



Final Lobbying Report January 2017 – June 2018

This is the final report by the North Carolina Department of State detailing the activities of its Lobbying Compliance Division. By action of the General Assembly, these duties are now vested in the State's recently created Board of Elections and Ethics Enforcement.

For more than 80 years, the North Carolina Secretary of State's Office provided the public and the lobbying community with transparent information in an unbiased manner that kept the "sunshine" shining brightly when it came to lobbying activities. The staff and I have endeavored to fulfill these duties in an accessible and accountable manner.

I want to thank Board Chair Andy Penry, the other Board members, and the Board staff, for their efforts to make this transition a smooth one. I also want to take this opportunity to say it has been a pleasure to work with all North Carolinians interested in governmental transparency.

Elaine F. Marshall
Secretary of State
June 30, 2018

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BACKGROUND INFORMATION

Acknowledgments

The Annual Report is published to serve as a resource for North Carolina legislators, businesses, citizens, the media, researchers, and historians as they assess resources expended to influence the development of public policy and the operation of North Carolina state government. Senior Administration would like to thank the staff of the Administrative Division, Information Technology Division, Communication Division, and the Lobbying Compliance Division for their assistance in producing this report.

Coverage

Unless otherwise noted, this annual report covers lobbying activities for the calendar year 2017 and the period of January 1 to June 20, 2018. Please note that the data reported in this report comes from the filers and is a snapshot in time from the database on that date.

Purpose of the Lobbying Act

One of the purposes of the legislation is to provide transparency about 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 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.

LOBBYING ACTIVITY DATA BY FILER TYPE

Lobbyists

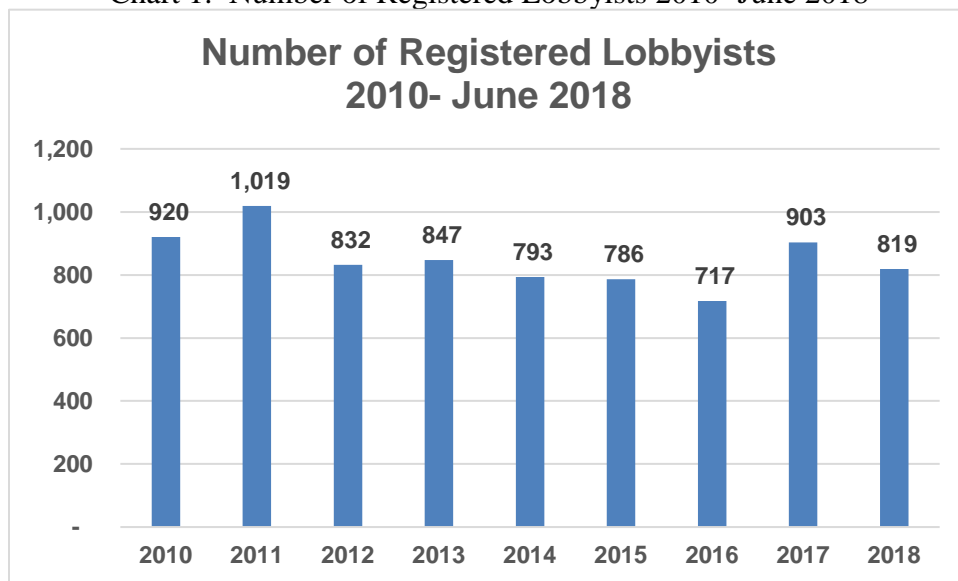
Who are lobbyists?¹

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.² The chart below shows the number of registered lobbyists by calendar year from 2010 to June 2018.

Chart 1: Number of Registered Lobbyists 2010- June 2018



¹ G.S. § 163A-250(a)(52).

² G.S. § 163A-250(a)(3).

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. There are 31 subject matter categories that apply to lobbyist activities.

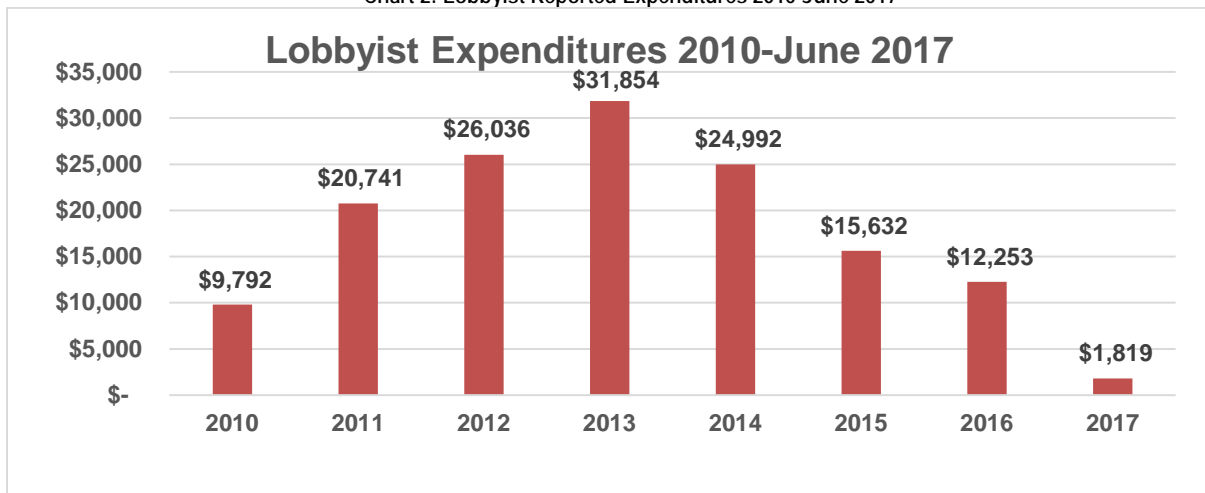
For the first six months of 2018, these are the top ten categories designated by lobbyists:

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. Education
8. Ecology, environment, pollution, conservation, zoning, land and water use
9. Transportation, highways, streets and roads
10. Consumer affairs

Lobbyists' Expenditures

State ethics laws prohibit gifts from lobbyists to designated individuals³ unless the gifts fall within one of the listed exceptions.⁴ Lobbyists are required to report their expenditures quarterly, and in some circumstances, monthly. The 2018 lobbyists' reported expenditures are not included in the chart below.

Chart 2: Lobbyist Reported Expenditures 2010-June 2017



³ The phrase “designated individual” means “[a] legislator, legislative employee, or public servant.” G.S. § 163A-250(a)(3).

⁴ See Chapter 163A, Article 5, Ethics Act.

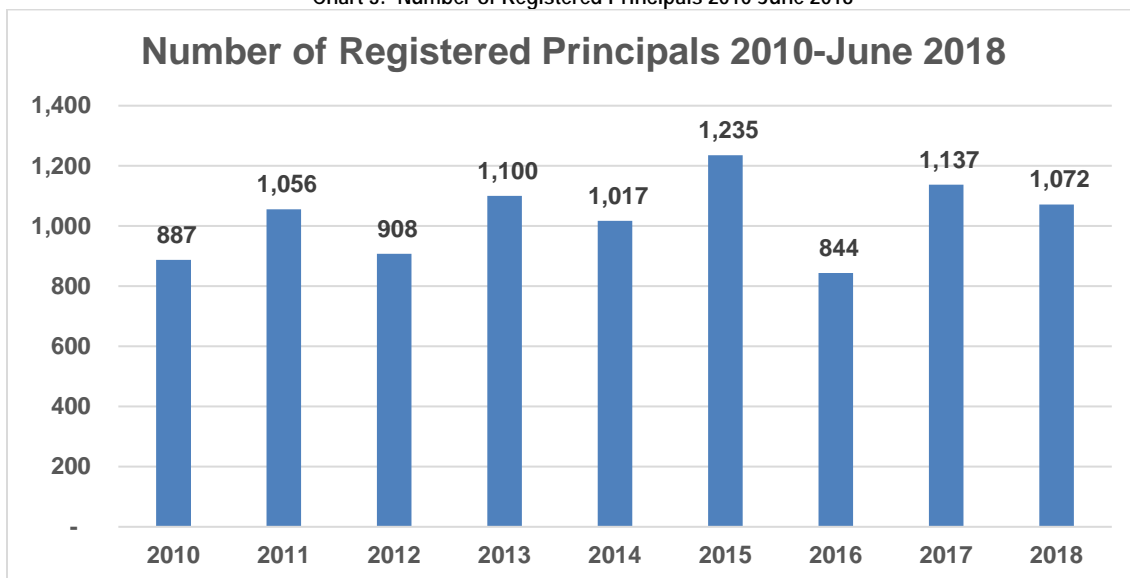
Lobbyist Principals

Who are lobbyist principals?

A lobbyist principal is the person⁵ 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.⁶

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 2010 to June 2018.

Chart 3: Number of Registered Principals 2010-June 2018



Principal Expenditures

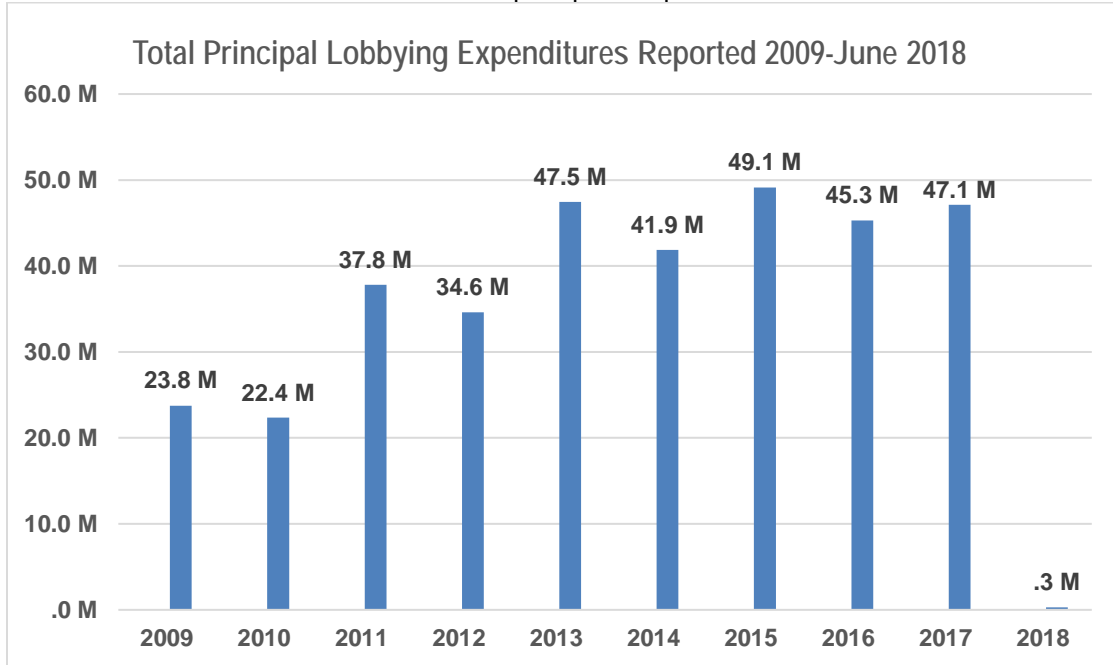
Generally, principals must report on a quarterly basis, any reportable expenditure that benefitted a designated individual. When the General Assembly is in session, the principal must file a monthly report if the reportable expenditure benefits a legislator, legislative staff member, or family member 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. Payments made to lobbyists as compensation for the lobbying performed are only reported on an annual basis in the last quarter of the calendar year or last reporting period for a principal.

⁵ 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. § 163A-152(62).

⁶ G.S. § 163A-250(a)(21).

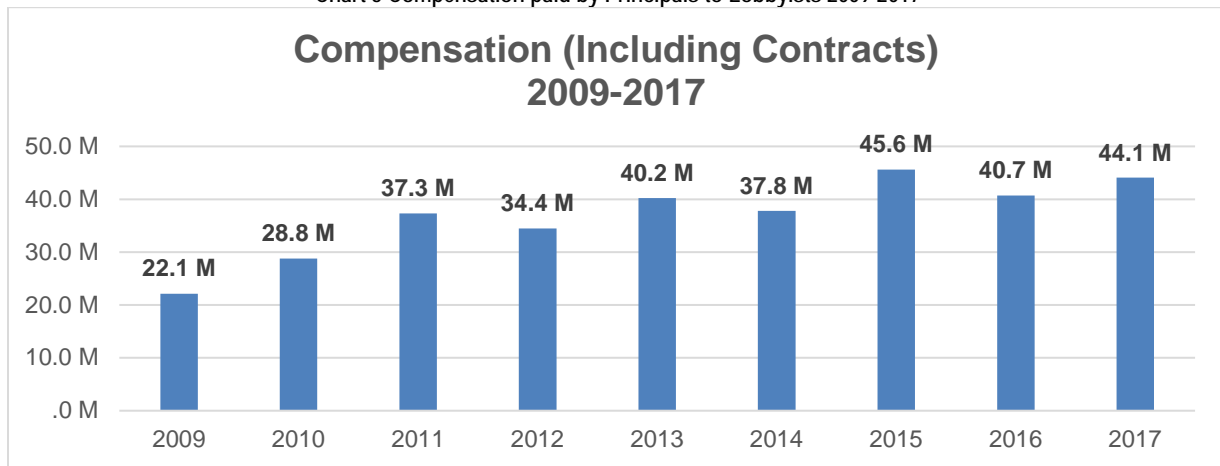
The chart below provides the total amount of expenditures reported in dollars by principals from 2010 to June 2018. Thus far, the total amount of principal expenditures reported in the long sessions continues to be greater than the total amount reported in the short sessions.

Chart 4: Total Principal Reported Expenditures 2009-June 2018⁷



The amount of compensation paid to lobbyists has increased over the last six years, with the largest amounts being reported during the long sessions (odd numbered years).

Chart 5 Compensation paid by Principals to Lobbyists 2009-2017



⁷ Some entities have yet to report compensation for 2017.

Solicitors

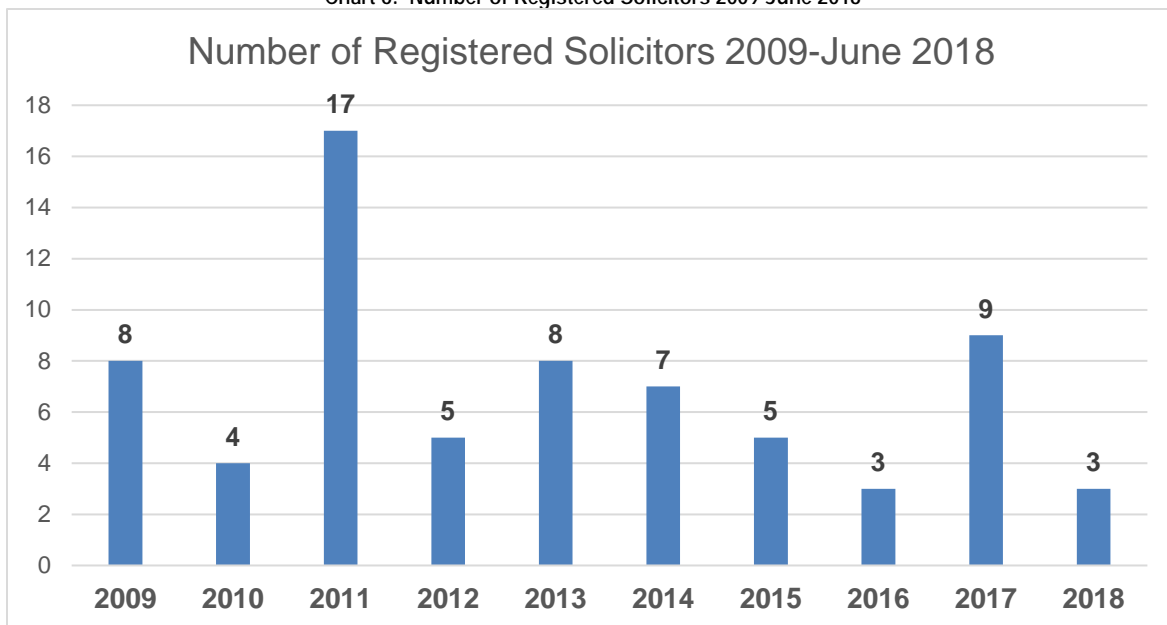
Who are solicitors in the context of lobbying?

A “solicitor” is a person or entity who solicits members of the public in order to get them to communicate directly with, or contact, one or more “designated individuals.” The purpose of this solicitation is to influence or to attempt to influence legislative branch or executive branch action in order to further the solicitor’s position on that legislative or executive action. The requirement to register is triggered when the solicitation costs more than three thousand dollars and the solicitor makes the solicitation request by any of the following methods:

- A broadcast, cable, or satellite transmission.
- An email communication or a Website posting.
- A communication delivered by print media as defined in G.S. § 163-1475⁸
- A letter or other written communication delivered by mail or by comparable delivery service.
- Telephone.
- A communication at a conference, meeting, or similar event.

The chart below provides the number of registered solicitors from 2009 to June 2018.

Chart 6: Number of Registered Solicitors 2009-June 2018

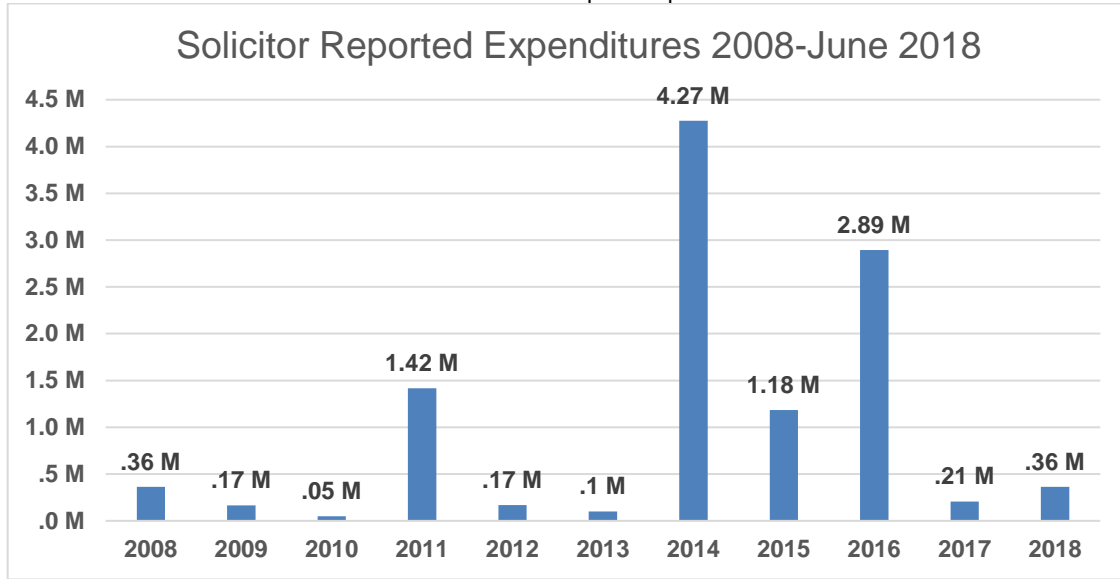


Solicitor Expenditures

Chart 7 provides the total reported expenditures by solicitors per year for the period of 2008 to June 2018. The solicitor expenditures fluctuate depending on the issues that are in contention during the particular year.

⁸ G.S. § 163-1475. This statute contains definitions of Disclosure Requirements for Media Advertisements for election campaigns.

Chart 7: Total Solicitor Reported Expenditures



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. §163A-395(d).

Complaints

Two complaints were received in 2017 and none had been received by June 20, 2018. Two complaints were dismissed during the period covered by this report. The average age of the complaints is 363 days.

Systematic Reviews

The statute requires that systematic reviews of lobbying reports be performed. Review Officers perform the systematic reviews. The four (4) phases of review are:

- Phase 1:** Ensure that submitted documents 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 documents are scanned, then indexed, the data entered is verified to ensure correct calculation, and an appropriate authorized officer has signed the report. Then the documents 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.

Table 1: Number of Systematic Reviews performed from 2012 to June 2018

Review Phases/Year	2012	2013	2014	2015	2016	2017	2018
1 st phase	11,588	12,981	12,188	13,485	13,012	13,818	7,044
2 nd phase	11,588	12,981	12,188	13,485	13,012	13,818	7,044
3 rd phase	458	698	364	316	516	0	0
4 th phase	0	0	0	20	0	0	0

Apparent Violations Referred To District Attorney

Three cases were referred to the Wake County District Attorney in 2017.

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. No civil penalties were assessed in 2017 and, to date, none have been assessed in 2018.

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.⁹ As a result of this grant of additional time to cure tardy filings, the number of late report filing fees assessed has declined. The Division assessed a total of \$1,000 in late filing fees in 2018.

⁹ 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.

DOCUMENT FILINGS STATISTICS

Chart 8: Total Number of Document Filings 2010 to June 2018

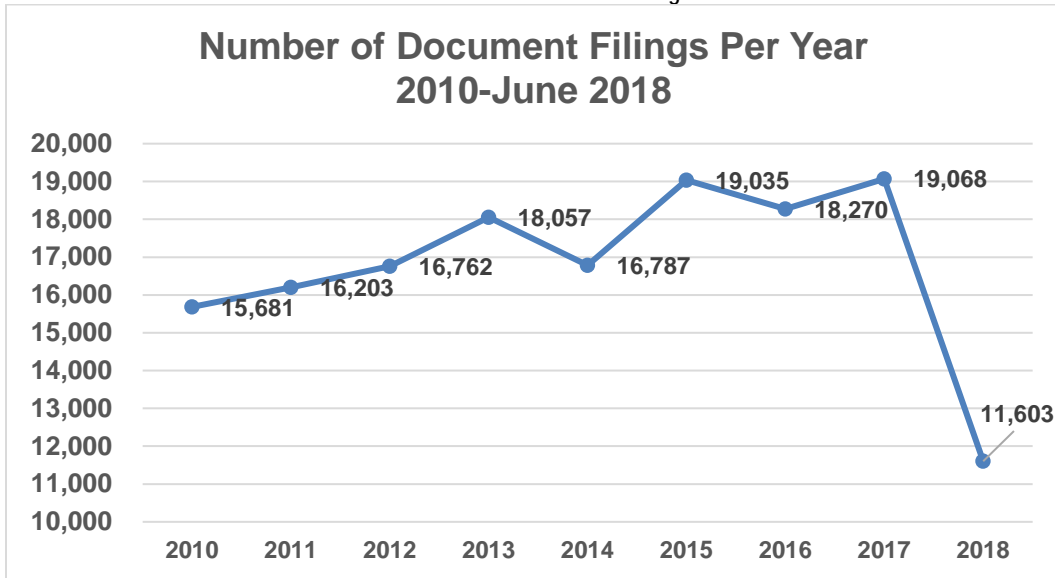


Chart 9: Total Number of Documents Filed During Short Sessions

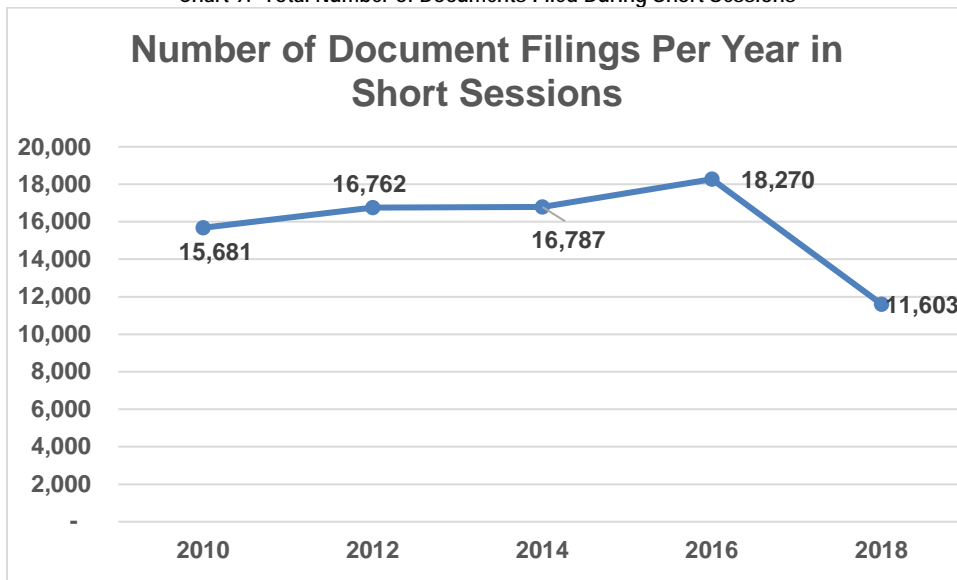
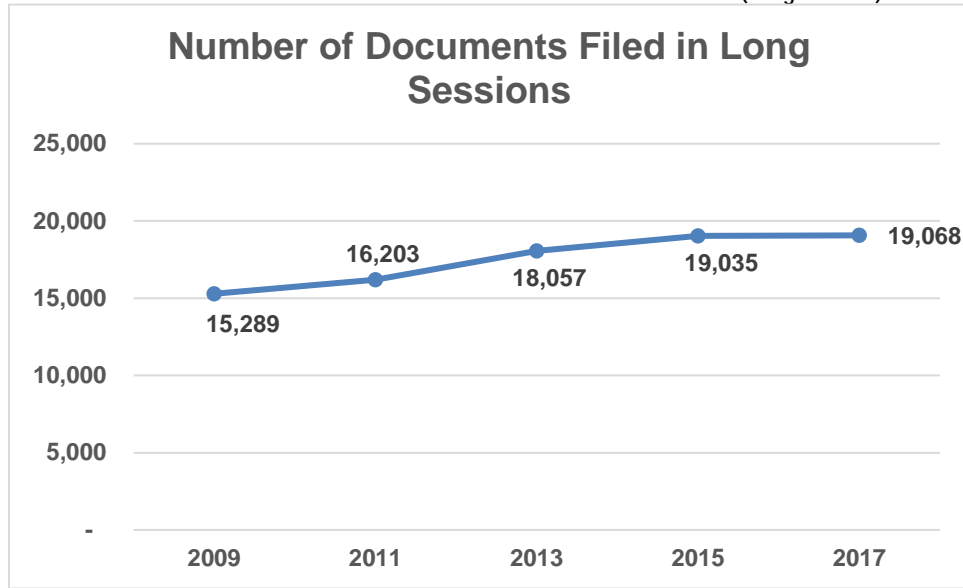


Chart 10: Total Number of Documents Filed in Odd Numbered Years (Long Session)



Lobbyist Registration Operating Budgets

Chart 11: Non-Salaried Operating Budget by Fiscal Year

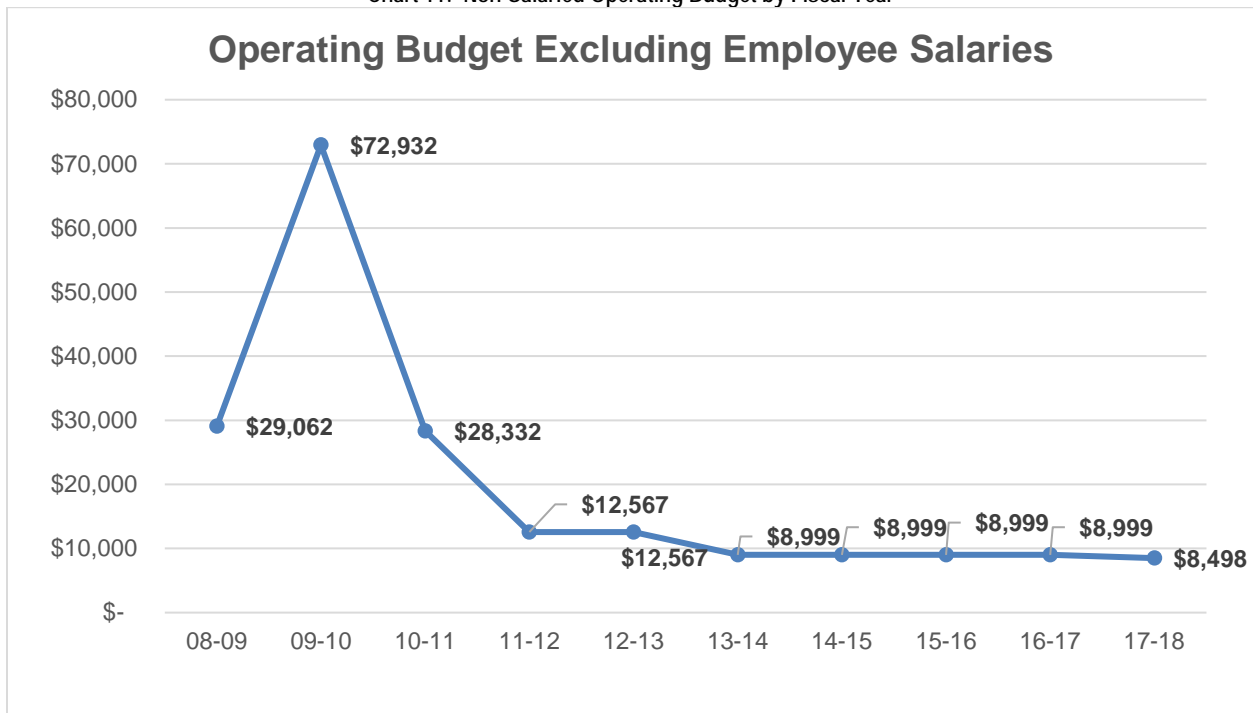


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