Putting Lobbyists Back in the Lobby

The word "lobbyist," coined in the mid-19th century, derives from the word "lobia," or "covered walk in a monastery," and the custom of influence seekers to gather in the entrance halls or vestibules of legislative chambers. Representing clients should be an honorable occupation, whether in lobbying or law. After all, there is no public interest without private interests at stake, and the First Amendment to the U.S. Constitution demonstrates the value we place on free speech.

In today's combative Washington, however, lobbying conjures images of corruption. Not without reason: lobbyists have been implicated in many of today's scandals. But the corruption of the few only begins to explain what has gone amiss. Lobbying has moved from the corridors of power into the very chambers where policy is created. Along the way, our elected officials have allowed lobbying to usurp their own role and that of public servants tasked with considering foremost what is in the general interest. The tough, but essential, question becomes not how to regulate away lobbying, but how to put special-interest petitioning in its rightful place.

For starters, we shouldn't let lobbyists draft our nation's laws. For instance, many provisions in the recent energy legislation were drafted first by special interests, not by public servants charged with developing options in response to public needs. Small wonder that the legislation subsidized conservation and production alike, while yielding a patchy and incoherent energy policy.

Think about how a classic political science textbook would have described the legislative process. Starting with some problem defined as a matter of public interest, an executive branch agency or commission would conduct studies. Top officials, including White House staff, would vet the options to see if they made good sense as economic or social policy and were consistent with the president's overall governing philosophy. From there, the proposals would gradually wind their way through committees and conferences in Congress, where bills get shaped and amended. Lobbyists would comment along the way on drafts and bills. The final authority for taking action would rest with Congress, though the president as a last resort could use his veto pen to keep that body in line.

Today's textbooks probably would start by describing a special-interest group eager to get legislation passed. It hires a Washington lobbying firm with contacts in Congress. Money is exchanged in fees and through contributions to campaigns and fundraisers. Access means power, so among the most powerful players are former members of Congress and, as the National Journal recently noted, relatives of current elected officials.

These lobbyists draft provisions to a client's exact specification and then contact old friends for help. Members insert the draft language into a bill and hope to be rewarded. Except for estimating costs, the nonpartisan staffs of Congress and the executive branch are mostly excluded from the discussions. Meanwhile, the president's many political advisors tell him that opposition would only irk members of Congress and reduce campaign contributions to his political party. In the end, the members sponsoring the legislation get campaign contributions, the special interests get taxpayer money, and the lobbyists get a cut of everything.

Obviously, the traditional textbook model and the "new" model I've portrayed here are highly stylized. But you get the idea: to put lobbyists in their rightful place requires attention to how information is provided and excluded from the legislative process. Unfortunately, the modest reforms Congress considered in early 2007 aren't enough to reverse current ominous trends. A take-back-government regimen at a minimum would:

- block any crafting of actual legislative language by lobbyists;
- confine to nonpartisan executive branch and congressional staffs the initial development of legislative options and all crafting of legislative language;
- require better record keeping and public dissemination on which groups and interests requested changes in the law and which members obliged;
- demand more rigorous study of who loses out when a request is granted (somebody always pays);
- hold congressional committee chairs responsible for establishing and enforcing procedures on information gathering that give greater time and attention to public over private interests; and, perhaps most important,
- bolster nonpartisan staffs while reducing the sheer size of political staffs in Congress and the number of political appointees in the executive branch.

Lobbying has a role in the classic back and forth of advise and consent. But when it usurps the necessary roles of other key players in the legislative process and denies primary attention to what is in the public interest, it unduly corrupts the system as a whole. It's time to put lobbyists back in the lobby.

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