

LOBBYING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006

APRIL 25, 2006.—Ordered to be printed

Mr. DREIER, from the Committee on Rules,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4975]

[Including cost estimate of the Congressional Budget Office]

The Committee on Rules, to whom was referred the bill (H.R. 4975) to provide greater transparency with respect to lobbying activities, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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AMENDMENTS

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 20, strike line 14 and all that follows through page 21, line 4, and insert the following:

“(d)(1) For the purpose of this section, the term ‘earmark’ means a provision in a bill, joint resolution or conference report, or language in an accompanying committee report or joint statement of managers, providing or recommending a specific amount of discretionary budget authority to a non-Federal entity, if such entity is specifically identified in the report or bill; or if the discretionary budget authority is allocated outside of the normal formula-driven or competitive bidding process and is targeted or directed to an identifiable person, specific State, or Congressional district.

“(2) For the purpose of paragraph (1), government-sponsored enterprises, Federal facilities, and Federal lands shall be considered Federal entities.

“(3) For the purpose of paragraph (1), to the extent that the non-Federal entity is a State or territory, an Indian tribe, a foreign government or an intergovernmental international organization, the provision or language shall not be considered an earmark unless the provision or language also specifies the specific purpose for which the designated budget authority is to be expended.”.

Page 21, strike line 5 and all that follows through page 22, line 3 and insert the following:

SEC. 502. MANDATORY ETHICS TRAINING FOR HOUSE EMPLOYEES.

(a) MANDATORY ETHICS TRAINING FOR HOUSE EMPLOYEES.—

(1) CHIEF ADMINISTRATIVE OFFICER.—Clause 4 of rule II of the Rules of the House of Representatives is amended by inserting the following new paragraph at the end:

“(d) The Chief Administrative Officer may not pay any compensation to any employee of the House with respect to any pay period during which the employee, as determined by the Committee on Standards of Official Conduct, is not in compliance with the applicable requirements of regulations promulgated pursuant to clause 3(r) of Rule XI.”.

(2) MANDATORY ETHICS TRAINING PROGRAM.—Clause 3 of rule XI of the Rules of the House of Representatives is amended by adding at the end the following:

“(r) The committee shall establish a program of regular ethics training for employees of the House and promulgate regulations providing for the following:

“(1)(A) Except as otherwise provided, all employees of the House are required to complete ethics training

offered by the committee at least once during each congress. Any employee who is hired after the date of adoption of such rules is required to complete such training within 30 days of being hired.

“(B) Any employee of the House who works in a Member’s district office shall not be required to complete such ethics training until 30 days after the district office has received a notice from the Committee on Standards of Official Conduct that the required ethics training program is available on the Internet.

“(2) After any employee of the House completes such ethics training, that employee shall file a written certification with the committee that he is familiar with the contents of any pertinent publications that are so designated by the committee and has completed the required ethics training.

“(3) As used in this paragraph, the term ‘employee of the House’ refers to any individual whose compensation is disbursed by the Chief Administrative Officer, including any staff assigned to a Member’s personal office, any staff of a committee or leadership office, or any employee of the Office of the Clerk, of the Office of the Chief Administrative Officer, or of the Sergeant-at-Arms, but does not include a Member, Delegate, or Resident Commissioner.

“(b) ETHICS TRAINING FOR MEMBERS, DELEGATES AND THE RESIDENT COMMISSIONER.—Clause 3 of rule XI of the Rules of the House of Representatives is amended by inserting the following new paragraph at the end:

“(s) The committee shall establish a program of regular ethics training for Members, Delegates, and the Resident Commissioner similar to the program established in paragraph (r), and encourage participation in such program.”.

Page 2, in the matter following line 2, by striking the item relating to section 502 (in the table of sections contained in section 1(b)) and inserting the following:

Sec. 502. Mandatory ethics training for House employees.

PURPOSE AND SUMMARY

H.R. 4975, the Lobbying Accountability and Transparency Act of 2006, provides greater accountability and transparency with respect to lobbying activities, protects the institution of the legislative branch of government, and maintains the First Amendment right of all Americans to petition their government.

The bill improves the current disclosure regime under the Lobbying Disclosure Act of 1995 to provide more complete disclosures regarding lobbying activity, and requires that they be made electronically and rapidly made available in a searchable format on the Internet to ensure public access. The bill also vests audit authority over those disclosures in the House Inspector General, the first time anyone has been given a mandate to regularly review these disclosures for accuracy.

The bill also makes several improvements to the institutional functions of the House, including addressing potential conflicts

arising from employment negotiations of Members, an explicit prohibition on the linkage of official actions to partisan employment decisions by outside entities, and addresses potential problems in the current rules governing acceptance of gifts and privately funded travel by Members, officers, and employees of the House. The bill also includes provisions addressing the potential for a Member convicted of certain felonies to face the loss of Government contributions to his or her Congressional pension. The bill also establishes a new regime for ethics training for House employees and ensures that the Committee on Standards of Official Conduct maintains up to date information regarding the rules and standards which comprise the ethical principles for conduct in the House.

The bill includes a new rule requiring the disclosure of earmarks in a general appropriations bill, its report, or an accompanying conference report. Finally, the bill includes provisions ensuring that so-called "527" organizations are subject to the same kinds of campaign finance regulations as other organizations.

BACKGROUND AND NEED FOR LEGISLATION

Scandals involving lobbying in Washington are not new, and they have occurred both when Democrats and Republicans have held the majority. Perhaps one of the first major scandals occurred during the 19th Century's Gilded Age. In the "Credit Mobilier" scandal in 1872-73, the careers of several politicians came to an end when they were found to have taken shares in a railroad construction company and then approved lucrative Federal subsidies for that company. In the 20th Century, there were the Korean Influence investigations in the 1970s, the "Abscam" bribery cases of the 1980s, and the "Keating Five" inquiry of the 1990s. The recent convictions and guilty pleas of lobbyist Jack Abramoff and his associates Tony Rudy and Michael Scanlon, as well as the guilty pleas of former Representative Randy "Duke" Cunningham and of former congressional staffer Brett Pfeffer have cast a pall over Americans' faith in their government.

Indeed, in October 2005, an Associated Press-Ipsos poll found "only one-third of Americans give Congress good ratings for its ethics and honesty." (Will Lister, Associated Press, Oct. 29, 2005.) A Washington Post-ABC News poll taken in January 2006 showed that 58 percent of those polled thought a recent corruption case involving Jack Abramoff was evidence of widespread corruption in Washington, and 90 percent thought it should be illegal for registered lobbyists to give Members of Congress gifts, trips, or other things of value. (Richard Morin and Claudia Deane, "In Abramoff Case, Most See Evidence of Wider Problem," Washington Post, Jan. 10, 2006, at A7.) However, a Pew poll taken about the same time showed that "most people around the country aren't paying close attention" to the corruption scandal involving Abramoff. (Will Lester, "Corruption Scandal That Rocked Washington Draws Little Scrutiny Elsewhere," Associated Press, Jan. 11, 2006.)

In the wake of these lobbying scandals, it is important to keep in mind that lobbying is a constitutionally protected profession. The First Amendment to the Constitution provides that "Congress shall make no law * * * abridging the freedom of speech * * * and to petition the Government for redress of grievances." The law that currently governs lobbying, the Lobbying Disclosure Act of 1995

(LDA; P.L. No. 104-65, 109 Stat. 691, 2 U.S.C. 1601 et seq.), explicitly recognizes this constitutional protection in its section 8, which states “Nothing in this chapter shall be construed to prohibit or interfere with the right to petition the Government . . . [and] [n]othing in this chapter shall be construed to prohibit, or to authorize any court to prohibit, lobbying activities or lobbying contacts by any person or entity, regardless of whether such person or entity is in compliance with” the LDA. (2 U.S.C. §1607.)

Founding Father James Madison wrote in Federalist No. 10 about the importance to democracy of organized interests or what he termed “factions.” Madison believed that our representative form of government would safeguard against the worst impulses of the factions, and that the factions would protect the Nation from falling into tyranny. Madison’s belief in protecting the rights of individuals and organized groups to influence the policymaking process has endured for more than 200 years. Lobbying is an honorable profession, and lobbyists do serve an important function in a participatory democracy. As Senator Carl Levin, one of the primary authors of the LDA, recently stated:

[L]obbying has assumed a vital role in providing a flow of information in the political process that assists our democracy by improving decision making. Totalitarian regimes don’t need lobbyists, because there’s no opportunity for persons outside the government to affect the decisions made on the inside of the government. It’s just the opposite with a democracy. Information on all sides of issues is crucial to enacting laws that express the will of the people, thereby helping to maintain a vital democratic government. (Forward to *The Lobbying Manual: A Complete Guide to Federal Law Governing Lawyers and Lobbyists* (William V. Luneburg and Thomas S. Susman eds., 3d ed. at xxvi-xxvii (2005).)

Thus, in the aftermath of every scandal, the legislative reforms that Congress undertakes to protect the public against the undue influence of a few criminals have to be balanced by the constitutionally protected and democratically important role served by the vast majority of lobbyists. One of the earliest efforts to find this balance came in 1852, when the House of Representatives passed a lobbying regulation provision prohibiting a newspaperman “who shall be employed as an agent to prosecute any claim pending before Congress” from being on the floor of the House. (Cong. Globe, 32nd Cong., 2d Sess. 52 (1852).) Obviously, the balance struck then was that such a newspaperman acting as a lobbyist could lobby Members, but not on the House floor. For many years, the rules of the House of Representatives have prohibited Members from being on the House floor if they have a pecuniary interest in the legislation being considered. To respond to concerns about former Members who become registered lobbyists abusing their privileges as former Members, the House recently amended its rules to prohibit former Members who are registered lobbyists from being on the floor of the House (or in the rooms adjacent to the floor) or in the Member’s gym. (H. Res. 648; adopted by the House on February 1, 2006.)

The first comprehensive lobbying reform legislation came in 1946, when the Congress passed the Federal Regulation of Lobbying Act as a part of the larger Legislative Reorganization Act. It required lobbyists to register, to make reports of the money they received from clients and spent in support or opposition to legislation, and provided criminal penalties for non-compliance. From the start, this legislation was considered problematic and was substantially re-written by the Supreme Court in the case of *United States v. Harriss* (1954). One of the chief complaints about this legislation was that it lacked a regularized mechanism for the flow of information about lobbyists' reporting from the legislative branch to the Department of Justice for prosecution.

Most recently, the Congress enacted the LDA which requires improved disclosure in broad categories about the activities and income-making of registered lobbyists. It also includes a referral power for the Clerk of the House to the Department of Justice for lobbyists' failure to comply with the LDA. The LDA has functioned for a little over a decade to give the public some access to information regarding the pressures applied to the legislative process. In addition, since its enactment, Congress has fundamentally revamped the laws governing our campaign finance system in order to provide the public with more information about contributions made to influence the political process.

However, with the recent Abramoff, Cunningham, Pfeffer, and other scandals, there has been a bipartisan groundswell of support for major changes to not only the LDA but also to the rules of the House governing gifts, travel and other ethics matters. The Committee received many suggestions about such reform from Members, and H.R. 4975 incorporates a number of these suggestions.

In Title I of the bill, the LDA is substantially improved by adding to the quality and quantity of information the public receives as well as the speediness with which it is made available through technology. For example, for the first time, lobbyists will have to electronically disclose on the same form to whom they gave gifts and political contributions, and this information will have to be promptly posted on the Internet. Title II addresses the concerns of the American people about Member and staff self-dealing while not unfairly penalizing those who choose not to make a career of Federal service. It provides that each and every Congressional office that a person cannot lobby for their one year "cooling off" period under the Federal criminal code (i.e., 18 U.S.C. 207(e)) is told in writing the start and end date of that period. The former Members and staff who are leaving for the private sector are also told in writing, and their willful disregard of this provision can be prosecuted for a felony with up to five years in prison (18 U.S.C. 216.)

Title III makes improvements to the Rules of the House of Representatives for gifts and travel, and addresses many of the concerns raised by the behavior of lobbyists such as Abramoff. House rules provide that gifts can only be accepted in certain circumstances, and they place limits on the overall amounts of such gifts. Similarly, registered lobbyists are already forbidden in the rules from funding the travel of Members or staff. (See rule XXV of the Rules of the House of Representatives) Given allegations made in the Abramoff matter about whether a proper entity funded Member and staff travel, as well as evidence that a large number

of Members on both sides of the aisle do not understand all of the nuances of the current gift and travel rules, the bill suspends all privately funded travel while the Committee on Standards of Official Conduct makes recommendations to the Committee about these matters. The report of the Committee on Standards of Official Conduct is to include, among other things, their views about the ability of the gift and travel rules to protect the House, its Members, and staff from the appearance of impropriety and about how privately funded travel can be ethically conducted.

During the Committee's consideration of this legislation, it became clear that many privately funded fact-finding trips do provide the Members of the legislative branch of the world's only superpower with crucial information necessary to make informed decisions on behalf of the American people. While some have suggested that drawing a line between an educational trip and "boondoggle" would not be too difficult, the Committee's review of these issues reinforced the need for the Committee on Standards of Official Conduct to instruct the Committee about what is ethical travel, and how it should be pre-cleared and reported. H.R. 4975 requires the Committee on Standards of Official Conduct to report its recommendations on these issues to the Committee by December 15, 2006. This input is very important, for the Standards Committee is the interpreter of the Members' Code of Conduct as well as the rules concerning gifts and travel. Accordingly, the Committee rejected an amendment to strike the section of the bill that suspends privately funded travel until the Standards Committee can report its recommendations. This amendment also would have established a pre-approval and disclosure system through the Standards Committee for privately-funded travel, rather than allowing for the Standards Committee to first provide its expertise to the Committee on these issues.

Title IV of H.R. 4975 addresses enforcement, an area of much criticism in prior efforts at lobbying reform, by empowering the House Office of the Inspector General (OIG) to conduct random audits of lobbying reports and to make referrals to the Department of Justice for violations. This is the first time anyone has been given a mandate to regularly review these lobbying disclosures for accuracy. Additionally, the rules already provide that if the OIG finds information involving possible violations of any rule of the House or of any law applicable to the performance of official duties, this information can be reported to the Committee on Standards of Official Conduct. (Clause 6, rule II of the Rules of the House of Representatives.) The Constitution, in clause 2, section 5, of Article I, gives each House the power to punish its Members for misbehavior. The OIG reporting where necessary to the Committee on Standards of Official Conduct regarding Member or staff conduct, or to the Department of Justice regarding lobbyist conduct is the most appropriate enforcement mechanism under the Constitution.

Title V of the bill reforms the earmarking process for appropriations, requires frequent and comprehensive ethics training for all staff, and requires that the ethics manual be regularly updated. Earmark reform is an important part of increasing the transparency of how the peoples' business is conducted. Regular ethics training with up to date materials are key components of restoring and maintaining the public's faith in the Congress and ensuring

that Members, Officers, and employees of the House understand the intricacies of the House's standards of conduct.

During the markup of H.R. 4975, the Committee adopted two amendments to title V. First, an amendment was adopted to improve the bill by modifying the definition of an "earmark" in section 501 to cover earmarks where the budget authority is directed to a person, State, or Congressional district through a Federal agency when it circumvents normal formulas or the competitive bidding process. Second, an amendment was adopted to improve section 502 to require the Committee on Standards of Official Conduct to establish a mandatory training program for House employees, and to authorize the Chief Administrative Officer of the House of Representatives to withhold the pay of any employee who does not complete the training at least once per Congress. This amendment also directs, within the boundaries of the Constitution, that the Committee on Standards of Official Conduct shall establish a training program for Members and encourage their participation.

Title VI closes an important loophole in campaign finance law by keeping unlimited soft money out of 527 organizations and requiring them to live under the rules that govern other political committees. The House recently expressed its approval for these provisions by adopting H.R. 513 by a vote of 218–209 on April 5, 2006. Finally, Title VII of the bill punishes Members who abuse the public trust when they are convicted of bribery, acting as an agent of a foreign principal, or conspiracy to commit these crimes by eliminating their taxpayer-funded Member pensions.

Taken together, these provisions in H.R. 4975 improve the transparency of the legislative process while achieving a balance between protecting the public and maintaining constitutional rights. The legislation provides for faster reporting, more information, and greater public access to reports filed by lobbyists. It addresses the problem of the revolving door between the government and the private sector with notice to all affected entities, and it requires notification of employment negotiations by Members. It prohibits taking official actions to influence hiring decisions on a partisan basis. The bill doubles the penalty for violations, and it empowers the House Office of the Inspector General with broad LDA enforcement and oversight responsibilities. It suspends privately funded travel until the Committee on Standards of Official Conduct can make recommendations to the Committee on travel and gifts. It bans registered lobbyists from flying with Members on corporate flights, and it values tickets without a price at the highest rate possible. It provides real earmarking reform, mandates regular ethics training, and requires a biennial publication of the ethics manual. It closes an important soft money loophole in campaign finance law, and it punishes Members who abuse the public trust by preventing them from collecting their taxpayer-funded Member retirement.

In conclusion, H.R. 4975, the Lobbying Accountability and Transparency Act of 2006, constitutes an important step toward providing the American people with better transparency about the pressures applied to the legislative branch by lobbyists. Informed voters help keep government officials accountable while decreasing the power of the back room.

Even with the existing rules regarding lobbying, criminals such as Abramoff, Rudy, Scanlon, Cunningham, and Pfeffer are going to

jail. Their fates will serve as a warning to anyone who seeks to corrupt the American spirit or its institutions. Nonetheless, H.R. 4975 further strengthens the rules and laws that hold Members, staff, and lobbyists accountable for the public trust that they serve.

HEARINGS

The Committee on Rules held a hearing on H.R. 4975, the Lobbying Accountability and Transparency Act of 2006, on March 30, 2006. The Committee heard testimony from the following Members: Messrs. Shays, Buyer, Kirk, Ms. Wilson, Ms. Schmidt, Messrs. Obey, Frank of Massachusetts, Cardin, Price of North Carolina, Meehan, Blumenauer, Doggett, Allen, Baird, Emanuel, and Ms. Bean.

The Committee also held several days of hearings on the general topic of lobbying reform on March 2 and 9, 2006. On those days of hearings, the Committee heard testimony from: The Honorable Karen Haas, Clerk, U.S. House of Representatives, The Honorable James Bacchus, Chairman, Global Trade Practice Group, Greenberg Traurig, LLP, Dr. Thomas Mann, Ph.D., Senior Fellow Brookings Institution, Mr. Paul Miller, President, American League of Lobbyists, Dr. Norman Ornstein, Ph.D., Resident Scholar, American Enterprise Institute, Dr. James Thurber, Ph.D., Distinguished Professor of Government and Director of the Center for Congressional and Presidential Studies, American University, Mr. Fred Wertheimer, President, Democracy 21, The Honorable Mickey Edwards, Director, Aspen Institute-Rodel Fellowships in Public Leadership & Lecturer of Public & International Affairs at the Woodrow Wilson School, Princeton University, Mr. Robert Bauer, Firmwide Chair, Political Law Practice, Perkins Coie, LLP, Mr. William Daroff, Vice President for Public Policy and Director of the Washington Office, United Jewish Communities, Mr. Michael G. Franc, Vice President, Government Relations, The Heritage Foundation, and Mr. Robert Hynes, Principal, Colling Murphy Swift Hynes.

COMMITTEE CONSIDERATION

The Committee on Rules met on April 5, 2006 in open session and ordered H.R. 4975 favorably reported to the House as amended by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Lincoln Diaz-Balart of Florida to report the bill to the House with a favorable recommendation was agreed to by a voice vote. Record votes were ordered on the following amendments; the names of Members voting for and against follow:

Rules Committee Record Vote No. 167

An amendment by Ms. Slaughter, No. 2, to require an itemized list of any scope violations in the rule providing for consideration of a conference report (items that were not in either the House or Senate passed versions of the bill), to provide for a consideration point of order when this rule is violated, and to provide a motion

to strike items that are beyond the scope of a conference, was not agreed to by a record vote of 4 yeas and 9 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Diaz-Balart—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Ms. Capito—Nay; Mr. Cole—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay; Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea.

Rules Committee Record Vote No. 168

An amendment by Ms. Slaughter, No. 4, to require, whenever a recorded vote is held open for more than 30 minutes, that the Congressional Record include a log of the voting activity that occurs after that 30-minute time frame to show which Members voted after that time and which Members changed their votes during that period, was not agreed to by a record vote of 4 yeas and 9 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Diaz-Balart—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Ms. Capito—Nay; Mr. Cole—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay; Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

Rules Committee Record Vote No. 169

An amendment by Ms. Slaughter, No. 5, creating a new Majority/Minority Leader point of order that can be raised against consideration of a conference report where the integrity of the conference is in question, was not agreed to by a record vote of 4 yeas and 9 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Diaz-Balart—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Ms. Capito—Nay; Mr. Cole—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay; Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

Rules Committee Record Vote No. 170

An amendment by Ms. Slaughter, No. 6, providing that staff on the Committee of Standards of Official Conduct can be dismissed only by an affirmative vote of the Standards Committee, was not agreed to by a record vote of 4 yeas and 9 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Diaz-Balart—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Ms. Capito—Nay; Mr. Cole—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay; Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

Rules Committee Record Vote No. 171

An amendment by Mr. McGovern, No. 7, providing that whenever 3-day layover is waived against a conference report, it is in order for a Member to raise a point of order to determine whether the House will consider the conference report, was not agreed to by a record vote of 4 yeas and 9 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Diaz-Balart—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Ms. Capito—Nay; Mr. Cole—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay;

Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

Rules Committee Record Vote No. 172

An amendment by Mr. McGovern, No. 8, regulating Member travel on private jets by requiring Members to pay full charter costs when using corporate jets for official travel and to disclose relevant information in the Congressional Record, including the owner or lessee of the aircraft and the other passengers on the flight, was not agreed to by a record vote of 4 yeas and 9 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Diaz-Balart—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Ms. Capito—Nay; Mr. Cole—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay; Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

Rules Committee Record Vote No. 173

An amendment by Mr. McGovern, No. 9, clarifying that the “face value” of a ticket for the purposes of section 304 means the cost of that ticket if a member of the general public were purchasing it, was not agreed to by a record vote of 4 yeas and 9 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Diaz-Balart—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Ms. Capito—Nay; Mr. Cole—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay; Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

Rules Committee Record Vote No. 174

An amendment by Mr. Hastings of Florida, No. 11, establishing a pre-approval and post-travel disclosure system through the Standards Committee for privately-funded travel, was not agreed to by a record vote of 3 yeas and 8 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Diaz-Balart—Nay; Mr. Hastings (WA)—Nay; Mr. Putnam—Nay; Mrs. Capito—Nay; Mr. Cole—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

Rules Committee Record Vote No. 175

An amendment by Ms. Matsui, No. 12, requiring a roll-call vote, in an open meeting, on the final version of a conference report, was not agreed to by a record vote of 4 yeas and 7 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Mrs. Capito—Nay; Mr. Bishop—Nay; Mr. Gingrey—Nay; Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

Rules Committee Record Vote No. 176

An amendment by Ms. Matsui, No. 13, changing the waiting period before a resolution reported by the Committee on Rules may be considered on the House Floor after it is reported from one legislative day to a 24-hour period, was not agreed to by a record vote of 4 yeas and 8 nays:

Mr. Dreier, *Chairman*—Nay; Mr. Hastings (WA)—Nay; Mr. Sessions—Nay; Mr. Putnam—Nay; Mrs. Capito—Nay; Mr. Cole—Nay;

Mr. Bishop—Nay; Mr. Gingrey—Nay; Mrs. Slaughter—Yea; Mr. McGovern—Yea; Mr. Hastings (FL)—Yea; Mrs. Matsui—Yea

The following amendments were also considered:

An amendment by Mrs. Capito, No. 1, improving the training provisions of the bill to require the Committee on Standards of Official Conduct to establish a mandatory training program for House employees, and authorizing the CAO to withhold the pay of any employee who does not complete the training at least once per Congress, was agreed to by a voice vote.

A second degree amendment to the amendment by Mrs. Capito by Mr. McGovern, No. 1a, striking section 502(a)(1) (regarding the withholding of employee pay for not completing the required ethics training), to the Capito Amendment No. 1, was not agreed to by voice vote.

An amendment by Mr. Gingrey, No. 3, modifying the definition of “earmark” in section 501 to cover earmarks where the budget authority is directed to a person, State, or Congressional district through a Federal agency when it circumvents normal formulas or competitive bidding process, was agreed to by voice vote.

An amendment by Mr. Hastings of Florida, No. 11, mandating public disclosure of which Members sponsor earmarks and disclosure of whether Members have a financial interest in the earmark, and providing that earmarks include authorizations, appropriations, and tax provisions, was not agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

Utilizing the authority granted in this legislation, the Clerk of the House of Representatives will initiate a more robust electronic reporting and disclosure system to track and make available to the public the activities of lobbyists, and the Inspector General of the House will utilize the authority granted by the bill to ensure the accuracy of the information reported pursuant to the Lobby Disclosure Act, as amended.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that this legislation would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 19, 2006.

Hon. DAVID DRIER,
*Chairman, Committee on Rules,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4975, the Lobbying Accountability and Transparency Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Matthew Pickford (for federal costs) and Craig Cammarata (for the private-sector impact).

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 4975—Lobbying Accountability and Transparency Act of 2006

Summary: H.R. 4975 would amend the Lobbying Disclosure Act of 1995 and the Federal Election Campaign Act of 1971. Major provisions of the legislation would expand reporting requirements for lobbyists and Members of Congress, temporarily ban privately funded travel, create additional restrictions on gifts and travel, and require training for Members and staff on ethics issues. The legislation also would eliminate pension benefits for Members convicted of certain offenses. In addition, H.R. 4975 would require certain political organizations involved in federal election activities to register with the Federal Election Commission (FEC).

CBO estimates that implementing H.R. 4975 would cost about \$2 million in fiscal year 2007 and \$1 million a year in subsequent years, subject to the availability of appropriated funds. Enacting the bill could affect direct spending and revenues from reduced pensions for certain Members of Congress, and new violations of campaign finance laws, but CBO estimates that those effects would not be significant.

H.R. 4975 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

H.R. 4975 would impose several private-sector mandates, as defined in UMRA, on the lobbying industry and certain political organizations. Based on information from government sources, CBO estimates that the total direct cost of all of the mandates in the bill would fall below the annual threshold established by UMRA for private-sector mandates (\$128 million in 2006, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4975 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ¹					
Estimated Authorization Level	2	1	1	1	1
Estimated Outlays	2	1	1	1	1

¹Enacting the bill could also reduce pensions for certain Members of Congress, and increase revenues from civil penalties, but CBO estimates any such effects would be less than \$500,000 a year.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2006 and that spending will follow historical patterns for similar activities.

Spending subject to appropriation

The legislation would expand reporting requirements for lobbyists and would require the Congress to provide Members and staff with additional training on ethics issues. Based on information from Congressional administrative staff, CBO estimates that Congressional offices and committees would spend about \$1 million annually to collect and disseminate newly reported information from lobbyists and to provide the required ethics training.

In addition, H.R. 4975 would require certain political organizations, defined by section 527 of the tax code, to register with the FEC. Based on information from the FEC and subject to the availability of appropriated funds, CBO estimates that implementing the legislation would cost the FEC about \$1 million in fiscal year 2007. This cost covers the one-time computer-related expenses as well as writing new regulations to implement the new provisions of the legislation. In future years, the legislation would increase general administrative costs to the FEC, but we estimate that those additional costs would not be significant.

Revenues and direct spending

Enacting H.R. 4975 would likely increase collections of fines and penalties for violations of campaign finance law for failure to register with the FEC. Such collections are recorded in the budget as revenues. CBO estimates that the additional collections of penalties and fines would not be significant because of the relatively small number of cases likely to be involved.

H.R. 4975 would also deny pension benefits (based on periods of elected service) to Members convicted of bribery, acting as foreign agents, or defrauding the federal government. CBO estimates that any savings in direct spending as a result of this provision would not be significant because we expect that the number of violations would be small.

Estimated impact on State, local, and tribal governments: H.R. 4975 contains no intergovernmental mandates as defined in the UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: H.R. 4975 would impose several private-sector mandates, as defined in UMRA, on the lobbying industry and certain political organizations. The bill would impose new restrictions on lobbying activities and require lobbyists and lobbying organizations to submit additional reports and disclosures to the Senate Office of Public Records and the Office of the Clerk of the House. The bill also would require certain 527 organizations to register as political committees with the Federal Election

Commission and comply with current regulations on federal campaign finance. Based on information from government sources, CBO estimates that the total direct cost of all of the mandates in the bill would fall below the annual threshold established by UMRA for private-sector mandates (\$128 million in 2006, adjusted annually for inflation).

The bill would impose several new requirements on lobbyists and lobbying organizations. Requirements on lobbyists and lobbying organizations would include but not be limited to:

- Electronic filing of lobbyist registrations and disclosure reports filed with the Secretary of the Senate or the Clerk of the House of Representatives;
- Quarterly, instead of semiannual, filing of lobbying disclosure reports; and
- Additional information in registration and disclosure reports including information on: contributions to Members, Congressional staff, federal officers and political entities by lobbyists; any gifts distributed by lobbying entities; and whether or not each registered lobbyist had prior experience as a covered executive or legislative branch official.

As of January 1, 2006, all lobbyists and lobbying organizations must register and file semiannual disclosure reports electronically to the Clerk of the House. However, electronic reporting is still optional for lobbyists and lobbying organizations filing in the Senate. Since all lobbyists must file similar reports to both the Clerk of the House and the Secretary of the Senate, the incremental cost of filing reports electronically to the Senate should be minimal. Generally, because such entities already collect the information requested in the registration and disclosure reports, CBO estimates that the incremental costs associated with the new reporting requirements in the bill would not be substantial relative to UMRA's annual threshold for private-sector mandates.

The bill also would prohibit lobbyists from traveling on an aircraft that is owned by a client and is not licensed by the FAA to operate for compensation if a Member, delegate, resident commissioner, officer or employee of the House is on board. According to government and industry sources, roughly 500 or less of those recorded flights are made each year. That estimate includes federal officials and staff from both the executive and legislative branches. H.R. 4975 would only restrict the travel of a lobbyist with House officials and staff. The bill would not prohibit employees of the client from traveling on such planes with a Member, delegate, resident commissioner, officer or employee of the House. Thus, CBO estimates that the direct costs associated with complying with the mandate would be minimal compared to UMRA's threshold.

The bill would change the definition of a political committee to include certain "527" organizations, as defined by section 527 of the Internal Revenue Code. Those organizations would be required to register as political committees with the FEC and comply with current regulations on federal campaign finance including certain limits on contributions and reporting and disclosure requirements. Based on information from the FEC, CBO estimates that the direct costs associated with those requirements would be minimal.

Previous CBO estimates: Many of the lobbying reform and campaign finance provisions in the eight pieces of legislation listed

below are contained in H.R. 4975. The differences among these bills are reflected in the cost estimates. However, the four versions of H.R. 4975 are very similar, and as such, their estimated costs are nearly identical.

- On April 19, 2006, CBO transmitted a cost estimate for H.R. 4975 as ordered reported by the House Committee on Government Reform on April 6, 2006.

- On April 19, 2006, CBO transmitted a cost estimate for H.R. 4975 as ordered reported by the House Committee on House Administration on April 6, 2006.

- On April 19, 2006, CBO transmitted a cost estimate for H.R. 4975 as ordered reported by the House Committee on the Judiciary on April 5, 2006.

- On March 7, 2006, CBO transmitted a cost estimate for S. 2349, the Legislative Transparency and Accountability Act of 2006, as ordered reported by the Senate Committee on Rules and Administration on March 1, 2006.

- On March 6, 2006, CBO transmitted a cost estimate for S. 2128, the Lobbying Transparency and Accountability Act of 2006, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 3, 2006.

- On July 13, 2005, CBO transmitted a cost estimate for H.R. 513, the 527 Reform Act of 2005, as ordered reported by the House Committee on Administration on June 29, 2005.

- On July 6, 2005, CBO transmitted a cost estimate for S. 1053, the 527 Reform Act of 2005, as ordered reported by the Senate Committee on Rules and Administration on April 27, 2005.

- On June 17, 2005, CBO transmitted a cost estimate for H.R. 1316, the 527 Fairness Act of 2005, as ordered reported by the House Committee on House Administration on June 8, 2005.

Estimate prepared by: Federal Costs: Matthew Pickford and Deborah Reis. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private-Sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority of Congress to enact this legislation is provided by article 1, section 5, clause 2 of the Constitution of the United States (relating to each House of Congress determining the rules of its proceedings).

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation addresses the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act only insofar as they relate to the Legislative Branch, so a statement as to their applicability is not required.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; table of contents

This section provides the short title of the bill, the Lobbying Accountability and Transparency Act of 2006, and provides a table of contents.

TITLE I—ENHANCING LOBBYING DISCLOSURE

Section 101. Quarterly filing of lobbying disclosure reports

Section 101 amends section 5 of the Lobbying Disclosure Act of 1995 to provide for quarterly filing of reports under the Act, rather than the semiannual reporting requirement under existing law, and makes other conforming changes.

Section 102. Electronic filing of lobbying registrations and disclosure reports

Section 102 provides that registrations and reports mandated under the LDA must be filed electronically in addition to any other form that may be required by the Secretary of the Senate (Secretary) and the Clerk of the House (Clerk). The provision also permits the Secretary and the Clerk to grant extensions for the time to file electronically if (1) the registrant files in every form required other than electronic, and (2) the Secretary or Clerk finds good cause to extend the due date upon a request by the registrant.

Section 103. Public database of lobbying disclosure information

This section mandates that the Secretary and the Clerk maintain a searchable, sortable, and downloadable electronic database freely available to the public over the Internet that includes the information contained in registrations and reports filed under the LDA and is searchable and sortable, at a minimum, by each of the major categories of information required in the registrations and reports. It also provides that registrations or reports received electronically by the Secretary or Clerk must be made available for public inspection over the Internet not later than 48 hours after they are received. Finally, it authorizes such sums as may be necessary to carry out these provisions.

Section 104. Disclosure by registered lobbyists of past executive branch and congressional employment

Section 104 amends the LDA by extending the current requirement to disclose past Congressional and executive branch employment from the current 2 years to 7 years.

Section 105. Disclosure of lobbyist contributions and gifts

Section 105 requires each registrant (and each political committee affiliated with or each employee listed as a lobbyist by that

registrant) to report the recipient, date, and amount of each contribution made to a Federal candidate or officeholder, leadership PAC, political party committee, or other political committee, so long as that contribution must be reported to the Federal Election Commission.

The section also requires the reporting of any gifts given to a covered legislative branch official which counts toward the cumulative annual limit for gifts under the Rules of the House of Representatives.

Section 106. Increased penalty for failure to comply with lobbying disclosure requirements

This section increases the civil penalties under the LDA from a maximum of \$50,000 to \$100,000.

TITLE II—SLOWING THE REVOLVING DOOR

Section 201. Notification of post-employment restrictions

This section amends the post-employment restrictions contained in section 207(e) of title 18, United States Code, to direct the Clerk, in consultation with the Committee on Standards of Official Conduct, to inform a Member, officer, or employee who is subject to the post-employment restrictions on lobbying contacts contained in that section of the beginning and ending dates of the restriction. The Clerk must also inform each office of the House to which the restriction applies of the restriction as well.

Section 202. Disclosure by Members of the House of Representatives of employment negotiations

Section 202 amends the Code of Official Conduct contained in rule XXIII of the Rules of the House of Representatives to require that once a Member, Delegate, or Resident Commissioner begins negotiating compensation for prospective employment (or has any other arrangement concerning prospective employment that creates a conflict of interest or the appearance of a conflict of interest), he or she must file a statement with the Committee on Standards of Official Conduct disclosing the negotiations within 5 days after commencing the negotiation. The section also provides that the Member, Delegate, or Resident Commissioner should refrain from voting on any legislative measure pending before the House or its committees if the negotiation may create a conflict of interest.

Section 203. Wrongly influencing, on a partisan basis, an entity's employment decisions or practices

Section 203 amends the Code of Conduct to explicitly restate the existing standards of conduct for Members, officers, and employees of the House that it is improper to condition the taking or withholding of an official act, or influence or offer or threaten to influence, the official act of another, in return for a private or public entity's employment decision or practice based on partisan political affiliation.

TITLE III—SUSPENSION OF PRIVATELY FUNDED TRAVEL; CURBING
LOBBYIST GIFTS

Section 301. Suspension of privately-funded travel

Section 301 provides that, notwithstanding the exceptions described in clause 5 of rule XXV of the Rules of the House, no Member, Delegate, Resident Commissioner, officer or employee of the House may accept a gift of travel from any private source.

Section 302. Recommendations from the Committee on Standards of Official Conduct on gifts and travel

Section 302 directs the Committee on Standards of Official Conduct to report its recommendations on changes to rule XXV of the Rules of the House (regarding acceptance of gifts and travel) to the Committee on Rules on or before December 15, 2006. In reporting its recommendations, the Committee on Standards is directed to consider a number of issues, including whether the current rules protect Members, officers, and employees from the appearance of impropriety, the degree to which privately-funded travel meets the representational needs of Members, officers, and employees, the sources and methods of funding for privately-funded travel, the adequacy of the current system of approval and disclosure of privately-funded travel, the degree to which the current exceptions to the prohibition on the acceptance of gifts contained in rule XXV meet the representational and personal needs of the House, its Members, officers, and employees, the clarity of the limitation and its exceptions, and the suitability of the current dollar limitations contained in the rule.

Section 303. Prohibiting registered lobbyists on corporate flights

Section 303 amends the LDA to prohibit a registered lobbyist from traveling as a passenger or crew member aboard the flight of an aircraft not licensed by the Federal Aviation Administration to operate for compensation or hire and which is owned by the client of a lobbyist or lobbying firm when a Member, officer, or employee of the House is also a passenger or crew member on the same flight.

Section 304. Valuation of tickets to sporting and entertainment events

This section amends rule XXV of the Rules of the House to provide that, for purposes of valuation under that rule, a gift of a ticket to a sporting or entertainment event must be valued at the face value of the ticket, except that when the ticket does not have a face value, it must be valued at the highest cost of a ticket with a face value for the event.

TITLE IV—OVERSIGHT OF LOBBYING AND ENFORCEMENT

Section 401. Audits of lobbying reports by House Inspector General

This section authorizes the Office of the Inspector General of the House of Representatives to have access to all registrations and reports received by the Clerk of the House under the LDA. Further, the Inspector General is directed to conduct random audits of that information as necessary to ensure compliance with the Act. The

section also grants the Inspector General the authority to refer violations of the LDA to the Department of Justice. The Committee notes that clause 6(a)(5) of rule II of the Rules of the House already grants the Inspector General the authority to refer “information involving possible violations by a Member, Delegate, Resident Commissioner, officer, or employee of the House of any rule of the House or of any law applicable to the performance of official duties or the discharge of official responsibilities” to the Committee on Standards of Official Conduct. The Committee expects that the Office of the Inspector General would exercise this authority if it found any potential violations during the audit process authorized by this section.

Section 402. House Inspector General review and annual reports

Subsection (a) requires that the Inspector General of the House review on an ongoing basis the effectiveness of the activities carried out by the Clerk under section 6 of the LDA, and whether the Clerk has all of the necessary authority and resources for effective oversight and compliance of the Act. Subsection (b) requires that the Inspector General submit an annual report on the review, including any recommendations for improvements.

TITLE V—INSTITUTIONAL REFORMS

Section 501. Earmarking reform

This section provides a special order of the House providing that it will not be in order to consider (1) a general appropriation bill unless the bill includes a list of earmarks in the bill or in the report to accompany the bill, including the name of any Member who submitted a request to the Committee on Appropriations for an earmark included in the list, or (2) the conference report accompanying a general appropriation bill unless the joint explanatory statement of managers accompanying that conference report includes a list of earmarks, including the name of any Member who submitted a request to the Committee on Appropriations for an earmark included in the list, which were not committed to conference by either House or were not in the report accompanying the House or Senate bills. If a rule waives the application of this order to a conference report, a point of order lies against the rule.

Disposition of the point of order against the bill (or against the rule in the case of a conference report) will be as a question of consideration put by the Chair, and debatable for 20 minutes, equally divided between a proponent and opponent.

The section defines an “earmark” as a provision in either legislative or report language providing or recommending a specific amount of discretionary budget authority to a non-Federal entity, if that entity is specifically identified in the bill or report, or if the budget authority is allocated outside of the normal formula-driven or competitive bidding process and is targeted or directed to an identifiable person, State, or Congressional district. The definition also describes the treatment of government sponsored enterprises, Federal facilities, Federal lands, Indian tribes, foreign governments, and intergovernmental international organizations.

Section 502. Mandatory ethics training for House employees

This section amends rule II of the Rules of the House to prohibit the Chief Administrative Officer (“CAO”) from paying compensation to an employee of the House when the Committee on Standards of Official Conduct has determined that the employee is not in compliance with the regulations regarding mandatory ethics training issued pursuant to clause 3(r) of rule XI. The Committee anticipates that this provision will be rarely used, and that the Committee on Standards of Official Conduct will make every effort to bring the employee in question into compliance with the regulations prior to making the determination described in this provision.

It also amends rule XI to direct the Committee on Standards of Official Conduct to establish a mandatory program of regular ethics training for employees of the House. The regulations must provide that each employee of the House must complete ethics training offered by the Committee on Standards of Official Conduct at least once during each congress. Employees hired after the adoption of the regulations must complete the training within 30 days of being hired. Furthermore, the requirement is tolled for any employee who works in a Member’s district office until 30 days after that office is notified that the training is available over the Internet.

Upon the completion of training, each employee is required to file a written certification with the Committee on Standards of Official Conduct that the employee has completed the required ethics training and is familiar with the contents of any publications designated by the Standards Committee. Employees are defined as any individual whose compensation is disbursed by the CAO, but does specifically does not include a Member, Delegate, or Resident Commissioner.

While the Committee recognizes that a mandatory requirement for the ethics training of Members could be construed as a qualification of service that could raise Constitutional questions, the Committee believes that ethics training for Members is vitally important so that they know and understand the rules and laws applicable to their service. To that end, the section also directs the Committee on Standards of Official Conduct to establish a program of regular ethics training for Members, Delegates, and the Resident Commissioner similar to the program established for employees of the House, and encourage Member participation in the program.

Section 503. Biennial publication of ethics manual

This section requires that, not later than 120 days after the enactment of this legislation, and one time in each Congress thereafter, the Committee on Standards of Official Conduct publish an up-to-date ethics manual for Members, officers, and employees of the House and make the manual available to those individuals. It further provides that the Standards Committee has a duty to keep all Members, officers, and employees of the House apprised of current rulings or advisory opinions when those rulings or opinions constitute changes to or interpretations of current policies.

TITLE VI—REFORM OF SECTION 527 ORGANIZATIONS

Section 601. Short title

This section provides the short title of this title, the 527 Reform Act of 2006.

Section 602. Treatment of section 527 organizations

This section amends the Federal Election Campaign Act of 1971 (FECA; 2 U.S.C. 431 et seq.) to require 527 groups to register as political committees with the Federal Election Commission (FEC) and comply with Federal campaign finance laws, unless they raise and spend money exclusively in connection with non-Federal candidate elections, state or local ballot initiatives, or the nomination or confirmation of individuals to non-elected offices, such as judicial positions. The bill provides a narrow exception for 527 groups whose annual receipts are less than \$25,000, or whose activities are related exclusively to state or local elections or ballot initiatives. However, this exception doesn't apply if a 527 group spends more than \$1,000 (aggregate) to transmit a public communication that promotes, supports, attacks, or opposes a Federal candidate in the year prior to a Federal election, or spends more than \$1,000 (aggregate) to conduct any voter drive activities in connection with an election in which a Federal candidate appears on the ballot. However, the bill makes further exceptions for groups that make voter drive disbursements with respect to elections in only 1 state, make no references or contributions to Federal candidates, or have no Federal candidates, officeholders, or national political parties control or materially participate in the direction of the organization, solicit contributions, or direct disbursements.

This section also provides that 527 groups registered as political committees can only use Federal hard money contributions to finance ads that promote or attack Federal candidates, regardless of whether the ads expressly advocate the election or defeat of the candidate.

Section 603. Rules for allocation of expenses between Federal and non-Federal Activities

This section generally sets forth rules for allocation and funding for certain expenses relating to Federal and non-Federal activities of political committees. When a Federal political committee makes expenditures for voter mobilization activities or public communications that affect both Federal and non-Federal elections, at least 50% of the costs of those activities would have to be paid for with Federal hard money contributions. Further, at least 50% of administrative and fundraising expenses must be paid with funds from a Federal account (not including fundraising solicitations or any other activity that constitutes a public communication).

With regard to the non-Federal funds that can be used to finance a portion of voter mobilization activities and public communications that affect both Federal and non-Federal elections, those funds must come from individuals only and must be in amounts of not more than \$25,000 per year per individual donor. National political parties and Federal candidates are prohibited from soliciting funds for these non-Federal accounts. [This is similar to the provision in the Bipartisan Campaign Reform Act of 2002 that places a limit on

the size of a non-Federal contribution that can be spent by state parties on activities affecting both Federal and non-Federal elections. \$25,000 is the same amount that an individual can contribute to a national political party. An individual can give only \$5,000 per year to a Federal political committee to influence Federal elections.] The section also requires that 527s must report all receipts and disbursements from a qualified non-Federal account.

Finally, the provision directs the FEC to promulgate regulations within 180 days to implement these provisions and establishes the effective date as 180 days after the date of enactment of the legislation.

Section 604. Repeal of limit on amount of party expenditures on behalf of candidates in general elections

This section repeals the limit on expenditures coordinated between party committees and their candidates contained in section 315(d) of FECA.

Section 605. Construction

This provision specifically provides that nothing in the language of this title should be construed as approving, ratifying, or endorsing a FEC regulation, establishing, modifying, or otherwise affecting the IRS's definition of a political organization, or affecting whether a 501(c) organization should be considered a political committee.

Section 606. Judicial review

This section establishes certain special rules for actions brought on constitutional grounds. Those actions (1) must be filed in United States District Court for the District of Columbia and be heard by a 3-judge panel; (2) a copy of the complaint must be delivered to the Clerk of the House and the Secretary of the Senate; and (3) a final decision in the actions is only reviewable by direct appeal to the Supreme Court. This section also provides that Members of Congress have the right to intervene either in support or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment and any Member may bring an action for declaratory or injunctive relief to challenge the constitutionality of any provision of the title.

Section 607. Severability

This section provides that, should any part of this title, or amendment made by this title, be held to be unconstitutional, the remainder of the title and amendments made by the title will remain unaffected.

TITLE VII—FORFEITURE OF RETIREMENT BENEFITS

Section 701. Loss of pensions accrued during service as a Member of Congress for abusing the public trust

This section amends section 8332 of title 5, United States Code, to provide that a Member of Congress, if convicted of bribery or acting as an agent of a foreign government (including the associated conspiracy charges), will lose those contributions made by the government to their Congressional pension. The provision also author-

izes the Office of Personnel Management to promulgate regulations to carry out the section, including regulations providing for the payment of the full amount of the pension to the spouse or children of the Member to the extent deemed necessary given the totality of the circumstances.

CHANGES IN THE RULES OF THE HOUSE MADE BY THE BILL, AS
REPORTED

In compliance with clause 3(g) of rule XIII of the Rules of the House of Representatives, changes in the Rules of the House made by the provisions of the bill referred to the Committee, as reported, are shown as follows (existing provisions proposed to be omitted are enclosed in black brackets, new matter is printed in italics, existing provisions in which no change is proposed are shown in roman):

RULES OF THE HOUSE OF REPRESENTATIVES

* * * * *

RULE II

OTHER OFFICERS AND OFFICIALS

* * * * *

Chief Administrative Officer

4. (a) * * *

* * * * *

(d) *The Chief Administrative Officer may not pay any compensation to any employee of the House with respect to any pay period during which the employee, as determined by the Committee on Standards of Official Conduct, is not in compliance with the applicable requirements of regulations promulgated pursuant to clause 3(r) of Rule XI.*

* * * * *

RULE XI

PROCEDURES OF COMMITTEES AND UNFINISHED BUSINESS

* * * * *

Committee on Standards of Official Conduct

3. (a) * * *

* * * * *

(r) *The committee shall establish a program of regular ethics training for employees of the House and promulgate regulations providing for the following:*

(1)(A) *Except as otherwise provided, all employees of the House are required to complete ethics training offered by the committee at least once during each congress. Any employee who is hired after the date of adoption of such rules is required to complete such training within 30 days of being hired.*

(B) *Any employee of the House who works in a Member's district office shall not be required to complete such ethics training until 30 days after the district office has received a notice from*

the Committee on Standards of Official Conduct that the required ethics training program is available on the Internet.

(2) After any employee of the House completes such ethics training, that employee shall file a written certification with the committee that he is familiar with the contents of any pertinent publications that are so designated by the committee and has completed the required ethics training.

(3) As used in this paragraph, the term "employee of the House" refers to any individual whose compensation is disbursed by the Chief Administrative Officer, including any staff assigned to a Member's personal office, any staff of a committee or leadership office, or any employee of the Office of the Clerk, of the Office of the Chief Administrative Officer, or of the Sergeant-at-Arms, but does not include a Member, Delegate, or Resident Commissioner.

(s) The committee shall establish a program of regular ethics training for Members, Delegates, and the Resident Commissioner similar to the program established in paragraph (r), and encourage participation in such program.

* * * * *

RULE XXIII

CODE OF OFFICIAL CONDUCT

There is hereby established by and for the House the following code of conduct, to be known as the "Code of Official Conduct":

1. * * *

* * * * *

14. (a) A Member, Delegate, or Resident Commissioner shall file with the Committee on Standards of Official Conduct a statement that he or she is negotiating compensation for prospective employment or has any arrangement concerning prospective employment if a conflict of interest or the appearance of a conflict of interest may exist. Such statement shall be made within 5 days (other than Saturdays, Sundays, or public holidays) after commencing the negotiation for compensation or entering into the arrangement.

(b) A Member, Delegate, or Resident Commissioner should refrain from voting on any legislative measure pending before the House or any committee thereof if the negotiation described in subparagraph (a) may create a conflict of interest.

15. A Member, Delegate, Resident Commissioner, officer, or employee of the House may not, with the intent to influence on the basis of political party affiliation an employment decision or employment practice of any private or public entity (except for the Congress)—

(a) take or withhold, or offer or threaten to take or withhold, an official act; or

(b) influence, or offer or threaten to influence, the official act of another.

[14.] 16. (a) In this Code of Official Conduct, the term "officer or employee of the House" means an individual whose compensation is disbursed by the Chief Administrative Officer.

* * * * *

RULE XXV

LIMITATIONS ON OUTSIDE EARNED INCOME AND ACCEPTANCE OF
GIFTS

* * * * * *

Gifts

5. (a)(1)(A) * * *

* * * * * *

(2)(A)(i) In this clause the term “gift” means a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(ii) *A gift of a ticket to a sporting or entertainment event shall be valued at the face value of the ticket, provided that in the case of a ticket without a face value, the ticket shall be valued at the highest cost of a ticket with a face value for the event.*

* * * * * *

MINORITY VIEWS

The markup of H.R. 4975 this Committee held on April 5, 2006 was one of a number of hearings and markups the House of Representatives held in the early months of 2006 on the subject of Congressional corruption, which the Majority has very carefully named "Lobbying Reform." The three hearings Chairman Dreier conducted in the Rules Committee on this topic allowed us to consider a number of different viewpoints and develop a solid committee record. We appreciate Chairman Dreier's willingness to conduct these hearings and sincerely hope he will continue this spirit of deliberation when the Rules Committee takes up the rule for H.R. 4975. We urge the Committee to report a rule that will allow the House to conduct an open and unrestricted debate on this crucial issue. The first step we can take to restore the American people's confidence in their legislative branch is to show them we are carefully considering every reform idea. All of the serious reform proposals both Democrats and Republicans have put forward over the past few months deserve full consideration on the House floor.

We oppose this bill in its current form because it pretends that the degradation of the legislative process and ethical standards in the House of Representatives we have all witnessed over the past few Congresses can be solved with a few narrowly-targeted fixes. By proposing this legislation, Republicans are telling a seriously ill patient to take two aspirin and call them in the morning. As the outside experts testified at our hearings, and as a multitude of editorial writers, bloggers, and other commentators have observed, the current Congress is suffering from a systemic illness that affects every aspect of its operations. We do not believe that a piecemeal response to the scandals that have tarnished the reputation of the House over the past few years is a credible one. A more serious, more comprehensive proposal to reform Congress would address the procedural abuses that have flourished in the past few years and allowed special interests to capture the legislative process. It would also restore accountability and enforcement to the moribund House ethics process. Most importantly, it would demand that Members and staff renew their commitment to serving the people who sent them to Congress and restoring Americans' faith in the "People's House."

Finally, we must note with disappointment that while Chairman Dreier and the Republican leadership talked constantly about crafting a "bipartisan" reform proposal, H.R. 4975 is a Republican bill. It does not include any of the major policy ideas put forward by Rules Committee Democrats (H. Res. 686), Minority Leader Pelosi (H.R. 4682), or senior Democratic Representatives Obey, Frank, Price, and Allen (H. Res. 659). Furthermore, as the record of our markup demonstrates, bipartisanship ended with the opening statements. During the hearing, Democratic Rules Committee

Members offered 12 separate amendments we believed would strengthen the bill and create a more credible reform package. As the record shows, our twelve proposals *did not garner even one vote from our Republican colleagues on the Rules Committee*. As we have pointed out before, merely calling a process “bipartisan” does not make it so.¹

1. “Lobbying Reform”—Broad Problem, Narrow Solution

We think the name the Majority has given to this effort and to this legislation (the “Lobbying Accountability and Transparency Act of 2006”) is very revealing. First of all, by calling their effort “lobbying reform,” Republicans are suggesting that responsibility for the corruption scandals that have plagued the House in the 109th Congress lies not with elected Members of Congress, but with the people who lobby them. Their argument seems to be that if you tweak a few rules governing the lobbying profession, the ethics controversies that have clouded the 109th Congress will go away. If now-convicted lobbyist Jack Abramoff had simply been required to disclose his activities four times a year and disclose more information about his political activities, supporters of this bill seem to be saying, he would not have been able to operate his criminal conspiracy in and around Congress.

But rapacious lobbyists are only part of the problem. As Ranking Member Slaughter observed at one of our hearings: “Lobbyists, after all, can only knock on the door. Members are the ones who have to open it.” Or as the editorial page of the *Spokesman Review* in Spokane, Washington recently put it: “Congress continues to spin this as a lobbying issue, but it takes two to do the influence tango.”² In other words, Jack Abramoff was able to demand and receive unconscionable fees from his clients because they believed he had access to the decision-makers in Congress. The *USA Today* editorial board made this same point in an editorial written earlier this year:

What is most shocking in the Abramoff case is not that he would want to make a fortune and spread it around to gain power and influence. It is that so many members of Congress would be so quick to accommodate him.³

While we wholeheartedly support lobbying reform, we feel the authors of H.R. 4975 have confused cause with effect—the key to restoring the people’s trust in their Congress is restoring “accountability and transparency” to the way we do *our own* business. According to an April 10th Washington Post-ABC News poll, only 38% of Americans approve of the way the Congress is doing its job—our lowest approval rating in 10 years. They have figured out that Congress spends most of its time these days working to help special interests, rather than the public interest. Increasing disclosure requirements for lobbyists and preventing them from flying with Members of Congress on corporate jets are perhaps positive steps,

¹ See our Minority Views in House Report 109–220, Part 1, Establishing the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina.

² *Spokesman Review* (Spokane, WA) editorial, “Kick the Habit,” April 3, 2006.

³ *USA Today* editorial, “Lobbyist’s Plea Likely to Expose Seamy Underside of Congress,” Jan. 4, 2006.

but they will do little to change our constituents' current attitude towards the legislative branch. *Congressional reform*, not lobbying reform, is the key to restoring the Americans' confidence in the people's House. As our colleague, Representative David Price, observed in his Rules Committee testimony, "a debate focused only on lobbyist disclosure and travel and gift rules risks missing the forest for the trees."⁴ Another Committee witness, Thomas Mann of the Brookings Institution, made this point to us during our March 2nd hearing. He testified:

All professional groups, including lobbyists, can benefit from higher ethical standards and self-regulation. But I think it is a mistake to assume the broader problem is one of their own making. The Congress would be well advised to focus on its own Members and staff, for its leaders to articulate and champion high ethical standards in dealing with lobbyists and to set up educational programs whereby those inside Congress are assisted in meeting those standards, and to establish effective systems of transparency and enforcement.⁵

Dubbing this legislation "lobbying reform" also suggests the current rules governing Members and staff members are not adequate to regulate their behavior. While we have proposed a number of reforms that we feel will improve the accountability of the Congress to our constituents, we also must point out that there are already a number of statutes and rules setting standards for Members' behavior and regulating our relationships with registered lobbyists. Moreover, as attorney Robert Bauer reminded us at our March 9th hearing, our ethics rules require us to not only follow their "black-letter" requirements; they also command us to "observe their spirit as well as their letter." The Code of Official Conduct requires Members and staff not only to follow the rules, but also to avoid actions (even lawful ones) that would discredit the House.⁶

It is painfully obvious to all of us that the current ethics scandals occurred because some Members and staff lost sight of their obligation to observe the spirit of our rules. Because Article I of the Constitution gives Congress the exclusive authority to govern the conduct of and discipline its Members, the House is a self-governing body. It is ultimately our responsibility to create, and then honor, rules of conduct that inspire confidence in the American people that their elected representatives are acting in our country's best interest. Perhaps the most effective "lobbying reform" would be a new commitment by Members and staff of the House to conduct themselves "at all times in a manner that shall reflect creditably on the House," as we are required to do under clause 1 of Rule XXIII.

⁴*Lobbying Reform: Accountability Through Transparency, Original Jurisdiction Hearing before the House Committee on Rules* [hereinafter March 30th Lobbying Reform Hearing], 109th Congress (March 30, 2006) (statement of the Honorable David Price); available at: http://www.rules.house.gov/techouse/109/lobref/Accountability/109_lob_ref_oj_3_trans.htm.

⁵*Lobbying Reform: Accountability Through Transparency, Original Jurisdiction Hearing before the House Committee on Rules* [hereinafter March 2nd Lobbying Reform Hearing], 109th Congress (March 2, 2006) (statement of Dr. Thomas Mann, Ph.D.); available at: http://www.rules.house.gov/techouse/109/lobref/109_test_lob_ref_oj.htm.

⁶*Lobbying Reform: Reforming the Gift and Travel Rules, Original Jurisdiction Hearing before the House Committee on Rules* [hereinafter Gift and Travel Reform Hearing], 109th Congress (March 9, 2006) (statement of Robert Bauer); available at: http://www.rules.house.gov/techouse/109/lobref/travel/109_test_lob_reftravel_oj.htm.

A number of witnesses before the Rules Committee made this same point—plenty of good rules already exist, but they are useless if the House does not enforce them. Professor James Thurber urged us to “strengthen the enforcement of existing laws and ethics rules that cover Members of Congress, staff, and lobbyists.” He described the committees that oversee the current rules as “moribund” and proposed the following:

At a minimum the Congressional committees with jurisdiction over lobbying and ethics must hold regular oversight hearings, investigate allegations of existing ethics and lobbying law violations, and hold regular training sessions for Members of Congress and staff about existing rules and standards of conduct.⁷

Former Representative James Bachus reminded us that “Rules without the resources to make them real are but empty promises.”⁸ On the issue of gift ban limits, Professor Thurber testified that the House does not need to change the limits, rather “it needs to effectively oversee and enforce the existing gift ban rules.”⁹ Our Republican colleague, Representative Heather Wilson, made exactly the same point a few weeks later when she testified: “The problem with the gift ban isn’t the limit, it is the failure to enforce the gift rule effectively.”¹⁰ On Member travel rules, Professor Thurber offered the following thought:

Congress does not need to prohibit the support of legitimate educational travel by Members and staff; it needs to enforce existing rules and ban non-educational travel for Members of Congress and staff. Obviously, the appropriate travel would not be, for example, an eight-day golf trip to St. Andrews that happened to include a one hour meeting or lecture.¹¹

During our markup, Representative Hastings of Florida offered an amendment (amendment # 11) that would have reinforced the current House rules that allow Members to take educational trips sponsored by private entities that are truly education in nature. His proposal to require the Ethics Committee to pre-approve groups for privately-funded travel and to require Members and staff to more fully disclose their travel itineraries was intended to clarify the common-sense difference between education travel and travel that involves playing golf with lobbyists. The Hastings amendment was consistent with the almost unanimous view we heard from Members and outside experts that legitimate educational travel helps Members deepen their knowledge of important issues and forge relationships with their House colleagues. Unfortunately, Rules Committee Republicans rejected this proposal on party-line 3–9 vote, and instead supported a temporary travel moratorium (section 301) that kicks the issue of privately-funded travel down the road until after the November elections by banning all travel (educational or not) until December 15, 2006.

⁷ March 2nd Lobbying Reform Hearing (statement of Dr. James Thurber, Ph.D.).

⁸ March 2nd Lobbying Reform Hearing (statement of the Honorable James Bachus).

⁹ March 2nd Lobbying Reform Hearing (statement of Dr. James Thurber, Ph.D.).

¹⁰ March 30th Lobbying Reform Hearing (statement of the Honorable Heather Wilson).

¹¹ March 2nd Lobbying Reform Hearing (statement of Dr. James Thurber, Ph.D.).

We must also point out that H.R. 4975 does not fix all of the problems it claims to fix, nor close all of the loopholes it claims to close. For example, while section 303 of the bill prohibits lobbyists from flying with Members of Congress on corporate jets, it still allows Members of Congress to fly on these private jets at the cost of a first-class ticket on a commercial airline. While Section 304 of the bill requires gifts of tickets to sporting events, concerts, or theater performances to be valued at their “face value,” it does not require the tickets to be valued at the price a member of the public would pay for the same ticket. During the markup, Representative McGovern offered two amendments that would have fixed these problems and applied the laws of economic supply-and-demand to Members of Congress. One of his amendments (amendment # 9), which was defeated on a party-line vote of 4–9, would have valued a ticket for entertainment according to what it would cost a member of the general public. His other amendment (amendment # 8), again defeated by a party-line vote of 4–9, would have required Members of Congress to pay the same amount to fly on a private jet as it would cost a member of the general public to fly on a corporate-owned or chartered jet. This amendment also would have required Member to disclose who owns the jet and the names of the people who accompanied him or her on the flight.

The section of the bill addressing earmarks (section 501) also appears to be less than airtight. While H.R. 4975 claims to address the proliferation of earmarks in the legislative process, the bill as it is currently written will not touch many bills that contain provisions specifically targeted to benefit individual persons or small groups. While the current version of the bill requires appropriations bills to list earmarks and the names of their sponsors in the text of the bill or accompanying report, it does not address the increasingly common earmarking that occurs in authorizing committees. As Ranking Member Obey pointed out in his March 30th testimony, the 2005 transportation authorization bill contained more than 5,000 earmarks totaling more than \$24 billion, while last year’s FSC-ETI tax bill contained billions of dollars of narrowly targeted tax benefits to aid special interests such as horse race tracks and fishing tackle box manufacturers. To correct this oversight, Representative Hastings of Florida offered an amendment (amendment # 10) requiring Members to disclose their earmark requests for any type of bill, not just appropriations legislation. Unfortunately, Rules Committee Republicans rejected this amendment to broaden the earmark disclosure process.

Finally, in the past few days, we have learned that Republican leaders have blocked bipartisan improvements the Judiciary Committee made to H.R. 4975 during its markup of the lobbying disclosure sections of the bill. The Committee Print posted on the Rules Committee website on Friday, April 21, 2006 removed and/or watered down several Democratic and bipartisan amendments the Judiciary Committee adopted that required lobbyists to disclose more of their fundraising activities. In other words, the Republican leadership unilaterally blocked a bipartisan idea to improve lobbyist disclosure (the stated goal of this legislation). Mr. Fred Wertheimer, President of Democracy 21, who participated in our March 2nd hearing, commented on this change, “House Republican

leaders have turned an already unacceptable lobbying and ethics bill into a complete joke.”¹²

2. *A House Without Ethics*

It was amazing after the 2004 election we considered repealing the rule requiring a Republican leader to step down if indicted. Next, we proceeded to remove the members of the Ethics Committee who had voted to hold our former Majority Leader accountable for his actions. And then, we proceeded to make it more difficult to initiate an Ethics Committee investigation. It is clear to me power corrupts and absolute power corrupts absolutely. We need bold action. We need bold reform.—Representative Christopher Shays, Testimony before the House Rules Committee, March 30, 2006¹³

Although H.R. 4975 treads lightly around the subject, it is obvious to all observers of Congress (including many who testified before our Committee) that one of the major problems in the 109th Congress has been the failure of the Committee on Standards of Official Conduct (the Ethics Committee) to enforce our Code of Official Conduct (codified at Rule XXIII of the current House rules). During his testimony before the Rules Committee on March 2nd, Mr. Fred Wertheimer, the President of Democracy 21, did not mince his words. He said:

The performance of the House ethics committee, in particular, is its own scandal. During the entire year of 2005, the House ethics committee was not even functional. This failure of the Committee to be able to operate for an entire year is unprecedented and demonstrates a complete breakdown of the process in the House for overseeing and enforcing House ethics rules.¹⁴

It was a particularly bad year to operate without an Ethics Committee, since 2005 was a year in which a number of new congressional ethical scandals came to light. One particularly embarrassing episode for the House was former Representative Randy “Duke” Cunningham’s pleading guilty in November 2005 to accepting more than \$2 million in bribes from defense contractors. While enterprising reporters from Cunningham’s hometown newspaper published story after story on his shady financial transactions through the spring and summer of 2005, the Ethics Committee took no formal notice of the exploding scandal and conducted no investigation.

The failure of the Ethics Committee to investigate Cunningham’s actions inspired a rare unity among government watchdog groups. Commenters across the ideological spectrum agreed that the Cunningham case demonstrated a total failure of the current Congress to police Members’ behavior. As Tom Fitton, president of conservative Judicial Watch put it: “There is no ethics enforcement in Congress today, and it’s inexcusable.” Melanie Sloan, speaking on behalf of the liberal Citizens for Responsibility and Ethics in Wash-

¹² Elana Schor, “Watchdog Groups Blast House Lobby Reform Bill,” *The Hill*, April 25, 2006.

¹³ March 30th Lobbying Reform Hearing, (statement of the Honorable Christopher Shays).

¹⁴ March 2nd Lobbying Reform Hearing (statement of Mr. Fred Wertheimer).

ington commented, “No matter what level of corruption the members of Congress engage in, the ethics committees do nothing. . . . It’s a national embarrassment.” Senator John McCain commented on Meet the Press: “I don’t think the Ethics Committees are working very well. The latest Cunningham scandal was uncovered by the San Diego newspaper, not by anyone here. . . .”¹⁵ A *Roll Call* editorial bluntly summed it up: “Let’s face it: The Justice Department has become the de facto ethics police force for Congress.”¹⁶ The editorial board of the *Nashville Tennessean* wrote:

“While federal prosecutors spent 2005 building cases against politicians, like Rep. Randy Cunningham, R-Calif., the House so-called Ethics Committee met once and did nothing. Surely members of Congress can understand that it is better for them to police their own members for ethics violations than to wait until those violations devolve into crimes, forcing prosecutors to come in to clean house.”¹⁷

What sometimes gets lost in discussions about the breakdown of ethics enforcement in the 109th Congress is that it was not inevitable. The ethics shutdown was engineered by the House Republican leadership at the beginning of the 109th Congress in order to protect their Members from the scrutiny and accountability of the ethics process. Ethics enforcement was shut down in 2005 because the Majority launched an unprecedented, partisan attack on a process that the House has proudly protected from partisanship since it established the Ethics Committee in 1967. Key to this process is the structural bipartisanship of the Committee. It is made up of five Republican and five Democratic Members and is staffed by non-partisan professionals who are appointed only by majority vote of the Committee.

The attack started on the first day of the 109th Congress, when Republican leaders included several controversial “ethics reform” proposals in their new rules package (H. Res. 5). The ethics reforms that were forced through on the Opening Day of the 109th Congress on a party-line vote changed a key provision in the 1997 ethics rules that prevented Members of only one party from blocking ethics investigations. Under the 1997 rules, a validly filed complaint that the Committee does not act on within 45 days automatically goes to a subcommittee for investigation. The purpose of this rule (called the “automatic transmittal” rule) is to encourage committee Members to reach a bipartisan decision to either dispose of the complaint if it has no merit, or begin an investigation within 45 days. The knowledge that an investigation will automatically move forward if they do not act within the 45-day period, however, prompts quick action on a complaint.

By removing the 45-day default provision, Republican leaders knew that they were fundamentally changing the incentive structure created in the 1997 reforms. Eliminating the 45-day transmittal rule would allow committee Members from one party to “run out the clock” on ethics complaints against Members from their

¹⁵ Jeffrey H. Birnbaum, “In a Season of Scandals, Ethics Panels Are on Sidelines,” *Washington Post*, Dec. 5, 2005.

¹⁶ *Roll Call* editorial, “Ethics vs. Justice,” December 7, 2005.

¹⁷ *Nashville Tennessean* editorial, “Abramoff’s plea signals need for real reforms, It’s the whole system, not just one lobbyist, that has become corrupt,” Jan. 5, 2006.

own party. In other words, five members of the Committee (less than a majority of the 10-member committee) could force the dismissal of an ethics complaint simply by doing nothing. As a *Roll Call* editorial observed at the time, by jamming this rule change through on opening day, the Republican leadership “made it unmistakably clear that the House ethics process henceforward will be a partisan undertaking, not a bipartisan one.”¹⁸ After trying to defend this indefensible ethics rule change for several months, the Republican leadership of the House finally gave up and allowed the House, by an overwhelming 406–20 vote, to restore the 45-day rule to its 1997 version (H. Res. 240).

Even more outrageous was an ethics rule change that the Republican leadership had been forced to abandon by the time the House adopted its rules package on the first day of the 109th Congress. The week before the 109th Congress convened, GOP leaders had circulated a proposal to eliminate the most fundamental tenet and first rule of the House ethics code, namely that “A Member . . . shall conduct himself at all times in a manner that shall reflect creditably on the House.”¹⁹ The effect of this change would have been to turn a code of conduct based on each Member’s duty to behave in a manner worthy of the United States House of Representatives into a code of enumerated offenses. Members would be allowed to act in a way that brought discredit to the House, as long as they did not violate one of the “black-letter” ethics rules. As a *Washington Post* editorial explained this provision:

No matter how slimy a lawmaker’s behavior, it couldn’t be deemed an ethical violation unless the ethics committee could cite a specific subparagraph of a specific regulation that was breached.

The editorial went on to point out that by eliminating this general principle of honorable conduct, the House was holding itself to a lower standard than it requires from members of the Armed Forces. Under the Uniform Code of Military Justice, soldiers can be court martialed for “all conduct of a nature to bring discredit upon the Armed Forces.”²⁰

It was no mystery why the House leadership was desperately struggling to water down the House ethics rules at the beginning of the 109th Congress. In the final months of the 108th Congress, the House Ethics Committee admonished then-Majority Leader Tom DeLay for (1) improperly promising political support in exchange for a vote on the Medicare bill, (2) appearing to link campaign contributions to proposed energy legislation, and (3) using Federal Aviation Administration resources to track down Texas legislators who opposed Representative DeLay’s Congressional redistricting plan. The effect of these admonishments was not to force Representative DeLay and the Majority leadership to pause and think about how they could modify their behavior to better conform with the House’s ethical standards; instead, they tried to lower the House’s ethical standards to make their unacceptable behavior acceptable.

¹⁸ *Roll Call* editorial, “Ethics Retreat,” Jan. 10, 2005.

¹⁹ House Rule XXIII, clause 1.

²⁰ *Washington Post* editorial, “Rigging the Rules,” Dec. 31, 2004.

In the months leading up to and following these ethics rules changes, the Republican leadership took several further steps to punish the people who dared stand up for the House Code of Conduct. Late in the 108th Congress, the Republican Conference repealed its internal rule prohibiting a Member from holding a leadership position if he or she were under indictment. This indictment rule, obviously intended to protect the job of then-Majority Leader DeLay, was reinstated at the beginning of the 109th Congress after a storm of criticism.

A GOP leadership decision that was not repealed, however, was the Speaker's February 2nd "Wednesday Afternoon Massacre" dismissal of Chairman Joel Hefley, and two other Republican Ethics Committee Members. According to Chairman Hefley, there was "a bad perception out there that there was a purge in the committee and that people were put in that would protect our side of the aisle better than I did."²¹ One of the first actions of the new Chairman, our Rules Committee colleague Representative Hastings of Washington, was to halt the Committee's ongoing investigations and dismiss the Committee's long-time non-partisan staff director and chief counsel.²² In spite of the Ethics Committee's rule that its staff be professional and nonpartisan,²³ Chairman Hastings then tried to unilaterally hire a long-time political aide as the committee's staff director.²⁴ Chairman Hastings' insistence on hiring a political aide to fill this key non-partisan position paralyzed the Committee's activities for months. In fact, the Committee did not fill its staff director position until November 2005.

During the Rules Committee markup of H.R. 4975, Representative Slaughter offered an amendment (amendment #6) to prevent the disruption caused by the dismissal of the Ethics Committee's counsel at the beginning of the 109th Congress. Her amendment would have required a majority vote to dismiss a member of the Committee's non-partisan staff, which would therefore require the votes of Members from both parties. The purpose of this amendment was to re-confirm the Ethics Committee's commitment to bipartisan decision-making. Unfortunately, Rules Committee Republicans rejected this amendment—as they rejected all of the amendments Democrats proposed—on a party-line vote of 4–9.

3. *A House Without Rules*

We also oppose this bill because it does almost nothing to address the procedural abuses that have become so commonplace in our legislative process. By dubbing this legislation "lobbying reform," the Majority ignores the fact that one of the biggest problems currently plaguing the House is the breakdown of the deliberative process. They have chosen to ignore the obvious connection between the ethics scandals that have plagued the 109th Congress and the closed, undemocratic way in which the House has conducted its business over the past few years. A legislative process that does not allow open debate and provide opportunity for

²¹ *Roll Call* editorial, "Ethics Odor," Feb. 9, 2005.

²² John Bresnahan, "Critics Slam Hastings' Dismissal of Ethics Staff," *Roll Call*, Feb. 17, 2005.

²³ Rules of the Committee on Standards of Official Conduct, 109th Congress, Rule 6(a).

²⁴ John Bresnahan and Ben Pershing, "Ethics Panel Finally; Ready to Hire Staff," *Roll Call*, July 5, 2005.

amendment on legislation, and instead allows small groups of House leaders and private interests to write the bills, is a process vulnerable to corruption and improper influence from lobbyists. Making the lobbying process more transparent will do little good if we do not act to make the legislative process more credible and transparent as well.

Although our colleagues in the Majority choose to ignore the connection between corruption and the lack of procedural fairness, it is obvious to outside observers. During our March 2nd hearing, for example, longtime Congressional scholar Dr. Norman Ornstein of the American Enterprise Institute testified:

The problem goes beyond corrupt lobbyists or the relationship between lobbyists and lawmakers. It gets to a legislative process that has lost the transparency, accountability, and deliberation that are at the core of the American system; the failure to abide by basic rules and norms has contributed, I believe, to a loss of sensitivity among many members and leaders about what is and what is not appropriate. Three-hour votes, thousand-page-plus bills sprung on the floor with no notice, conference reports changed in the dead of night, self-executing rules that suppress debate along with an explosion of closed rules, are just a few of the practices that have become common and that are a distortion of the regular order.²⁵

Over the past few years, Rules Committee Democrats have carefully compiled a record of the procedural abuses that have unfortunately come to define the last several Congresses. In other venues, we have detailed how the number of closed and severely restricted rules has increased over time, thereby restricting the ability of both Democratic and Republican Members to debate, amend, and improve legislation. We have also documented how the Majority routinely jams large, complex conference reports through the House with just a few hours notice. At the same time it has severely limited deliberation on controversial issues, the House occupies more of its already short work week debating non-controversial suspension bills.²⁶ In spite of the promises they made to restore “deliberative democracy” when they took over the House in 1994, Republicans have taken unprecedented steps to quash debate and stifle “the full and free airing of conflicting opinions through hearings, debates, and amendments.”²⁷

During the markup of H.R. 4975, Democratic Rules Committee Members offered a number of proposals addressing the procedural abuses that have taken root in the House over the past few Congresses. Most of these proposals came from a rules reform package we introduced on February 16, 2006 (H. Res. 686) in response to Chairman Dreier’s promise to consider reform proposals in a bipartisan manner. Unfortunately, our reform proposals did not make it

²⁵ March 2nd Lobbying Reform Hearing (statement of Dr. Norman Ornstein, Ph.D.).

²⁶ See, for example, *Profoundly Un-Democratic: A Congressional Report on the Unprecedented Erosion of the Democratic Process in the House of Representatives and the Rise of the ‘Imperial Congress’ During the 108th Congress*, (March 2005), available at: <http://www.housedemocrats.gov/Docs?BrokenPromises.pdf>

²⁷ Rules Committee Republicans, *The Decline of Deliberative Democracy in the People’s House*, *Congressional Record*, Apr. 21, 1995, p. 14 1956.

into H.R. 4975. Furthermore, when we presented our ideas in the Rules Committee markup of H.R. 4975, Rules Committee Republicans voted all of them down on straight party-line votes. As we mentioned earlier in these views, a bipartisan process requires more than the constant repetition of the word “bipartisan.” Bipartisanship requires the majority party to seriously consider the minority’s ideas, to conduct a good-faith discussion of these ideas, and perhaps even adopt a few of them.

One of the procedural abuses we have repeatedly highlighted over the past few years is the Republican leadership’s use of the conference committee to jam unfamiliar (sometimes even un-read) material through the legislative process. House-Senate conferences are a critical part of the deliberative process because they produce the final legislative product that will become the law of the land. Although Members can follow and influence legislation as it moves through the committees and then to the House floor, the conference is where the final compromises are made and the final statutory language on the bill’s toughest issues is negotiated and drafted.

Since only a restricted group of House Members participates in conferences and because conference reports can contain significant policy changes from the House-approved version of a bill, the standing House Rules provide Members a number of protections against abuses during the conference process. Under these rules, House conferees are not permitted to adopt modifications outside the scope of the House-passed bill.²⁸ They must also comply with numerous provisions of the Congressional Budget Act of 1974. In addition, the standing House rules are designed to prevent the House from rushing a conference report to the floor for an up-or-down vote without giving Members the adequate time to understand the contents of the final product. Rule XXII requires the conference committee to hold at least one public meeting²⁹ and requires the conferees to attach a joint explanatory statement to the report that is “sufficiently detailed and explicit to inform the House of the effects of the report on the matters committed to conference.”³⁰ Perhaps most importantly, House rules require conference reports and explanatory statements to be available to Members for three days after publication in the Congressional Record.³¹ This three-day layover requirement is specifically intended to give Members time to read the conference report and weigh its merits before a final vote.

Over the past few years, we have repeatedly objected to the Rules Committee’s practice of granting “blanket waivers” to conference reports headed to the House floor. The effect of these waivers is to negate all of the protections the House rules give Members against abusive conferences. These blanket waivers strip the right of Members who did not participate in the conference to insist on regular order so they can have time to learn what is in the final conference report before they vote on it. As the statistics we have collected on the conference process so far in the 109th Congress show, Rules Committee Republicans have protected all 18 con-

²⁸ Rule XXII, cl. 9.

²⁹ Rule XXII, cl. 12(a)(1).

³⁰ Rule XXII, cl. 7(e).

³¹ Rule XXII, cl. 8(a)(1)(A).

ference reports the House has considered with blanket waivers. Furthermore, they waived three-day layover on all but two of these conference reports (see appendix 2). The result is that House members are regularly forced to vote on major legislation totaling hundreds or even thousands of pages, sometimes only hours after the conference report has been presented in the House. Thanks to the blanket waiver, these conference reports may contain non-germane provisions and/or earmarks that have never been considered in the House or Senate. The results of this broken conference process are a number of embarrassing episodes that have made Congress an object of ridicule. Among the most notorious episodes were:

- The embarrassing provision Republican leaders slipped into the Homeland Security conference report at the end of the 107th Congress that protected Eli Lilly and a number of other pharmaceutical companies from civil liability for their production of the vaccine preservative Thimerosal.
- The notorious “greenbonds initiative” that appeared in the Energy Bill conference report in the 108th Congress, which turned out to be a subsidy to build a Hooters restaurant in Shreveport, Louisiana.
- The egregious provision in the Fiscal Year 05 Omnibus appropriations conference report that gave Congressional staffers access to the confidential tax returns of U.S. citizens.
- The provision in the Fiscal Year 2006 Agriculture Appropriations conference report that changed the regulations governing the organic food standards hundreds of thousands of American families rely on when buying their groceries.

The most notorious recent episode of conference report abuse occurred late last year during consideration of the FY 06 Defense Appropriations bill (H.R. 2863), the bill that funds our troops and military activities in Iraq and Afghanistan. During the conference negotiations, conferees agreed in principle to include funding that would allow the Department of Health and Human Services (HHS) to begin preparing a response strategy to the emerging threat of the avian influenza virus. During discussions on this provision in the conference, some conferees supported the addition of language that would exempt drug manufacturers involved in creating avian flu countermeasures from liability, should their drugs injure people who took them. The conference did not accept this language because some conferees thought the exemption was too broad. According to the senior Democratic conferee, Appropriations Ranking Member David Obey, when the conference committee ended its session in the early evening on Sunday, December 18, 2005, there was an agreement “in writing and verbally as well, that there would be no legislative liability protection language inserted in this bill.”³² The 533-page conference report was signed at 6 p.m. that evening and filed in the House at 11:54 p.m. the same night.

At some point between the time the conference report was signed and the time it was filed, however, Republicans broke their word and the rules by slipping in 40 new pages of legislative text that not only exempted the producers of vaccines related to avian flu, but also gave the HHS Secretary discretion to exempt other phar-

³² *Congressional Record*, Dec. 22, 2005, p. H13181.

maceutical products from liability when they injure consumers. The 40-page proposal gives the Bush Administration broad new powers to exempt drug manufacturers from liability for a wide array of drugs that have nothing to do with an avian flu epidemic. It exempts these companies even if they acted with gross negligence. While the legislation promises an alternative compensation program, it provided no funding for such a program, which means that nurses, first responders and all other American citizens would be out of luck if they were harmed by an exempted drug.

According to Ranking Member Obey, here's how this massive Christmas gift to the drug industry got into the bill:

But after the conference was finished at 6 p.m., Senator Frist marched over to the House side of the Capitol about 4 hours later and insisted that over 40 pages of legislation, which I have in my hand, 40 pages of legislation that had never been seen by conferees, be attached to the bill. The Speaker joined him in that assistance so that, without a vote of the conferees, that legislation was unilaterally and arrogantly inserted into the bill after the conference was over in a blatantly abusive power play by two of the most powerful men in Congress.³³

Republican appropriators tell the same story. A top aide to Senate Appropriations Chairman Thad Cochran said of the provision:

It was added after the conference had concluded. It was added at the specific direction of the speaker of the House and the majority leader of the Senate. The conferees did not vote on it. It's a true travesty of the process.³⁴

In other words, in the dark of night, the two top Congressional Republican leaders snuck an extremely controversial piece of legislation that had never been considered in the House or the Senate into an *already signed* conference report. Republican leaders decided to override the collective decision-making process of the Congress to slip in a gift to one of their most important political allies.

For this underhanded maneuver to succeed in the House, Republican leaders needed to protect this provision from the House rules it so blatantly violated. When the Rules Committee met later that night, Representative Hastings of Florida tried to strike the vaccine language from the conference report, but was defeated on a straight party-line vote of 4 to 9.³⁵ The rule protecting this provision (H. Res. 639) was reported from the Rules Committee about 1:00 a.m. and taken directly to the Floor for consideration pursuant to another rule that waived the 1-day layover requirement for consideration of the rule (H. Res. 632). The House passed this conference report shortly after 5:00 a.m. on the morning of December 19, 2005, less than seven hours after the 40-page drug company giveaway had first appeared.

During the markup of H.R. 4975, we proposed a number of amendments to the House rules that would have protected House Members from such conference report abuses and restored some

³³ Id.

³⁴ Bill Theobald, "Hastert, Frist Said to Rig Bill for Drug Firms; Frist Denies Protection Was Added in Secret," *Gannett News Service*, Feb. 9, 2006.

³⁵ Rules Committee rollcall vote # 144, H. Rept. 109-361.

badly-needed deliberation to the conference process. Representative Matsui proposed adding a requirement (amendment #12) that a conference committee conduct an open meeting and a roll-call vote to approve the final version of a conference report, while Representative McGovern (amendment #7) proposed giving Members a point of order against the consideration of conference reports that have not been available to Members for three days. Unfortunately, both of these amendments seeking to restore Members' rights to know the contents of conference reports failed on party-line votes. Ranking Member Slaughter offered an amendment (amendment #2) that would have required any rule granting consideration of a conference report to list the items in the report that did not appear in the House or Senate versions of the bill. This "out-of-scope" disclosure requirement, which failed on a party line vote of 4–9, would have allowed Members to know which items (including earmarks) the conference had added to the bill at the last moment, and given them the opportunity to strike them.³⁶

Finally, in order to protect the House against the serious corruption of the conference process that occurred on the Defense Appropriations conference report last December, Ranking Member Slaughter proposed creating a point of order (amendment #5) the Majority or Minority Leaders could raise if they believed the integrity of the conference report was in question. This amendment also failed on a party-line vote. During debate on this amendment, Chairman Dreier opposed it on the grounds that it set a vague and confusing standard, while Representative Bishop objected that the amendment did not provide a precise definition of "serious violation" of the conference rules. We would respond that if our colleagues do not think it was a serious violation of the conference rules to add 40 pages of controversial, new, out-of-scope legislative language to a report after the conferees had signed it, and only a few hours before it came before the House for a final vote, then we understand their "no" vote. For our part, we feel that House leaders should be able to bring such gross abuses to the attention of the House and give the House an opportunity to block a conference report written under these circumstances.

During the markup, Rules Committee Democrats proposed other rules changes that we felt addressed some of the procedural abuses that have recently undermined earlier stages of the legislative process. Representative Matsui offered an amendment (amendment #13) that would have prevented the Rules Committee's too common practice of gaming the one-day layover requirement of clause 6 of rule XIII by reporting a rule early in the morning, adjourning the House, coming back in shortly thereafter in a new legislative day, then debating and passing the rule. Representative Matsui's amendment would have required a 24-hour layover period, rather than a manipulated legislative day. Such a rule would guarantee Members at least 24 hours to read and understand a rule, in particular a rule that modifies the text of reported legislation or a rule

³⁶ During the markup, Chairman Dreier incorrectly asserted that such a provision is already part of the House rules. As Chairman Dreier conceded, it has become the practice of the current Rules Committee to waive points of order against out-of-scope items when it grants rules for conference reports, but it is impossible for Members to learn which parts of the bill are actually in violation of the scope rule. Amendment #5 would rectify this problem by requiring the rule itself to list the out-of-scope items.

that provides for consideration of a complex manager's amendment that has been submitted to the Committee at the last moment.

On the very controversial issue of votes held open for longer than 15 minutes, Ranking Member Slaughter offered an amendment (amendment #4) that would require greater disclosure of what is happening on the House floor during votes the Majority holds open for long periods. On a number of occasions in recent years, House Republicans have made national news by holding votes open for long periods while they begged, cajoled, or threatened enough Members to switch their votes to pass a bill. The most infamous long vote in recent memory was of course the three-hour late-night vote on the Medicare conference report during which Republican leaders and at least one Bush Administration official roamed the House floor offering political favors to Republican Members who would support the legislation. A Republican Member present at the scene commented, "It was an outrage. It was profoundly ugly and beneath the dignity of Congress."³⁷ As the table below shows, in the 108th and 109th Congresses, Republicans have held votes open for periods significantly longer than 15 minutes on at least eight separate occasions.

HOUSE VOTES HELD OPEN BEYOND THE CUSTOMARY 17 MINUTES IN THE 108TH AND 109TH CONGRESSES

Date	Bill/Vote Description	Length of Vote
November 17, 2005	Final Passage of Labor-HHS Appropriations Conference Report. Rejected 224–209..	36 minutes
October 7, 2005	H.R. 3893–Gas Act—vote began at 1:57 pm (a five minute vote) and was gaveled down at 2:43 pm) vote #519..	46 minutes (for a 5-minute vote)
July 27 & 28, 2005 (legislative day of July 27, 2005).	H.R. 3045-CAFTA the vote started at 11:00 pm on the 27th and went on until 12:03 am) Vote #443..	63 minutes
July 8, 2004	Sanders amendment on PATRIOT Act to FY 2005 Commerce-Justice State Appropriations bill..	38 minutes
March 30, 2004	Motion to instruct conferees on PAYGO on the FY 2005 Budget Resolution.	28 minutes (on 5-minute vote)
November 22, 2003	Final Passage of the Conference Report on H.R. 1, the Prescription Drug bill.	3 hours. (during this vote, former Rep. Nick Smith claimed to have been offered a bribe by then Majority Leader Tom DeLay)
June 26, 2003	Final Passage of HR 1, the Prescription Drug bill.	50 minutes.
March 20, 2003	Final Passage of Budget Resolution.	26 minutes

Ranking Member Slaughter's amendment would not prevent the Speaker from holding a vote open for longer than 15 minutes (as is allowed under clause 2 of rule XX), because there are sometimes legitimate reasons to extend votes (for example, Members are en route from the airport or stuck in an elevator). But if the Speaker is holding a vote open to bully Members or to change a vote outcome, the American people should be allowed to know what their Members of Congress were doing during the vote. The Slaughter amendment would require that a log be printed in the Congress-

³⁷Mark Wegner, "Night Of House Drama Yields A Narrow Medicare Victory," *Congress Daily AM*, Nov. 24, 2003.

sional Record showing which Members voted after the initial 30-minute period and the time they voted. It would also list which Members switched their votes and the time they switched. As Chairman Dreier correctly stated during the Committee markup, current practices in the House do require a listing of any vote changes that occur during a vote. However, it requires no record of when these changes occurred and, in particular, no indication of when an initial vote was cast or when a vote was changed. Letting the public know what voting activity occurs after the 30-minute mark is an important step in bringing more accountability and transparency to the voting process in the House.

Conclusion—An opportunity lost

If the markup of this legislation in the Rules Committee is any indication of the tone and process that will occur when we consider this bill again in the Rules Committee and on the House floor, then the Republican leadership has squandered a real opportunity to reform Congress. The American people have very accurately concluded that the current Congress acts not in their interests, but at the behest of special interests who have purchased access to the legislative process. While Republicans have had some success in labeling the scandals of the 109th Congress as “lobbying” scandals, Americans understand that at their core, they are Congressional scandals. They understand that lobbyists like Jack Abramoff would not have won access to the halls of Congress without the help of their friends on the inside.

As a result, a narrowly-targeted, watered-down set of reforms focused on “lobbyists” is just not enough to convince a skeptical American public that their representatives are finally committed to making Congress work again. A partisan process that excludes many reform ideas from the debate and that Republicans pushed through the process by party-line votes is likely to make them even more skeptical of the final product. We are disappointed that the Majority’s commitment to reform seems to be lacking, because restoring ethical standards and a truly deliberative lawmaking process to the House would be good for both parties, for this institution, and for our country.

Appendix 1—RULES ORIGINAL JURISDICTION MARKUP ON
H.R. 4975 DEMOCRATIC AMENDMENTS OFFERED AND RE-
JECTED

Slaughter-Amendment 2 (two part amendment)

Require an itemized list of any scope violations in the rule providing for consideration of a conference report (items that were not in either the House or Senate passed versions of the bill) and provides for a consideration point of order guaranteeing a vote when this rule is violated *and* provide a motion to strike items that are beyond the scope of a conference. *Rejected 4–9 party-line vote*

Matsui-Amendment 12

Require a roll-call vote, in an open meeting, on the final version of a conference report. *Rejected 4–7 party-line vote*

Matsui-Amendment 13

Use actual time (24-hours as opposed to one legislative day) to determine how soon a rule can be called up on the House Floor after it is reported from the Rules Committee. *Rejected 4–8 party-line vote*

Slaughter-Amendment 4

Require, whenever a recorded vote is held open for more than 30 minutes, that the Congressional Record include a log of the voting activity that occurs after that 30-minute time frame to show which Members voted after that time and which Members changed their votes during that period. *Rejected 4–9 party-line vote*

McGovern-Amendment 7

Whenever 3-day layover is waived against a conference report, it is in order for a Member to raise a point of order guaranteeing a vote to determine whether the House will consider the conference report. *Rejected 4–9 party-line vote*

Slaughter-Amendment 5

Create a new Majority/Minority leader point of order with a guaranteed vote that can be raised against consideration of a conference report where the integrity of the conference is in question. *Rejected 4–9 party-line vote*

McGovern-Amendment 8

Regulates Member travel on private jets by requiring Members to pay full charter costs when using corporate jets for official travel and to disclose relevant information in the Congressional Record, including the owner or lessee of the aircraft and the other passengers on the flight. *Rejected 4–9 party-line vote*

Hastings (FL)-Amendment 10 (strike section 501 and insert new language)

Mandates public disclosure of which Members sponsor earmarks and disclosure of whether Members have a financial interest in the earmark. Earmarks include authorizations, appropriations, and tax provisions. Rejected voice vote

Hastings (FL)-Amendment 11

Establishes pre-approval and disclosure system through the Standards Committee for privately-funded travel. *Rejected 3–9 party-line vote*

McGovern-Amendment 9

Clarifies that the “face value” of a ticket for the purposes of section 304 means the cost of that ticket if a member of the general public were purchasing it. *Rejected 4–9 party-line vote*

Slaughter-Amendment 6

To provide that staff on the Committee of Standards of Official Conduct can be dismissed only by an affirmative vote of the Standards Committee. *Rejected 4–9 party-line vote*

APPENDIX 2.—109TH CONGRESS-CONFERENCE REPORTS IN RULES-THROUGH APRIL 6, 2006—
PREPARED BY RULES' DEMOCRATS

[E-Rule done as emergency measure]

Rule/Bill number/Title	Date & Time Conference filed on Floor & Date and Time reported from Rules Committee	Date & Time passed on House Floor (time taken from Clerk's recorded votes chart) & final passage vote of conference report	Report number and number of pages in conference report (page numbers from PDF version where possible)	Time between Floor filing and final passage & between Rules' action and final passage (rounded to nearest ½ hour)
All conference reports were given blanket waivers except as otherwise noted				
1)				
H. Res. 248–E	Floor—4/28/05–2:46 pm ...	4/28/05	109–62	6 hours
Conference on H.Con.Res. 95—FY06 Concurrent Budget Resolution, plus new point of order for Appropriations bills that exceed 302(b) allocations.	Rules—4/28/05–4:30 pm ..	8:30 pm	91 pages	4 hours
H. Res. 242 .....	.....	214–211 (#149).	.....	3-day layover waived
2)				
H. Res. 258–E	Floor—5/3/05–11:50 pm ...	5/5/05	109–72	1 day 14 hours
Conference on H.R. 1268—Emergency Supplemental Iraq, Afghanistan, Tsunami Approps., Real ID & Sec. 2 on Judiciary Report on H.R. 748.	Rules—5/4/05–5:00 pm ...	2:04 pm	188 pages ...	21 hours
		368–58 (#161).		3-day layover waived
3)				
H. Res. 392–E	Floor—7/26/05–11:47 pm	7/28/05	109–188	1 day 18 hours
Conference on H.R. 2361—Interior FY06 Approps.	Rules—7/27/05–8:45 pm ..	5:47 pm	164 pages ...	21 hours
		410–10 (#450).		3-day layover waived
4)				
H. Res. 394–E	Floor—7/27/05–1:22 pm ...	7/28/05	109–190	24 hours

APPENDIX 2.—109TH CONGRESS-CONFERENCE REPORTS IN RULES-THROUGH APRIL 6, 2006—
PREPARED BY RULES' DEMOCRATS—Continued
[E-Rule done as emergency measure]

Rule/Bill number/Title	Date & Time Conference filed on Floor & Date and Time reported from Rules Committee	Date & Time passed on House Floor (time taken from Clerk's re-corded votes chart) & final passage vote of conference re-port	Report number and number of pages in conference report (page numbers from PDF version where possible)	Time between Floor filing and final passage & between Rules' action and final passage (rounded to nearest ½ hour)
All conference reports were given blanket waivers except as otherwise noted				
Conference on H.R. 6—Energy Policy Act ..	Rules—7/27/05–8:45 pm ..	1:10 pm 275–156 (#445).	567 pages	16½ hours 3-day lay-over waived
5) H. Res. 396–E	Floor—7/26/05–11:46 pm	7/28/05	109–189	1 day 18 hours
Conference on H.R. 2985—Legislative Branch FY06 Approps.	Rules—7/27/05–8:45 pm ..	5:55 pm 305–122 (#451).	41 pages	21 hours 3-day lay-over waived
6) H. Res. ____–E	Floor—7/28/05–6:59 pm ...	See 2nd rule (#7) next vote.	See 2nd rule (#7) next vote.	See 2nd rule (#7) next vote
Conference on H.R. 3—TEA–LU Highway Reauthorization—1st rule. *H. Res. 393—rule not used—Rule reported but not filed—rule not used.	Rules—7/28/05–10:15 pm. .....	.....	.....	3-day lay-over waived
7) H. Res. 388–E	Floor—7/28/05–6:59 pm ...	7/29/05 11:38 am 412–8 (#453)	109–203 1231 pages ..	16½ hours 11 hours
Conference on H.R. 3—TEA–LU Highway Reauthorization—2nd rule. Rule done by w/c on House Floor	Rules—7/29/05 (Leg day of 7/28/05)—12:30 am. .....	.....	.....	3-day lay-over waived
8) H. Res. 474–E	Floor—9/29/05–5:30 pm ...	10/6/05	109–241	7 days 3 hours
Conference on H.R. 2360—Homeland Security FY06 Approps.	Rules—9/29/05–6:30 pm ..	8:43 pm 347–70 (#512).	104 pages	7 days & 2 hours

Appendix 2—109th Congress-Conference Reports in Rules-through April 6, 2006—prepared by
Rules' Democrats
Rule done as emergency measure

Rule/Bill number/Title	Date & Time Conference filed on Floor & Date and Time reported from Rules Committee	Date & Time passed on House Floor (time taken from Clerk's re-corded votes chart) & final passage vote of conference re-port	Report number and number of pages in conference report (page numbers from PDF version where possible)	Time between Floor filing and final passage & between Rules' action and final passage (rounded to nearest ½ hour)
All conference reports were given blanket waivers except as otherwise noted				
9) H. Res. 520–E	Floor—10/26/05–6:37 pm	10/28/05	109–255	1 day & 17 hours

Appendix 2—109th Congress-Conference Reports in Rules-through April 6, 2006—prepared by
Rules' Democrats—Continued

Rule done as emergency measure

Rule/Bill number/Title	Date & Time Conference filed on Floor & Date and Time reported from Rules Committee	Date & Time passed on House Floor (time taken from Clerk's recorded votes chart) & final passage vote of conference report	Report number and number of pages in conference report (page numbers from PDF version where possible)	Time between Floor filing and final passage & between Rules' action and final passage (rounded to nearest ½ hour)
All conference reports were given blanket waivers except as otherwise noted				
Conference on H.R. 2744—Agriculture FY06 Approps..	Rules—10/27/05—4:30 pm	11:34 am 318–63 (#555).	109 pages	19 hours 3-day layover waived
10) H. Res. 532–E	Floor—11/2/05—8:42 pm ...	11/4/05	109–265	1 day 14½ hours
Conference on H.R. 3057—Foreign Operations, Export Financing FY06 Approps..	Rules—11/3/05—3:25 pm ..	11:13 am 358–39 (#569).	128 pages	20 hours 3-day layover waived
11) H. Res. 538–E	Floor—11/7/05—6:32 pm ...	11/9/05	109–272	1 day 20½ hours
Conference on H.R. 2862—Science, State, Justice, Commerce FY06 Approps..	Rules—11/8/05—5:45 pm ..	3:04 pm 397–19 (#581).	212 pages	21½ hours 3-day layover waived
12) H. Res. 539–E	Floor—11/7/05—7:24 pm ...	11/9/05	109–275	1 day 19½ hours
Conference on H.R. 2419—Energy & Water Development FY06 Approps..	Rules—11/8/05—5:45 pm ..	2:55 pm 399–17 (#580).	199 pages	21 hours 3-day layover waived
13) .....	.....	Conference report failed.		
H. Res. 559–E	Floor—11/16/05—9:10 pm	11/17/05	109–300	17 hours
Conference on H.R. 3010—Labor/HHS/Education FY06 Approps.	Rules—11/17/05 (leg day of 16th)—7:00 am.	2:13 pm 209–224 (#598).	182 pages	7 hours 3-day layover waived
1st conference report (failed).				

Appendix 2—109th Congress-Conference Reports in Rules-through April 6, 2006—prepared by
Rules' Democrats

Rule done as emergency measure

Rule/Bill number/Title	Date & Time Conference filed on Floor & Date and Time reported from Rules Committee	Date & Time passed on House Floor (time taken from Clerk's recorded votes chart) & final passage vote of conference report	Report number and number of pages in conference report (page numbers from PDF version where possible)	Time between Floor filing and final passage & between Rules' action and final passage (rounded to nearest ½ hour)
All conference reports were given blanket waivers except as otherwise noted				
14) H. Res. 564–E	Floor—11/18/05 (leg day of 17th)—1:50 am.	11/18/05	109–305	11 hours

Appendix 2—109th Congress-Conference Reports in Rules-through April 6, 2006—prepared by
Rules' Democrats—Continued

Rule done as emergency measure

Rule/Bill number/Title	Date & Time Conference filed on Floor & Date and Time reported from Rules Committee	Date & Time passed on House Floor (time taken from Clerk's recorded votes chart) & final passage vote of conference report	Report number and number of pages in conference report (page numbers from PDF version where possible)	Time between Floor filing and final passage & between Rules' action and final passage (rounded to nearest ½ hour)
All conference reports were given blanket waivers except as otherwise noted				
Conference on H.R. 2528—Military Quality of Life & Veterans Affairs FY06 Approps.	Rules—11/18/05 (leg day of 17th)—8:00 am.	12:47 pm 427–0 (#604)	77 pages	5 hours 3-day lay-over waived
15) H. Res. 565–E	Floor—11/18/05 (leg day of 17th)—5:30am.	11/18/05	109–307	7½ hours
Conference on H.R. 3058—Transportation, Treasury, HUD, DC FY06 Approps.	Rules—11/18/05 (leg day of 17th)—8:00 am.	1:05 pm 392–31 (#605).	308 pages	5 hours 3-day lay-over waived
16) H. Res. 595	Floor—12/8/05–5:51 pm ...	12/14/05	109–333	5 days 20 hours
Conference on H.R. 3199—USA Patriot Improvement & Reauthorization Act of 2005.	Rules—12/13/05–6:00 pm	2:07 pm. 251–174 (#627).	118 pages	20 hours
17) H. Res. 596–E	Floor—12/13/05–3:00 pm	12/14/05	109–337	24½ hours
Conference on H.R. 3010—Labor/HHS/Education FY06 Approps.	Rules—12/13/05–6:00 pm	3:40 pm 215–213 (#628).	182 pages	21½ hours 3-day lay-over waived
2nd conference report.				
18) H. Res. 639–E	Floor—12/18/05–11:54 pm	12/19/05 (leg day 18th).	109–359	5 hours
Conference on H.R. 2863—Department of Defense FY06 Approps.	Rules—12/19/05 (leg day of 18th)—1:00 am.	5:04 am 308–106 (#669).	533 pages	4 hours 3-day lay-over waived
*H. Res. 632.				
19) H. Res. 640	Floor—12/19/05 (leg day of 18th)—1:13 am.	12/19/05 (leg day of 18th).	109–362	5 hours
Conference on S. 1932—Deficit Reduction Act of 2005.	Rules—12/19/05 (leg day of reconciliation 18th)—1:30 am.	6:07 am 212–206 (#670).	367 pages	4½ hours 3-day lay-over waived
*H. Res. 632.				

**All conference reports were given blanket waivers unless otherwise noted.

*Rule done pursuant to this Rule waiving 2/3rds-clause 6(a) of Rule XIII **3-day layover waived**.

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