

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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September 21, 2021

The Honorable William M. Gardner
Secretary of State
107 North Main Street
Concord, NH 03301

Re: Lobbyist Reports (3148506)

Dear Secretary Gardner:

The purpose of this letter is to provide current guidance on our interpretation and enforcement of our State's lobbyist laws related to reporting.¹ RSA Chapter 15 governs the registration of lobbyists and establishes the reporting requirements for fees from and expenditures made related to conducting lobbying activities. A copy of this letter will be posted on the Attorney General's Office website. Should you receive any inquiries about the guidance provided in this letter, you may direct the inquiries to the Attorney General's Office Election Hotline at 1-866-868-3703.

I. GENERAL REPORTING REQUIREMENTS

RSA 15:6, I states that each lobbyist shall file with the Secretary of State itemized statements under oath of the following:

- (a) All fees received from any lobbying client that are related, directly or indirectly, to lobbying, such as public advocacy, government relations, or public relations services including research, monitoring legislation, and related legal work.
- (b) All expenditures made from lobbying fees, including by whom paid or to whom charged.
- (c) Any honorarium or expense reimbursement, as defined in RSA 15-B or RSA 14-C, or political contribution, as defined in RSA 664, made by the lobbyist in his or her professional or personal capacity, on behalf of the lobbyist, the partnership, firm, or corporation or by the lobbyist on behalf of the client or employer or by a family member of the lobbyist. The statements shall be open to public inspection. For the purposes of this chapter, "family member" shall mean any person related to and living in the same domicile as the lobbyist,

¹ The guidance in this memorandum reflects the laws as currently enacted as of the date of this memorandum. Each lobbyist is responsible for compliance with the law.

who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parents.

“Lobbying” for the purposes of Chapter 15 is generally outlined under RSA 15:1. Registration is required where the person, partnership, firm or corporation is employed:

- (a) To promote or oppose, directly or indirectly, any legislation pending or proposed before the general court, or;
- (b) To promote or oppose, directly or indirectly, any action by the governor, governor and council, or any state agency, as defined in RSA 15-A:2, where such action concerns legislation or contracts pending or proposed before the general court, any pending or proposed administrative rule, or the procurement of goods or services that are being or may be purchased by the state, subject to the exclusions in paragraph III.

RSA 15:1, II.

“Lobbying” does *not* include instances where the person:

- (a) Is employed to represent another only in an adjudicative proceeding or non-adjudicative process as defined or described in RSA 541-A, other than a rulemaking proceeding or any process related to the purchasing of goods or services by the state, and who files an appearance with the authority conducting the matter; or
- (b) Is an owner or employee, of a business seeking to do business with the state or communicating with an executive branch official or employee, a state agency, or an administrative official of the general court regarding goods or services that are being or may be purchased by the state.

RSA 15:1, III.

II. IN-HOUSE EMPLOYEES/LOBBYISTS

Both the Secretary of State and Attorney General’s offices have received several inquiries regarding the following situation and how RSA 15:6 may be applied to it:

- A full-time employee;
- For a non-lobbying firm/organization;
- Whose primary duties are non-lobbying related;
- Who engages in limited lobbying activities on behalf of the employer; and
- Whose salary is used in part, to pay for his/her time spent on lobbying activities.

RSA 15:1, does not appear to explicitly address this situation. RSA 15:1 specifies that a “lobbyist” for the purpose of registration is “[a]ny person who is employed for a consideration by any other person, except the state of New Hampshire, in a representative

capacity for the purposes specified in paragraph II..." (emphasis added). RSA 15:1, II, as outlined above, lists those purposes, and utilizes language identifying that the statute applies to those persons, partnerships, firms, or corporations employed specifically for those enumerated purposes.²

However, permitting an individual or entity to avoid registration and reporting simply because the nature of his/her/its employment is primarily for a non-lobbying purpose would frustrate the intent of the statute. The goal of this law is to ensure transparency and provide members of the public with information on spending by interested third parties on activity intended to influence how the legislative and executive branches set and carry out public policy.

As such, this Office recommends that given the current form of RSA 15:1 and 15:6, and the intent of the statute, lobbyists who fall within the situation outlined above should file their required statements as follows, using Addendum A (attached):

- Under II, the lobbyist/employee will list the name of the entity that employs them, regardless of whether the entity's main purpose is lobbying;
- Under III, include the name of the client who the lobbyist/employee is lobbying for, which in most of these cases will be the name of the organization that employs the lobbyist;
- Under IV, indicate "no fees received," since the portion of the lobbyist's/employee's compensation related to lobbying would be reported under V(a), below;
- Under V(a), include that portion of wages, salaries, and other components of compensation paid by the employer that would be attributed to the amount of time the lobbyist/employee and any support staff spent engaging in reportable lobbying activities;
- Under VI, include the expenditures made by the lobbyist's/employee's employer in connection with the lobbyist's/employee's reportable lobbying activities.

We trust that this guidance will assist lobbyists in navigating the reporting requirements under Chapter 15.

Sincerely,



Nicholas Chong Yen
Assistant Attorney General
Election Law Unit

² Notably, the exceptions to lobbyist registration under RSA 15:1, III does not include the situation outlined under Section II.



STATE OF NEW HAMPSHIRE

Lobbyists Fees and Expenses

Addendum A

(RSA Chapter 15:6)

PRINTABLE

I. Name of Lobbyist(s) _____

II. Name of lobbyist's partnership, firm or corporation, if any:

(Name of partnership, firm or corporation)

III. Name of Client _____ Date _____

IV. Fees Received

Indicate the gross amount of all fees received from the client identified above that are related, directly or indirectly, to lobbying, including fees for services such as public advocacy, government relations, or public relations services including research, monitoring legislation, and related legal work. The gross fee amount reported shall not be reduced by any expenses:

- a) Total of all fees received in this reporting period a) \$ _____
b) Total of all fees received this calendar year, prior to this reporting period b) \$ _____
(This should equal the total of all prior monthly reports for this calendar year)
c) Total of all fees received to date c) \$ _____
(Add lines a and b)
d) Indicate the amount of any such fees that are due, but have not d) \$ _____
yet been paid

V. Expenses:

Lobbyist(s)/Lobbying partnerships, firms, or corporations are required to report all expenses made from lobbying fees. Separate reports are to be filed for expenditures made relative to each client and if expenditures are made by the lobbyist(s)/firm that are unrelated to any one client a separate report may be filed for the lobbyist(s)/firm. Expenses are to be reported in one of three categories of expenses: (a) the aggregate total of all expenses paid during the reporting period for salaries, benefits, support staff, and office expenses; (b) the aggregate total of all individual expenses where the expenditure was of \$25.00 or less (for example: meals purchased during a business lunch where the cost was \$25.00 or less, purchase of a pen with a value of less than \$10 that is given to the person being lobbied, purchase of a ceremonial object given to a person being lobbied with a value of \$25.00 or less); and (c) an itemized statement of each individual expenditure made during this reporting period of greater than \$25.00 for any purpose not covered by (a) (for example: purchase of a meal with value of greater than \$25, purchase of a ceremonial object to be given to the subject of lobbying with a value greater than \$25, but not greater than \$50, restaurant expenses for a legislative reception). Expenses for honorariums, expense reimbursement, or political contributions will be reported on separate addendums and should not be reported on Addendum A.

- a) Total aggregate expenses for this reporting period for salaries, benefits, support staff, and office expenses, related directly or indirectly to lobbying. a) \$ _____
b) Total aggregate of expenditures during this reporting period, not reported in a), of \$25 or less. b) \$ _____
c) Total of all itemized expenditures reported in detail in section VI. c) \$ _____

d) Total expenses for this reporting period (Add lines a, b and c) d) \$ _____

e) Total of expenses paid this calendar year, prior to this reporting period (This should be the amount on line f of addendum A for last month's report) e) \$ _____

f) Total of all expenses year to date f) \$ _____

VI. Other Expenses:

Provide the following detail for all expenditures of more than \$25 made from lobbying fees during this reporting period, including by whom paid or to whom charged.

Paid to:	Amount:
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Sworn Statement/Affirmation by Lobbyist

I have read RSA 15, RSA 15-B and RSA 664 and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief.

(Signature of lobbyist)

(Date)

(Print Name of lobbyist)