

Pi Sigma Alpha Award Address

**Has President Obama Changed the Way Washington Works?**

By

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- I. I want to thank Chris Deering, President of the National Capitol Area Political Science Association and the council members for selecting me to receive the 2010 Walter Beach Pi Sigma Alpha award.

I am honored to join the previous recipients of this award and especially pleased because Walter Beach was a close friend and someone I owe much for encouraging me to apply for the APSA congressional fellowship. Walter and the fellowship changed my career fundamentally. This is an award that celebrates the combination of applied and academic work in political science, something that Walter advocated and something we do at American University.

I have many people to thank for me receiving this award, but first and foremost I thank my wife Claudia and my family.

My colleagues in the American University community have always been supportive of my work, starting with Lee Frischler (who hired me), President Neil Kerwin and School of Public Affairs Dean Bill LeoGrande who have always been helpful and encouraging. There are many other colleagues who helped me. I want to thank Candice Nelson, Walter Oleszek, Todd Eisenstadt, Pat Griffin, and Jon Wilkenfeld, a friend from graduate school, who are here today. Bernie and Marlene Ross could not come today but I want to give a special thanks to them for 36 years of support and friendship. They all believed in our efforts to do combine basic political science research to applied politics.

I want to thank students like Tom Williams (a distinguished award winning adjunct professor at A.U.), Sam Garret (who is at CRS), David Dulio (at Oakland University), and Jeff Gill (at Washington University at St. Louis) for their continued support and enlightenment.

Finally there were many people in the world of politics that I should thank, but especially Senators Hubert Humphrey and Adlai Stevenson and Representatives David Obey and Lee Hamilton who I worked for on often seemingly hopeless congressional reform causes.

## II. **What are the problems with the way Washington works? Are lobbyists the problem with Washington?**

Candidate Barack Obama in 2008 made this promise to the public:

“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.”<sup>1</sup>

Obama also addressed what he thought were the destructive power of lobbyists in a town hall meeting in Bristol, Virginia:

“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.”<sup>2</sup>

He continued his tough attack on lobbyists and special interest money on August 8, 2008:

“I suffer from the same original sin of all politicians, which is we’ve got to raise money. 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.”<sup>3</sup>

## III. **The Lobbying Industry has grown but are lobbyists the problem in the way Washington works? Are they the reason for the dysfunctionality of Congress?**

Widespread scandal and public opinion helped to fuel Senator Obama’s attack on the role of lobbyists in American politics. It started with his leadership (with the help of Senator McCain) to reform ethics and lobbying in Congress in 2006 which resulted in passing the most significant reform since 1995.<sup>4</sup> He continued to use criticism of lobbyists and the role of money in Washington as a popular theme of his 2008 election

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<sup>1</sup> <http://www.nhpr.org/node/14408>

<sup>2</sup> <http://www.msnbc.msn.com/id/24989468/wid/7468326/>

<sup>3</sup> [http://www.iht.com/articles/ap/2007/08/17/america/NA-POL-US-White-House-](http://www.iht.com/articles/ap/2007/08/17/america/NA-POL-US-White-House-Obama.php)

[Obama.php](http://www.iht.com/articles/ap/2007/08/17/america/NA-POL-US-White-House-Obama.php)

<sup>4</sup> Honest Leadership and Open Government Act of 2007 (Pub. L. 110-81, 121 Stat. 735 [September 14, 2007]).

campaign, He promised to change Washington. Since the election he has used these attacks as a way to build support for his policy agenda, especially in the battle over health care and financial regulation.<sup>5</sup> Obama banned federal registered lobbyists from his campaign organization and has restricted them from serving in his administration.<sup>6</sup> Lobbying scandals and President Obama's belief that Washington is awash in "special interest" money which undermines the public interest have been the primary reasons for his reform agenda. He has also strategically used criticisms of lobbyists as a way to build support for his policy initiatives.

President Obama also issued several historic executive orders restricting lobbyists from service in government and limiting their access to policy making in the executive branch. During his first year and half in office, President Obama has attacked lobbyists dozens of times for hindering or even stopping his policy agenda and what he says is in the public interest. However, he publically praises his "stakeholders" (often Federal registered lobbyists) from organizations like the AARP, the pharmaceutical industry, and the American Medical Association in the health care battle who support his policies. What is the difference between lobbyists and stakeholders who are both public advocates for his policies? Language makes a difference. Voters do not like lobbyists. They think they are a corrupting influence on Washington. Advocates and lobbyists cite the same source of legitimacy; that is, a fundamental right of free speech, of assembly to petition government for grievances, all guaranteed under the first amendment. A federal registered lobbyist is defined in law and must give (with a threat of fines and jail time if they do not comply) quarterly detailed reports of lobbying activities, clients, and money spent.<sup>7</sup> Stakeholders are not held to that standard; their activities and spending are not reported publically. Generally their advocacy role is non-transparent. President Obama has used that public anger with Washington in his attempts to garner support for his policies on the Hill. In the 2008 cooperative campaign function study survey fifty-eight percent of the respondents felt Obama would be very likely or somewhat likely to change the way Washington works? After the economic crisis, government corruption was the second-most important issue mentioned by voters in national surveys in 2008 and the most important issue among the electorate in the midterm election of 2006.

President Obama has continued his passion to reform lobbying and the way Washington works since his election. He restricted participation by lobbyists on his transition team. He instituted a strong code ethics for all executive branch appointees, implemented a tough gift ban, passed more transparency rules for decision making, and on his first day

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<sup>5</sup> See Center for Congressional and Presidential Studies 2008 Cooperative Congressional Election Study (CCES) voter opinion survey results on President Obama and lobbying reform.

<sup>6</sup> Both candidates publically banned federal registered lobbyists from serving on their campaign staffs, but forty-two top campaign staffers for McCain were recently lobbyists and twenty-three top campaign staffers for Obama were recently lobbyists.

<sup>7</sup> A Lobbyist is an individual (1) who is employed or retained by a client for compensation; (2) who has made more than one lobbying contact on behalf of such client; and (3) who spends at least 20 percent of his/her time working for that client during a three-month quarter on "lobbying activities" (defined in the Lobbying Disclosure Act).

in office he issued an executive order restricting the “revolving door” of lobbyists both in and out of government.<sup>8</sup> He also banned direct lobbying for funds and tax breaks from the Troubled Assets Relief Program (TARP) (Public Law 110-343) and the 2009 Economic stimulus package bill. President Obama centralized his transition team dealing with lobbying and ethics reform and he centralized White House control over government ethics and lobbying by hiring lobbying reformer Norm Eisen to head this topic in the transition and later as Special Counsel to the President for Ethics and Government (the Ethics Czar). Eisen has lead drafting and the President issuing two historic Executive Orders and several presidential memos on lobbying and ethics, as listed in the following table. They are attempts to bring more transparency, public participation, and to reduce conflicts of interest in his administration.

### **President Obama’s Ethics and Lobbying Reforms, 2009-2010**

- Ethics Commitments by Executive Branch Personnel, Executive Order 13490, January 21, 2009.
- Memorandum for the Heads of Executive Departments and Agencies. on Transparency and Open Government, January 21 2009.

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<sup>8</sup> See President Obama’s January 21, 2009, Executive Order 13490 on the revolving door in “Ethics Commitments by Executive Branch Personnel”). The highlights of the Executive Order follow:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2009, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1.*Lobbyist Gift Ban*. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"2.*Revolving Door Ban -- All Appointees Entering Government*. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"3.*Revolving Door Ban -- Lobbyists Entering Government*. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a)participate in any particular matter on which I lobbied within the 2 years before the date of my appointment;

(b)participate in the specific issue area in which that particular matter falls; or

(c)seek or accept employment with any executive agency that I lobbied within the 2 years before the date of my appointment.

- Memorandum for the Heads of Executive Departments and Agencies on Ensuring Responsible Spending of Recovery Act Funds, March 20, 2009.
- Reducing Improper Payments and Eliminating Waste in Federal Programs, Executive Order 13520, November 23, 2009.
- Memorandum for the Heads of Executive Departments and Agencies on Freedom of Information Act, December 18, 2009.
- President Obama's Weekly Address: President Obama Vows to Continue Standing Up to the Special Interests on Behalf of the American People, January 23, 2010.

Source: WhiteHouse.gov, Briefing Room, May 2010

**President Obama has also called for:**

- More bipartisanship
- Limitation on earmarks. Reinstitution of pay-as-you-go in appropriations.
- More freedom for the Democratic Party chairs and party leaders in Congress to develop and pass large legislative initiatives such as the economic stimulus bill, health care reform and financial institutional reform. President Obama helped to change Washington decision making because of the scope of the public problems facing American and the breath of the historic legislation that is intended to address these problems

Are lobbyists the major problem with the way Washington works as President Obama argues? I think not. The problems of hostility and paralysis we see in our national government is not caused by lobbyists. Washington has degenerated to the point where civic debate has become uncivil invective; analysis has been displaced by ideology. Many vital public issues are not solved, but rather stored for future partisan use. I think the disappearance of moderates or the "vital center" is a threat to our democracy. They are an endangered species and moderate Republicans must be put in the "witness protection program."

The inability of our political system - in the absence of a vigorous, bipartisan center - to address effectively such known and crucial issues as additional job creation programs, tax reform, the rising accumulation of public debt, a looming Medicare and Social Security shortfall, immigration reform, an education system that leaves still leaves too many of our children behind world standards, and serious energy and environmental problems is a scandal. The system that cannot confront these challenges will surely lack the reserves of comity and trust to face any future crises.

President Obama and many Members of Congress talk publicly of these problems, and some promise reform. Partisan debate is essential but it has become so rancorous that it prevents the resolution of our most important public problems. There seems to be no prospect today that Congress is dealing with this crisis on its own. It is time for Congress, even in an election year, to show that they are attempting to solve the very real

problems we face and not simply storing up points for the fall campaign and blaming lobbyists and our pluralist representational form of government for deadlock.

President Obama has argued that lobbyists are a major fault for Washington not working as it should. It is a popular view, but I think serious and immediate reform in many other areas is needed, not an attack on lobbying, lobbyists, and in effect, First Amendment rights.

Let me review some of these problems and list several needed reforms:

1. **Reform Ethical Behavior:** There continues to be serious problems with the way Congress polices itself with respect to ethical behavior.
  - The Ethics Committee should do a better job of investigating and promptly resolving ethical issues.
  - Congress should impose additional restrictions and reporting requirements on its members and staff similar to those it has placed on lobbyists.
  - The Senate should follow the lead of the House and establish an independently managed Office of Public Integrity to promptly investigate misbehavior.
  - Congress should insist on better enforcement of existing rules of the House and Senate and investigation and prompt action by the U.S. Department of Justice when misconduct is found.
  
2. **Reform Legislative Procedural Maneuvers:** Procedural changes have been made in Congress itself that have, in the view of many, undermined the normal legislative process. While current concerns focus on today's majority congressional leadership, the same tactics were practiced in the past by the minority party, and an apparent cycle of alleged past abuse and continuing retribution has infected the Congress. Thus, this process cannot be blamed solely on one political party. These alleged abuses include:
  - The long-term decline, over decades and changes in influence between the two parties, in the ability or willingness of Congress to make thorough use of its oversight powers to keep the Executive Branch in check.
  - The increasing use of House Rules to deny the minority a full debate or effective votes, and to alter legislation passed by the Committees of jurisdiction.

- The increasing use of filibusters, amendments, and holds to clog the legislative work in the Senate.
- The breakdown of the budget process.
- Heavy reliance on riders and earmarks to must-pass appropriation bills as a crutch to act on significant policy issues, often late at night, out of the public view.
- The growing tendency toward government by Continuing Resolution.
- The lack of true bipartisanship and the polarization of Congress.

Congress should take action to protect itself now and in the future from these problems.

3. **Reform the Use of Earmarks:** The recent ballooning of “earmarks” in the actions of Congress – appropriations, authorizations, and tax legislation – may be the most offensive legislative manipulation, and possibly the most egregious of all forms of misbehavior by Members of Congress. The Congressional Research Service identified some 3,000 earmarks worth \$19.5 billion enacted in 1996. By 2005, the number of earmarks had grown to almost 13,000, valued at \$64 billion. After the 2007 earmark reforms the numbers dropped, but they have climbed back to 12,099 in FY 2009 with a total of \$30.7 billion. That is 1.8% of the total appropriation or 2.9% if mandatory appropriations are excluded.

There are instances in which Congress has legitimate reason narrowly to specify how money is spent. They do have the power of the purse. However, many recent earmarks appear to have been inserted into legislation without public debate, adequate notice or justification. A criminal conviction was built on an exchange of earmarks for personal cash and in-kind payments, and earmarks have been associated with, if not causally linked to, campaign contributions and the exercise of the power of incumbency. There needs to be additional earmark reform. I recommend the following:

- The ability of a single Member of Congress to direct funds to a lobbyist’s clients must be curbed. Require Members of Congress to certify that they have neither sought nor received campaign contributions from an individual registered to lobby them for an earmark in the current Congress.

- Congress should create a single, searchable online database for all earmark requests (for appropriations, taxes, and authorizations) and the amount approved by committee of jurisdiction.
  - The sponsor of any earmark is now identified, but the department or agency, the state or district of the member who made the request, the name and address of the intended recipient, the type of organization (public, private nonprofit, or for profit entity), the project name, description, and estimated completion date should also be identified too.
  - A small number of Members of the House or the Senate should be empowered to require a roll-call vote on any earmark.
4. **Reform How Redistricting is Done:** The House has been redistricted to safe seats (99.5% of the incumbents in 2004 won reelection, 94% in 2006 and 2008). The creation of these safe House districts has led to the election of increasingly "ideologically pure" representatives with little institutional loyalty, and an unprecedented degree of homogeneity within the two parties. This has made the party primary, with a traditionally low turnout dominated by activist voters, the election that counts. More moderate voters are easily shut out of the process; appeals to the "base" drown out serious debate on broad issues of national concern. This has increased the importance of ideology in legislating and lobbying activities – creating deadlock, a divided, partisan and mean-spirited House with few moderates in the middle, and a lack of comity and civility in the way decisions are made in Washington. Individually, but often through implicit cooperation, our political parties are establishing electoral districts that effectively eliminate the right to vote of those who live in districts in which their candidates can never be elected. In effect, the Representatives choose their voters, not the other way around. Questionable redistricting practices that have been undertaken recently in Texas, California and other states must stop. There should be a responsible limit on partisan redistricting protecting incumbents. We need more competitive districts in the House. One method to assure more competition is to use non partisan redistricting commissions, as is the case in the U.K. and Canada.
5. **Reform How Money Is Raised and Spent:** Campaign costs are so monumental that Members must spend most of their time raising money, leaving less time for legislating and working with their fellow legislators. It keeps getting worse each election year. With fewer Members in Washington, the infamous "Tuesday-through-Thursday Club" is all too real. There is too little time to address our looming monumental



challenges, and also for the Members of Congress to know each other and to learn to work together.

- Too much money is being spent for elections.
- The total cost of campaigning should be limited.
- New steps are needed to restrict and regulate campaign contributions.
- Leadership PACs are another major question of whether campaign money is being raised and spent appropriately. Growing numbers of Members of Congress have formed "Leadership PACs" to accumulate more money than would otherwise be legally allowed to assist other campaigns and causes. It is alleged that the choice of a Member to chair a Committee may depend on his or her ability to raise significant funds in a Leadership PAC. This continues to be a serious problem.

6. **Reform Lobbying Registration** Lobbying in Washington has grown to a degree that many find alarming. The number of registered lobbyists has soared – from 16,342 in 2000 to 34,785 in 2005, but dropped to around 14,000 after the 2007 lobbying reforms. In 1998, registered lobbyists reported spending \$1.427 billion; in 2004, lobbyists spent at least \$2.128 billion on reported activities and in 2009 that grew to \$3.4 billion, but there is probably three to four times more spent on “grassroots lobbying,” advertising, coalition building, and other unregulated advocacy efforts. Spending by registered lobbyists has grown 62% in the last five years. Again, astonishingly averages out to over \$17 million in lobbying expenditures each day Congress was in session in 2008 or over \$6 million per year for every Member of Congress. This does not include money spent for grassroots, coalition building, issue advertising on television ads, and on the print media, and advocacy on the Internet.

- We need new lobbyist registration rules to achieve greater transparency about lobbyists’ access to Members of Congress.
- There needs to be a lower threshold of what is considered lobbying since most advocacy in Washington today is not covered by the LDA and HLOGA.
- We need enforcement of existing law with regard to lobbying.

#### **IV. Conclusion**

If President Obama and others want to improve the way Washington works, we need to do the following:

- Reform redistricting for more competitive districts.
- Build more cross party cooperation and encourage political moderates in Congress.
- Improve deliberation in Congress and improve education of the American public through informative public debates and deliberation.
- Increase congressional comity and civility.
- Stop the Tuesday-Thursday Club in Congress.
- Return to the regular order in Congress (fewer restrictive rules, hold conferences, limit Senate holds, and reform the filibuster).

And finally yes, we need more transparency, accountability, and enforcement with respect to lobbying and advocates of all kinds.