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On "Lobbying Reform: Proposals and Issues"
Committee on Homeland Security and Governmental Affairs
January 25, 2006

Thank you, Senator Collins and members of the Committee for inviting me to testify on behalf of the working men and women of the AFL-CIO at today's hearing on "Lobbying Reform: Proposals and Issues."

The AFL-CIO represents over 9 million workers in 52 unions, and on their behalf we advocate for policies that will improve the lives of all working Americans. Our members send us to Washington to support legislation that will make it possible for every American to have a good job -- with financial security, access to affordable health care, and a secure retirement. We represent the interests of workers – both organized and unorganized workers – on issues such as reforming our trade and immigration laws, increasing the minimum wage, investing in our nation's infrastructure, improving job training and education, protecting wage and safety standards, and restoring the right to form and join a union.

One of the reasons why labor unions exist is to allow ordinary workers all across the country to join together and make their voices heard. One of the ways unions do that is by serving as an advocate for workers in the halls of Congress. Yet even with the participation of workers through their labor unions, workers' voices are still overwhelmed by an avalanche of corporate money. Corporate political action committees (PACs) outspent labor union PACs by 24 to 1 in 2004. The imbalance is even worse when it comes to lobbying. According to the Center for Responsive Politics, lobbyists representing corporate interests outspent labor unions by more than 50 to 1 in 2000, spending well over $1 billion to influence the outcome of legislation.

The effects of that imbalance are plain to see. Without the disproportionate influence of corporations and wealthy campaign contributors, I believe our public policy debates would look very different. For example, if our politics truly represented the interests of the vast majority of working Americans, the recent bankruptcy bill, which enriched the credit card industry at the expense of consumers, would never have been enacted. The prescription drug bill would have financed drug coverage for seniors instead of profits for the pharmaceutical companies. The federal minimum wage would have been raised long ago. And the tax burden would not be shifted from the super-wealthy onto the backs of middle class and lower-income taxpayers.

The problem of corporations and wealthy individuals buying disproportionate influence in Congress has gotten worse in recent years, and the abuses have become more flagrant and egregious. Washington Post reporter Jeffrey Birnbaum wrote, in an article entitled "The Road To Riches Is Called K Street," that "with pro-business officials running the executive and legislative branches, companies are … hiring well placed lobbyists to go on the offensive and find ways to profit from the many tax breaks, loosened regulations and other government goodies that are available." This may explain why the overall number of registered lobbyists has more than doubled since 2000.

Now a spate of scandals has focused the spotlight on corruption in Congress. It should be emphasized that this is a problem of corporate corruption. Neither unions, whose leaders are democratically elected, nor any other organizations representing working people or the public interest, have been implicated in any of these scandals.

The recent scandals have increased political pressure for reform. As a result, it will be necessary to do away with many of the tawdry ways in which perks and campaign cash have been traded for legislative favors, especially in recent years. But we urge Congress to pursue meaningful reform, rather than cosmetic changes, by addressing the root causes of corruption.

We propose a sweeping standard for reform. For any particular reform proposal, we should ask the following questions: "Will it prevent or encourage private interests from buying disproportionate influence in Congress and the executive branch?" And "Will it encourage or impede meaningful grassroots participation in the democratic process?"

Reform should not be used as an excuse to heighten disproportionate influence in Congress, discourage grassroots participation in the democratic process, or inhibit the ability of groups representing workers, consumers, and other ordinary Americans to petition the government and participate in politics.

The AFL-CIO supports several reforms that meet the foregoing criteria, and which have garnered broad support. These include a ban on gifts and entertainment, and a ban on privately-funded travel.

One key principle for reform is that new rules on gifts and travel should not treat individuals differently based on whether they are lobbyists, nor treat organizations differently based on whether they employ lobbyists. The key consideration should be whether individuals or organizations have interests before Congress, or potentially before Congress, regardless of how they conduct their lobbying.

For example, lobbyists are not the only individuals with interests before Congress who should be subject to a gift ban. We support a ban on gifts of any value to members of Congress or senior staff from any individual, subject to the current common sense exceptions under Senate Rule XXXV.

Privately-funded travel involves special considerations, both because it often represents a significant expense, and because it affords opportunities for private access to members and their staff. The AFL-CIO supports a ban on all privately-funded travel for members and staff, subject to only one exception.

We would support a travel ban exception for the payment of reasonable and necessary costs incurred in connection with transporting a member to an organization's meeting, conference, or convention that is being conducted for reasons unrelated to the member's potential attendance, and for the purpose of allowing the member to meet with or address the

group. For example, under this exception, the Chamber of Commerce could pay for a member to travel to a regular meeting, and the AFL-CIO could pay for a member to attend its convention.

We also support a prohibition of congressional travel on aircraft owned by corporations or other groups whose business is not providing charter or scheduled airline flights. Even the most far-reaching reform proposals allow such travel, so long as it is reimbursed at full cost. But providing this kind of transportation is a special favor that is not extended to other individuals with the means to pay, even if members pay the full cost at market rates.

Some have suggested a travel ban exception for Section 501(c)(3) organizations that are not affiliated with any group that lobbies. However, this rule would not prevent privately-funded travel from including meetings and other interactions with lobbyists, or with lobbyists and business executives who serve on the boards of charitable groups. Section 501(c)(3) status provides no guarantee that there will be no special or unfair access obtained in connection with privately-funded travel.

In addition to travel and gift bans, the AFL-CIO supports several measures that address the relationship between members of Congress and lobbying firms. We support extending the post-employment lobbying ban for members of Congress and senior staff to two years. We support requiring members of Congress to disclose their negotiations for post-congressional employment. And we support eliminating floor and gym privileges for former members who represent interests before Congress.

We also support increased disclosure. On this issue, it is very important to understand that labor unions already disclose their expenses related to politics and legislation under the Lobbying Disclosure Act (LDA) and the Labor Management Reporting and Disclosure Act (LMRDA). In fact, the AFL-CIO and other labor organizations already routinely provide far more disclosure of their spending on lobbying and public outreach than do any other organizations. Regulations under the LMRDA already require unions to file every year with the Labor Department public reports that disclose every recipient of an aggregate of $5,000 of union spending, and itemize every expense above the $5,000 threshold and explain its purpose. This requirement covers everything that a union does, from collective bargaining to lobbying Congress. These reports are publicly available on DOL's website.

By contrast, no other kind of organization – neither business corporations, nor trade associations, nor non-profit groups, nor charities, nor anyone else -- operates under comparable disclosure requirements. While others are subject to the Lobbying Disclosure Act, only unions already must go the extra mile and itemize with specificity their lobbying expenditures.

The leading reform packages require, for the first time, public disclosure of so-called "grassroots lobbying," generally defined as attempts to influence the public to contact members of Congress. We should be clear at the outset that grassroots lobbying is not a "problem," because efforts to mobilize citizens and band together to influence public decision-making are an important part of the democratic process and protected by the First Amendment. But we do believe it serves a useful purpose to require more public disclosure of who is paying for such efforts at persuasion and mobilization. New disclosure requirements must define very clearly

what kind of public advocacy is covered, and should target conduct that is truly a proxy for direct lobbying and not any effort to influence public opinion. In addition, disclosure of direct expenses should be required rather than an allocation of staff and administrative costs.

I should point out that most union "grassroots" lobbying and outreach activities are directed not at the general public, but at union members, on issues of importance to members and to working families generally. This kind of outreach is an important aspect of the associational rights and freedoms that cause working people to join together in unions to begin with. All of the principal reform proposals – the Democratic package (S. 2180), the Feingold bill (S. 1398), and the McCain bill (S. 2128) – properly exempt organizational outreach to members, employees, officers and shareholders.

The Democratic reform package (S. 2180) also requires additional disclosure regarding certain coalitions and associations. This new provision requires the disclosure of funding by one entity of another entity's lobbying, except where the other entity is already a publicly-known affiliate or funder of the lobbying client. We support an exception for known affiliates, but we believe the exception for publicly-known funding ought to apply only where the funding is recent and at a meaningful level.

The Democratic reform package (S. 2180) contains important reforms that are absent from the other leading proposals. For example, the Democratic plan would shut down the K Street Project, through which Republican office-holders have pressured lobbying firms and trade associations to hire only Republicans, thereby guaranteeing support for Republican-sponsored legislation and a steady stream of campaign cash for Republican candidates.

The Democratic plan also goes beyond lobbying reform and requires that all conference committee meetings be open and members be allowed to vote on all amendments. The AFL-CIO supports the proposed changes in conference committee protocols, and we hope and expect there to be a bipartisan consensus in support of greater transparency and public access to conference committees and conference reports.

The nature of the enforcement mechanism for any new set of lobbying rules is critical. Neither the Feingold bill (S. 1398) nor the McCain bill (S. 2128) addresses this matter. We believe the Democratic package (S. 2180) provides an appropriate enforcement mechanism through its Senate Office of Public Integrity, but several aspects of the Democratic proposal could be improved.

First, the Democratic package (S. 2180) seems to assure that the majority party in the Senate will dictate who runs the Office of Public Integrity. It empowers the President Pro Tempore of the Senate to appoint someone "from among recommendations submitted by the majority and minority leaders of the Senate" as director of the Office, subject to confirmation by a full vote of the Senate. There is no requirement that the two party leaders make joint recommendations, and there is nothing that qualifies the President Pro Tempore, who holds this title solely on the basis of seniority, to make this choice.

Although the Democratic bill states that the director of the Office of Public Integrity must be appointed "without regard to political affiliation and solely on the basis of fitness to perform the duties of the position," we suggest that the inherent partisanship of the selection process is not remedied by an unenforceable prohibition of partisanship. A simpler and better approach would be to empower the majority and minority leaders to appoint the director jointly, followed by confirmation votes by a majority of each party caucus in the Senate. Similarly, removal of the director short of completion of her term of service should require agreement by both party leaders, or a majority vote of both the majority and minority caucuses.

Second, the Democratic reform package (S. 2180) should clarify the nature and extent of the "audit" that the new Office of Public Integrity would be required to perform of reports filed under the LDA. Specifically, it should provide the Office with clear guidelines for the exercise of its powers and discretion, and clarify that the Office has investigatory powers. In addition, the Office should be required to respond to complaints filed by the public.

By themselves, these reforms will not fully ensure that the concerns of ordinary Americans are well represented in a legislative decision-making process that is currently dominated by wealthy vested special interests. If it is deemed corrupting for lobbyists to take members of Congress out to lunch, is it not far more corrupting for Congress to be awash in a flood of corporate campaign contributions? Does anyone doubt that corporations wield disproportionate influence in Congress when they spend 50 times more than working people on lobbying, or when their PACs spend 24 times more than labor unions on political campaigns?

In addition to tighter rules on lobbying, public financing of congressional elections is also necessary to combat the corrupting influence of money in the legislative process. Only public financing can ensure a level playing field where the interests of ordinary citizens and workers are treated with just as much respect and consideration as the interests of well-heeled corporations and billionaires. Public financing is the crucial element necessary to restore public confidence in our political system.

In conclusion, this may well be an historic opportunity for Congress to restore integrity to the legislative process, and we urge Congress to act quickly in this area. But we also caution that the problem of congressional corruption will not be fixed until the interests of the vast majority of working Americans are given the same weight as corporations and the most privileged members of our society.