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Proposed Reforms Regarding the Disclosure and Regulation of Federal Lobbying

The American people and government watchdog groups are frustrated by the significant influence that special interests wield in Washington. Spending for direct lobbying broke all records in 2004 at $2 billion (amounting to about $3.7 million per member of Congress).[1] Nearly one-half of all members of Congress become lobbyists, showing that the "revolving door" restrictions have failed to work. Lobbyists and government officials frequently abuse the privilege of work-related travel, turning so-called educational trips into little more than golf junkets. And public access to lobbying financial records is very limited and antiquated.

The Lobbying Disclosure Act of 1995 (LDA), conflict of interest laws under the Ethics Reform Act of 1989, and the regulations governing travel for congressional and executive employees, have all marked significant efforts to curtail corruption and the appearance of corruption in lobbying the federal government. But over time, several weaknesses and omissions in these laws and regulations have become glaringly evident. Public Citizen recommends the following reforms for enhancing the disclosure and conduct of lobbying activities.

Section I: Improving Lobbying Disclosure

1. Require electronic filing and a searchable, sortable and downloadable database.

The House and Senate offices that administer the LDA have failed to fully implement the law's electronic reporting requirements, which specifies that they develop "computerized systems designed to minimize the burden of filing and maximize public access to materials."[2] To implement an effective electronic reporting system of lobbying records, Congress should use as a model the campaign finance reporting systems of the Federal Election Commission (FEC) and Internal Revenue Service (IRS). To do this Congress should:

- **Require a mandatory *electronic filing* for all lobbyists and lobbying firms receiving or spending $20,000 or more per reporting period.**

The single most important step for creating an effective electronic reporting system is to require that all filers who spend at least $20,000 on lobbying in a six-month period file electronically, preferably through a Web-based filing program. The $20,000 threshold, which coincides with the threshold mandating lobbying registration, would exempt

entities with minimal resources that may otherwise not have access to computer technology from the electronic reporting requirement.

Currently, the Senate Office of Public Records (SOPR) receives most lobbying disclosure reports on paper. Voluntary electronic filing, such as is currently in place for the House and the Senate, is typically done by about 10 percent of all filers. As a result, Senate staff can hand enter these records into an electronic database. The process is time-consuming, costly and results in numerous errors.

- **Include separate electronic fields for each record required to be disclosed, especially bill numbers and issue areas lobbied.**

Thee LDA requires lobbyists to identify the specific issues on which they have lobbied, including bill numbers, issue areas and references to regulatory or other executive branch actions.[3]

Despite this requirement, issue areas, bill numbers and other official actions are frequently omitted in lobbying disclosure reports. The incomplete disclosure likely stems in part from the lack of separation in the disclosure form for bill numbers and issue descriptions. Much of the problem could be solved by creating separate line items for this information.

In an electronic filing format, users should be required by the computer software to fill in each of these items or "none" when applicable. Such a program would alert the filer of incomplete records.

- **Provide a fully searchable, sortable and downloadable Web-based *disclosure* program.**

Currently, the Senate has opted to convert the paper reports submitted by lobbyists into simple "pictures" through an uploadable .pdf format. As a result, they are not readily searchable or sortable, and the reports are not downloadable. It is not possible using the SOPR database to search who lobbied on a specific bill or issue area, calculate the number of lobbyists hired by an organization or the money spent by an industry on lobbying in any given period of time.

Mandatory electronic filing can change all that by facilitating the creation of a searchable, sortable electronic database that could be downloaded by researchers. The electronic disclosure program on the House and Senate Web pages should be modeled after the Web-based disclosure programs of the FEC and IRS, which make their data fully searchable, sortable and downloadable by each major field.

2. Require quarterly filing.

The law requires lobbying firms to submit reports within 45 days of the end of semi-annual periods (June 30 and December 31). Because it takes the SOPR staff about three

months to enter the information into its system, the forms usually are not available to the public for at least three-to-four months after the reporting deadline.

Requiring quarterly filing in conjunction with electronic filing would dramatically shorten that lag time. It would help fulfill the purpose of the law, which found that "responsible representative government requires public awareness of the efforts of paid lobbyists to influence the public decision-making process."[4]

3. Require lobbyists to report the frequency and subject of each "in-person" lobbying contact.

Lobbyists' should be required to disclose contacts with members of Congress, their senior staff and "covered" executive branch officials (those covered under the disclosure requirements of the LDA). Contact information should include the dates and topics of one-on-one meetings. When lobbyists meet with covered non-senior staffers, they should be required to disclose at least the congressional office or committee contacted, date and topic of the meetings.

There is precedence for requiring lobbyists to disclose their contacts with federal officials. The Foreign Agents Registration Act (FARA) requires lobbyists who represent a foreign government to describe in "full detail," every six months, all of their activities and services. In practice, this translates into a full listing of all types of communications or interactions by lobbyists with covered officials, ranging from personal contacts to e-mails, to telephone calls, to personal visits.

FARA's sweeping disclosure requirements for foreign agents may be too much for domestic lobbying activity. The filing requirements could be overly burdensome, and the quantity of the disclosure information far more than what the public wants to know, if every phone call, FAX blast and letter to a covered official had to be recorded. Instead, it would be more consistent with the disclosure objectives of the LDA to require reporting the type of lobbying activity that wields the greatest influence: the names, dates and subject matter of all "in-person" lobbying contacts with members of Congress and senior-level congressional and executive officers.

4. Require disclosure of paid grassroots lobbying activities directed at the general public through mass communications (rather than at an organization's members, employees, officers or shareholders).

Beyond traditional "direct lobbying" of officials by paid professional lobbyists, a major and growing amount of money is consumed by "grassroots lobbying," in which the general public is encouraged to contact policymakers. The LDA does not require disclosure of the costs or details of such activities, which are generally defined as attempts to influence policy by using mass communications that encourage the public to contact government officials regarding legislative or executive branch policy matters. This shortcoming leaves a large swath of lobbying activities unreported, often including activities by organizations that make a practice of disguising their members or backers.

Whether it is a defense manufacturer hiring a public relations firm to mobilize suppliers and workers to lobby for funding of a nuclear attack submarine, prescription drug makers spending $50 million for a television ad campaign to enact a Medicare prescription drug benefit, or the National Education Association creating a professional advocacy Web site to generate e-mails to Congress supporting legislation to reduce class sizes, grassroots lobbying using state-of-the-art communications technology is everywhere.

But under current law, citizens are usually left in the dark about the special interests behind these activities.

Grassroots lobbying through mass communications should be subject to the same reporting and disclosure requirements as direct lobbying if it is designed to encourage the *general public* to make lobbying contacts with covered officials. Public Citizen proposes that mass communications be defined to include newspaper ads, automated telemarketing calls, direct mail and paid messages disseminated over television, radio and the Internet. Volunteer activities as well as one-on-one personal contacts through phone banks, canvassing or the Internet should be exempt from coverage. Direct communications with an organization's members, employees, officers and shareholders should also be exempt from this requirement.

5. Require corporations, unions and organizations that are members of a lobbying coalition to disclose their involvement.

The LDA was intended to disclose the efforts of organizations seeking to influence public policy through paid lobbyists. But it left a major loophole: it allowed the same organizations to disguise their activities by forming lobbying coalitions and associations without revealing their role in those groups.

Anonymous lobbying coalitions are numerous. Congressional Research Service (CRS) investigators in 2002 studied 196 purely lobbying coalitions (as opposed to more permanent industry associations or other organizations) and were able to identify the full membership of only 13.3 percent of them. Investigators were not able to identify a single member of 68.4 percent of the coalitions. These groups, with names like "197 Coalition," "AIR" and the "Climate Council," spent millions lobbying the federal government, but left no clue about who they were or who paid for their activities.[5]

Congress should require members of lobbying associations or coalitions to file disclosure forms if they made contributions to those entities that were large enough to have triggered the filing requirements if they had spent the money on their own lobbying activities. The disclosure requirements should be applied to corporations, unions and organizations who are members of a lobbying coalition, but not to individuals, who are protected by the First Amendment right to privacy of association.

6. Require lobbyists to disclose previous federal government employment.

Currently, lobbyists must disclose all legislative branch jobs and high-level executive branch positions they held in the two years before they began lobbying for a given client. Lobbyists are not required to list government jobs that they left more than two years before they began work for the client. This appears to leave the majority of lobbyists' past positions unreported, thereby limiting the public's ability to discern ways in which lobbyists may have capitalized on their previous federal government positions to assist their private sector clients.

Lobbyists should be required to report all previous employment in the legislative branch and high-level positions in the executive branch. These records should be filed with the lobbyists' registration records and made available to the public as part of the electronic reporting system.

7. Designate a single reporting method for lobbying expenditures.

Under the LDA, firms that lobby can choose any of three definitions of lobbying to calculate their lobbying expenditures. Filers may opt to use the LDA definition of "lobbying," which does not include grassroots lobbying, and report expenditures made under that definition of lobbying. Alternatively, filers may choose one of two different definitions of lobbying under the Internal Revenue Code, one of which includes grassroots lobbying reported to the IRS while one does not. Both the IRC definitions have a narrower scope of covered officials in the executive branch than the LDA. The discrepancies in the definitions and scope of these reporting methods eliminate the ability to make "apples to apples" comparisons between organizations, thereby reducing the insight provided by the data.

The following examples of the AFL-CIO and the Chamber of Commerce, two powerful lobbying forces on Capitol Hill, illustrate how the different definitions of lobbying mistakenly give the impression that the union's presence is miniscule in comparison to the Chamber's. In 2004, the AFL-CIO opted to file its lobbying report using the LDA definition of lobbying. With no grassroots media campaigns or state and local lobbying activity included in its figure, the AFL-CIO reported $1.2 million in lobbying activity. The Chamber, on the other hand, chose to file its lobbying report using one of the IRC definitions of lobbying, which includes grassroots media campaigns and lobbying efforts at the state and local levels, and thus report a total of $28.8 million in lobbying that same year.

All filers should use the same definition of "lobbying" for their disclosure reports and file according to the same reporting method.

Section II: Slowing the Revolving Door

1. Extend the revolving door "cooling off" period to two years and include a prohibition on all lobbying activity during that period.

Under the Ethics Reform Act of 1989, members and staff of the federal executive and legislative branches are subject to restrictions on post-government lobbying activities. While any former government official or employee may walk through the revolving door and accept a position as a lobbyist immediately after leaving the public sector, there are specific constraints on their activities, depending on the nature of their previous public service. The most common restriction is the one year "cooling off" period. Generally, former members of Congress and senior level staff of the executive and legislative branches are prohibited from making direct lobbying contacts with former colleagues for one year after leaving public service.

The objectives of this cooling off period are two-fold. First, the revolving door can cast doubts on the integrity of official actions and legislation. A member of Congress or a government employee could well be influenced in their official actions by promises of high-paying jobs in the private sector from a business that has a pecuniary interest in the official's actions while in government. Second, the former government employee may give the undesirable appearance of utilizing the opportunities and privileges gained while working as a public servant to enhance private gain, both of the former employee and the special interest group that hired the employee.

In practice, the cooling off period is falling far short of its objectives. As documented by Public Citizen, it is typical for 45 to 50 percent of members of Congress to begin a lobbying career after leaving public office.

A one-year ban on lobbying is an ineffective barrier to officeholders who shift to the private sector using their public sector connections. The former five-year ban that applied to executive officials under the Clinton Administration may be too draconian, potentially removing officials from ever working in their areas of expertise. A more appropriate cooling-off period would be a two-year ban on lobbying. Two years comprise an entire session of Congress. This is a crucial time period during which former colleagues of the newly-minted lobbyist may retire, congressional staff may move on to other opportunities, and committee chairmanships may switch party.

The lobbying activity subject to the current one-year prohibition has been narrowly defined to include only direct contact with federal officials. All other forms of lobbying activity, such as researching relevant issues, developing lobbying strategy and supervising lobbyists, are not subject to the one-year ban. As a result, it is common for covered officials to step into lobbying positions immediately upon leaving government. They run the entire lobby shop; they only stop short of picking up the phone and making the pitch.

The scope of prohibited lobbying activities during the cooling-off period should be expanded. It is not enough to prohibit direct lobbying contacts, which are only a small part of the profession of lobbying. Former officials should also be prohibited from engaging for pay in "lobbying activity" – the research, strategy development and supervising of activity specifically designed to facilitate making a lobbying contact with a covered official.

2. Temporarily suspend special privileges of former members of Congress who become lobbyists.

Once a member of Congress retires or leaves office, they are granted certain special privileges. These include access to the floor where members vote and admission to exclusive Capitol Hill facilities, such as the congressional gym and dining rooms. Such perks grant a level of access that normal lobbyists and average citizens do not have and amount to government assistance to individuals choosing to parlay their public service into a lucrative lobbying career.

Another perk is the Identification Badges given to former lawmakers, which allow them to quickly pass through heightened post-September 11th security and other restricted Capitol Hill locations, facilitating easy interaction with members and their staffs.

If a former member of Congress decides to cash in on their public service and go through the revolving door, Congress should not aid in such endeavors. A member should be required to turn in their Identification Badge upon registering as a lobbyist and all special privileges should be suspended for the duration of serving as a lobbyist.

3. Improve scrutiny and disclosure of waivers from conflicts of interest granted to executive branch officials seeking private-sector employment.

Conflict of interest can occur when a public official negotiates future private-sector employment while on the job, if that potential employer has a vested interest in the work being done by the official. Ethics laws and regulations forbid public officials from seeking personal gain through official actions, but only the executive branch is subject to an unambiguous prohibition against negotiating future employment from businesses with a vested interest in the public official's work. An executive branch official may receive a waiver from this conflict of interest prohibition from the agency director. The waiver is not entered into the public record.

Such waivers have been granted in a questionable and secretive manner by political appointees. For example, Health and Human Services Secretary Tommy Thompson granted a conflict of interest waiver on May 12, 2003, to Tom Scully, the head of the Centers for Medicare and Medicaid Services. At the time, and for the next six months, Scully served as the Bush Administration's chief negotiator on the Medicare prescription drug bill, which provided a windfall for the drug industry. He simultaneously negotiated future employment with companies that would benefit from the law. Scully did not reveal to Congress or the public – nor was he required to reveal – that he was playing both sides of the fence at the same time. Scully helped deliver the Medicare windfall to the drug industry, and he received a highly lucrative job with companies affected by the law upon leaving public service.

Though the Scully scandal has since prompted the Bush Administration to review any further waivers through the White House counsel, these waivers remain easily obtainable and still are not made public record.

The process for granting waivers from conflict of interest restrictions to seek private employment should be standardized for all executive agencies and subject to review by the central Office of Governmental Ethics (OGE). Waivers should not be granted unless OGE determines that the conflict of interest is too insubstantial to taint the official's judgment or otherwise unavoidable under emergency circumstances. OGE should keep all records relating to the request and approval of waivers and promptly make these records publicly available.

4. Apply the same executive branch conflict of interest restrictions to members of Congress and their senior staff seeking private employment.

While federal law prohibits an employee of the executive branch from seeking future employment with an organization that has a vested interest in the employee's work, ethics rules on negotiating future employment are not as strict for members and staff of the Senate, and even less so for the House. Both the Senate and House rules *advise* members and staff to recuse themselves from official actions of interest to a prospective employer while job negotiations are underway. But that is about as far as congressional ethics go in regulating this conflict of interest.

In negotiating future employment as a lobbyist while still serving in government, members of Congress and senior staff are warned not to be unduly influenced by the prospects of lucrative job offers, but they may nonetheless go ahead and negotiate jobs and salaries. Though recusal from participating in official actions where a conflict of interest occurs is suggested in both the Senate and the House, it is not mandated. While a recusal is rare, the flow of congressional officials into the ranks of private lobbyists every year is not.

Lucrative salaries and benefits from special interest groups can be very tempting. For example, in 2005, Rep. James Greenwood (R-Pa.) stepped from public service overseeing the drug industry into a $650,000 a year salary (plus benefits) position as president of BIO, a trade association of biotechnology businesses. Rep. Billy Tauzin (R-La.), after playing an influential role moving the Medicare prescription drug bill, moved himself into heading PhRMA the same year, the lobbying arm of the prescription drug industry, for a reported $2 million salary.[6]

These salary levels for private sector lobbyists can cast grave aspersions on the integrity of an official's public service, if the official is negotiating employment while in government. It appears that the House and Senate ethics committees are not keeping tabs on who in Congress is negotiating for outside employment.

Recusal from official actions in which a conflict of interest arises with job negotiations should be mandatory for members of Congress and senior congressional staff, unless waived in writing by the ethics committee as an insufficient conflict to affect the integrity of the official's services to the government. All negotiations for future employment by members and their senior staff, as well as any waivers received for potential conflicts of interest, should be made public record.

Section III: Limiting Influence Peddling by Lobbyists

1. Prohibit privately-sponsored travel for government officials and staff.

Travel by congressional and executive branch officials and employees are subject to gift rules and ethics regulations. In addition to "official travel," which is paid for by the government, federal officials and employees may also partake in privately-sponsored travel related to their official duties.

Government-paid official travel is strictly regulated by the appropriate governmental agency. The rules governing privately-sponsored travel, however, are more lax. A government official or employee may accept travel expenses to attend a meeting, speaking engagement, fact-finding trip, or similar event in connection with official duties from a private source if:

- The private source is directly and immediately associated with the event or location being visited.

- In the case of congressional travel, the private source is not a registered lobbyist or a registered foreign agent; in the case of executive travel, the private source does not give the appearance of corruption.

- Travel expenditures cover no more than specifically defined time periods.

- In the case of travel by congressional staff or executive branch officials and employees, travel arrangements must be pre-approved (by the member in the case of the House, and by the executive agency in consultation with OGE in the case of executive officials and employees). Travel by members of Congress need not be approved by anyone beforehand.

The abuses of privately-sponsored travel, especially for members of Congress and their staff, are legendary, earning the *nom du jour* of "congressional junkets." The cases of abuses are piling up day by day, featuring such stories as lobbyist Jack Abramoff arranging a $70,000 golf junket for House Majority Leader Tom DeLay and others to Scotland and lobbyist Richard Kessler financing congressional travel across the globe through the Ripon Society and Ripon Educational Fund under his control.

Though there are some legitimate privately-sponsored trips for educational purposes, the abuses of travel privileges are so widespread as to become the norm. Travel for congressional and executive officials and employees are a Mecca for lobbyists. Once lobbyists get public officials beyond a 35 mile radius of Capitol Hill, the normal gift rules that limit meals and lodging expenses, as well as lobbyist disclosure rules, fall by the wayside. And there is no greater opportunity for a lobbyist than to get a member of Congress aboard a client's corporate jet for the excursion.

The solution to these travel abuses is simple*: **All privately-paid travel for government officials and their staff should be banned.*** If a trip is necessary or offers important educational opportunities to government officials and their staffs, then the government should pay for it as official travel.

If Congress does not have the will to ban privately-sponsored travel and end this avenue of corruption altogether, it could take a number of other steps that would remedy the most egregious abuses. The existing ethics rules could be tightened to make it harder for lobbyists to use non-profits, parent companies and corporate clients to avoid the ban on lobbyist-paid travel. At a minimum, travel rules should:

- Prohibit lobbyists and their clients from paying, soliciting payment for or arranging travel for members of Congress, executive officials or their staff.

- Prohibit lobbyists from attending or participating in travel events for members of Congress, executive officials and their staff (defined as events that occur outside a 35-mile radius from Capitol Hill), similar to the Aspen Institute's policy of forbidding lobbyists to attend the events it sponsors for lawmakers.

- Require travel disclosure forms to include a description of the activities the member of Congress, executive official and their staff conducted in connection with official duties while on a trip; a listing of all entertainment activities paid for by the private sponsor of the trip and reasonable cost estimates of the entertainment; and the name of the hotel or other accommodations paid for by the private sponsor of the trip.

- Require non-profits that pay for trips to disclose who is attending the event, the name of their employers and their occupations and the purpose of the event. They also should reveal who donated the money to pay for travel expenses.

- Require prompt electronic filing of travel reports by members of Congress, executive officials and their staff and by private groups funding travel, and require prompt public disclosure of those reports on a searchable Web site.

- Prohibit corporations that own lobbying firms from paying for travel.

- Prohibit corporations and other private groups from paying for the travel expenses of accompanying family members.

- Prohibit the use of non-commercial aircraft or other non-commercial vehicles for transportation of members of Congress, executive officials and their staff to and from privately-sponsored travel events.

- Establish reasonable limits on allowable expenses and per diem rates for official travel. The appropriate per diem rates should be set by the appropriate ethics agency and in accordance with federal government standards.

2. Restore the "no-cup-of-coffee" gift ban.

There appear to be fairly strict limits on gift-giving to members of Congress and their staff and to executive branch officials: Lobbyists (and all others) may provide a single gift of less than $50 in value or a total of gifts of less than $100 in value per year to a single covered official (the limits are somewhat lower for executive branch officials). These gift rules often are not enforced, easily sidestepped, and frequently cited by lobbyists and covered officials as too confusing and difficult to monitor.

The restrictions of both chambers of Congress are further watered down by permitting unrealistic accounting methods to mask the true value of gifts. The current situation is further worsened because there is no requirement that gifts be disclosed.

House Republicans in 1995 established strict rules banning the acceptance of gifts by members in that body. The Senate and the executive branch enacted rules that reduced the values of gifts officers and employees could receive. Since then, the Senate and executive branch gift rules have remained generally constant, while House rules have been steadily relaxed, over time becoming less stringent than either the Senate or executive branch rules.

Gift giving is now commonplace in Congress and the executive branch. Numerous exceptions to the limits on gifts have reduced the scope of regulation dramatically. These include:

- The travel exception. When a government official or staff member goes on privately-sponsored travel related to official business, the gift limits on food, lodging and transportation fall by the wayside.

- The House "pizza rule." Lobbyists are allowed to send members of Congress and their staff substantial meals so long as the total value complies with the limit on gifts for all persons combined who partake in the meals.

- Under-valuing gifts. Tickets to seats in luxury boxes and "club" seats at Washington's MCI Center (where sports and entertainment events are held) have a printed face value of $49.50. The price, which is arbitrary because one cannot actually buy tickets within privately leased skyboxes, was crafted to fit within the $50 per gift limit.

Even more problematic than the exceptions to the gift rules is the general lack of monitoring and enforcement. The states of Massachusetts and Wisconsin decided some time ago that trying to monitor and enforce limits on gifts to officeholders is far more difficult than simply banning them altogether. The "no-cup-of-coffee" rule in these states has won widespread accolades for being simple to understand and enforce, and for removing one more potential source of corruption from the public sphere.

Gifts are an unnecessary and potentially troublesome source of business between lobbyists and public officials and should be prohibited altogether.

3. Prohibit registered lobbyists from making, soliciting or arranging for campaign contributions to those whom they lobby.

As members of Congress and party committees hustle to raise campaign cash, one pool of potential donors – lobbyists – provides a rich and easy source of funds. Their support comes in three ways:

- Direct contributions from lobbyists.
- Lobbyists soliciting campaign contributions from their clients on behalf of officeholders and party committees.
- Lobbyists arranging fundraising events for officeholders and party committees.

Lobbyists are willing, and expected, to make campaign contributions to those whom they lobby. An extensive set of interviews with numerous K Street lobbyists by *Roll Call* found that every single lobbyist contacted reported making significant campaign contributions.[7]

Lobbyist *solicitations* of contributions from clients – known in lobbyist parlance as "OPM" for "other-people's-money" – are a very important tool in the influence peddlers' arsenal. A lobbyist's clients are usually more than willing to cooperate in a campaign contribution strategy to gain access in hope of sealing the deal with officeholders. The Westar scandal that Public Citizen helped uncover is but one case in point. [http://www.citizen.org/cmep/energy_enviro_nuclear/electricity/energybill/westar/index.cfm]

Westar's lobbyist laid out a schedule of campaign contributions that each company executive would have to make in order for the Kansas-based firm to "buy a seat at the table" with congressional leaders. The contributions were made according to the schedule, even though one company executive asked the lobbyist about the targeted recipients of their contributions: "Who is [Rep.] Shimkus, who is [Rep.] Young. DeLay is from Texas, what is our connection? … I am confused." In turn, the legislative favor sought by Westar was delivered in an energy bill conference, until news spread of a Department of Justice corporate fraud investigation into the company's activities.

Well-financed lobbyists will also arrange fundraising events for officeholders. Such an event can easily rake in large sums. In a complaint filed with the FEC, Public Citizen documented the numerous activities of one lobbyist, Mitch Delk of Freddie Mac, arranging fundraising events for federal officeholders, candidates and party committees. In the 2002 election cycle alone, Delk hosted 45 such events. More than half (24) of the events featured as a special guest Rep. Michael Oxley (R-Ohio), chairman of the House Financial Services Committee, which regulates Freddie Mac. Nineteen (19) of these

events were held explicitly for the benefit of congressional members with oversight responsibility over Freddie Mac.
[http://www.citizen.org/congress/campaign/issues/electadmin/articles.cfm?ID=10582]

To keep this type of abusive influence peddling in check, registered lobbyists should be prohibited from making, soliciting or arranging for campaign contributions to those whom they lobby. Since lobbyists register on the basis of issue areas in which they are expecting to lobby, rather than by individual officeholders, the ban on contributions from each particular lobbyist should apply to all elected officeholders or candidates for the branch of government that is the target of the lobbyist's activities. This would mean that registered lobbyists would be prohibited from making campaign contributions to, or arranging fundraisers for, either candidates for Congress, or candidates for the executive branch, or both, depending on the scope of the lobbyist's activities.

4. Establish a central ethics agency for Congress to monitor and enforce federal lobbying, travel, gift and ethics laws and regulations.

Currently, the implementation, monitoring and enforcement of lobbying, travel, gifts and ethics laws are done loosely through a confederation of offices, each with different levels of jurisdiction. The Clerk of the House and Secretary of the Senate receive and disclose lobbying and travel reports. Ethics standards, travel and gift rules for the House of Representatives are implemented and enforced primarily by the Committee on Standards of Official Conduct. Senate ethics standards, travel and gift rules fall under the authority of the Senate Select Committee on Ethics.

This quilt of lobbying and ethics authorities has resulted in a myriad of different rules applying to different individuals and branches, and considerable confusion among all persons covered under the regulations. Moreover, there are serious questions whether any of these congressional committees have the independence and discipline to fulfill their mission. The Clerk of the House and the Secretary of the Senate will not act without directives from members of Congress. The ethics committees have a self-interest in weak enforcement and can end up in bitter disputes, as happened in the House of Representatives in 2004 and 2005.

Several states provide better models for implementation and enforcement of lobbying and ethics laws through independent ethics agencies, with leaders selected on a non-partisan and rotating basis, and with multiple-year budgets to protect against retaliations by a hostile legislature or governor. An independent agency overseeing lobbying and ethics at the federal level would help protect against partisanship, encourage responsible enforcement of lobbying and ethics laws, and standardize their implementation.

Congress should consolidate the responsibilities of the Senate and House ethics committees, as well as each body's lobbying disclosure responsibilities and travel and gifts monitoring, into an independent agency capable of serving as a strong watchdog.

Members of a new congressional ethics agency should be full-time positions, staffed and directed by career officials who are not members of Congress. It should assume all the responsibilities of ethics enforcement and lobbying disclosure for both houses of Congress. The agency should also be afforded a budget that is approved once every two sessions of Congress, in order to better insulate the agency from retaliation.

5. Strengthen the Office of Governmental Ethics to monitor and enforce federal travel, gift, and ethics laws and regulations for the executive branch.

Ethics and conflict of interest guidelines for executive branch employees are developed by the Office of Governmental Ethics (OGE), which has little enforcement authority. As an ethics enforcement agency, OGE is better structured than the congressional ethics committees in that most of its employees are career public servants rather than partisan politicians. However, OGE is given only advisory authority on ethics matters and is chartered to work as a "partner" with executive agencies.

For example, while OGE has developed guidelines for granting waivers for employees from the conflict-of-interest laws governing future employment searches, these are only guidelines. Each executive branch agency promulgates its own waiver procedures, which are then interpreted and enforced by the specific ethics officer appointed within that executive office. As a result, there is no one set of procedures for seeking and receiving waivers from conflict-of-interest laws, and each set of waiver procedures are interpreted differently by different offices.

Moreover, OGE has neglected to establish itself as an effective public information source. Though the agency compiles and scrutinizes previous employment records for scores of executive branch appointees and employees, it makes little effort to make these records available to the public.

In the executive branch, the OGE should continue to serve as the principle oversight agency, but be strengthened in order to ensure that conflict of interest standards are consistently applied. OGE must be granted some enforcement authority, particularly over civil violations, and should not be viewed as a "partner" sharing ethics responsibilities with other executive branch agencies. It must be empowered as the central ethics agency for the entire executive branch, responsible for the promulgation of rules and regulations, monitoring their implementation, and enforcing compliance. It should also serve as the central repository for all rules and compliance actions, and function as the executive branch's public outreach clearinghouse for ethics.

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Endnotes

[1] Political MoneyLine at: http://www.fecinfo.com/cgi-win/lp_sector.exe?DoFn=ye&Year=04

[2] 2 U.S.C. §1605(3)(B).

[3] 2 U.S.C. Section 1604(5)(b)(2)(A).
[4] 2 U.S.C. Section 1601(2)(1).
[5] R. Eric Petersen, Memorandum to the Hon. Lloyd Doggett, Congressional Research Service, April 4, 2002.
[6] "Advertising Overdose Drug Ads," *New Jersey Record*, June 17, 2003.
[7] Kate Ackley, "K Street's Money Chase," *Roll Call*, June 20, 2005.