

EXECUTIVE SUMMARY

This report is the culmination of Citizens for Responsibility and Ethics in Washington's ("CREW") investigation into how members of Congress use their positions to financially benefit family members.

In June 2007, CREW released *Family Affair*, which reported the results of a systematic investigation into members of the House of Representatives. CREW's inquiry focused on the 2002, 2004 and 2006 election cycles and examined the 337 members of the House of Representatives in top leadership positions and the chairs and ranking members of House committees and subcommittees. CREW staff looked at campaign committee and political action committee ("PAC") expenditures to the family members of representatives as well as whether representatives had family members employed as lobbyists.

CREW then began a similar investigation into members of the U. S. Senate. This proved far more time consuming and difficult than the examination of House members because unlike representatives, senators do not file campaign finance reports electronically. CREW staff had to review Federal Election Commission ("FEC") disbursement schedules page by page from 2001 through 2006 for every principal campaign committee, authorized campaign committee, joint fundraising committee and PAC of every senator. By reviewing data for the 2002, 2004 and 2006 election cycles, CREW's investigation encompassed each senator's election year as well as five additional years.

While certainly aiming to be exhaustive, as a result of name changes and a lack of available information, CREW may not have uncovered every family relationship. Similarly, because senators are not required to disclose their affiliation with PACs, CREW inadvertently may have omitted PAC disbursements that should have been included.

Although it is illegal for members of Congress to hire family members as employees on their official staff,¹ it is not illegal for lawmakers to employ family members through campaign committees or PACs. It is illegal, however, to convert campaign funds to personal use. The FEC has indicated that certain uses of campaign funds will be considered per se personal use, including salary payments to family members, unless such payments are at fair market value for bona fide campaign related services. The FEC presumes that a relative is hired because he or she is qualified for the job and is paid what a similarly qualified professional would be paid.² CREW made no attempt to verify the qualifications of those relatives on senator's campaign payrolls or that the payments represented fair market value for the services rendered.

It is also legal for close relatives of members to lobby, yet the unique access offered to these lobbyists creates a situation ripe for abuse. Nevertheless, there are at least 33 lobbyists closely related to senators.

¹ 5 U.S.C. § 3110; *see also* Congressional Handbook, note 6, sec. 2.I.A.2, at 2.1.

² FEC Advisory Opinion 2001-10, July 17, 2001.

METHODOLOGY

CREW reviewed the Federal Election Commission reports of all sitting U.S. Senators except for John Barrasso (R-WY) and Roger Wicker (R-MS), both recently appointed to the Senate. Former Senator Trent Lott (R-MS) is included because he resigned from the Senate while CREW was preparing the report.

CREW attempted to discover the names of senators' close relatives, namely spouses, siblings and children. This involved reviewing senators' official web sites as well as other web sites such as Project Vote Smart, Congresspedia, Congress Merge, Accurint, www.nndb.com and searching for news articles on Nexis and Google. Nevertheless, because senators are under no obligation to provide this information, it is likely that we missed some family members. In a few cases, although we were not intentionally searching for it, we uncovered additional information regarding more distant relations such as nephews and nieces.

After compiling a list of family members, CREW used the senators' personal financial disclosures, posted on the Center for Responsive Politics' website, www.opensecrets.org, to review spouses' employment records.

Because senators, unlike members of the House, do not file their campaign finance reports electronically, we could not use www.opensecrets.org to search through records of disbursements made by senators' campaign committees. Therefore, CREW researchers faced the daunting task of reviewing -- page by page -- the actual FEC disbursement schedules of principal and authorized campaign committees of senators, joint fundraising committees and PACs controlled by senators (89 senators control so-called "leadership PACs.")

CREW relied on the web site of the Senate Office of Public Records, www.senate.sopr.gov, to determine whether senators' family members were or have been registered lobbyists.

Finally, we relied on previously published news reports for evidence indicating that senators used their positions to financially benefit family members.

As in the House project, CREW reported on senators who paid family members, had family members who were registered lobbyists, made contributions to a family member's political campaign, paid a company in which a family member has a financial interest or somehow used his or her position to benefit a family member or a family member's client. While the House report included reimbursements only for family members, in the Senate report CREW includes reimbursements made to senators as well as their family members.

RECOMMENDATIONS

Electronic Filing

Since 2003, Sen. Russ Feingold (D-WI) has introduced the Senate Campaign Disclosure Parity Act to require Senate candidates to file designations, statements and reports in electronic form. In 2007, he reintroduced this legislation with Sen. Thad Cochran (R-MS).¹ Currently, candidates for House seats, presidential candidates, political action committees and party committees are all required to file finance reports electronically, but the principal campaign committees of senators and Senate candidates as well as the Democratic and Republican senatorial campaign committees are not.² This exemption makes Senate campaign finance reports less accessible to the public.

Sen. Feingold's common-sense bill would require those currently exempt from filing electronically to do so. Sen. John Ensign (R-NV), the current chair of the National Republican Senatorial Committee, repeatedly has blocked passage of the bill, refusing to allow the bill to go forward absent an amendment requiring any nonprofit organization that files an ethics complaint against a senator to disclose the names of those who have donated more than \$5,000 to the organization.

As the situation stands now, Senate candidates file their reports with the Secretary of the Senate, which then forwards the information to the Federal Election Commission ("FEC"), which in turn, hires an outside contractor to transcribe the reports into electronic form. Accordingly, contributions made to Senate candidates in the two months prior to a general election do not become available electronically until months after the election is over. As a result, it is difficult for the public to determine who is financing which candidates until well after an election has been decided. Similarly, any violations of campaign finance laws also will not be discovered until after the election.

CREW supports Sen. Feingold's bill. Sen. Ensign's amendment is merely a red herring designed to prevent the NRSC and Republican Senate candidates from having to disclose their campaign contributors in a timely manner. Senator Ensign's amendment properly should be referred to the Senate Finance Committee, which has jurisdiction over the tax code and has been focusing on 501(c)(3) organizations that abuse their charitable tax status.

Disbursements to Family Members

In June 2007, Rep. Adam Schiff (D-CA) introduced the Campaign Expenditure Transparency Act,³ which would both prohibit the payment of campaign or leadership PAC funds to spouses of candidates or officeholders and require the disclosure of any disbursements by a campaign committee or leadership PAC to the immediate family members of candidates or officeholders. Payments to business entities would be treated

¹ S. 223, 110th Cong., 1st Sess. (2007).

² 2 U.S.C. § 432(g).

³ H.R. 2630, 110th Cong., 1st Sess. (2007).

as payments to family members if the spouse or an immediate family member of the candidate or officeholder was an officer or director of the business entity.

Even if not prohibited outright, the role of family members in the operation of political committees should be made more transparent. First, candidates and officeholders should be required to publicly disclose all of the political committees, including leadership PACs, they establish, finance, maintain or control. Second, candidates and officeholders should be required to identify individuals as family members when reporting political committee expenditures made to them

In July 2007, the House passed the Schiff bill and sent it to the Senate, where it is languishing in the Senate Committee on Rules and Administration. As passed by the House, the law would prevent spouses, but not all family members, from collecting a salary from PACs, increase disclosure requirements for payments and travel expenses involving immediate family members, and prevent campaign committees from reimbursing candidates for fines levied by the FEC.

CREW supports the Schiff bill and believes that the Senate should act on this legislation promptly.

Leadership PACs

Currently, candidates and lawmakers can maintain and operate leadership PACs without disclosing the identities of the candidates or lawmakers associated with the PACs and the names of PACs often do little to illuminate the connection. For example, Sen. Wayne Allard (R-CO) is affiliated with the Changing Tide PAC and Sen. Joe Biden (D-DE) is affiliated with the Unite Our States PAC. The lack of a clear, easily discoverable connection between a member of Congress and his or her leadership PAC leaves the public with an incomplete picture of a lawmaker's campaign finances and allows members to spend PAC funds freely, with minimal concern of criticism.

In January 2007, Rep. Walter Jones (R-NC) introduced the Leadership PAC Disclosure Act,⁴ which would amend the Federal Election Campaign Act ("FECA") to require political committees that are established, financed, maintained or controlled by one or more candidates or officeholders to disclose the identities of those candidates or officeholders on the political committees' Statement of Organization and all subsequent reports filed with the FEC. Making members accountable for the activities of their PACs might lead them to more carefully consider their expenditures. Rep. Jones' bill was referred to the House Committee on House Administration, where no action has been taken and there is no companion bill in the Senate.

The FEC is already moving administratively to require such disclosure for newly-formed leadership PACs. The Honest Leadership and Open Government Act of 2007 amended the FECA to require the disclosure of contributions bundled by registered lobbyists to

⁴ H.R. 347, 110th Cong., 1st Sess. (2007).

authorized campaign committees, leadership PACs or political party committees.⁵ The FEC is in the process of considering regulations to implement this new disclosure requirement. In anticipation of those new regulations, in December 2007 the FEC issued a revised Statement of Organization form that all newly-created political committees must file when registering with the Commission. The revised form requires a political committee to identify itself as a leadership PAC if it is directly or indirectly established, financed, maintained or controlled by a federal candidate or officeholder and must disclose the identify of the sponsoring candidate or officeholder.

CREW has attached a list of the leadership PACs affiliated with senators as an appendix to this report, but given that new leadership PACs are formed regularly, CREW supports the Jones bill and believes both the House and Senate should pass this legislation.

Lobbyists

Given that a significant number of lawmakers have relatives who are lobbyists, at a minimum, such relationships should be disclosed. CREW recommends that all members of Congress be required to provide the Senate Office of Public Records (“SOPR”) with the names and employers of all relatives who lobby and that this information be made publicly available on the Internet. Similarly, in the disclosure reports filed with the SOPR, lobbyists should be required to provide the names of any lawmakers to whom they are related.

Such disclosure is especially important given the disparate rules regarding lobbying by congressional relatives adopted by the House of Representatives and the Senate. The Honest Leadership and Open Government Act of 2007 amended the Rules of the House to prohibit staff employed by a member of the House from having any lobbying contact with the Member’s spouse if the spouse is a registered lobbyist or is employed or retained by a registered lobbyist for the purpose of influencing legislation.⁶ In contrast, the Act also amended the Standing Rules of the Senate to require senators to prohibit staff employed by the senator from having any lobbying contact with the senator’s spouse or immediate family members if the senator’s spouse or immediate family member is a registered lobbyist, is employed or retained by a registered lobbyist or an entity that hires or retains a registered lobbyist for the purpose of influencing legislation.⁷ In addition, the Act amended the Standing Rules of the Senate to prohibit senators and their staff from having any lobbying contact with a senator’s spouse if the spouse is a registered lobbyist or is employed or retained by a registered lobbyist unless the spouse was a registered lobbyist at least one year before the senator’s most recent election to that office or at least one year before the spouse’s marriage to the senator.⁸

⁵ Pub. L. No. 110-81, § 204, 121 Stat. 735, 744-46 (2007) (to be codified at 2 U.S.C. § 434(i)).

⁶ *Id.* at § 302, 121 Stat. 735, 752 (2007) (codified at Rule XXV, cl. 7 of the Rules of the House of Representatives).

⁷ *Id.* at § 552, 121 Stat. 735, 773 (2007) (codified at Rule XXXVII, cl. 11(a) of the Standing Rules of the Senate).

⁸ *Id.* (codified at Rule XXXVII, cl. 11(b) & (c) of the Standing Rules of the Senate).