

PROVIDING FOR THE CONSIDERATION OF H.R. 2564,
LOBBYING DISCLOSURE ACT OF 1995

NOVEMBER 15, 1995.—Referred to the House Calendar and ordered to be printed

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

R E P O R T

[To accompany H. Res. 269]

The Committee on Rules, having had under consideration House Resolution 269, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 2564, the "Lobbying Disclosure Act of 1995" under an open rule. The rule provides two hours of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives clause 2(l)(6) of rule XI, which is the three day layover, against consideration of the bill. It waives all points of order against any amendment printed in the report of the Rules Committee. This general waiver includes a waiver of clause 7 of rule XVI (the germaneness rule) to protect the McIntosh amendment. The rule provides one motion to recommit with or without instructions.

The rule further provides that, if the House passes a bill that is identical to the Senate bill, it will be in order to consider the Senate bill in the House without the intervention of any point of order. Finally the rule provides one motion to recommit on the Senate bill.

COMMITTEE VOTES

Pursuant to clause 2(l)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

RULES COMMITTEE ROLLCALL NO. 255

Date: November 15, 1995.

Measure: Rule for consideration of H.R. 2564, Lobbying Disclosure Act of 1995.

Motion by: Mr. Moakley.

Summary of motion: To strike the waivers of points of order protecting the amendments printed in this report of the Committee on Rules.

Results: Rejected, 5 to 7.

Vote by Members: Quillen—Nay; Goss—Yea; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Waldholtz—Nay; Moakley—Yea; Beilenson—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

The amendments against which all points of order are waived are the following:

1. AMENDMENT TO H.R. 2564 OFFERED BY MR. MCINTOSH
(DISCLOSURE OF RECEIPT OF FEDERAL FUNDS)

Beginning on page 24, redesignate sections 8 through 24 as sections 9 through 25, respectively, strike out "this Act" each place it occurs and insert "this Act (other than section 8)", and insert after line 5 on page 24 the following:

SEC. 8. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS.

(a) SUPPORT OR OPPOSITION TO FEDERAL, STATE, OR LOCAL GOVERNMENT POLICY.—Whenever a recipient organization that accepts Government funds makes any communication that in any way intends to promote public support or opposition to any policy of a Federal, State, or local government through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, such communication shall state the following: "This was prepared and paid for by an organization that accepts taxpayer dollars."

(b) SPECIAL DISCLOSURE REQUIREMENTS IF GOVERNMENT FUNDS RECEIVED.—Not later than January 31 of each calendar year, each recipient organization shall provide to any Government agency from which it receives Government funds a list which sets forth—

(1) the identity of all Government agencies from which it has received Government funds during the preceding calendar year;

(2) the amount or value of the funds received from each identified Government agency;

(3) the purposes for which the funds are provided to the recipient organization;

(4) the total amount expended by the recipient organization for lobbying during the preceding calendar year, including—

(A) all payments made for political advocacy;

(B) all payments made to influence legislative or administrative action or Government decisions;

(C) all payments made to lobbyists;

(D) any other lobbying expenses incurred by the recipient organization; or

(E) any endorsements or coalitions, which have as a purpose lobbying, that were joined or signed on to;

(5) the name and address of any person who was a registered lobbyist for the recipient organization during the preceding year;

(6) the total amount of any campaign-related contributions or expenditures made or the value of in-kind campaign-related contributions provided by the recipient organization during the preceding calendar year, including a description of—

(A) all payments or in-kind contributions made to any political party or political action committee;

(B) all payments or in-kind contributions in support of or in opposition to any candidate for political office;

(C) all payments or in-kind contributions in support of or in opposition to any initiative, measure, referendum, or recall of any public official;

(D) all payments or in-kind contributions in support of or in opposition to the nomination or appointment of any person to public office;

(E) all payments or in-kind contributions which relate to the reapportionment of any legislative body; and

(F) all payments or in-kind contributions provided to any affiliate of the recipient organization during the preceding year for any of the purposes enumerated in clauses (i) through (v) above; and

(7) a copy of the recipient organization's most recent financial statement.

The list provided under this subsection shall be made available for inspection by the public.

(c) FAILURE TO COMPLY.—If a recipient organization makes any communication described in subsection (a) and fails to provide the statement required by that subsection, or if such an organization receives Government funds and fails to make the list required by subsection (b), such organization shall—

(1) if such failure is the first failure, be subject to a civil money penalty of \$10,000, or

(2) if such failure occurs after such a failure, be ineligible to receive Federal funds for the 2 fiscal years following the fiscal year in which such failure occurred.

(d) DEFINITIONS.—For purposes of this section—

(1) GOVERNMENT DECISION.—The term “Government decision” includes regulations, policy and policymaking, projects, appointments, nominations, grants, contracts, subsidies, loans, loan forgiveness, and foreign aid of the Federal Government and legislation of the Congress (the introduction, passage, amendment, defeat, signing or veto of legislation, appropriations, resolutions, or constitutional amendments).

(2) GOVERNMENT FUNDS.—The term “Government funds” means all money or in-kind support, direct or indirect, whether by grant, gift, Federal assistance, loan, cooperative agreement, guarantee, or any other or similar means supported or funded by or from the Treasury of the United States. Government funds also include those funds that result from a legal settlement or consent decree in a Federal court which are discretionary in where they may be directed and which are provided to a recipient organization.

(3) INFLUENCE LEGISLATIVE OR ADMINISTRATIVE ACTION OR GOVERNMENT DECISION.—The term “influence legislative or administrative action or Government decision” means any activity intended to promote, support, influence, modify, oppose, or delay any legislative or administrative action or Government decision by means, including the provision or use of testimony, information, statistics, studies, endorsements, publicity, analyses, monetary or in-kind contributions, or any similar activity.

(4) LOBBYIST.—The term “lobbyist” means any individual or entity who is employed or contracts for consideration to communicate directly or indirectly, or through the lobbyist’s agent, with any executive or legislative body for the purpose of influencing any legislative or administrative action or Government decision.

(5) POLITICAL ADVOCACY.—The term “political advocacy”—

(A) includes—

(i) attempting to influence the outcome of any Federal, State, or local election, recall, referendum, reapportionment, initiative, or similar procedure, through monetary or in-kind contributions, endorsements, publicity, or similar activity;

(ii) establishing, administering, contributing to, or paying the expenses of a political action committee, either directly or indirectly;

(iii) attempting to influence any legislative or administrative action or any Government decision that is of general application, including grassroots lobbying;

(iv) participating in, raising funds for, or making any monetary or in-kind contribution in support of judicial or administrative litigation, other than litigation in which the recipient organization is a party with standing to sue, to intervene as a party, or to defend on its own behalf;

(v) payment of dues or the contribution of money, services, or any other thing of value, to an organization that uses 5 percent or more of its annual expenditures for political advocacy;

(vi) conducting or supporting programs which encourage or provide training or guidance with respect to political advocacy, boycotts, picketing, strikes, or demonstrations;

(vii) joining, organizing, or assisting in the creation of any organization, association, coalition, alliance, federation, cooperative, confederation, or similar entity which has as one of its purposes to engage in political advocacy;

(viii) publication of any analysis, study, research, memorandum, or statement of policy which is prepared or published with the intent or design of having an influence upon the outcome of any Federal, State, or local election, referendum, initiative, reapportionment, or similar procedure, or to influence legislative or administrative action or any Government decision; and

(ix) the conduct of any of the above enumerated actions by or through 1 or more affiliates; and

(B) does not include—

(i) providing technical advice or assistance to a legislative body in response to a written or oral request by the legislative body;

(ii) appearance before, or communication to, a legislative or executive body with respect to any possible decision of the legislative or executive body which would affect the existence of the recipient organization, its tax-exempt status, the deductibility of contributions to the recipient organization, or any enforcement action against the recipient organization;

(iii) communications between the recipient organization and its dues paying members with respect to pending or proposed legislative or administrative action or Government decisions which will affect the existence of the recipient organization, its tax-exempt status, the deductibility of contributions to the recipient organization, or any enforcement action against the recipient organization; or

(iv) participating in a particular activity which constitutes only collective bargaining as to wages, hours, benefits, or working conditions by an organized labor organization, as defined in section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5)), on behalf of employees which the labor or trade union represents.

(6) RECIPIENT ORGANIZATION.—The term “recipient organization” means any entity described in section 501 of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

(e) EFFECTIVE DATES.—This section shall take effect—

(1) with respect to a communication described in subsection (a), 1 year after the date of the enactment of this Act; and

(2) with respect to the list required by subsection (c), with respect to Government funds received 1 year after the date of the enactment of this Act.

2. AMENDMENT TO H.R. 2564, AS REPORTED, OFFERED BY MR.
ISTOOK OF OKLAHOMA

Page 37, strike lines 5 through 10 and insert the following:

SEC. 18. PROHIBITION ON SUBSIDIZING POLITICAL ADVOCACY WITH TAXPAYER FUNDS.

(a) LIMITATIONS.—

(1) PROHIBITION OF GRANTS FOR ORGANIZATIONS ENGAGING IN SUBSTANTIAL LOBBYING.—

(A) No organization may receive a grant in any Federal fiscal year if, during the preceding Federal fiscal year, the organization—

(i) received more than a total of \$125,000 in grants; and

(ii) had expenditures for lobbying activities in excess of a permissible amount determined by applying the formula set forth in section 4911(c)(2)(B) of the Internal Revenue Code of 1986, as modified by subparagraph (B) of this paragraph.

(B) In applying the formula referred to in subparagraph (A)(ii) for purposes of this paragraph:

(i) The last item in such formula (relating to amounts over \$1,500,000) shall be considered to refer instead to the following:

Over \$1,500,000 but not over \$17,000,000	\$225,000 plus 5 percent of the excess of the exempt purpose expenditures over \$1,500,000.
Over \$17,000,000	\$1,000,000 plus 1 percent of the excess of the exempt purpose expenditures over \$17,000,000.

(ii) The term “exempt purpose expenditures” shall be considered to refer instead to the total expenditures of the organization for such preceding Federal fiscal year, other than—

(I) the amounts excluded by section 4911(e)(1)(C) of the Internal Revenue Code of 1986; and

(II) an amount equal to the total amount received in grants by the organization during such preceding Federal fiscal year

(iii) The term “lobbying nontaxable amount” shall be considered to refer instead to the permissible amount under subparagraph (A)(ii).

(C) Subparagraph (A) shall not apply to any organization for which an election under section 501(h) of the Internal Revenue Code of 1986 is in effect during all of the preceding Federal fiscal year referred to in such subparagraph.

(2) PROHIBITION OF GRANTS FOR 501(C)(4) ORGANIZATIONS ENGAGING IN ANY LOBBYING ACTIVITIES.—An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engaged in lobbying activities during the organization’s previous taxable year shall not be eligible to receive Federal funds constituting a grant.

(b) DEFINITIONS.—For the purposes of this section (and notwithstanding section 3):

(1) AGENCY.—The term “agency” has the meaning given that term in section 551(1) of title 5, United States Code, but includes agencies of State and local governments.

(2) CLIENT.—The term “client” means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term “covered executive branch official” means any officer or employee of the executive branch of the Federal Government, or of any State or local government.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term “covered legislative branch official” means any officer or employee of the legislative branch of the Federal Government, or of any State or local government.

(5) EMPLOYEE.—The term “employee” means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) FOREIGN ENTITY.—The term “foreign entity” means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(7) GRANT.—The term “grant” means the provision of any Federal funds, appropriated under this or any other Act, to carry out a public purpose of the United States, except—

(A) the provision of funds for acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States;

(B) the payments of loans, debts, or entitlements;

(C) the provision of funds to, or distribution of funds by, a Federal court established under Article I or III of the Constitution of the United States;

(D) nonmonetary assistance provided by the Department of Veterans Affairs to organizations approved or recognized under section 5902 of title 38, United States Code; and

(E) the provision of grant and scholarship funds to students for educational purposes.

(8) LOBBYING ACTIVITIES.—The term “lobbying activities” means—

(A) lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others; and

(B) advocating the election or defeat of any candidate for public office, or the passage or non-passage of any ballot proposition.

(9) LOBBYING CONTACT.—

(A) DEFINITION.—The term “lobbying contact” means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of any legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of any rule, regulation, Executive order, or any other program, policy, or position of the government;

(iii) the administration or execution of a government program or policy (including the negotiation, award, or administration of a government contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate, or by a State or local legislative body.

(B) EXCEPTIONS.—The term “lobbying contact” does not include a communication that is—

(i) made by a public official acting in the public official’s official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee;

(vii) testimony given before a legislative committee, subcommittee, or task force, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to an oral or written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the government;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the government is specifically required by statute or regulation to maintain or conduct on a confidential basis, if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with—

(I) a covered executive branch official; or

(II) a covered legislative branch official (other than the individual's elected legislative representatives or employees who work under such representatives' direct supervision),

with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law;

(xviii) made by—

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and

(xix) between—

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act) that is registered with or established by the Securities and Exchange Commission as required by that Act or a similar organization that is designated by or registered with the Commodities Future Trading Commission as provided under the Commodity Exchange Act; and

(II) the Securities and Exchange Commission or the Commodities Future Trading Commission, respectively;

relating to the regulatory responsibilities of such organization under that Act.

(10) **LOBBYING FIRM.**—The term “lobbying firm” means a person or entity that has one or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(11) **LOBBYIST.**—The term “lobbyist” means any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a six month period.

(12) **MEDIA ORGANIZATION.**—The term “media organization” means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(13) **ORGANIZATION.**—The term “organization” means a person or entity other than an individual.

(14) **PERSON OR ENTITY.**—The term “person or entity” means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(15) **PUBLIC OFFICIAL.**—The term “public official” means any elected official, appointed official, or employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(16) STATE.—The term “State” means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(c) DISCLOSURE REQUIREMENTS.—Not later than December 31 of each year, each organization receiving a grant shall provide (via either electronic or paper medium) to each Federal entity that awarded or administered its grant an annual report for the previous Federal fiscal year, certified by the grantee’s chief executive officer or equivalent person of authority, setting forth—

(1) the grantee’s name and grantee identification number;

(2) a statement that the grantee agrees that it is, and shall continue to be, contractually bound by the terms of this section as a condition of the continued receipt and use of Federal funds; and

(3)(A) a statement that the grantee spent less than \$25,000 on lobbying activities in the grantee’s most recent taxable year; or

(B)(i) the amount or value of the grant (including all administrative and overhead costs awarded);

(ii) a good faith estimate of the grantee’s actual expenses on lobbying activities in the most recent taxable year; and

(iii) a good faith estimate of the grantee’s allowed expenses on lobbying activities under subsection (a).

(d) PUBLIC ACCOUNTABILITY.—

(1) PUBLIC AVAILABILITY OF LOBBYING DISCLOSURE FORMS.—Any Federal entity awarding a grant shall make publicly available any grant application, and the annual report of a grantee provided under subsection (c).

(2) ACCESSIBILITY TO PUBLIC.—The public’s access to the documents identified in paragraph (1) shall be facilitated by the Federal entity by—

(A) placement of such documents in the Federal entity’s public document reading room;

(B) expediting any requests under section 552 of title 5, United States Code (the Freedom of Information Act), ahead of any requests for other information pending at such Federal entity; and

(C) submitting to the Bureau of the Census a report (standardized by the Office of Management and Budget) setting forth the information provided in such documents, which the Bureau of the Census shall make available to the public through the Internet.

(3) WITHHOLDING PROHIBITED.—Records described in paragraph (1) shall not be subject to withholding, except under the exemption set forth in subsection (b)(7)(A) of section 552 of title 5, United States Code.

(4) FEES PROHIBITED.—No fees for searching for or copying such documents shall be charged to the public.

(e) EFFECTIVE DATE.—The provisions of this section shall become effective January 4, 1996, and shall apply thereafter.