

Ethics Reform: The Art of Creating Loopholes

We have been led to believe the American people handed Congress a mandate for ethics reform with their votes last November. As someone who has just returned from a visit home in Wisconsin, the Number One issue people voted on was not ethics reform, but rather, the war in Iraq.

Unfortunately, that didn't stop Congress using their newly-discovered ethics "mandate" to put in place a reform program that amazingly, goes against practically everything they say the American people wanted.

Reformers, for example, trumpeted the need for greater transparency. But the Senate passed ethics reform legislation without holding one public hearing this year. If greater transparency was a key element of the "mandate," as "reformers" argued, where was the open public debate on this issue?

The Senate bill was crafted behind closed doors with no input from the public, lobbying reform advocates or lobbyists themselves. If we are going to truly live up to a reform "mandate," doesn't Congress at least owe it to the voters to hold open, public hearings on this issue before passing legislation that is loaded with loopholes?

As a voter, you tell me if Congress listened to your vote in November. Here is what ethics rules will now look like in the new Congress:

- 1) Congress voted to eliminate pensions for those members convicted of crimes. But this provision is not retroactive and will still allow those convicted as part of the current scandal to collect hundreds of thousands of dollars annually in taxpayer money, even though they were found guilty of breaking the law.
- 2) Congress has mandated that members of Congress and staff be required to take ethics training. This may sound like a good idea in principle, but legally they cannot force a member of Congress to take such training. They can only recommend.
- 3) Congress voted to eliminate special privileges of former members of Congress who are registered lobbyists. Result: Former members of Congress will no longer have gym privileges. But they will still have access to the floor where they can visit with their colleagues before important votes.

If this provision goes into effect, don't be surprised if you see former members of Congress unregister to lobby and instead position themselves as "strategic advisors." By doing so, they would prevent Congress and the American people from being able to track whom they represent; what issues they are "advising" on; or how much they are getting paid for such services. Again, this hardly seems like increased transparency to me.

- 4) Congress voted to eliminate gifts and meals (sort of). Under the current rules, a lobbyist can spend \$49 on a member of Congress at one time or a total of \$100 per year. Under the rules the Senate passed, however, lobbyists will have those limits increased. Simply by handing the member of Congress a check for their campaign, a lobbyist can have greater access to members, while at the same time spending a lot more for a meal.

At a minimum, this has the appearance of a more corrupting process. Under the current rules, no one is being “bought” for a \$49 meal. But under the proposed rules, the very real possibility exists that someone could be bought for what would be considered a campaign contribution.

- 5) Congress voted to ban trips sponsored or arranged by lobbyists. First, lobbyists are already prohibited from paying for such trips. Second, Congress carved out a nice little loophole for universities, which do employ lobbyists. Under the proposed rules, members could take still trips paid for by Universities, which are somehow viewed as more ethical than an organization like the Girl Scouts of America, for example, which under the proposed rules could not pay for a member’s travel!
- 6) The Senate voted to prohibit spouses of members of Congress, who are registered lobbyists from lobbying the office of their spouse. On the surface this seems like a good idea. The devils in the details however, for what Congress failed to tell the voters is that this rule only applies to those spouses who are not currently registered lobbyists. This means that as long as you were a registered lobbyist at least one-year prior to the election of your spouse, you can lobby their office.

These are just six of the loopholes in the so-called reform package. There are more, but I don’t have enough time to point out all the flaws. I can tell you, however, that in the rush to hold a press conference proclaiming to the American people that they have put an end to the so-called “culture of corruption” in Washington, ethics reformers actually have made the system worse.

The current system isn’t perfect, but it’s not broken either. Those who broke the law are going to prison. At last count, there were two former members of Congress in prison, five congressional staffers, one PR person, and one lobbyist. All were convicted under a set of rules we are now trying to change in the name of reform.

The vast majority of lobbyists are ethical practitioners of their profession and we have as much at stake in genuine reform as anyone. But the only way to strengthen the system is by starting with an open and honest debate about the current rules.

Let’s not kid ourselves that we can legislate morality. At the end of the day, some people are going to break the rules no matter what they are. Every profession has its bad apples and Congress and lobbyists are no exception.

If Congress has a “mandate” from the voters, they owe it to the voters to get it right. The bill the Senate passed should be scrapped and a new bill drafted—but only after a full and detailed review of the current Lobbying Disclosure Act.

Until Congress can come up with a way of enforcing the current rules, nothing they do will have the impact they or the vast majority of professional lobbyists want.

As a lobbyist, I want a fair and honest system that works. Unfortunately, all we got was a new set of loopholes.