John LOCKE FOUNDATION

SPOTLIGHT

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Budgetary Rent Control

Why taxpayers should care about lobbying reform

Summary: A broad coalition of lawmakers and policy groups favors fundamental changes in North Carolina's lobbying laws to require more disclosure , create "cooling off periods" before former officeholders can lobby, and restrict the value of personal gifts to public officials. While there are many justifications advanced for reform, an overlooked issue is the role that special-interest lobbying plays in distorting fiscal policy and stunting economic growth. Using personal gifts and insider pull to get special favors is rent-seeking behavior. It harms the public interest.

The North Carolina House is currently considering a bill, passed overwhelmingly by the Senate, that would reform the state's lobbying laws. The legislation is supported by a broad-based coalition of public-policy organizations, interest groups, editorialists, and citizen activists across the state.[1]

The bill has several key provisions. Current law requires registered lobbyists to report their expenditures, but the so-called "goodwill" loophole allows them to spend unlimited sums on meals, travel, and other gifts to lawmakers as long as no specific legislation is discussed. The new measure would tighten this loophole (though expenditures made by certain public and nonprofit institutions would remain exempt from disclosure). The bill would also extend regulations to those lobbying executive-branch agencies, impose a cap of $100 per lawmaker on personal gifts from lobbyists, and instigate a "cooling-off period" to limit the ability of public officials to resign and immediately begin lobbying their former colleagues.[2]

Thus far, the case for lobbying reform, as developed by the work of organizations such as the Common Sense Foundation[3] and Democracy South[4], has focused on the need for openness and fairness in the legislative process. Advocates argue that voters deserve to know who is spending what to influence their elected officials, and that other states appear to conduct the government's business successfully despite having some or most of the provisions in place that are in the North Carolina legislation.[5]

Despite the 49-0 vote in the Senate for the bill, there *is* opposition to lobbying reform, albeit not often voiced in public. Some lawmakers see lobbyist-provided meals, trips, and other gifts — and the prospect of immediately joining the ranks of lobbyists when they retire — as implicit and important components of the compensation they receive. And some lobbyists believe they should be able to make such expenditures without impediment and that more disclosure rules would be an excessive burden.

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One hinted-at reason for maintaining the current system is that it provides the state's business community, as represented both by individual lobbyists and various trade associations, with a strong voice in Raleigh to ensure that pro-business policies are followed by state government. After all, most of the lobbies that appear to spend large sums on receptions, meals, trips, and related activities are associated with big corporations. According to this argument, to require full disclosure and institute a system of caps would inevitably weaken their clout, and thus result in public policies inimical to business health, job creation, and economic development.

This argument may sound superficially plausible, but in practice there are several logical and empirical problems. First and foremost, the proposed lobbying reforms do not in any way restrict the right of individuals and groups to spend their money expressing their views on public-policy issues. Indeed, most of what is termed "lobbying" consists of constitutionally protected rights to speak, print, assemble, and petition government for a redress of grievances. None of these activities is affected by the legislation. Groups large and small can continue to spend as much of their own money as they want researching issues, printing newsletters and reports, conducting advertising campaigns, participating in electoral politics, and hiring lobbyists to advocate their cause directly to legislative or executive-branch policymakers.

Whose Interests Are Being Represented?

Second, it is by no means clear that lobbyists for particular businesses or industry groups actually represent "the business community" as a whole, or any particular and coherent set of pro-growth state policies. There are well-financed lobbying efforts on behalf of a variety of specific issues and causes, in many cases pitting some business or professional groups against other business or professional groups on issues of tax policy, government spending, or regulation. In recent years, it has also become clear that the viewpoints of many if not most of those engaged in business in North Carolina — entrepreneurs, investors, managers, employers, professionals, and workers — are not necessarily reflected in the lobbying efforts of trade associations and business lobbyists in Raleigh. For example, while public opinion among both business executives and the general public appears to be against the tax increases enacted by the state since 2001[6], most associations and lobbyists in Raleigh remained neutral or even actively supported the higher taxes.

To those familiar with recent empirical research in the area of political economy, this gap in political interests or preferences should not be surprising. The "public choice" school of economics, for example, specializes in explaining how powerful, well-represented interest groups, though a minority, often prevail in disputes with larger groups or the general public. Those who seek to obtain special benefits from government — known in the economics jargon as a "rent" — have strong financial incentives to inform themselves about politicians and the process, mobilize their members, and employ lobbyists to advance their cause. A state budget item or tax break might cost individual taxpayers only a few cents, and thus escape their notice, but can be worth millions of dollars to beneficiaries, who have every reason to keep those rent checks coming in.[7]

Although much theoretical and some empirical research has been conducted in this area, little of it focuses on state-level politics, public expenditures, and interest-group behavior. There are some intriguing indicators, however, that it is questionable for opponents of lobbying reform to assert that "business" or the economic climate in North Carolina would be harmed if lobbying were more closely regulated. For example, there appears to be no evidence to suggest that states where lobbyists are free to curry favor with lawmakers through unrestricted and undisclosed personal gifts are more likely to minimize taxes and regulations on business activity.

Obviously, individual firms or industries may obtain a special tax break or favorable ruling through aggressive lobbying, but that doesn't mean that the overall business climate is improved. Indeed, if anything the opposite may be true, as reflected in the nearby table.

Lobbying Laws and Tax Policies in Southeastern States

State	Corporate-Tax Score	Income-Tax Score	Sales-Tax Score
Most-Regulated Lobbyists	**5.66**	**5.45**	**5.67**
Georgia	*5.71*	*4.58*	*6.19*
South Carolina	*5.81*	*4.05*	*5.65*
Tennessee	*7.78*	*7.78*	*4.14*
Virginia	*6.05*	*5.37*	*6.68*
Less-Regulated Lobbyists	**5.47**	**7.43**	**5.59**
Alabama	*5.07*	*5.14*	*5.77*
Florida	*5.86*	*9.72*	*5.41*
Least-Regulated Lobbyists			
North Carolina	*5.16*	*3.69*	*4.78*

NOTES: States with "most-regulated lobbyists" had at least three provisions in place among those included in proposed NC legislation. "Less-regulated" had at least two in place. NC has none. States rank higher on tax scores if they impose fewer and lower marginal rates and minimize special exclusions from the tax base.

SOURCES: Common Cause North Carolina (2005), Tax Foundation (2004)

The Washington-based Tax Foundation released its most recent ranking of state business-tax burdens in 2004.[8] Pulling out scores for the three major state taxes affecting business — on corporate income, personal income, and retail sales — and matching them up with recent evaluations of lobbying laws by Common Cause, it can be seen that among the seven Southeastern states evaluated, North Carolina has the least-attractive tax structure *and* the least-stringent lobbying regulations.

The Tax Foundation study gives a higher score to tax systems that levy few and low marginal tax rates on the broadest-possible tax base. To the extent that lobbyists secure special tax exemptions or credits, they may help individual clients while actually making the overall tax structure less attractive for entrepreneurs, investors, and small-business owners who are less likely to be politically active or well-connected to political insiders.

Study Findings on Factors Influencing Growth

Significant Impact on State Economic Growth	Standard Coefficient
• Starting Size of a State's Economy (the reversion to the mean: less-affluent states tend to grow faster than more-affluent states do)	-0.531 (1999) -0.149 (2002)
• Marginal State and Local Tax Rates	-0.222 (1999)
• State's Real Investment in Public Capital (such as Highways) as a share of Real Gross State Product	+0.022 (2002)
• Real State Government Expenditures on Police and Fire Protection Services Per Capita	+0.192 (2002)
• Cost of Energy Used in Production (Dollars per BTUs)	-0.067 (2002)
• Number of Groups with Registered Lobbyists	**-1.328 (2002)**
• Lobbying Groups in Proportion to GSP	**-0.579 (2002)**
• Share of State's Workforce Employed in Government, Law, or Registered Lobbying	**-0.852 (1999)**
No Significant Impact on State Economic Growth	
• Manufacturing Output as a Share of GSP	
• Real Investment in Private Capital as Share of GSP	
• Share of State Workers with High-School Education	
• Share of State Workers with College Education	
• Rate of Growth in State's Resident Population	

NOTE: A larger standard coefficient, whether positive or negative, means a larger impact on state economic growth.
SOURCES: Harold J. Brumm (1999); Ismail M. Cole and M. Arshad Chawdhry (2002)

A more comprehensive and rigorous exploration of these issues can be found in two papers published in the *Cato Journal*.[9] They report the results of econometric models fashioned by economists to attempt to explain variations in economic growth among American states. In brief, the two studies found that measurements of lobbying activity exhibit some of the strongest effects on state economic growth of any other factor studied. The authors conclude, in part, that jurisdictions with particularly heavy concentrations of lobbying efforts and expenditures may end up with distortions in tax or spending policies that harm economic growth, such as routing scarce dollars away from needed investments in highways or other infrastructure that may confer broad benefits on the state's economy rather than just specific benefits on well-connected interest groups.

To assert that lobbying as it is currently practiced in North Carolina is indispensable to maintaining a pro-growth, pro-business climate is to offer a *non sequitur*. Recent legislative sessions have been typified by general tax increases, targeted corporate subsidies, and other policies that have deviated from sound principles of fiscal conservatism and harmed most businesses and industry sectors. As long as the rights of citizens to express their views or hire others to do so on their behalf are not infringed — and the proposed legislation refrains from such infringement — lobbying reforms to require disclosure, limit personal gifts to public officials, and ensure that political insiders do not enjoy undue influence in the halls of power could well improve rather than injure North Carolina's business climate.

—John Hood, President

Notes

1. The John Locke Foundation is a member of the North Carolina Coalition for Lobbying Reform, which can be found at www.nclobbyreform.org.
2. David Ingram, "Senate approves lobbyist bill," *The Winston-Salem Journal*, April 14, 2005.
3. Courtney Enlow and Elena Everett, "Who Lobbies?" Common Sense Foundation, April 2005, http://www.common-sense.org/?fnoc=/common_sense_says/05_april.
4. "Lobbyists Earn Millions, but Disclose Less about Wining and Dining Than 15 Years Ago," Democracy North Carolina, May 2, 2005, http://www.democracy-nc.org/moneyresearch/2005/lobbyistsearn.html.
5. "Southern States Top North Carolina Lobbying Laws," Common Cause North Carolina, April 11, 2005, http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=192882.
6. A JLF survey of NC voters in October 2004 found that 58 percent disapproved of the tax hikes since 2001, while 29 percent approved. In a March 2004 survey of NC business leaders, 68 percent favored spending cuts alone to balance the budget while 3 percent favored taxes alone and 29 percent a mix.
7. See, for example, James M. Buchanan and Gordon Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy*, Ann Arbor: University of Michigan Press, 1962.
8. Scott Hodge, et. al., "State Business-Tax Climate Index," *Background Paper* No. 45, Tax Foundation, Washington, D.C., October 2004.
9. Harold J. Brumm, "Rent Seeking and Economic Growth: Evidence from the States," *Cato Journal*, Vol. 19, No. 1, Spring/Summer 1999; and Ismail M. Cole and M. Ashad Chawdry, "Rent Seeking and Economic Growth: Evidence from a Panel of States," *Cato Journal*. Vol. 22, No. 2, Fall 2002.