

**Business Calls For Lobbying Reform  
Making Washington Work Project  
Committee for Economic Development**

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Public advocacy – that is, lobbying – is a fundamental right guaranteed by our Constitution. It plays an essential role in the five key functions of Congress: representation; lawmaking; deliberation; oversight; and the education of the American public. Lobbying is an honorable profession, but this profession has been deeply sullied by the illegal actions of Jack Abramoff, the criminal convictions of Representatives Randy “Duke” Cunningham and Robert Ney, the charges against Representative William Jefferson, and a multitude of other accusations against lobbyists, Members and staff. All of this has damaged our democracy and weakened the people’s trust in how Washington works. Fifteen Members of Congress were connected with some form of ethical scandal in the 2006 election.

Abuses of lobbying are intertwined with other prominent failings in Washington. For example, there is a dramatic and worrisome relationship between the huge increase in the money spent on lobbyists and the huge increase in the number and cost of earmarks. We fear that the Leadership in Congress has intentionally allowed liberal grants of earmarks knowing that such action will increase campaign contributions.

By official estimates, lobbying is the third largest enterprise in our nation’s capital, after government and tourism. There are an estimated 27,611 full-time professional lobbyists registered by Congress representing virtually every type of interest in America. It has been estimated that the number of persons employed in Washington

who either are lobbyists or are associated with them in some way is well over 100,000. Reported spending by registered lobbyists has increased thirty percent in the last five years, to \$2.1 billion in 2005. That comes to about \$4 million per Member per year, or \$327,103 per Member per month.

But that is just the tip of the lobbying expenditures iceberg, because it includes only what is recorded by registered lobbyists in public records. It does not include money spent for grassroots organizing; coalition building; issue advertising on television, radio, and in the print media; and advocacy on the Internet. Some estimate that the total spent on lobbying in Washington is closer to \$8 billion per year – or about four times the officially reported amount.

There are everyday interest group and lobbying scandals that have nothing to do with breaking the law as was done by Jack Abramoff and others. Rather, these continuing ethical questions center on the huge sums of money put into the process by lobbyists and interest groups, and the human norm of reciprocity that naturally follows between those outside of government who spend large sums on lobbying for public policy, and those in government who benefit, however indirectly, from those lobbying expenditures.

Members of Congress and others have put forward many lobbying reform proposals over the years, including slowing the “revolving door” between public service and lobbying, curbing excesses in privately funded travel and gifts, establishing an independent ethics enforcement body, and enhancing disclosure of lobbying activities. All of these efforts boil down to reforming lobbying by strengthening three basic principles of sound government: transparency, accountability, and enforcement.

First, there must be *transparency*. In the context of lobbying, transparency means that the public has a right to know which paid lobbyists have contacted their elected representatives to discuss a particular issue, so that decisions are made in the open, following rules that are universally understood.

Second, there must be *accountability*. In conjunction with true transparency, violations of lobbying rules must be identified.

And finally, there must be *enforcement*. If and when lobbying rules are violated, those who have done so must be identified, and suitable sanctions must be imposed, lest the failure to do so should encourage successively greater and greater violations.

Today in Washington, lobbying and its regulation fall far short of fulfilling these three basic principles. Lobbying disclosure is far behind the times in terms of public access; it is limited in its reach across the many forms of public issue advocacy; and compliance with the law is spotty and not meaningfully enforced.

### **Current Law**

The Lobbying Disclosure Act of 1995 (LDA) requires lobbyists to register with the Secretary of the Senate and the Clerk of the House of Representatives within 45 days after the lobbyist first makes a lobbying contact with covered officials on behalf of a client.

The law requires lobbyists to file with the Clerk and the Secretary semiannual reports of their activities. These reports identify the name of the registrant, lobbyists the registrant employs, clients, and the broad issue areas in which lobbying was carried out. In addition, the disclosure must include:

- A good faith estimate, by broad category, of the total amount of lobbying-related income from the client during the semiannual period;
- The specific issues that were the subject of a lobbyist's efforts, including "to the maximum extent practicable" a list of bill numbers;
- A statement of the houses of Congress and the federal agencies contacted by the lobbyist; and
- A list of the employees of the registrant who acted as lobbyists on behalf of the client.

The LDA defines a lobbyist as any individual compensated by a client for services that include more than one lobbying contact. A "client" is defined as any person or entity that employs and compensates another person to conduct lobbying activities on their behalf. A coalition or association may also be listed as a client. The LDA does not require information on the specific membership of these groups.

### **Recommendations**

Lobbying reform should enhance disclosure and transparency of lobbying activities and lobbyists. Lobbying activities and financial disclosure reports should be made more effective. Lobbying activities must be reported more rigorously and made more accessible to the American public. Violators of these rules must be uncovered and penalized. There should be strong enforcement of lobbying law for lobbyists, Members of Congress, and Congressional staff.

- Lobbying reports required under existing law should be filed by lobbyists in a common format for the House and the Senate. The reports should be simple and easy

to complete by lobbyists or they may not be filed. These reports should be made publicly available and easily retrievable from a common website.

- Lobbying reports should be filed on a quarterly basis in a timely fashion rather than semi-annually, as they are now. In fact, many reports are now filed months late or not at all. There should be sanctions for those not filing in a timely fashion.

- Reporting requirements for lobbying should extend to new forms of issue advocacy that are not currently covered, including paid grassroots organizing, paid coalition building (so that individual member organizations of a coalition that hires a lobbyist, and not just the umbrella organization, would be identified), and contract issue advocacy in all forms of media including the Internet (websites, blogging, etc.). The reports should include a list of Members' offices and congressional committees that were directly lobbied and on what issues during the time period covered.

- Disclosure requirements for lobbyists should be expanded to include past employment by Congress and the Executive branch.

- To the greatest extent practicable, requirements of transparency should extend to Members of Congress as well as lobbyists. That should include at a minimum disclosure of those who meet with Members for the purpose of influencing or informing them, reported in an electronic form accessible to the public, similar to the reporting required of lobbyists.

- Congressional travel on non-commercial, company- and individually owned aircraft should be banned (not including charter aircraft hired at market rates). Lobbyists should be prohibited from participating in Congressional travel. All privately funded travel should be pre-approved by the Congressional ethics authorities as

connected to official duties; private funders should certify that they have complied with all disclosures and regulations; locations for such travel must be related to the purpose of the trip; and expenditures on such travel must be reasonable.

- All gifts from lobbyists to Members of Congress should be banned.
- The current one-year ban on lobbying by former Members of Congress (and other federal employees) should be extended to two years. Members of Congress and top level Congressional staff should be required to disclose their employment negotiations while they are in the public service.
- Lobbyists should be prohibited from serving as treasurers of Leadership PACs and other campaign fundraising organizations.
- Lobbying reform should strengthen the enforcement of laws and ethics rules that cover Members of Congress, staff and lobbyists. The Committees that currently are assigned the responsibility for ethics (the House Committee on Standards of Official Conduct, and the Senate Select Committee on Ethics) have not fulfilled their responsibilities. Congress clearly needs a strong and independent enforcement authority to help Congress to punish and deter ethical violations by lobbyists and Members.

> The ethics enforcement authority must be nonpartisan and of a stature equivalent to that of the Congressional Budget Office and the Government Accountability Office. Its officers must be persons of distinction, such as former Members of Congress and retired judges. Their appointments must be secure from political interference.

- > The ethics authority must have a professional and independent staff. It must have sufficient funding and staff to fulfill all of its responsibilities.
- > The ethics authority must be free to initiate its own investigations. It must be empowered to receive complaints from Members of Congress and also from the general public. It must have the authority to investigate allegations regarding Members, staff, lobbyists, and private entities that may have violated Congressional ethics laws or rules.
- > The ethics authority must be empowered to see its investigations through to their conclusion; it must not serve as a mere filter for frivolous complaints, with all others passed on to the existing Ethics Committee process. To fulfill the Constitutional requirement that the Congress punish its own Members for misbehavior, the ethics authority must pass its conclusions on to the Ethics Committees for their decisions or for their transmittal to the Department of Justice if violations of law are involved. The ethics authority's process should include: protections against the filing of frivolous complaints, including the ability for the ethics authority quickly to dismiss such complaints; a prohibition against any future complaints

being submitted by the filer of a frivolous complaint; and the ability to require such person to pay the costs of processing the frivolous complaint.

> The ethics authority should also receive and oversee financial disclosure and other reports filed by Members, and lobbying reports filed by lobbyists and lobbying organizations. The ethics authority would be responsible for making these reports publicly available in an easily searchable online database. It should report its activities periodically to the public.

### **Conclusion**

Our recommendations constitute a start toward improving the way Washington works. Good government is a process, not a single event. Money is a certainty in politics, and as the economy becomes wealthier and the stakes in government action therefore become higher, new ways will be sought to influence policymaking and politics. However, certain but unforeseen future challenges should not deter us from pursuing needed reforms today, nor should the arrival of those challenges lead us to disparage current efforts. Rather, they should remind us that achievement of ethical standards in government will require both constant enforcement of existing standards and continuous monitoring of behavior to uncover any newly opened loopholes that can be closed only by new rules. The American people will recognize good-faith efforts to restore ethical behavior in Washington, and their greater trust in the policymaking process will be its own reward.

CED will continue to explore ways to make Washington work better, and will issue further statements toward that vital end.