



Guide to Vermont's Lobbying Registration & Disclosure Law 2011-2012

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LOBBYING DEFINED

“Lobby” or “Lobbying” means:

- (A) To communicate orally or in writing with any legislator or administrative official for the purpose of influencing legislative or administrative action;
- (B) Solicitation of others to influence legislative or administrative action;
- (C) An attempt to obtain the goodwill of a legislator or administrative official intended ultimately to influence legislative or administrative action; or
- (D) Activities sponsored by an employer or lobbyist on behalf of or for the benefit of the members of an interest group, if a principal purpose of the activity is to enable such members to communicate orally with one or more legislators or administrative officials for the purpose of influencing legislative or administrative action or to obtain their goodwill.

REGISTRATION

Lobbyist Employers: Any person, other than a lobbying firm, who engages the services of a lobbyist for compensation for the purposes of lobbying. A lobbyist who employs another lobbyist shall be required to register and report both as an employer and a lobbyist.

Lobbyists: A person who receives or is entitled to receive, either by employment or contract, \$500 or more in monetary or in-kind compensation in any calendar year for engaging in lobbying, either personally or through his or her agents, or a person who expends more than \$500 on lobbying in any calendar year.

Lobbying firms: A sole proprietorship, partnership, corporation, limited liability corporation, or an unincorporated association which receives or is entitled to receive \$500 or more in monetary or in-kind compensation for engaging in lobbying, either personally or through its agents, in any calendar year and employs more than one individual lobbyist or contracts with at least one other lobbyist, or is affiliated with at least one other lobbyist.

Registration period: When a lobbyist or lobbyist employer registers, the registration stays active until either the end of the legislative biennium or until such time as the lobbyist or lobbyist employer terminates the registration. If the lobbyist or lobbyist employer terminates a registration before the end of the registration period, a final disclosure report is due (see section on Disclosure for more details).

REGISTRATION REQUIREMENTS AND FEES

Lobbyists

Every lobbyist is required to register with the Office of the Secretary of State before or within 48 hours of commencing lobbying activities. A lobbyist must file a separate registration statement for each of the lobbyist’s employers that he or she represents. The lobbyist only pays the \$25 registration fee once, and then pays \$5 to add a link to each lobbyist employer.

Lobbyists must submit a passport-type photograph of the lobbyist. The photograph may be submitted electronically; however, the lobbyist must indicate when registering whether the photograph is included with the registration material or that it has been submitted electronically. **THE OFFICE WILL NOT ACCEPT A LOBBYIST REGISTRATION WITHOUT A PHOTOGRAPH.**

A sample lobbyist registration form is included in Appendix B of this guide.

Fees: Each lobbyist must pay an initial registration fee of \$25, plus an additional \$5 for each lobbyist employer listed. If a lobbyist has paid the initial \$25 registration fee for the registration period, and adds additional lobbyist employers, the lobbyist needs to file a supplemental registration form and pay a fee of \$5 per lobbyist employer listed, plus an additional fee of \$25 to register the lobbyist employer if it has not already been registered.

Lobbyist Employers

Every lobbyist employer is required to register with the Office of the Secretary of State before or within 48 hours of engaging a lobbyist. If an employer engages an additional lobbyist, the lobbyist employer shall file a supplemental registration statement at the same time as the additional lobbyist files a registration form.

A sample lobbyist employer registration form is included in Appendix C of this guide.

Fees: Each lobbyist employer must pay an initial registration fee of \$25, plus an additional \$5 for each lobbyist added. If a lobbyist employer has paid the initial \$25 registration fee for the registration period, and adds additional lobbyist(s), the employer needs to file a supplemental registration form and pay a fee of \$5 per lobbyist listed, plus the additional fee of \$25 required to register the lobbyist(s) if not already registered, plus an additional fee of \$5 to link the lobbyist to the lobbyist employer.

Lobbying Firms

Every lobbying firm must file a Lobbying Firm Listing (Appendix D). The form lists all lobbyists who are employed by, subcontracted by, members of, or affiliated with the lobbying firm. Each lobbying firm shall file a supplemental list within 48 hours of any changes that have occurred.

Fees: There is no fee required to submit the lobbying firm listing.

DISCLOSURE

Lobbyists, lobbyist employers and lobbying firms must file disclosure reports with the Office of the Secretary of State as described below.

The three disclosure reports due from lobbyist employers are:

- (1) On April 25, for the period beginning January 1 through March 31
- (2) On July 25, for the period beginning April 1 through June 30
- (3) On January 25, for the period beginning July 1 through December 31

Disclosure Report Forms

Disclosure report forms for lobbyists, lobbyist employers and lobbying firms are available online (www.sec.state.vt.us). Disclosure forms are also mailed to each currently registered lobbyist employer 30 days before each filing deadline (formerly the forms were mailed 30 days before the end of the disclosure period, or 60 days before the filing deadline). It is the responsibility of the lobbyist, lobbyist employer or lobbying firm to file timely disclosure reports regardless of whether the forms were received by mail or not. Failure to file disclosure reports on time will result in a financial late penalty. Please do not rely on USPS first class mail unless you mail at least ten days before the deadline.

EXPENDITURES – Lobbyists, Lobbying Firms & Lobbyist Employers

For lobbyists, lobbying firms and lobbyist employers, lobbying expenditures must be broken down into four subcategories:

- Advertising: includes TV, radio, print and electronic media.

Advertising expenditures are only reported if they are intended to communicate with legislators or administrative officials or if they are intended to solicit others to communicate with legislators or administrative officials.

- Telemarketing: includes polling or similar activities (if intended to directly or indirectly influence legislative or administrative action).

Telemarketing expenditures will specify the amount, to whom the expenditure was made and a brief description of the activity.

- Contracts (Over \$100): Contractual agreements or direct business relationships in excess of \$100 per year (including any that were entered into within the previous 12 months between a legislator or administrator, a

legislator's or administrator's spouse or civil union partner, or a legislator's or administrator's dependent household member).

- Other expenditures: Any other lobbying expenditures (for example, travel expenses, etc.).

GIFTS – Lobbyists, Lobbying Firms & Lobbyist Employers

All lobbyists, lobbying firms and lobbyist employers must report gifts over \$15 given to or at the request of a legislator or administrative official or a member of a legislator's or administrative official's immediate family.

A gift, under the lobbying law, is:

- a political contribution
- anything of value, tangible or intangible, that is bestowed for less than adequate consideration, including travel expenses such as travel fare, room and board and other expenses associated with travel
- a meal or alcoholic beverage; a ticket, fee, or honorarium, except actual and reasonable travel expenses
- a loan made on terms more favorable than those made generally to the public in the normal course of business

A gift is NOT “anything given between immediate family members; printed educational material such as books, reports, pamphlets or periodicals; a gift which is not used and which, within 30 days after receipt, is returned to the donor or for which the donor is reimbursed for its fair market value; or a devise or inheritance.”

Lobbyists

All registered lobbyists must file a disclosure report.

Lobbyists affiliated with a lobbying firm: A lobbyist who is employed by, subcontracted by, or affiliated with a lobbying firm as defined by 2 V.S.A. §261(12) does not need to report compensation paid to the lobbyist by the employer on his or her disclosure form. Check the box marked: “My compensation is being reported by the lobbying firm that employs me,” and sign the form. This compensation is reported by the lobbying firm that employs, subcontracts with or is affiliated with the lobbyist.

Any unreimbursed expenditures or gifts made by a lobbyist will be reported by that lobbyist. For example, if a lobbyist buys dinner for a legislator in connection with lobbying activities, that portion of the legislator's dinner which exceeds \$15 must be reported by the lobbyist if the lobbyist is not reimbursed by his lobbying firm or lobbyist employer. If the lobbyist was reimbursed by the lobbying firm or lobbyist employer, the firm or employer reports this expense.

Lobbyists NOT affiliated with a lobbying firm: Any lobbyist who is NOT employed by, subcontracted by, or affiliated with a lobbying firm reports the total compensation paid to the lobbyist for lobbying activities. The lobbyist also includes the name and address of each employer that paid compensation to the lobbyist.

Lobbyists not affiliated with lobbying firms must also report any unreimbursed expenditures that are not reimbursed by an employer. If the employer reimburses the lobbyist, then the employer reports the expense.

Lobbying Firms

A lobbying firm is any “sole proprietorship, partnership, corporation, limited liability corporation, or unincorporated association which receives or is entitled to receive \$500.00 or more in monetary or in-kind compensation for engaging in lobbying, either personally or through its agents, in any calendar year AND employs more than one individual lobbyist, contracts with at least one other lobbyist, or is affiliated with at least one other lobbyist.”

Please note there is a differences between lobbying firms and lobbyist employers. A lobbyist employer is essentially a “client” of a lobbying firm and/or lobbyist. See section on Lobbyist Employers for further clarification.

Lobbying firms are required to disclose the total compensation paid to the firm by all lobbyist employers for the reporting period, and to list the name(s) and address(es) of each employer who compensated the lobbying firm.

Lobbying firms must also report any unreimbursed expenditures paid by the lobbying firm for lobbying activities. If the firm is reimbursed for the expenditure(s) by the lobbyist employer, the employer reports the expenditures.

Lobbyist Employers

A lobbyist employer is any person, other than a lobbying firm, who engages the services of a lobbyist for compensation for the purpose of lobbying. Please note the distinction between lobbyist employers and lobbying firms; lobbying firms receive compensation for lobbying activities, while lobbyist employers pay compensation to lobbying firm(s) or individual lobbyist(s) to lobby on behalf of the employer.

Lobbyist employers must report compensation paid to individual lobbyists who are not affiliated with a lobbying firm, or to lobbying firms for any lobbyist(s) affiliated with a lobbying firm. Employers must also list the name(s) and address(es) of any lobbying firm(s) or lobbyist(s) that the employer compensated.

Prorating compensation: Some lobbyist employers employ only “in house” lobbyists, or staff members whose lobbying activities are incidental to the person’s regular employment or other responsibilities to the employer. The law provides that the compensation to lobbyists or lobbying firms may be prorated based on the value of the time devoted to lobbying activities on behalf of the employer.

Please keep in mind that the total compensation should also be prorated for the disclosure period; for example, if there is a contract between the employer and the lobbyist or lobbying firm that covers the legislative session, the amount of compensation reported for the January 1-March 31 should cover only that three-month period.

Lobbyist employers must also report expenditures made in connection with lobbying activities. In most instances, the employer will be reporting expenditures since most employers will be either paying for expenditures (such as advertising or telemarketing) or reimbursing lobbyists and/or lobbying firms for other expenditures (such as travel expenses).

FILING DEADLINES AND LATE PENALTIES

Any required registration forms not received before or within 48 hours of commencing lobbying activities are subject to a late penalty of \$25 plus \$10 for each day the material is late, not to exceed \$175.

A lobbyist employer or lobbyist who fails to file a disclosure report on time will be assessed a late penalty of \$25 plus \$10 for each day the report is late (i.e. \$35 for report one day late, \$45 for report two days late, etc.). The maximum penalty is \$175.

A signed disclosure report must be RECEIVED on the deadline date by the Office of the Secretary of State by the close of business (4:30 p.m.). The deadline date is NOT a postmark date. Faxed and emailed copies of reports are NOT accepted.

LIMITED EXEMPTIONS

While municipalities, elected or appointed officials and their direct employees continue to be exempt from registration, if an exempt entity or exempt individual contracts with a lobbyist firm, or independent contractor lobbyist, then that entity and the lobbyist contracted, must both comply with the lobbyist registration and disclosure law.

PROHIBITED CONDUCT

A lobbyist may not work on a contingency fee basis.

A legislator or administrative official cannot solicit any gift other than charitable contributions for non-profit organizations qualified under section 501(c)(3) of the federal Internal Revenue Code from a registered lobbyist employer, registered lobbyist or a lobbying firm at any time, except political contributions, which can be solicited by a legislator or administrative official after adjournment sine die.

A legislator or an administrative official can accept an unsolicited gift from a lobbyist, lobbyist employer or lobbyist firm. The lobbyist, lobbyist employer or lobbying firm must disclose each gift valued at \$15 or more in the next disclosure report.

When the general assembly is in session (from the beginning of the biennial session in an odd-numbered year until adjournment sine die the following even-numbered year), a legislator or an administrative official cannot solicit a political campaign contribution as defined by 17 V.S.A. §2801 from a lobbyist, lobbyist employer or a lobbying firm.

While the general assembly is in session, a lobbyist, lobbyist employer or a lobbying firm cannot make or promise to make a political campaign contribution as defined in 17 V.S.A. §2801 to a legislator or legislator's campaign committee.

While the law does not mention administrative officials in its prohibition of making or promising to make a political contribution to a legislator or legislator's campaign committee in section 266(3), the law does prohibit solicitation of campaign contributions from lobbyists, lobbyist employers and lobbying firms to administrative officials until adjournment sine die. We suggest an administrative official consult with his or her attorney on what constitutes solicitation of a political campaign contribution before deciding to accept political campaign contributions while the general assembly is in session. In campaign finance terms, a contribution is not accepted until it has been deposited in the candidate's designated campaign checking account.

INVESTIGATIONS AND PENALTIES

The attorney general's office must now investigate complaints alleging violations of Vermont's lobbyist registration and disclosure law, either on his own initiative or in response to written complaints. The resolution of any complaint(s) found to have merit will be posted on the attorney general's website.

The attorney general may bring an action in superior court to enforce provisions of the lobbyist disclosure law, to ensure compliance or to obtain civil penalties described below.

A court may grant temporary or permanent injunctive relief and may enjoin future activities, order remedial actions to effect all registration and disclosure required, order reimbursement from any lobbyist or employer found to be in violation of the lobbyist law, or levy a civil penalty of not more than \$10,000 for each violation. An additional penalty of not more than \$1,000 may be imposed for each day the violation continues.

FREQUENTLY ASKED QUESTIONS

We include our responses to some frequently asked questions below. These issues have not been tested in court but reflect our best estimate of how a court might rule. Our conservative advice to all is to err on the side of caution, by reporting or registering in any situations where you have any question as to whether your activities would trigger registration and disclosure.

GENERAL LOBBYING QUESTIONS

What is the difference between a lobbyist employer and a lobbying firm?

A lobbying firm is an entity that includes more than one lobbyist who receives or is entitled to receive \$500 or more in either monetary or in-kind compensation for lobbying in a calendar year. This is a new “status” that is intended to allow citizens to see how much affiliated lobbyists receive during a filing period. A lobbyist employer is an entity, or client, that engages the services of a lobbyist or lobbyist firm and compensates the lobbyist or lobbyist firm for conducting lobbying activities on its behalf. Lobbyist employers are generally either clients of a lobbyist or lobbying firm, or have “in house” staff members who lobby on their behalf.

Is it lobbying when a lawyer contacts state agency attorneys or officials for a client?

If the purpose of the communication is confined to representing a client in a contested case, it is not lobbying. If the communications with state agency staff are intended to influence the substance of law(s) that may be passed, or the content of administrative rules or policies that may be adopted, or the manner in which policy may be carried out, then those efforts qualify as lobbying and expenditures must be reported.

Is it lobbying when a lawyer gives legal advice to a client about dealing with state agencies?

If the purpose of the consultation or research is in preparation for a lobbying effort as described above, then it would be considered a lobbying expenditure. However, if the client, after your advice is given, decides based upon the attorney’s analysis not to follow through with lobbying efforts either directly or by urging others to do so, then the expenses would not be construed as lobbying and therefore there would be no reporting.

Is a member of an association that is registered as a lobbyist employer required to register as a lobbyist when the member lobbies on behalf of the association?

The answer depends on whether the member is paid by his professional employer or the lobbyist employer (association) to lobby, the amount of out-of-pocket expenditures that are incurred by the member, whether the member reimbursed for these expenses, and, if so, who provides the reimbursement. If a member of an association engages without pay in lobbying activities to advance the goals of the association, the member’s activities will not be attributed to his or her professional employer. In this case, the member will not be required to register as a lobbyist unless his or her out-of-pocket expenses exceed \$500 annually. However, if the member is reimbursed more than \$500 annually for expenses incurred lobbying on behalf of the association, then the member must register as a lobbyist and the entity that reimbursed the member must register as a lobbyist employer. If the member’s employer allows the member to lobby during hours for which the employer is paying the member wages or salary (i.e., if the lobbying is done on company time), both the member and the professional employer must register as soon as the \$500 threshold is met.

Are lobbying activities by state or local officials automatically exempt?

The statute provides a limited exemption if the state or local official’s activities are solely related to his or her official duties as a public official. However, if the lobbying activities go beyond matters relating to the state or local official’s duties, the person must register and report if the \$500 threshold is reached. For example, an official who testifies on behalf of a private group to argue in favor of a bill would be required to register and report once the official reaches the \$500 expenditures threshold. This includes lobbying on behalf of an association of local officials, for example, the Vermont League of Cities and Towns, or the Vermont School Boards Association.

What if state or local government contracts with a lobbyist to lobby on its behalf?

The law was recently changed so that if any instrumentality, agency or governmental subdivision of the United States or State of Vermont (including municipalities) contracts with a lobbyist to conduct lobbying activities on its behalf, then both the entity and the lobbyist must register and report. For example, a town manager may testify on issues that may affect the municipality without triggering registration or reporting requirements. However, if a town contracts with a lobbying firm or a lobbyist to conduct lobbying activities on behalf of the town, then the town and the lobbyist(s) must both register and report.

If a lobbyist is appointed to serve on a commission or council that includes one or more administrative officials or legislators, is that lobbyist engaged in lobbying when, as a member of that commission, he or she engages in discussions concerning policies or proposed legislation?

No. In such a situation the lobbyist is participating as an appointed state official. The communications and activities conducted in connection with duties under such an appointment are exempt from the reporting requirements as long as the activities are confined to the business of the commission or council. If a lobbyist uses the opportunity of being with other commissioners or council members to attempt to lobby on behalf of his or her clients, then that portion of time must be reported.

Is an editor or publisher of a newspaper ever required to register and report?

The news media is exempt when engaged solely in the acquisition or dissemination of news on behalf of the news medium. This exemption does not apply to an editor or publisher who participates in lobbying activities, such as testifying on behalf of a bill or rule or on behalf of an association of news media; once the \$500 threshold is reached in this situation, registration and reporting are required.

Is it lobbying when a lobbyist employer sponsors a concert for the general public with a ticket price of \$15 and provides invitations and free tickets to legislators?

The concert itself is not a lobbying event, but the employer must separately report as a gift the cost of each ticket (of \$15 or more) that is provided to a legislator or administrative official. The law was recently amended to explicitly include payment of expenses to or for any sporting, recreational or entertainment events by a lobbyist or lobbyist employer.

DISCLOSURE

Does a lobbyist employer or lobbying firm need to report advertising that is not connected with lobbying activities?

No. Only lobbying expenditures are required to be reported by lobbyist employers or lobbying firms. For example, if a hospital that is registered as a lobbyist employer runs a series of ads promoting a new brain trauma center, the hospital does not report these advertising expenses. However, if the hospital ran a series of ads urging the legislature to provide funding for a new facility, or urging citizens to contact legislators or administrative officials to change law or policy regarding the handling of certain health facility expenses, this would be a reportable lobbying expenditure. Similarly, a lobbying firm that simply advertises its services does not have to report these ads as a lobbying expenditure.

Who reports expenses that are reimbursed?

Expenses are reported by whoever actually pays. For example, if a lobbying firm pays for its lobbyists' travel expenses but is reimbursed for these expenses by the lobbyist employer, the employer is responsible for reporting the travel expenses as "other" lobbying expenditures. Similarly, if a lobbyist pays for a meal, but is reimbursed by the lobbyist employer, the lobbyist employer reports the expenditure. Lobbyists frequently report "0" expenditures, because all of the expenditures are reimbursed by a client or lobbyist employer who is the reporter.

Do contributions by lobbyists and employers for the purpose of defraying conference expenses for legislators or administrative officials constitute “goodwill” lobbying, even when the conference is sponsored by a third party, such as the National Governor’s Conference?

Yes, if the value is greater than \$15. The definition of “gift” was changed in 2006 to include “anything of value, tangible or intangible, that is bestowed for less than adequate consideration, including travel expenses such as travel fare, room and board, and other expenses associated with travel.” (Emphasis added)

Is it a lobbying expenditure for a lobbyist, lobbying firm or employer to buy a ticket to attend a political fundraising event sponsored by a political party?

Lobbyists are entitled to their personal political associations and the purchase of a ticket to a fundraiser would not automatically be considered an attempt to obtain goodwill. Whether or not the expenditure needs to be reported depends on whether the lobbyist uses the event as an opportunity to lobby, and on the reason for purchasing the ticket. However, if you determine that your purchase of the ticket is a lobbying expenditure, it would be report under “Other Lobbying Expenditures.”

Are research expenditures made in connection with lobbying reportable?

Yes, except that research conducted to decide whether or not to lobby is not an expenditure. For example, if the object of the research is to provide your client an analysis of the judicial, administrative and legislative options for resolving a legal problem, the research costs would not be a reportable expense if the client or lobbyist employer decided after reviewing your advice that it would pursue a resolution in the courts rather than attempt to influence legislation or policy. However, if the client or lobbyist employer decides to ask you to go forward to influence legislation or administrative policy, then the sums expended on research after the client’s decision would be reportable. See FAQ re legal research on page 7.

If a lobbyist employer hires an economist to prepare a document that provides up-to-date information on the manufacturing sector, is the cost reportable?

If the document is prepared to be used by lobbyists for the purposes of obtaining legislative or administrative action, then the expense of the research, printing and publication of the document is considered a lobbying expense.

What if a lobbyist employer distributes a more general publication designed to educate the public about the mission and activities of an employer or an industry to legislators or administrative officials?

If the document that is distributed to legislators or administrative officials falls under the statutory exception for “printed education materials such as books, reports, pamphlets, or periodicals...” then the cost of the document is not required to be reported as a gift. 2 V.S.A. §261(6)(B)(ii)

Are the costs of an “inspection trip” sponsored by a railroad company for administrative officials and legislators, among others, a lobbying expense? What about a legislative tour that is sponsored by Vermont Yankee?

Recent changes to the definition of “gift” for lobbying purposes now explicitly include “travel expenses such as travel fare, room and board, and other expenses associated with travel” when provided to legislators or administrative officials. The only exception now is for actual and reasonable travel expenses associated with a speaking fee or honorarium (see next page).

If a lobbyist employer wants to invite a legislator or administrative official to an awards ceremony, do the travel costs get reported? What if the organization is honoring the legislator or administrative official?

Any speaking fee or honorarium that is valued at greater than \$15 bestowed on a legislator or administrative official is reported as a gift.

Must gifts be connected to lobbying activities in order to be reportable?

No. If a gift, as defined in 2 V.S.A. §261(6), worth more than \$15 is given by or on behalf of a lobbyist, lobbying firm, or employer to a legislator or administrative official, it must be separately reported. The exceptions in the definition of a “gift” are: anything given between family members; printed educational materials such as books, reports, pamphlets, or periodicals; a gift which is not used and which, within 30 days after receipt, is returned to the donor, or for which the donor is reimbursed for its fair market value; and a devise or inheritance. 2 V.S.A. §261(6)(B)

Do gifts need to be reported in the total of lobbying expenditures?

No. Gifts must be listed and reported separately including contributions to political campaigns. Please read our Guide to Vermont’s Campaign Finance Law for more detailed information on contribution limits, etc.

Is a lobbyist or lobbyist employer prohibited from contributing to a political party or PAC during the legislative session?

Contributions to political committees (PACs) that are not candidate committees are not regulated by the Lobbyist Disclosure Law; however, lobbyists are prohibited from making any contributions to a candidate’s political committee until after the adjournment sine die of the complete legislative biennial session ending in even numbered years. For example, Friends of Joe Smith for Representative would be considered a candidate’s political committee and donations from a lobbyist, lobbyist employer or lobbying firm to this group would be prohibited; however, a lobbyist, lobbyist employer or lobbying firm could contribute to Friends of Vermont Republicans because it is not affiliated with a specific candidate.

Does the law prohibit or regulate solicitations by political parties?

No, political parties are not covered by the lobbyist disclosure law.

Are political contributions to candidates for federal office required to be reported?

No. The lobbying law only covers state administrative officials (i.e., governor, lieutenant governor, etc.). Even if a current legislator is running for federal office, if the contribution is made to the legislator’s federal election campaign, it is not reportable under Vermont’s lobbying law. (For further information on contributions to federal candidates, check with the Federal Election Commission at <http://www.fec.gov>.)

APPENDIX A
TITLE 2, CHAPTER 11, §§ 261-268

§ 261. Definitions. As used in this chapter,

(1) “Administrative action” means any action taken by an administrative official or by any agency, department, division, office, board or commission of state government with regard to any proposal, drafting, development or consideration of a policy, practice or rule. Actions as defined by this section do not include decisions of quasi-judicial boards in contested cases.

(2) “Administrative official” means a state officer, or an officer, employee or consultant of any agency, department, division, office, board or commission of state government who as part of his or her official duties participates in any administrative action, other than in a solely clerical, secretarial or ministerial capacity.

(3) “Compensation” means any salary, reward, retainer, or reimbursement received or to be received by one acting as a lobbyist, whether in the form of a fee, salary, forbearance, forgiveness, or any other form of recompense, reward, retainer, reimbursement, or combination thereof.

(4) “Employer” means any person, other than a lobbying firm, who engages the services of a lobbyist for compensation for the purpose of lobbying. A lobbyist who employs another lobbyist shall be required to register and report both as an employer and a lobbyist.

(5) “Expenditure” means a payment, distribution, loan, advance, deposit or gift of money or anything else of value and includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure. “Expenditure” includes sums expended in connection with lobbying, including research, consulting and other lobbying preparation and travel, meals and lodging.

(6) (A) “Gift” means

(i) a political contribution;

(ii) anything of value, tangible or intangible, that is bestowed for less than adequate consideration, including travel expenses such as travel fare, room and board, and other expenses associated with travel;

(iii) a meal or alcoholic beverage;

(iv) a ticket, fee, or expenses for, or to, any sporting, recreational, or entertainment events;

(v) a speaking fee or honorarium, except actual and reasonable travel expenses;

(vi) a loan made on terms more favorable than those made generally to the public in the normal course of business.

(B) “Gift” does not mean:

(i) anything given between immediate family members;

(ii) printed educational material such as books, reports, pamphlets, or periodicals;

(iii) a gift which is not used and which, within 30 days after receipt, is returned to the donor or for which the donor is reimbursed for its fair market value; and

(iv) a devise or inheritance.

(7) “Legislator” means any member or member-elect of the general assembly.

(8) “Legislative action” means any action by a legislator with regard to introduction of a

bill, resolution or amendment or with regard to any bill, resolution, amendment, report, appointment, recommendation, nomination, election, proposed or final proposed rule or other matter proposed for consideration by or pending in the general assembly or in any committee of the general assembly.

(9) "Lobby" or "lobbying" means:

(A) to communicate orally or in writing with any legislator or administrative official for the purpose of influencing legislative or administrative action;

(B) solicitation of others to influence legislative or administrative action;

(C) an attempt to obtain the goodwill of a legislator or administrative official by communications or activities with that legislator or administrative official intended ultimately to influence legislative or administrative action; or

(D) activities sponsored by an employer or lobbyist on behalf of or for the benefit of the members of an interest group, if a principal purpose of the activity is to enable such members to communicate orally with one or more legislators or administrative officials for the purpose of influencing legislative or administrative action or to obtain their goodwill.

(10) "Lobbyist" means a person who receives or is entitled to receive, either by employment or contract, \$500.00 or more in monetary or in-kind compensation in any calendar year for engaging in lobbying, either personally or through his or her agents, or a person who expends more than \$500.00 on lobbying in any calendar year and employs more than one individual lobbyist, contracts with at least one other lobbyist, or is affiliated with at least one other lobbyist.

(11) "State officer" means the governor, lieutenant governor, attorney general, secretary of state, state treasurer and auditor of accounts.

(12) "Lobbying firm" means a sole proprietorship, partnership, corporation, limited liability corporation, or unincorporated association which receives or is entitled to receive \$500.00 or more in monetary or in-kind compensation for engaging in lobbying, either personally or through its agents, in any calendar year and employs more than one individual lobbyist, contracts with at least one other lobbyist, or is affiliated with at least one other lobbyist.

(13) "Immediate family" means a person's spouse or civil union partner, parent, sibling, child, or in-law, including a parent, sibling, or child of a spouse or civil union partner.

(Added 1989, No. 160 (Adj. Sess.), § 2; amended 1993, No. 101, § 1.; amended 2006, No. 99, §1, amended 2007, No. 5, §1)

§ 262. Exempted persons

The following persons are exempt from the registration and reporting provisions of this chapter:

(1) a person who engages in lobbying solely by testifying before committees of the general assembly and agencies, departments, divisions, offices, boards and commissions of state government and providing information requested by legislators or administrative officials;

(2) a duly-elected or appointed official or employee of the United States, the state of Vermont, or of any instrumentality, agency, or governmental subdivision of the foregoing, when acting solely in connection with matters relating to the person's office or public duties. However, if one of the foregoing individuals or entities contracts with a lobbyist, that person or entity, as well as that lobbyist, shall comply with the provisions of this chapter;

(3) the government of the United States, of the state of Vermont, or of any instrumentality, agency or political subdivision of the foregoing;

(4) a person who owns, publishes or is employed by any news medium while engaged solely in the acquisition or dissemination of news on behalf of the news medium. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 2006, No. 99, §2, effective January 1, 2007.)

§ 263. Registration of lobbyists and employers; fees

(a) On forms provided by the secretary of state, every lobbyist shall register with the secretary of state before, or within 48 hours of, commencing lobbying activities. A lobbyist shall file a separate registration statement for each of the lobbyist's employers.

(b) On forms provided by the secretary of state, every employer shall register with the secretary of state before, or within 48 hours of, engaging a lobbyist. If an employer engages an additional lobbyist, the employer shall file a supplemental registration statement.

(c) A registration statement filed by a lobbyist shall be signed by the lobbyist and shall contain the following information:

(1) The name, mailing address, and telephone number of the lobbyist.

(2) The name of the employer and date of employment for the biennium.

(3) A description of the matters for which lobbying has been engaged by the employer.

(4) If a lobbyist is compensated, in whole or in part, by an employer for the purpose of lobbying on behalf of another person, or group or coalition the lobbyist shall provide the name of the employer, the name of the person, group or coalition on whose behalf he or she lobbies and a description of the matters for which lobbying has been engaged by the employer.

(5) A current passport-type photograph of the lobbyist.

(6) All subject areas for which lobbying is performed.

(d) A registration statement filed by an employer shall be signed by the employer and shall contain the following information:

(1) The name of the employer.

(2) The trade name, if any, of the employer.

(3) The mailing address and the telephone number of the employer.

(4) The contact person for the employer.

(5) The name and mailing address of each lobbyist engaged by the employer and date of employment or contract for the biennium.

(e) A registration shall be valid from the date of filing to December 31 of the second year of a biennium, except that a registration may be made in December of an even-numbered year for the ensuing biennium.

(f) Every employer and every lobbyist shall pay an initial registration fee of \$25.00.

(g) An employer shall pay a fee of \$5.00 for each lobbyist engaged by the employer. A lobbyist shall pay a fee of \$5.00 for each employer represented.

(h) A person who fails to file on time a statement required by this section shall pay a late registration fee of \$25.00 plus \$10.00 for each day the statement is late, not to exceed \$175.00.

(i) A registration shall be terminated by the secretary of state upon written notification by the employer or lobbyist that lobbying has ceased by or on behalf of the employer or lobbyist and that the registrant has filed a final disclosure report under section 264 of this title.

(j) The secretary of state shall prepare a list of names and addresses of lobbyists and their employers and the list shall be published at the end of the second legislative week of each regular or adjourned session. Supplemental lists shall be published monthly during the remainder of the legislative session. No later than March 15 of the first year of each legislative biennium, the secretary of state shall publish no fewer than 500 booklets containing an alphabetical listing of all registered lobbyists, including, at a minimum, a current passport-type photograph of the lobbyist, the lobbyist's business address, telephone and fax numbers, a list of the lobbyist's clients and a subject matter index. (Added 1989, No. 160 (Adj. Sess.), § 2; amended 1993, No. 101, § 1a; 1997, No. 155 (Adj. Sess.), § 66e; amended 2006, No. 99, §3, amended 2007 No. 5, §2.)

§ 264. Reports of expenditures, compensation, and gifts; employers; lobbyists

(a) Every employer and every lobbyist registered or required to be registered under this chapter shall file disclosure reports with the secretary of state as follows:

- (1) on or before April 25, for the preceding period beginning on January 1 and ending with March 31;
- (2) on or before July 25, for the preceding period beginning on April 1 and ending with June 30;
- (3) on or before January 25, for the preceding period beginning on July 1 and ending with December 31.

(b) An employer shall disclose for the period of the report the following information:

- (1) A total of all lobbying expenditures, made by the employer in each of the following categories:
 - (A) advertising, including television, radio, print, and electronic media;
 - (B) expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity;
 - (C) contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the employer and:
 - (i) a legislator or administrator;
 - (ii) a legislator's or administrator's spouse or civil union partner; or
 - (iii) a legislator's or administrator's dependent household member;
 - (D) the total amount of any other lobbying expenditures.
- (2) The total amount of compensation, paid to lobbyists or lobbying firms for lobbying. The employer shall report the name and address of each lobbyist or lobbying firm to which the employer pays compensation. It shall be sufficient to include a prorated amount based on the value of the time devoted to lobbying where compensation is to be included for a lobbyist or lobbying firm whose activities under this chapter are incidental to regular employment or other responsibilities to the employer.
- (3) An itemized list of every gift, the value of which is greater than \$15.00, made

by or on behalf of the employer to or at the request of one or more legislators or administrative officials or a member of a legislator's or administrative official's immediate family. With respect to each gift, the employer shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(c) A lobbyist shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the lobbyist in each of the following categories:

(A) advertising, including television, radio, print or electronic media;

(B) expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity;

(C) contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbyist and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse or civil union partner; or

(iii) a legislator's or administrator's dependent household member;

(D) the total amount of any other lobbying expenditures.

(2) The total amount of compensation paid to a lobbyist, who is not employed by, subcontracted by, or affiliated with a lobbying firm, for lobbying, including the name and address of each registered employer who engaged the services of the lobbyist reporting. It shall be sufficient to include a prorated amount based on the value of time devoted to lobbying where compensation is to be included for a lobbyist whose activities under this chapter are incidental to other responsibilities to the employer. A lobbyist who is employed by, subcontracted by, or affiliated with a lobbying firm shall not report individual compensation. The total compensation paid to the lobbying firm shall be reported pursuant to section 264b of this title.

(3) An itemized list of every gift, the value of which is greater than \$15.00, made by or on behalf of a lobbyist to or at the request of one or more legislators or administrative officials or a member of the legislator's or administrative official's immediate family. With respect to each gift, the lobbyist shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(d) Reports for the period July 1 through December 31 shall include, in addition to the totals for the period of the report, totals for the calendar year.

(e) At the same time a report itemizing gifts is filed, the employer or lobbyist shall mail or deliver a copy of the report to the legislators and administrative officials identified in the report.

(f) If an unsolicited gift is given to a legislator or administrative official by a lobbyist or employer and the recipient does not use it and returns it to the donor within 30 days or the donor is reimbursed for its fair market value, it shall not be considered a "gift" and shall not

be required to be reported as such by the donor to the secretary of state. If the item has already been reported as a gift, the lobbyist or employer shall file an amended report with the secretary of state.

(g) Within 15 days after the date disclosure reports are to be filed under this section, the secretary shall file a compilation of the disclosure reports with the legislative council.

(h) Disclosure reports shall be made on forms published by the secretary of state and shall be signed by the employer or lobbyist. The secretary of state shall mail those forms to registered employers and lobbyists not later than 30 days before each filing deadline.

(i) A lobbyist, lobbying firm, or employer who fails to file a disclosure report on time shall pay a late reporting fee of \$25.00 plus \$10.00 for each day the disclosure report is late, not to exceed \$175.00.

(j) A gift from a member of an interest group to, or for the benefit of, a legislator or administrative official, which is made in connection with lobbying as defined in subdivision 261(9)(D) of this title, shall be deemed to be made on behalf of the employer or lobbyist who sponsored the activity and shall be reported and itemized. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, §§ 2, 3; 1997, No. 155 (Adj. Sess.), § 66f; amended 2006, No. 99, §4, amended 2007, No. 5, §3.)

~~§ 264a. Tax on expenditures of lobbyists~~ REPEALED (2006, No. 99, §7)

§264b Lobbying firm listings; reports of expenditures, compensation, and gifts; lobbying firms

(a) On forms provided by the secretary of state, every lobbying firm shall file a listing of all lobbyists who are employed by, subcontracted by, members of, or affiliated with the lobbying firm within 48 hours of any such lobbyists commencing lobbying activities. The lobbying firm shall file an updated listing within 48 hours of any changes to the listing.

(b) Every lobbying firm shall file a disclosure report on the same day as lobbyist disclosure reports are due under subsection 264(a) of this title which shall include:

(1) A total of all lobbying expenditures made by the lobbying firm in each of the following categories:

(A) advertising, including television, radio, print, and electronic media;

(B) expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity;

(C) contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbying firm and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse or civil union partner; or

(iii) a legislator's or administrator's dependent household member;

(D) the total amount of any other lobbying expenditures.

(2) The total amount of compensation paid to a lobbying firm for lobbying with the name and address of each registered employer who engaged the services of the lobbying firm reporting. It shall be sufficient to include a prorated amount based on the value of the time devoted to lobbying where compensation is to be included for a lobbying firm whose activities under this chapter are incidental to other responsibilities to the employer.

(3) An itemized list of every gift the value of which is greater than \$15.00, made by or

on behalf of the lobbying firm to or at the request of one or more legislators or administrative officials or a member of a legislator's or administrative official's immediate family. With respect to each gift, the lobbying firm shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(Added 2007, No. 5, §4.)

§ 265. Public access; registration statements; reports

The secretary of state shall maintain copies of all lobbyist and employer registration statements and disclosure reports and all lobbying firm disclosure reports arranged alphabetically, which shall be a public record available for public inspection during ordinary business hours. The secretary of state shall also compile and maintain a separate report for each reporting period for each legislator or administrative official indicating the gifts reported to have been given to that legislator or official during the reporting period by employers or lobbyists, or lobbying firms, which shall be a public record available for public inspection during ordinary business hours. On January 1 of each odd-numbered year, the secretary may discard statements and reports that have been maintained for a period of four years.

(Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, § 3a; amended 2007, No. 5, §5.)

§ 266. Prohibited conduct

It shall be prohibited conduct:

(1) to employ a lobbyist or lobbying firm, or accept employment as a lobbyist or lobbying firm, for compensation that is dependent on a contingency;

(2) for a legislator or administrative official to solicit a gift, other than a political contribution, from a registered employer or registered lobbyist or a lobbying firm engaged by an employer, except that charitable contributions for nonprofit organizations qualified under section 501(c)(3) of the federal Internal Revenue Code may be solicited from registered employers and registered lobbyists or lobbying firms engaged by an employer; or

(3) when the general assembly is in session, until adjournment sine die, for a legislator or administrative official to solicit a political campaign contribution as defined in 17 V.S.A. § 2801 from a registered lobbyist or a lobbying firm engaged by an employer or registered employer or for a registered lobbyist or registered employer or a lobbying firm engaged by an employer to make or promise a political campaign contribution to any member of the general assembly or any member's campaign committee. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, § 3b; amended 2007, No. 5, §6)

§ 267. Verification of statements and reports

Any statement or report required to be made under any provision of this chapter shall contain or be verified by a written declaration that it is made under the penalties of perjury.

(Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990.)

§ 267a. Investigations

The attorney general shall investigate, on his or her own initiative or in response to a complaint filed in writing with the attorney general, whether a violation of this chapter has

occurred. The attorney general may administer oaths, require filing of a statement under oath, take evidence and require the production, by subpoena or otherwise, of financial records, books, papers, correspondence and other documents and records the attorney general considers to be relevant and material to the investigation. The attorney general shall make a determination of each complaint filed and, at the time of resolution of a complaint which is found to have merit, shall post on the website of the office of the attorney general a brief summary of the complaint and resolution. (Added 1997, No. 64, § 22; amended 2006, No. 99, §5, effective January 1, 2007.)

§ 268. Penalties; enforcement

(a) The attorney general shall enforce the provisions of this chapter, and may bring an action in superior court to ensure compliance and to obtain civil penalties in the amounts described in subsection (b) of this section.

(b) the court may grant temporary and permanent injunctive relief, and may:

(1) enjoin future activities;

(2) order remedial actions to be taken to effect all registration and disclosure required by this chapter;

(3) order reimbursement from any lobbyist or employer found to be in violation of this chapter;

(4) levy a civil penalty as provided in this subdivision. A civil penalty of not more than \$10,000.00 may be levied for each violation. In addition, in the case of a continuing violation, a penalty of not more than \$1,000.00 may be imposed for each day the violation continues. (Added 1989, No. 160 (Adj. Sess.), § 2, eff. April 30, 1990; amended 1993, No. 101, § 4; amended 2006, No. 99, §6, effective January 1, 2007.)

Lobbyist Registration Form 2011-2012

LOBBYIST CONTACT INFORMATION

First name:	Last name:	
Mailing address:		
City/Town:	State:	Zip Code:
Telephone number:	Fax number:	
Email address:		

Please check one of the following boxes below:

- I am registering as a lobbyist for the first time for the 2011-2012 legislative biennium, and I have included the initial registration fee of \$25 plus \$5 for each lobbyist employer that employs me. (A separate lobbyist registration form is required for each lobbyist employer that you lobby for.)
- OR**
- This is a supplemental registration. I have previously registered as a lobbyist for another lobbyist employer and have included the \$5 fee for each lobbyist employer for which I am submitting a registration.

Lobbyist Employer Information

Name of lobbyist employer:					
Date of Employment <small>(Date lobbying began in current biennium)</small>	Month:	<input style="width: 80%;" type="text"/>	Day:	<input style="width: 80%;" type="text"/>	Select Year
				<input type="checkbox"/> 2011	<input type="checkbox"/> 2012
Subject matter of employment:					
If you were compensated by the lobbyist employer listed above, in whole or in part, to lobby on behalf of another person, group or coalition, please name the entity below and describe the matters for which lobbying has been engaged.					
Entity:					
Subject matter of employment:					

Lobbying Firm Information

If you are employed by a lobbying firm as defined by [2 V.S.A. §261\(12\)](#), please provide the name of the lobbying firm below. If you are employed directly by the lobbyist employer listed above, skip this section.

Lobbying firm:

- I have submitted a passport type photo with this lobbyist registration.
- I have already submitted a passport type photo electronically to dcrossman@sec.state.vt.us
(Email address from which photo was submitted: _____)

DECLARATION: I swear under the pains and penalties of perjury that the information on this form is true and accurate.

Lobbyist signature: _____ Date: _____

This form may not be filed electronically or by fax.

Lobbyist Employer Registration Form 2011-2012

LOBBYIST EMPLOYER INFORMATION

Lobbyist Employer Name:		
Contact First Name:	Contact Last Name:	
Lobbyist Employer Address:		
City/Town:	State:	Zip Code:
Lobbyist Employer Trade Name (if any):		
Telephone:	Fax:	
Lobbyist Employer Contact Email:		

Please check one of the following boxes below:

- This organization is registering as a lobbyist employer for the first time for the 2011-2012 legislative biennium, and the initial registration fee of \$25 is included with this registration, plus \$5 for each lobbyist listed below.

OR

- This is a supplemental lobbyist employer registration. This organization has previously registered as a lobbyist employer during the 2011-2012 biennium and has included \$5 for each of the lobbyists listed below.

Lobbyist Information

	First Name	Last Name	Mailing Address	City/Town	State	Zip	Date of Employment
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

NOTE: The Date of Employment refers to the date during the current (2011-2012) biennium that lobbying started.

I swear under the pains and penalties of perjury that the information on this form is true and accurate.

Lobbyist employer signature: _____ Date: _____

This form may not be filed electronically or by fax.

Office of the Vermont Secretary of State

Attn: Elections Division

128 State Street

Montpelier, VT 05633-1101

(802) 828-2363

dcrossman@sec.state.vt.us

LOBBYIST TERMINATION AND FINAL DISCLOSURE

Lobbyist First Name:		Lobbyist Last Name:	
Mailing Address:			
City/Town:		State:	Zip:
Telephone:		Fax:	
Email:			

Please check ONE option below.

I am terminating registration on behalf of ALL employers and I will no longer be lobbying in Vermont.

OR

I am terminating registration ONLY on behalf of the employer or employers listed below, and I am still actively lobbying on behalf of other employers (clients).

EMPLOYER NAME	TERMINATION DATE

(Attach additional pages, if needed.)

FINAL DISCLOSURE

For period of _____ to _____ (fill in date range)

COMPENSATION: \$ _____

OTHER LOBBYING EXPENDITURES:

Adverting: \$ _____ Contracts (over \$100): \$ _____ Telemarketing: \$ _____

Telemarketing – To Whom Paid	Telemarketing – Amount	Telemarketing – Description

Other lobbying related expenditures: \$ _____

TOTAL Compensation and all other expenditures: \$ _____

You must also attach details of all gifts to legislators or administrative officials greater than \$15 for the reporting period.

DECLARATION: *I declare under the penalties of perjury that this information and all attachments are true and correct.*

Lobbyist signature: _____ Date: _____

LOBBYIST EMPLOYER TERMINATION AND FINAL DISCLOSURE

Lobbyist Employer Name:			
Contact First Name:		Contact Last Name:	
Mailing Address:			
City/Town:		State:	Zip:
Telephone:		Fax:	
Email:			

Please check ONE option below.

This lobbyist employer is terminating registration on behalf of ALL lobbyists and will no longer be lobbying in Vermont.

OR

This lobbyist employer is terminating registration ONLY on behalf of the lobbyist or lobbyists listed below, and will still retain other lobbyist.

Lobbyist First Name	Lobbyist Last Name	Termination Date

(Attach additional pages, if needed.)

FINAL DISCLOSURE

For period of _____ to _____ (fill in date range)

COMPENSATION: \$ _____

OTHER LOBBYING EXPENDITURES:

Adverting: \$ _____ Contracts (over \$100): \$ _____ Telemarketing: \$ _____

Telemarketing – To Whom Paid	Telemarketing – Amount	Telemarketing – Description

Other lobbying related expenditures: \$ _____

TOTAL Compensation and all other expenditures: \$ _____

You must also attach details of all gifts to legislators or administrative officials greater than \$15 for the reporting period.

DECLARATION: *I declare under the penalties of perjury that this information and all attachments are true and correct.*

Lobbyist employer signature: _____ Date: _____