

STATE-LEVEL LOBBYING AND TAXPAYERS: *How Much Do We Really Know?*



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**State-Level Lobbying and Taxpayers: How Much Do We Really Know?
Assessing State Lobbying Disclosure Laws and Accessibility**

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Statement of Research Quality

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From the American founding to the present day, people have worried about the influence of interest groups, or factions, on the country and on its politics. One of the main fears is that small but organized interest groups can secure large benefits through the polity and impose the costs on the larger population. Indeed, many worry about the sacrificing of the majority for the interests of a small but powerful minority. For a number of complicated and intertwined reasons, the public's anxiety about the influence of special interests has increased over the last few years. This study aims to advance our understanding of interest groups and their influence.

State of Research

There is broad and well developed research on private-sector interest groups and their associated lobbying however there is a disconcerting lack of research on government-financed or what has been called taxpayer-funded lobbying, conducted by public-sector groups. This is a critical oversight, given the stark differences between the private and public sectors.

An established body of research confirms that private-sector lobbying faces a number of constraints that act as disciplining mechanisms on their activities. Competition between private-sector lobbyists, for example, imposes discipline. In addition, private-sector organizations have limited resources, and must show results to their supporters. These market-based constraints, which result in a self-reinforcing discipline on political participants, simply do not exist, or at the very least are muted, when taxpayers fund the lobbying. These stark differences require a better understanding of taxpayer-funded lobbying, a central aim of this study, if we are to comprehend lobbying and interest groups more broadly.

As state and local governments have expanded over recent decades, their importance in the total mix of government spending and regulatory activity has increased.

It's Not Just the Federal Government

Lobbying of government does not simply occur at the federal level, where a great deal of information and transparency exist. The same is not true of lobbying at the state level. As state and local governments have expanded over recent decades, their importance in the total mix of government spending and regulatory activity has increased. This has launched a flurry of lobbying activity in state capitals. Thus, a second goal of the study is to further our understanding of lobbying at the state level. The approach is to conjoin the two issues by examining lobbying at the state level with particular attention to taxpayer-funded lobbying.

How Widespread is Taxpayer-Funded Lobbying in the States . . .

California served as a case study to examine the extent of taxpayer-funded lobbying at the state level. Without any adjustments to the state-provided data, *Government* lobbying, which includes municipalities, counties,

regional authorities (including transportation, waste management, water, and recreation), and state and regional commissions, constituted 16.8 percent of the total lobbying in California in 2007 and 2008 (\$92.6 of \$552.6 million).

Our goal of determining and analyzing the extent of taxpayer-funded lobbying requires us to go beyond the definitions provided by the state. The central issue is the source of funds used by organizations in lobbying. If the resources are ultimately provided or secured by the government, then it is correctly defined as taxpayer-funded. Thus, portions of additional lobbying categorized by the state as *Education*, *Public Employees*, and *Labor Unions* also need to be analyzed to ascertain the extent of taxpayer-funded lobbying.

The analysis and subsequent reclassification of some of the lobbying categorized within these three areas results in a more pronounced dominance for *Government* and related taxpayer-funded lobbying in California as a portion of the total. The revised *Government* and related taxpayer-funded lobbying totaled \$131.4 million in 2007 and 2008, representing nearly one quarter (23.8 percent) or one in every four dollars of lobbying in California in 2007 and 2008. Alternatively, the bottom 12 categories (19 in total) of lobbying constituted nearly the same, 25.9 percent, as the single *Government* category. In California, these figures confirm that government lobbying of government (taxpayer-funded) is a dominant source of lobbying at the state level.

. . . Compared to the Federal Government?

State-level taxpayer-funded lobbying comes into perspective when compared to other types of lobbying. It is also important to gauge the magnitude of taxpayer-funded lobbying at the state level compared to the federal level. According to federal data, a total of \$3.3 billion was spent on lobbying in 2008. One of the categories, *Civil Servants and Public Officials*, is close to the state-level definition used in California for *Government*. This proximity in definitions allows us to compare the magnitude of government lobbying at the state level with government lobbying at the federal level.

According to the Center for Responsive Politics, a total of \$84.2 million in lobbying spending in 2008 was classified as *Civil Servants and Public Officials*, of which \$20.7 million, or nearly one-quarter of the entire amount, was based in California. More surprising, however, is how the \$20.7 million spent by California-based taxpayer-funded organizations on the federal government compares to similar expenditures at the state level.

The total lobbying spending by *Government* (before adjustments for other taxpayer-funded lobbying) in California for state-level lobbying was \$50.1 million in 2008. This means that government-to-government lobbying at the state level is at least two-and-a-half times that of government-to-government lobbying at the federal level. In other words, taxpayer-funded lobbying of the federal government by California organizations is a little more than 40 percent of the spending on lobbying by taxpayer-funded groups in California at the state level.

The State of State-Level Lobbying Disclosure Laws

One of the major undertakings of the study was to evaluate the state of lobbying disclosure laws at the state level across all 50 states. We created a set of 37 criteria relating to different aspects of lobbying disclosure laws and applied those criteria to each of the state's laws and regulations governing lobbying disclosure.

Overall, Montana received the highest score of 31 out of a possible 37, or 83.8 percent. By this analysis, Montana was deemed to maintain the best set of lobbying disclosure laws among the 50 states relative to the 37 criteria used. Other high-performing (ranked) states were Arizona (81.1 percent), South Carolina (78.4 percent), Texas (78.4 percent), and Indiana (75.7 percent).

A total of 11 states received scores below 50 percent, indicating a rather poor set of lobbying disclosure laws. Perhaps more worrying for those concerned about disclosure was that the average score was 21.9 out of 37, or 59.3 percent, indicating room for improvement across almost every state.

West Virginia and Nevada shared the dubious distinction of ranking last in the country with a score of 11 out of 37, or 29.7 percent. Other low-ranking (poorly performing) states included New Hampshire (32.4 percent), Maryland (35.1 percent), Kansas (37.8 percent), Oklahoma (37.8 percent), and Wyoming (37.8 percent).

In terms of the overall score, we examined five areas of lobbying disclosure laws: (1) registration requirements, (2) exemptions for government, (3) defining public entities, (4) materiality, and (5) disclosure.

(1) Registration

This component examined 11 categories of potential lobbying activity to determine who was required to register within each state. The scores ranged from a high of 11 in Arizona to a low of 1 in Maryland, Minnesota, New Hampshire, New Jersey, and West Virginia. The average score (out of 11) for the 50 states was 6.4 or a little more than 50 percent.

In terms of private-sector lobbying, which included lobbyists, volunteer lobbyists, principals employing a lobbyist, and lobbying firms, the scores varied considerably. All 50 states require lobbyists to register. Only 17 states, however, require volunteer lobbyists to register, only 24 states require principals to register, and only 17 states require lobbying firms to register.

Perhaps more disconcerting are the results for public-sector entities. The average requirement of the seven categories of public-sector entities with the potential to engage in lobbying was 4.2. In other words, on average, states require 4.2 of the 7 categories of public-sector or taxpayer-funded organizations to register for lobbying activity.

In some cases the exemptions were stark. For instance, only six states require government agencies to register when lobbying. Only 31 states include the legislative branch in lobbying registration requirements. Further, 13 states exempt the governor's office and the broader executive branch from lobbying registration.

These exemptions essentially mean that individuals in the private sector are required to register and report their lobbying activities while people in the public sector (taxpayer-funded) may be exempt even though they pursue the same lobbying activities.

(2) Exemptions for Government

The second group of criteria pertains to exemptions for government agencies and departments. A shocking 44 states provide specific exemptions in their lobbying laws for public agencies and public officials. The common response was that such lobbying duties were a “natural” or inherent function of public office. That response ignores a crucial reality. By providing such exemptions, state governments are permitting taxpayer-funded organizations to undertake lobbying activities without the same transparency—and thus accountability—as required for private-sector lobbying. Indeed, some 18 states formally indicate in their lobbying laws that government agencies are not subject to the same disclosure requirements as private-sector lobbyists and principals. Exempting government agencies and departments seems to be an acute problem in states like Colorado, Kentucky, Maine, Maryland, Nevada, New Hampshire, New Jersey, New York, Rhode Island, and West Virginia, all of whom received scores of 0 out of 4 on this measure.

(3) Defining Public Entities

Lobbying laws contain a definition of a public entity in only six states: Arizona, Indiana, Iowa, Ohio, Oregon, and South Carolina. The fact that 88 percent of states do not include a definition of public entities in their lobbying laws indicates a clear source of needed improvement in the future.

(4) Materiality Test

A full 32 states provide some type of exemption for small or immaterial lobbying activity. The 18 states that do not include an exemption for small lobbying activity should review their policies to ensure a proper balance between capturing meaningful lobbying activity and avoiding imposing compliance costs on small, incidental lobbying activities.

(5) Information Disclosure

Finally, the heart of the analysis relates to the actual information required to be disclosed by the principal and/or the lobbyist. In all, the analysis included 20 discrete pieces of information ranging from basic contact information to financial reporting to the timeliness of disclosure. Four states tied for the top position with a score of 18 out of a possible 20: Alaska, Montana, New York, and Texas.

Wyoming and Oklahoma ranked last with just 5 out of 20, indicating a sparse requirement for disclosure. Other poorly performing states included Kansas (6), Nevada (6), North Dakota (7), Alabama (8), Tennessee (8), and West Virginia (9). The average score (out of 20) was 12.7, which indicates a weak performance, on average, for the state’s lobbying disclosure requirements.

Accessibility: How Easy Is It to Access the Disclosed Information?

The final section of the study analyzed the ease with which interested parties can access the information that emanates from the disclosures discussed above. It is not enough simply to require organizations to disclose information. A mechanism or system through which people can easily and anonymously access the disclosed information in a timely manner is a necessary condition to achieve transparency and thus accountability in lobbying.

Using a methodology similar to that of the lobbying disclosure laws section, a set of 22 criteria were developed that test the level and depth of accessibility in each state. Overall, the scores for accessibility to disclose information range from a low of 5 (out of a possible 22) in Vermont and Wyoming to a high of 17.3 in Connecticut. Other high-ranking states included North Carolina (14.3), Washington (14.3), New Jersey (14.0), and Indiana (13.3).

The results for accessibility were generally worse than those for lobbying disclosure laws. For example, the average score was 9.6 out of a possible 22, or 43.6 percent. Put performance differently, 32 states or 64 percent failed to achieve a score in excess of 50 percent.

Every state makes lobbying data available and maintains a website. Such websites were rated for ease of access and for whether the information they offered was current. The differences between the states are based on access to historical data, the formatting of the data available, the ability to analyze data across a number of variables, and the ability to simultaneously sort data by multiple variables.

For example, 37 of the 50 states provide historical information while only 17 provide data in a readily analyzable and downloadable format. There is also a large difference in performance with respect to sorting or analyzing disclosure data. The average score (out of a possible 15) for the number of variables was 4.4, while the average score for sorting multiple variables was 1.7. In other words, on average, the states allow users to sort lobbying data by 4.4 variables out of a possible 15 criteria and permit the simultaneous sorting of only 1.7 variables (again out of a possible 15). The surprising insight here is that while states generally collect much of this information, for some reason they make it difficult to analyze the data using these criteria.

Comparison of Accessibility Scores with Disclosure Laws Scores

Finally, it is helpful to compare and combine the performance of the states across both the lobbying disclosure laws and accessibility to gain a better understanding of their overall performance.

Connecticut ranked first overall with an average score of 71.7 percent. Connecticut generally requires a fair amount of the recommended information to be disclosed and then facilitates access to that information in a reasonably productive manner. Other high-ranking states include Indiana (68.0 percent), Texas (67.1 percent), Washington (66.2 percent), Maine (65.3 percent), and Montana (65.2 percent).

New Hampshire ranked last overall with a score of 29.9 percent. Other poorly performing (low-ranking) states included Wyoming (30.3 percent), West Virginia (30.8 percent), Nevada (35.3 percent), and Maryland (38.5 percent). The opposite is true for these states; they tend to require much less information to be disclosed from lobbying activity and then perform poorly in making the information available.

Overall, there is a marked need for improvement in both the nature of lobbying disclosure laws and accessibility to the data for almost every state. The top-ranked state (Connecticut) achieved a score of only 71.7 percent. Twenty-two states failed to achieve a score in excess of 50 percent, and the average score was a disappointing 51.5 percent. Regardless of where they ranked, the states clearly have room for improvement in their lobbying disclosure laws and access to information.

Conclusion and Recommendations

This paper represents a step forward in our understanding of lobbying, particularly taxpayer-funded lobbying, but it is not a destination. This study confirms the need for additional research and resources to study and understand lobbying, particularly taxpayer-funded lobbying.

States should begin to treat taxpayer-funded lobbying activity in the same manner as private-sector activities with respect to disclosure and regulation. States offer no coherent and consistent explanation for treating similar activities differently depending on the sector in which they occur.

In addition, almost every state is in need of improvement when it comes to its lobbying disclosure laws and accessibility to lobbying information. This report shines light on areas where each state needs to improve. Even those states that ranked high clearly have room for improvement. Other states require wholesale changes to their lobbying disclosure laws and/or accessibility.

The Founding Fathers thought engagement with one's government important enough to afford it constitutional protection. Specifically, we receive protection in the First Amendment, which states in part that "Congress shall make no law . . . prohibiting . . . the right of the people . . . to petition the Government for a redress of grievances."¹ Lobbying also clearly provides bureaucrats and politicians with greater and more specialized information relating to specific issues under consideration. Indeed, more often than not, lobbyists are some of the most knowledgeable people regarding specific public-policy issues.²

And yet, lobbying seems to be increasingly viewed by both political practitioners and by the general public as a destructive and corrupt practice. This mounting negative view of lobbying may be the result of the high-profile fall of former Republican lobbyist Jack Abramoff in 2006,³ or the billions of dollars spent annually on lobbying,⁴ or perhaps from the attention drawn to lobbying during the 2008 presidential campaign by Senator John McCain.⁵ Perhaps it was a combination of these and a host of other factors that have spurred public interest. Regardless, it remains clear that the public is interested in knowing more about political lobbying and its effects.

This study aims to improve readers' understanding of lobbying across a number of different aspects. There is a fair amount of information available regarding lobbying of the federal government. In addition to government bodies tasked with disclosing information on lobbying in the House of Representatives and the Senate,⁶ private organizations, such as the Center for Responsive Politics,⁷ regularly publish and analyze lobbying data. The underlying premise of such disclosure is that information broadly disseminated about lobbyists and their activities helps to self-regulate lobbying. Put differently, people behave differently when their actions, and the results of their actions, are transparent and publicly available.

Lobbying seems to be increasingly viewed by both political practitioners and by the general public as a destructive and corrupt practice.

Unfortunately, we do not find an equivalent amount of information and transparency at the state and local levels. This study assesses the state of lobbying disclosure laws as well as the access to the information gleaned from such disclosure across the 50 states. It is an important step in the process of understanding and promoting greater transparency, and thus accountability, in lobbying at the state level.

This study also tackles a subject that is almost completely ignored: the nature of organizations engaged in lobbying. Almost all of the current policy and economic research on lobbying examines private-sector organizations. The data indicate, however, that government and quasi-government organizations undertake a substantial amount of lobbying.⁸ The lobbying of one level of government by another is substantially different than the lobbying of government by private-sector firms, and it is critical that we understand the extent and dynamics of such government-to-government lobbying.

Organization of the Study

This study examines the state of lobbying disclosure laws and the accessibility to the information disclosed at the state level across the country. It also considers the treatment of taxpayer-funded (government-to-government) lobbying. Our main objective is to assess the quality and accessibility of lobbying information generally, with specific attention to taxpayer-funded organizations. Too often these get overlooked or simply lumped in with private-sector lobbying.

The first section provides background information about lobbying in order to create a context for thinking about lobbying and, in particular, taxpayer-funded lobbying. This section includes a brief overview of the limited amount of research available on these issues. The second section is a case study of state-level lobbying in California. We draw conclusions from that case study about the possible extent and breadth of taxpayer-funded lobbying at the state level. The third section analyzes both state lobbying disclosure laws and public accessibility to the disclosed information. We examine state lobbying disclosure laws using a set of criteria designed to promote transparency and accessibility to lobbying information. We then measure accessibility to lobbying information. The study ends with a brief conclusion and suggestions for future research and reform.

I. BACKGROUND AND CONTEXT

Defining Lobbying

The term *lobbying* has become almost exclusively linked with government and politics. It is now narrowly defined as work to influence or persuade politicians, bureaucrats, and the government by individuals, organized special interests, corporations, and unions.⁹

There is nothing in the true meaning of the term *lobbying*, however, that prevents it from applying outside of the political system. Lobbying means the attempt to persuade another person to accept your position or request on a particular matter. Such endeavors occur every day inside and outside of government. It is, however, the prominence and visibility of lobbying within the political arena that has placed its accepted meaning almost exclusively within politics.

Lobbying seems to have its roots in the political sphere, with various explanations regarding the term's origin. The most prominent rests on U.S. President Ulysses S. Grant's frequent patronage of the Willard Hotel bar while he was president (1869–1877). The story goes that people congregated in the hotel lobby, awaiting the president, to air their concerns and offer petitions.¹⁰ Others have linked the emergence of lobbying to people waiting outside the British House of Commons in an attempt to influence parliamentarians as they left the chamber.

We focus exclusively on political lobbying, which we define as attempting to persuade or convince people in the political process, such as politicians, bureaucrats, and political staff, to accept and implement a particular action or policy on a specific issue.

Organized Political Lobbying

Perhaps one of the most famous and notable writings on interest groups (once referred to as *factions*) is Federalist No. 10 by James Madison.¹¹ Madison wrote Federalist No. 10 in continuation of Hamilton's Federalist No. 9, which examined how the Union acted as a safeguard against domestic factions and insurrection. Madison was particularly concerned about how the public good could be ignored in the “conflicts of rival parties” and how government resolutions can often be the result of an “interested and overbearing majority” rather than the rules of justice and the rights of all citizens. Madison readily admitted that citizens have a right to petition and engage their representatives for resolution of conflicts. He argued that a republican system of government covering a large rather than a small area was the best-known solution to mitigate the effects of factions and to protect individual rights.

In order to understand lobbying and lobbyists, we need a better understanding of the interests behind them. After all, lobbyists undertake efforts on behalf of specific interests rather than their own.¹² These special interests form a key part of the political system.¹³ In Federalist 10, Madison defined *factions* as “united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.”¹⁴ Nobel laureate James Buchanan and his colleague Gordon Tull-

ock went so far as to conclude that the “emergence of such groups [special interests] to positions of dominant importance during the last half century has been one of the most significant developments in the American political scene.”¹⁵

These groups are referred to by a host of names, including special-interest groups, pressure groups, and advocacy associations. We will simply refer to them as interest groups, which range from business and professional associations to unions, religious groups, environmentalists, and poverty advocates, to name but a few. They are formed to further the interests of their members and supporters.¹⁶ As Buchanan and Tullock explain,

In many cases the goals of interest groups do not coincide with the general welfare or public interest.

the reason for the very existence of such groups lies in their ability to promote and to further, through the political-choice process, the particular functional interests represented.¹⁷

In other words, these groups are formed and maintained to advance the interests of their members rather than the “public interest.”¹⁸ This is an important insight since in many cases the goals of interest groups do not coincide with the general welfare or public interest.¹⁹

In economic terms, the formation and maintenance of interest groups is based on comparative advantage. In other words, these groups are able to apply pressure, persuade people, and ultimately secure gains (rewards) for their members in a more efficient and lower-cost manner than if people undertook the same activities individually.²⁰ Political scholars William Mitchell and Randy Simmons explain the advantage of interest groups over individuals based on the “division of labor, specialization, and the power of concentrated passion and incentives.”²¹ Similarly, Buchanan and Tullock stress the “differential advantages” available from organized interest groups compared to individual initiatives when it comes to securing gains in the political marketplace.²² Simply put, interest groups are able to secure gains at lower costs for their members than if their members acted independently.

Competition Between Interest Groups

Since the early work of scholars such as Anthony Downs,²³ there has been increasing interest in the role, influence, and effects of interest groups in the political process.²⁴ Research and casual observation of interest groups beginning in the 1970s increasingly recognized the extent and costs of special-interest lobbying.²⁵ This research caused mounting concern that individual groups were able to obtain favors (rewards) at the expense of the general public. Indeed, Buchanan and Tullock forcefully stated:

If all collective action should be of such a nature that the benefits and costs could be spread equally over the whole population of the community, no problem of the interest group, and indeed few of the problems of government, would arise. . . . Almost any conceivable collective action will provide more benefits to some citizens than to others, and almost any conceivable distribution of a given cost sum will bear more heavily on some individuals and groups than on others.²⁶

The underlying premise of these concerns was that interest groups could spend time and money persuading government to confer benefits on their specific members while distributing the costs of such benefits across the entire population, or at least a much larger group than was benefiting from the favor.

Nobel laureate Gary Becker of the University of Chicago published an important paper in 1983 examining the role and effect of competition between groups for rewards (favors).²⁷ One of the insights leading him to examine this issue was the simple recognition that all government favors must impose costs on some group. For example, consider any agricultural commodity. There are interest groups on both sides of this issue that compete for the conflicting interests of their members. Specifically, the producers of the commodity will favor subsidies and trade protection, while the industries that use the commodity as an input will oppose such laws (favors). In other words, there is not just one unopposed interest group seeking favors. Becker showed how such competition between conflicting interests could constrain lobbying activity.

Some types of lobbying, depending on the level and effectiveness of competition, could have considerably negative impacts on society's general welfare.

Among a number of important conclusions in the study, Becker established that “competition among these pressure groups for political influence determines the equilibrium structure of taxes, subsidies, and other political favors.”²⁸ Becker determined that competition between interest groups acted as a regulating influence on their behavior. He showed that there are some limits to the extent to which groups can successfully engage in rent seeking at the public expense. There is some level of resource or reward available to interest groups through the political process, and no group can spend more than the total of the expected reward. Research on lobbying indicates that interest groups discipline themselves based on the perceived probabilities of success of different endeavors in the political system. Competition between groups creates a powerful regulating force on both the individual actions of lobbyists and the overall market for lobbying. One of Becker's most striking conclusions was that the criticism and occasional condemnation of interest groups was excessive and perhaps exaggerated because competition between groups resulted in beneficial and efficient outcomes.²⁹

However, Becker also recognized the negative effects of unequal access to the political system and the attendant differences in political influence. Becker recognized that effective competition could regulate activities and promote economic prosperity while also recognizing the negative effects of ineffective competition. He concluded that some types of lobbying, depending on the level and effectiveness of competition, could have considerably negative impacts on society's general welfare.³⁰

Taxpayer-Funded Lobbying

Becker's recognition of the importance of competition and the nature of access in the political process are critical to our study. Almost all of the research on interest groups and lobbying examines private organizations, which have a number of market-based constraints. For example, private firms and their interest groups must show tangible results (rewards) to their funders and owners—otherwise, they will eventually question the efficacy of supporting the interest group. Private firms also face limited resources, which constrain what they can allocate for lobbying and interest-group activities.³¹ These limits are normally referred to in economics as the budget constraint of the firm. Private organizations cannot lose money either in aggregate or on specific endeavors for an indefinite amount of time. At some point, the constraint of resources forces fiscal discipline on

firms. Finally, private firms, as illustrated by Becker, will more than likely compete with opposing interests in their lobbying efforts.

Government and quasi-government organizations do not face the same constraints as private organizations.

The research to date has almost completely ignored an important participant in the political marketplace with vastly different characteristics than private firms: government. Government lobbying of other governments, or what is more commonly referred to as taxpayer-funded lobbying, is a material and important part of lobbying. Taxpayer-funded lobbying occurs when one level of government (or quasi-government) lobbies another level of government. For example, state governments lobby the federal government for funding, and local governments lobby state governments for resources.

It is important to recognize that government and quasi-government organizations do not face the same constraints as private organizations. For example, there is almost always a separation between the resources collected (taxes and other revenues) and the programs and services the resources are used to finance. Governments can collect revenues from their citizens regardless of the efficacy, nature, or even support for the programs and services provided. There is simply little or no mechanism for citizens to avoid paying the taxes used to finance the services they disagree with or don't use. Similarly, governments do not necessarily need to show results for their efforts since there is no immediate or direct feedback for poor performance in specific government programs. In addition, governments and quasi-governments do not face the resource and financial constraints that private firms operate under.³² In fact, many government agencies and programs are actually designed to lose money on an ongoing basis, which is simply not possible in the private economy.

Perhaps most important is the realization that government lobbying of other governments does not generally face the type of competition outlined in Becker's research. While there may be general taxpayer protection associations and small government advocacy groups, there are generally no issue-specific organizations to compete against government lobbying of other levels of government. Governments may compete with one another for allocations, but they don't tend to compete with other organizations whose aim is to negate the funding available to the governments. Put differently, governments may compete with one another for a slice of available resources, but they don't compete for the existence of the resources in the first place. Indeed, the competition between governments for these resources can often create pressure to increase them.

Government lobbying, or what we will refer to as taxpayer-funded lobbying, does not face the same constraints as private-sector lobbying. It is, therefore, of paramount importance that such lobbying activities be as transparent and open as possible.

Existing Research

Given the interest in lobbying generally and the increasing recognition of the need for transparency of lobbying activity, it is surprising to find very little research on either taxpayer-funded lobbying and its effects or state-level lobbying. This section summarizes several studies completed in these areas.

Taxpayer-Funded Lobbying

James Bennett and Thomas DiLorenzo – Leading Lights

Economists James Bennett of George Mason University and Thomas DiLorenzo of Loyola University are leading researchers in taxpayer-funded lobbying. They have published a number of studies over the last decade and a half on this overlooked subject.

*Destroying Democracy: How Government Funds Partisan Politics*³³

In 1985, Bennett and DiLorenzo published an important investigation into the nature, extent, and effects of federal taxpayer-funded lobbying. Their book, *Destroying Democracy*, provides a general framework for understanding how taxpayer-funded lobbying differs from private-sector lobbying. They present the political marketplace as a battle of ideas, where groups and organizations secure resources to convince their fellow citizens, bureaucrats, and politicians of the benefits of their position. This competition of ideas ensures that the best (i.e., most efficient) ideas prevail.

The authors explain how taxpayer-funded lobbying is inherently different. They describe it as an inappropriate and deleterious loophole within the government sector wherein the government supports groups and associations that support its own initiatives and goals. In this system, private, government-friendly organizations use taxpayer funds to advance the interests of bureaucrats and politicians. Bennett and DiLorenzo predict that such a circular system of support will inevitably advance and expand the government over the interests of citizens.

In this system, private, government-friendly organizations use taxpayer funds to advance the interests of bureaucrats and politicians.

Particularly important is their documenting of taxpayer-funded lobbying across sectors and through case studies. The book examines specific organizations such as the Campaign for Economic Democracy, the National Council of Churches, and ACORN, to name a few, in order to illustrate the perverse incentives and negative consequences of taxpayer-funded lobbying. In addition, they document how such activities occur across a host of sectors including consumer watch groups, energy, the environment, welfare, poverty programs, civil rights associations, seniors, legal services, and unions. The analysis, completed in 1984, foreshadowed not only an explosion of lobbying but also the expansion of the state.

Congress Twists Its Own Arm

Bennett and DiLorenzo followed up the 1985 book with an academic article in the economics journal *Public Choice*.³⁴ The article makes two important contributions in addition to its aim of stimulating more thought and research on taxpayer-funded lobbying. The authors explain the dynamics and costs of publicly funded (taxpayer-funded) lobbying. They show how a small group of people with political connections can secure large resources from the government to mount lobbying efforts. That arrangement is markedly different from private-sector lobbying, where large numbers of people or firms are required to undertake similar efforts. The authors illustrate the asymmetry in resources often present between private-sector lobbying and taxpayer-funded lobbying.

The article further illustrates how and why political players such as bureaucrats and politicians facilitate and protect taxpayer-funded lobbying. Bennett and DiLorenzo re-assert one of the basic insights garnered from public choice economics, which says that political participants act in their self-interest rather than in some noble sense of the public interest. This school of thought offers insights regarding why bureaucrats and politicians use taxpayer-funded lobbying even though Congress has “repeatedly legislated against the use of tax funds for political purposes.”³⁵

Government promotion of itself through third-party, taxpayer-funded groups becomes a self-perpetuating dynamic.

For example, a bureaucrat’s prestige, power, and resources are ultimately a function of the importance of their area, the resources allocated to their department or agency, and the visibility of their work. Bennett and DiLorenzo argue that bureaucrats can and do indirectly create pressure on government to increase the resources and priority of their own departments by funding private organizations. The funding of these organizations creates a self-reinforcing dynamic: the outside group receives government money in part used to lobby the government for more programs

and services in the area the funding department is responsible for. This creates pressure for the government (generally) to allocate greater funds to the department, which then in part allows for even greater funding of outside groups to continue lobbying.

Bennett and DiLorenzo describe a similar situation for politicians. Funding to outside groups by the government creates naturally strong constituencies for members of Congress. These outside groups can provide volunteers, campaign resources, and so-called independent voices of support for politicians during re-election campaigns.

Bennett and DiLorenzo discuss the cases of actual taxpayer-funded groups such as the Food Research Action Center (FRAC), the National Council of Senior Citizens (NCSC), the National Urban League, the National Organization for Women (NOW), and the Legal Services Corporation (LSC). The discussion and analysis of these case studies provides real-life experiences and documentation of the costs and effects of taxpayer-funded lobbying.

Detailed Case Studies

Bennett and DiLorenzo then extended the case study analyses in the journal article by publishing four books that look more closely at specific cases of taxpayer-funded lobbying.³⁶ The first book, *CancerScam*,³⁷ examines lobbying efforts by the American Cancer Society and its relationship with the National Cancer Institute, a department of the government’s National Institutes of Health. The book is a fascinating exploration of how government promotion of itself through third-party, taxpayer-funded groups becomes a self-perpetuating dynamic. The second book, *The Food and Drink Police*,³⁸ examines government efforts to impose tax and regulatory measures to change people’s behavior with respect to smoking, drinking, consumption of junk food, and other lifestyle decisions deemed negative. The last two books, *From Pathology to Politics: Public Health in America* (2000) and *Public Health Profiteering* (2001) examine health-related charities and their links with taxpayer-funded lobbying.

The most recent installment is *Tax-Funded Politics* by James Bennett (2004).³⁹ This work mixes a general discussion of taxpayer-funded lobbying with real-life case studies.

Bennett explains how federal regulations prohibiting the use of federal funds for lobbying are unenforceable and certainly not effective given the fungible nature of money.⁴⁰ Bennett also builds on previous work to extend the explanation for (based on incentives), and the costs of, taxpayer-funded lobbying. Specifically, he explains how it creates a circular and self-promoting cycle between government officials and so-called independent charities and non-profits that act to promote government policies while receiving federal aid.

Many so-called conservative advocacy groups receive substantial support from government and then in turn support government policies.

Bennett also built on previous work to extend the explanation for (based on incentives) and the costs of taxpayer-funded lobbying.

The book also provides vivid case studies documenting real-life instances where independent groups promoted government policies while receiving federal funds. The case studies cover a host of feminist groups, teacher unions, environmental groups, health organizations, minority groups, and conservative groups. All of chapter seven in the book is dedicated to highlighting how many so-called conservative advocacy groups receive substantial support from government and then in turn support government policies. Bennett particularly makes note of institutions on the conservative right that support military intervention abroad.

Barr and Taxpayer-funded Lobbying in Arizona

Benjamin Barr reviews taxpayer-funded lobbying in the state of Arizona for the Goldwater Institute in *Your Tax Dollars at Work: The Implications of Taxpayer-Funded Lobbying*.⁴¹ His 2007 study offers key insights on this unique type of lobbying and empirically examines public (government) spending on lobbying between 2000 and 2005 in Arizona.

Barr counted some 900 registered lobbyists for public entities (government) compared to 90 members of the Arizona legislature. The list of lobbyists employed by government and quasi-government entities in the state raises serious concerns about the scope of taxpayer-funded lobbying: Maricopa County (85 lobbyists), Navajo County (22), Pinal County (13), Gila County (13), Tucson (71), Phoenix (43), Sierra Vista (23), Chandler (21), Scottsdale (21), Department of Public Safety (41), Department of Education (38), Governor's Office (30), Department of Transportation (22), University of Arizona (10), and Arizona State University (7).⁴² Government lobbyists outnumbered legislators by a 10:1 ratio and pervaded the entirety of the government and quasi-government sectors in Arizona.

Barr's analysis further reveals that local governments spent more than \$10 million to lobby the state government over the 2000–2005 period. For example, Barr shows spending in excess of \$1.8 million by the Department of Transportation, State Parks, and the Governor's Office. He also examines lobbying expenditures at the county level and shows that three counties—Maricopa, Pima, and Mohave—spent more than \$3 million on lobbying during the 2000–2005 period. Barr concludes that the extent of resources being spent on lobbying by

government surpasses most people's expectations. Interestingly, Barr raises additional non-economic concerns about taxpayer-funded lobbying. He discusses, for example, the distorting nature of taxpayer-funded lobbying on the democratic process:

Taxpayer-funded lobbying—government bodies lobbying other government bodies—distorts the democratic process by supplanting the voice of citizens with that of the state. Instead of interacting with citizen lobbyists, legislators contend with powerful voices from other regiments of government, each clamoring to promote its own interests, which are regularly and demonstrably at odds with citizens' interests. Lobbying with taxpayer dollars inevitably promotes government growth.⁴³

Barr also describes potential constitutional conflicts arising from taxpayer-funded lobbying.⁴⁴ Barr argues that the First Amendment is founded on a premise of citizen participation. Taxpayer-funded lobbying, Barr says, places government interests in conflict, or at the least in competition, with the interests of ordinary citizens. In addition, Barr argues that taxpayer-funded lobbying violates the First Amendment's principle of neutrality, which prohibits government from imposing issues or viewpoints.

Finally, the Barr study explores two approaches to reforming taxpayer-funded lobbying: disclosure and prohibition.⁴⁵ He contrasts the disclosure reforms pursued by Minnesota and Washington with the more restrictive reforms implemented by South Carolina, Georgia (proposed), and Florida. He concludes that more restrictive measures, including broad bans on taxpayer-funded lobbying, are required.⁴⁶

Kerpen Briefing Paper

A more recent paper by Phil Kerpen of the Americans for Prosperity Foundation examines federal taxpayer-funded lobbying data.⁴⁷ Using federal data compiled by the Center for Responsive Politics, he analyzes lobbying by state governments, local governments, public universities, transportation authorities, and public water authorities for the years 1998 to 2008. Nationwide, he finds that these government entities spent \$138.1 million lobbying the federal government in 2007, a 161.1 percent increase from the \$52.9 million spent in 1998.⁴⁸ Kerpen further notes that the largest increases were recorded by local governments and public universities. Critically for our purposes, Kerpen concludes that "evidence from the states in which the problem of local governments lobbying at the state level has been analyzed suggests that this phenomenon is significantly more pervasive at the state level than at the federal level."⁴⁹

Disclosure Research

In researching our study we searched a number of sources, both scholarly and applied, and found no comprehensive, systematic analysis of state-level lobbying expenditures across states, which obviously prevented any comprehensive assessment of taxpayer-funded lobbying. The consensus from a host of discussions is that a basic data problem prevents a nationwide analysis of state-level lobbying, which requires a step back to understand disclosure laws that are the basis for public access to information. We found two fairly recent analyses of state-level disclosure laws, which not only helped us to understand the paucity of state-level data, but also aided in constructing the analytical framework for state-level lobbying disclosure laws.

The Center for Public Integrity conducted an analysis of state-level lobbying disclosure laws across the 50 states in 2003. The *Hired Guns* survey looked at a number of aspects of lobbying disclosure laws, including lobbyist registration, spending, public access, and enforcement.⁵¹ A total of 48 questions were included in the survey. Analysts reviewed the statutes covering lobbying disclosure in each of the 50 states and directly interviewed officials in the states. A total of 100 points were awarded from the 48 questions.⁵² Scores of 70 or higher were deemed to be satisfactory while scores below 60 were considered failings.⁵³

Washington State received the highest score of 87 out of 100 and ranked first. A total of nine states received scores in excess of 70, indicating satisfactory performance on state-level lobbying disclosure laws.⁵⁴ Sixteen states received scores between 60 and 69, which the study deemed to be “barely passing.”

More disconcerting, however, is that the remaining 25 states and the federal government all received scores below 60, indicating failure with respect to their disclosure laws. It is worth noting that Pennsylvania, which ranked dead last, actually received a score of 0. In addition, the federal government ranked third-last with an abysmal score of 36 out of 100.⁵⁵ These 2003 scores indicate enormous room for improvement for state-level lobbying disclosure laws.

*Common Cause Pennsylvania – Lobby Law Survey*⁵⁶

The Pennsylvania chapter of Common Cause issued a report similar to that of the Center for Public Integrity in 2004.⁵⁷ The report examines a host of different aspects of lobbying disclosure laws at the state level, including the branches of government covered by disclosure laws, who is required to report, the information required to be reported on, the timing of reporting, exemptions, and enforcement.

Only 12 states included local-government lobbying in their state-level lobbying disclosure laws.

This study included a series of specific questions capturing disclosure laws for government and quasi-government. For example, the study found that only 12 states included local-government lobbying in their state-level lobbying disclosure laws. Similarly, only 22 states included independent state agencies in their state lobbying disclosure laws. Higher numbers were recorded for the governor (37), the executive branch agencies (34), and the legislatures (49).

Unfortunately, there was no broad empirical analysis or conclusions as in the Center for Public Integrity study. Rather, the results were simply summarized by listing states that met each of the specific criteria. The report includes no overall results or recommendations.

Conclusion

Given the general acceptance of the importance of disclosure and transparency in lobbying, it is surprising that so little information exists. Unfortunately, the paucity of state-level data makes it prohibitively costly to undertake an empirical analysis of state-level lobbying, and in particular state-level taxpayer-funded lobbying. Section III of this paper analyzes the state of lobbying disclosure laws and accessibility to the subsequent information across the states with a particular emphasis on taxpayer-funded lobbying. The methodology employed builds on the work noted previously.

II. WHY WE SHOULD CARE ABOUT TAXPAYER-FUNDED LOBBYING: CALIFORNIA AS A CASE STUDY

We have already discussed the differences between taxpayer-funded lobbying and private-sector lobbying. A key subject remains: the size and breadth of taxpayer-funded lobbying. After all, if the amount and/or percentage of taxpayer-funded lobbying is comparatively small, then one would expect its effects and influences to be less than if it were a major source of lobbying.

California state lobbying law focuses on the expenditure of money and resources to influence people in the political system regarding legislation and related government actions.

California maintains a well-developed set of laws and definitions covering lobbying and lobbying disclosure.⁵⁸ In addition, the state offers one of the better-performing websites in terms of accessibility of lobbying data.⁵⁹ For these two reasons, we relied on California and the information provided by its Secretary of State as a case study to analyze the extent of taxpayer-funded lobbying compared to other types of lobbying at the state level.⁶⁰ The aim of this analysis is to ascertain the financial and relative importance of taxpayer-funded lobbying compared to other types.⁶¹

California Definitions

Each state defines lobbyists and their activities slightly differently.⁶² It is important to understand the basic definitions used by California before analyzing the state-level lobbying data. California defines a lobbyist as

any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, or whose principal duties as an employee are, to communicate directly or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action.⁶³

Like the definition presented initially in the paper, California state lobbying law focuses on the expenditure of money and resources to influence people in the political system regarding legislation and related government actions.

State Lobbying by Category

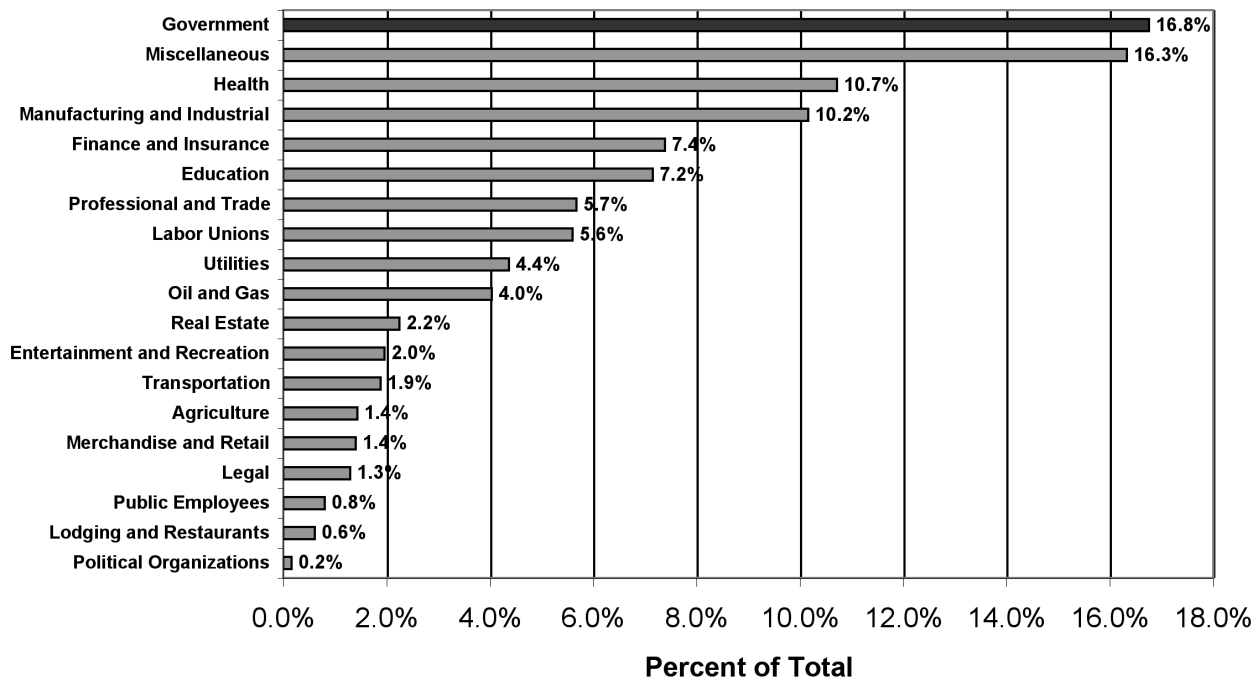
California's lobbying disclosure website allows users to categorize lobbying data by employer.⁶⁴ The data can be sorted by the source of the lobbying rather than by the lobbyist (individual or firm) or by where the lobbying efforts are aimed. Table 1 contains summary information for lobbying spending in California by employer category for the years 2007 and 2008. The percentage results are illustrated in figure 1. Note that California's lobbying data is reported and disclosed on a two-year cycle.

California uses 19 categories to define lobbying expenditures. Most are straightforward, but a few require clarification. The *Government* category includes municipalities, counties, regional authorities (including transportation, waste management, water, and recreation), and state and regional commissions (see Appendix A for more information).⁶⁵ *Miscellaneous*, the second-largest category, contains a hodgepodge of organizations.⁶⁶ It generally includes associations and advocacy groups as well as corporations that do not fit well in the other categories. For example, lobbying by the large accounting firms, AARP, a host of sector- and issue-specific advocacy groups, telecommunications companies, and environmental organizations are all included in this category.

Sector	Total - 2007	Total - 2008	TOTAL	Percent of Total	Rank
Agriculture	4,043,139	3,907,677	7,950,816	1.4%	14
Education	16,921,371	22,594,730	39,516,101	7.2%	6
Entertainment and Recreation	5,751,989	5,099,323	10,851,312	2.0%	12
Finance and Insurance	20,728,045	20,118,170	40,846,214	7.4%	5
Government	42,514,528	50,071,443	92,585,971	16.8%	1
Health	27,658,188	31,586,564	59,244,752	10.7%	3
Labor Unions	15,854,606	15,078,705	30,933,311	5.6%	8
Legal	3,809,553	3,351,443	7,160,996	1.3%	16
Lodging and Restaurants	1,822,448	1,555,252	3,377,700	0.6%	18
Manufacturing and Industrial	26,737,788	29,423,160	56,160,947	10.2%	4
Merchandise and Retail	3,572,607	4,152,257	7,724,864	1.4%	15
Miscellaneous	49,114,909	41,095,856	90,210,764	16.3%	2
Oil and Gas	11,111,910	11,217,572	22,329,482	4.0%	10
Political Organizations	420,867	458,187	879,053	0.2%	19
Professional and Trade	15,371,675	16,016,994	31,388,669	5.7%	7
Public Employees	2,258,542	2,177,836	4,436,378	0.8%	17
Real Estate	6,270,987	6,155,042	12,426,029	2.2%	11
Transportation	4,987,408	5,419,556	10,406,965	1.9%	13
Utilities	10,910,374	13,240,072	24,150,446	4.4%	9
Total	269,860,933	282,719,837	552,580,771		

Source: Office of the Secretary of State, California, Political Reform Division (2009). Cal-Access: Lobbying Activity. Accessed October 1 and 2, 2009. Available at <http://cal-access.ss.ca.gov/Lobbying/>; calculations by the authors.

**Figure 1: State Lobbying in California by Sector
(2007 and 2008) as a Percent of the Total**



Source: Office of the Secretary of State, California, Political Reform Division (2009). Cal-Access: Lobbying Activity. Accessed on October 1st and 2nd, 2009. Available at <http://cal-access.ss.ca.gov/Lobbying/>; calculations by the authors.

A total of \$552.6 million was spent on lobbying in 2007 and 2008: \$269.9 million in 2007 and \$282.7 million in 2008. As illustrated in figure 1, a little more than one-third of all lobbying expenditures in California in 2007 and 2008 were by *Government* (16.8 percent) and *Miscellaneous* (16.3 percent). *Government* lobbying represented the single largest category of lobbying at \$92.6 million, or 16.8 percent of the total. In other words, the single largest category of state-level lobbying was performed by other levels of government, such as municipalities, counties, regional authorities (transportation, water, waste management, and recreation), and commissions.

Nine of the 19 categories of lobbying expenditures represented roughly 2.0 percent or less each of the total lobbying spending in 2007 and 2008. In dollar terms, these smaller categories ranged from \$879,053 in expenditures for *Political Organizations* (ranked 19th) to \$12.4 million for *Real Estate* (ranked 11th). The four largest categories—*Government*, *Miscellaneous*, *Health* (10.7 percent), and *Manufacturing and Industrial* (10.2 percent)—are responsible for more than half of all the lobbying spending in California during this period.

The single largest category of state-level lobbying was performed by other levels of government, such as municipalities, counties, regional authorities (transportation, water, waste management, and recreation), and commissions.

Complicating Matters – Understanding the Definitions

Many of the results contained in table 1 and figure 1 are based on how the categories were defined. Our goal of determining and analyzing the extent of taxpayer-funded lobbying requires us to go beyond the definitions and categories presented above. Recall that the core issue is the source of the funds and resources used by organizations in lobbying. If the resources are ultimately provided or secured by the government, then the lobbying activity is correctly defined as taxpayer-funded (what some researchers call quasi-government).⁶⁷ For our purposes, the categories of *Education*, *Public Employees*, and *Labor Unions* need further exploration.⁶⁸

The analysis of these three categories entailed individually examining each of the organizations listed in the Secretary of State's 2007 and 2008 reports. We used a conservative approach in categorizing each organization. If there was any doubt regarding whether an organization was taxpayer-funded, it was excluded. Ideally, more time and resources would have been available to inspect each organization more thoroughly. However, we believe the following analysis presents a realistic and conservative estimate of additional taxpayer-funded organizations engaged in lobbying in California.

(1) *Education*

Education was the sixth-largest category of lobbying spending in 2007 and 2008, with more than \$39.5 million in expenditures (table 1). There is a great deal of lobbying spending categorized in *Education* that is rightly included as taxpayer-funded. Appendix B contains information on lobbying expenditures by *Education* organizations for 2007 and 2008 in California.⁶⁹ Lobbying spending by local public-school districts, public charter schools, community colleges, and employee-employer education advocacy groups can all be reasonably classified, to some extent, as taxpayer-funded.

Funding for the first three categories (local public-school districts, public charter schools, and community colleges) is almost entirely provided by local and/or state governments. These three categories are therefore re-categorized as taxpayer-funded because of the extent of government resources used to finance them. An additional \$10.6 million of taxpayer-funded lobbying spending in 2007 and 2008 is the result when we reclassify spending by these education organizations: local public education districts (\$8.4 million), public charter schools (\$281,415), and community colleges (\$2.0 million).

The final group, advocacy organizations and associations, is less straightforward. This category includes a wide range of organizations, such as employee and employer education associations (Appendix B). However, the resources collected and used to finance the operations and lobbying by these groups come largely—almost exclusively—from government, either directly or indirectly. Admittedly, the connection is not as strong as it was in the first three categories. The essential issue pursued in this paper, however, is whether the funding should be considered taxpayer-sourced, and for most of these groups, the resources are ultimately provided by taxpayers. Re-categorizing these types of organizations' lobbying expenditures as taxpayer-funded results in an additional \$15.7 million in spending for lobbying in 2007 and 2008.

(2) *Public Employees*

Public Employees is the third-smallest category of lobbying spending, with a little more than \$4.4 million in expenditures in 2007 and 2008 (see table 1). Like the examination of advocacy groups in *Education*, the *Public*

Employees category is not entirely straightforward. It includes advocacy associations for government workers, sheriffs and police, teachers, judges, firefighters, and probation officers (see table 2). The key aspect is that all of the employees are public-sector workers. The salaries and benefits of all workers included in this category are paid for by various levels of government (i.e., the taxpayer). The re-classification of this group as taxpayer-funded results in an additional \$4.4 million in lobbying spending in 2007 and 2008.

Table 2: State Lobbying by Public Employees, 2007 and 2008

NAME	2007/2008
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES LOCAL 3299	46,129
ASSOCIATION FOR LOS ANGELES DEPUTY SHERIFFS	178,143
ASSOCIATION OF ORANGE COUNTY DEPUTY SHERIFFS	37,830
ASSOCIATION OF RETIRED TEACHERS	40,910
CALIFORNIA ASSOCIATION OF HIGHWAY PATROLMEN	336,490
CALIFORNIA ASSOCIATION OF PROFESSIONAL SCIENTISTS	341,676
CALIFORNIA ATTORNEYS ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT	172,558
CALIFORNIA FISH & GAME WARDEN SUPERVISORS AND MANAGERS ASSOCIATION (CFGWSMA)	45,670
CALIFORNIA JUDGES ASSOCIATION	206,761
CALIFORNIA ORGANIZATION OF POLICE & SHERIFFS	12,000
CALIFORNIA PUBLIC PARKING ASSOCIATION	55,211
CALIFORNIA RETIRED COUNTY EMPLOYEES ASSOCIATION	35,106
CALIFORNIA STATE PARK RANGERS ASSOCIATION	9,185
CDF FIREFIGHTERS	441,599
GLENDALE CITY EMPLOYEES ASSOCIATION	5,875
LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION (LACERA)	91,254
LOS ANGELES POLICE PROTECTIVE LEAGUE	146,245
LOS ANGELES PROBATION OFFICERS' UNION, AFSCME LOCAL 685	131,926
ORANGE COUNTY EMPLOYEES ASSOCIATION	162,430
ORANGE COUNTY PROFESSIONAL FIREFIGHTERS, IAFF, LOCAL 3631	11,116
PEACE OFFICERS RESEARCH ASSOCIATION OF CALIFORNIA	782,109
PROFESSIONAL ENGINEERS IN CALIFORNIA GOVERNMENT	589,759
RETIRED PUBLIC EMPLOYEES ASSOCIATION	166,790
RIVERSIDE SHERIFFS' ASSOCIATION	83,678
SACRAMENTO COUNTY DEPUTY SHERIFFS ASSOCIATION	55,070
SAN BERNARDINO COUNTY SAFETY EMPLOYEES' BENEFIT ASSOCIATION	119,813
SAN DIEGO COUNTY EMPLOYEES RETIREMENT ASSOCIATION	6,000
SAN DIEGO MUNICIPAL EMPLOYEES ASSOCIATION	55,332
SAN FRANCISCO POLICE OFFICERS ASSOCIATION	24,000
STATE COALITION OF PROBATION ORGANIZATIONS	45,713
Total	4,436,378

Source: Office of the Secretary of State, California, Political Reform Division (2009). Cal-Access: Lobbying Activity. Accessed October 1 and 2, 2009. Available at <http://cal-access.ss.ca.gov/Lobbying/>.

(3) Labor Unions

Labor Unions was the eighth-largest category of lobbying spending in 2007 and 2008, with some \$30.9 million in expenditures. Interestingly, a number of employee associations in the *Labor Union* category seem to be more accurately classified in the *Public Employees* category given the nature of the workers. A quick glance at table 3 reveals a number of organizations that are largely, and in some cases exclusively, public-sector employee-based, such as correctional officers, teachers, firefighters, court officers, and state, county, and municipal workers. Some organizations are included in both categories. Our analysis, as contained in table 3, shows that a little more than one-quarter (26.2 percent) of the organizations included in *Labor Unions* can be defined as taxpayer-funded. Of the \$30.9 million spent by *Labor Unions* on lobbying in 2007 and 2008 in California, \$8.1 million can be re-classified as taxpayer-funded.

Table 3: State Lobbying by Labor Unions, 2007 and 2008		
NAME	2007/2008	
1) Likely Taxpayer-Funded Unions		
AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, LOCAL 2620	168,397	
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO	435,420	
CALIFORNIA CORRECTIONAL PEACE OFFICERS ASSOCIATION (CCPOA)	822,979	
CALIFORNIA FEDERATION OF TEACHERS	1,233,193	
CALIFORNIA PROFESSIONAL FIREFIGHTERS	1,321,660	
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION	3,314,954	
CALIFORNIA STATE EMPLOYEES ASSOCIATION	283,875	
CALIFORNIA STATEWIDE LAW ENFORCEMENT ASSOCIATION	100,919	
COALITION OF UNIVERSITY EMPLOYEES (CUE)	78,000	
LOS ANGELES COUNTY PROFESSIONAL PEACE OFFICERS ASSOCIATION	140,759	
SAN BERNARDINO PUBLIC EMPLOYEES ASSOCIATION	133,479	
SAN DIEGO COUNTY COURT EMPLOYEES ASSOCIATION	20,468	
SAN LUIS OBISPO COUNTY EMPLOYEES ASSOCIATION	28,382	
SANTA ROSA CITY EMPLOYEES ASSOCIATION	12,013	
Sub-Total	8,094,499	26.2%
2) Likely Private-Sector Unions		
AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS	64,031	
AMERICAN MARITIME OFFICERS	20,031	
CALIFORNIA ASSOCIATION OF PSYCHIATRIC TECHNICIANS	84,000	
CALIFORNIA CONFERENCE BOARD OF THE AMALGAMATED TRANSIT UNION	128,580	
CALIFORNIA CONFERENCE OF MACHINISTS	92,809	
CALIFORNIA FEDERATION OF INTERPRETERS, THE NEWSPAPER GUILD/COMMUNICATION WORKERS OF AMERICA LOCAL 39521	65,442	
CALIFORNIA LABOR FEDERATION, AFL-CIO	3,382,835	
CALIFORNIA NURSES ASSOCIATION	1,623,754	
CALIFORNIA STATE ASSOCIATION OF ELECTRICAL WORKERS	223,637	
CALIFORNIA STATE COUNCIL OF LABORERS	1,626,328	
CALIFORNIA STATE COUNCIL OF SERVICE EMPLOYEES	10,292,428	
CALIFORNIA STATE LEGISLATIVE BOARD, UNITED TRANSPORTATION UNION	855,632	

CALIFORNIA STATE LEGISLATIVE BOARD/BROTHERHOOD OF LOCOMOTIVE ENGINEERS & TRAINMEN	24,000	
CALIFORNIA STATE PIPE TRADES COUNCIL	193,122	
CALIFORNIA STATE PIPE TRADES COUNCIL JOINT APPRENTICESHIP COMMITTEE	29,300	
CALIFORNIA TEAMSTERS PUBLIC AFFAIRS COUNCIL	651,833	
CALIFORNIA UNIONS FOR RELIABLE ENERGY	12,811	
CALIFORNIA UNITED HOMECARE WORKERS	55,039	
CALIFORNIA-NEVADA CONFERENCE OF OPERATING ENGINEERS	158,986	
COMMUNICATIONS WORKERS OF AMERICA	-	
COMMUNICATIONS WORKERS OF AMERICA LOCAL 9400	16,045	
DIRECTORS GUILD OF AMERICA, INC.	47,210	
ENGINEERS AND SCIENTISTS OF CALIFORNIA LOCAL 20, IFPTE AFL-CIO & CLC	70,915	
INDEPENDENT EMPLOYEES OF MERCED COUNTY	700	
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (IBEW) LOCAL 569	-	
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 1245	154,568	
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 18	46,839	
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 465	20,609	
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 47	46,839	
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 659	1,564	
INTERNATIONAL LONGSHORE AND WAREHOUSE UNION, COAST PRO RATA COMMITTEE, AFL-CIO	93,428	
INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, LOCAL 18	12,350	
INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, LOCAL 8	12,350	
JOCKEYS' GUILD, INC.	64,511	
ORGANIZATION OF SMUD EMPLOYEES	20,187	
PROFESSIONAL & TECHNICAL ENGINEERS, LOCAL 21, IFPTE, AFL-CIO	45,678	
ROAD SPRINKLER FITTERS U.A. LOCAL 669	16,793	
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1000	774,280	
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 434B	303,436	
SHEET METAL WORKERS UNION, LOCAL 104	-	
SHIP CLERKS ASSOCIATION ILWU LOCAL #34	18,276	
SPORTSMEN IN LABOR COALITION	-	
SPRINKLER FITTERS AND APPRENTICES UA LOCAL 483	16,012	
SPRINKLER FITTERS UA LOCAL 709	17,809	
STATE BUILDING & CONSTRUCTION TRADES COUNCIL OF CALIFORNIA	403,322	
STRATEGIC COMMITTEE OF PUBLIC EMPLOYEES, PACIFIC SOUTHWEST REGION, LABORERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO	34,657	
UNION OF AMERICAN PHYSICIANS AND DENTISTS	229,283	
UNITE HERE, INTERNATIONAL UNION	179,270	
UNITED DOMESTIC WORKERS OF AMERICA / NUHCE, AFSCME, AFL-CIO	248,527	
UNITED FARM WORKERS	149,370	
UNITED FOOD AND COMMERCIAL WORKERS WESTERN STATES COUNCIL	124,432	
UTILITY WORKERS UNION OF AMERICA, LOCAL 246	9,128	
WESTERN STATES COUNCIL OF SHEET METAL WORKERS	75,826	
Total	30,933,311	

Source: Office of the Secretary of State, California, Political Reform Division (2009). Cal-Access: Lobbying Activity. Accessed October 1 and 2, 2009. Available at <http://cal-access.ss.ca.gov/Lobbying/>.

Taxpayer-Funded Lobbying in California Restated

Not surprisingly, the reclassifications summarized above result in a more pronounced dominance for *Government* and related taxpayer-funded lobbying in California. Table 4 contains the adjusted dollar values and percent of total lobbying amounts for 2007 and 2008, and figure 2 illustrates the percentage totals. The revised *Government* and related taxpayer-funded lobbying totaled \$131.4 million in 2007 and 2008, representing nearly one-quarter (23.8 percent) or one in every four dollars of lobbying in California in 2007 and 2008.

The bottom 12 categories of lobbying (Political Organizations to Utilities) constitute nearly the same percentage (25.9 percent) as the single Government category.

The next-largest category, *Miscellaneous*, represents roughly two-thirds the value of *Government* and related taxpayer-funded lobbying. The bottom 12 categories of lobbying (*Political Organizations* to *Utilities*) constitute nearly the same percentage (25.9 percent) as the single *Government* category. This leaves no other conclusion: government lobbying of other government in California is a dominant source of lobbying at the state level.⁷⁰

Table 4: Adjusted State Lobbying in California by Sector (2007 and 2008)

Sector	Total	Percent of Total	Rank
Agriculture	7,950,816	1.4%	14
Education*	13,247,874	2.4%	10
Entertainment and Recreation	10,851,312	2.0%	12
Finance and Insurance	40,846,214	7.4%	5
Government & Taxpayer-Funded Generally	131,385,075	23.8%	1
Health	59,244,752	10.7%	3
Labor Unions*	22,838,812	4.1%	8
Legal	7,160,996	1.3%	16
Lodging and Restaurants	3,377,700	0.6%	17
Manufacturing and Industrial	56,160,947	10.2%	4
Merchandise and Retail	7,724,864	1.4%	15
Miscellaneous	90,210,764	16.3%	2
Oil and Gas	22,329,482	4.0%	9
Political Organizations	879,053	0.2%	18
Professional and Trade	31,388,669	5.7%	6
Real Estate	12,426,029	2.2%	11
Transportation	10,406,965	1.9%	13
Utilities	24,150,446	4.4%	7
Total	552,580,772	100.0%	

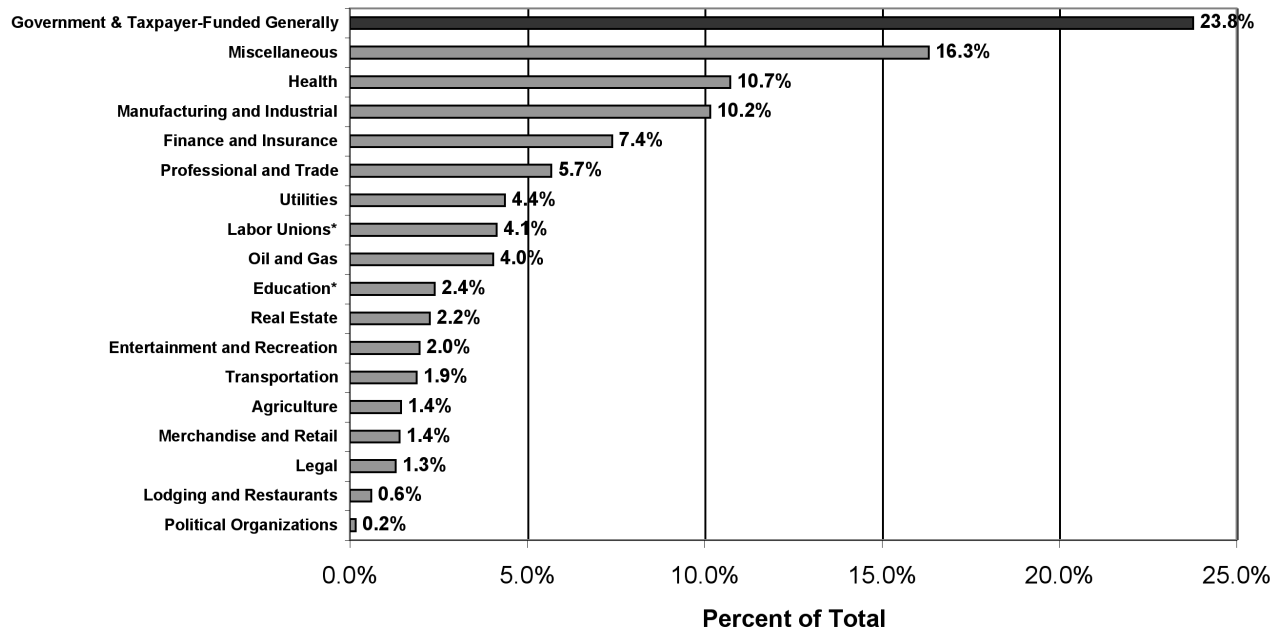
Source: Office of the Secretary of State, California, Political Reform Division (2009). Cal-Access: Lobbying Activity. Accessed October 1 and 2, 2009. Available at <http://cal-access.ss.ca.gov/Lobbying/>; calculations by the authors.

Notes:

(1) *The totals for Labor Unions and Education have been adjusted to reflect likely government entities that have been re-classified in the Government category.

(2) The category of Public Employees has been included in its entirety in the Government category.

Figure 2: Adjusted State Lobbying in California by Sector (2007 and 2008) as a Percent of the Total



California in a Federal Context

Just as it was important to place state-level taxpayer-funded lobbying into perspective by comparing to other types, we also assess the magnitude of taxpayer-funded lobbying at the state level compared to the federal level. The Center for Responsive Politics' Open Secrets project collects and organizes federal lobbying data on a quarterly basis.⁷¹

According to their data, there was a total of \$3.3 billion in lobbying spending in 2008.⁷² The data is further classified by industry, which includes 20 separate classifications such as *Pharmaceuticals and Health Products*, *Oil and Gas*, *Education*, *Real Estate*, and *Defense Aerospace*.⁷³ One of the categories, *Civil Servants and Public Officials*, is close to the state-level definition used in California for *Government*. This proximity allows us to compare the magnitude of government lobbying at the state level with government lobbying at the federal level.

According to the Center for Responsive Politics, a total of \$84.2 million in lobbying spending in 2008 can be classified as *Civil Servants and Public Officials*. Our interest, however, is in comparing the numbers available for California rather than for the country as a whole.

Analyzing the individual lobbying expenditures available in this category by state allows us to discern the amount of lobbying spending from California at the federal level.⁷⁴ Our analysis of the individual data in-

Taxpayer-funded lobbying of the federal government by California organizations is a little more than 40 percent of the spending on lobbying by taxpayer-funded groups in California at the state level.

icates that some \$20.7 million or nearly one-quarter of the entire category of lobbying spending by *Civil Servants and Public Officials* was based in California.

More surprising, however, is how the \$20.7 million spent by California-based taxpayer-funded organizations on the federal government compares to similar expenditures at the state level. Recall that the unadjusted total lobbying spending by *Government* in California for state-level lobbying was \$50.1 million in 2008. Put differently, taxpayer-funded lobbying of the federal government by California organizations is a little more than 40 percent of the spending on lobbying by taxpayer-funded groups in California at the state level. It appears as if the magnitude of taxpayer-funded lobbying at the state level far surpasses, by a magnitude of two-and-a-half times what we observe at the federal level, using California as a case study.

III. ASSESSING STATE DISCLOSURE LAWS AND ACCESSIBILITY

Introduction

This section examines the disclosure laws and accessibility of lobbying information at the state level, with particular emphasis on taxpayer-funded lobbying. The premise of both sections is that transparency is a necessary step in monitoring and imposing discipline on lobbying activity. Transparency allows interested citizens and third parties to scrutinize and verify the activities and operations of public organizations, which imposes discipline. More simply, transparency ensures that people act in a more responsible and productive manner. Daniel Kaufmann concluded that transparency was one of the key components of good governance in both the public and private sectors.⁷⁵

In a more expansive study that included data from 169 countries, Roumeen Islam found that countries that are more transparent also have higher-quality governance.⁷⁶ Along similar lines, Simeon Djankov and his colleagues, examining data for 175 countries, found that disclosure was correlated with lower corruption in the public sphere.⁷⁷ Indeed, work completed by the World Bank and others has repeatedly shown that better governance, and in particular, reduced corruption, is best achieved through transparency, which improves institutional accountability.⁷⁸

Transparency ensures
that people act in a
more responsible and
productive manner.

The next two sections aim to promote transparency through lobbying disclosure laws and government mechanisms that make disclosure information readily accessible.

Transparency, like the term *lobbying*, has a number of meanings. The World Bank defines it as an effective flow of information.⁷⁹ For our purposes, we will extend that definition to define transparency as information that is of high quality, easily and anonymously accessible, and timely.

This section examines the foundation of transparency, which is the requirement to disclose information. Specifically, we present an empirical examination of state-level disclosure laws pertaining to individuals and organizations engaged in lobbying. Our examination relies to some extent on previous work completed by organizations like the Center for Public Integrity and Common Cause. The next section examines how accessible the disclosed information is for interested parties. After all, it's not enough for information to be disclosed if it is not accessible.

Methodology

Before examining the specific methodologies in each of the two sections, it is worth noting the general approach and timeline used in this portion of the study.

A preliminary analysis of state disclosure laws and accessibility to the information was completed in mid-November 2009. The results of that analysis were emailed to representatives in each of the states between Novem-

ber 20 and November 30, 2009, for review and confirmation. Most of the correspondence was sent to general email addresses provided on the Secretary of State or State Ethics Commission websites. In some cases the websites provided a specific email address and contact point for inquiries. Initially, respondents were given until the end of December to confirm the results or request changes.

Follow-up calls and emails were made on December 15 and 16. Efforts were made at this time to secure specific email and/or telephone contact information for people at the appropriate departments in each of the states that had not yet responded.

In order to improve the response rate and in recognition of the extended holidays in November and December, we extended the initial deadline to mid-January. Additional follow-up calls and emails were completed before January 8.

In all, a total of 34 states (68 percent) responded to our inquiries.⁸⁰ Three of the 34 responding states indicated that they did not have the time or resources available to complete the review.⁸¹ The remaining 31 states either confirmed the analysis or requested changes.⁸² Almost all of the changes requested by state officials were made.⁸³

Lobbying-Law Disclosure – A State-by-State Analysis⁸⁴

This section of the study quantitatively assesses each state's lobbying disclosure laws across a common set of criteria. The criteria are partially based on previous studies noted elsewhere. In addition, the criteria have been expanded in order to ensure specific information regarding taxpayer-funded lobbying.

The criteria are summarized below and categorized to assist readers in understanding the premise for each question. The scoring of the criteria was simply a Yes (affirmative response) or No (negative response) response to each question. Weights were not attached to any of the questions. In all cases except questions B1 and B2, affirmative responses (Yes) were granted a score of 1 while negative responses (No) were allocated a score of 0. The rationale for the scoring is that affirmative responses to the questions were deemed superior to negative responses in promoting disclosure of lobbying information.

State Disclosure Law Criteria

The first set of questions (A) pertains to the organizations covered by the disclosure laws. There are essentially two groups of potential organizations: private and public (government). Specifically, questions A1 to A4 cover private-sector entities while the remaining questions pertain to government or quasi-government organizations.

A) Who is required to register?

1. Lobbyists?
2. Volunteer lobbyists?
3. Principals who employ a lobbyist?
4. Lobbying firms?

5. Governor's office?
6. Executive branch agencies?
7. Legislative branch?
8. Independent agencies?
9. Local governments?
10. Government agencies who lobby other agencies?
11. Public entities, other than government agencies?

The second and third sets of questions (B and C) relate to how government agencies and other public entities are treated and defined relative to their private-sector counterparts. The aim of these questions is to ascertain whether government or quasi-government organizations are treated differently than other private-sector organizations in terms of the disclosure requirements imposed on them.

Governments must use some type of threshold calculation in order to exempt marginal lobbying activities.

B) Government exemptions

1. Is there an exemption for government agencies and/or public officials acting within their official capacity?⁸⁵
2. Are government agencies relieved and/or exempted (partially) from the regulations imposed on non-government organizations and individuals?⁸⁶
3. Are government agencies subject to the same disclosure requirements as lobbyists?
4. Are government agencies subject to the same disclosure requirements as principals?

In addition, and quite critically, question C pertains to whether the state government has a specific (and hopefully clear) definition of what constitutes a “public entity.” A host of organizations and agencies, as discussed in the analysis of California lobbying, are difficult to categorize. Categorization is easier when governments provide guidelines. Question C includes three different possible sets of guidelines that a government could incorporate in defining a public entity. Our analysis concerns itself not with how a state might define a public entity, but with whether it provides a clear definition of a public entity.

C) Does the law include a definition of “public entity?” If Yes, does the definition rely on these three inclusive criteria to determine “public” status?

1. Ownership
2. Structure or composition of revenue
3. Public charter or special government protection

The criteria in question D pertain to exemptions for immaterial lobbying activity. Specifically, some governments rightly attempt to exempt small lobbying activities from disclosure requirements. Imagine a small business owner who spends a few hours and possibly a few hundred dollars to have a problem rectified through government. Requiring the business to file expensive lobbying compliance reports and possibly incur legal and/or accounting expenses to do so would be damaging to the economy and counterproductive. The worthy objective of trying to exempt these rather small and inconsequential acts of lobbying has to be balanced against a set of rules that would allow others to game the system in order to under-report their activities. Essentially governments must use some type of threshold calculation in order to exempt marginal lobbying activities. We

suggest the use of financial (dollar-value) or time thresholds as a mechanism by which to limit the amount of gaming permitted in reporting while still achieving a limited exemption for small, marginal lobbying activities. Like question C, the analysis of question D does not concern itself with how a government might establish and operate an exemption, but with whether it maintains one at all.

D) Does the law include a materiality test (ability to exempt) for coverage in disclosure regulations? Such tests could include:

1. Financial threshold: if expenses are less than some dollar threshold then the entity is exempted from filing disclosure. If Yes, what is the dollar threshold?
2. Time threshold: if the amount of time devoted to lobbying is less than a threshold percentage of an individual's compensated time then the individual or entity is exempted from filing disclosure. If Yes, what is the percentage threshold?

E) Information Disclosed⁸⁷

Finally, question E relates to the actual information that must be disclosed. We have included disclosure requirements for both the principal (organization or entity that hires a lobbyist) and lobbyists. The higher score of either is used in our analysis. The reason for this is that the data reported is essentially the same. Thus, if a state required both principals and lobbyists to disclose information, as long as all the criteria are included, the source really doesn't matter.

There are two exceptions to this rule: spending and legislative disclosure (questions F and G) and the reporting of the principal (question J), which pertain to the disclosure of spending on lobbying and the identification of specific legislation on which lobbying was undertaken, respectively. Ideally, states require both principals and lobbyists to disclose this information. Thus, states are rewarded through higher scores when both principals and lobbyists are required to submit this information, which admittedly creates some overlap.⁸⁸ The reason for the preference for double-reporting of financial and legislative identification is that there are important nuances and benefits from specific information pertaining to spending on legislative initiatives. If only one of the principal or lobbyist reports this information, particularly when it is aggregated, important details and nuances are lost.

The second exception, question J, pertains to whether principals are required to disclose their financial supporters or contributors. It is meant to assess whether state disclosure laws require a disclosure of the ultimate source of financing for lobbying activities. This question is assessed independently of the other questions contained in question E.

Finally, it is worth noting the nature of the questions relating to the frequency of disclosure reporting (questions E1h and E2h). Obviously, the main goal is a broad set of disclosure laws that make readily available a wealth of information regarding lobbying activity. However, a question remains about the timeliness of the disclosed data. For example, if data is required to be disclosed annually, then there is a high probability that information will not be available during the time when legislation is actively being debated. This will block the sunshine of transparency until some later date. More frequent disclosure requirements—such as monthly, quarterly, or tri-annually (to match the legislative calendar)—are beneficial.⁸⁹ Thus, the scoring for this data rewards 1 point for reporting of lobbying data based on intervals of less than three times a year.

E1) Principal Reports:

- a. Are principals required to disclose? If Yes, below:
- b. Are principals required to disclose their address and phone number?
- c. Are principals required to disclose the names of all the lobbyists representing them?
- d. Are principals required to disclose the address and phone number of contracted lobbyists?
- e. Are principals required to disclose the nature of the business (public or private)?
- f. What are the required components of a disclosure report?
 - i. Direct lobbying costs (compensation)
 - ii. Indirect lobbying costs (non-compensation)
 - iii. Other costs such as gifts, entertainment, transportation, and lodging
 - iv. Is the information disclosed in an itemized format (as opposed to an aggregated or lump-sum amount)?
- g. Are principals required to disclose information on the issue lobbied:
 - i. By the general issues lobbied?
 - ii. By the specific bill number or legislation ID?
- h. How frequently are principals required to report?
 - i. Monthly?
 - ii. Quarterly?
 - iii. Tri-annually? (linked with legislative calendar)
 - iv. Semi-Annually?
 - v. Annually?
 - vi. Other: _____
- i. Are principals required to disclose contacts?⁹⁰
- j. Are principals required to disclose major financial contributors?

E2) Lobbyist Disclosure:

- a. Are lobbyists required to disclose? If Yes, below:
- b. Are lobbyists required to disclose their address and phone number?
- c. Are lobbyists required to disclose the names of all the principals represented?
- d. Are lobbyists required to disclose the address and phone number of the principals represented?
- e. Are lobbyists required to disclose the nature of the principal's business (public or private)?
- f. What are the required components of a disclosure report?
 - i. Direct lobbying costs (compensation)
 - ii. Indirect lobbying costs (non-compensation)
 - iii. Other costs such as gifts, entertainment, transportation, and lodging
 - iv. Is the information disclosed in an itemized format (As opposed to an aggregated or lump sum amount)?
- g. Are lobbyists required to disclose information on the issue lobbied:
 - i. By the general issues lobbied?
 - ii. By the specific bill number or legislation ID?
- h. How frequently are lobbyists required to report?
 - i. Monthly?
 - ii. Quarterly?
 - iii. Tri-annually (linked with legislative calendar)?
 - iv. Semi-Annually?

- v. Annually?
- vi. Other: _____
- i. Are lobbyists required to disclose contacts?⁹¹

Results of Analysis for State Disclosure Laws

Table 5 contains the overall and specific scores for the analysis of state lobbying disclosure laws. The overall results are illustrated in figure 3. Montana received the highest score: 31 out of a possible 37, or 83.8 percent. By this analysis, Montana was deemed to maintain the best set of lobbying disclosure laws among the 50 states. Other high-performing (ranked) states were Arizona (81.1 percent), South Carolina (78.4 percent), Texas (78.4 percent), and Indiana (75.7 percent).

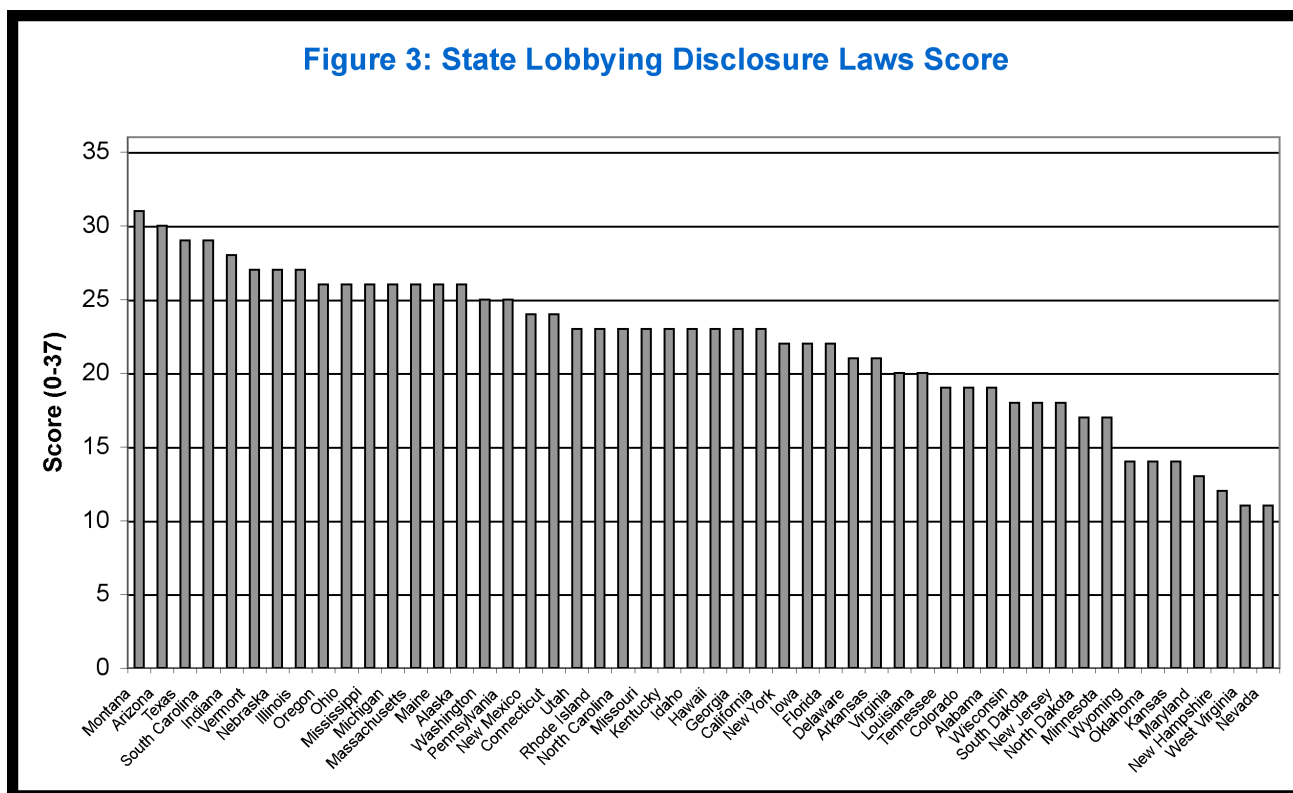
A total of 11 states received scores below 50 percent, indicating a rather poor set of lobbying disclosure laws. Perhaps more worrying for those concerned about lobbying disclosure laws was that the average score was 21.9 out of 37, or 59.3 percent, indicating much room for improvement across most states.

West Virginia and Nevada shared the dubious distinction of ranking last in the country with a score of 11 out of 37, or 29.7 percent. Other low-ranking (poorly performing) states included New Hampshire (32.4 percent), Maryland (35.1 percent), Kansas (37.8 percent), Oklahoma (37.8 percent), and Wyoming (37.8 percent).

Table 5: State Lobbying Disclosure Laws

	Who is Required to Register (Score of 0-11)	Government Exemptions (Score of 0-4)	Definition of Public Entity (Score of 0-1)	Materiality Test (Score of 0-1)	Lobbying Information Disclosure (Score of 0-20)	Overall Score (0-37)	Score as a Percent	Rank
Alabama	7	3	0	1	8	19	51.4%	36
Alaska	5	2	0	1	18	26	70.3%	9
Arizona	11	3	1	0	15	30	81.1%	2
Arkansas	6	3	0	1	11	21	56.8%	32
California	6	2	0	1	14	23	62.2%	20
Colorado	8	0	0	1	10	19	51.4%	36
Connecticut	5	1	0	1	17	24	64.9%	18
Delaware	7	3	0	0	11	21	56.8%	32
Florida	10	3	0	0	9	22	59.5%	29
Georgia	6	3	0	1	13	23	62.2%	20
Hawaii	3	3	0	1	16	23	62.2%	20
Idaho	6	3	0	1	13	23	62.2%	20
Illinois	8	3	0	0	16	27	73.0%	6
Indiana	8	3	1	1	15	28	75.7%	5
Iowa	7	3	1	1	10	22	59.5%	29
Kansas	5	2	0	1	6	14	37.8%	44
Kentucky	8	0	0	0	15	23	62.2%	20
Louisiana	6	3	0	0	11	20	54.1%	34
Maine	8	0	0	1	17	26	70.3%	9
Maryland	1	0	0	1	11	13	35.1%	47
Massachusetts	8	3	0	1	14	26	70.3%	9
Michigan	7	3	0	1	15	26	70.3%	9
Minnesota	1	2	0	1	13	17	45.9%	42
Mississippi	10	1	0	1	14	26	70.3%	9
Missouri	7	3	0	1	12	23	62.2%	20
Montana	9	3	0	1	18	31	83.8%	1
Nebraska	8	3	0	0	16	27	73.0%	6
Nevada	5	0	0	0	6	11	29.7%	49
New Hampshire	1	0	0	0	11	12	32.4%	48
New Jersey	1	0	0	1	16	18	48.6%	39
New Mexico	9	2	0	0	13	24	64.9%	18
New York	3	0	0	1	18	22	59.5%	29
North Carolina	6	3	0	1	13	23	62.2%	20
North Dakota	7	3	0	0	7	17	45.9%	42
Ohio	7	2	1	1	15	26	70.3%	9
Oklahoma	6	3	0	0	5	14	37.8%	44
Oregon	7	3	1	1	14	26	70.3%	9
Pennsylvania	8	3	0	0	14	25	67.6%	16
Rhode Island	9	0	0	0	14	23	62.2%	20
South Carolina	10	3	1	1	14	29	78.4%	3
South Dakota	3	1	0	0	14	18	48.6%	39
Tennessee	8	3	0	0	8	19	51.4%	36
Texas	7	3	0	1	18	29	78.4%	3
Utah	6	3	0	0	14	23	62.2%	20
Vermont	8	3	0	1	15	27	73.0%	6
Virginia	6	3	0	1	10	20	54.1%	34
Washington	6	2	0	1	16	25	67.6%	16
West Virginia	1	0	0	1	9	11	29.7%	49
Wisconsin	6	1	0	1	10	18	48.6%	39
Wyoming	7	2	0	0	5	14	37.8%	44

Sources: State lobbying websites; as delineated in Appendix C (References); calculations by the authors.



Sources: State lobbying websites; as delineated in Appendix E (References); calculations by the authors.

The overall score is composed of five distinct areas of lobbying disclosure laws: (1) registration, (2) exemptions for government, (3) defining public entities, (4) materiality, and (5) disclosure.

(1) Registration

This component examined 11 categories of potential lobbying activity to determine who was required to register within each state. The scores ranged from a high of 11 in Arizona to a low of 1 in Maryland, Minnesota, New Hampshire, New Jersey, and West Virginia. Specifically, these latter states only require “lobbyists” to register while ignoring all other categories of possible lobbyists. The average score (out of 11) for the 50 states was 6.4, or a little more than 50 percent.

In terms of private-sector lobbying, which included lobbyists, volunteer lobbyists, principals employing a lobbyist, and lobbying firms, the scores varied considerably. All 50 states require lobbyists to register. Only 17 states, however, require volunteer lobbyists to register, only 24 states require principals to register, and only 17 states require lobbying firms to register (table 5).

Perhaps more disconcerting given our interest in taxpayer-funded lobbying are the results for public-sector entities (questions A5 through A11). The average requirement of the seven categories of public-sector entities with the potential to engage in lobbying was 4.2. In other words, on average, states required 4.2 of the seven categories of public-sector or taxpayer-funded organizations to register for lobbying activity.

In some cases the exemptions were stark. For instance, only six states require government agencies to register when lobbying. Only 31 states include the legislative branch in lobbying registration requirements. Further, 13 states exempt the governor's office and the broader executive branch from lobbying registration.

Eighteen states formally indicate in their lobbying laws that government agencies are not subject to the same disclosure requirements as private-sector lobbyists and principals.

Consider the meaning of these findings: individuals in the private sector undertaking lobbying activities are required to register and report their activities, while people in the public sector (taxpayer-funded) may be exempt even if they are completing and pursuing the same lobbying tasks. That amounts to a clear double standard in favor of taxpayer-funded lobbying.

(2) Exemptions for Government

The second group of questions pertains to exemptions for government agencies and departments. This set of questions flows quite naturally from the analysis of who is required to register. A shocking 44 states provide specific exemptions in their lobbying laws for public agencies and public officials (table 5). The common response garnered during the research process was that lobbying duties were seen as a “natural” or inherent function of public office. What seems to have been missed is that with such exemptions, state governments are permitting taxpayer-funded organizations to indulge in lobbying activities without the same transparency and thus accountability required for private-sector lobbying. Eighteen states formally indicate in their lobbying laws that government agencies are not subject to the same disclosure requirements as private-sector lobbyists and principals. The exemption of government and government agencies seems to be an acute problem in states like Colorado, Kentucky, Maine, Maryland, Nevada, New Hampshire, New Jersey, New York, Rhode Island, and West Virginia, all of which received scores of 0 out of 4 on this measure (table 5).

(3) Defining Public Entities

Only six states' lobbying laws contain a definition of a public entity (table 5): Arizona, Indiana, Iowa, Ohio, Oregon, and South Carolina. A full 88 percent of states, the vast majority, fail to include a definition of public entities in their lobbying laws. That indicates a clear need for improvement.

(4) Materiality Test

Thirty-two states provide some type of exemption for small or immaterial lobbying activity. Twenty-seven states use a financial or spending threshold, while 13 states rely on a time threshold. Interestingly, California, Connecticut, Hawaii, Idaho, Oregon, and Washington use a combination of both tests to exclude small lobbying. The 18 states that do not include an exemption for small lobbying activity should review their policies to ensure a proper balance between capturing meaningful lobbying activity and avoiding imposing compliance costs on small, incidental lobbying activities. However, additional research is needed into the benefits of different exemptions—financial and/or time—coupled with greater understanding of lobbying disclosure compliance costs.

(5) Information Disclosure

Finally, the heart of the analysis relates to the actual information required to be disclosed by the principal and/or the lobbyist. In all, the analysis included 20 discrete pieces of information ranging from basic contact information to financial reporting to the timeliness of disclosure. Four states tied for the top position with a score of 18 out of a possible 20: Alaska, Montana, New York, and Texas (table 5). Wyoming and Oklahoma ranked last with just 5 out of 20, indicating a sparse requirement for disclosure. Other poorly performing states included Kansas (6), Nevada (6), North Dakota (7), Alabama (8), Tennessee (8), and West Virginia (9). The average score (out of 20) was 12.7, which indicates a weak performance, on average, for the states' lobbying disclosure requirements.

Accessibility

The final analytical section of the study flows directly from our documentation of the legal disclosure requirements imposed on organizations engaged in lobbying across the 50 states. This section builds on those disclosure requirements by analyzing ease of access to the information. It is not enough simply to require organizations to disclose information. A mechanism through which people can easily and anonymously access the disclosed information in a timely way is a necessary condition to achieve transparency and thus accountability in lobbying. This section empirically measures the extent and ease of accessibility to disclosed lobbying information by state.

State Lobbying Information Accessibility Criteria

The following section summarizes and describes the questions, or criteria, used in the analysis.

- 1) Data availability – At least some lobbying data available (in any format) either by request (email, telephone, fax, etc.) or anonymously (web-based).
- 2) Website existence – The state has a dedicated website for lobbying information.
- 3) Website identification – How easily a state's lobbying website can be found.⁹²
- 4) Current data availability – At least some current lobbying data/information available on the website for the most recent year.

Individuals in the private sector undertaking lobbying activities are required to register and report their activities, while people in the public sector (taxpayer-funded) may be exempt even if they are completing and pursuing the same lobbying tasks.

5) Historical data availability – Historical lobbying information is available, downloadable, or at least viewable on the state's website.

6) Data format – How easily users can download lobbying data and information and analyze it, and specifically, whether users are able to download information in an electronic format that is immediately useable for analysis, such as Excel or SPSS. Such formats require a minimal amount

of time for adjustments and correction, which allows for speedy analysis of data as well as the ability to sort by multiple variables simultaneously.

7) Sorting data – This measure examines whether users can specify data searches on the website using certain criteria:

- a) Principal (city, authority hiring, employer, corporation, etc.)
- b) Principal's location (specific address, city)
- c) Lobbyist name
- d) Lobbyist location (specific address, city)
- e) Specific date
- f) Specific time period (normally quarter but it depends on how often the law requires data to be disclosed)
- g) Total expenditures
- h) Compensation spending (portion of total expenditures for which the lobbyist is paid back)
- i) Miscellaneous expenses (non-compensation)
- j) Sources of funding (emphasis on public/taxpayer-funded)
- k) Subject of lobbying (or item of legislation)
- l) Designated entities assigned to lobbyist (group/congressman the lobbyist is working for)
- m) Legal status of the principal (government, non-profit, for-profit, etc.)
- n) Sector (transport, energy, banking, education, social services, etc.)
- o) Sub-sector (K-12, secondary, vocational, etc.)

8) Simultaneous sorting – This measure examines the ability of users simultaneously to sort lobbying data by multiple criteria.

Questions one through six were scored as 1 (Yes) or 0 (No). The final two questions (7 and 8) were scored on a scale of 0 to 15. The result for question 8 was divided by 15 to arrive at a score of 0–1. The overall score of each state was then calculated by aggregating the individual scores on a possible scale of 0 to 22. Each question was weighted equally.

Results of Analysis

Overall, the scores for accessibility to disclosure information range from a low of 5 (out of a possible 22) in Vermont and Wyoming to a high of 17.3 in Connecticut (table 6 and figure 4). Other high-ranking states included North Carolina (14.3), Washington (14.3), New Jersey (14.0), and Indiana (13.3).

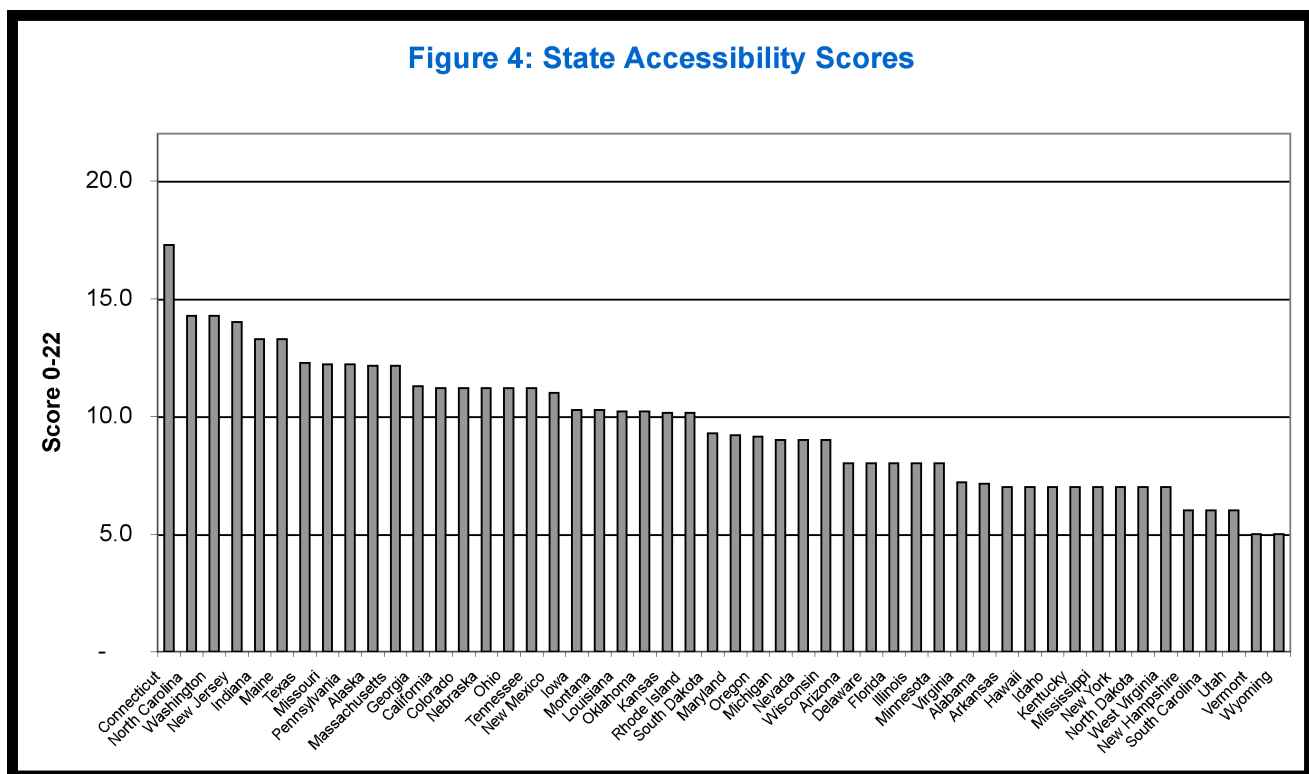
The results for accessibility were generally worse than those for lobbying disclosure laws. For example, the average score was 9.6 out of a possible 22, or 43.6 percent (table 6). Put differently, 32 states or 64 percent failed to achieve a score in excess of 50 percent. Both measures indicate a poor performance for most states in allowing access to disclosed lobbying information.

Table 6: State Accessibility to Lobbying Disclosure Information

State	Data Availability (Score 1 or 0)	Website (Score 1 or 0)	Website Identification (Score 1 or 0)	Current Data Availability (Score 1 or 0)	Historical Data Availability (Score 1 or 0)	Data Format (Score 1 or 0)	Sorting Data (Score 0-15)	Simultaneous Sorting (Score 0-1)	Total Score (Score 0-22)	Score as a Percent	Rank
Alabama	1	1	1	1	-	-	3.0	0.1	7.1	32.4%	37
Alaska	1	1	1	1	1	-	7.0	0.1	12.1	55.2%	10
Arizona	1	1	1	1	-	-	4.0	-	8.0	36.4%	31
Arkansas	1	1	1	1	1	-	2.0	-	7.0	31.8%	38
California	1	1	1	1	1	1	5.0	0.2	11.2	50.9%	13
Colorado	1	1	1	1	1	-	6.0	0.2	11.2	50.9%	13
Connecticut	1	1	1	1	1	1	11.0	0.3	17.3	78.5%	1
Delaware	1	1	1	1	1	-	3.0	-	8.0	36.4%	31
Florida	1	1	1	1	1	-	3.0	-	8.0	36.4%	31
Georgia	1	1	1	1	1	1	5.0	0.3	11.3	51.2%	12
Hawaii	1	1	1	1	1	-	2.0	-	7.0	31.8%	38
Idaho	1	1	1	1	1	-	2.0	-	7.0	31.8%	38
Illinois	1	1	1	1	-	-	4.0	-	8.0	36.4%	31
Indiana	1	1	1	1	1	1	7.0	0.3	13.3	60.3%	5
Iowa	1	1	1	1	-	1	5.0	0.3	10.3	46.7%	19
Kansas	1	1	1	1	1	-	5.0	0.1	10.1	46.1%	23
Kentucky	1	1	1	1	-	-	3.0	-	7.0	31.8%	38
Louisiana	1	1	1	1	1	-	5.0	0.2	10.2	46.4%	21
Maine	1	1	1	1	1	1	7	0	13	60.3%	5
Maryland	1	1	1	1	1	0	4	0	9	41.8%	26
Massachusetts	1	1	1	1	1	0	7	0	12	55.2%	10
Michigan	1	1	1	1	1	0	4	0	9	40.9%	28
Minnesota	1	1	1	1	1	0	3	0	8	36.4%	31
Mississippi	1	1	1	1	1	0	2	0	7	31.8%	38
Missouri	1	1	1	1	1	1	6	0	12	55.5%	8
Montana	1	1	1	1	0	1	5	0	10	46.7%	19
Nebraska	1	1	1	1	1	0	6	0	11	50.9%	13
Nevada	1	1	1	1	1	0	4	0	9	40.9%	28
New Hampshire	1	1	1	1	0	0	2	0	6	27.3%	46
New Jersey	1	1	1	1	1	1	8	0	14	63.6%	4
New Mexico	1	1	1	1	1	0	6	0	11	50.0%	18
New York	1	1	1	1	1	0	2	0	7	31.8%	38
North Carolina	1	1	1	1	1	1	8	0	14	64.8%	2
North Dakota	1	1	1	1	1	0	2	0	7	31.8%	38
Ohio	1	1	1	1	0	1	6	0	11	50.9%	13
Oklahoma	1	1	1	1	1	1	4	0	10	46.4%	21
Oregon	1	1	1	1	1	1	3	0	9	41.5%	27
Pennsylvania	1	1	1	1	1	0	7	0	12	55.5%	8
Rhode Island	1	1	1	1	1	0	5	0	10	46.1%	23

South Carolina	1	1	1	1	1	1	0	0	6	27.3%	46
South Dakota	1	1	1	1	1	0	4	0	9	42.1%	25
Tennessee	1	1	1	1	1	1	5	0	11	50.9%	13
Texas	1	1	1	1	1	1	6	0	12	55.8%	7
Utah	1	1	1	1	0	0	2	0	6	27.3%	46
Vermont	1	1	1	1	0	0	1	0	5	22.7%	49
Virginia	1	1	1	1	0	0	3	0	7	32.7%	36
Washington	1	1	1	1	1	1	8	0	14	64.8%	2
West Virginia	1	1	1	1	0	0	3	0	7	31.8%	38
Wisconsin	1	1	1	1	1	0	4	0	9	40.9%	28
Wyoming	1	1	1	1	0	0	1	0	5	22.7%	49

Sources: State lobbying websites; as delineated in Appendix C (References); calculations by the authors.



Sources: State lobbying websites; as delineated in Appendix C (References); calculations by the authors.

It's worthwhile to explore some of the specific areas analyzed in the accessibility section. The authors found no variance in the performance of the states across the first four criteria: every state received 4 out of 4 on these measures of accessibility. Every state makes lobbying data available, maintains a website that is easily found or identified, and makes current data available on the website. Thus the differences between the states are explained by the results in criteria 5 through 8.

For example, 37 of the 50 states provide historical information while only 17 provide data in a readily analyzable and downloadable format. This criterion, which drives differentiation between the states, is also an area where most states can clearly improve their accessibility performance.

A large difference in performance also emerges with respect to sorting or analyzing disclosure data. The final two questions relate to the ability of users first to sort disclosure data by 15 different suggested criteria and then to sort the data simultaneously using multiple variables (again 15 are suggested).

While states generally collect much of this information, for some reason they make it difficult to sort or analyze the data using these criteria.

The average scores (out of a possible 15) for these two variables were 4.4 and 1.7, respectively. In other words, on average, the states allow users to sort lobbying data by 4.4 variables out of a possible 15 and permit the simultaneous sorting of only 1.7 variables. The surprising insight here is that while states generally collect much of this information, for some reason they make it difficult to sort or analyze the data using these criteria. This is particularly true for simultaneous sorting of multiple variables.

Comparison of Accessibility Scores with Disclosure-Law Scores

Finally, it is helpful to compare and combine the performance of the states across both the lobbying disclosure laws and accessibility to gain a better understanding of their overall performance. Table 9 contains summary information for the lobbying disclosure laws and accessibility analyses as well as a combined score and rank. (The overall scores for the two sections were simply averaged). Figure 5 illustrates the overall scores.

Connecticut ranked first overall with an average score of 71.7 percent. Please recall the nature of this score: it means that Connecticut requires a fair amount of the recommended information to be disclosed and then facilitates access to that information. Other high-ranking states include Indiana (68.0 percent), Texas (67.1 percent), Washington (66.2 percent), Maine (65.3 percent), and Montana (65.2 percent).

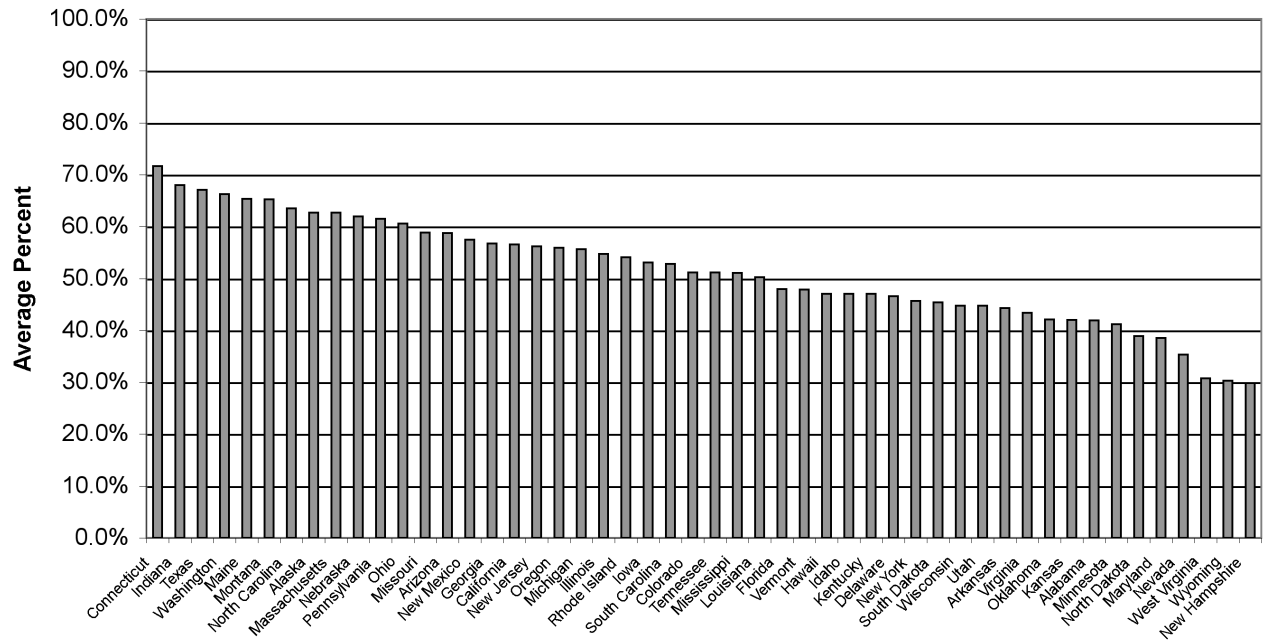
New Hampshire ranked last overall with a score of 29.9 percent. Other poorly performing (low-ranking) states included: Wyoming (30.3 percent), West Virginia (30.8 percent), Nevada (35.3 percent), and Maryland (38.5 percent). The opposite is true for these states; they tend to require much less information to be disclosed from lobbying activity and then perform poorly in making the information available.

Overall, the data from table 7 indicate a marked need for improvement across the board. The top-ranked state, Connecticut, scored only 71.7 percent. Twenty-two states failed to achieve a score in excess of 50 percent, and the average score was a disappointing 51.5 percent. Regardless of where they ranked, states clearly have room for improvement in their lobbying disclosure laws as well as in access to the disclosed information.

Table 7: Comparison of Results - Disclosure Laws vs. Accessibility								
	Disclosure Laws			Accessibility			Overall (Combined)	
	Score (Out of 37)	Percent	Rank	Score (Out of 22)	Percent	Rank	Average Percent	Rank
Alabama	19	51.4%	36	7.1	32.4%	37	41.9%	43
Alaska	26	70.3%	9	12.1	55.2%	10	62.7%	8
Arizona	30	81.1%	2	8.0	36.4%	31	58.7%	14
Arkansas	21	56.8%	32	7.0	31.8%	38	44.3%	39
California	23	62.2%	20	11.2	50.9%	13	56.5%	17
Colorado	19	51.4%	36	11.2	50.9%	13	51.1%	25
Connecticut	24	64.9%	18	17.3	78.5%	1	71.7%	1
Delaware	21	56.8%	32	8.0	36.4%	31	46.6%	34
Florida	22	59.5%	29	8.0	36.4%	31	47.9%	29
Georgia	23	62.2%	20	11.3	51.2%	12	56.7%	16
Hawaii	23	62.2%	20	7.0	31.8%	38	47.0%	31
Idaho	23	62.2%	20	7.0	31.8%	38	47.0%	31
Illinois	27	73.0%	6	8.0	36.4%	31	54.7%	21
Indiana	28	75.7%	5	13.3	60.3%	5	68.0%	2
Iowa	22	59.5%	29	10.3	46.7%	19	53.1%	23
Kansas	14	37.8%	44	10.1	46.1%	23	41.9%	42
Kentucky	23	62.2%	20	7.0	31.8%	38	47.0%	31
Louisiana	20	54.1%	34	10.2	46.4%	21	50.2%	28
Maine	26	70.3%	9	13.3	60.3%	5	65.3%	5
Maryland	13	35.1%	47	9.2	41.8%	26	38.5%	46
Massachusetts	26	70.3%	9	12.1	55.2%	10	62.7%	8
Michigan	26	70.3%	9	9.0	40.9%	28	55.6%	20
Minnesota	17	45.9%	42	8.0	36.4%	31	41.2%	44
Mississippi	26	70.3%	9	7.0	31.8%	38	51.0%	27
Missouri	23	62.2%	20	12.2	55.5%	8	58.8%	13
Montana	31	83.8%	1	10.3	46.7%	19	65.2%	6
Nebraska	27	73.0%	6	11.2	50.9%	13	61.9%	10
Nevada	11	29.7%	49	9.0	40.9%	28	35.3%	47
New Hampshire	12	32.4%	48	6.0	27.3%	46	29.9%	50
New Jersey	18	48.6%	39	14.0	63.6%	4	56.1%	18
New Mexico	24	64.9%	18	11.0	50.0%	18	57.4%	15
New York	22	59.5%	29	7.0	31.8%	38	45.6%	35
North Carolina	23	62.2%	20	14.3	64.8%	2	63.5%	7
North Dakota	17	45.9%	42	7.0	31.8%	38	38.9%	45
Ohio	26	70.3%	9	11.2	50.9%	13	60.6%	12
Oklahoma	14	37.8%	44	10.2	46.4%	21	42.1%	41
Oregon	26	70.3%	9	9.1	41.5%	27	55.9%	19
Pennsylvania	25	67.6%	16	12.2	55.5%	8	61.5%	11
Rhode Island	23	62.2%	20	10.1	46.1%	23	54.1%	22
South Carolina	29	78.4%	3	6.0	27.3%	46	52.8%	24
South Dakota	18	48.6%	39	9.3	42.1%	25	45.4%	36
Tennessee	19	51.4%	36	11.2	50.9%	13	51.1%	25
Texas	29	78.4%	3	12.3	55.8%	7	67.1%	3
Utah	23	62.2%	20	6.0	27.3%	46	44.7%	38
Vermont	27	73.0%	6	5.0	22.7%	49	47.9%	30
Virginia	20	54.1%	34	7.2	32.7%	36	43.4%	40
Washington	25	67.6%	16	14.3	64.8%	2	66.2%	4
West Virginia	11	29.7%	49	7.0	31.8%	38	30.8%	48
Wisconsin	18	48.6%	39	9.0	40.9%	28	44.8%	37
Wyoming	14	37.8%	44	5.0	22.7%	49	30.3%	49

Sources: Tables 5 and 6 with calculations by the authors.

Figure 5: Composite Score (Disclosure and Accessibility)



IV. CONCLUSION AND RECOMMENDATIONS

This paper represents a step forward in our understanding of lobbying, particularly taxpayer-funded lobbying, but it is not a destination. This study confirms the need for additional research and resources to more fully understand lobbying, particularly taxpayer-funded lobbying. Our suggestions go beyond this point, with good reason.

Instead of the current double standard, the two sectors should face the same regulations, the same reporting requirements, and the same guidelines for conduct.

The extent of taxpayer-funded lobbying is clearly much more widespread than most people perceive it to be. Using California as a case study, we determined that government and related taxpayer-funded lobbying represented nearly one-quarter (23.8 percent) or one in every four dollars of lobbying in the state. It is therefore critical to understand the marked differences between lobbying in the private sector and taxpayer-funded lobbying. Instead of the current double standard,

the two sectors should face the same regulations, the same reporting requirements, and the same guidelines for conduct. It makes no sense to treat one-quarter of lobbying activity differently because it is taxpayer-funded. Indeed, if it were to be treated differently, one would suspect more regulation, not less, given the absence of private-sector constraints and discipline.

Every state stands in need of improvement when it comes to its lobbying disclosure laws and accessibility to lobbying information. This report illuminates the areas in need of improvement. Even those states that ranked high can perform much better. Other states require wholesale changes to their lobbying disclosure laws and/or accessibility. All states need to work harder at implementing more productive and transparency-inducing disclosure laws and accessibility systems.

ENDNOTES

- 1 For information on the U.S. Constitution, see <http://www.usconstitution.net/const.html>.
- 2 For an interesting defense of political lobbying, see Joel Jankowsky and Thomas Goldstein, "In Defense of Lobbying," *Wall Street Journal*, September 3, 2009, <http://online.wsj.com/article/SB10001424052970203706604574370733538634834.html>.
- 3 The *Washington Post's* Susan Schmidt, James V. Grimaldi, and R. Jeffrey Smith won the Pulitzer Prize for investigative reporting for their series on Jack Abramoff, available at <http://www.washingtonpost.com/wp-dyn/content/linkset/2005/06/22/LI2005062200936.html>.
- 4 For example, according to the Washington, D.C.-based Center for Responsive Politics, in 2008, some \$3.3 billion was spent on lobbying the federal government, with nearly 15,000 people directly employed. See the Center for Responsive Politics, Influence and Lobbying section, <http://www.opensecrets.org/lobby/index.php>.
- 5 For an interesting discussion of the normalcy and dominance of interest-group lobbying, see David Boaz, "The Lobbyist Scandals," *Pittsburgh Tribune-Review*, January 15, 2006, available at www.cato.org/pub_display.php?pub_id=5382.
- 6 For lobbying-disclosure information for the U.S. House of Representatives, see <http://lobbyingdisclosure.house.gov/>; For lobbying-disclosure information for the U.S. Senate, see http://www.senate.gov/pagelayout/legislative/g_three_sections_with_teasers/lobbyingdisc.htm.
- 7 See www.opensecrets.org for the Center for Responsive Politics. The Center for Public Integrity (<http://www.publicintegrity.org/>) also works on related issues, particularly disclosure.
- 8 Quasi-government refers to organizations and entities that are not technically government, but that benefit from government and are distinguished characteristically from private-sector firms. For example, firms and organizations granted monopolies by the government, particularly if revenues are guaranteed, will behave more like a government organization than a private firm. Examples of these types of organizations include utilities, public-sector unions, and a host of commissions.
- 9 See www.dictionary.com; www.merriam-webster.com/; <http://dictionary.cambridge.org/>; and <http://en.wikipedia.org/wiki/Lobbying> for examples of the definitions provided for lobbying; Nownes et al. provide a categorization of different types of lobbyists: contract, in-house, volunteer, government, and private-individual. They differentiate by sector (government or private) as well as by the status of the lobbyist (contract, in-house, volunteer). See Anthony J. Nownes, Clive S. Thomas, and Ronald J. Hrebener, "Interest Groups in the States," in *Politics in the American States*, eds. Virginia Gray and Russell L. Hanson (Washington, D.C.: CQ Press, 2008).
- 10 "The History of the Willard Inter-Continental Washington: The Residence of Presidents," <http://www.washington.intercontinental.com/washa/pdf/history.pdf>; Wikipedia, however, notes earlier references to the term lobbying. For instance, it notes a passage from Deanna Gelak, a former president of the American League of Lobbyists, quoting the term "lobbying" in print as early as 1820. See <http://en.wikipedia.org/wiki/Lobbying>.
- 11 James Madison, Federalist No. 10, *The Federalist*, eds. George W. Carey and James McClellan (Indianapolis: The Liberty Fund), pp. 42–49.
- 12 One important exception is when organizations, particularly corporations, develop and maintain internal lobbying capacity rather than contract out such services. For an examination of the inter-firm/outside contract decisions made by organizations regarding lobbying, see John M. de Figueiredo and James J. Kim, "When Do Firms Hire Lobbyists? The Organization of Lobbying at the Federal Communications Commission," NBER Working Paper No. 10553 (Cambridge, MA: National Bureau of Economic Research [NBER], 2004). Available at www.nber.org/papers/w10553.
- 13 The other key participants in the political marketplace are politicians, bureaucrats, and voters. An area of economics known as public choice analyzes the political marketplace and the participants within it based on traditional economic analysis. For further information on both the individual participants in the political marketplace and public choice economics more broadly, please see James Buchanan, "Politics Without Romance," in *The Collected Works of James Buchanan, Volume 1: The Logical Foundations of Constitutional Liberty* (Indianapolis, IN: Liberty Fund, Inc., 1999); William Mitchell and Randy Simmons, *Beyond Politics: Markets, Welfare, and the Failure of Bureaucracy* (Oakland, CA: The Independent Institute, 1994), chapters 2–4. See also Gordon Tullock, Arthur Seldon, and Gordon L. Brady, "The Theory of Public Choice," in *Government Failure: A Primer in Public Choice* (Washington, D.C.: The Cato Institute, 2002).
- 14 Madison, Federalist No. 10, 42.
- 15 James M. Buchanan and Gordon Tullock, "Pressure Groups, Special Interests, and the Constitution," in *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Indianapolis: The Liberty Fund, 1999), p. 269.
- 16 For a broad overview and analysis of interest groups, both in the United States and internationally, please see Clive S. Thomas, ed., *Research Guide to U.S. and International Interest Groups* (Westport, CT: Praeger Publishing, 2004).
- 17 Buchanan and Tullock, *The Calculus of Consent*.
- 18 For an interesting example of the pursuit of narrow interests by lobbyists and a discussion of the returns to organizations (universities) employing lobbyists in the post-secondary education sector, see John M. de Figueiredo and Brian S. Silverman, "Academic Earmarks and the Returns to Lobbying," NBER Working Paper No. 9064 (Cambridge, MA: NBER, July 2002). Available at <http://www.nber.org/papers/w9064>.
- 19 For a more general discussion of lobbying and welfare, see Timothy Besley and Stephen Coate, "Lobbying and Welfare in a Representative Democracy," *The Review of Economic Studies*, vol. 68, no. 1 (January 2001): 67–82. Available at <http://www.jstor.org/stable/2695919>. For a discussion of this phenomenon in the area of tariffs, see William Brock and Stephen Magee, "The Economics of Special Interest Politics: The Case of the Tariff," *American Economic Review*, vol. 68, no. 2 (1978), Papers and Proceedings of the Ninetieth Annual Meeting of the American Economic Association, 246–250. For a vivid discussion of blatant rent-seeking in the political arena by corporations, see Kimberley A. Strassel, "Rent-Seekers Inc.," *Wall Street Journal*, October 2, 2009, <http://online.wsj.com/article/SB10001424052748704471504574447291766327588.html>.
- 20 For an important discussion of the link between advocacy spending and actual voting results, see Kristian S. Palda, "The Effect of Expenditure on Political Success," *Journal of Law and Economics*, vol. 18, no. 3 (December 1975), Economic Analysis of Political Behavior: Universities-National Bureau Conferences Series Number 29, pp. 745–771.
- 21 William Mitchell and Randy Simmons, *Beyond Politics: Markets, Welfare, and the Failure of Bureaucracy* (Oakland, CA: The Independent Institute, 1994), p. 62.
- 22 Buchanan and Tullock, *The Calculus of Consent*, p. 273.
- 23 Anthony Downs, "An Economic Theory of Political Action in a Democracy," *Journal of Political Economy*, vol. 65, no. 2 (April 1957); and Anthony Downs, *An Economic Theory of Democracy* (New York: Harper & Row, 1957).
- 24 An enormous number of scholars have taken the initial work on interest groups and extended its depth and breadth. For instance, Sam Peltzman, "Toward a More General Theory of Regulation," NBER Working Paper No. 133 (Cambridge, MA: NBER, 1976), examines interest groups within the field of regulations in order to develop a more general understanding of regulations and the regulatory environment. Similarly, William Niskanen in *Bureaucracy and Representative Government* (Chicago, IL: 1971) explored bureaucracies and government, including the role of interest groups.
- 25 Part of this recognition and increasing concern was most certainly initiated by Mancur Olson's watershed publication of *The Logic of Collective Action*

- (1969). Among a number of important insights, Olson showed that it was relatively easy to organize a small group of interests when the rewards or costs were large, and inversely, it was difficult to organize groups when the benefits or costs were small. See Mancur Olson, *The Logic of Collective Action* (Cambridge, MA: Harvard University Press, 1969).
- 26 Buchanan and Tullock, *The Calculus of Consent*.
- 27 Gary S. Becker, "A Theory of Competition among Pressure Groups for Political Influence," *Quarterly Journal of Economics*, vol. 98, no. 3 (August 1983), pp. 371–399; For an interesting examination of competing interest groups and how they affect government, see Yael V. Hochberg, Paola Sapienza, and Annette Vissing-Jorgensen, "A Lobbying Approach to Evaluating the Sarbanes-Oxley Act of 2002," NBER Working Paper No. 12952 (Cambridge, MA: NBER, 2007). Available at <http://www.nber.org/papers/w12952>.
- 28 Becker, "A Theory of Competition among Pressure Groups for Political Influence," p. 372.
- 29 Ibid., pp. 371–399.
- 30 Ibid.
- 31 For information on the resource or budget constraints of firms, both private and public, see János Kornai, Eric Maskin, and Gerard Roland, "Understanding the Soft Budget Constraint," *Journal of Economic Literature*, vol. XLI (December 2003): 1095–1136. For a summary of the research on budget constraints, see Jason Clemens, "János Kornai and Budget Constraints," *Fraser Forum* (Vancouver, BC: The Fraser Institute, April 2004), 20–21. Available at http://www.fraserinstitute.org/Commerce.Web/product_files/Apr04ffKornai.pdf.
- 32 For information on the resource or budget constraints of firms, both private and public, see Kornai, Maskin, and Roland, "Understanding the Soft Budget Constraint." For a summary of the research on budget constraints, see Clemens, "János Kornai and Budget Constraints."
- 33 James T. Bennett and Thomas J. DiLorenzo, *Destroying Democracy: How Government Funds Partisan Politics* (Washington, D.C.: The Cato Institute, 1985).
- 34 James T. Bennett and Thomas DiLorenzo, "How (and Why) Congress Twists Its Own Arm: The Political Economy of Tax-Funded Politics," *Public Choice*, vol. 55, no. 3 (October 1987), pp.199–213.
- 35 Ibid., p. 205.
- 36 A review of both books appeared in the academic journal *Public Choice* in 2000. See William F. Shughart II, *Public Choice*, vol. 102 (2000): 382–386.
- 37 James T. Bennett and Thomas DiLorenzo, *CancerScam: Diversion of Federal Cancer Funds to Politics* (New Brunswick, NJ: Transaction Publishers, 1998).
- 38 James T. Bennett and Thomas DiLorenzo, *The Food and Drink Police: American's Nannies, Busybodies and Petty Tyrants* (New Brunswick, NJ: Transaction Publishers, 1998).
- 39 James T. Bennett, *Tax-Funded Politics* (New Brunswick, NJ: Transaction Publishers, 2004).
- 40 For a detailed case study of this phenomenon, see John Samples, Christopher Yablonski, and Ivan G. Osorio, *More Government for All: How Taxpayers Subsidize Anti-Tax Cut Advocacy*, Policy Analysis no. 407 (Washington, D.C.: The Cato Institute, 2001). Available at http://www.cato.org/pub_display.php?pub_id=1266.
- 41 For more information about the Goldwater Institute, see www.goldwaterinstitute.org; Benjamin Barr, *Your Tax Dollars at Work: The Implications of Taxpayer-Funded Lobbying*, Policy Report No. 217 (Phoenix: The Goldwater Institute, January 23, 2007). Available at <http://www.goldwaterinstitute.org/article/1952>.
- 42 Ibid., appendices A through D.
- 43 Ibid., executive summary and pages 17–19.
- 44 Ibid.
- 45 Ibid.
- 46 For a discussion regarding the other side of the Barr argument, restricting private monies and relying on taxpayer-funded resources within political campaigns, see Yeon-Koo Che and Ian L. Gale, "Caps on Political Lobbying," *The American Economic Review*, vol. 88, no. 3 (June 1998): 643–651; and Bradley A. Smith, "Some Problems with Taxpayer-Funded Political Campaigns," *University of Pennsylvania Law Review*, vol. 148, no. 2 (December 1999), pp. 591–628.
- 47 For more information about the Americans for Prosperity Foundation, see <http://www.americansforprosperity.org/national-site>; Phil Kerpen, "Taxpayer-Funded Lobbying: Runaway Government Growth" (Washington, D.C.: Americans for Prosperity Foundation, December 2008). Available at www.americansforprosperity.org/files/PolicyPaperTFL2008.pdf.
- 48 Ibid., p. 1. Please note that the report incorrectly calculated the percentage increase from 1998 to 2008 as 151 percent when it was actually 161 percent.
- 49 Ibid., p. 2.
- 50 The study is available in several sections on the Center for Public Integrity website at <http://projects.publicintegrity.org/hiredguns/nationwide.aspx>.
- 51 In all, eight distinct areas of disclosure were examined: (1) Definition of Lobbyist, (2) Individual Registration, (3) Individual Spending Disclosure, (4) Employer Spending Disclosure, (5) Electronic Filing, (6) Public Access, (7) Enforcement, and (8) Revolving Door Provision.
- 52 Different questions received different weighting based on the scores assigned. This creates a bias toward those questions in calculating the overall scores. For example, questions with a Yes/No response were given a score of 0 for No and 3 for Yes. Questions with answers that occurred over a range of possibilities were allocated scores ranging from 0 to 5.
- 53 For more information on the methodology used by the Center for Public Integrity on its Hired Guns study, see <http://projects.publicintegrity.org/hiredguns/default.aspx?act=methodology>.
- 54 States that received scores in excess of 70 were Washington (87), Kentucky (79), South Carolina (75), Connecticut (75), New York (74), Wisconsin (73), Massachusetts (73), California (71), and Utah (70).
- 55 For information regarding how the federal government's lobbying disclosure laws compared to the states', see <http://projects.publicintegrity.org/hiredguns/report.aspx?aid=167>.
- 56 The Common Cause – Pennsylvania study is available at <http://www.commoncause.org/atf/cf/%7BFB3C17E2-CDD1-4DF6-92BE-BD4429893665%7D/LobbyLawFull.doc>.
- 57 Information about Common Cause is available at <http://www.commoncause.org/site/pp.asp?c=dkLNK1MQJwG&b=4741359>.
- 58 See Office of the Secretary of State, Political Reform Division, Cal-Access, User's Manual, July 20, 2009 version. Available at http://www.sos.ca.gov/prd/users_manual3.pdf; The National Conference of State Legislatures maintains a user-friendly website that summarizes a variety of aspects of lobbying laws across the 50 states, including disclosure and reporting requirements. The directory of material available as of October 12, 2009, is available at http://www.ncsl.org/Home/SearchResults/tabid/702/Default.aspx?zoom_query=Lobbying.
- 59 Please see the second part of section III of this paper on lobbying disclosure accessibility.
- 60 Information about the Secretary of State in California is available at <http://www.sos.ca.gov/>.

- 61 It is important to recognize that this section and the analysis contained in it rely on lobbying expenditures as a proxy for overall lobbying. There are admittedly aspects of lobbying that are not properly or adequately captured in current lobbying-expenditure data. However, spending on lobbying activities is generally accepted as a reasonable and sufficient proxy for overall lobbying.
- 62 The National Conference of State Legislatures maintains a thorough directory of legal definitions for lobbying and lobbyists for all the states. See National Conference of State Legislatures, "Ethics: How States Define 'Lobbying' and 'Lobbyist'" (accessed October 12, 2009 and effective as of March 2008). Available at <http://www.ncsl.org/default.aspx?tabid=15344>.
- 63 Ibid; The lobbyist definition also specifies conditions for appearing before the Public Utilities Commission: "a proceeding before the Public Utilities Commission constitutes 'administrative action' if it meets any of the definitions set forth in subdivision (b) or (c) of Section 82002. However, a communication made for the purpose of influencing this type of Public Utilities Commission proceeding is not within subdivision (a) if the communication is made at a public hearing, public workshop or other public forum that is part of the proceeding, or if the communication is included in the official record of the proceeding." Ibid.
- 64 The California Secretary of State Lobbying website is available at <http://cal-access.ss.ca.gov/Lobbying/>.
- 65 Information on state-level lobbying by the *Government* category is available at <http://cal-access.ss.ca.gov/Lobbying/Employers/List.aspx?view=detail&cid=40305&session=2007> (accessed October 1, 2009).
- 66 Information on state-level lobbying included in the *Miscellaneous* category is available at <http://cal-access.ss.ca.gov/Lobbying/Employers/List.aspx?view=detail&cid=40312&session=2007> (accessed October 2, 2009).
- 67 Some of the preliminary work completed on this paper by Mr. Tim Wolfe argued strongly for the creation and adoption of a quasi-government category, which would have included organizations that receive special treatment or dispensation from government that advantages and distinguishes them from similar private-sector organizations.
- 68 The category of *Health* was also examined; however, it was determined that the number and importance of potential taxpayer-funded organizations was quite limited.
- 69 Information on state-level lobbying included in the Education category is available at <http://cal-access.ss.ca.gov/Lobbying/Employers/List.aspx?view=detail&cid=40302&session=2007> (accessed October 2, 2009).
- 70 The authors readily admit that one could make a case that California's experience with taxpayer-funded lobbying is anomalous and not representative of the general experience in the other states. However, as the analysis in sections III (disclosure laws) and IV (accessibility) will show, one of the major challenges to better understanding and thus regulating lobbying activities at the state level is the dearth of information and lack of accessibility to the limited amount of information available.
- 71 Available at www.opensecrets.org; For more information on the methodology and processes used by the Center for Responsive Politics, see <http://www.opensecrets.org/lobby/methodology.php>.
- 72 See the Overview section on the Open Secrets website, available at <http://www.opensecrets.org/lobby/index.php>.
- 73 Lobbying data classified and ranked according to the 20 industries used by the Center for Responsive Politics are available at <http://www.opensecrets.org/lobby/top.php?indexType=i>.
- 74 Individual records for *Civil Servants and Public Officials* lobbying spending for 2008 are available at <http://www.opensecrets.org/lobby/indusclint.php?year=2008&lname=W03&cid>.
- 75 Daniel Kaufmann, "Rethinking Governance: Empirical Lessons Challenge Orthodoxy," discussion draft (Washington, D.C.: World Bank, March 11, 2003). Available at <http://www.worldbank.org/wbi/governance/wp-transparency.html>.
- 76 Roumeen Islam, "Do More Transparent Governments Govern Better?" World Bank Policy Research Working Paper 3077 (Washington, D.C.: World Bank, 2003). Available at: http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=469372&piPK=64165421&muPK=64166093¢ID=000094946_03062104301553; Please note that there is acknowledged potential in this study for some confusion regarding the flow of causation.
- 77 Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer, "Disclosure by Politicians," NBER Working Paper No. 14703 (Cambridge, MA: NBER, February 2009). Available at <http://www.nber.org/papers/w14703>. The study looked at rules and practices of financial and conflict disclosure by politicians in 175 countries. Roughly two thirds of the countries maintained some type of disclosure laws, but less than one third were required to disclose information to the public. Critically for the purposes of this study, the authors concluded that disclosure was correlated with lower perceived corruption in the public sector.
- 78 See, for example, World Bank, *Anticorruption in Transition: A Contribution to the Policy Debate*. (Washington, D.C.: The World Bank, 2000); and United States Agency for International Development (USAID), *A Handbook on Fighting Corruption*, Technical Publication Series PN-ACE-070 (Washington, D.C.: Center for Democracy and Governance, Bureau for Global Programs, Field Support, and Research, USAID, February 2009); One of the scholars who reviewed this paper argued, and continues to suggest, that the causation runs in the opposite direction. That is, instead of transparency promoting good government and reducing corruption, the reviewer believes that transparency is an outcome of these practices. That is, good government and the absence or minimization of corruption leads governments to be transparent, not the other way around.
- 79 Daniel Kaufmann, *Rethinking Governance: Empirical Lessons Challenge Orthodoxy*. Available at <http://www.worldbank.org/wbi/governance/wp-transparency.html>.
- 80 Specifically, the following states submitted changes (presented in order by date received): Washington, Rhode Island, South Dakota, Nevada, Kansas, Alabama, Maine, Minnesota, Alaska, Delaware, California, Oregon, Vermont, Hawaii, Indiana, Louisiana, Nebraska, Colorado, South Carolina, Montana, Wisconsin, Texas, New Mexico, New Jersey, Ohio, New York, Connecticut, Maryland, Kentucky, Wyoming, New Hampshire, Arizona, West Virginia, and Virginia.
- 81 The three states were Vermont, Nebraska, and Texas; Thankfully, two of the three states indicated that they had "briefly reviewed" the analysis and that it "seemed correct and reflective of state laws."
- 82 A number of states (e.g., South Dakota and Nevada) requested changes that reduced their scores. Please note that the methodology for assessing state performances was included in the correspondence sent to state officials.
- 83 There were some exceptions to requested changes. For instance, Washington State requested a change from No to Yes for question E1(j), which relates to the disclosure of financial contributors to principals. Washington State does require principals that are membership-based to disclose members who contribute in excess of \$500. This was deemed too narrow a requirement to meet the threshold for a "Yes" on this question.
- 84 The National Conference of State Legislatures (NCSL) maintains a website with links to all of the state's lobbying laws and related information. See National Conference of State Legislatures, Links to States' Legislative Ethics and Lobbying Laws (accessed October 15, 2009; data effective as of February 2008). Available at <http://www.ncsl.org/default.aspx?tabid=15352>.
- 85 Note that the positive answer to this question is "no" whereas it is "yes" to all other questions.
- 86 Note that the positive answer to this question is "no" whereas it is "yes" to all other questions.

- 87 Note to Question E: some states require both principals and lobbyists to register and disclose information. For the purposes of comparative analysis, we took the higher score of the principal or lobbyist section when both were required to disclose information. The complete data for both principals and lobbyists is available in appendix A.
- 88 The authors readily acknowledge the potential problem of additional and material compliance costs imposed by this double reporting. However, the analysis indicated that there were clear benefits from the double reporting of financial expenditures and legislation identification by both the principal and lobbyist. It is hoped that sufficient data regarding lobbying and compliance costs will be collected in the future in order to allow for a more definitive analysis of the costs and benefits of double reporting.
- 89 We readily acknowledge that increased frequency of reporting means increased disclosure costs for those covered by the disclosure requirements. Unfortunately, there is simply not enough data to ascertain whether the benefits from increased disclosure offset or exceed the costs associated with increased compliance costs. Indeed, one of the insights of this study is that we simply do not know enough about state-level lobbying, its benefits, and its costs.
- 90 “Contacts” refers to the state entities with which each lobbyist has been engaged or designated to lobby; it includes the legislature, state agencies, boards, commissions, or councils.
- 91 “Contacts” refers to the state entities with which each lobbyist has been engaged or designated to lobby; it includes the legislature, state agencies, boards, commissions, or councils.
- 92 The ease of finding a state’s lobbying website was determined by entering the state name along with the term “lobbying” in a Google search. The state received an affirmative score if the state website appeared on the first page of results.

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