Testimony of

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I would like to thank Chairman Dreier and the members of the House Rules Committee for the opportunity to testify today on lobbying and related reforms.

According to a *CNN/USA Today/Gallup* poll (January 10, 2006), "corruption ranked among the concerns most often cited by those polled, with 43 percent telling pollsters it would be an 'extremely important' issue in 2006," just two percent below the 45 percent response for the war in Iraq and terrorism.

A *Washington Post-ABC News* poll (January 10, 2006) found that "Nine in ten said it should be illegal for lobbyists to give members of Congress gifts, trips or anything else of value." The *Post* poll also stated, "Two in three, including majorities of Republicans and Democrats, would go far beyond current proposals for change and make it illegal for lobbyists to make campaign contributions to members of Congress or to congressional candidates."

According to a *Los Angeles Times/Bloomberg News* poll (January 27, 2006), a large majority of the American people — 65 to 19 percent — support barring lobbyists from holding fundraising events for congressional candidates. An even larger majority of the public — 72 to 21 percent — support prohibiting the practice of allowing lawmakers to travel on jets provided by corporations and lobbyists for the cost of flying on a commercial airline, according to the *Los Angeles Times/Bloomberg News* poll.

As these polls show, the American people are looking for strong medicine to solve the problems they see in the way Washington works and the way lobbyists function in Congress. At a time of great public concern about the lobbying and corruption scandals in Washington and strong public support for tough measures to address these problems, it is essential for the House to adopt real, effective reform measures to address the abuses that have occurred.

Democracy 21 urges the House to adopt effective reforms that will strengthen ethics enforcement, curb abuses and increase disclosure of lobbying activities.

It is essential, for example, for Congress to establish a new means for overseeing and enforcing congressional ethics rules if new, and old, rules are going to be effective in the future.

As a *Washington Post* editorial (February 25, 2006) stated, "Tightening lobbying rules without doing something to improve enforcement would be like overhauling the tax code while abolishing the Internal Revenue Service."

According to the *Post* editorial, "The best idea so far, in legislation proposed by Reps. Christopher Shays (R-Conn.) and Martin T. Meehan (D-Mass.), would create an Office of Public Integrity. This office would serve not simply as a passive repository of filings, as the current system does. Instead, it would be an independent, nonpartisan entity, on the model of the Congressional Budget Office. It would be empowered to review documents, accept outside complaints, refer matters to the Justice Department,

conduct investigations and make recommendations to the House and Senate ethics committees."

The editorial continued, "This would keep members of Congress involved, as they need to be, in setting and enforcing the rules for their own conduct, but it would help energize the ethics committees, which, especially in the House, have been gridlocked by partisanship."

Democracy 21 strongly supports the Shays-Meehan legislation to create an Office of Public Integrity in Congress. We urge the Committee to incorporate this legislation into the lobbying and ethics reforms to be reported to the House for consideration and action. Alternatively, the House Rules committee should make the bill in order as a floor amendment and provide Members with the opportunity to vote on this essential reform.

It is also critically important for Congress to adopt new rules to curb the abuses associated with travel, gifts, the use of corporate planes and other financial benefits provided to Members by lobbyists and others seeking to influence congressional decisions. These abuses are not problems that can be solved by disclosure or by pre-clearing the activities; they need to be prohibited.

In fact the whole idea of pre-clearance for Members' activities by the House ethics committee has no credibility when one considers that the Committee did not even function in 2005 and has no public credibility today.

I would like to make two basic points about government integrity reforms.

First, rules matter.

They change the way people act, such as the way lobbyists and Members function in Congress. They also change the way decisions are made and potentially the outcome of those decisions, such as in the case of congressional earmarks.

Second, rules can and do work.

It is a common Washington game to challenge the idea that government integrity reforms can make any difference, while they are being considered in Congress, and then once reforms are enacted to immediately start making the case they aren't working.

Most often, these challenges come from individuals who wanted to keep the status quo in the first place and then want to try to get back to it as soon as they can.

Here are some examples of integrity reforms that did matter and have worked:

The financial disclosure requirements for Members and other government officials, adopted in the 1970s, have served to minimize the cases of federal officeholders using their public office for personal financial gain. The recent criminal case involving a

plea bargain agreement by Representative Duke Cunningham and the charges of misuse of office for personal gain that have been made regarding Representative William Jefferson are rare examples. Our country appears to have done very well at the national level, and much better than other countries, in preventing the misuse of public office for personal gain. The financial disclosure rules were a major factor in achieving this result.

The congressional rules preventing Members from practicing professions for profit and limiting their outside earned income, also enacted in the 1970s, have served to prevent conflicts of interest and have also been an important factor in preventing the misuse of public office for personal financial gain.

The congressional rule preventing Members from accepting honoraria fees, adopted in the 1980s, has served to stop special interests from paying private fees to Members whose positions they are trying to influence. They also have helped lead to appropriate increases in the salaries for Members and other government officials.

The Bipartisan Campaign Reform Act of 2002 ended the corrupting direct link between members of Congress who were soliciting huge, unlimited soft money contributions to support their campaigns, and big donors who were providing such contributions and seeking to influence government decisions made by those Members.

The opportunities to enact these kinds of integrity reforms are cyclical in nature, and come when government integrity and corruption problems get out-of-hand.

We are at such a moment and the Washington corruption and lobbying scandals provide such an opportunity. We urge the House to enact bold, necessary, and effective reforms to address these scandals.

Before addressing issues that focus directly on the way lobbyists themselves are functioning in attempting to influence congressional decisions, I would like to briefly address two related issues.

First, while important reforms can be made in the practices of lobbyists in Washington, the core issue that must be addressed in the end to deal with the corruption and lobbying scandals in Washington is fundamental campaign finance reform.

This includes fixing the presidential public financing system that served Democrats, Republicans, and most importantly the American people, well for 25 years but is now broken and needs to be repaired; extending public financing to congressional races; closing the FEC-created soft money loophole for 527 groups; reducing the costs of candidates communicating with voters; and dealing with the abject failure of the FEC to enforce the laws by creating a new effective campaign finance enforcement agency.

The corruption and lobbying scandals in Washington have put the campaign finance issue back on the national agenda, where it belongs, and major battles will be fought in the coming months and years to enact fundamental campaign finance reform.

We support Congress moving quickly this year to address the 527 problem caused by the failure of the FEC, once again, to properly interpret the campaign finance laws. We believe quick action can make these changes effective for the 2006 elections.

We oppose, however, any efforts to incorporate 527 reform measures into lobbying reform legislation or to attach any amendments to 527 reform legislation that would undermine or gut existing campaign finance laws.

We believe that 527 reform legislation needs to be considered as a separate matter on the House and Senate floors.

We also will oppose any legislation that includes provisions to unravel or gut existing campaign finance laws, such as the provisions of the Pence-Wynn bill.

There are two bottom line issues that must be effectively addressed to deal with the lobbying scandals: first, the multiple ways in which lobbyists and lobbying groups use money to curry favor and gain influence in Congress, and second, the absence of any effective enforcement of the laws and ethics rules that cover Members.

Democracy 21 has joined with six other reform groups to set forth six benchmarks for lobbying reform. I have attached a copy of our benchmark reforms to my testimony and would like to submit this for the record.

Lobbyists and Money

The multiple ways in which lobbyists currently use money to curry favor and gain influence with Members include:

- Making campaign contributions to Members and their leadership PACs;
- Hosting fundraisers for Members and their leadership PACs;
- Raising and bundling contributions for Members and their leadership PACs;
- Arranging trips for Members, paid for by their clients or employers;
- Arranging company planes for Members at greatly subsidized fares;
- Paying for parties for Members, such as parties at the national conventions;
- Paying for meals and tickets to sporting and entertainment events for Members;
- Making contributions to foundations established or controlled by Members;
- Financing retreats and conferences held by Members.

In many of these cases, no public disclosure is required for these various uses of money by lobbyists. For example, a lobbyist can contribute up to $2,100 per election to a Member, which is required to be disclosed by campaign finance laws. Yet the same lobbyist can host a fundraiser or otherwise arrange contributions for a Member that results in $25,000 or $50,000, or more, being provided to the Member through the

fundraising efforts of the lobbyist, and there is no public disclosure required of these large sums provided by the lobbyist to the Member.

Washington lobbyist Jack Abramoff provided large amounts of campaign contributions for Members by arranging for his clients to contribute the funds. In fact, Jack Abramoff used money on Capitol Hill in every way he could think of to pursue his lobbying agenda. Abramoff gave campaign contributions, arranged contributions to be made by his clients, arranged trips, including golfing adventures, provided free meals, provided skybox tickets to sporting events, and the like.

These kinds of uses of money, however, were not unique to Abramoff; they are common tools of the Washington lobbying trade.

The nexus between lobbyists, money and lawmakers has to be broken.

It is important to recognize in this regard that lobbyists providing money to help Members have a unique attribute that is not possessed by other individuals: lobbyists are in the business of influencing congressional decisions. This is what they do for a living.

In these circumstances, money provided by lobbyists to Members in the various ways set forth above must be presumed to be money intended to help influence the decisions of Members, and must be subject to appropriate controls to protect the integrity of congressional decisions.

To break the lobbyist money nexus, Democracy 21 has joined with other reform groups in recommending the following reforms:

First, campaign contributions from lobbyists and lobbying firm PACs to federal candidates should be capped at $200 per candidate per election. Contributions to national parties and leadership PACs should be capped at $500 per election cycle.

Second, lobbyists and lobbying firms should be prohibited from soliciting, arranging or delivering campaign contributions, and also from serving as officials on candidate campaign committees and leadership PACs.

Third, lobbyists, lobbying firms and lobbying organizations should be prohibited from paying for, or arranging payments for, events “honoring” members of Congress, such as parties at national conventions, from contributing or arranging contributions to entities established or controlled by members of Congress, such as foundations, and from financing Members’ conferences, retreats and the like.

We also believe that gifts, privately financed travel and subsidized travel for Members should be banned as discussed below.

In addition, we believe that it is essential to require public disclosure by lobbyists on their lobbying reports of the various ways that they are using money to provide

contributions and financial benefits to Members. Such public disclosure is provided for in the lobbying reform bills introduced in the House by Representative Shays and in the Senate by Senator McCain.

Oversight and Enforcement

The bodies responsible for overseeing and enforcing the campaign finance laws and ethics rules that apply to members of Congress are failures. We have been functioning without a "sheriff" or "judge" for Congress and that leads to a "wild west," "anything goes" attitude and approach, and ends up in corruption scandals like the Abramoff affair.

The FEC, for example, which is responsible for enforcing the campaign finance laws, is a failed and captive agency. FEC Commissioners see their job as representing the interests of incumbent officeholders and party officials, often at the great expense of the interests of the American people.

It is the FEC, for example, that created the soft money system, which turned into a $500 million national scandal, and that has refused to properly enforce the campaign finance laws as they apply to 527 groups.

The Commission has been severely rebuked and admonished by the courts for wrongly interpreting the campaign finance laws passed by Congress. Nevertheless, the FEC simply goes on its way continuing to ignore Congress and to ignore the courts, functioning as a "super-legislature disregarding congressional intent," in the words of federal district court Judge Kollar-Kotelly.

As *The Washington Post* stated in an editorial (July 11, 2003), the FEC "is an agency that was designed to fail, and at that task, at least, it has succeeded brilliantly." The *Post* also stated in an editorial (August 4, 2005), "Assigned by Congress to write regulations implementing the McCain-Feingold campaign finance law, the [FEC] has instead spent the past few years writing and defending rules that would undermine it."

The *New York Times* said in an editorial (September 21, 2004) that the FEC is "a blight on American politics that must be scrapped and replaced with nonpartisan regulators who have the interests of voters, not politicians, at heart."

Similar editorials have run in newspapers throughout the country, such as *The Boston Globe*, *Newsday*, *The Philadelphia Inquirer*, *The Kansas City Star* and the *Los Angeles Times.*

The FEC is an agency that has no public credibility and must be replaced with a real campaign finance enforcement body. Legislation was introduced in the last Congress by Senators McCain and Feingold, and Representatives Shays and Meehan to accomplish this goal by creating a new body to enforce the campaign finance laws.

The congressional ethics committees have neither the resources to properly oversee the financial disclosure and travel reports currently filed by Members nor the inclination to pursue serious allegations of ethics violations by Members.

As a result, despite all of the stories about Jack Abramoff's improper conduct on Capitol Hill involving Members and congressional staff, there is no public indication that either the House or Senate ethics committee has conducted any investigation of these matters.

Previous major congressional scandals, including the Koreagate and ABSCAM scandals in the House in the late 1970s and the Keating Five affair in the Senate in the late 1980s, all involved major congressional ethics investigations. In the Abramoff affair, however, which could turn out to be the biggest congressional scandal in modern times, the ethics committees apparently have done nothing to investigate the matter.

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.

We urge Congress to establish an independent, nonpartisan and professional Office of Public Integrity in Congress as set forth in the Shays-Meehan bill to oversee and help enforce ethics rules and lobbying laws. Under the bill, the Office would be an independent, nonpartisan and professional office headed by a Director jointly appointed by the Republican and Democratic leaders of the House and Senate.

The Office's jurisdiction should cover both the House and Senate and should be responsible for many of the tasks currently assigned to the congressional ethics committees, the Clerk of the House and the Secretary of the Senate. It is critical that the Office receive adequate funds to effectively carry out its responsibilities.

The Office would be responsible for filtering out frivolous claims of ethics violations by members of Congress, for investigating non-frivolous allegations, and for presenting cases of probable ethics violations to the congressional ethics committees, which would decide whether ethics violations have occurred.

The new enforcement process would also incorporate checks on the Office with public accountability for members of the ethics committees to create a new, publicly credible means for ensuring that members of Congress pay attention to and comply with the ethics rules they themselves have adopted to govern their conduct.

The Office would refer cases of probable violations of the lobbying disclosure laws by lobbyists to the Justice Department, which has responsibility for civil enforcement of these laws. The Office would also monitor, review and make available to the public in easily searchable form on the Internet the information filed by members of

Congress on their financial disclosure and other reports required under the congressional ethics rules, and the information filed by lobbyists under the lobbying disclosure law.

In order to help prevent violations of the ethics rules and lobbying laws, the Office also would provide advice and guidance on compliance with the rules to Members, congressional staff and lobbyists.

Members of Congress take the position that under the Constitution they have the sole responsibility for the rules governing Congress, including the congressional ethics rules. If that is the case, then Congress must start doing the job of enforcing its ethics rules. In failing to carry out this responsibility, members of Congress have failed the American people and seriously damaged the institution in which they serve.

Ban Private Interests from Financing Members' Trips

Current congressional ethics rules prohibit lobbyists from paying for trips by Members but allow the lobbyists' clients or employers, and anyone else, to pay for the trips, if the trips are in connection with "official business." Lobbyists are permitted to arrange trips and travel with Members on the trips.

Published reports have shown that such trips are all too often more vacation and recreational in nature than "official business" trips, and are paid for by corporations, trade associations, and others with matters pending in Congress. Reports also show that the disclosure requirements for such trips have been ignored or evaded by some Members.

Congress should ban private interests from financing travel for Members and congressional staff and should apply this ban to federal judges and executive branch officials as well. Trips for "official business" should be paid for with public funds.

Any such ban, furthermore, also must end the current practice of corporations making their corporate planes available to Members to travel, and greatly subsidizing the cost of these trips by charging Members only the cost of a first class air fare rather than the cost of a chartered plane.

This practice is widely used by Members and provides them with privately subsidized travel, often worth thousands of dollars per trip, and with company planes available at their convenience. In return, company lobbyists can accompany Members on the flights and have them as a captive audience for the flights' duration.

In essence, members of Congress have their own private air force. Companies are not making these planes available to Members for charitable reasons. They are providing Members with these financial benefits to curry favor and gain influence in Congress.

Members should be required by both congressional ethics rules and campaign finance laws to pay the cost of a charter plane in these circumstances.

Banning Gifts

Current congressional ethics rules limit gifts from a single giver to no more than $50 per individual gift, and an aggregate of $100 per year. This includes such items as meals and tickets to sporting and entertainment events. There is no disclosure of these gifts, however, leaving room for widespread evasion to occur.

There are proposals for banning gifts or limiting gifts to token amounts. Any new gift restriction must close the loophole in the current gift rules that allows lobbyists, their clients and others to finance parties given to "honor" specific members of Congress, such as the lavish five-and six-figure parties thrown at the national party conventions.

Without closing this gift loophole, we will end up prohibiting a lobbyist from paying $25 for a Member's lunch while allowing the same lobbyist to pay $25,000, or more, to finance a party that, in essence, is being given by the Member.

According to a *USA Today* article on August 30, 2004 that reported on parties at the 2004 Republican national convention honoring members of Congress:

> "The entry fee for participation has gone up dramatically," says David Rehr, president of the National Beer Wholesalers Association, who is contributing either beer or money to help sponsor nine parties this week. To get top billing as a sponsor for an elaborate event can cost $100,000 or more; lower-level sponsorships are available for $50,000 or $25,000.

There is no legitimate basis for reading an exception into the existing gift restrictions for payments made to finance lavish parties thrown for members of Congress. Nevertheless, both the House and Senate ethics committees created exceptions for these parties and thereby allowed lobbyists, their employers and their clients to spend large amounts of money on Members' parties at the national conventions.

According to page 49 of House Gift Booklet "At times, an outside organization wishes to hold a reception or other event in honor of a Member, officer or employee. As long as the identity of the sponsor . . . is made clear to all participants (*e.g.*, on the invitation), an event nominally 'in honor of' a Member or group of Members is not generally considered a gift to the honoree(s). Food and beverage enjoyed at these functions are instead considered to benefit all those attending."

This gaping loophole must be closed if the public is to treat the gift rules as real.

In addition, any new gift rules should prohibit Members from receiving tickets to sporting and entertainment events. This would end the practice whereby the value of skybox, club and other luxury tickets were grossly undervalued in order to "comply" with the gift limits.

Slow the revolving door.

There are currently hundreds of former members of Congress who stayed in Washington to pursue lobbying careers and are registered lobbyists.

The current revolving door provisions prohibit members of Congress from directly lobbying Congress for one year after they leave their jobs. The provisions allow Members, however, to engage in all other lobbying activities, including planning and directing lobbying campaigns, and participating in lobbying strategy sessions.

These provisions need to be strengthened.

Members should be prohibited from directly lobbying their former congressional colleagues for compensation for two years, and the prohibition should include all lobbying activities, not just direct lobbying contacts. In addition, former Members who register as lobbyists should not receive special congressional privileges, such as access to the House and Senate chambers.

Senior congressional staff, currently subject to a one year restriction, should be prohibited from making lobbying contacts for compensation with their former offices or committees for two years after leaving their positions.

Place sunshine on lobbying activities and financial disclosure reports.

In recent years, the role of professional lobbying firms has grown enormously. These firms stimulate lobbying of Congress by the public through the use of paid advertising campaigns, computerized phone banking campaigns, direct mail and other forms of public communications.

There is currently no disclosure required from lobbying organizations and professional grassroots lobbying firms of the huge sums being spent on grassroots lobbying campaigns. This is the case despite the fact that the amounts being spent on grassroots lobbying campaigns may well exceed the amounts being spent on direct lobbying activities, which are currently disclosed. The Abramoff lobbying scandals illustrated how large amounts of money were being secretly spent to conduct grassroots lobbying campaigns.

Today, a professional grassroots lobbying firm can spend large sums on a paid advertising campaign to stimulate grassroots lobbying for the passage of legislation to benefit the pharmaceutical industry, or an advocacy group can spend large sums on a paid advertising campaign to stimulate lobbying against a judicial nominee, without any information being provided to citizens and members of Congress on the amounts being spent on the lobbying campaigns.

New grassroots lobbying disclosure provisions should be adopted to ensure that the public receives basic information about the huge sums being spent on grassroots lobbying activities to stimulate lobbying campaigns by the public.

Professional grassroots lobbying firms, for example, should be required under lobbying laws to disclose their clients, the amounts they are spending on these activities, the issues they work on for their clients and the amount being spent on paid advertising campaigns. These firms are often doing just as much, or more, to influence congressional decisions as direct lobbying firms, without making the same kind of public disclosure that is required from direct lobbying firms.

Lobbying organizations also should be required to disclose the amounts they spend on communications to stimulate the public to lobby Congress, including the total amount they spend on paid advertising

In addition, lobbying reports and reports filed by Members should be filed in an electronic format and made fully searchable on the Internet. Lobbying reports, which are now filed semi-annually, should be required on a quarterly basis, and should include a list of the Members' offices and the congressional committees that were directly lobbied during the quarter.

Also, reports filed by lobbying coalitions should disclose the real financial backers of the coalition, not just the name of the front group which gives the public no real information of which interests stand behind stealth lobbying coalitions.

Conclusion

An unusual opportunity exists today to enact important, effective reforms to change the way lobbyists function in Congress. These opportunities do not come along often and it is critical to seize the moment. Citizens want strong, comprehensive and effective reforms and will not accept cosmetic changes designed to maintain the status quo in Washington.

I appreciate the opportunity to submit this testimony and would be happy to answer any questions members of the Committee may have.