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Lobbying Reform: Background and Legislative Proposals, 109th Congress

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Summary

In the decade since enactment of the Lobbying Disclosure Act of 1995 (LDA), concerns have been raised about the capacity of Congress to oversee the activities of professional lobbyists. Lobbyists and others who seek to participate in public policy activities through the formation of coalitions and associations whose members may not be identifiable, and the use of grassroots campaigns that attempt to mobilize citizens to advance the message of a lobbyist's client have also raised concerns. Some lobbying activities have also been linked to campaign finance practices, congressional procedures regarding the acceptance of gifts from lobbyists, and the inclusion of earmarks advocated by lobbyists in appropriations legislation.

In the 109th Congress, legislative proposals related to lobbying focus on six broad areas, including (1) enhanced requirements for electronic filing of lobbying reports and semiannual reports required under LDA; (2) redefinition of the term "client" under the statute; (3) more detailed disclosure by lobbyists of which groups and entities are funding coalitions and associations they represent; (4) more detailed disclosure by lobbyists of the individuals in Congress and the executive branch they contact; (5) congressional Rules regarding the interactions of Members and staff with lobbyists; and (6) the Federal Election Campaign Act of 1971, as amended, as it relates to lobbying activities.

Legislative proposals addressing some or all of those concerns introduced in the House thus far in the 109th Congress include H.R. 4975; H.R. 5036; H.R. 4948; H.R. 4920; H.R. 4682; H.R. 4799; H.R. 4787; H.R. 4738; H.R. 4696; H.R. 4671; H.R. 4670; H.R. 4667; H.R. 4658; H.R. 4575; H.R. 2412; H.R. 1302; H.R. 1304; and H.Res. 81. Measures related to lobbying issues introduced in the Senate include S. 2349, S. 2265, S. 2261, S. 2233, S. 2186; S. 2180; S. 2128; S. 1972; and S. 1398.

For further information, regarding the consideration of H.R. 4975 and S. 2349, see CRS Report RL33293, *Lobbying and Related Reform Proposals: Consideration of Selected Measures, 109th Congress*, by R. Eric Petersen.

On February 1, 2006, the House adopted H.Res. 648. The measure amended House Rules to deny admittance to the House floor and certain House facilities to former Members who lobby.

For further information regarding lobbying proposals and issues please see the CRS Current Legislative Issues page on Lobbying Disclosure and Ethics Reform at [http://beta.crs.gov/cli/cli.aspx?PRDS_CLI_ITEM_ID=2405]. This report will be updated as warranted.

Contents

Introduction	1
Current Lobbying Disclosure Law: A Summary of Potentially Affected	
Provisions of LDA	4
LDA Enforcement	6
Current Legislative Proposals	7
House Measures	9
Measures Considered	9
Status of Proposals Passed by the House	9
H.R. 4975, Committee Consideration	9
H.Res. 648	13
Other Measures Introduced	14
H.R. 4975, as Introduced	14
H.R. 5036	16
H.R. 4948	16
H.R. 4920	17
H.R. 4799	17
H.R. 4787	18
H.R. 4738	19
H.R. 4696	20
H.R. 4682	20
H.R. 4671	22
H.R. 4670	22
H.R. 4667	23
H.R. 4575	24
H.R. 2412	25
H.R. 1302 and H.R. 1304	27
H.Res. 81	27
Senate Measures	27
Measures Considered	27
S. 2349, Senate Consideration	27
S. 2349, Committee Consideration	28
S. 2128, Committee Consideration	30
Other Measures Introduced	32
S. 2265	32
S. 2261	33
S. 2259	33
S. 2233	34
S. 2186	34
S. 2180	35
S. 2128, as Introduced	37
S. 1972	38
S. 1398	38

Further Resources	40
Lobbying	40
Congressional Ethics Rules	40
Congressional Procedures	41
Campaign Finance	41

Lobbying Reform: Background and Legislative Proposals, 109th Congress

Introduction

The regulation of lobbying disclosure is governed by the Lobbying Disclosure Act of 1995 (LDA),¹ as amended by the Lobbying Disclosure Technical Amendments Act of 1998.² LDA requires any lobbyist who is compensated for his actions, whether an individual or firm, to register and to file with the Clerk of the House and the Secretary of the Senate semiannual reports of their activities. These reports identify the name of the registrant lobbyist, client, and the broad issue areas in which lobbying was carried out. In the decade since the enactment of the LDA, concerns have been raised about the capacity of Congress to oversee lobbying activities of professional lobbyists who seek to participate in public policy activities through the formation of coalitions and associations whose members may not be identifiable, and the use of grassroots campaigns that attempt to mobilize citizens to advance the message of a lobbyist's client.

Concerns related to the efficacy of current lobbying disclosure practices have also been linked to other activities carried out by lobbyists. These include campaign finance practices,³ congressional rules regarding the acceptance of gifts and support from lobbyists,⁴ and the inclusion of earmarks advocated by lobbyists in appropriations legislation.⁵

In the American political system, the pursuit of private interests through adoption and amendment of public policy dates back to the founding of the republic. Writing in support of the new Constitution, James Madison identified interest groups, or factions — groups of citizens united by a common impulse of passion or of

¹ P.L. 104-65, Lobbying Disclosure Act of 1995 (109 Stat. 691, 2 U.S.C. 1601).

² P.L. 105-166, Lobbying Disclosure Technical Amendments Act of 1998 (112 Stat. 38, 2 U.S.C. 1601 note)

³ See CRS Issue Brief IB87020, *Campaign Finance*, by Joseph E. Cantor.

⁴ For further analysis, see CRS Report RL33234, *Lobbying Disclosure and Ethics Proposals Related to Lobbying Introduced in the 109th Congress: A Comparative Analysis*, by R. Eric Petersen; and CRS Report RL33237, *Congressional Gifts and Travel, Legislative Proposals for the 109th Congress*, by Mildred Amer.

⁵ See CRS Report RL33295 *Comparison of Selected Senate Earmark Reform Proposals*, by Sandy Streeter; and CRS Report 98-518, *Earmarks and Limitations in Appropriations Bills*, by Sandy Streeter.

interest — as a cornerstone of the American regime.⁶ In 1803, Alexis de Tocqueville observed that “in no country in the world has the principle of association been more successfully applied ... than in America.”⁷ The First Amendment provides opportunity for these groups to exist by prohibiting laws abridging freedom of speech, the right of the people to peaceably assemble, and to petition the government for a redress of grievances.⁸

For the past 40 years, observers have noted a steady increase in the number of organized interest groups, including associations, public interest groups, and professional organizations. Additionally, these observers note a change in the types of activities in which these organizations engage to advance their interests.⁹ In addition to longstanding lobbying techniques of establishing personal ties with Members of Congress, their staff and executive branch officials, and testifying at congressional and administrative hearings, interest groups are also using direct mail, public relations, newspaper advertisement, and other marketing techniques to generate public interest in public policies and programs. These activities can include engaging citizens to lobby on their behalf to persuade a government official regarding legislation or executive agency action. Some of these organized efforts, which are not currently subject to disclosure under LDA, are also accompanied by sophisticated media campaigns to advance the causes of a group.¹⁰ Widespread lobbying campaigns may be targeted to citizens, journalists, lawmakers, executive agency personnel, and other groups with interests similar to those of the organization on whose behalf the campaign is mounted.¹¹ This practice is sometimes referred to as “grassroots” advocacy to identify its appeal to the general public. Some observers, noting the use of marketing techniques and alleging that a connection to the general public is lacking, sometimes refer to such efforts as “astroturf” lobbying.¹²

⁶ See Federalist Number 10, in *The Federalist* by Alexander Hamilton, James Madison, and John Jay, edited by Benjamin Fletcher Wright, (Cambridge, MA: The Belknap Press of Harvard University Press, 1961), pp. 129-136.

⁷ Alexis de Tocqueville, *Democracy in America* (New York: Colonial Press, 1989), vol. I, p. 191.

⁸ For a broad overview of the roles and activities of groups that lobby Congress, see U.S. Senate, Committee on Governmental Affairs, Subcommittee on Intergovernmental Relations, *Congress and Pressure Groups: Lobbying in a Modern Democracy*, 99th Cong., 2nd sess. (Washington: GPO, 1986), pp. 1-40.

⁹ See H. R. Hood, *Interest Group Politics in America: A New Intensity* (Englewood Cliffs, NJ: Prentice Hall, 1990).

¹⁰ Darrell M. West and Burdett A. Loomis, *The Sound of Money: How Political Interests Get What They Want* (New York: W. W. Norton and Company, 1998), pp. 16-20; and R. Kenneth Godwin, “Money Technology and Political Interests: The Direct Marketing of Politics,” in Mark P. Petracca, ed., *The Politics of Interests: Interest Groups Transformed* (Boulder, CO: Westview Press, 1992), pp. 308-325.

¹¹ West and Loomis, *The Sound of Money*, pp. 45-64.

¹² Nicholas Confessore, “Meet the Press,” *Washington Monthly*, Dec. 2003, available at [<http://www.washingtonmonthly.com/features/2003/0312.confessore.html>].

In addition to the expanded scope and breadth of lobbying campaigns, some observers have noted that many lobbying campaigns involve increased reliance by interest groups on anonymous, or “stealth” campaigns, in which the lobbying activities directed to the public or policy makers are organized through coalitions and associations. Some of these coalitions and associations form alliances with other groups, or serve as groups which exist solely to advance a campaign for or against a specific policy action.¹³ Political scientists Darrell West and Burdett Loomis assert that anonymous campaigns are carried out in voter education efforts, and electoral, legislative, and rulemaking settings, and that “the key in each of these efforts is that the actual sponsor is masked by front organizations that make it difficult for the public to see who really is funding the activity. Stealth campaigns are consciously designed to fly under the radar of press and public oversight.”¹⁴

Anonymous campaigns to sway public opinion and affect public policy are not new. Writing a series of articles that became known generally as the Federalist Papers, Alexander Hamilton, James Madison, and John Jay,¹⁵ sought to sway the general public in the 13 United States, and New York residents in particular, to press their leaders for ratification of the U.S. Constitution. In 1787 and 1788, 85 articles authored by the trio appeared in newspapers throughout the country under the pseudonym “Publius,” as part of what has been described as the “most significant public-relations campaign in history.”¹⁶ In the articles, the three authors made no mention of their close association with the Constitutional Convention that drafted and approved the document.

Presently, however, concern has been expressed that entities that use anonymous lobbying activities and public relations campaigns might circumvent the process of public consideration of lawmaking and regulatory activities. Observers suggest that current lobbying disclosure laws, described below, allow interested entities to shield their lobbying activities through the use of ostensibly separate, independent coalitions and associations.¹⁷ Proposals to require more detailed disclosure of lobbying clients, the government officials who have been lobbied, and expenditures dedicated to lobbying have followed. Those supporting more detailed disclosure might argue that such efforts could afford greater transparency and a broader understanding of the effects of private interests in the public policy making process. From their perspective, such a change might also instill greater accountability. Those opposing changes to current lobbying disclosure practices might maintain that expanding disclosure could have a potential adverse impact on constitutionally protected rights

¹³ For examples of anonymous lobbying, see Jeffrey H. Birnbaum, “Lobbying Under The Cloak Of Invisibility,” *Washington Post*, Mar. 7, 2005, p. E1, retrieved through nexis.com.

¹⁴ West and Loomis, *The Sound of Money*, pp. 69-70.

¹⁵ Hamilton, Madison and Jay went on to become the first Secretary of the Treasury, a Representative in the First through Fourth Congresses and fourth President, and the first Chief Justice of the United States, respectively.

¹⁶ The Federalist Papers website, [<http://www.law.ou.edu/hist/federalist/>].

¹⁷ Josephine Hearn, “Dems Want to Change Congressional Rules,” *The Hill*, July 14, 2004, p.3; and Alison Mitchell, “Loophole Lets Lobbyists Hide Clients’ Identity,” *New York Times*, July 4, 2002, p. A1.

of assembly, association, and to petition the government, particularly the longstanding tradition of carrying out these activities without the necessity of self-identification. Additionally, opponents might assert that such a change could increase the administrative burden associated with reporting on their lobbying efforts under LDA.

Current Lobbying Disclosure Law: A Summary of Potentially Affected Provisions of LDA

LDA requires any lobbyist, whether an individual or firm, whose lobbying expenses exceed certain thresholds¹⁸ to register with the Secretary of the Senate and the Clerk of the House of Representatives within 45 days after the lobbyist first makes a lobbying contact with covered officials in the legislative and executive branches of the federal government on behalf of a client.¹⁹ The law requires lobbyists to file with the Clerk and the Secretary semiannual reports of their activities. These reports identify the name of the registrant, lobbyists the registrant employs, client, and the broad issue areas in which lobbying was carried out. In addition, the disclosure must include

- a good faith estimate, by broad category, of the total amount of lobbying-related income from the client, or expenditures by an organization lobbying in its own behalf, during the semiannual period. Expenditures may be estimated at less than \$10,000 or in increments of \$20,000;
- the specific issues that were the subject of a lobbyist's efforts, including "to the maximum extent practicable" a list of bill numbers;

¹⁸ If the total income for matters related to lobbying activities on behalf of a client represented by a lobbying firm does not exceed \$5,000, or total expenses in connection with the lobbying activities an organization whose employees engage in lobbying activities on its own behalf do not exceed \$20,000, then no registration and disclosure is required.

¹⁹ Legislative branch officials covered under LDA include Members of Congress; elected officers of either chamber; any employee of a Member, committee, leader or working group organized to provide assistance to Members; and any other legislative branch employee serving in a position that is compensated at a rate of 120% of the basic pay for GS 15 of the General Schedule.

Executive branch covered officials include the President; the Vice President; any officer or employee in the Executive Office of the President; any officer or employee serving in a position compensated through the Executive Schedule; any member of the uniformed military services whose pay grade is at or above O-7 under 37 U.S.C. 201 (In the United States Army, Air Force, and Marine Corps, this is a brigadier general. In the United States Navy and Coast Guard the equivalent rank is rear admiral.); and any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy advocating character that the Office of Personnel Management has excepted from the competitive service under 5 U.S.C. 7511(b)(2)(b).

- a statement of the houses of Congress and the federal agencies contacted by the lobbyist; and
- a list of the employees of the registrant who acted as lobbyists on behalf of the client, and a declaration of any previous employment as a covered executive branch or legislative branch official in the two years prior to registration.

LDA defines a lobbyist as any individual compensated by a client for services that include more than one lobbying contact, within certain limits.²⁰ A “client” is defined as any person or entity that employs and compensates another person to conduct lobbying activities on their behalf.²¹ A coalition or association may also be listed as a client. LDA does not require information on the specific membership of these groups. Under the current guidance issued by the Clerk of the House and Secretary of the Senate, such members of informal coalitions may optionally be viewed as separate clients for disclosure purposes.²² **Table 1** summarizes the number of registrants, clients and lobbyists registered with the Secretary of the Senate since LDA took effect.

²⁰ An individual whose lobbying activities constitute less than 20% of the time engaged in the services provided to a client over a six month period is exempt from LDA disclosure requirements.

²¹ Under LDA, groups that carry out lobbying activities on their own behalf must also register with the Clerk and the Secretary.

²² Office of the Clerk of the House of Representatives and Office of the Secretary of the Senate, *Lobbying Disclosure Act Guidance and Instructions*, p. 11. The document is also available through the Senate website at [http://www.senate.gov/pagelayout/legislative/g_three_sections_with_teasers/lobbyingdisc.htm].

Table 1. Registrants, Clients and Lobbyists Registered Under the Lobbying Disclosure Act of 1995, 1996-2004

Year ^a	Registrants		Clients		Lobbyists	
	Total	Annual change	Total	Annual change	Total	Annual change
1996	3,557	—	8,118	—	10,798	—
1997	4,051	13.89%	10,013	23.34%	14,946	38.41%
1998	4,422	9.16%	16,873	68.51%	18,589	24.37%
1999	4,813	8.84%	13,793	-18.25%	21,279	14.47%
2000	4,774	-0.81%	13,865	0.52%	16,342	-23.20%
2001	5,160	8.09%	15,941	14.97%	18,854	15.37%
2002	5,536	7.29%	17,575	10.25%	21,089	11.85%
2003	6,005	8.47%	15,317 ^b	-12.85%	24,872	17.94%
2004	6,231	3.76%	19,758	28.99%	30,402	22.23%

Source: Data from the Secretary of the Senate, Office of Public Records and CRS calculations.

Notes: Except for 2000, data reflect all records available on September 30. Data for 2000 reflect only active registrations, clients and lobbyists.

- a. As of Sept. 30 for each year. LDA became effective Jan. 1, 1996, and data for that year cover nine months.
- b. Total reflects Senate Office of Public Records efforts to regularize differences in various client names.

LDA Enforcement

Whoever knowingly fails to rectify an incomplete disclosure report following notification of the error by the Clerk of the House or Secretary of the Senate, or who otherwise does not comply with the requirements of LDA, may be liable for a civil fine of up to \$50,000.²³ The clerk and secretary must refer alleged incidents of noncompliance to the United States Attorney for the District of Columbia. The number of such referrals made since LDA became effective on January 1, 1996, is not publicly available. During a hearing to examine procedures to make the legislative process more transparent before the Senate Committee on Rules and Administration, however, Senator Christopher Dodd stated that “[s]ince 2003, the

²³ For further discussion of LDA and other laws, rules, and regulations affecting those who lobby Congress, see CRS Report RL31126, *Lobbying Congress: An Overview of Legal Provisions and Congressional Ethics Rules*, by Jack Maskell.

Office of Public Records has referred over 2,000 cases to the Department of Justice, and nothing's been heard from them again.”²⁴

The Department of Justice has reportedly claimed that between September 2003 and September 2005, it has received around 200 referrals involving possible LDA violations and has pursued 13 of those cases for further enforcement action. Of that total, media accounts claim that seven are still open, three have been closed without further action by the department, and three have been settled. No public announcements by the department regarding the settlements have been identified, but it has been reported that the three cases were settled for fines totaling \$47,000 and other considerations including periods during which some registrants were prohibited from conducting federal lobbying. It is not known whether these cases comprise the total LDA enforcement effort. Attorneys for the Department of Justice reportedly contend that the details of any settlements of violations under LDA are protected from public disclosure by the Privacy Act.²⁵

Current Legislative Proposals

In the 109th Congress, legislative proposals related to lobbying focus on six broad areas, including

- redefinition of the term “client” under LDA;
- enhanced requirements for electronic filing of lobbying reports and semiannual reports required under LDA;²⁶

²⁴ Senator Christopher Dodd, remarks during the Senate Committee on Rules and Administration hearing to examine procedures to make the legislative process more transparent, Feb. 8, 2006, retrieved through cq.com, at [<http://cq.com/display.do?dockey=/cqonline/prod/data/docs/html/transcripts/congressional/109/congressionaltranscripts109-000002046780.html@committees&metapub=CQ-CONGTRANSCRIPTS&searchIndex=0&seqNum=1>].

²⁵ Kenneth P. Doyle, “Senate Passed 2,000 Possible LDA Violations To DOJ, Dodd Reports; DOJ Pursued 13 Cases,” *BNA Money and Politics Report*, Feb. 14, 2006; Kenneth P. Doyle, “DOJ Refuses to Disclose Settlements With Those Who Violate Lobbying Law,” *BNA Daily Report for Executives*, June 20, 2005; and Kenneth P. Doyle, “Justice Department Reveals First Cases Settled Under Lobbying Disclosure Statute,” *BNA Daily Report for Executives*, Aug. 16, 2005, retrieved from the BNA website.

²⁶ The Office of the Clerk in Dec. 2004 inaugurated a voluntary electronic filing system for those required to file under LDA. Pursuant to a directive issued by Rep. Bob Ney, chairman of the Committee on House Administration, the Clerk will only accept electronic filing of LDA materials after Jan. 1, 2006 (Bob Ney, chairman, Committee on House Administration, “Electronic Filing of Disclosure Reports,” dear colleague letter, June 29, 2005, at [<http://www.house.gov/cha/dearcolleaguejune29-05.htm>]; see also the Clerk’s website at [<http://clerk.house.gov/pd/index.html>]). For some time, the Senate Office of Public Records has maintained a voluntary program of electronic filing “for the purpose of minimizing the burden of filing” LDA materials (Senate Office of Public Records, “Frequently Asked Questions,” at [<https://opr.senate.gov/faq.html>]). Additionally, the Senate makes LDA

(continued...)

- more detailed disclosure of which groups and entities are funding coalitions and associations;
- more detailed disclosure by lobbyists of the individuals in Congress and the executive branch whom they contact;
- congressional Rules regarding the interactions of Members and staff with lobbyists; and
- the Federal Election Campaign Act of 1971 (FECA), as amended.²⁷ as they relate to lobbying activities.

Several measures, addressing issues related principally to lobbying, and described below, have been introduced in the 109th Congress. Four measures that have received committee consideration and have been subsequently reported either to the House or Senate. These measures are

- H.R. 4975, the Lobbying Accountability and Transparency Act of 2006, introduced by Representative David Dreier;
- S. 2349, the Legislative Transparency and Accountability Act of 2006, introduced by Senator Trent Lott;
- S. 2128, the Lobbying Transparency and Accountability Act of 2006, introduced by Senator John McCain; and
- H.Res. 648, to eliminate floor privileges and access to Member exercise facilities for registered lobbyists who are former Members or officers of the House, introduced by Representative David Dreier.

For further information and analysis of proposals to reform congressional rules governing ethics and legislative procedures, see CRS Report RL33234, *Lobbying Disclosure and Ethics Proposals Related to Lobbying Introduced in the 109th Congress: A Comparative Analysis*, by R. Eric Petersen; CRS Report RL33237, *Congressional Gifts and Travel, Legislative Proposals for the 109th Congress*, by Mildred Amer; CRS Report RL33295, *Comparison of Selected Senate Earmark Reform Proposals*, by Sandy Streeter; and CRS Report RL32954, *527 Political Organizations: Legislation in the 109th Congress*, by Joseph E. Cantor and Erika Lunder.

²⁶ (...continued)

registration and disclosure reports available through the Internet at [<http://sopr.senate.gov/>].

²⁷ 2 U.S.C. 431.

House Measures

Measures Considered

Status of Proposals Passed by the House. The House passed H.R. 4975 on May 3, 2006 by a vote of 217 – 213. The House passed S. 2349 by unanimous consent on May 23, 2006, with an amendment that substituted the language of H.R. 4975, as passed by the House. A conference between the chambers to reconcile differences between the House and Senate versions of the bill is pending. For detailed discussion and analysis of the consideration of H.R. 4975, see CRS Report RL33293, *Lobbying and Related Reform Proposals: Consideration of Selected Measures, 109th Congress*, by R. Eric Petersen. A comparison of the provisions of H.R. 4975 as passed by the House and S. 2349 as passed by the Senate is available in CRS Report RL33326, *Lobbying, Ethics and Related Procedural Reforms: Comparison of Current Provisions of S. 2349 and H.R. 4975*, by Jack Maskell, R. Eric Petersen, and Sandy Streeter.

H.R. 4975, Committee Consideration. During the week of April 3, 2006, the House Committees on the Judiciary, Rules, House Administration, Government Reform and Standards of Official Conduct held markups of H.R. 4975, and voted to report the measure to the House.

Committee on the Judiciary. The Committee on the Judiciary met to consider H.R. 4975 on April 5. During consideration of the measure, Representative James Sensenbrenner, chairman of the panel, offered a manager's amendment, with the support of Ranking Member Representative John Conyers. The amendment would

- require disclosure of the date, recipient, and amount of funds contributed for fund-raising events for federal candidate or officeholders or their leadership PACs or a political party committee for whom a fund-raising event was hosted;
- require disclosure of the date, recipient, and amount of funds contributed or arranged to pay the costs of an event to honor or recognize a covered legislative branch official or covered executive branch official; contribute to any entity that is named for a covered legislative branch official or covered executive branch official, or to a person or entity in recognition of such an official; contribute to any entity established, financed, maintained, or controlled by a covered legislative branch official or covered executive branch official, or an entity designated by such official; or pay the costs of a meeting, retreat, conference or other similar event held by, or for the benefit of, one or more covered legislative branch officials or covered executive branch officials;
- define leadership PAC as an unauthorized political committee established, financed, maintained and controlled by a federal officeholder or candidate for federal office;

- require disclosure of the names of Members of Congress with whom registrants have had lobbying contacts. The Clerk of the House and Secretary of the Senate would be required to notify Members of their respective chambers when an LDA registrant discloses Member contact;
- require LDA registrants to report their expenses rounded to the nearest \$1,000;
- require the clerk to create and maintain a databases that links LDA information to the FECA database;
- increase the civil penalty for noncompliance with LDA from \$50,000 to \$100,000; and
- establish criminal penalties for knowingly and wilfully failing to comply with LDA disclosure requirements, punishable by imprisonment of up to three years. Cases of corrupt failure to comply with disclosure requirements would carry a potential prison term of up to five years.

The Sensenbrenner amendment was adopted by voice vote. Other amendments to H.R. 4975 considered in the Judiciary Committee included the following:

- Representative Martin Meehan offered an amendment to require grassroots lobbying firms to register under LDA and to disclose an estimate of income, including those related to paid advertising. The amendment was ruled not germane.
- Representative Darrell Issa offered an amendment that would have exempted violations for failure to file disclosures electronically, if the violation would be subject to a civil fine. After brief debate the amendment was withdrawn when another Member of the committee raised a point of order that the amendment was improperly drafted.
- Representative Meehan offered an amendment to prohibit a Member of Congress or elected officers of either chamber from knowingly engaging in lobbying activities within two years of leaving office. The amendment would also prohibit congressional staff members from lobbying for one year after leaving congressional employment. The amendment was ruled not germane.
- Representative Chris Van Hollen offered an amendment to require registered lobbyists to disclose information on any contributions they solicited and transferred to a candidate or political committee. Additionally, registered lobbyists who serve as the treasurer of the election committee of a candidate for a federal office or as treasurer or chairman of a political committee, would be required to disclose

those affiliations to the Secretary of the Senate and the Clerk of the House. The amendment was adopted by a vote of 28 - 4.

- Representative Maxine Waters offered an amendment to require lobbyists to disclose the names of congressional staff members, with whom lobbying contacts are made. The amendment was adopted by voice vote.
- Representative Robert Scott offered an amendment to require the Government Accountability Office (GAO) to conduct a study on lobbyist employment practices and fee agreements. The amendment was adopted by voice vote.

The Committee on the Judiciary voted to report H.R. 4975, as amended, to the House by a vote of 18-16.

Committee on Rules. The Committee on Rules met to markup H.R. 4975 on April 5. The following amendments were considered:

- Representative Shelley Capito offered an amendment authorizing the Chief Administrative Officer (CAO) to withhold the salaries of House staff members who do not participate in mandatory ethics training required in H.R. 4975. Representative James McGovern offered a second degree amendment to the Capito amendment that would strike the section of the underlying amendment calling for staff salaries to be withheld if congressional staffers do not participate in the mandatory ethics training. The McGovern second degree amendment was rejected by a voice vote. The Capito amendment was adopted by voice vote.
- Representative Louise Slaughter offered an amendment to require a list of any items that were not in either the House- or Senate-passed versions of a bill to be included in the rule providing for consideration of a conference report. Additionally, the amendment would provide for a motion to strike items beyond the scope of a conference. The amendment was rejected by a vote of 4-9.
- Representative Phil Gingrey offered an amendment to expand the definition of earmark to include legislative directives to federal programs. The amendment was adopted by voice vote.
- Representative Slaughter offered an amendment to require a list published in the *Congressional Record* of Members who voted or changed their votes after 30 minutes whenever a recorded vote is held open for more than 30 minutes. The amendment was rejected by a vote of 4-9.
- Representative Slaughter offered an amendment to create a new point of order for the exclusive use of the majority and minority leaders that could be raised against a conference report when the

integrity of that conference is in question. The amendment was rejected by a vote of 4-9.

- Representative Slaughter offered an amendment providing that staff on the Committee of Standards of Official Conduct could be dismissed only by vote of the committee. The amendment was rejected by a vote of 4-9.
- Representative McGovern offered an amendment to allow a point of order to be raised to determine whether the House will consider conference report if the three-day layover were waived. The amendment was rejected by a vote of 4-9.
- Representative McGovern offered an amendment to require members to pay full charter costs when using corporate jets for official travel and to disclose in the *Congressional Record* the owner or lessee of the aircraft and any other passengers on the flight. The amendment was rejected by a vote of 4-9.
- Representative McGovern offered an amendment to clarify that the meaning of “face value,” as used in section 304 of H.R. 4975, of a ticket for a sporting or entertainment event would mean the cost of that ticket if a member of the general public were purchasing it. The amendment was rejected by a vote of 4-9.
- Representative Alcee Hastings offered an amendment to mandate public disclosure of Members who sponsor earmarks in authorization, appropriation, and tax bills, including whether Members have a financial interest in the recipient or beneficiary of the earmark. The amendment was rejected by voice vote.
- Representative Hastings offered an amendment to establish a pre-approval and disclosure system for privately funded travel, to be overseen by the Committee on Standards of Official Conduct. The amendment was rejected by a vote of 3-8.
- Representative Doris Matsui offered an amendment to require a roll call vote in an open meeting of conferees, in order to report a conference report. The amendment was rejected by a vote of 4-7.
- Representative Matsui offered an amendment requiring 24 hours, instead of one legislative day, as the layover requirement for House consideration of a rule reported out of the Committee on Rules. The amendment was rejected by a vote of 4-8.

The Committee on Rules reported H.R. 4975, as amended, to the House by voice vote.

Committee on Government Reform. The Committee on Government Reform met to markup H.R. 4975 on April 6. Representative Tom Davis, chairman

of the panel, offered an amendment revoking federal retirement benefits for Members of Congress, congressional staff, and political appointees in the executive branch, convicted of certain crimes (including acceptance of bribes, perjury, falsifying information, embezzlement), punishable by at least one year of imprisonment when those crimes are committed while employed by the government. The amendment was adopted by voice vote.

Representative Issa offered two amendments broadening the scope of government employees affected by pension revocation provisions. Both amendments were withdrawn after brief debate.

The Committee on Government Reform reported H.R. 4975 to the House by voice vote.

Committee on House Administration. The committee on House Administration met to consider H.R. 4975 on April 6. During consideration, Representative Juanita Millender-McDonald, ranking member of the panel offered three amendments to regulate the acceptance of privately funded travel by Members and staff of the House; to create an office of public integrity in the office of the House Inspector General; and to strike Title VI of H.R. 4975 related to the regulation of 527 groups. Each of the three amendments were rejected by votes of 2 - 5.

The Committee on House Administration reported the measure to the House without amendment by a vote of 5 - 2.

Committee on Standards of Official Conduct. It has been reported that the Committee on Standards of Official Conduct met to consider H.R. 4975 on April 6, and voted to report H.R. 4975 without amendment.²⁸

H.Res. 648. On January 31, 2006, Representative David Dreier, chairman of the Committee on Rules introduced H.Res. 648. On February 1, 2006, the House adopted the measure under suspension of the Rules, by a vote of 379 - 50, 1 present. H.Res. 648 amended House Rule IV to deny floor privileges to former Representatives, House officers, parliamentarians or former minority employees nominated as an elected officer of the House if they: are a registered lobbyist or agent of a foreign principal; have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; or are employed or represent any entity for the purpose of influencing, the passage, defeat, or amendment of any legislative proposal.

The measure also amended House Rule IV to deny access to Member exercise facilities to any former Member, officers, or their spouses, who is a registered lobbyist.²⁹

²⁸ "Committee Endorses Lobbying Bill in Closed Session," *CQ Committee Coverage*, Apr. 6, 2006, retrieved from cq.com.

²⁹ In addition to H.Res. 648, five other measures with provisions regarding access to House facilities by former Representatives or other former officials who have floor privileges who
(continued...)

Other Measures Introduced

H.R. 4975, as Introduced. H.R. 4975, the Lobbying Accountability and Transparency Act of 2006, was introduced by Representative David Dreier on March 16, 2006. Representative Dreier, who is chairman of the Committee on Rules, was designated by the Speaker to develop legislation related to lobbying and ethics provisions on behalf of the House majority.³⁰ The measure would amend LDA to require

²⁹ (...continued)

become lobbyists have been introduced in the 109th Congress. H.Res. 646, introduced on Jan. 31, 2005, by Rep. Walter B. Jones, would deny admission to the Hall of the House to former Members who are lobbyists. The measure was referred to the Committee on Rules. No further action has been taken at the time of this writing. H.Res. 663, introduced on Jan. 31, 2005, by Rep. Vic Snyder, would also deny floor privileges to former Representatives who lobby. Additionally, the measure would deny former Members who are registered lobbyists services or facilities provided in House office buildings that are operated for the exclusive use of Members and former Members. H.Res. 663 was referred to the Committees on Rules and House Administration. No further action has been taken at the time of this writing. H.Res. 659, introduced by Rep. David Obey on Jan. 31, 2006, would require former officials with floor privileges to sign a statement that they have no direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; that they are not employed as a lobbyist or represent any party or organization for the purpose of influencing legislation in the House; and that they will not lobby for the passage, amendment, or defeat of any legislative measure pending before the House, reported by a committee, or under consideration in any of its committees or subcommittees. The measure was referred to the Committee on Rules, and in addition to the Committee on Standards of Official Conduct, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. H.R. 4682, the Honest Leadership and Open Government Act of 2006, introduced Feb. 1, 2006, by Rep. Nancy Pelosi, and described in greater detail below, would amend House Rule IV to deny floor privileges to former Representatives, House officers, parliamentarians or former minority employees nominated as an elected officer of the House if they are a registered lobbyist or agent of a foreign principal; have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; or are employed or represent any entity for the purpose of influencing, the passage, defeat, or amendment of any legislative proposal. The measure would also amend House Rule IV to deny access to Member exercise facilities to any former Member who is a registered lobbyist. No further action has been taken at the time of this writing. H.R. 4696, introduced by Rep. Mike Rogers of Michigan on Feb. 1, 2005, and described below, would also suspend floor privileges to former Members who are registered as lobbyists. The measure was referred to the Committees on Government Reform, House Administration, Rules, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. No further action has been taken at the time of this writing.

³⁰ "House Speaker Hastert and Rep. Dreier Hold News Conference on Lobbying Reform," transcript, *CQ.com*, Jan. 17, 2006, at [<http://www.cq.com/display.do?dockkey=/cqonline/prod/data/docs/html/transcripts/newsmaker/109/newsmakertranscripts109-000002036139.html@committees&metapub=CQ-TRANSCRIPTS&searchIndex=1&seqNum=15>].

- quarterly, instead of semiannual, filing of lobbying disclosure reports;
- reduction of the thresholds for which registration and disclosure is required, from \$5,000 to \$2,500 for a lobbying firm and from \$20,000 to \$10,000 for an organization whose employees engage in lobbying activities on its own behalf;
- reduction of the increments in which lobbying expenditures may be estimated, from less than \$10,000 to less than \$5,000, or in larger increments, from \$20,000 to \$10,000;
- electronic filing of lobbying registrations and disclosure reports;
- creation and maintenance by the Clerk and the Secretary of a searchable, sortable, and downloadable database containing LDA registration and disclosure information, made available through the Internet;
- disclosure by registered lobbyists of all past executive branch and congressional employment in the past seven years.

H.R. 4975 would amend LDA to require disclosure by lobbyists of any contributions made to federal candidates, officeholders, leadership PACs, political party committees or other entity which would be subject to disclosure under FECA. Lobbyists would also be required to disclose any gifts that count toward the annual gift limit established by House rules. The measure would increase the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000. Registered lobbyists would be prohibited from traveling in corporate aircraft on which a Member of the House travels.

H.R. 4975 would authorize the Inspector General of the House to audit LDA disclosure information, and to refer potential violations of the act to the Department of Justice. The measure provides for ongoing reviews and annual reports by the inspector general on activities carried out by the Clerk of the House under LDA.³¹

³¹ In addition to provisions related to lobbying, H.R. 4975 would require notification by the House to former Members, officers and senior staff of the beginning and ending date of post employment restrictions mandated under 18 U.S.C. 207. A Member of the House who is negotiating for prospective employment in which he or she has a conflict of interest, or for which there is the appearance of a conflict of interest, must make a statement within five days after commencing such negotiations to the Committee on Standards of Official Conduct. Members of the House, House officers, and employees would be prohibited from wrongfully influencing, on a partisan basis, any entity's employment decisions or practices. Privately funded travel would be suspended under the measure, and the Committee on Standards of Official Conduct required to develop guidelines regarding the use of such travel in the House. House gift rules would be amended to include requirements for the valuation of tickets to sporting and entertainment events. Frequent and comprehensive training on ethics would be required for existing and new

(continued...)

H.R. 4975 was referred to the Committee on the Judiciary, and in addition to the Committees on House Administration, Rules, Government Reform, and Standards of Official Conduct, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. No further action has been taken at the time of this writing.

H.R. 5036. H.R. 5036, the Full Disclosure in Lobbying Act, was introduced by Delegate Madeleine Bordallo on March 29, 2006. The measure would amend LDA to require the disclosure of the original source of funds made payable to any lobbyist who is subcontracted to lobby on behalf of a third party. The measure would also require disclosure of the identity of the third party.

H.R. 4948. H.R. 4948, the Ethics Reform Act of 2006, was introduced by Representative Earl Blumenauer on March 14, 2006. The measure would amend LDA to

- transfer authority to receive LDA registrations and reports from the Clerk and the Secretary to an independent ethics commission in the legislative branch created by the measure;³²
- require quarterly, instead of semiannual, filing of lobbying disclosure reports; and
- require electronic filing of LDA registrations and reports, and for those reports to be made available to the public through the Internet.

H.R. 4948 was referred to the Committee on House Administration, and in addition to the Committees on Rules, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. No further action has been taken as of the time of this writing.

³¹ (...continued)

house staff, with Members of the House encourages to participate in such training. H.R. 4975 would require the biennial publication of an ethics manual. See CRS Report RL33234, *Lobbying Disclosure and Ethics Proposals Related to Lobbying Introduced in the 109th Congress: A Comparative Analysis*, by R. Eric Petersen; and CRS Report RL33237, *Congressional Gifts and Travel, Legislative Proposals for the 109th Congress*, by Mildred Amer. The measure would rescind pensions accrued by a Member of Congress during their time in office upon a conviction of certain offenses that occurred while the Member served in Congress.

The measure also makes changes to provisions of FECA related to 527 organizations. See CRS Report RL32954, *527 Political Organizations: Legislation in the 109th Congress*, by Joseph E. Cantor and Erika Lunder.

³² H.R. 4948 would also terminate the Committee on Standards of Official Conduct. The commission would investigate any alleged violation of chamber rules or other standards of conduct by Members of the House or House employees; provide advisory opinions on ethics matters to Members of the House and their staff, and establish an office on advice and education.

H.R. 4920. H.R. 4920, the Accountability and Transparency in Ethics Act, was introduced on March 9, 2006 by Representative Michael Castle. The measure would amend LDA to

- transfer responsibility for receiving LDA registrations and reports from the Clerk to the Committee on Standards of Official Conduct;
- require quarterly, instead of semiannual, filing of lobbying disclosure reports;
- require electronic filing of LDA registrations and reports, and for those reports to be made available to the public through the Internet; and
- establish a civil fine of not more \$50,000 for any registrant or lobbyist who attempts to offer a gift to a Member of the House in violation of House gift rules.

The measure would also prohibit former Members officers, or employees of Congress from lobbying any current Member, officer or employee for a period of one year after they leave office or terminate employment.³³ H.R. 4920 was referred to the Committee on the Judiciary, and in addition to the Committees on House Administration and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. No further action has been taken as of the time of this writing.

H.R. 4799. H.R. 4799, to establish a legislative branch office of public integrity, was introduced by Representative Christopher Shays on February 16, 2006. The measure would establish an office of public integrity within the legislative branch, overseen by a director appointed jointly by the Speaker and minority leader of the House, and the majority and minority leaders of the Senate. The office would

- receive, monitor, and oversee financial disclosure and other reports filed by Members, congressional officers, and their staff under the Ethics in Government Act of 1978³⁴, and reports filed by registered lobbyists under LDA;
- investigate any alleged violation, of any rule or other standard of conduct;

³³ In addition to the lobbying provisions, H.R. 4920 would create an independent ethics commission within the legislative branch to investigate any alleged violation of chamber rules or other standards of conduct by Members of the House or House employees. The measure would make changes in House rules regarding the duties of the Committee on Standards of Official Conduct, and require annual ethics training for Members and staff of the House. H.R. 4920 would amend House rules to require advanced authorization by the Standards Committee of any privately funded travel to be undertaken by a Member of the House.

³⁴ Ethics in Government Act of 1978, 5 U.S.C. Appendix Sec. 401.

- present a case of probable ethics violations to the Committee on Standards of Official Conduct of the House of Representatives or the Senate Select Committee on Ethics, as appropriate;
- make recommendations to the appropriate ethics committee that it report any substantial evidence of a violation by a Member, officer, or employee of the House or the Senate of any law applicable to the performance of his duties that may have been disclosed in an investigation by the office;
- provide information and informal guidance to Members, congressional officers, and their staff regarding any rules and other standards of conduct applicable in their official capacities;
- give consideration to the request of any Members, congressional officers, and their staff for a formal advisory opinion, subject to the review of the Committee on Standards of Official Conduct of the House of Representatives or the Senate Select Committee on Ethics, as appropriate, with respect to the general propriety of any current or proposed conduct;
- conduct periodic and random reviews and audits of reports filed with it to ensure compliance with all applicable laws and rules; and
- provide informal guidance to lobbying registrants of their responsibilities under LDA.

Under the measure, the office would have authority to refer potential violations of LDA to the Department of Justice, and to audit LDA registrations and disclosure reports. LDA would be amended to require electronic filing of registration and disclosure reports, which would be made available in a searchable database accessible through the Internet.³⁵

H.R. 4799 was referred to the Committee on House Administration, and in addition to the Committees on Rules and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. No further action has been taken as of the time of this writing.

H.R. 4787. H.R. 4787, the Truth-in-Lobbying Disclosure Act, was introduced by Representative John Doolittle on February 16, 2006. The measure would amend LDA to require the disclosure of any federal funds received through grants, contracts,

³⁵ In addition to provisions affecting lobbying disclosure, H.R. 4799 would also make several changes to current procedures for consideration of ethics complaints against Members of Congress, including an expansion of who may file a complaint, processes for investigating claims of chamber rules violations, and interactions between the office and the House Committee on Standards of Official Conduct and the Senate Select Committee on Ethics.

or other sources by a client other than a state, during a semiannual reporting period. Any funds received by reason of a provision in an appropriations act that specifies the entity and the amount received, or specifies a project in a state or congressional district would also be subject to LDA disclosure. H.R. 4787 was referred to the House Committee on the Judiciary. No further action has been taken at the time of this writing.

H.R. 4738. H.R. 4738, the Commission to Strengthen Confidence in Congress Act of 2006, was introduced by Representative Mark Udall on February 8, 2006. A similar measure, S. 2186, described below, was introduced in the House by Senator Norm Coleman on January 25, 2006. H.R. 4738 would not change current lobbying laws and regulations, but would establish a commission to strengthen confidence in Congress through an evaluation of current congressional rules related to congressional interactions with various lobbying activities. A bipartisan, 10 member commission would be appointed by the majority and minority leadership of each chamber. The commission would be charged to

- evaluate and report the effectiveness of current congressional ethics requirements;
- weigh the need for improved ethical conduct with the need for lawmakers to have access to expertise on public policy issues;
- determine and report minimum standards relating to official travel for Members of Congress and staff;
- evaluate the range of gifts given to Members of Congress and staff, determine and report the effects on public policy, and make recommendations for limits on gifts;
- evaluate and report the effectiveness and transparency of congressional disclosure laws and recommendations for improvements;
- assess and report the effectiveness of the ban on Member of Congress and staff from lobbying their former office for one year and make recommendations for altering the time frame;
- make recommendations to improve the process whereby Members of Congress can earmark priorities in appropriations acts, while still preserving congressional power of the purse;
- evaluate the use of public and privately funded travel by Members of Congress and staff, violations of congressional rules governing travel, and make recommendations on limiting travel; and
- investigate and report to Congress on its findings, conclusions, and recommendations for reform.

H.R. 4738 was referred to the Committee on House Administration. No further action has been taken at the time of this writing.

H.R. 4696. Representative Mike Rogers of Michigan introduced H.R. 4696, the Restoring Trust in Government Act, on February 1, 2006. The measure proposes

- creation of an independent commission on lobbying and in the legislative branch composed of four members, with the Speaker and minority leader of the House, and the majority and minority leaders of the Senate each appointing one for a term of two years;
- development of a fee-based funding process under which LDA registrants would be required to pay reasonable fees to cover the estimated costs of operating the commission;
- requirements that each LDA registrant file with the commission monthly reports in electronic form that cover lobbying activities that relate to Congress, and that the commission post those disclosures on the Internet; and
- enactment of a four-year ban on former federal employees lobbying Congress after they terminate their government employment.

H.R. 4696 would extend current statutory provisions that prevent Members of Congress from lobbying any Member or committee for one year to all senior legislative branch staff. The measure would amend LDA to impose a prison term of up to one year for failing to comply with disclosure requirements. H.R. 4696 would also suspend House floor privileges for former Members who become lobbyists subject to LDA registration. The measure was referred to the Committee on the Judiciary, and in addition to the Committees on Government Reform, House Administration, Rules, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. On February 9, the Committee on Resources requested executive comment on sections of the bill that are unrelated to lobbying law.³⁶ No further action has been taken at the time of this writing.

H.R. 4682. Representative Nancy Pelosi, who is the House Minority Leader, introduced H.R. 4682, the Honest Leadership and Open Government Act of 2006 on February 1, 2006. The measure would amend LDA to require

- quarterly, instead of semiannual, filing of lobbying disclosure reports;

³⁶ In addition to the lobbying-related proposals, H.R. 4696 would amend congressional financial disclosure regulations to permit random audits, and create an independent commission to approve all congressional travel. The measure also address matters related to Indian gambling and campaign finance statutes.

- electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- reduction of the increments in which lobbying expenditures may be estimated in larger increments, from \$20,000 to \$1,000;
- disclosure by registered lobbyists of all past executive branch and congressional employment;
- establishment and maintenance by the Clerk and Secretary of lobbying disclosure information in an electronic database that directly links lobbying disclosure information to the information disclosed in reports filed with the Federal Election Commission (FEC) under FECA, and made available to the public free of charge through the Internet, and to make those reports available within 48 hours of filing;
- disclosure by registrants, and their employees who work as lobbyist, of any contributions made under FECA; and
- disclosure of grassroots lobbying communications by paid lobbyists and itemized disclosure of expenditures on grassroots lobbying activities. In the event that a grassroots lobbyist receives or spends \$250,000 or more for grassroots lobbying activities, an additional report must be made within 20 days.

H.R. 4682 would require members of coalitions or associations that employ a lobbyist, and not the coalition or association, to be listed as the clients of the registrant lobbyist. H.R. 4682 provides an exception for tax-exempt associations and for some members of a coalition or association if those members expect to contribute less than \$500 per any quarterly period to the lobbying activities of the coalition.

The measure would also require registrants to certify that the registrant and lobbyists they employ have not provided a gift, directly or indirectly, to a Member of the House in violation of House Rule XXV; a contribution to an event to honor a covered legislative branch official or an entity named after or controlled by a covered official in the legislative or executive branches; or to pay the costs of a retreat or other gathering of more than one covered official from the legislative or executive branches.

H.R. 4682 would establish an Office of Public Integrity within the House Office of Inspector General. The office would receive LDA registrations and disclosure reports, and conduct audits and investigations necessary to ensure compliance with LDA. A director of the office would be appointed by the Inspector General. The office would have the authority to refer violations of LDA to the United States Attorney for the District of Columbia for disciplinary action.

H.R. 4682 would eliminate floor privileges and access to Member exercise facilities to former Representatives who become lobbyists. The measure would

increase the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000.³⁷ In addition, H.R. 4682 would establish criminal penalties for noncompliance with LDA. Knowing and willful failure to comply with registration requirements would be punishable by fines, a term of imprisonment up to five years, or both. Whoever knowingly willfully, and corruptly fails to comply with LDA disclosure requirements would be subject to fines, a term of imprisonment up to 10 years, or both. H.R. 4682 would extend the ban preventing former senior executive personnel, former Members of Congress, and legislative branch personnel from lobbying the entity in which they previously served from one to two years. The measure was referred to the Committee on the Judiciary, and in addition to the Committees on Rules, Government Reform, Standards of Official Conduct, Armed Services, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.³⁸ No further action has been taken at the time of this writing.

H.R. 4671. H.R. 4671, the Clarity in Lobbying Act, was introduced by Representative Scott Garrett on January 31, 2006. The measure would require LDA registrants to disclose any gifts given to a covered legislative branch official. H.R. 4671 was referred to the Committee on the Judiciary. No further action has been taken at the time of this writing.

H.R. 4670. H.R. 4670, the Keep Lobbying Clean act, was introduced by Representative Scott Garrett on January 31, 2006. The measure would prohibit anyone convicted of a felony under federal, state or local law from lobbying. Failure to abide by the prohibition would be subject to imprisonment for up to one year and

³⁷ S. 2180 would require a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations; the establishment of fines and penalties for Member of Congress who wrongfully influence, on a partisan basis, any entity's employment decisions or practices; amendments to Senate Rules to prohibit favoritism; requiring the Senate Select Committee on Ethics to develop and revise guidelines on reasonable expenditures for official government travel; requiring certification that congressional travel meets certain conditions, and establishing civil fines for false certifications.

³⁸ H.R. 4682 requires a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations; the establishment of fines and penalties for Member of Congress or employees of the House who wrongfully influence, on a partisan basis, any entity's employment decisions or practices; amendments to the House Code of Official Conduct to prohibit favoritism; requiring the House Committee on Standards of Official Conduct to develop and revise guidelines on reasonable expenditures for official government travel; requiring certification that congressional travel meets certain conditions, and establishing civil fines for false certifications. Additionally, H.R. 4682 would require changes in House operations related to the congressional legislative workweek, time to read measures before they are considered on the floor and procedural changes in conference committees. Finally, H.R. 4682 would establish minimum requirements for executive branch appointees in certain public safety positions, and make changes to public contracting provisions.

a civil fine up to \$50,000 or the amount of compensation which the person received or offered for the prohibited conduct, whichever is greater. H.R. 4670 was referred to the Committee on the Judiciary. No further action has been taken at the time of this writing.

H.R. 4667. H.R. 4667, the Lobbying Transparency and Accountability Act of 2006 was introduced by Representative Michael Fitzpatrick on January 31, 2006. The measure would amend LDA to require

- quarterly, instead of semiannual, filing of lobbying disclosure reports;
- electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- reduction of the thresholds for which registration and disclosure is required, from \$5,000 to \$2,500 for a lobbying firm and from \$20,000 to \$10,000 for an organization whose employees engage in lobbying activities on its own behalf;
- reduction of the increments in which lobbying expenditures may be estimated, from less than \$10,000 to less than \$5,000, or in larger increments, from \$20,000 to \$10,000;
- disclosure by registered lobbyists of all past executive branch and congressional employment;
- establishment and maintenance of lobbying disclosure information in an electronic data base which directly links lobbying disclosure information to the information disclosed in reports filed with the FEC under FECA, and made available to the public free of charge through the Internet; and
- disclosure of grassroots lobbying communications by paid lobbyists and itemized disclosure of expenditures on grassroots lobbying activities.

H.R.4667 would amend LDA to redefine the term “client” as any person or entity that employs a lobbyist on behalf of that person or entity. The measure requires that firms and other entities that are members of coalitions or associations that employ a lobbyist, are to be considered clients, along with the coalition or association, if their total contribution related to lobbying activities is greater than \$10,000.

The measure would increase the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000. H.R. 4667 provides for reviews and semiannual reports by the Comptroller General on activities carried out by the Clerk of the House and the Secretary of the Senate under LDA. Additionally, a current ban on former senior executive personnel, former Members of Congress, and

legislative branch personnel, preventing them from lobbying the entity in which they previously served, would be extended from one to two years.³⁹

H.R. 4667 was referred to the Committee on the Judiciary, and in addition to the Committees on Standards of Official Conduct, Rules, Resources, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.⁴⁰ No further action has been taken at the time of this writing.

H.R. 4575. On December 16, 2005, Representative Christopher Shays introduced H.R. 4575, the Lobbying Transparency and Accountability Act of 2005, which would require

- quarterly, instead of semiannual, filing of lobbying disclosure reports;
- reduction of the thresholds for which registration and disclosure is required, from \$5,000 to \$2,500 for a lobbying firm and from \$20,000 to \$10,000 for an organization whose employees engage in lobbying activities on its own behalf;
- disclosure by registered lobbyists of all past executive branch and congressional employment;
- reduction of the increments in which lobbying expenditures may be estimated, from less than \$10,000 to less than \$5,000, or in larger increments, from \$20,000 to \$10,000;
- electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- establishment and maintenance of lobbying disclosure information in an electronic database that directly links lobbying disclosure information to the information disclosed in reports filed with the

³⁹ H.R. 3623, introduced by Rep. Robert Andrews on July 29, 2005, would increase the “cooling off” period to five years after the Member leaves office during which former Members of Congress may not lobby, or appear or communicate with intent to influence any matter before any Member, officer or employee of the entire legislative branch. The measure was referred to the Committee on the Judiciary.

⁴⁰ H.R. 4667 would require a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations; a ban on privately funded travel for Members of Congress, and enhanced disclosure requirements regarding gifts given by lobbyists to Members of Congress and congressional staff. Additionally, the measure would institute House Rules changes related to the use of earmarks and the availability of measures pending floor consideration, and clarify statutes regarding the use of federal funds for political activity.

FEC under FECA and made available to the public free of charge through the Internet; and

- disclosure of grassroots lobbying communications by paid lobbyists and itemized disclosure of expenditures on grassroots lobbying activities. In the event that a grassroots lobbyist receives or spends \$250,000 or more for grassroots lobbying activities, an additional report must be made within 20 days.

H.R. 4575 would amend LDA to redefine the term “client” as any person or entity that employs a lobbyist to carry out lobbying or grass roots lobbying activities on behalf of that person or entity. The measure requires that firms and other entities that are members of coalitions or associations that employ a lobbyist are to be considered clients, along with the coalition or association, if their total contribution related to lobbying activities is greater than \$10,000.

H.R. 4575 would increase the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000. The measure provides for reviews and semiannual reports by the Comptroller General on activities carried out by the Clerk of the House and the Secretary of the Senate under LDA. Additionally, the ban on former senior executive personnel, former Members of Congress, and legislative branch personnel preventing them from lobbying the entity in which they previously served would be extended from one to two years.⁴¹ H.R. 4575 was referred to the Committee on the Judiciary, and Committees on Standards of Official Conduct, Rules, and Resources for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. No further action has been taken at the time of this writing.

H.R. 2412. H.R. 2412, the Special Interest Lobbying and Ethics Accountability Act of 2005, was introduced by Representative Martin Meehan on May 17, 2005.⁴² The measure would amend LDA to require

- quarterly, instead of semiannual, filing of lobbying disclosure reports;
- electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;

⁴¹ H.R. 4575 requires a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations; and increased disclosure of travel by Members of Congress. The measure also specifies the valuation of tickets to sporting and entertainment events provided to covered executive and legislative branch officials.

⁴² A section-by-section discussion of the provisions of H.R. 2412 is available in CRS Report RS22226, *Summary and Analysis of Provisions of H.R. 2412, the Special Interest Lobbying and Ethics Accountability Act of 2005*, by Jack Maskell.

- establishment and maintenance of lobbying disclosure information in an electronic data base which directly links lobbying disclosure information to the information disclosed in reports filed with the FEC under FECA, and made available to the public free of charge through the Internet;
- identification of each executive branch official and Member of Congress with whom lobbying contacts are made, on an issue-by-issue basis, for each covered official contacted;
- disclosure by registered lobbyists of all past executive branch and congressional employment; and
- disclosure of grassroots lobbying communications by paid lobbyists and itemized disclosure of expenditures on grassroots lobbying activities.

H.R. 2412 would amend LDA to redefine the term “client” as any person or entity that employs a lobbyist on behalf of that person or entity. The measure requires that firms and other entities that are members of coalitions or associations that employ a lobbyist, are to be considered clients, along with the coalition or association, if their total contribution related to lobbying activities is greater than \$10,000.

The measure would increase the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000. H.R. 2412 provides for reviews and semiannual reports by the Comptroller General on activities carried out by the Clerk of the House and the Secretary of the Senate under LDA. Additionally, a current ban on former senior executive personnel, former Members of Congress, and legislative branch personnel, preventing them from lobbying the entity in which they previously served, would be extended from one to two years.

H.R. 2412 was referred to the Committee on the Judiciary, the Committees on Standards of Official Conduct, and the Committee on Rules, for a period to be subsequently determined by the Speaker, for consideration of those provisions that fall within the jurisdiction of each committee.⁴³ No further action has been taken at the time of this writing.

⁴³ H.R. 2412 requires a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations; the establishment of fines and penalties for Member of Congress or employees of the House who wrongfully influence, on a partisan basis, any entity’s employment decisions or practices; amendments to the House Code of Official Conduct to prohibit favoritism; requiring the House Committee on Standards of Official Conduct to develop and revise guidelines on reasonable expenditures for official government travel; requiring certification that congressional travel meets certain conditions, and establishing civil fines for false certifications. Finally, H.R. 2412 would require the appointment of a bipartisan ethics task force in the House to make recommendations on strengthening ethics oversight and enforcement, and providing the resources necessary to accomplish that goal.

H.R. 1302 and H.R. 1304. On March 15, 2005, Representative Lloyd Doggett introduced H.R. 1302, and H.R. 1304, both entitled the Stealth Lobbyist Disclosure Act of 2005. H.R. 1302 would amend LDA to redefine the term “client” as any person or entity that employs a lobbyist on behalf of that person or entity. The measure would require members of coalitions or associations that employ a lobbyist, and not the coalition or association, to be listed as the clients of the registrant lobbyist. H.R. 1302 provides an exception for tax-exempt associations and for some members of a coalition or association if those members expect to contribute less than \$1,000 per any semiannual period to the lobbying activities of the coalition. The measure was referred to the Committee on the Judiciary, Subcommittee on the Constitution. No further action has been taken at the time of this writing.

H.R. 1304 would amend the Internal Revenue Code to treat any coalition or association that is identified as a client on an LDA registration as a tax-exempt political organization. Any such coalition or association would be required to notify the Secretary of the Treasury of its existence within 72 hours after one of its lobbyists makes an initial contact, and to report any change in its membership within 72 hours. Reports to the Secretary of the Treasury would include a general description of the business or activities of each member of the coalition or association, and the amount each coalition member is expected to contribute to influencing legislation. H.R. 1304 would exempt from the disclosure requirements public charities and other tax-exempt organizations which have substantial exempt activities other than lobbying, and coalition or association members who contribute less than \$2,000 per year for lobbying activities. Finally, the measure would impose a penalty tax for failure to give the required notices. H.R. 1304 was referred to the Committee on Ways and Means. No further action has been taken at the time of this writing.

H.Res. 81. H.Res. 81, introduced by Representative Mark Green on February 2, 2005, would require the Clerk of the House of Representatives to post on the Internet lobbying registration and reports filed with the Clerk under the Lobbying Disclosure Act of 1995.⁴⁴ The measure was referred to the Committee on the Judiciary, and subsequently to the Subcommittee on the Constitution. No further action has been taken at the time of this writing.

Senate Measures

Measures Considered

S. 2349, Senate Consideration. The Senate passed S. 2349, the Legislative Transparency and Accountability Act of 2006 by a vote of 90 - 8 on March 9, 2006. On May 23, the Senate disagreed to the House amendments to the measure, requested

⁴⁴ The Senate Office of Public Records, an entity within the Office of the Secretary of the Senate, provides access to LDA registration and semiannual reports through the Internet at [<http://sopr.senate.gov/>].

a conference, and appointed conferees.⁴⁵ For detailed discussion and analysis of the consideration of S. 2349, see CRS Report RL33293, *Lobbying and Related Reform Proposals: Consideration of Selected Measures, 109th Congress*, by R. Eric Petersen.

A comparison of the provisions of H.R. 4975 as passed by the House and S. 2349 as passed by the Senate is available in CRS Report RL33326, *Lobbying, Ethics and Related Procedural Reforms: Comparison of Current Provisions of S. 2349 and H.R. 4975*, by Jack Maskell, R. Eric Petersen, and Sandy Streeter.

S. 2349, Committee Consideration. On February 28, 2006, the Senate Committee on Rules and Administration marked up an original measure, the Legislative Transparency and Accountability Act of 2006. The measure was reported to the Senate by an 18-0 vote. Introduced in the Senate on March 1, and numbered S. 2349, the measure amends Senate rules governing the interaction of Senators and Senate staff with lobbyists, and makes several changes regarding Senate procedures thought to be subject to influence by lobbyists. As reported by the committee, S. 2349 would

- amend Senate rules to prohibit for one year any former Senate senior-level employee⁴⁶ who served on the staff of a Senator or of a Senate committee, and who subsequently becomes a registered lobbyist or lobbyist employee for the purpose of influencing legislation, from lobbying any Senator, officer, or employee of the Senate;
- require a Senator to file with the Secretary of the Senate, a statement for public disclosure that he or she is negotiating or has any arrangement concerning prospective employment if a conflict of interest or the appearance of a conflict of interest may exist. The disclosure would be required to file a disclosure within three days of commencing such negotiation or arrangement;
- require a Senator or Senate staff member to obtain written certification before undertaking any travel that the trip was not financed in whole, or in part, by a registered lobbyist or foreign agent, and that the provider did not accept funds from a registered lobbyist or foreign agent specifically earmarked for the purpose of financing the travel expenses. A Senator would be required to provide the Select Committee on Ethics a written, detailed itinerary of the trip; and a determination that the trip is primarily educational; consistent with the official duties of the Member, officer, or employee; does not create an appearance of use of public office for private gain; and has a minimal or no recreational component;

⁴⁵ Ibid., p. S5027.

⁴⁶ The proposal would affect Senate staff who worked for a Senator or Senate committee and whose rate of pay was equal to or greater than 75 percent of the rate of pay of a Senator for more than 60 days in a calendar year. Senators are paid \$165,200. Senate staff who earned more than \$2,382.69 or more per week for more than nine weeks, or \$123,900 per year, would be subject to the post employment restriction proposal.

- require written approval of privately funded travel from the Select Committee on Ethics. Within 30 days of completing the travel, a Senator, officer, or employee would be required to file with the Select Committee on Ethics and the Secretary of the Senate a description of meetings and events attended during such travel and the names of any registered lobbyist who accompanied them, subject to limited exception on national security grounds. The measure would require that trip information be posted on the Senator's official website not later than 30 days after the completion of the travel;
- amend Senate rules to require the disclosure of noncommercial air travel taken in connection with the duties of the Member, officer, or employee, and file a report with the Secretary of the Senate, including the date, destination, and owner or lessee of the aircraft, the purpose of the trip, and the persons on the trip, except for any person flying the aircraft;
- amend Senate rules to prohibit Senators from accepting gifts from lobbyists. Senators and Senate staff could accept a meal or other food from lobbyists subject to gift rule limits. Any food gift accepted would be subject to public disclosure through the Senator's website;
- amend Senate rules to revoke floor privileges from any former Senator, Senator-elect, Secretary of the Senate, Sergeant at Arms of the Senate, or Speaker of the House who is a registered lobbyist or agent of a foreign principal, or is an employee or representative of any party or organization for the purpose of influencing, the passage, defeat, or amendment of any legislative proposal; and
- require a Senator whose spouse or immediate family member⁴⁷ is a registered lobbyist or employees of a registrant under LDA for the purpose of influencing legislation to prohibit all staff employed by the Senator, including staff in personal, committee, and leadership offices, from having any official contact with the family member.

S. 2349 would also allow any Senator to make a point of order against consideration of a conference report that includes any matter not committed to the conferees by either House. The point of order could be made and voted on separately for each item alleged to be in violation. The point of order could be waived or suspended by an affirmative vote of 3/5 of the Members, duly chosen and sworn. The Senate could appeal a ruling of the Chair on a point of order raised under this measure by a 3/5 vote.

⁴⁷ Under the measure, immediate family member would mean the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of the Senator.

Additionally, the measure would amend Senate rules, creating Rule XLIV regarding earmarks. An earmark would be defined as a provision that specifies the identity of a non-federal entity to receive assistance in the form of budget authority; contract authority; loan authority; and other expenditures; or other revenue items, and the amount of the assistance. Before consideration of any bill, amendment or conference report could be in order, a list identifying all earmarks in the measure, along with identification of the Senator(s) who proposed them, and an explanation of the essential governmental purpose for the earmark must be made available, along with any joint statement of managers associated with the measure, to all Senators and made available on the Internet to the general public for at least 24 hours before its consideration. Similarly, S. 2349 would amend Senate rules to require that conference reports be available on the Internet 24 hours before consideration.

The measure would also amend Senate rules to prohibit a Senator from taking or withholding, or threatening to take or withhold an official act, or to influence or offer or threaten to influence the official act of another with the intent to influence on the basis of partisan political affiliation an employment decision or employment practice of any private entity. Finally, S. 2349 would establish the sense of the Senate that any restrictions on legislative branch employees should apply to the executive and judicial branches.

S. 2128, Committee Consideration. On March 2, 2006, the Senate Committee on Homeland Security and Governmental Affairs marked up S. 2128, the Lobbying Transparency and Accountability Act of 2005 introduced by Senator John McCain, and voted 13-1 to report the measure as amended to the Senate. As reported, S. 2128 would amend LDA to

- further define a client as any person or entity that participates in a substantial way in planning, supervision or control of lobbying activities. Disclosure would not be required if a connection between the person or entity and the client is public knowledge, unless the person or entity plans supervises or controls lobbying activities;
- further define lobbying activities to include paid efforts to stimulate grassroots lobbying but that do not include grassroots lobbying;
- define grassroots lobbying to mean the voluntary efforts of members of the general public to communicate their views on an issue to federal officials, or to encourage other Members of the public to do the same;
- define grassroots lobbyist to mean any individual who is retained by a client to engage in grassroots lobbying, and who is paid \$25,000 or more in each quarterly period;
- define paid efforts to stimulate grassroots lobbying as any paid attempt in support of lobbying contacts on behalf of a client to influence more than 500 members of the general public to contact one or more covered official to urge those officials (or Congress) to take specific action on an issue. The measure excludes

communications from an entity to its members, employees, officers, or shareholders;

- require quarterly, instead of semiannual, filing of lobbying disclosure reports;
- require disclosure by registered lobbyists of all past executive branch and congressional employment;
- require electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- reduce of the thresholds for which registration and disclosure are required from \$5,000 to \$2,500 for a lobbying firm, and from \$20,000 to \$10,000 for an organization whose employees engage in lobbying activities on its own behalf;
- reduce the increments in which lobbying expenditures may be estimated, from less than \$10,000 to less than \$5,000, or in larger increments, from \$20,000 to \$10,000. Grassroots lobbyists would be subject to disclosure ranges of less than \$10,000, less than \$25,000, and increments above \$25,000, rounded to the nearest \$20,000;
- require good faith estimates of the proportion of the total amount spent on grassroots lobbying activities, and within that amount, the total amount specifically relating to grassroots lobbying through paid advertising;
- require electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- require the establishment and maintenance of lobbying disclosure information in an electronic database that directly links lobbying disclosure information to the information disclosed in reports filed with the FEC under FECA and made available to the public free of charge through the Internet;
- require registrants and lobbyists to file a report disclosing their name, employer, and the name of each federal candidate or officeholder, leadership PAC, or political party committee to whom a contribution of \$200 or more was made, or for whom a fund-raising event was hosted or otherwise sponsored;
- require disclosure within 30 days of travel the name of each covered official for whom a registrant or lobbyist employee provided or arranged any payment or reimbursement for travel, including an itemization of payments or reimbursements provided the purpose

and final itinerary of the trip, the names of registrants or employees who were on the trip, the identity of the trip sponsor, and the identity of any person or entity other than the sponsor who provided direct or indirect payment for the travel;

- require disclosure of the date, recipient, and amount of funds contributed or arranged by a registrant or registrant employee to pay the costs of; an event to honor or recognize a covered legislative branch official or covered executive branch official; contributions to, or on behalf of, an entity that is named for a covered legislative branch official or covered executive branch official, or to a person or entity in recognition of such official; an entity established, financed, maintained, or controlled by a covered legislative branch official or covered executive branch official, or an entity designated by such official; or to pay the costs of a meeting, retreat, conference or other similar event held by, or for the benefit of one or more covered official; and
- prohibit a registered lobbyist from making a gift or providing travel to any Member of Congress or their staff.

S. 2128 as reported would require the Clerk and the Secretary to provide semiannual reports to the House Committee on Government Reform and Senate Committee on Homeland Security and Governmental Affairs listing the number of lobbyists and lobbying firms referred to the United States Attorney for the District of Columbia for noncompliance. The measure would require the United States Attorney for the District of Columbia to report on a semiannual basis the number of enforcement actions and the amount of any fines to the House Committees on Government Reform and the Judiciary, and the Senate committees on Homeland Security and Governmental Affairs and the Judiciary. S. 2128 as reported would increase the civil penalty for noncompliance with LDA to up to \$100,000. The measure would require the Comptroller General to audit annually registrations and reports filed under LDA to determine the extent of compliance by lobbyists and their clients and to report to Congress by April 1. Additionally, the ban on former senior executive personnel, former Members of Congress, and legislative branch personnel, preventing them from lobbying the entity in which they previously served, would be extended from one to two years.

Other Measures Introduced

S. 2265. S. 2265, the Pork Barrel Reduction Act, was introduced by Senator John McCain on February 9, 2006. The measure would amend LDA to require recipients of federal funds to file a report identifying the name and amount paid to any lobbyist registered under LDA whom the recipient retained to lobby on behalf of the recipient to receive the federal funding.⁴⁸

⁴⁸ S. 2265 would also make changes to Senate procedures for considering appropriations legislation, and conference reports. Additionally the measure would prohibit the obligation (continued...)

S. 2261. S. 2261, the Transparency and Integrity in Earmarks Act of 2006, was introduced by Senator Barack Obama on February 8, 2006. The measure would amend LDA to require recipients of federal funds to file a report identifying the name and amount paid to any lobbyist registered under LDA whom the recipient retained to lobby on behalf of the recipient to receive the federal funding.⁴⁹

S. 2259. S. 2259, the Congressional Ethics Enforcement Commission Act of 2006, was introduced by Senator Barack Obama on February 8, 2006. The measure would create an independent office of public integrity in the legislative branch overseen by a congressional ethics enforcement commission. The office would

- investigate lobbying disclosures filed with the Senate and the House;
- investigate Senators and Senate staff who violate restrictions on interactions with lobbyists;
- conduct research concerning governmental ethics and implement any public educational programs it considers necessary; and
- report annually to the Senate Select Committee on Ethics and the House Committee on Standards of Official Conduct on the commission's activities, and make recommendations on matters within its jurisdiction.

The measure provides for a nine-member commission, with the Speaker and minority leader of the House, and the majority and minority leaders of the Senate each appointing two, and the final member appointed on the concurrence of at least three of the chamber leaders. After an initial two-year appointment following enactment of the measure, commission members would serve four-year terms. The commission would conduct investigations of alleged violations of lobbying and chamber rules on the sworn complaint of any U.S. citizen. Investigations by the commission would be in lieu of any preliminary investigation by the ethics committees of either chamber. During any investigation the commission could refer the matter to the Attorney General if it finds evidence of criminal acts.

At the conclusion of its investigation, S. 2259 provides that the commission could terminate its investigation if it does not find probable cause to proceed. In the event that the commission has probable cause to believe that a violation has occurred, upon a majority vote it may: initiate a private reprimand of the violator, if the alleged violation did not result in significant economic advantage or gain by the alleged violator, significant economic loss to the state, or significant impact on public confidence in government; or initiate an adjudicatory proceeding to determine

⁴⁸ (...continued)

of funds for appropriations earmarks that are included only in congressional reports, and would require the disclosure by Senators of any proposed earmarks or unauthorized appropriations.

⁴⁹ S. 2261 would also make to Senate procedures regarding the inclusion and consideration of appropriations earmarks.

whether to present a case to the Select Committee on Ethics of the Senate or the Committee on Standards of Official Conduct of the House of Representatives as to whether there has been a violation. The measure provides for fines up to \$10,000 and or imprisonment for up to one year for anyone who knowing files or encourages the filing of a frivolous complaint before the commission.

S. 2259 was referred to the Committee on Homeland Security and Governmental Affairs. No further action has been taken at the time of this writing.

S. 2233. S. 2233, the Lobbyist Reform Act of 2006, introduced by Senator Dianne Feinstein on February 1, 2006, would

- extend the cooling off period required under 18 U.S.C. 207 to two years, and would extend provisions that currently bar former Members of Congress from lobbying any Member, officer, or staff member of either chamber to all employees of Congress;
- prohibit the acceptance of gifts from lobbyists by Senators and Senate staff;
- prohibit the acceptance by Senators and Senate staff of privately funded travel by lobbyists or entities that are affiliated with any group that lobbies; and
- prohibit registered lobbyists from serving on political committees authorized by FECA.

S. 2233 was referred to the Committee on Rules and Administration. A hearing was held by the committee on February 8, 2006. At the conclusion of the hearing, it was announced that a markup of proposals related to lobbying within the jurisdiction of the committee could be held during the week of February 27.

S. 2186. S. 2186, the Commission to Strengthen Confidence in Congress Act of 2006, was introduced by Senator Norm Coleman on January 25, 2006. A similar measure, H.R. 4738, described above, was introduced in the House by Representative Mark Udall on February 8, 2006. S. 2186 would not change current lobbying laws and regulations, but would establish a commission to strengthen confidence in Congress through an evaluation of current congressional rules related to congressional interactions with various lobbying activities. A bipartisan, 10-member commission would be appointed by the majority and minority leadership of each chamber. The commission would be charged to

- evaluate and report the effectiveness of current congressional ethics requirements;
- weigh the need for improved ethical conduct with the need for lawmakers to have access to expertise on public policy issues;
- determine and report minimum standards relating to official travel for Members of Congress and staff;

- evaluate the range of gifts given to Members of Congress and staff, determine and report the effects on public policy, and make recommendations for limits on gifts;
- evaluate and report the effectiveness and transparency of congressional disclosure laws and recommendations for improvements;
- assess and report the effectiveness of the ban on Member of Congress and staff from lobbying their former office for one year and make recommendations for altering the time frame;
- make recommendations to improve the process whereby Members of Congress can earmark priorities in appropriations Acts, while still preserving congressional power of the purse;
- evaluate the use of public and privately funded travel by Members of Congress and staff, violations of Congressional rules governing travel, and make recommendations on limiting travel; and
- investigate and report to Congress on its findings, conclusions, and recommendations for reform.

S. 2186 has been referred to the Committee on Rules and Administration. A hearing was held by the committee on February 8, 2006. At the conclusion of the hearing, it was announced that a markup of some of the proposals related to lobbying within the jurisdiction of the committee could be held during the week of February 27. No further action has been taken at the time of this writing.

S. 2180. On January 20, 2006, Senator Harry Reid, who is Senate Minority Leader, introduced S. 2180, the Honest Leadership and Open Government Act of 2006. The measure would amend LDA to require

- quarterly, instead of semiannual, filing of lobbying disclosure reports;
- reduction of the increments in which lobbying expenditures may be estimated in larger increments, from \$20,000 to \$1,000;
- disclosure by registered lobbyists of all past executive branch and congressional employment;
- electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- establishment and maintenance by the Clerk and Secretary of lobbying disclosure information in an electronic database made

available to the public free of charge through the Internet, and to make those reports available within 48 hours of filing; and

- disclosure of grassroots lobbying communications by paid lobbyists and itemized disclosure of expenditures on grassroots lobbying activities. In the event that a grassroots lobbyist receives or spends \$250,000 or more for grassroots lobbying activities, an additional report must be made within 20 days.

S. 2180 would require the disclosure of any entity, other than the client, who participates in the planning, supervision, or control of lobbying activities. S. 2180 would not require disclosure if an entity's affiliation with the client is publicly available knowledge, or if any funding for the client is publicly disclosed by the entity. The measure would not require the disclosure of any information about individuals who are members of, or donors to, an entity treated as a client by LDA.

The measure would establish a Senate Office of Public Integrity. The office would receive LDA registrations and disclosure reports, and conduct audits and investigations necessary to ensure compliance with LDA. A director of the office would be appointed by the President pro tempore, based on recommendations of the Senate majority and minority leaders. The office would have the authority to refer violations of LDA to the Senate Select committee on Ethics and the Department of Justice for disciplinary action.

S. 2180 would ban Senate floor privileges to former Senators who become lobbyists. The measure would increase the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000.⁵⁰ In addition, S. 2180 would establish criminal penalties for noncompliance with LDA. Knowing and willful failure to comply with registration requirements would be punishable by fines, a term of imprisonment up to five years, or both. Whoever knowingly willfully, and corruptly fails to comply with LDA disclosure requirements would be subject to fines, a term of imprisonment up to 10 years, or both. S. 2180 would extend the ban preventing former senior executive personnel, former Members of Congress, and legislative branch personnel from lobbying the entity in which they previously served from one to two years. S. 2180 was referred to the Committee on Homeland Security and Governmental Affairs. No further action has been taken at the time of this writing.

⁵⁰ S. 2180 would require a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations; the establishment of fines and penalties for Member of Congress or employees of the House who wrongfully influence, on a partisan basis, any entity's employment decisions or practices; amendments to Senate Rules to prohibit favoritism; requiring the Senate Select Committee on Ethics to develop and revise guidelines on reasonable expenditures for official government travel; requiring certification that congressional travel meets certain conditions, and establishing civil fines for false certifications.

S. 2128, as Introduced. Senator John McCain introduced S. 2128, the Lobbying Transparency and Accountability Act of 2005, on December 16, 2005. Similar in nature to H.R. 4575, the measure would have amended LDA to require

- quarterly, instead of semiannual, filing of lobbying disclosure reports;
- reduction of the thresholds for which registration and disclosure are required from \$5,000 to \$2,500 for a lobbying firm, and from \$20,000 to \$10,000 for an organization whose employees engage in lobbying activities on its own behalf;
- reduction of the increments in which lobbying expenditures may be estimated, from less than \$10,000 to less than \$5,000, or in larger increments, from \$20,000 to \$10,000;
- disclosure by registered lobbyists of all past executive branch and congressional employment;
- electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- establishment and maintenance of lobbying disclosure information in an electronic database that directly links lobbying disclosure information to the information disclosed in reports filed with the FEC under FECA and made available to the public free of charge through the Internet; and
- disclosure of grassroots lobbying communications by paid lobbyists and itemized disclosure of expenditures on grassroots lobbying activities. In the event that a grassroots lobbyist receives or spends \$250,000 or more for grassroots lobbying activities, an additional report must be made within 20 days.

S. 2128, as introduced, would amend LDA to redefine the term “client” as any person or entity that employs a lobbyist to carry out lobbying or grass roots lobbying activities on behalf of that person or entity. The measure would have required that firms and other entities that are members of coalitions or associations that employ a lobbyist are to be considered clients, along with the coalition or association, if their total contribution related to lobbying activities is greater than \$10,000.

S. 2128, as introduced, would increase the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000. The measure would have provided for reviews and semiannual reports by the Comptroller General on activities carried out by the Clerk of the House and the Secretary of the Senate under LDA. Additionally, the ban on former senior executive personnel, former Members of Congress, and legislative branch personnel preventing them from lobbying the entity

in which they previously served would have been extended from one to two years.⁵¹

S. 1972. On November 7, 2005, Senator Rick Santorum introduced S. 1972, the Terrorist Lobby Disclosure Act of 2005. The measure would amend LDA to require Members of Congress and legislative branch employees to disclose to the Secretary of State any contacts with representatives or officials of governments that have been designated as state sponsors of terrorism by the Department of State. S. 1972 would require the Secretary to issue a report listing those who have had such contacts to the Senate Committee on Foreign Relations, the Senate Subcommittee on State, Foreign Operations, and Related Programs of the Committee on Appropriations, the House Committee on International Affairs, and the House Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Committee on Appropriations. S. 1972 was referred to the Committee on Homeland Security and Governmental Affairs. No further action has been taken at the time of this writing.

S. 1398. S. 1398, the Lobbying and Ethics Reform Act of 2005 was introduced by Senator Russell Feingold on July 14, 2005. Similar in nature to H.R. 2412, the measure would amend LDA to require

- quarterly, instead of semiannual, filing of lobbying disclosure reports;
- electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- establishment and maintenance of lobbying disclosure information in an electronic data base which directly links lobbying disclosure information to the information disclosed in reports filed with the FEC under FECA and made available to the public free of charge through the Internet;
- identification of each executive branch official and Member of Congress with whom lobbying contacts are made, on an issue-by-issue basis, for each covered official contacted;
- disclosure by registered lobbyists of all past executive branch and congressional employment; and

⁵¹ S. 2128 requires a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations and increased disclosure of travel by Members of Congress. The measure also specifies the valuation of tickets to sporting and entertainment events provided to covered executive and legislative branch officials.

- disclosure of grassroots lobbying communications by paid lobbyists and itemized disclosure of expenditures on grassroots lobbying activities.

The measure would amend LDA to redefine the term “client” as any person or entity that employs a lobbyist on behalf of that person or entity. The measure requires that firms and other entities that are members of coalitions or associations that employ a lobbyist, are to be considered clients along with the coalition or association if their total contribution related to lobbying activities is greater than \$10,000.

S. 1398 would increase the civil penalty for failure to comply with lobbying disclosure requirements up to \$100,000. The measure provides for reviews and semiannual reports by the Comptroller General on activities carried out by the Clerk of the House and the Secretary of the Senate under LDA. Additionally, the ban on former senior executive personnel, former Members of Congress, and legislative branch personnel, preventing them from lobbying the entity in which they previously served, would be extended from one to two years. Finally, S. 1398 would revoke any benefit or privilege extended to former Members of Congress, including floor privileges, from former Members who are registered lobbyists.⁵² S. 1398 was referred to the Committee on Homeland Security and Governmental Affairs. Hearings regarding lobbying proposals were held by the committee on January 25, 2006. No further action has been taken at the time of this writing.

⁵² S. 1398 requires a number of other changes to laws and rules governing congressional ethics that are not directly related to lobbying disclosure. These include requiring public disclosure by Members of Congress of employment negotiations; the establishment of fines and penalties for Member of Congress or employees of the House who wrongfully influence, on a partisan basis, any entity’s employment decisions or practices; amendments to the House Code of Official Conduct and the standing Rules of the Senate to prohibit favoritism; requiring the House Committee on Standards of Official Conduct to develop and revise guidelines on reasonable expenditures for official government travel; requiring certification that congressional travel meets certain conditions, and establishing civil fines for false certifications.

S. 1398 would also institute a ban on gifts from lobbyists to members of Congress and their staff. In the House, Rep. George Miller introduced H.R. 3177 on June 30, 2005 to ban gifts from lobbyists. Both measures also would amend the rules of the respective chambers in which they were introduced to prohibit Members from accepting gifts from lobbyists. H.R. 3177 was referred to the House Committee on the Judiciary. No further action has been taken at the time of this writing.

Further Resources

Lobbying

CRS Current Legislative Issues page on Lobbying Disclosure and Ethics Reform, at [http://beta.crs.gov/cli/cli.aspx?PRDS_CLI_ITEM_ID=2405].

CRS Report RL33293, *Lobbying and Related Reform Proposals: Consideration of Selected Measures, 109th Congress*, by R. Eric Petersen.

CRS Report RL33326, *Lobbying, Ethics and Related Procedural Reforms: Comparison of Current Provisions of S. 2349 and H.R. 4975*, by Jack Maskell, R. Eric Petersen, and Sandy Streeter.

CRS Report RL33234, *Lobbying Disclosure and Ethics Proposals Related to Lobbying Introduced in the 109th Congress: A Comparative Analysis*, by R. Eric Petersen.

CRS Report RS22226, *Summary and Analysis of Provisions of H.R. 2412, the Special Interest Lobbying and Ethics Accountability Act of 2005*, by Jack Maskell.

CRS Report RS22209, *Executive Lobbying: Statutory Controls*, by Louis Fisher.

CRS Report 96-809, *Lobbying Regulations on Non-Profit Organizations*, by Jack H. Maskell.

CRS Report RS20725, *Lobbyists and Interest Groups: Sources of Information*, by Mari-Jana “M-J” Oboroceanu.

Congressional Ethics Rules

CRS Report RL33237, *Congressional Gifts and Travel: Proposals in the 109th Congress*, by Mildred Amer.

CRS Report RL33047, *Restrictions on the Acceptance of “Officially Connected” Travel Expenses From Private Sources Under House and Senate Ethics Rules*, by Jack Maskell.

CRS Report 97-875, *“Revolving Door,” Post-Employment Laws for Federal Personnel*, by Jack Maskell.

CRS Report RS22231, *The Acceptance of Gifts of Free Meals by Members of Congress*, by Jack Maskell.

CRS Report RL31126, *Lobbying Congress: An Overview of Legal Provisions and Congressional Ethics Rules*, by Jack Maskell.

Congressional Procedures

CRS Report RL33295, *Comparison of Selected Senate Earmark Reform Proposals*, by Sandy Streeter.

Campaign Finance

Campaign Finance and Regulation of 527 Organizations, at [http://beta.crs.gov/cli/cli.aspx?PRDS_CLI_ITEM_ID=529]

CRS Report RL32954, *527 Political Organizations: Legislation in the 109th Congress*, by Joseph E. Cantor, and Erika Lunder.