

BE CAREFUL WITH LOBBYING REFORM

Testimony Before the House Committee on Rules
March 9, 2006

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Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify today on the important issues related to lobbying and gift rules of the House of Representatives.

Let me say, first, that the Heritage Foundation does not lobby members of Congress. Our involvement in the issue of the House and Senate ethics rules arises from our belief that some of the changes being proposed go to the very heart of the mission of the Heritage Foundation, i.e., to educate members of Congress, their staffs and the general public about issues and the complicated policy matters with which members of Congress must grapple on a daily basis.

The Heritage Foundation does that in a variety of ways, none of them very glamorous.

We invite Hill staff to policy forums where they become acquainted with the issues of concern to the American people and members of Congress. Because the lunch hour tends to be the best time to lure staff out of their offices, as a courtesy we offer food – pizza, Chik-Filet, and Subway sandwiches are usually the order of the day.

We host a training program for junior Hill staff on the tenets of modern conservatism and how it relates to their responsibilities as congressional staff. In its fifth year, eighty or so staff hear every Friday from policy experts on a broad range of topics, including budget procedure, foreign policy, homeland security, the American Founding, and the like. Typically, we offer them Domino's pizza or Chick fil-A sandwiches along with a healthy supply of potato chips and soda.

We invite Members of Congress to in-depth policy seminars away from the harried Washington scene. The topics addressed at these seminars include: providing health coverage to the uninsured, reforming our tax code, what to do about the coming explosion in the cost of entitlement programs, and an annual program for conservative Members that assesses the major policy challenges for the year ahead.

And both Heritage and Harvard's Kennedy School of Government conduct separate programs whereby we invite newly-elected members of Congress to come together in a bipartisan, bicameral format to learn about the complicated issues with which they will be dealing in Congress. Harvard welcomes freshman members to its Boston-based program in December while we convene ours in Baltimore in January a few weeks after the members have been sworn in.

These policy-related issue meetings are the lifeblood of what we do -- and we are not alone in believing that some of the proposed new rules would seriously endanger that important work. Mr. Chairman, I have attached to my testimony a letter which was circulated to every member of the House and Senate several weeks ago, and signed by a group of both left-leaning and right-leaning think tanks and private foundations and one highly regarded school of public policy. Organizations with every policy and philosophical perspective want to remind Congress in the most respectful way not to inadvertently interrupt or destroy the valuable work that our organizations perform just for the sake of responding to the egregious conduct of one or two people.

The bottom line is that we have seen one person with a few accomplices violate the House ethics rules and he is now going to jail. From our perspective, we wonder why all of the valuable educational policy work that we do with members of Congress and their staff must suddenly be in jeopardy. We have always followed the rules and our programs

for Members and staff have always been approved in advance by the respective Ethics Committees of the House and Senate.

Our first recommendation and reminder to the Committee is to enforce existing rules. We believe that the Ethics Rules in force at the House of Representatives are sufficient, but only IF they are enforced. This Committee should, if it does anything, adopt a mechanism whereby a stubborn minority of either political party should not be allowed to hold the system hostage. It is important for the review, approval and enforcement process to function -- and any rules changes will be only be as good as the mechanism you put in place to enforce them. That is probably the most important task facing this committee.

We welcome and encourage even more scrutiny, including a more diligent approval process for privately-sponsored travel. What we urge you NOT to do is eliminate important opportunities for members and staff to become educated on issues and policies about which they are called upon to make decisions and enact legislation.

The instinct to reform, I want to emphasize, is a good one, but it should be guided by the goal of maximizing transparency through full and immediate disclosure. Here are some

suggestions that will allow the Heritage Foundation and others like us to continue our mission to educate Members and their staff on policy issues:

We believe that the process established under the Senate Rules committee proposal reported out of Committee last week offers a sound model to address concerns that have arisen with respect to recent abuses of the system. We recommend the following:

- First, require members and staff to submit a detailed itinerary *before* the proposed trip to enable the Ethics Committee to ascertain whether the preponderance of the trip and the resources devoted to it qualify as educational.
- Second, require members and staff to file a follow-up form *upon their return*. In addition to disclosing the cost of the trip, this submission should include an itinerary of what actually transpired, including the approximate time spent in various activities. This filing would confirm that the trip sponsors adhered to the original agenda and satisfied the educational threshold.
- Third, require Members to post on their websites the itinerary of the privately funded travel in which the member or staff participated.

- Fourth, the Senate has also included a provision that requires entities sponsoring the travel to certify that neither a lobbyist nor a foreign agent was directly or indirectly responsible for paying for the trip or event. The Senate proposal is a workable, simple system.
- As for what qualifies as “educational,” we recommend that the House limit privately-sponsored trips to those where the sole purpose is to educate Members and staff on issues that have or are likely to come before the Congress. Recreational time should be limited to periods sufficient to allow Members to recharge their batteries, answer emails, make phone calls, and keep abreast of developments back home. One potential bright line standard would be to require no less than six hours per day of educational time. That amounts to a full morning program, followed by working lunch and dinner programs, and should suffice.

The goal of this reform effort should be, consistent with the First Amendment, to balance the House’s legitimate interest in protecting its members and staff from even the appearance of impropriety, on the one hand, with the equally compelling goal of guaranteeing that members and staff have unmitigated access to the broadest possible flow of information on issues that come before it. The First Amendment never envisioned

that Congress would hermetically seal itself off from the real world and limit the ability of private voices to provide truly educational opportunities to Members and their staff.

With respect to meals, we urge you to delineate between meals that are incidental to an widely attended educational or policy forum or more intimate issue briefings, and gifts. These meals are not gifts in the traditional sense, but are merely courtesies extended to our guests. We urge you exempt the bagel breakfast and the sandwiches provided as part of these policy briefings from the definition of "gifts". Such meals should not be counted against the \$100 annual maximum gift limit and should certainly be viewed differently from true "gifts" such as nine holes on the golf course or a luxury box at a sporting event.

Finally, should the House opt to impose a blanket ban on privately-sponsored travel, we urge the committee to exempt newly-elected members who attend private policy orientations from the gift / travel ban, We think it would be unfortunate if the Abramoff scandal inadvertently creates a monopoly whereby only governmental entities would be allowed to determine the substance and content of these policy seminars. A blanket ban would allow the new member policy orientation that the House Administration Committee designs and conducts in conjunction with the Congressional Research Service to continue, but end privately-sponsored alternatives, such as those designed and hosted by Heritage and Harvard.

Now, we have nothing against the CRS program; many members who have attended it speak highly of its balance and overall level of professionalism. But those of us at Heritage who have designed our own new member programs over the years believe that the high quality of the CRS program stems in no small part from the competition it receives from us. I suspect our friends at Harvard who design the JFK School's excellent program would agree.

There is nothing sordid or unseemly about the travel that Heritage sponsors and we are proud to host it, pay for it, report it and boast about it. If we convince 5 Members to spend several days talking about the intricacies of entitlement reform, we believe the Congress as a whole has been well served.

We at the Heritage Foundation stand ready to assist in educating both the Congress and the country on these issues -- and we urge you not to overreact in response to the wrongdoing of a few in such a way as to harm the very essence of representative government.

Again, thank you for this opportunity to testify, and I welcome your questions.

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February 21, 2006

Dear Representative:

In recent days, a flurry of legislative proposals have been advanced to “tighten” restrictions on the interaction of Members of Congress and their staffs with “lobbyists.” As you develop and act on these proposals, we urge you to be mindful of the significant and vital role played by non-profit organizations such as ours in promoting thoughtful discussion of complex issues. In particular, we hope you will not eliminate the opportunity for Members of Congress and their staff to attend substantive policy seminars where they can escape the bitter daily partisanship in Washington and immerse themselves in detailed policy discussions on issues of national interest.

We encourage you to distinguish between legitimate educational and informational opportunities where *travel, lodging and meals are incidental to the event*, and those situations where the *educational opportunity is only incidental* to the travel, meals and lodging provided.

Some of the proposals currently under consideration would eliminate all “gifts” to Members and staff. This would preclude our organizations from offering meal, lodging and travel attendant to informational events and would seriously damage the educational mission of our organizations. Though not your intent, we believe it would undermine our efforts to create an environment for Members and their staff to engage in thoughtful and intelligent debate on the serious, complicated and multi-faceted issues facing our nation.

There are numerous unintended consequences of the proposals currently under consideration, including:

- Members would lose the opportunity to foster bipartisan comity at events such as the new member orientation programs sponsored and paid for by the John F. Kennedy School at Harvard and The Heritage Foundation or the annual policy seminar co-hosted by The Heritage Foundation and Pepperdine University.
- Members and staff would not be able to attend the numerous “brown bag” discussions, programs and panels where our organizations offer modest sandwiches and soft drinks and at which noted authorities share their expertise on issues of importance to Congress.
- Members and staff would not be able to participate in policy seminars away from Washington, accept invitations from colleges and universities to speak to students, or even accept honorary degrees and deliver commencement addresses. These policy seminars bring together persons of different ideologies, parties and philosophies to discuss issues and debate sincerely held policy differences in a relaxed and amiable forum. The value of exposing students to Members of Congress is, of course, self-evident.

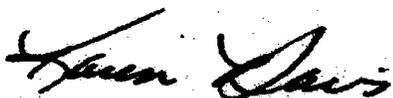
We are confident that it is not your intent to devise a system in which Members of Congress and their staffs are hermetically sealed away from the public, away from the great educational institutions and organizations of our nation, and away from interaction with their fellow Americans and citizens of the world, unless such activities are paid by the taxpayers.

We urge you to approach this subject with caution. We urge Congress to simplify and enforce the existing laws and ethics rules, recognizing and protecting the educational support that our non-profit organizations have long provided to Congress.

We stand ready to assist in ensuring that the legislative changes you enact do not inadvertently jeopardize the important role our non-profit organizations play in the policy arena.

Please do not hesitate to contact any of us as you deliberate on these issues.

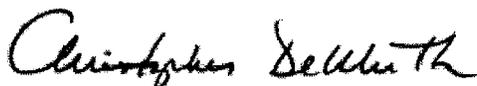
Sincerely,



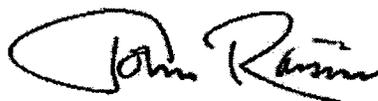
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