

PROVIDING FOR CONSIDERATION OF H.R. 4975, LOB-
BYING ACCOUNTABILITY AND TRANSPARENCY ACT OF
2006

APRIL 27 (legislative day, APRIL 26), 2006.—Referred to the House Calendar and
ordered to be printed

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

R E P O R T

[To accompany H. Res. 783]

The Committee on Rules, having had under consideration House Resolution 783, by a record vote of 9 to 2, reports the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 4975, the Lobbying Accountability and Transparency Act of 2006, under a structured rule. The rule provides one hour of general debate, equally divided and controlled by the Majority Leader and the Minority Leader, or their designees. The rule waives all points of order against consideration of the bill.

The rule provides that in lieu of the amendments recommended by the Committees on the Judiciary, Rules, and Government Reform now printed in the bill, the amendment in the nature of a substitute consisting of the text of the Rules Committee Print dated April 21, 2006, modified by the amendment printed in part A of this report, shall be considered as adopted in the House and in the Committee of the Whole. The rule provides that the bill, as amended, shall be considered as an original bill for purpose of further amendment and shall be considered as read.

The rule makes in order only those amendments printed in part B of this report, which may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and

shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in part B of this report. The rule provides one motion to recommit with or without instructions.

The rule provides that in the engrossment of H.R. 4975, the Clerk shall add the text of H.R. 513, as passed by the House, as new matter at the end of H.R. 4975 and shall make appropriate conforming changes.

The rule further provides that after the passage of H.R. 4975, it shall be in order to take from the Speaker's table S. 2349 and to consider the Senate bill in the House. The rule waives all points of order against consideration of the Senate bill. The rule provides that it shall be in order to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 4975 as passed by the House. The rule waives all points of order against that motion. Finally, the rule provides that if that motion is adopted and the Senate bill, as amended, is passed, it then shall be in order to move that the House insist on its amendment to the Senate bill and request a conference thereon.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes a waiver of 4(a) of Rules XIII, requiring a three-day lay-over of a committee report, because the Committees on the Judiciary, Rules, House Administration, and Government Reform, did not file their reports on the bill (H. Rept. 109-439, Parts 1-4) until Tuesday, April 25, 2006 and the House may consider the bill as early as Thursday, April 27, 2006. The Committee is not aware of any points of order against the bill or amendments made in order under the rule. All other waivers of all points of order provided in the rule are prophylactic in nature.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 183

Date: April 26, 2006.

Measure: H.R. 4975, Lobbying Accountability and Transparency Act of 2006.

Motion by: Mrs. Slaughter.

Summary of motion: To report an open rule.

Results: Defeated 2 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 184

Date: April 26, 2006.

Measure: H.R. 4975, Lobbying Accountability and Transparency Act of 2006.

Motion by: Mrs. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Baird, which prohibits securities trading based on nonpublic information relating to pending or prospective legislative action, requires additional reporting by Members and employees of Congress of securities transactions, and requires registration and reporting by political intelligence firms.

Results: Defeated 2 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 185

Date: April 26, 2006.

Measure: H.R. 4975, Lobbying Accountability and Transparency Act of 2006.

Motion by: Mr. McGovern.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Tom Davis of Virginia, which would: (1) require all political appointees and senior officials in Federal agencies and the White House to report the contacts they have with private parties seeking to influence official government action; (2) deem lawyers, lobbyists and executives appointed to high-level government positions to have a prohibited conflict of interest if they take official actions affecting their former clients or employers within two years of entering government; (3) restrict activities of procurement officials as they pass between the government and private sectors; (4) provide whistleblower protections for national security personnel; (5) eliminate the use of unregulated “pseudo-classifications” such as “sensitive but unclassified” or “for official use only,” and (6) require the Federal government to disclose its role in funding or disseminating advertising and communications and prohibits the expenditure of funds unauthorized propaganda.

Results: Defeated 2 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 186

Date: April 26, 2006.

Measure: H.R. 4975, Lobbying Accountability and Transparency Act of 2006.

Motion by: Mr. McGovern.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Van Hollen, which requires that a registered lobbyist must disclose the “solicitation and transmission” of a campaign contribution on behalf of a candidate. Also requires disclosure by a registered lobbyist if he or she is a treasurer of a campaign or a chairman of a political committee.

Results: Defeated 2 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 187

Date: April 26, 2006.

Measure: H.R. 4975, Lobbying Accountability and Transparency Act of 2006.

Motion by: Mrs. Slaughter.

Summary of motion: To strike the language in the rule that waives all points of order against the amendments made in order under the rule.

Results: Defeated 2 to 9.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Dreier—Nay.

Rules Committee record vote No. 188

Date: April 26, 2006.

Measure: H.R. 4975, Lobbying Accountability and Transparency Act of 2006.

Motion by: Mr. Lincoln Diaz-Balart.

Summary of motion: To report the rule.

Results: Defeated 9 to 2.

Vote by Members: Diaz-Balart—Yea; Hastings (WA)—Yea; Sessions—Yea; Putnam—Yea; Capito—Yea; Cole—Yea; Bishop—Yea; Gingrey—Yea; Slaughter—Nay; McGovern—Nay; Dreier—Yea.

PART A—SUMMARY OF THE AMENDMENT MODIFYING THE RULES COMMITTEE PRINT OF APRIL 21, 2006 TO BE CONSIDERED ADOPTED

Strikes Section 107 of the bill, regarding a GAO study of employment contracts of lobbyists.

PART B—SUMMARY OF AMENDMENTS MADE IN ORDER

1. Gohmert (TX): Strikes the current section 106 and inserts an ascending civil penalty structure for each subsequent offense. For example, for a second offense the offender could be subject to a fine of not more than \$250,000.00. It also adds “corruptly and with intent to evade the law” to the intent element of the civil penalty. (10 minutes)

2. Castle (DE)/Gerlach (PA): Requires that lobbyists be held liable for offering gifts that violate the gift ban. A lobbyist who knowingly offers a gift to a U.S. Representative, Delegate, Resident Commissioner, or their employee that is in violation of the gift ban, would be subject to a civil fine of up to \$50,000. (10 minutes)

3. Lungren (CA)/Miller (CA)/Hastings (WA)/Berman (CA)/Cole (OK): Modifies section 301 to place a moratorium on privately-funded official travel unless the Committee on Standards of Official conduct issues a certification that the gift of travel complies with all House rules and standards of conduct. The Committee is not permitted to issue that certification until it reports its recommendations on changes to rule XXV to the Committee on Rules, which must occur not later than June 15, 2006. The Committee is permitted to issue the certification before June 15 if 2/3 of the committee vote to do so. The Standards Committee must review public reports on privately funded travel and consider those items in the base bill. Section 302 is modified to direct the Committee on Standards to report to the Committee on Rules on recommended changes

to rule XXV with respect to gifts, and consider factors similar to those in the base bill. (10 minutes)

4. Sodrel (IN)/McGovern (MA)/Davis (KY): Amends Sec. 502 to add a voluntary ethics training program for Members within 100 days of being sworn in to Congress. The status of the Members completing and not completing the course within the time frame will be posted on the website for the House Committee on Standards of Official Conduct and in the Congressional Record. (10 minutes)

5. Jackson-Lee (TX): Modifies the extent to which pensions can be withheld from the spouse and family. (10 minutes)

6. Gingrey (GA): Extends the prohibition on converting campaign dollars for personal use currently applicable to campaign committees to Leadership PACs. Leadership PAC is defined in this amendment as a political committee which is directly or indirectly established, maintained, or controlled by a candidate for Federal office or an individual holding Federal office. (10 minutes)

7. Wolf (VA): Prohibits former ambassadors and CIA station chiefs from acting as an agent of the foreign nation where they were stationed for five years after their service as ambassador or station chief is completed. (10 minutes)

8. Castle (DE): Requires that all registered lobbyists complete a mandatory 8-hours of ethics training each Congress. Ethics training would include the code of conduct and disclosure requirements applicable to Members, officers, and employees of the House, including rules relating to acceptance of gifts (including travel and meals), and financial disclosure requirements under the Ethics in Government Act of 1978. Any registered lobbyist failing to complete ethics training each Congress would be subject to penalties. (10 minutes)

9. Flake (AZ): Clarifies the application of criminal bribery and illegal gratuities statutes with regard to earmarks. Specifically, it prohibits a person from directly or indirectly, corruptly giving, offering, or promising anything of value to any public official with the intent to influence any official act relating to an earmark. Also prohibits a public official from corruptly demanding, seeking, receiving, accepting, or agreeing to receive or accept anything of value in return for influence in the performance of an official act relating to an earmark. (10 minutes)

PART A—TEXT OF AMENDMENT MODIFYING THE RULES COMMITTEE
PRINT OF APRIL 21, 2006 TO BE CONSIDERED ADOPTED

Strike section 107.

PART B—TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOHMERT OF TEXAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Strike section 106 and insert the following:

SEC. 106. INCREASED PENALTY FOR FAILURE TO COMPLY WITH LOBBYING DISCLOSURE REQUIREMENTS.

Section 7 of the Act (2 U.S.C. 1606) is amended—

(1) by striking “Whoever” and inserting
“(a) IN GENERAL.—Whoever”;

(2) by inserting “, corruptly, and with the intent to evade the law” after “knowingly”;

(3) by striking “knowing”;

(4) by striking “of not more than” and all that follows through the end and inserting “as provided in subsection (b).”; and

(5) by adding at the end the following:

“(b) PENALTY.—The civil fine under subsection (a) shall be the following, depending on the extent and gravity of the violation:

“(1) For the first offense, not more than \$100,000.

“(2) For the second offense, not more than \$250,000.

“(3) For the third offense, not more than \$500,000.

“(4) For the fourth or any subsequent offense, not more than \$1,000,000.”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CASTLE OF DELAWARE, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Insert the following after section 106 and redesignate the succeeding section accordingly:

SEC. 107. PENALTIES FOR OFFERING GIFTS.

Section 7 of the Act (2 U.S.C. 1606), as amended by section 106, is amended by adding at the end the following:

“(c) PENALTIES FOR OFFERING GIFTS.—

“(1) IN GENERAL.—Any person who is—

“(A) a lobbyist registered under this Act,

“(B) a lobbyist who is an employee of an organization registered under this Act, or

“(C) the client of any such lobbyist or organization,

and who offers to a covered legislative branch official of the House of Representatives any gift, knowing that such gift violates the rules of the House of Representatives, shall, upon proof thereof by a preponderance of the evidence, be subject to a civil fine of not more than \$50,000.

“(2) DEFINITION.—In this subsection, the term ‘covered legislative branch official of the House of Representatives’ means—

“(A) a Representative in, or Delegate or Resident Commissioner to, the Congress; and

“(B) an employee of, or any other individual functioning in the capacity of an employee of—

“(i) an individual described in subparagraph (A);

“(ii) a committee of the House of Representatives;

“(iii) the leadership staff of the House of Representatives;

“(iv) a joint committee of Congress; or

“(v) a working group or caucus organized to provide legislative services to individuals described in subparagraph (A).”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LUNGREN OF CALIFORNIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Section 301 is amended to read as follows:

SEC. 301 PRE-CERTIFICATION OF PRIVATELY FUNDED TRAVEL.

(a) ACCEPTANCE OF PRIVATELY FUNDED TRAVEL.—Notwithstanding clause 5 of rule XXV of the Rules of the House of Representatives, no Member, Delegate, Resident Commissioner, officer, or employee of the House may accept a gift of travel related to his official duties (including any transportation, lodging, and meals during such travel) from any private source unless the private source first obtains a certification in writing from the Committee on Standards of Official Conduct that the gift of travel complies with all House rules and standards of conduct.

(b) REVIEW AND RECOMMENDATIONS.—(1) The Committee on Standards of Official Conduct may not issue any such certification until it reports its recommendations on changes to rule XXV to the Committee on Rules unless two-thirds of the Members of the Committee, present and voting in the affirmative, vote to issue such certification. The Committee on Standards of Official Conduct shall report its recommendations to the Committee on Rules not later than June 15, 2006.

(2) In developing such recommendations, the Committee on Standards of Official Conduct shall—

(A) survey public reports of registered lobbyist and registered foreign agent-related private travel, as well as public reports of late or inaccurate disclosure of private travel, and

(B) consider—

(i) The ability of the current provisions of rule XXV regarding travel to protect the House, its Members, officers, and employees, from the appearance of impropriety.

(ii) With respect to the allowance for privately-funded travel contained in clause 5(b) of rule XXV—

(I) the degree to which the privately-funded travel meets the representational needs of the House, its Members, officers, and employees;

(II) whether certain entities should or should not be permitted to fund the travel of the Members, officers, and employees of the House, what sources of funding may be permissible, and what other individuals may participate in that travel; and

(III) the adequacy of the current system of approval and disclosure of such travel.

Section 302 is amended to read as follows:

SEC. 302 RECOMMENDATIONS FROM THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT ON GIFTS.

The Committee on Standards of Official Conduct shall report its recommendations on changes to rule XXV of the Rules of the House of Representatives regarding the exceptions to the limitation on the acceptance of gifts contained in clause 5(a) of that rule to the Committee on Rules. In developing its recommendations, the Committee on Standards of Official Conduct shall consider the following:

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SODREL OF INDIANA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Amend section 502(b) to read as follows:

(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 at the end:

“(s)(1) 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).

“(2) The committee shall publish a list of Members who have and have not completed such ethics training within the first one hundred calendar days after being sworn-in during each Congress. The committee shall update this list with the names of Members who complete the training after the deadline with the date on which the training was completed.

“(3) Publication of the list of Members who have and have not completed the ethics training shall be made available on the official website of the committee and published in the Congressional Record.”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS, OR HER DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

In subsection (o)(4)(B)(i) of section 8332 of title 5, United States Code, as added by section 601(a) of the bill, strike “, but only to the extent” and all that follows through “circumstances”.

In subsection (l)(4)(B)(i) of section 8411 of title 5, United States Code, as added by section 601(b) of the bill, strike “, but only to the extent” and all that follows through “circumstances”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GINGREY OF GEORGIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Add at the end the following:

TITLE VII—LEADERSHIP PACS

SEC. 701. RESTRICTIONS ON DISPOSITION OF FUNDS BY LEADERSHIP PACS.

(a) RESTRICTIONS.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

“(b) USE OF FUNDS BY LEADERSHIP PACS.—

“(1) USES PERMITTED.—The funds of a leadership PAC may be used by the leadership PAC—

“(A) for otherwise authorized expenditures in connection with campaigns for election for Federal office;

“(B) for charitable contributions described in section 170(c) of the Internal Revenue Code of 1986; or

“(C) for transfers to a national, State, or local committee of a political party (subject to the applicable limitations of this Act).

“(2) LEADERSHIP PAC DEFINED.—In this subsection, the term ‘leadership PAC’ means a political committee which is directly

or indirectly established, maintained, or controlled by a candidate for election for Federal office or an individual holding Federal office but is not an authorized committee of the candidate or individual, except that such term does not include any political committee of a political party.”.

(b) CONFORMING AMENDMENT REGARDING CONVERSION OF FUNDS TO PERSONAL USE.—Section 313(c) of such Act (2 U.S.C. 439a(c)), as redesignated by subsection (a), is amended by inserting after “subsection (a)” the following: “or funds of a leadership PAC described in subsection (b)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections occurring after December 2006.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WOLF OF VIRGINIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

At the end of the bill, add the following new title:

TITLE VII—RESTRICTIONS RELATING TO AMBASSADORS AND INTELLIGENCE CHIEFS

SEC. 701. RESTRICTION ON AMBASSADOR OR INTELLIGENCE CHIEF FROM ACTING AS AGENT OF A FOREIGN PRINCIPAL.

Section 207(f) of title 18, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) ADDITIONAL RESTRICTION FOR AMBASSADORS AND INTELLIGENCE CHIEFS.—

“(A) RESTRICTION.—In addition to any other restriction, a person who is—

“(i) a United States Ambassador to a foreign country, or

“(ii) the head of intelligence activities for an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) with respect to a foreign country,

shall not, within 5 years after leaving such position, act as an agent of a foreign principal (as defined in section 1 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611)), with respect to that foreign country.

“(B) INJUNCTIVE REMEDY; JURISDICTION OF DISTRICT COURT.—Whenever in the judgment of the Attorney General any person is engaged in or about to engage in any acts which constitute or will constitute a violation of subparagraph (A), or otherwise is in violation of that subparagraph, the Attorney General may make application to the appropriate United States district court for an order enjoining such acts, or for an order requiring compliance with that subparagraph. The district court shall have jurisdiction and authority to issue a temporary or permanent

injunction, restraining order, or any other order that it considers proper.”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CASTLE OF DELAWARE, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Add at the end of the bill the following:

TITLE VII—ETHICS TRAINING FOR LOBBYISTS

SEC. 701. ETHICS TRAINING FOR LOBBYISTS.

(a) TRAINING COURSE.—During each Congress, the Committee on Standards of Official Conduct of the House of Representatives shall provide an 8-hour ethics training course to persons registered as lobbyists under the Lobbying Disclosure Act of 1995.

(b) CONTENTS OF COURSE.—Training under subsection (a) shall cover information on the code of conduct and disclosure requirements applicable to Members, officers, and employees of the House of Representatives, including rules relating to acceptance of gifts (including travel and meals), and financial disclosure requirements under the Ethics in Government Act of 1978.

(c) PENALTIES FOR FAILURE TO COMPLETE TRAINING.—Any person who is registered or required to register as a lobbyist under the Lobbying Disclosure Act of 1995 and who fails to complete the training course under subsection (a) at least once during each Congress shall be subject to the penalties under section 7 of that Act to the same extent as a failure to comply with any provision of that Act.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Add at the end of the bill the following:

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. BRIBERY.

Section 201(a)(3) of title 18, United States Code, is amended by inserting “including an earmark as defined in section 501(d) of the Lobbying Accountability and Transparency Act of 2006,” after “controversy,”.