

[Assessing Lobbying Reform in the Obama Administration](http://www.moresoftmoneyhardlaw.com/2014/03/assessing-lobbying-reform-obama-administration/)

<http://www.moresoftmoneyhardlaw.com/2014/03/assessing-lobbying-reform-obama-administration/>

March 18, 2014
posted by Bob Bauer

Assessing Lobbying Reform in the Obama Administration

Presentation to the American University Conference on Lobbying Reform in the
U.S. and the E.U.

March 17, 2014

I appreciate very much your invitation to speak about lobbying and government ethics reform and to reflect on the experience the Obama Administration. Let me emphasize that while I have been active on behalf of this Administration, both within and outside of it, the views offered today are my own, and no one else's. I swear to it.

Introduction

The program suggests that I will discuss the Administration's "successes" and "failure": success is described in the plural, and failure in the singular, and if this means many successes and only one failure, I am pleased and should probably thank all who are present, end the presentation here, and leave. Or perhaps the suggestion is that despite many successes, it has been overall a failure. But I doubt that many successes can translate into a failure, except for one possible and mistaken point of view, to which I will return later.

But the definition of terms and the specifying of objectives and measures of success is especially important in this field in which, without knowing or conceding the point, so many who talk about government ethics and government reform may be discussing different issues. So before I turn to the record of this Administration, here is my working definition: government reform is made up of rules, regulations, and enforceable standards of official conduct that are meant to (a) keep decision-making focused on the merits of the competing public policy choices; and (b) reassure the public that this is the case and that confidence in the integrity of governmental decision-making is warranted.

Scholars who write on this subject, however, often roam far and wide, and discuss varied pressures and issues that bear in one way or the other on the integrity of government, including:

- How campaigns are financed;
- The breadth of criminal law prohibitions on bribery and bribery-type transactions between government officials and private interests;
- How much the public is allowed to know about privately financed advocacy—including but not limited to lobbying—directed toward government officials. An example is the reporting of certain direct lobbying contacts but not of “grassroots” lobbying by which public pressure on the government is mobilized;
- Ethical standards that government officials are expected to follow in dealings with lobbyists and others, and the mechanisms for enforcing those standards. An example is the handling of requests or views brought to government officials by political party supporters or campaign contributors;
- Transparency generally of government decision-making—letting the light shine in on deliberative and other processes;
- The allowance for government officials to engage in partisan political activity, or take political considerations—rather than nakedly self-interested ones—into account in shaping, timing or communicating public policy.

What is immediately clear—and what the American political experience demonstrates—is that these questions all implicate not only the ethical performance of government officials—that is, their attentiveness to the merits, but also the relationship of the governed to the government and the quality of government performance. And this is why there are endless disputes about reform—what it is and whether it has been successful or counter-productive. We can divide the arguments into two parts: arguments about rights and arguments about efficacy.

Arguments about rights: One person’s urgent reform agenda can mean to another a base attack on rights of free speech or fair access to the councils of government. One person’s passion for disclosure is another’s complaint that transparency can be turned to dark political purposes. Many of you are aware of the controversy surrounding the Internal Revenue Service’s consideration of rules

restricting how much recognized tax-exempt organizations may engage in so-called “candidate-related activity.” Those supporting new limits on these activities believe they are necessary to counter evasions of the campaign finance laws by well-to-do interests that buy influence with massive campaign spending. On the other side of the argument are those who claim with comparable fervor that the IRS rules are designed to force the disclosure of interests that political factions wish to identify publicly and intimidate into silence. And the debate over campaign finance reform has run along a similar track, featuring often acrimonious disputes over whether particular rules serve the interests of either purging the government of corruption or suppressing free speech and association.

Arguments about efficacy: one of the themes running throughout the debate over reform is that of so-called “unintended consequences.” These include damage that reforms might do to the effective or efficient functioning of government and politics. Once again, transparency supplies a useful example. Many will argue that at some point when conversations take place or negotiations are held, the door must close and the discussion must proceed in private. Without this retreat into privacy, politics in the best sense of the term becomes impossible. Another example has to do with the supply of resources for campaign activity. Campaign finance reform has meant for many years limits on the sources and amounts of funds available to candidates and other organizations seeking to influence the outcome of elections. However, once the limits had bitten hard into the supply of resources, candidates wound up having to spend more time looking for money: the more time devoted to fundraising, the less time to government. A practical complaint one hears from officeholders is the amount of time they have to spend raising money—which is, in fact, a function of reform design in the United States since the 1970s.

And so this much should be clear: when the objectives and the means of achieving reforms are deeply contested—when there is no agreement about the boundary separating “smart” or “effective” politics and government from questionable “ethics”—the likelihood of achieving ethics reform that will be met with thunderous applause and a consensus that it is a “success” is remote. And standing in the way of a positive assessment is yet another concern, which has become popular in our time—the concern with the “culture” of Washington, D.C. Changing the law and discouraging certain types of conduct is often hard enough. An overhaul of culture is by definition a very tall order and not one that necessarily lends itself to immediate results, much less those accomplished by means of law and regulation.

The Obama Administration, Lobbying and the Executive Order of January 2009

Now let's turn to the question of the Obama Administration's policies. While in the United States Senate, when running for the Presidency, and then while in office, the President has often spoken out about the risk presented by well-financed lobbying campaigns for the development and advancement of public policy on merits. And he has been unsparing at times in his description of the problem, such that many have heard from lobbyists that he is offending them and giving a bad name to the processes by which people bring legitimate issues before the government for resolution. It is sometimes difficult to separate out the merits of the policy from how many of those affected by the policy respond to the way it has been publicly framed and defended.

Much of the attention is focused on a particularly controversial measure—the Executive Order the President signed on January 21, 2009, his first day in office^[1]. Then he approved unprecedented restrictions on the hiring for senior positions of individuals who had been registered under federal law as “lobbyists” any time within the previous two years, and also on the lobbying or contacts permitted to Obama Administration officials after they return to the private sector.

Section 3 of the EO provides that this two-year disqualification means for these lobbyists:

- No participation in any “particular matter” on which the employee lobbied within two years of the date of appointment;
- No participation in the “specific issue area” in which that particular matter fell; or
- No employment with any executive agency that the employee lobbied within this two-year period.

For those appointees who are not lobbyists, the EO provides that they may not while serving in the Administration participate in “particular matters...directly and substantially related to” former clients or employers, unless the issue discussed is one of general, say, industry, applicability, and the meeting is open to all interested parties.

These are the restrictions on the way into the government and on the way out. And leaving the government, Administration appointees must agree that the

post-employment restriction under federal law set by statute to last one year, would be extended to two years. In addition, Obama Administration appointees who become lobbyists after leaving the government may not contact any executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

The Executive Order covers other ethics reform issues, including a broad ban on the acceptance of gifts. The mechanism by which the Executive Order accomplish these changes is a pledge that government appointees have to sign, binding them contractually and enforceable by the Department of Justice.

Scholars who pay attention to government reform measures have generally thought well of the Executive Order's revolving door provisions. Their number includes, for example, Richard Painter, formerly in the White House Counsel's office in the G.W. Bush Administration and now at the University of Minnesota, who has cited the "exceptional progress" made with these provisions[2]; Dennis Thompson, a specialist in government ethics at Harvard University who views them as a "definite advance,"[3] and our distinguished host here at American University, James Thurber, who concluded that the January EO was "historic" and part of a "strong" package of ethical reforms established for Obama Administration appointees.[4]

Elsewhere, however, various critical judgments about this EO and its policies have been sharply registered. The objections fall into three distinct categories. Considering them, we have an opportunity to assess overall what they may tell us about the success of this initiative, but also how they illustrate more generally all of the challenges faced by major initiatives in the field of government ethics reform.

The first objection: that the President's policy failed to distinguish between good and bad lobbyists and paints everybody whose business it is to shape government policy, through pressure and persuasion, in the same dark colors. In other words, while there may be venal lobbyists—those who for money will pressure the government to preserve harmful regulatory policies and only for the protection of personal profit—there are others in the public interest sector whose gaze remains firmly fixed on the common good. So not only did the Administration, so the argument goes, stain the reputation of lobbying, but in doing so it treated as alike and as "lobbyists" very different types of interests with different objectives that raise distinguishable public-policy concerns.

It has never been clear how any reform policy that is concerned with the “revolving door” could meet this objection successfully. In a democracy, views about sound public policy necessarily vary widely and no one to my knowledge has figured out how to forge out of them a consensus about which forms of policy are good and which bad, leading in turn to conclusions about the lobbying associated with particular policy preferences that we should appropriately subject to revolving door restrictions. Imagine those who are currently complaining about the dangers of IRS intervention in politics suddenly confronted with a governmental policy that provides more access for lobbying on the issues an Administration favors, meaning, a policy that it is fine and consistent to lobby on some issues and not on others. Federal lobbying disclosure law does not distinguish between types of lobbyists based on the public policy merits of their position and it impossible to see how the January 21 Executive Order could have been written differently.

As for the broader objection, that the Executive Order cast aspersions on the craft of lobbying, this, too, does not seem to allow for any practical answer. Either we have a revolving door restrictions or we don't, but if we have them, we will necessarily by virtue of the restrictions written into our rules and regulations suggest that—in some ways and in some circumstances—lobbying activity or the role of lobbyists raise issues that are properly addressed by reforms. The problem is not unique to lobbying. Campaign finance arguments have resulted in what some take to be unflattering descriptions of those who are able and willing to give or raise the maximum sums of money the law allows. Unlike the much favored “small donor,” giving in small increments over the Internet, those who give substantial sums have to put up with being described as “fat cats.” Reform becomes that much more of a challenge if the rhetorical consequences and political uses of reform are held against it as a substantive matter.

The second objection: that it resulted in the Administration being unable to call upon people who, as a result of their private experience and training, are well qualified for certain government positions. This objection often covers the one previously noted about the failure of the executive order to distinguish the good from the bad lobbyists.^[5] But, assuming for a moment that this good lobbyist/bad lobbyist distinction does not lie behind the complaint, and one can readily concede that reform has its costs and that this is certainly one of them. Any limitation on the pool of qualified people willing to serve in government raises fair questions and has to be taken into account in policy design.

So what might the Administration have done to mitigate the ill effects of this aspect of its revolving door policy? Here is found another example of the complexities of effecting reform. The Executive Order provided for waivers precisely to allow people who might otherwise be disqualified under the Executive Order to be considered for positions for which they might have been particularly suited or needed. But the problem confronting an Administration in granting waivers is the credibility of the policy and the certainty, well justified by experience, that any waiver will be taken as a sign of the equivocation on its larger commitment. You can imagine that the news media when reporting on waivers do not write headlines to the effect that “The Administration, recognizing Jones’ special expertise, has decided to waive ethics restrictions and permit her to render public service.” Every waiver issue is controversial, treated as a test of sincerity on the reform question. And keeping in mind the skepticism that waivers would invite, a new policy in particular is difficult to establish if it appears that the exceptions will swallow the rule.

In the next phase of experience with these revolving door restrictions, the use of waivers might be usefully liberalized. Of course, any Administration prepared to display this flexibility will have to work through heavy skepticism, particularly from the same journalistic circles committed as a matter of editorial policy to reform. It is a fact of political life that this will always be the case—that the very government faced with demands for reform will be suspected of being incompletely committed to it; that a certain policy absolutism will be expected that is not consistent with any reasonable administrative flexibility; and that an Administration that then adopts an absolutist stance will be denounced for inflexibility and a policy lacking in common sense or practicality. As the saying goes, this is a tough business and sometimes you just can’t win.

The third objection: that as an unintended consequence ,the EO resulted in less rather than more transparency, because lobbyists around the city of Washington with an interest in serving government have begun to “de-register” as lobbyists under the applicable disclosure laws.[\[6\]](#) To preserve their career options, they don’t want to be lobbyists anymore, at least in name, and they are retreating to more back-door or back-room types of strategizing for clients to avoid the direct contacts under federal law that require lobbyist registration.

This may well be happening, though there is some analysis to suggest that de-registration was in progress before the Obama policies were adopted.[\[7\]](#) But even assuming that some of the move toward deregistration is a consequence of the President’s policy, the answer is hardly that the policy was ill-conceived. The

Executive Order is tied to the definitions under federal law, which seems reasonable. Should federal law have to be amended to provide for a broader, more inclusive definition of lobbyist—and this is a difficult issue, on which there are entirely reasonable differences of opinion—then the policy could be amended along with it. In the meantime however, EO does what any reform should be expected to do, and only expected to do: *what it can*. To the extent that evasive actions are taken, it presents a question for another day as the policy is revised in the light of experience.

The fourth objection: that the value of the policy has been insufficient to justify the costs. Under this analysis, emphasis is placed on the continued public disaffection with government. If polling data shows that the public continues to be distrustful, the policy simply has not worked and any costs—such as the drain on talent—are that much more insupportable. But this objection misses the essential point about ethics reform that it cannot be measured by public opinion data or a radical shift for the better in public confidence in government.

There are at least three reasons why it is a mistake to base the evaluation of reform policies on measured improvements in public confidence in government:

The first is that while these policies are meant to be reassuring to the public, and certainly tap into powerful public sentiments and expectations, their primary function is to contribute to the processes by which governments remain focused in their decision-making on the merits of public policy. In other words, ethics reform that is fashioned primarily as a public relations maneuver is probably not sustainable and indeed the critics are correct to believe that the costs of reform as an exercise in public relations outweigh its value.

But there is something to be said, in substance, for generally establishing the proposition that those who have made a living as lobbyists for a particular private perspective on public policy should not as a general matter be expected to shift immediately into government positions and shed the private for a more general, public perspective. This is not to say that they have earned their living as lobbyists other than honorably—not at all. They do, however, establish professional relationships, form convictions, and have a hand in shaping policy from this private perspective, and it is not unreasonable as a matter of reform policy to anticipate tensions that may well develop between these prior professional commitments and the perspectives that government service calls for.

To the very real question about shutting out of government service people with much to contribute, the answer lies in administrative flexibility through the waiver process. And perhaps there is other fine tuning over time that, with experience and further reflection, could prove useful. For example the two-year period could be shortened to one year, or other aspects of the policy could be revised to limit its more expansive applications. The general principle, however, would stand as a matter of public policy.

A second answer to this objection is that public disaffection is somewhat insensitive to reform policies. Public trust in government has as much to do with the perceived effectiveness of government as it does with the integrity of its decision-making process. When people are unhappy with economic conditions in particular, or more generally or whatever particular reasons with governmental performance, trust in government declines. And in the United States, ineffectiveness a government is often supposed to be related in some way to dubious behavior on the part of public officials. Americans are generally disposed to distrust in their attitude to politics, and this can be healthy (or not, depending on the circumstances). As observed in the case of campaign finance regulation, which over many years has been quite vigorous, American assumptions about the role of money in politics, none of them particularly cheerful, have not undergone positive change as a result of much law-making.^[8] And, of course, one can never know how much worse public judgments of government would be if lobbying activity and ethical conduct were somehow entirely unregulated.

A third answer, similar to but not quite the same as the second, is that we must be careful not to judge too hastily any governmental policy in the reform field. The Obama Administration is one year and a bit more into the second term. The contribution it has made to the evolution of reform and particularly the way we look at the priorities of reform will be difficult to assess in the short term for a number of reasons.

Evaluating the Evaluation of the Obama Reform Program

Part of the problem is politics: the assessment of the Administration's reform policies will be influenced by the broader political circumstances in which it finds itself. But there is also the question of our expectations of the period of time over which reforms establish and prove themselves, and allow for a genuinely independent or dispassionate appraisal of outcomes.

Nothing illustrates this more than the demand that the Administration explain why President Obama has not changed the culture of Washington. As noted before, the transformation of culture is no simple thing and is by and large not within the control of particular policy decisions. There is a second problem, which is that, at least recently, many who are concerned about changing the culture are in fact of two minds about it. In just the last year, we've heard a good bit about the virtues of old-fashioned, hardball, transactional politics—at a time when the national political discussion has turned to the question of whether the government can function competently at all, in a period of what is termed “political polarization.” Some of the practices that have been questioned on good government and ethical grounds have come to be viewed as perhaps sound politics, with a certain nostalgia which discounts ethical considerations.

The wistfulness with which the Administration of Lyndon Johnson has been viewed, in the wake of Robert Caro's biography and the Broadway play “All the Way,” is a good example of this. Johnson was a hardball transactional politician. And yet, because of the widespread belief that he was an effective legislator and on domestic policy at least a productive executive, a Johnson-ian leadership style has come somewhat into favor among the pundits and commentators.[\[9\]](#)

We can see this ambivalence at work in some of the lamentation about the Congressional decision out of fiscal prudence but also ethical considerations to ban earmarks—those appropriations for specific projects favored by members, that can be doled out as part of a bargain in which majorities are developed on difficult policy questions. Call it pork, call it an institutional bribe: by whatever name it is known, the earmark was only a few years ago judged harshly as the sort of maneuver in the shadows paid for by the taxpayers but at public interest expense that should be proscribed on broad grounds of good government. With attention now turned to the topics of a dysfunctional Washington and polarized politics, there have been some second thoughts about denying politicians the tools to engage in Johnsonian politics—a politics of horse trading, not all that pretty to behold and rarely conducted out in the open, but useful. [\[10\]](#)

A similar shift in opinion has occurred on discussion of the financing for political parties that has been restricted in the name of stopping unregulated “soft money.” Here, too, the second thought is that parties need resources including the ability to distribute them to party members, if they are to establish discipline and enable the party to mount an effective legislative program.[\[11\]](#)

If, then, there are unresolved conflicts about how far we want to extend ethics reform, judging how well we have done to date is going to be difficult. But if reform is assessed over a longer span of time, the Obama Administration's turn to lobbying and government ethics as the focal point of a reform program—however controversial—should be viewed favorably.

The Obama Policy and the Future Direction of Reform

Lobbying and government ethics has ranked for too long behind other reform programs, most notably campaign finance reform. Campaign finance has absorbed a massive amount of reform energy and generated the better part of controversy about government reform now for many decades. It continues to this day, in arguments about *Citizens United* and about regulatory proposals like the ones pending before the Internal Revenue Service in the matter of tax-exempt organization financing of “candidate-related activity.” It is an important debate and to suggest that it has been given too much attention at the expense of other reform programs is not to deny its importance. But if the time has come to reorder the relative priorities we assigned to different reform agendas, and in particular to elevate lobbying and government ethics reform, then the Obama program marks an important first step.

So what would be the case for committing more energy to lobbying and ethics reform?

Unlike campaign finance regulation, lobbying and government ethics reform is concerned directly and clearly with government decision-making processes. Lobbying disclosure, or limits on who can meet on policy with government officials, bears unambiguously on these procedures. Campaign finance may also, but not always. For example, the most heated of the disagreements about campaign spending takes place over the role of “independent expenditures” directed toward the public, on the airwaves, and dependent for its effectiveness on moving public opinion before the objective of influencing official action can be satisfied. And while the regulation of campaign contributions includes limits on contributions to incumbents while policy is being fashioned, it applies as well to contributions to non-incumbents well before they may win office and acquire power, which some never do. And in the years of study of campaign finance, the data about the influence of campaign spending on policy is far from settled—and some good research shows that other factors, such as officeholder ideology or constituent preference, rank higher in the hierarchy of influences on official action.

Lobbying and ethics reform suffers comparatively few of these uncertainties: it is regulation of the means by which government decisions are made, and it possesses the additional advantage, political in character, of imposing limits on those within the circle of power, not those outside of it attempting to be heard. Much resistance to campaign finance is based on the fear that government, parties and politicians are establishing rules for their own benefit. In this view, parties work the rules for competitive advantage; candidates do the same, and often with the hope of undermining access to political resources by political adversaries and enlarging that access for allies. Those who pay the price are activists, parties, tax-exempt advocacy groups and others in the general public. This objection does not hold to the same extent for lobbying and ethics reform—this is ethics regulation of the “insiders” and not the “outsiders,” and if there are manipulations of those rules, they are generally easier to detect and defend against.

As noted, campaign finance and lobbying do intersect at key points, quite visibly and with consequence, and lobbying reform co-sponsored by the President when he was in the Senate took a fruitful turn in that direction. In 2007, the Congress enacted the Honest Leadership and Open Government Act, provisions of which regulated for the first time campaign contributions by lobbyists as a class of campaign funders. This is an area well worth further consideration, and an American Bar Association Task Force on lobbying reform included in its report an interesting recommendation that would separate a lobbyist’s lobbying and fundraising activity.^[12] A lobbyist raising money for a candidate could not within two years lobby that candidate; the lobbying of the candidate would, in turn, would preclude any fundraising for him or her within the same two-year period. This is sensible and brings campaign finance regulation to the point at which it comes into direct contact in with the governmental decision-making process.

To stress this point: campaign finance regulation remains an important field of reform endeavor, though it cries out for some fresh thinking and the abandonment of stale, ineffective and often self-defeating approaches. But it is particularly important that we tie as much as possible the discussion of political money to lobbying and government ethics reform so that the rules devised or laws passed have practical effects on the operation of government.

In the discussion of lobbying, so much at the center of the debate over Obama Administration government ethics reform, there is a tendency to slight the question of standards of official conduct. There are such standards for government employees, promulgated throughout the Executive Branch and also in individual codes adopted by administrative agencies. The House and the Senate also have

codes of official conduct, administered by ethics committees that are overseen by members of Congress but operated day by day by a professional staff that serves from Congress to Congress and has acquired special expertise. Here you see very clearly established the concern with government decision-making on the merits and the merits alone, and the need to contain the pressures of personal or political self-interest. Lobbying is a dialogue, and any reform must take account of both parties to the conversation.

Those who are worried about ethics in Washington tend to discount the importance of the standards. This is a mistake. In a remarkably short period of time, still less than 30 years ago, ethical standards, and institutions and processes established to enforce them, have grown rapidly. And not without effect. While we still have, as we will always have, cases of grossly unethical conduct, any fair assessment of recent Congresses, compared to those before them, shows that these standards have had an impact.

This aspect of the subject of reform, however, has not been one of broad general interest, and cynicism about the extent to which government officials will police their own behavior has something to do with it. But the historical record speaks for itself and it deserves to be independently and impartially consulted. The change seen in the standards of official conduct may not be revolutionary but it is still change; and once again it is always a trap to expect too much too fast—always better to withhold judgment until change can establish itself over the long-term.

Conclusion

Whether a reform hit its target is a question not easily answered, and it is not answered, conclusively or even preliminarily, in a hurry. Before any useful conclusions about its successes and failures can be drawn, there is a fair amount of work to be done in sorting out the various meanings assigned to reform, particularly the tangled web of notions about when politics is just politics and when it slips into corrupt practice. Evaluations of reform can also be swept up in other political conflicts and become more an expression of those conflicts than a fair-minded appraisal of policy success or failure.

This much, however, can be said about the government reform policies that are the subject of this presentation: for all the controversy over these policies, and indeed because of that controversy, they constructively moved reform, and the debate about reform policy, in a fresh direction, when a fresh direction, away from old and unproductive quarrels, has been needed. In time, but probably only in time and

with careful study, there is reason to believe that these types of policies will have their effect—that they will make a difference in the operation of government.

[\[1\]](#) Exec. Order No. 13,490, 74 Fed. Reg. 4,673 (Jan. 21, 2009).

[2] Richard Painter, *President Obama's Progress in Government Ethics*, 26 Const. Comment 195 (2010).

[3] Dennis Thompson, *Obama's Ethics Agenda: the Challenge of Coordinated Change*, The Forum 7(1), Article 8 (2009).

[4] James Thurber, *Changing the Way Washington Works? Assessing President Obama's Battle with Lobbyists*, 41 Presidential Studies Quarterly 358, 361-62 (2011).

[5] Ryan Grim, *Obama's Anti-Lobbyist Policy Causing Unintended Harm*, The Huffington Post (Apr. 5, 2009, 6:12 AM), http://www.huffingtonpost.com/2009/03/05/obamas-anti-lobbyist-poli_n_172244.html.

[6] David Kirkpatrick, *Law to Curb Lobbying Sends it Underground*, N.Y. Times, Jan. 17, 2010 at A1.

[7] *The De-Regulation Dilemma: Are Lobbyists Quitting the Business As Federal Disclosure Rules Tighten?*, Open Secrets Blog, <http://www.opensecrets.org/news/2010/06/the-deregistration-dilemma-are-lobb.html> (June 30, 2010).

[8] Nathaniel Persily & Kelli Lammie, *Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law*, 153 U. Pa. L. Rev. 119 (2004).

[9] For an example of competing views, see David Frum, *Read this Book, Obama!*, Newsweek (Apr. 15, 2012), available at

<http://www.newsweek.com/david-frum-obama-lessons-robert-caros-lyndon-johnson-63929>, and Howard Kurtz, *No, Barack Obama Should Not Be More Like LBJ*, The Atlantic (June 11, 2013), available at <http://www.theatlantic.com/politics/archive/2013/06/no-barack-obama-should-not-be-more-like-lbj/276725/>.

[10] John Hudek, *Obama Should Encourage Congressional Earmarks*, Brookings Institution State of the Union 2014 Blog (Jan. 27, 2014 10:29 AM), <http://www.brookings.edu/blogs/fixgov/posts/2014/01/27-state-of-the-union-obama-earmarks-hudak>.

[11] Richard Pildes, *How to Fix Polarized Politics: Strengthen the Political Parties*, The Monkey Cage Blog (Feb. 6, 2014, 12:00 PM), <http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/02/06/how-to-fix-our-polarized-politics-strengthen-political-parties/>.

[12] *Lobbying in the Spotlight: Challenges and Proposed Improvements*, Report of the Task Force on Federal Lobbying Laws (2011) at 19-25, available at http://www.americanbar.org/content/dam/aba/migrated/2011_build/administrative_law/lobbying_task_force_report_010311.authcheckdam.pdf.