

Testimony of

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Lobbying Reform: The Importance of Enforcement and Transparency

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I would like to thank Chairman Lott and the members of the Committee on Rules and Administration for the opportunity to testify today on lobbying, procedural, and related reforms. My name is James A. Thurber, Distinguished Professor and Director of the Center for Congressional and Presidential Studies at American University (AU) in Washington, DC. I teach a graduate seminar on Lobbying and Ethics and founded the Public Affairs and Advocacy Institute at AU, the first university program in the nation on the practical “nuts and bolts” of lobbying. In the course of my research and teaching, I have reviewed many lobbying reform proposals by Members of Congress and others, including slowing the revolving door, curbing excesses in privately funded travel and gifts, enhancing disclosure of lobbying activities, and strengthening oversight and enforcement of lobbying activities. I would like to express my appreciation to the Chairman for holding these important hearings that deal with matters that are of deep concern to the American people.

Public advocacy, or lobbying, is a fundamental right guaranteed by our Constitution. Lobbyists play an essential role in all the major functions of Congress: representation, lawmaking, deliberation, oversight, and the education of the American public. Lobbying is an honorable profession, but this profession is in deep trouble as a result of the illegal actions of Jack Abramoff, the criminal case against Representative Duke Cunningham, the allegations against Representative William Jefferson, and a multitude of other accusations against lobbyists, Members and staff. All of this has damaged our democracy and tarnished the image of how Washington works and how national policy is made.

Lobbying is the third largest enterprise in our nation's capital after government and tourism, with an estimated 27,611 (plus) full-time professional lobbyists registered by Congress. They represent virtually every type of interest in America. It has been estimated that the number of persons employed in Washington who are either lobbyists or associated with them in some way is well over 100,000. Spending by registered lobbyists has increased thirty percent in the last five years to \$2.1 billion. That comes to \$177 million per Member per year or \$406,896 per month per Member of the House or \$330,841 for all Members per month. That is just the tip of the lobbying expenditures since it only includes 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, or advocacy on the Internet and websites. Some estimate the total spent on lobbying is closer to \$8 billion per year in Washington.

Several "dilemmas" are presented by the current interest group and lobbying scandals that have nothing to do with breaking the law as was done by Jack Abramoff and others. They include the huge sums of money put into the process by lobbyists and interest groups and the norm of reciprocity that exists between those advocating public policy outside of government and those in government.

I would like to focus on two aspects of lobbying and procedural reform that will address these two dilemmas: enforcement and transparency.

Enforcement

Lobbying reform should strengthen the enforcement of existing laws and ethics rules that cover Members of Congress, staff, and lobbyists. The congressional committees with

jurisdiction over lobbying laws and ethics should pursue rigorous oversight over the administration of these laws and codes of ethics. Congress and its committees need to enforce existing laws and ethics rules or create new institutions that will do that. The congressional bodies that are responsible for enforcing the laws and ethics rules are broken, but fortunately for us all, not irrevocably broken. They have not been doing their job. The Senate and House Ethics Committees have neither the resources nor the inclination to investigate serious allegations of ethics violations by Members of Congress. The failure of the Ethics Committees to oversee and enforce existing ethics rules must stop. At a minimum, the Congressional committees with jurisdiction over lobbying and ethics should hold regular oversight hearings, investigate allegations of existing ethics and lobbying law violations, and, if necessary, make recommendations to the full House and Senate for censure and sanctions. Congress does not need to change the limit on gifts; it needs to effectively oversee and enforce the existing gift ban. Congress does not need to prohibit the support of legitimate educational travel by Members and staff; it needs to enforce existing rules and significantly limit private interests from financing or subsidizing the travel for Members of Congress and staff.

In a perfect world all this would occur. However, this is not a perfect world so I urge the Committee to support the establishment of an independent, nonpartisan and professional office to oversee and enforce ethics rules and lobbying laws. This is similar to Senator Obama's proposal to implement the Congressional Ethics Enforcement Commission Act. Such an office would monitor and oversee lobbying reports, conduct investigations of allegations of ethics violations, advise Members, staff and lobbyists on compliance with the rules, and, if necessary, refer potential lobbying law violations to the

Department of Justice for civil or criminal enforcement. Several Members have introduced legislation to create such an office. It could be structured to assist the committees responsible for seeing that the rules are followed. I support these proposed reforms.

Transparency

Lobbying reform should enhance disclosure and transparency of lobbying activities and the work of lobbyists themselves. Lobbying activities and the financing of advocacy activities must be reported more rigorously and made more accessible to the American public. I recommend that lobbying reports, which are required under existing law, be filed by lobbyists in a common format for the House and the Senate and that these reports be made available and easily retrievable from a common and “user-friendly” website. The reports should be simple and easy to complete by lobbyists. They should be filed on a quarterly basis in a timely fashion rather than filed semi-annually. In most instances, four weeks would be enough time for filing. Many reports are now filed months late or not at all. There should be financial or other sanctions for those not filing in a timely fashion. The reports should include a list of Members’ offices and congressional committees that were directly lobbied during the quarter. Congress should also make the reports of all privately funded travel transparent and available to the public.

In the spirit of transparency, there should be a public report of all earmarks (including appropriations, authorizations, and tax earmarks): who sponsors them and the justification for each earmark, especially if it is added to a final conference report without having been approved by a vote of either the House or Senate. There is nothing

inherently wrong with earmarks, but there is if they are hidden and done without deliberation and cost estimates. When justified and appropriate, Members should be able to add earmarks to spending or authorizing bills, but Members should be required to justify them to their colleagues and to the American public. I support Senator Lott and Senator Feinstein's bill on earmarks and conference reports. It does not specifically prohibit earmarks but allows a point of order against any that are added to a Conference Report that were not considered by either house. A Senator would need 60 votes to waive the point of order. It would also require the conference report to be available to the Senate on the Internet for at least 24 hours--another reform toward more transparency that would enhance deliberation. The 24 hours requirement is a fair amount of time to review earmarks that are added during the work week, but more time should be allowed if an earmark is inserted over a weekend or holiday, if the 24 hours falls within these days.

This is a start. Good government is a process, not an event. Thank you for listening to me. I would be pleased to answer any questions related to these proposed reforms and other questions you might have with respect to my testimony at this time or after this hearing.