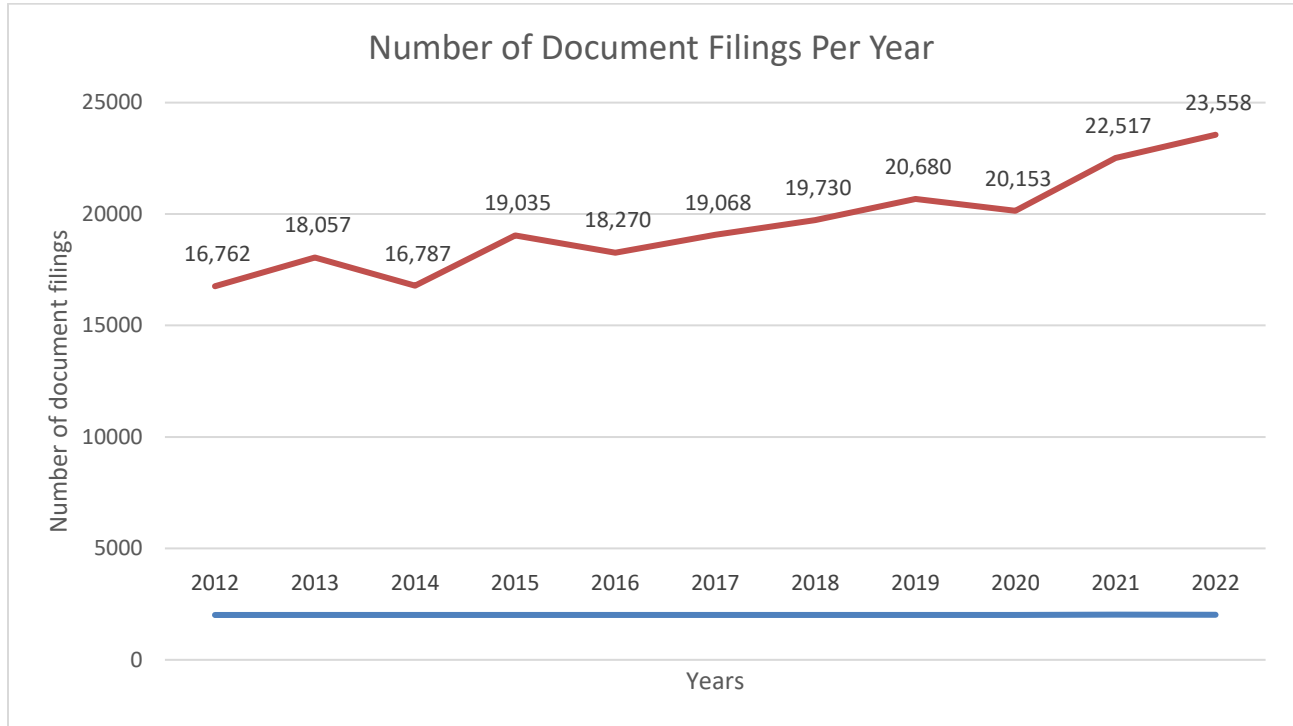


Chart 7: Total Number of Filings Per Long Session

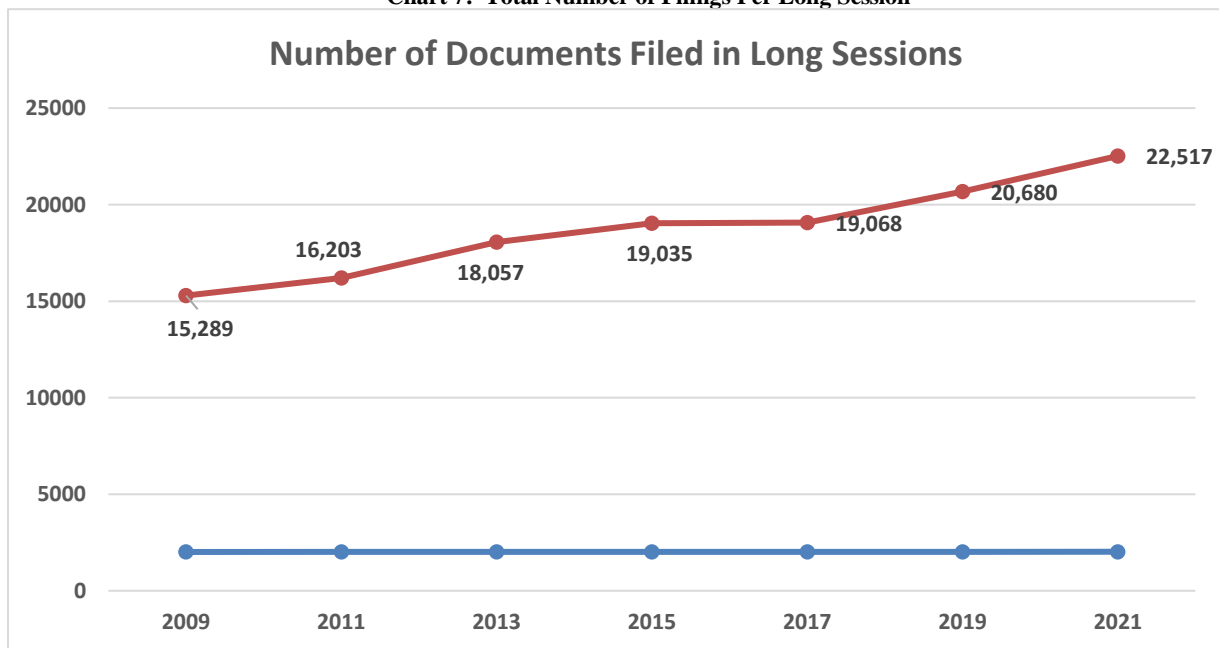
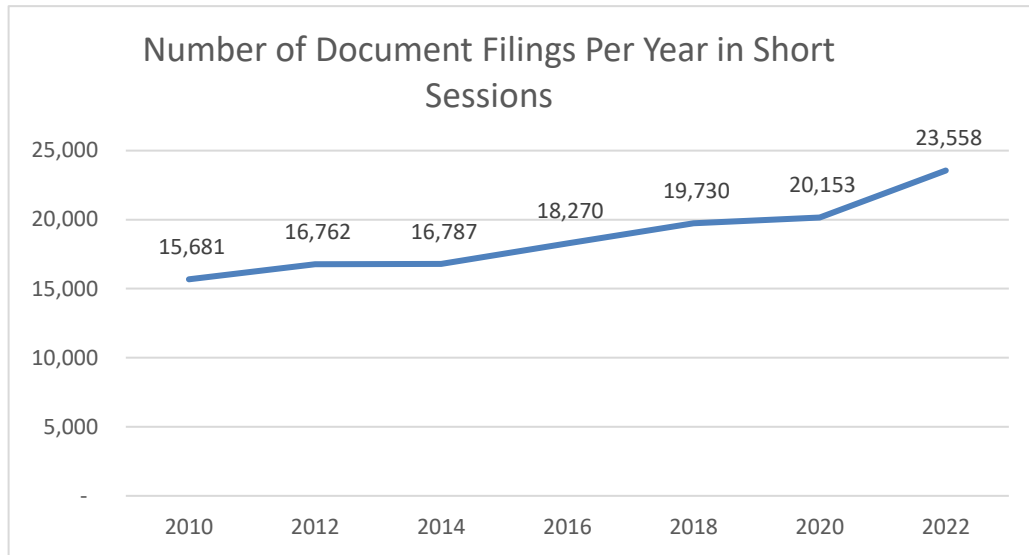


Chart 8: Total Number of Filings Per Short Session



Lobbying Registration and Reporting Operating Budgets

Chart 9: Non-Salaried Operating Budget by Fiscal Year

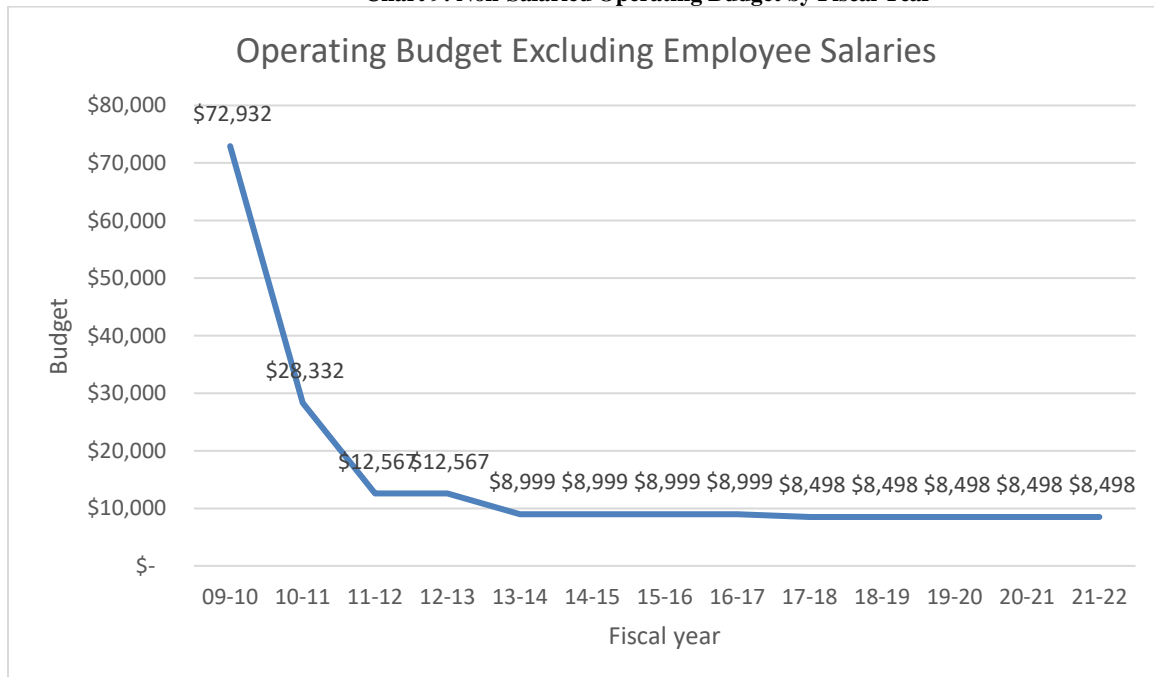


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Acknowledgments

The Division would like to thank the Information Technology staff, the Publications Division staff, and senior staff for their assistance in the publishing of this document.

Additional Information

The Communications and Public Information Office is the point of contact for the public and members of the press with questions about public records about lobbying and to request access to records such as the lobbying registrations, reports, and other documents. Users can refer to the website to obtain lobbying registrations and reports free of cost. See [North Carolina Secretary of State Lobbying webpages](#).