

**Campaign Legal Center • Common Cause • Democracy 21  
League of Women Voters • Public Citizen • U.S. PIRG**

March 7, 2007

Dear Representative,

The House is expected shortly to consider lobbying reform legislation.

This is the next essential step the House needs to take to respond to the corruption, ethics and lobbying scandals in the last Congress that deeply concerned the American people. It follows the landmark ethics rules reforms passed by the House in January.

In passing strong lobbying reform legislation earlier this year, the Senate has provided a minimum benchmark for the House to meet in acting on this important issue. There simply is no basis for the House to pass weaker lobbying reforms than the Senate has adopted. In addition, there are important areas where stronger reform measures than passed by the Senate are required.

Our organizations urge you to support strong, comprehensive lobbying reform legislation and to vote for the essential lobbying reform provisions set forth below. Our letter sets forth the case for each of these reform provisions and the existing problems that they address.

The organizations include the Campaign Legal Center, Common Cause, Democracy 21, the League of Women Voters, Public Citizen and U.S. PIRG.

**Disclosure by Lobbyists and Lobbying Organizations of “Bundled” Contributions**

The disclosure by lobbyists and lobbying organizations of the amount of contributions they collect or arrange (“bundle”) for a candidate is a defining issue for lobbying reform. The House action on this critical issue will tell the country whether Members are serious about reforming the nation’s lobbying laws.

The Senate-passed lobbying reform bill contains a strong and effective “bundling” disclosure provision that is also contained in companion legislation introduced in the House by Representatives Chris Van Hollen (D-MD) and Marty Meehan (D-MA).

Our organizations urge you to support and vote for this provision and to oppose any efforts to weaken or undermine the provision.

The “bundling” disclosure provision contained in the Senate-passed legislation and the Van Hollen-Meehan bill requires a lobbyist or lobbying organization to provide a

good faith estimate of the total amount of contributions the lobbyist has collected or arranged for a federal candidate, leadership PAC or party committee.

The widespread practice of Washington lobbyists collecting or arranging contributions for members of Congress and other recipients almost always results in far more money being provided by a lobbyist to a Member than the money directly given by the lobbyist. Yet, this information is currently not disclosed to the public.

Requiring lobbyists to disclose these “bundled” contributions goes to the heart of the public’s right to know about the efforts being made by lobbyists and lobbying organizations to influence congressional decisions. Absent such disclosure, a huge loophole exists in the lobbying disclosure laws.

According to a *New York Times* editorial (February 1, 2007), “Full disclosure of bundling is the sine qua non of lobbying reform.”

A *Washington Post* editorial (January 23, 2007) stated in supporting the “bundling” provision in the Senate-passed legislation and the Van Hollen-Meehan bill:

For the first time, lobbyists would be required to list the fundraisers that they or their clients hosted and the amounts that were raised. They would have to provide a good-faith estimate of the total contributions they “collected or arranged” for individual candidates or political committees. In other words, they would have to provide the kind of information that is well known to those on the inside of the process but is obscured from outsiders.

According to a *Los Angeles Times* editorial (February 8, 2007) in support of the “bundling” provision in the Senate-passed legislation and the Van Hollen-Meehan bill:

Bundling by anyone goes against the spirit of federal election law, which encourages small contributions. But bundling by lobbyists also has the effect of increasing the clout of those who are in the day-to-day business of trying to influence legislation. Yet, unlike their other activities, bundling by lobbyists is not a matter of public record.

The “bundling” disclosure provision applies to three specific kinds of situations where a lobbyist is responsible for providing multiple contributions to a federal candidate (or the candidate’s campaign).

At the same time, the disclosure provision would not apply to more general efforts by a lobbyist to provide funds to a candidate. So, for example, there would be no obligation for a lobbyist to disclose solicitations made by the lobbyist for a candidate or discussions by a lobbyist about fundraising for a candidate, as long as they do not meet the specific criteria set forth below.

The “bundling” disclosure provision applies in the following three situations:

First, it applies when a lobbyist “collects” checks – takes actual physical possession of them – and delivers them in a “bundle” to the candidate.

Second, it applies when a lobbyist and a candidate have an arrangement or understanding that the lobbyist will provide multiple contributions for the candidate.

This can be done, for example, through the use of an organized bundling program where the candidate assigns the lobbyist a code number (or other identifier) and the lobbyist has the donors he successfully solicits write the code on their checks. “Coding” has been used to track the very large total amounts of contributions that are “bundled” for presidential candidates.

This type of bundling can also be done in other ways in which the lobbyist ensures that the candidate knows the lobbyist is responsible for the contributions received by the candidate. Often, bundlers are given an honorary title to designate the total amount the bundler has agreed to raise.

Third, it applies where there is no prior arrangement or understanding between the lobbyist and candidate, but, nevertheless, the lobbyist solicits or directs the “bundled” contributions received by the candidate and the candidate *knows* the lobbyist is responsible for providing the contributions.

These three approaches all recognize the Washington reality underlying contributions “bundled” by lobbyists for candidates: when lobbyists “bundle” contributions for candidates, the lobbyists *want* the candidate to know they are doing this and the lobbyists *want* credit with the candidate for the amounts they are providing.

In each of these cases, the new disclosure provision would require a lobbyist to disclose on lobbying reports the name of the candidate for whom the lobbyist has “bundled” contributions.

In addition to reporting the candidate for whom a lobbyist is “bundling” contributions, the lobbyist would also be required to report a good faith estimate of the total amount provided by the lobbyist for the candidate. *This disclosure requirement would only apply, however, where the lobbyist has actual knowledge that would enable the lobbyist to provide a good faith estimate of the total amount “bundled” for the candidate.*

### **Disclosure by Lobbying Firms of Campaigns to Lobby the General Public**

Our organizations also urge you to support a critical provision that would require *lobbying firms* to disclose the total amount they spend on behalf of a client to conduct paid communication campaigns to influence the general public to lobby Congress.

This new provision being proposed in the House is *fundamentally different and far narrower* than the “Astroturf” lobbying disclosure provision rejected in the Senate earlier this year by a vote of 55 to 43.

*The House provision only applies to lobbying firms retained by a client, and only covers paid communications campaigns by the lobbying firms to influence the general public to lobby Congress. The provision expressly states that it does not apply to any person or entity other than a retained lobbying firm.*

The new House provision would address a black hole in the lobbying laws.

Lobbying firms currently report the total amounts they receive from clients to conduct direct lobbying campaigns on Capitol Hill. The new provision would require lobbying firms also to disclose the total amounts they receive from clients to conduct expensive media and other paid communications campaigns to influence the general public to lobby Congress.

The provision would do so, furthermore, without placing any new requirements on any other person or entity. The new House provision includes the following elements:

- The provision applies only to lobbying firms retained by a client – and only to paid communications campaigns by the lobbying firms to influence the general public to lobby Congress.
- The provision expressly states that it does not apply to any person or entity other than a retained lobbying firm. This means that the provision does not require any person or entity, other than a retained lobbying firm, to register or file any lobbying reports.
- The provision provides that the definition of a “lobbying firm” includes a firm, not previously registered, which is retained by a client to conduct “paid communications campaigns to influence the general public to lobby Congress,” but this would only apply if the firm receives total overall income of at least \$100,000 during a quarterly reporting period to conduct such activities.
- The provision requires a retained lobbying firm to report for each client the name of the client, the issues involved in the paid communications campaigns for the client, and one number: a *good faith estimate* of the total amount of income received from the client during the period to conduct paid communications campaigns to influence the general public to lobby Congress, but only if that total amount of income exceeds \$50,000 during the quarterly reporting period.
- The provision exempts from the definition of “paid communications to influence the general public to lobby Congress,” any communication by an

organization to its members (including any communication to an organization's members by a lobbying firm retained by the organization). The provision also exempts from the definition, any communication by a lobbying firm to the general public on behalf of an organization which is made primarily for the purpose of recruiting members for such organization.

The Supreme Court has made clear that disclosure of these kinds of lobbying activities is constitutional and serves important governmental interests. In *U.S. v. Harris*, 347 U.S. 612 (1954), the Court approved lobbying disclosure requirements which included not only direct communications to Congress but also “artificially stimulated letter campaign[s]” to influence legislation.

The Court cited legislative history that described these efforts as engaged in by those “who do not visit the Capitol but initiate propaganda from all over the country, in the form of letters and telegrams...” 347 U.S. at 620 n.10. The Court said that disclosure of these efforts is a form of “self-protection”:

Present day legislative complexities are such that individual members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures....

Toward that end, Congress has not sought to prohibit these pressures. It has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose. It wants only to know who is being hired, who is putting up the money, and how much....Under these circumstances, we believe that Congress...is not constitutionally forbidden to require the disclosure of lobbying activities. 347 U.S. at 625.

This new disclosure provision for lobbying firms would close a major loophole in the lobbying laws, which was starkly illustrated by the Jack Abramoff lobbying scandals.

Citizens and lawmakers have a right to know about the huge undisclosed amounts being spent by retained lobbying firms to influence the general public to lobby Congress.

### **Curbing the Revolving Door**

Former members of Congress working as Washington lobbyists used to be the exception. Now it is a regular practice, with some 200 former Members reportedly lobbying Congress.

According to a report by Public Citizen, during the period from 1998 to 2004, 86 of 198 members of Congress who left Congress, or 43 percent of the Members, became

lobbyists. According to *National Journal*, during the period from October 2003 through March 2004, at least 107 former senior congressional staffers left Congress to go to work in the lobbying and government affairs sectors.

This ever-growing trend highlights the need for strengthened revolving door rules.

Existing revolving door rules apply to members of Congress, senior executive branch officials and senior congressional staff.

In the case of congressional staff, these rules only apply to the relatively small number of congressional staff members who make at least 75 percent of a Member's salary, which is currently \$123,000 or more.

The current rules establish a one-year period in which former Members, senior executive branch officials and senior congressional staff cannot lobby their former colleagues. The breadth of former colleagues who cannot be lobbied during this period varies depending on the group of former officials involved.

Our organizations urge you to support increasing the one-year revolving door ban to two years for all officials covered by the restriction, as the Senate-passed bill does.

Furthermore, while the current revolving door restrictions for members of Congress prohibit them from having direct lobbying contacts with Congress for pay for one year after they leave their jobs, they allow Members to engage in other lobbying activities to influence Congress for pay during this period, including planning and directing lobbying campaigns, and participating in lobbying strategy sessions.

This means that Members can immediately undertake for pay extensive lobbying activities to influence decisions in Congress, despite the fact that the revolving door rules are intended to establish a "cooling off" period between the time a Member leaves Congress and the time the Member lobbies Congress for pay.

Our organizations urge you to support a provision to close this serious loophole by extending the revolving door ban to cover lobbying activities, not just lobbying contacts, by former Members to influence Congress, as the Senate-passed bill does. A similar restriction should be enacted for senior executive branch officials. In addition, the rules that apply to senior congressional staff should be strengthened.

### **Prohibit Lobbyist-Funded Parties at National Conventions to "Honor" Members**

Lobbyists and lobbying organizations are paying for lavish parties at the national conventions to "honor" a Member or members of Congress. This includes parties to "honor" members of a committee and members of a state delegation.

These parties often involve lobbyists and lobbying organizations paying for an expensive party to "honor" a Committee Chairman or the members of a powerful

Committee with jurisdiction over legislation being sought by the lobbyist or lobbying organization. According to a *USA Today* article (August 30, 2004) on parties at the 2004 national conventions:

The entry fee for participation has gone up dramatically,” says David Rehr, president of the National Beer Wholesalers Association, who is contributing either beer or money to help sponsor nine parties this week. To get top billing as a sponsor for an elaborate event can cost \$100,000 or more; lower-level sponsorships are available for \$50,000 or \$25,000.

These lobbyist-funded, influence-seeking parties result from a major loophole in the current congressional gift rules that allow lobbyists and lobbying organizations to pay unlimited amounts for a party to “honor” a member of Congress.

With the new ban on gifts from lobbyists and lobbying organization to members of Congress, this gaping loophole becomes even more evident. The loophole means that a lobbyist or lobbying organization is prohibited by the gift ban from paying for a meal for a Member but the same lobbyist or lobbying organization can pay \$25,000, \$50,000 or more to throw an expensive party at a national convention for the same Member.

Our organizations urge you to support a provision, similar to the provision in the Senate-passed bill, which would prohibit lobbyists and lobbying organizations from paying for parties to “honor” Members at the national conventions.

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