AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

110TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
110–162

LOBBYING TRANSPARENCY ACT OF 2007

MAY 21, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2317]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2317) to amend the Lobbying Disclosure Act of 1995 to require registered lobbyists to file quarterly reports on contributions bundled for certain recipients, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
The Amendment	2
Purpose and Summary	3
Background and Need for the Legislation	3
Hearings	4
Committee Consideration	4
Committee Votes	4
Committee Oversight Findings	5
New Budget Authority and Tax Expenditures	5
Congressional Budget Office Cost Estimate	5
Performance Goals and Objectives	6
Constitutional Authority Statement	7
Advisory on Earmarks	7
Section-by-Section Analysis	7
Changes in Existing Law Made by the Bill, as Reported	8
Additional Views	11

59–006

THE AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lobbying Transparency Act of 2007".

SEC. 2. QUARTERLY REPORTS BY REGISTERED LOBBYISTS ON CONTRIBUTIONS BUNDLED FOR CERTAIN RECIPIENTS.

(a) IN GENERAL.—Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is amended by adding at the end the following new subsection:

"(d) QUARTERLY REPORTS ON CONTRIBUTIONS BUNDLED FOR CERTAIN RECIPIENTS.—

"(1) IN GENERAL.—Not later than 45 days after the end of the quarterly period beginning on the first day of January, April, July, and October of each year, each registered lobbyist who bundles 2 or more contributions made to a covered recipient in an aggregate amount exceeding $5,000 for such covered recipient during such quarterly period shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives containing—

"(A) the name of the registered lobbyist;

"(B) in the case of an employee, his or her employer; and

"(C) the name of the covered recipient to whom the contribution is made, and to the extent known the aggregate amount of such contributions (or a good faith estimate thereof) within the quarter for the covered recipient.

"(2) EXCLUSION OF CERTAIN INFORMATION.—In filing a report under paragraph (1), a registered lobbyist shall exclude from the report any information described in paragraph (1)(C) which is included in any other report filed by the registered lobbyist with the Secretary of the Senate and the Clerk of the House of Representatives under this Act.

"(3) REQUIRING SUBMISSION OF INFORMATION PRIOR TO FILING REPORTS.—Not later than 25 days after the end of a period for which a registered lobbyist is required to file a report under paragraph (1) which includes any information described in such section with respect to a covered recipient, the registered lobbyist shall transmit by certified mail to the covered recipient involved a statement containing—

"(A) the information that will be included in the report with respect to the covered recipient; and

"(B) the source of each contribution included in the aggregate amount referred to in paragraph (1)(C) which the registered lobbyist bundled for the covered recipient during the period covered by the report and the amount of the contribution attributable to each such source.

"(4) DEFINITION OF REGISTERED LOBBYIST.—For purposes of this subsection, the term 'registered lobbyist' means a person who is registered or is required to register under paragraph (1) or (2) of section 4(a), or an individual who is required to be listed under section 4(b)(6) or subsection (b).

"(5) DEFINITION OF BUNDLED CONTRIBUTION.—For purposes of this subsection, a registered lobbyist 'bundles' a contribution if—

"(A) the contribution is received by a registered lobbyist for, and forwarded by a registered lobbyist to, the covered recipient to whom the contribution is made; or

"(B) the contribution will be or has been credited or attributed to the registered lobbyist through records, designations, recognitions or other means of tracking by the covered recipient to whom the contribution is made.

"(6) OTHER DEFINITIONS.—In this subsection—

"(A) the term 'contribution' has the meaning given such term in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), except that such term does not include a contribution in an amount which is less than $200;

"(B) the terms 'candidate', 'political committee', and 'political party committee' have the meaning given such terms in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.);

"(C) the term 'covered recipient' means a Federal candidate, an individual holding Federal office, a leadership PAC, or a political party committee; and

"(D) the term 'leadership PAC' means, with respect to an individual holding Federal office, an unauthorized political committee which is associ-

ated with such individual, except that such term shall not apply in the case of a political committee of a political party.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the second quarterly period described in section 5(d)(1) of the Lobbying Disclosure Act of 1995 (as added by subsection (a)) which begins after the date of the enactment of this Act and each succeeding quarterly period.

PURPOSE AND SUMMARY

Federal lobbying is a multi-billion dollar industry, and spending to influence Members of Congress and Executive Branch officials has continued to increase over the last decade. While the Lobbying Disclosure Act was intended to promote transparency and accountability in the Federal lobbying industry, it falls far short of a complete solution. Its shortcomings were highlighted during the 109th Congress by the conviction of a high-profile lobbyist, as well as a number of highly publicized incidents involving and the provision of privately-funded travel, free meals, and lavish entertainment by lobbyists to Members of Congress, congressional staff, and some Executive Branch officials in exchange for favorable treatment for clients with specific interests before the Government.

H.R. 2317, the "Lobbying Transparency Act of 2007," helps to bring greater transparency to one aspect of lobbying that has been of concern, the practice of "bundling" campaign contributions. "Bundling" is the term used to describe when a lobbyist arranges with a candidate to raise and receive credit for specific contributions that are collected or coordinated by the lobbyist. Under current law, there is no requirement that this type of bundling be disclosed to the public.

H.R. 2317 would require disclosure by registered lobbyists of certain types of bundled contributions. By linking campaign finance and lobbying activities, the bill is intended to provide a clearer picture of who is participating in this practice.

BACKGROUND AND NEED FOR THE LEGISLATION

H.R. 2317 requires the lobbyist to disclose the Member of Congress for whom they have aggregated contributions in the Lobbying Disclosure Report. The consolidation of all lobbying activity within this one report will improve transparency, making it easier for the public to better assess the intersection of fundraising and public policy. As Justice Louis Brandeis famously observed, "Sunlight is said to be the best disinfectant."[1]

Specifically, H.R. 2317 would require a "registered lobbyist"[2] who "bundles" two or more contributions made to a "covered recipient"[3] in an aggregate amount in excess of $5,000 in a calendar quarter to file a report 45 days after the end of each quarter with the Secretary of the Senate and the Clerk of the House. The report must include the name of the lobbyist, the employer of the lobbyist,

---

[1] Louis D. Brandeis, OTHER PEOPLE'S MONEY AND HOW THE BANKERS USE IT 92 (1914).

[2] The bill defines "registered lobbyist" to include (1) an individual who is required to register as a lobbyist under the Lobbying Disclosure Act (LDA), (2) a lobbying organization which is required to register under the LDA, or (3) the employees of a lobbying organization who must be listed as lobbyists under the LDA.

[3] The bill defines "covered recipient" to include a Federal candidate, a Federal officeholder, a leadership PAC, or a political party committee. The terms "contribution," "candidate," "political committee," and "political party committee" have the same meanings as in the Federal Election Campaign Act. The term "leadership PAC" means an unauthorized political committee associated with a Federal officeholder, but does not include a political party committee.

the name of the covered recipient to whom the contribution is made, and, to the extent known, the aggregate amount of the contributions bundled within the quarter for such recipient (or a good faith estimate of the amount).

H.R. 2317 requires a lobbyist to give a covered recipient of a bundled contribution prior notice, by certified mail, of the lobbyist's intent to report it. Notice must be given not later than 25 days after the close of the quarterly reporting period; the report is due 45 days after the close of the reporting period. The prior notice is to contain the information that the lobbyist is planning to include in the report, as well as the source and amount of each contribution bundled. This notice enables the covered recipient to raise any questions with the lobbyist about the information, and to take any appropriate action, prior to the public filing of the information.

H.R. 2317 defines a "bundled contribution" as either (1): a contribution that a registered lobbyist receives for, and forwards to, the "covered recipient" to whom the contribution is made, or (2) a contribution that is credited or attributed to the registered lobbyist through some means of tracking by the covered recipient to whom the contribution is made. Contributions can come to a covered recipient in a number of ways, including by mail, through a website, and as a result of fundraising events. Examples of crediting or tracking include having donors put a lobbyist's name in the memo of a check, or using a code that has been pre-assigned to the lobbyist, to track contributions from those attending a fundraising event sponsored or arranged by the lobbyist.

HEARINGS

On March 1, 2007, the Subcommittee on the Constitution, Civil Rights, and Civil Liberties held a legislative hearing to examine the issue of lobbying reform. The hearing focused on the current state of the lobbying industry, the need for reform, and the extent to which the Senate-passed proposal (S.1) addressed that need. Witness testimony was provided by Kenneth A. Gross, a partner at Skadden, Arps, Slate, Meagher & Flom; Sarah Dufendach, Chief of Legislative Affairs at Common Cause; Thomas E. Mann, Senior Fellow for Governance Studies at the Brookings Institution; and Bradley A. Smith, former Chairman of the Federal Election Commission.

COMMITTEE CONSIDERATION

On May 16, 2007, the Committee met in open session and ordered the bill, H.R. 2317, favorably reported with an amendment, by a voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 2317.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2317, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 18, 2007.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2317, the Lobbying Transparency Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 2317—Lobbying Transparency Act of 2007.

H.R. 2317 would amend the Lobbying Disclosure Act of 1995 to require registered lobbyists to file new quarterly reports with the Secretary of the Senate and the Clerk of the House of Representatives. The reports would provide information on contributions that the lobbyists receive and forward to federal candidates and other political entities. Subject to the availability of appropriated funds, CBO estimates that implementing the bill would increase administrative costs of the House of Representatives and the Senate by less than $500,000 a year. Enacting the bill would not affect direct spending or revenues.

The bill 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. 2317 would impose private-sector mandates, as defined in UMRA, on the lobbying industry. The bill would require registered lobbyists that bundle contributions to submit additional reports and disclosures to the Secretary of the Senate and the Clerk of the House of Representatives. The bill also would require those lobbyists to notify the recipients of those bundled contributions about their intent to file a report on such contributions. Based on information from the Secretary of the Senate and the Clerk of the House, CBO estimates that the aggregate direct cost of all of those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

H.R. 2317 would require any registered lobbyist who bundles two or more contributions in excess of $5,000 in a calendar quarter made to a covered recipient, as defined in the bill, to file a report with the Secretary of the Senate and the Clerk of the House of Representatives 45 days after the end of each such quarter. The report would include information about the lobbyist, the name of the recipient to whom the contribution is made, and an estimate of the aggregate amount of contributions bundled in the quarter for the recipient. Such information would have to be filed only if the information is incremental to the information reported by registered lobbyists in certain other reports. Currently, registered lobbyists must file semiannual disclosure reports.

Because the bill would require quarterly (rather than semiannual) reporting, it would increase the number of reports filed by registered lobbyists. Since such entities already collect the information requested in the disclosure reports, however, CBO estimates that the incremental costs associated with the new reporting requirements in the bill would be minimal.

The bill also would require registered lobbyists to send each recipient of a bundled contribution a notice of the lobbyists' intent to file a disclosure. The notice would be sent in the quarter that the report is to be filed. The notice would contain the information that the lobbyist intends to report and an explanation of the aggregate contribution along with the names of the contributors. Such notices would have to be sent by certified mail. CBO estimates that the costs associated with those mailings would not be substantial relative to the annual threshold established by UMRA for private-sector mandates.

The CBO staff contacts for this estimate are Deborah Reis (for federal costs), who may be reached at 226–2860, Elizabeth Cove (for the State and local impact), who may be reached at 225–3220, and Craig Cammaratta (for the private-sector impact), who may be reached at 226–2940. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2317 is intended to create a system requiring registered lobbyists to disclose contributions they have arranged for "covered recipients."

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 5, clause 2, and article I, section 8, clauses 3 and 18 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2317 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. Section 1 sets forth the bill's short title as the "Lobbying Transparency Act of 2007."

Sec. 2. Quarterly Reports by Registered Lobbyists on Contributions Bundled for Certain Recipients. Section 2 amends section 5 of the Lobbying Disclosure Act of 1995, 2 U.S.C. §1604, to add a new subsection (d) pertaining to quarterly reports on contributions bundled for certain recipients. New subsection (d)(1) provides that not later than 45 days after the end of the quarterly period beginning on the first day of January, April, July, and October of each year, each registered lobbyist who bundles 2 or more contributions made to a covered recipient in an aggregate amount exceeding $5,000 for such covered recipient during such quarterly period shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives. The report must contain: (1) the name of the registered lobbyist; (2) in the case of an employee, his or her employer; and (3) the name of the covered recipient to whom the contribution is made, and to the extent known the aggregate amount of such contributions (or a good faith estimate thereof) within the quarter for the covered recipient.

New subsection (d)(2) requires a registered lobbyist to exclude from the report any information described in new subsection (d)(1)(c) (pertaining to the covered recipient) that is included in any other report filed by the registered lobbyist with the Secretary of the Senate and the Clerk of the House of Representatives under the Lobbying Disclosure Act.

New subsection (d)(3) provides that not later than 25 days after the end of a period for which a registered lobbyist is required to file a report under paragraph (1) that includes any information described in such section with respect to a covered recipient, the registered lobbyist shall transmit by certified mail to the covered recipient a statement. The statement must contain: (1) the information that will be included in the report with respect to the covered recipient; and (2) the source of each contribution included in the aggregate amount referred to in paragraph (1)(c) (pertaining to the covered recipient) which the registered lobbyist bundled for the covered recipient during the period covered by the report, and the amount of the contribution attributable to each such source.

New subsection (d)(4) defines "registered lobbyist" as a person who is registered or is required to register under paragraph (1) or (2) of section 4(a) of the Lobbying Disclosure Act, or an individual

who is required to be listed under section 4(b)(6) or section 5(b) of that Act.

Under new subsection (d)(5), a registered lobbyist "bundles" a contribution if: (1) the contribution is received by a registered lobbyist for, and forwarded by a registered lobbyist to, the covered recipient to whom the contribution is made; or (2) the contribution will be or has been credited or attributed to the registered lobbyist through records, designations, recognitions, or other means of tracking by the covered recipient to whom the contribution is made.

This definition for bundling covers various recognized ways in which lobbyists are known to bundle contributions for candidates. It includes, for example, situations where a lobbyist physically collects checks for a candidate and delivers them to the candidate. It includes situations where a lobbyist is given a title or other recognition to reflect a commitment by the lobbyist to raise a certain amount of contributions, and where the lobbyist is given a code or other means of tracking so that the donors can make clear to the candidate that the lobbyist should be given credit for raising the funds, and funds are in fact raised using the tracking means. It includes situations where the lobbyist raises specific contributions for a candidate in connection with hosting a fund-raising event for the candidate, which the candidate tracks. And it includes situations where a lobbyist arranges for contributions to be given to a candidate along with information that allows the candidate to track that the lobbyists raised the money, and the candidate tracks and credits the lobbyist for doing so.

These examples are intended to convey the essence of bundling, which is the mutual awareness and agreement between the lobbyist and the covered recipient that the lobbyist is gathering the contributions. In this respect, bundling is distinguished from more generalized expressions of support for a candidate that may lead others to decide independently to make contributions.

New subsection (d)(6) provides that "contribution," "candidate," "political committee," and "political party committee" have the meaning given such terms in the Federal Election Campaign Act of 1971, with one qualification. The term "contribution" does not include a contribution in an amount which is less than $200. New subsection (d)(6) also provides that the term "covered recipient" means a Federal candidate, an individual holding Federal office, a leadership PAC, or a political party committee. The provision also defines the term "leadership PAC" to mean, with respect to an individual holding Federal office, an unauthorized political committee which is associated with that individual, except that such term shall not apply in the case of a political committee of a political party.

Subsection 2(b) sets forth the Act's effective date. The Act applies with respect to the second quarterly period described in section 5(d)(1) of the Lobbying Disclosure Act of 1995 (as added by subsection (a)) that begins after the date of the enactment of this Act and each succeeding quarterly period.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics

and existing law in which no change is proposed is shown in roman):

LOBBYING DISCLOSURE ACT OF 1995

* * * * * * *

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) * * *

* * * * * * *

(d) QUARTERLY REPORTS ON CONTRIBUTIONS BUNDLED FOR CERTAIN RECIPIENTS.—

(1) IN GENERAL.—Not later than 45 days after the end of the quarterly period beginning on the first day of January, April, July, and October of each year, each registered lobbyist who bundles 2 or more contributions made to a covered recipient in an aggregate amount exceeding $5,000 for such covered recipient during such quarterly period shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives containing—

(A) the name of the registered lobbyist;

(B) in the case of an employee, his or her employer; and

(C) the name of the covered recipient to whom the contribution is made, and to the extent known the aggregate amount of such contributions (or a good faith estimate thereof) within the quarter for the covered recipient.

(2) EXCLUSION OF CERTAIN INFORMATION.—In filing a report under paragraph (1), a registered lobbyist shall exclude from the report any information described in paragraph (1)(C) which is included in any other report filed by the registered lobbyist with the Secretary of the Senate and the Clerk of the House of Representatives under this Act.

(3) REQUIRING SUBMISSION OF INFORMATION PRIOR TO FILING REPORTS.—Not later than 25 days after the end of a period for which a registered lobbyist is required to file a report under paragraph (1) which includes any information described in such section with respect to a covered recipient, the registered lobbyist shall transmit by certified mail to the covered recipient involved a statement containing—

(A) the information that will be included in the report with respect to the covered recipient; and

(B) the source of each contribution included in the aggregate amount referred to in paragraph (1)(C) which the registered lobbyist bundled for the covered recipient during the period covered by the report and the amount of the contribution attributable to each such source.

(4) DEFINITION OF REGISTERED LOBBYIST.—For purposes of this subsection, the term "registered lobbyist" means a person who is registered or is required to register under paragraph (1) or (2) of section 4(a), or an individual who is required to be listed under section 4(b)(6) or subsection (b).

(5) DEFINITION OF BUNDLED CONTRIBUTION.—For purposes of this subsection, a registered lobbyist "bundles" a contribution if—

(A) the contribution is received by a registered lobbyist for, and forwarded by a registered lobbyist to, the covered recipient to whom the contribution is made; or

(B) the contribution will be or has been credited or attributed to the registered lobbyist through records, designations, recognitions or other means of tracking by the covered recipient to whom the contribution is made.

(6) OTHER DEFINITIONS.—In this subsection—

(A) the term "contribution" has the meaning given such term in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), except that such term does not include a contribution in an amount which is less than $200;

(B) the terms "candidate", "political committee", and "political party committee" have the meaning given such terms in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.);

(C) the term "covered recipient" means a Federal candidate, an individual holding Federal office, a leadership PAC, or a political party committee; and

(D) the term "leadership PAC" means, with respect to an individual holding Federal office, an unauthorized political committee which is associated with such individual, except that such term shall not apply in the case of a political committee of a political party.

* * * * * * *

ADDITIONAL VIEWS

During the last Congress, the committee, by a vote of 28–4, adopted an amendment to H.R. 4975, which provided increased disclosure by lobbyists of "bundled" campaign contributions they facilitated collecting and transmitting to campaigns. This legislation addresses the very same issue.

Indeed, regarding all the ethics reform provisions that were reported out of the committee last Congress, Mr. Conyers said "I am very pleased to join in this cooperative effort . . . Ladies and gentlemen, what we do with the manager's amendment in short has considerably strengthened the measure before us that is within our jurisdiction and I urge its support." [1] Mr. Nadler said "I support the manager's amendment which advances this legislation. This legislation goes to the very heart of this institution's credibility and integrity . . ." [2] And Representatives Conyers, Nadler, Scott, Watt, Lofgren, Jackson Lee, Meehan, Wexler, Weiner, Schiff, Sanchez, Van Hollen, and Wasserman Schultz all stated the following of that amendment last Congress in the committee report on the legislation: "At the markup, we were able to develop *a bipartisan provision concerning the areas of Judiciary Committee jurisdiction*—principally the Lobbying Disclosure Act." [3]

We are pleased to see that the majority has revisited the same issue Republicans addressed last Congress.

LAMAR SMITH.
HOWARD COBLE.
CHRIS CANNON.

○

[1] H. Rep. 109–439 Part I (109th Congress, 2d Sess.) at 109–110.
[2] H. Rep. 109–439 Part I (109th Congress, 2d Sess.) at 111.
[3] H. Rep. 109–439 Part I (109th Congress, 2d Sess.) at 154 (emphasis added).