

The Impact of Lobbying Reform

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September 14, 2009

Quotes on Lobbyists and lobbying by Candidate Barack

Obama, 2008:

"I intend to tell the corporate lobbyists that their days of setting the agenda in Washington are over, that they had not funded my campaigns, and from my first day as president, I will launch the most sweeping ethics reform in U.S. history. We will make government more open, more accountable and more responsive to the problems of the American people."

<http://www.nhpr.org/node/14408>

"Today as the Democratic nominee for president, I am announcing that going forward, the Democratic national Committee will uphold the same standard — we will not take a dime from Washington lobbyists," Obama said at a town hall meeting in Bristol, Va.

"We are going to change how Washington works. They will not run our party. They will not run our White House. They will not drown out the views of the American people."

<http://www.msnbc.msn.com/id/24989468/wid/7468326/>

"My argument is not that we're perfect. I suffer from the same original sin of all politicians, which is we've got to raise money," Obama said. "But my argument has been and will continue to be that the disproportionate influence of lobbyists and special interest is a problem in Washington (and) in state capitals."

<http://www.iht.com/articles/ap/2007/08/17/america/NA-POL-US-White-House-Obama.php>

The linkage between illegal and unethical lobbying practices, polarization of Congress, and partisan redistricting created a serious need for reform in Washington in 2005 through 2007. Partisanship became a litmus test for lobbyists, carried to the extreme with the infamous K Street Project.¹ Likewise, the election of increasingly ideological members from safe districts

¹ See <http://www.kstreetproject.com/>.

with little institutional loyalty, and the near total ideological homogeneity of the two parties, increased the importance of ideology in lobbying activities.² This in turn led to unethical lobbying practices by a few lobbyists and illegal actions by a few Members of Congress. Members of Congress and lobbyists were both part of the lobbying scandals in Washington that led to the passage of the The “Honest Leadership and Open Government Act of 2007” (S. 1) (was adopted by a vote of 411-to-8 in the House on July 31, 2007, approved by the Senate days later by a vote of 83-to-14 on August 2,). It was signed into law by the President on September 14, 2007, exactly two years ago.

The growth in the number of lobbyists and interest groups and the massive amount of money being spent on lobbying campaigns, combined with members being in town fewer and fewer days (the

² Interest groups are “more closely identified with one party and one ideology than at any time in the recent past.” Paul S. Hernnson, Ronald G. Shaiko, and Clyde Wilcox, (eds.) *The Interest Group Connection: Electioneering, lobbying, and Policymaking in Washington* 212 (Chatham House Pubs. 1998). According to one press report, Jack Abramoff “says he represents only those who stand for conservative principles.” David E. Rosenbaum, “At \$500 an Hour, Lobbyist’s Influence Rises With G.O.P., 4/3/02 NYT.

Tuesday-through-Thursday Club is still very much alive and well as it was leading up to the reform legislation), increases the intensity of lobbying campaigns and makes it difficult for citizens or elected officials to be heard. In 2008 almost \$3.1 billion was spent by registered lobbyists and billions more were spent on grassroots, coalition building, issue advertising, and other forms of non-regulated lobbying. The “iron law of emulation” in lobbying has meant that with the intense competition lobbyists feel they need to spend more and more money in order to be heard by legislators. Lobbying is a growth industry in Washington and trails only the government and tourism as the most important industry in Washington.

Equally destructive and transformational have been the procedural changes in Congress itself that have undermined the normal legislative process and made the job of responsible lobbying more expensive and difficult. These trends have accelerated since 1995.

They include:

- Increasing use of House rules to deny the minority a full debate or votes on its views;
- Increasing use of filibusters, amendments, and holds to clog the legislative works in the Senate;
- Lack of debate in the Senate;
- Breakdown of the budget process;
- Heavy reliance on riders and earmarks to the must-pass appropriation bills as a crutch to act on significant policy issues;
- Refusal of appropriations to fully fund authorization bills;
- Tendency toward government by Continuing Resolution;
- Lack of true bipartisanship and the polarization of Congress; and

All of these trends have led to a continuing decline of public confidence and trust in government and in politicians and lobbyists, increased skepticism and cynicism, and discouraged public participation in the process. This has led to disrespect for Congress, its processes and the results of its lawmaking that eats at the very core of our democracy.

The Solution: Transparency, Enforcement and Accountability

Congress should seriously address the root causes of incivility, lack of comity, excessive partisanship, and gridlock on pressing issues in Washington: abuses of redistricting; the excessive role of money in politics; and the manipulation of legislative procedure.

Although all of these issues are complex in their detail, valid remedies flow from the straightforward key principles of **transparency, enforcement, and accountability.**

Improve transparency: Ethics oversight and enforcement for Congress has atrophied to the point that much reporting of abuses or corruption of the system merely reflects Members' unwillingness to abide by their own rules. The Senate twice voted down the creation of a more independent Office of Public Integrity (although the House created such an office), and the House and Senate Ethics Committee continue to atrophy.

Greater reporting and transparency in lobbying and the actions of Congress and the Executive Branch is needed. The best defense against the overwhelming implicit obligation of reciprocity in lobbying is to recognize it and reduce its corrupting influence. I believe the most important step that can be taken is to have full and immediate disclosure of everything of value flowing from a lobbyist to a Senator, Representative or staff, and the Executive Branch in both the lobbying or campaign arena. That includes identification of clients hiring lobbyists, expanding who should register as a lobbyist, and reporting of the money raised by

lobbyists for candidates, as well as checks written by lobbyists for election campaigns. Prompt and accurate reporting of lobbying contacts is essential for the system to work. There should be greater disclosure of grassroots and coalition lobbying expenditures, so that clearer lines can be drawn between those who pay and those who lobby.

Level the playing field and equalizing access to those in Congress. This was supposed to be done by extending the cooling-off period for former members and staff to become lobbyists to two years in the Senate. The House did not adopt this reform, keeping the one year cooling off period.

Improve Enforcement through certification: Enforcement of existing and new laws and a code of ethics that carries consequences for both lobbyists and legislators through certification should be established. Certification of Member, committee leader, and party leader (and their respective staff)

actions such as meeting with registered lobbyists should be required. This combines both enforcement and transparency of all types of public advocacy before Congress.

Create Office of Public Integrity: There should be a viable independent and adequately resourced Office of Public Integrity for Congress (not just the House) to bring more transparency, enforcement and accountability to the lobbying processes. This office should have the resources and authority to impose penalties on legislators and lobbyists whose conduct results directly and knowingly in a violation of the gift and travel rules and the rules related to the official conduct of Members. It should be able to refer cases of illegal behavior to the U.S. Department of Justice for prosecution and to the appropriate Congressional committees for action against Members, staff or lobbyists for breaking existing laws or Congressional codes of ethics. This office should receive and audit the certification statements of the members, chairs, and leaders in Congress. This office should require and receive *timely*

reports on grassroots lobbying. Grassroots lobbying expenditures totally escape federal reporting and are a major part of most lobbying campaigns.

Future Reforms: Change is needed in the Way Districts are Drawn in Order to Create More Competitive Elections

There should be the creation of state redistricting commissions rather than partisan redistricting by state legislatures and governors. Commissions have shown to create more electoral competition which is sorely needed in House elections in the last twenty years. The House has been redistricted to safe (high 90% of the incumbents in 2004, 2006, and 2008 won reelection). Non-competitive elections turn off voters and result in an ideologically divided and mean spirited House with few moderates in the middle.

*Future Reforms: Change in Need in the Distortion of Recent
Legislative Procedures to Bring Back the Historical Regular Order
in the Way Congress Works*

There has been a shocking growth of non-transparent earmarks in the last decade. The appropriations process is now dominated by earmarks and there has been a rapid increase in the number of tax and authorization earmarks. Voters are beginning to think that the “normal lawmaking” is putting earmarks in a non-transparent way on all bills considered by Congress. The Congressional Research Service identified around 3,000 earmarks worth \$19.5 billion in 1996. In 2005 the number of earmarks had grown to almost 13,000, valued at \$64 billion, and that is only for appropriations. Between 1998 and 2004 the number of clients registered for lobbying on budget and appropriations matters went from 1,665 to 3,759 revealing the increasing the importance of this form of legislating for special interests.

There should be rigorous implementation of the earmark reforms of appropriations, tax expenditures, and authorizations passed in 2007. That will bring more transparency and accountability to the legislative process. There are many other procedural reforms that are needed to improve the workings of Congress such as: reducing the number of closed and restrictive rules in the House, reforming conference committees to make them more representative and their deliberations more open, improving the quality of number of Congressional oversight hearings, reinstating the regular order in the consideration of legislation, improving the budgetary process including bring back the 1990 Budget Enforcement Act provisions requiring caps on discretionary spending and pay-as-you for new spending authority, and finally there is a need to reinstitute more civility and comity in Congress through enforcement of strong norms of acceptable behavior.

Conclusion

It is time again for reform. Congress is missing an opportunity to use the public's heightened anger with what is going on in Washington to undertake major needed reforms of lobbying and the legislative process. Failure to act will accelerate the continuing decline of public trust and confidence in government. Distrust is not attributable solely to the activities of lobbyists. The actions of some Members of Congress and recent trends in procedures in Congress have also been part of the problem.

New reforms are needed to make Washington work better. There should be more transparency in lobbying and enforcement of existing law related to lobbying. Continued deterioration of the policy and political processes in Washington will threaten the very foundation of our democracy.

