

ARIZONA
CHAPTER 7, § 49

Lobbying
Reform

STATEMENT OF FINANCIAL INTEREST
SUBCHAPTER 4 - DISCLOSURE
BY LOBBYISTS AND STATE AND LOCAL OFFICIALS.
GENERAL PROVISIONS

21-8-401. Title.

Subchapters 4-8 of this chapter may be referred to and cited as "The Disclosure Act for Lobbyists and State and Local Officials".

21-8-402. Definitions.

As used in subchapters 4-8 of this chapter, unless the context otherwise requires:

(1) "Administrative action" means any decision on, or proposal, consideration, or making of any rule, regulation, ratemaking proceeding, or policy action by a governmental body. "Administrative action" does not include ministerial action;

(2) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust, or any legal entity through which business is conducted;

(3) "County government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a county;

(4) "Family" means an individual's spouse, children of that individual or his or her spouse, or brothers, sisters, or parents of the individual or his or her spouse;

(5)(A) "Gift" means any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor.

(B) The term "gift" does not include:

(i) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a public servant regarding his or her official duties. Payments for travel or reimbursement for any expenses are not informational material;

(ii) The giving or receiving of food, lodging, or travel which bears a relationship to the public servant's office and when appearing in an official capacity;

(iii) Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor;

(iv) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this paragraph;

(v) Campaign contributions;

(vi) Any devise or inheritance;

(vii) Anything with a value of less than one hundred dollars (\$100);

(6) "Governmental body" means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof;

(7) "Income" or "compensation" means any money or anything of value received, or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof;

(8) "Legislative action" means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or nonaction on any bill, ordinance, law, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before a committee or house of the Arkansas General Assembly, a quorum court, or a city council or board of directors of a municipality;

(9) "Legislator" means any person who is a member of the Arkansas General Assembly, a quorum court of any county, or the city council or board of directors of any municipality;

(10) "Lobbying" means communicating directly or soliciting others to communicate with any public servant with the purpose of influencing legislative action or administrative action;

(11) "Lobbyist" means a person who:

(A) Receives income or reimbursement in a combined amount of two hundred fifty dollars (\$250) or more in a calendar quarter for lobbying one (1) or more governmental bodies; or

(B) Expends two hundred fifty dollars (\$250) or more in a calendar quarter for lobbying one (1) or more governmental bodies, excluding the cost of personal travel, lodging, meals, or dues; or

(C) Expends two hundred fifty dollars (\$250) or more in a calendar quarter, including postage, for the express purpose of soliciting others to communicate with any public servant to influence any legislative action or administrative action of one (1) or more governmental bodies unless the communication has been filed with the Secretary of State or the communication has been published in the news media. If the communication is filed with the Secretary of State, the filing shall include the approximate number of recipients;

(12) "Municipal government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a municipality;

(13) "Person" means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons;

(14) "Public appointee" means an individual who is appointed to a governmental body. "Public appointee" shall not include an individual appointed to an elective office;

(15) "Public employee" means an individual who is employed by a governmental body or who is appointed to serve a governmental body. "Public employee" shall not include public officials or public appointees;

(16) "Public official" means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office;

(17) "Public servant" means all public officials, public employees, and public appointees;

(18) "Registered lobbyist" means a lobbyist registered pursuant to the provisions of subchapters 4-8 of this chapter.

(19) "State government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas.

21-8-403. Penalty.

Any person who violates any provision of subchapters 4-8 of this chapter shall be deemed guilty of a Class A misdemeanor. The culpable mental state required shall be a purposeful violation.

21-8-404. Investigation generally.

The prosecuting attorney of the district wherein an alleged violation occurred shall have the authority to investigate the alleged violations of this chapter.

21-8-405. Provisions supplemental.

Subchapters 4-8 of this chapter shall be supplemental to all other laws pertaining to ethics, conflicts of interest, and shall not repeal any other laws, except for laws specifically repealed by subchapters 4-8 of this chapter.

SUBCHAPTER 7 -- DISCLOSURE BY LOBBYIST AND STATE AND LOCAL OFFICIALS -- STATEMENT OF FINANCIAL INTEREST

21-8-701. Persons required to file - Exceptions - Contents.

(a) The following persons shall file a written statement of financial interest:

- (1) A public official, as defined in subchapter 4 of this chapter;
- (2) A candidate for elective office;
- (3) A municipal judge or city attorney, whether elected or appointed;
- (4) Any agency head, department director, or division director of state government;
- (5) Any public appointee to any state board or commission who is authorized or charged by law with the exercise of regulatory authority or is authorized to receive or disburse state or federal funds.

(b) The following persons shall not be required to file a written statement of financial interest under this section:

- (1) A member of a levee district or a levee and drainage district or any candidate therefor; and
- (2) A school board member or any candidate for election as a school board member.

(c) The statement of financial interest shall be filed by January 31 of each year; except that a candidate for elective office shall file the statement of financial interest within thirty (30) days after the deadline for filing for office for which he seeks election. Any incumbent officeholder who filed the statement of financial interest by January 31 of the year in which the election is held, shall not be required to file an additional statement upon becoming a candidate for reelection or election to another office at any election held during the year.

(d) The statement of financial interest shall include the following:

- (1) The name of the public servant and his or her spouse and all names under which they do business;
- (2) Identification of each employer and of each other source of income amounting to more than one thousand dollars (\$1,000) annually received by the person or his or her spouse in their own names, or by any other person for the use or benefit of the public servant or his or her spouse, and a brief description of the nature of the services for which the compensation was received, except that this paragraph shall not be construed to require the disclosure of individual items of income that constitute a portion of the gross income of the business or profession from which the public servant or his or her spouse derives income; and in addition thereto, shall identify each source of income as described above of more than twelve thousand five hundred dollars (\$12,500), except that this shall not be construed to require the disclosure of individual items of income that constitute a portion of the gross income of the business or profession from which the public servant or his or her spouse derives income;

(3) The name of every business in which the public servant and his or her spouse, or any other person for the use or benefit of the public servant or his or her spouse, have an investment or holdings of over one thousand dollars (\$1,000) at fair market value as of the date of the statement, and in addition thereto, shall identify each source as described above which has a fair market value of over twelve thousand five hundred dollars (\$12,500) on the date of the statement;

(4) Every office or directorship held by the public servant or his or her spouse, in any business, corporation, firm, or enterprise subject to jurisdiction of a regulatory agency of this state, or of any of its political subdivisions;

(5) The name and address of each creditor to whom the value of five thousand dollars (\$5,000) or more was personally owed or personally obligated and is still outstanding by the public servant. Loans made in the ordinary course of business by either a financial institution or a person who regularly and customarily extends credit shall not be required to be disclosed. Debts owed to the members of the public servant's family need not be included;

(6) The name and address of each guarantor or co-maker, other than a member of the public servant's family, who has guaranteed a debt of the public servant that is still outstanding. This requirement shall be applicable only to debt guaranties for debts assumed or arising after January 1, 1989. Guaranteed debts existing prior to January 1, 1989, which are extended or refinanced shall become subject to disclosure in the annual financing statement due to be filed after the conclusion of the year in which such extension or refinancing occurred;

(7) The source, date, and description of each gift of more than one hundred dollars (\$100) received by the public servant or his or her spouse.

(8) Each nongovernmental source of payment of the public servant's expenses for food, lodging, or travel which bears a relationship to the public servant's office when the public servant is appearing in his or her official capacity when the expenses incurred exceed one hundred fifty dollars (\$150). The public servant shall identify the name and business address of the person or organization paying the public servant's expenses and the date and nature of that expenditure if not compensated by the entity for which the public servant serves;

(9) Any public servant who is employed by any business which is under direct regulation or subject to direct control by the governmental body which he serves shall set out such employment and the fact that the business is regulated by or subject to control of the governmental body on the statement of financial interest;

(10) If a public servant or any business in which he or she or his or her spouse is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, owner, trustee, or partner shall sell any goods or services having a total annual value in excess of one thousand dollars (\$1,000) to the governmental body in which the public servant serves or is employed, then the public servant shall set out in detail the goods or services sold, the governmental body to which they were sold, and the compensation paid for each category of goods or services sold.

21-8-702. Forms.

Forms used by persons in filing statements as required in this subchapter shall provide for the signature of the person, under penalty of perjury, with respect to the truth and accuracy of the statements made on the form.

21-8-703. Place of filing.

The statement of financial interest shall be filed as follows:

- (1) State or district public servants required to file shall file with the Secretary of State;
- (2) County, township, or school district public servants required to file shall file with the county clerks;
- (3) Municipal public servants required to file shall file with the city clerk or recorder, as the case may be; and
- (4) All municipal judges or city attorneys, whether elected or appointed, shall file with the city clerk of the municipality within which they serve.

21-8-704. Filing by persons called to active duty -- Exceptions.

If a person who is required to file a statement of financial interest under this subchapter is called to active duty in the armed forces of the United States:

- (1) The person shall be allowed an additional one hundred eighty (180) days to file the statement of financial interest required by this section; and
- (2) The statement of financial interest may be completed by the spouse of the person. If the statement of financial interest is completed by the spouse of the person, the spouse's signature shall be sufficient for the requirement of 21-8-702.

SUBCHAPTER 8 -- DISCLOSURE BY LOBBYISTS AND STATE AND LOCAL OFFICIALS -- CONFLICT OF INTEREST

21-8-801. Prohibited acts generally.

No public servant shall:

- (1) Receive a gift or compensation as defined in subchapter 4 of this chapter, other than income and benefits from the governmental body to which he or she is duly entitled, for the performance of the duties and responsibilities of his or her office or position;
- (2) Purposely use or disclose to any other person or entity confidential government information acquired by him or her in the course of and by reason of the public servant's official duties, to secure anything of material value or benefit for himself or herself or his or her family.

21-8-802. Prohibited appearances -- Exceptions.

(a) No legislator shall appear for compensation on behalf of another person, firm, corporation, or entity before any entity of:

- (1) State government if the legislator is a member of the General Assembly;
- (2) The legislator's county government if the legislator is a member of a quorum court; or
- (3) The legislator's municipal government if the legislator is a member of a city council or board of directors of a municipality.

(b) This section shall not:

- (1) Apply to any judicial proceeding or to any hearing or proceeding which is adversarial in nature or character;
- (2) Apply to any hearing or proceeding on which a record is made by the entity of state government, county government, or municipal government;

- (3) Apply to an appearance which is a matter of public record;
- (4) Apply to ministerial actions; or
- (5) Preclude a legislator from acting on behalf of a constituent to determine the status of a matter without accepting compensation.

(c) An appearance which is a matter of public record as provided in subdivision (b)(3) of this section may be made by:

(1) Filing a written statement within twenty-four (24) hours with the agency head of the entity of state government, county government, or municipal government before which an appearance is sought. In the event that a written statement cannot be provided to the agency head prior to the meeting, telephonic notice must be given the agency head or his office; or

(2) Filing a quarterly statement with the agency head of the entity of state government before which an appearance is sought.

(d) A statement filed under subsection (c) of this section shall identify the client on behalf of whom the appearance is made and contain a general statement of the action sought from the governmental body. The statements shall be retained by the agency head and shall be a matter of public record. If the agency head determines that the release of the client's name would be an unwarranted invasion of individual privacy or would give advantage to competitors for bidding, the agency head may withhold the name until appropriate.

21-8-803. Reporting of potential conflicts.

(a) A Legislator who is required to take an action in the discharge of his official duties that may affect his financial interest or cause financial benefit or detriment to him, or a business in which he or she is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, owner, trustee, partner, or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public, shall:

(1) Prepare a written statement describing the matter requiring action and stating the potential conflict;

(2) Deliver a copy of the statement to the appropriate official to be filed with the statement of financial interest. The copy of the statement may be delivered in person by the public official, by mail, or by a person authorized by the public official to deliver the copy.

(b) The obligation to report a potential conflict of interest under this section arises as soon as the legislator is aware of the conflict. If the statement of financial interest filed by the legislator makes the conflict readily apparent, then no report need be filed.

SUBCHAPTER 9 -- DISCLOSURE BY LEGISLATORS -- SALES TO THE STATE

21-8-901. Disclosure required.

In addition to the required filings under 21-8-401 et seq., a member of the Arkansas General Assembly shall report any goods or services sold having a total annual value in excess of one thousand dollars (\$1,000) to an office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas, by the member, his or her spouse, or by any business in which the member or his or her spouse is an officer, director, or stockholder owning more than ten percent (10%) of the stock.

21-8-902. Place of filing -- Form.

(a) This disclosure shall be filed with the Secretary of State at the same time as the filing of the statement of financial interest required under 21-8-701 et seq.

(b) The disclosure shall be on a form requiring the signature of the member, under penalty of perjury, with respect to the truth and accuracy of the statements made on the form.

21-8-903. Penalty.

Any person who purposely violates the provisions of this subchapter shall be deemed guilty of a Class A misdemeanor.

LOBBYISTS

SUBCHAPTER 4 - DISCLOSURE BY LOBBYISTS AND STATE AND LOCAL OFFICIALS GENERAL PROVISIONS

21-8-401. Title.

Subchapters 4-8 of this chapter may be referred to and cited as "The Disclosure Act for Lobbyists and State and Local Officials".

21-8-402. Definitions.

As used in subchapters 4-8 of this chapter, unless the context otherwise requires:

(1) "Administrative action" means any decision on, or proposal, consideration, or making of any rule, regulation, ratemaking proceeding, or policy action by a governmental body. "Administrative action" does not include ministerial action;

(2) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust, or any legal entity through which business is conducted;

(3) "County government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a county;

(4) "Family" means an individual's spouse, children of that individual or his or her spouse, or brothers, sisters, or parents of the individual or his or her spouse;

(5)(A) "Gift" means any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor.

(B) The term "gift" does not include:

(i) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a public servant regarding his or her official duties. Payments for travel or reimbursement for any expenses are not informational material;

(ii) The giving or receiving of food, lodging, or travel which bears a relationship to the public servant's office and when appearing in an official capacity;

(iii) Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor;

(iv) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this paragraph;

(v) Campaign contributions;

(vi) Any devise or inheritance;

(vii) Anything with a value of less than one hundred dollars (\$100);

(6) "Governmental body" means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof;

(7) "Income" or "compensation" means any money or anything of value received, or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof;

(8) "Legislative action" means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or nonaction on any bill, ordinance, law, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before a committee or house of the Arkansas General Assembly, a quorum court, or a city council or board of directors of a municipality;

(9) "Legislator" means any person who is a member of the Arkansas General Assembly, a quorum court of any county, or the city council or board of directors of any municipality;

(10) "Lobbying" means communicating directly or soliciting others to communicate with any public servant with the purpose of influencing legislative action or administrative action;

(11) "Lobbyist" means a person who:

(A) Receives income or reimbursement in a combined amount of two hundred fifty dollars (\$250) or more in a calendar quarter for lobbying one (1) or more governmental bodies; or

(B) Expends two hundred fifty dollars (\$250) or more in a calendar quarter for lobbying one (1) or more governmental bodies, excluding the cost of personal travel, lodging, meals, or dues; or

(C) Expends two hundred fifty dollars (\$250) or more in a calendar quarter, including postage, for the express purpose of soliciting others to communicate with any public servant to influence any legislative action or administrative action of one (1) or more governmental bodies unless the communication has been filed with the Secretary of State or the communication has been published in the news media. If the communication is filed with the Secretary of State, the filing shall include the approximate number of recipients;

(12) "Municipal government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a municipality;

(13) "Person" means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons;

(14) "Public appointee" means an individual who is appointed to a governmental body. "Public appointee" shall not include an individual appointed to an elective office;

(15) "Public employee" means an individual who is employed by a governmental body or who is appointed to serve a governmental body. "Public employee" shall not include public officials or public appointees;

(16) "Public official" means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office;

(17) "Public servant" means all public officials, public employees, and public appointees;

(18) "Registered lobbyist" means a lobbyist registered pursuant to the provisions of subchapters 4-8 of this chapter.

(19) "State government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas.

21-8-403. Penalty.

Any person who violates any provision of subchapters 4-8 of this chapter shall be deemed guilty of a Class A misdemeanor. The culpable mental state required shall be a purposeful violation.

21-8-404. Investigation generally.

The prosecuting attorney of the district wherein an alleged violation occurred shall have the authority to investigate the alleged violations of this chapter.

21-8-405. Provisions supplemental.

Subchapters 4-8 of this chapter shall be supplemental to all other laws pertaining to ethics, conflicts of interest, and shall not repeal any other laws, except for laws specifically repealed by subchapters 4-8 of this chapter.

SUBCHAPTER 6 -- DISCLOSURE BY LOBBYISTS AND STATE AND LOCAL OFFICIALS -- LOBBYISTS

21-8-601. Registration required -- Exceptions -- Termination.

(a)(1) A lobbyist shall register within five (5) days after beginning lobbying.

(2) A lobbyist shall not be required to register if he or she engages in no lobbying other than the following activities:

(A) The publishing or broadcasting, by news media executives or their employees or agents, in the ordinary course of business, of news items, editorials, or other comments or paid advertisements which directly or indirectly urge legislative action or administrative action;

(B) Engaging in lobbying exclusively on behalf of an Arkansas church which qualifies as a tax exempt organization under section 501(c)(3) of the Internal Revenue Code when lobbying solely for the purpose of protecting the rights of members or adherents to practice the religious doctrines of the church;

(C) Action in a person's official capacity as a public servant. However, a public servant shall be required to register as a lobbyist if he or she:

(i) Receives income from a nongovernmental person in excess of two hundred fifty dollars (\$250) in a quarter for lobbying; or

(ii) Expends or is reimbursed in excess of two hundred fifty dollars (\$250), regardless of the source, in a quarter for lobbying, excluding the cost of informational material and personal travel, lodging, meals, and dues; .

(D) Drafting legislation;

(E) Appearing in:

(i) A judicial proceeding;

(ii) A proceeding or hearing if the appearance is a matter of public record; or

(iii) Any hearing or appeal proceeding conducted pursuant to the Arkansas Administrative Procedure Act, §25-15-201 et seq;

(F) Assisting an executive agency, at the written request of the agency, in drafting administrative regulations or in publicizing or assisting in the implementation of final administrative actions;

(G) Testifying as an individual at a public hearing in support of or in opposition to legislation or administrative action; testifying on behalf of a corporation, partnership, association, or other organization with which the person is regularly associated as an employee, officer, member, or partner; or testifying at the request of a legislative committee; or

(H) Actions by contractors or employees of contractors while engaged in selling to a governmental body by demonstrating or describing commodities or services or inquiring as to specifications or terms and conditions of a particular purchase unless such contractor or its employees expend in excess of two hundred fifty dollars (\$250) in a calendar quarter for food, lodging, travel, or gifts to benefit public servants who purchase commodities or services on behalf of a governmental body.

(3) A person whose only act of lobbying is to compensate or reimburse a registered lobbyist in the person's behalf shall not be required to register as a lobbyist.

(b) Upon the termination of a registered lobbyist's employment or designation as a lobbyist, the termination shall be conveyed by the registered lobbyist in writing to the public official with whom the lobbyist is registered.

(c) Each registered lobbyist whose employment or designation as a lobbyist has not terminated shall re-register by January 15 of each year.

21-8-602. Other filings required.

(a) A lobbyist who lobbies public servants of state government shall register and make other filings with the Secretary of State.

(b) A lobbyist who lobbies public servants of municipal government shall register and make other filings with the city clerk or recorder of the municipality, as the case may be.

(c) A lobbyist who lobbies public servants of county government or any government body not otherwise covered by this section shall register and make other filings with the county clerk of the county.

(d) A lobbyist who lobbies public servants of a governmental body covering a district which includes all or part of more than one (1) county shall file with the Secretary of State and the county clerk of his or her principal place of business or residence within the state; and

(e) A lobbyist who would be required to register and file with more than one (1) public official under this section may, in lieu of registering with each public official, register and make other filings with the Secretary of State and the county clerk of his or her principal place of business or residence within the state.

21-8-603. Activity reports -- Inspection.

(a)(1) Within fifteen (15) days after the end of each calendar quarter, each registered lobbyist shall file a complete and detailed statement, signed and sworn to, concerning his or her lobbying activities during the previous calendar quarter.

(2) In addition to the quarterly lobbyist activity report, a registered lobbyist who lobbies members of the General Assembly shall file a monthly lobbyist activity report, signed and sworn to, for any month in which the General Assembly is in session. The monthly lobbyist activity report shall be filed within ten (10) days after the end of each month.

(b) Lobbyist activity reports shall be open to public inspection.

21-8-604. Activity reports -- Required contents.

The lobbyist activity reports shall be signed and sworn to by the registered lobbyist. The reports shall contain:

(1) The total of all expenditures made or incurred by the registered lobbyist or on behalf of the registered lobbyist by his or her employer during the preceding period.

These totals shall be itemized according to financial category and employers and clients, including food and refreshments, entertainment, living accommodations, advertising, printing, postage, travel, telephone, and other expenses or services. Registered lobbyists shall not be required to report office expenses other than office expenses specifically required to be reported under this section. Registered lobbyists are not required to report unreimbursed personal living and travel expenses not incurred directly for lobbying;

(2)(A) An itemized listing of each:

(i) Gift given to a public servant or on behalf of the public servant;
(ii) Payment for food, lodging, or travel in excess of twenty-five dollars (\$25.00) on behalf of a public servant; and
(iii) Any other item paid or given to a public servant or on behalf of the public servant, except for campaign contributions, having a value in excess of twenty-five dollars (\$25.00) unless consideration of equal or greater value has been given therefor.

(B) Each item shall be identified by date, amount paid or value, and the name of the individual receiving or to be benefited by the item, and a description of the item.

(C) In the case of special events, including parties, dinners, athletic events, entertainment, and other functions, expenses need not be allocated by individuals, but the date of the event, location, name of the governmental body or groups of public servants invited, and total expense shall be stated;

(3) A detailed statement of any money loaned or promised or line of credit established to a public servant or to anyone on behalf of the public servant in excess of twenty-five dollars (\$25.00) per individual. Money loaned or a line of credit established that is issued in the ordinary course of business by a financial institution or a person who regularly and customarily extends credit shall not be required to be disclosed;

(4) A statement detailing the direct business association or partnership with any public servant before whom the lobbyist may engage in lobbying.

21-8-605. Records.

A registered lobbyist shall maintain and preserve all accounts, bills, receipts, and any other documents necessary to substantiate the financial reports required by subchapters 4-8 of this chapter for a period of at least three (3) years from the date of the filing of the statement or report.

21-8-606. Duties of public officials.

The Secretary of State, each county clerk, and each city clerk or recorder shall:

(1) Provide forms approved by the Arkansas Ethics Commission for registration and for statements required by subchapters 4-8 of this chapter to all persons required to file;

(2) Issue a certificate of registration to a lobbyist registered under the provisions of subchapters 4-8 of this chapter; and

(3) Make all statements and reports filed available for public inspection and copying, at a reasonable cost, during regular office hours.

21-8-607. Prohibited acts.

(a) No person shall purposely employ any lobbyist who is required to register as a registered lobbyist but is not registered pursuant to this chapter.

(b) No person engaging in lobbying shall:

(1) Influence or attempt to influence, by coercion, bribery, or threat of economic sanction, any public servant in the discharge of the duties of his or her office;

(2) Purposely provide false information to any public servant as to any material fact pertaining to any legislative or administrative action;

(3) Purposely omit, conceal, or falsify in any manner information required by the registration and lobbyist activity reports.

(c) Any person convicted for violation of any provision of this subchapter is prohibited from acting as a registered lobbyist for a period of three (3) years from the date of the conviction. Any person violating this three-year ban shall be deemed guilty of a violation of this chapter.

ployed to support or oppose. The provisions of this section shall not apply to any person who merely appears before a committee of the Congress of the United States in support of or opposition to legislation; nor to any public official acting in his official capacity; nor in the case of any newspaper or other regularly published periodical (including any individual who owns, publishes, or is employed by any such newspaper or periodical) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislation, if such newspaper, periodical, or individual, engages in no further or other activities in connection with the passage or defeat of such legislation, other than to appear before a committee of the Congress of the United States in support of or in opposition to such legislation.

[(b) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the Congressional Record.]

[REPORTS AND STATEMENTS TO BE MADE UNDER OATH

[Sec. 309. All reports and statements required under this title shall be made under oath, before an officer authorized by law to administer oaths.]

[PENALTIES

[SEC. 310. (a) Any person who violates any of the provisions of this title, shall, upon conviction, be guilty of a misdemeanor, and shall be punished by a fine of not more than \$5,000 or imprisoned for not more than twelve months, or by both such fine and imprisonment.

[(b) In addition to the penalties provided for in subsection (a), any person convicted of the misdemeanor specified therein is prohibited, for a period of three years from the date of such conviction, from attempting to influence, directly or indirectly, the passage or defeat of any proposed legislation or from appearing before a committee of the Congress in support of or opposition to proposed legislation; and any person who violates any provision of this subsection shall, upon conviction thereof, be guilty of a felony, and shall be punished by a fine of not more than \$10,000, or imprisonment for not more than five years, or by both such fine and imprisonment.]

[EXEMPTION

[Sec. 311. The provisions of this title shall not apply to practices or activities regulated by the Federal Corrupt Practices Act nor be construed as repealing any portion of said Federal Corrupt Practices Act.]

LOBBYING DISCLOSURE ACT OF 1992

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lobbying Disclosure Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak investigative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

(b) PURPOSE.—The purposes of this Act are to—

(1) provide for the disclosure of the efforts of paid lobbyists to influence Federal legislative or executive branch officials in the conduct of Government actions; and

(2) afford the fullest opportunity to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "agency" has the same meaning as such term is defined under section 551(1) of title 5, United States Code.

The term "client" means any person who employs or retains another person for financial or other compensation to conduct lobbying activities on its own behalf. An organization whose employees conduct lobbying activities on its behalf is both a client and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the client is the coalition or association and not its individual members.

(3) The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee of the Executive Office of the President other than a clerical or secretarial employee;

(D) any officer or employee serving in an Executive level I, II, III, IV, or V position, as designated in statute or executive order;

(E) any officer or employee serving in a Senior Executive Service position, as defined under section 3232(a)(2) of title 5, United States Code; and

ters involving only that individual, or disclosures by that individual pursuant to applicable whistleblower statutes.

(10) The term "lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include lobbying contacts, other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services for which such individual is paid.

(11) The term "organization" means any corporation (excluding a Government corporation), company, foundation, association, labor organization, firm, partnership, society, joint stock company, or group of organizations. Such term shall not include any Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), organization of State or local elected or appointed officials, any Indian tribe, any national or State political party and any organizational unit thereof, or any Federal, State, or local unit of any foreign government.

(12) The term "public official" means any elected or appointed official who is a regular employee of a Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), an organization of State or local elected or appointed officials, an Indian tribe, a national or State political party or any organizational unit thereof, or a Federal, State, or local unit of any foreign government.

SEC. 4. REGISTRATION OF LOBBYISTS.

(a) REGISTRATION.—(1) No later than 30 days after a lobbyist first makes a lobbying contact or agrees to make lobbying contacts, such lobbyist (or, as provided under subsection (c)(2), the organization employing such lobbyist), shall register with the Office of Lobbying Registration and Public Disclosure.

(2) Notwithstanding paragraph (1), any person whose total receipts or total costs in connection with lobbying activities on behalf of a particular client do not exceed, or are not expected to exceed, \$1,000 in a semiannual period is not required to register for such client.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name, address, business telephone number and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name of any organization, other than the client, that—

(A) contributes more than \$5,000 toward the lobbying activities in a semiannual period;

(B) significantly participates in the supervision or control of the lobbying activities; and

(C) has a direct financial interest in the outcome of the lobbying activities;

(4) the name, principal place of business, and approximate percentage of equitable ownership in the client (if any) of—

(A) any foreign entity that holds at least 20 percent equitable ownership in the client;

(B) any foreign entity that directly or indirectly, in whole or in major part, supervises, controls, directs, finances, or subsidizes the activities of the client; and

(C) any other foreign affiliate of the client that has a direct interest in the outcome of the lobbying activity;

(5) a statement of the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client and, to the extent practicable, a list of specific issues that have already been addressed or are likely to be addressed; and

(6) the name of each employee of the registrant whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered legislative or executive branch official in the 2 years prior to the date of the registration (or a report amending the registration) the position in which such employee served.

(c) GUIDELINES FOR REGISTRATION.—(1) In the case of a registrant representing more than one client, a separate registration shall be filed for each client represented.

(2) Any organization that has one or more employees who are lobbyists shall file a single registration for each client on behalf of its employees who engage in lobbying activities on behalf of such client.

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) SEMIANNUAL REPORT.—No later than 30 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which it is registered, each registrant shall file a report with the Office of Lobbying Registration and Public Disclosure on its lobbying activities during such semiannual period.

(b) CONTENTS OF REPORT.—Each semiannual report filed under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which the registrant engaged in significant lobbying activities, including a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants and loans, to the maximum extent practicable;

(B) a statement of the Houses and Committees of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client during the semiannual filing period;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(D) a description of the interest in the issue, if any, of any foreign entity identified under section 4(b)(4);

(3) in the case of a registrant lobbying on behalf of a client other than the registrant, a good faith estimate of the total amount of all receipts from the client (and any payments to the registrant by any other person to lobby on behalf of the client) during the semiannual period, other than receipts for matters that are unrelated to lobbying activities; and

(4) in the case of a registrant lobbying on its own behalf, a good faith estimate of the total costs that the organization and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) ESTIMATES OF COSTS.—For the purpose of this section, estimates of receipts or costs shall be made as follows:

(1) Receipts and costs of \$200,000 or less shall be estimated by the following categories:

(A) At least \$1,000 but not more than \$10,000.

(B) More than \$10,000 but not more than \$20,000.

(C) More than \$20,000 but not more than \$50,000.

(D) More than \$50,000 but not more than \$100,000.

(E) More than \$100,000 but not more than \$200,000.

(2) Receipts or costs in excess of \$200,000 shall be estimated and rounded to the nearest \$100,000.

(3) Any registrant whose total receipts or total costs are less than \$1,000 in a semiannual period (as estimated under subsection (b)(3) or (4), or (c)(4), as applicable) is deemed to be inactive during such period and may comply with the reporting requirements of this section by so notifying the Director, in such form as the Director may prescribe.

(4) In the case of registrants that are required to report or identify lobbying receipts or costs under sections 6033 and 6104 of the Internal Revenue Code of 1986, regulations developed under section 6 shall provide that the amounts required to be disclosed under such statutes may be reported (by category of dollar value) to meet the requirements of subsection (b)(3) or (4) of this section.

(5) In estimating total costs or receipts under this section, a registrant is not required to include—

(A) the value of contributed services for which no payment is made; or

(B) the cost of services provided by an independent contractor or agent of the registrant who is separately registered under this Act.

(d) CONTACTS WITH CONGRESSIONAL COMMITTEES.—For purposes of subsection (b)(2), any contact with a member of a congressional committee, an employee of a congressional committee, or an employee of a member of a congressional committee regarding a matter within the jurisdiction of such committee is a contact with the committee.

(e) EXTENSION FOR FILING.—The Director may grant an extension of time of not more than 30 days for the filing of any report under this section, on the request of the registrant, for good cause shown.

SEC. 6. ADMINISTRATIVE DUTIES OF THE OFFICE OF LOBBYING REGISTRATION AND PUBLIC DISCLOSURE.

(a) ESTABLISHMENT.—(1) There is established within the Department of Justice an Office of Lobbying Registration and Public Disclosure, which shall be headed by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be an individual who, by demonstrated ability, background, training, and experience, is especially qualified to carry out the functions of the position.

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following: "Director of the Office of Lobbying Registration and Public Disclosure, Department of Justice."

(b) DUTIES.—The Director of the Office of Lobbying Registration and Public Disclosure shall—

(1) after notice and an opportunity for public comment, and consultation with the Secretary of the Senate, the Clerk of the House, and the Administrative Conference of the United States, prescribe such rules, forms, penalty schedules, and procedural regulations as are necessary for the implementation of this Act;

(2) provide guidance and assistance on the registration and reporting requirements of this Act, including, to the extent practicable, the issuance of published decisions and advisory opinions;

(3) review and make such supplemental verifications or inquiries as are necessary to ensure the completeness, accuracy, and timeliness of registrations and reports;

(4) develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including computerized systems designed to minimize the burden of filing and maximize public access to materials filed under the Act;

(5) make copies of each registration and report filed under this Act available to the public in electronic and hard copy formats as soon as practicable after the date on which such registration or report is received;

(6) preserve the originals or accurate reproduction of registrations until such time as they are terminated, and of reports for a period of no less than 2 years from the date on which the report is received;

(7) maintain a computer record of the information contained in registrations and reports for no less than 5 years after the date on which such registrations and reports are received; —

(8) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of expenditures on lobbying activities during such period;

(9) make information compiled and summarized under paragraph (8) available to the public in electronic and hard copy formats as soon as practicable after the close of each semiannual filing period;

(10) provide copies of all registrations and reports received under this Act and all compilations, cross-indexes and summaries of such registrations and reports to the Secretary of the

House rejects Senate bill



Clinton, in address in House chamber, tells representatives to 'stand tall' and 'end the session with honor.'

—Staff Photo by Jeff Bowen

Ethics issue probably will go to voters

By Scott Van Laningham
GAZETTE STAFF

A new code of ethics for public officials will be decided, almost certainly, by Arkansas voters in the November election.

Even though the special legislative session ended Friday without a new ethics bill, Governor Bill Clinton and the heads of groups that will participate in the initiated act campaign were upbeat

Plans under way for initiated act drive

about the latest developments.

"I want to thank the state Senate and the lobbyists for convincing the public that we really do need an initiated act," Scott Trotter, head of Lobby Watch, said Friday afternoon.

Mr. Clinton said at a news conference later that he hoped to begin the initiated act campaign

within a couple of weeks.

It will require 55,084 signatures of registered voters to be presented to the secretary of state's office by July 8 to get the act on the ballot.

But first the final proposal that will go to voters must be written, and Mr. Clinton said he would be meeting with representatives of

various groups over the next two days to draft a proposed act.

In an effort to "keep faith" with House members who voted overwhelmingly for a tougher, new code, Mr. Clinton said he would attempt to keep the initiated act as close as possible to House Bill 1032, the House-approved version of a new ethics proposal.

HR 1032 would require lobbyists

(See VOTERS on Page 10A.)

Session ends 'with honor'

By Bob Wells
and John Reed
GAZETTE STAFF

The special session ended suddenly Friday, as Governor Bill Clinton persuaded the House of Representatives that leaving without an ethics bill was preferable to submitting to a flawed, last-ditch Senate proposal.

In an unexpected address to the House at 1 p.m., Mr. Clinton urged representatives to "stand tall" and end the session "with honor" by defeating the Senate bill.

The House overwhelmingly acceded to the governor's request, rejecting the Senate proposal in two successive votes of 86 to 0 and 89 to 0.

Although he came up empty-handed in his effort to get an ethics bill from the legislature, Mr. Clinton was not necessarily disappointed with the session's results. In a late afternoon press conference, Mr. Clinton said the session would have a constructive impact in helping to get an initiated ethics act campaign under way.

He said the two-week session

- 4 senators say they're not to blame, 10A.
- Wilson, Mahony protest column, 10A.
- Counties now can raise filing fees, 11A.

(See SESSION on Page 10A.)

Wells
Reed
Johnson
Johnson

had shown the public the influence lobbyists have in the legislature and had demonstrated what issues are at stake in enacting an ethics and lobbyist disclosure law.

For the previous two days, the House and Senate had been at an impasse on the proposed ethics law, with the House insisting that lobbyists be required to identify the recipients of gifts and other lobbying expenditures and the Senate equally insistent that lobbyists be required to report only total expenditures.

After more than five hours of negotiations Thursday, House and Senate members of a conference committee could not even agree on a basis on which to begin negotiations.

But when legislators returned to the Capitol Friday morning, it appeared that some movement had been made by the Senate to break the deadlock. Overnight, Senate members of the conference committee had amended the Senate bill to provide for some measure of individual lobbyist disclosure requirements.

Approval quick

The Senate was quick to approve its new proposal by a vote of 28 to 6 Friday morning and several senators said it was a good bill that they expected the House to accept. But Senator Charlie Cole Chaffin of Benton, who sponsored the governor's original ethics bill in the Senate, said the Senate bill had "some major problems."

It didn't expand financial disclosure requirements for public officials, only for lobbyists, she said. Also, some companies could get around its lobbyist reporting requirements and legislators would not have to disclose business partnerships with lobbyists, she said.

But in the biggest loophole of all, lobbyists would have to disclose only expenditures made to communicate directly with legislators or other government officials "to influence legislation or administrative action." Chaffin argued that, under the Senate proposal, it would be up to the lobbyist to decide if he was attempting to influence a legislator and, therefore, whether the expense would have to be reported.

The Senate's compromise bill has "loopholes so great that it renders it practically useless," Chaffin said.

Senator Cliff Hoofman of North Little Rock defended the bill, saying it "makes a great deal of progress" because "lobbyists don't disclose anything today."

Support crumbles

When House members first heard that the Senate had approved a compromise bill, many said they were inclined to support it. Once the bill was presented in the House, though, that support began crumbling rapidly, as several representatives peppered staff members with critical questions about the bill.

After a lunch break, the House was to resume its question-and-answer session at 1 p.m., but when representatives returned, Mr. Clinton entered the chamber to urge the House to defeat the Senate bill.

Mr. Clinton said many House members had expressed concern that they should perhaps adopt any ethics bill, even a weak one, because if the session ended with-

out any legislation, the public would blame the entire legislature, even the House.

In his speech, Mr. Clinton had nothing but praise for the House and promised representatives that, in every speech he makes from now until the General Election he will "make sure that the people of this state know that the House of Representatives voted for a good lobby disclosure bill and code of ethics."

"And I intend to write letters to the editor of every newspaper in this state to make sure that the people back home know that you were faithful to your constituency and that you came up here and you did your job and you didn't stonewall this process for two weeks, but instead, you were for it," Mr. Clinton said.

Mr. Clinton said he would submit to voters an initiated ethics act that would be consistent with the lobbyist disclosure and public official disclosure sections of the House-backed bill and would have enforcement power placed in the attorney general's office.

"And that would permit me to say that this is not a fight between the governor and the legislature, the House of Representatives voted for this overwhelmingly," Mr. Clinton said.

Mr. Clinton said that, more than anything else in the session, he had been struck by the fact that "there was an honest, open parliamentary process in this house of the legislature." Over the last two weeks, the House Rules Committee and its chairman, Representative G. W. (Buddy) Turner of Pine Bluff were "fair, open and even-handed," giving both Mr. Clinton and legislative opponents of the original bill every opportunity to amend it, he said.

More than 70 amendments to the governor's bill were filed in the House, with representatives eventually adopting 19 of those.

Mr. Clinton, who was interrupted twice by applause, was exhilarated after speaking to the House. On the way downstairs to his office he smacked a fist into his palm, grinning.

In a brief hallway interview, he predicted lobbyists and opponents of an ethics bill would "spend lots of money" trying to defeat an initiated act, "but we'll try to keep it simple, clear and direct."

Mr. Clinton was asked whether he made his speech to the House because he thought representatives' support for a strong ethics bill was crumbling. "A lot of them genuinely wondered if it was right to leave here with no bill," he responded. While several representatives admitted that the House vote would not have been 86 to 0 if Mr. Clinton hadn't told them it was all right to go home, all said the Senate proposal did not have any chance of clearing the House or even getting out of the House Rules Committee.

The governor was careful not to overtly criticize the Senate in his speech, although his repeated omission of the word "Senate" made his point obvious.

Voters

Continued from Page 1A.

to name public officials on whom they spend more than \$25 on meals or entertainment, and more than \$150 for travel.

It also would require public officials to make more financial disclosures, and Mr. Clinton said he wants to give the attorney general's office the authority to issue advisory opinions and investigate complaints. Prosecution would be left to local prosecutors. There would be no permanent ethics commission.

Mr. Clinton added that he

strive for a "clear, unambiguous act."

Attorney General Steve C. Troter, whose office must approve bills whose titles and popular names of proposed acts, pledged Friday that his office would issue an opinion on the title and name within 24 hours of receiving the proposed act.

Mr. Clinton's handling of the session also drew praise from J. Becker, Arkansas State AFL-CIO president, and Brownie Ledbetter, head of the Arkansas Fair Council.

Troter, Becker and Ledbetter had similar reactions when asked about what might be in the initiated act: They wanted to wait until after they and others meet with Mr. Clinton to discuss it.

Sunday

Arkansas Gazette

Clinton opens petition effort; crowd on hand

By Joseph S. Stoud
Gazette Staff

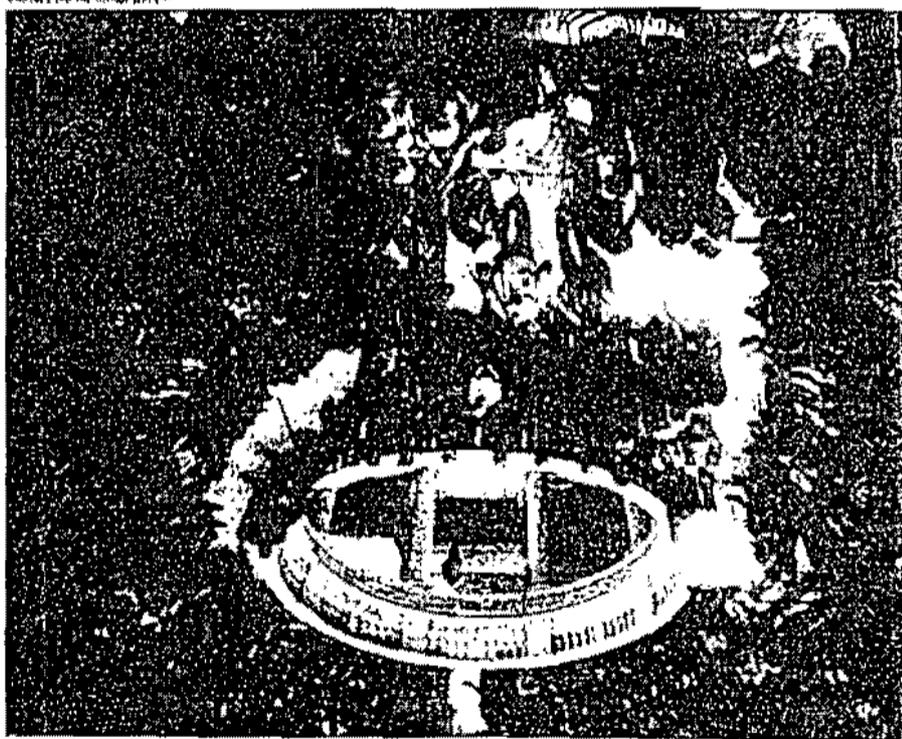
If you hadn't known better, you would have thought Governor Bill Clinton was talking for something Saturday.

About the people by the governor's own estimation, crowded into the state capitol building Saturday morning to help him launch the petition drive for the new law will place an unusual emphasis on the Arkansas youth in Memphis. The thousands of letters that are being mailed are headed by the bill.

The crowd may not have been quite that big, but the atmosphere was purely political. Bill Clinton and his family joined the bill.

Political atmosphere

The crowd may not have been quite that big, but the atmosphere was purely political. Bill Clinton and his family joined the bill.



Clinton (bottom center) hands out petitions and shakes hands during meeting. (Left photo by AP Wirephoto)

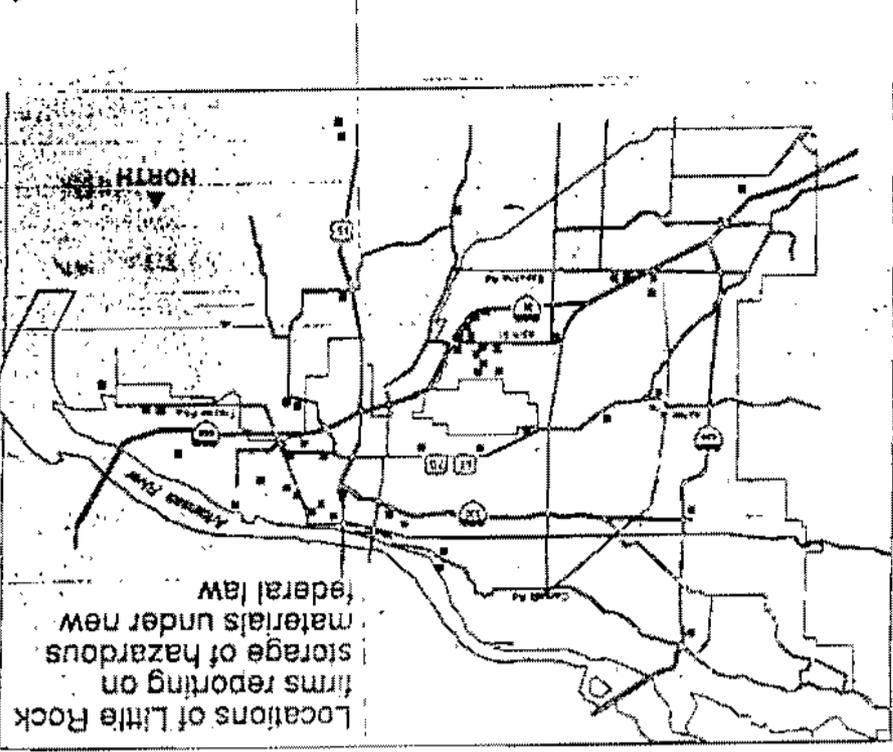
Mr. Clinton then called on Lewis Roubicek, attorney general, to read the petition. He said the petition was signed by 10,000 people, including many of the state's youth.

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Clinton (bottom center) hands out petitions and shakes hands during meeting. (Left photo by AP Wirephoto)

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Locations of Little Rock firms reporting on storage of hazardous materials under new federal law

Law generating reams of records

Stored hazardous items on list

By Mark Oswald
Gazette Staff

A shift in city government's Emergency Services Building is starting to fill up with reams of information on a long list of hazardous materials. Without alarming the public, the new law imposes no reporting requirements on the transportation of hazardous materials.

There is one listing of radioactive materials — hazardous materials — which have been passed by Congress in response to the disaster at Three Mile Island in Pennsylvania. The federal law was passed by Congress in response to the disaster at Three Mile Island in Pennsylvania.

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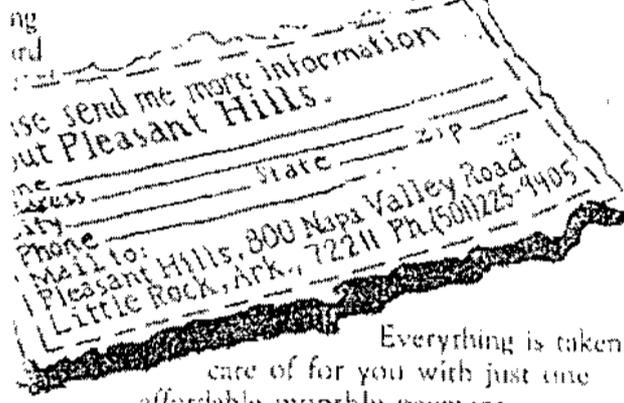
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Petition

Continued from Page 18

of the state that met in various rooms of the Capitol to begin organizing the petition drive.

Near the end of the general meeting, Mr. Clinton made a pitch for support of changes to the state's tax laws, as recommended by the state Tax Reform Commission. The changes recommended include reducing the vote needed in the legislature for a tax increase from 75

percent for some taxes to 60 percent for all taxes, and abolishing the state's personal property tax on household furnishings. He said sign-up sheets would be made available in the area meetings for anyone interested in working on a petition drive for that purpose, and Mike Gaudin, the governor's spokesman, said 700 to 800 people signed up Saturday.

A ballot title and petition with the recommended changes will be submitted to the attorney general's office early this week, Gaudin said.

Drug 'deals' by officers result in eight arrests

By Wayne Jordan
GAZETTE STAFF

A conversation something like this happened eight times Friday.

"Hey, man, you got any dope?"

"Do you want to buy some?"

"Sure, man. Why do you think I asked?"

"You're under arrest."

It's called reverse buying by narcotics officers.

Eight persons were arrested for attempting to buy drugs from undercover agents in areas of Little Rock where residents have complained that drug dealing occurs openly on the streets, the police said. The eight were charged with misdemeanor counts of criminal attempt to possess cocaine, marijuana or Dilaudid.

"We consider it a success and will do it in the future," police Lt. Sam Williams said. "We want people to know that we are out there, because the next person they might try to buy dope from is a narc."

Williams said patrol officers and federal Drug Enforcement Administration agents assisted narcotics detectives in a 14-hour period in the area around Thirtieth and Wolfe Streets and Eleventh and Park Streets. The agents loitered around the streets and were approached by the eight persons who asked them whether they had dope for sale.

The officers do not offer to sell drugs. "If they asked to buy, we arrested them," Williams said. "And this certainly is not all the areas that we intend to cover."

Officers also made a felony arrest. Williams said officers observed a man selling drugs at Thirtieth and Wolfe at 9:50 a.m. They stopped the man at Twenty-eighth and High Streets and arrested him. Lee E. Parks, 28, of 2600 Arch Street was charged with possession of 25 Dilaudid tablets and being a felon in possession of a firearm. The Dilaudid was valued at \$1,500.

Police Report

Rob Moritz

Crime Staff

Bank bag, \$7,200 stolen

A red bank bag containing \$7,200 cash and checks valued at \$300 was taken from Mary's Liquor at Thirty-fifth and Burks Streets, North Little Rock, about

Angelo A. Rossi, owner of the business, told officers he placed the bag on the floor next to the counter when several customers walked into the business, and after they left he noticed the bag was missing.

Fire damages mobile home

A brush fire off state Highway 107 north of Tom Box Road heavily damaged a \$25,000 mobile home in Pine Valley Trailer Park at 4 p.m. Thursday, the sheriff's office said. No injuries were reported.

Bondsman arrested

Raymond Jones, 66, a Jacksonville bondsman, was arrested inside the North Little Rock city jail Monday night and charged with public intoxication, the North Little

Rock police said. Jones, with AA Above Bonding, was in the jail about 10:46 p.m. and in the process of bailing someone out of jail when officers noticed he was "swaying" and smelled alcohol on his breath. The police said. He was released into the custody of a friend.

Burger King robbed by 2

Two men with bandanas covering their faces robbed the Burger King restaurant at (401) 2011 Highway, North Little Rock, of an undetermined amount of money about 8:40 p.m. Saturday, the police said. There were four employees and two customers in the restaurant at the time. One of the men jumped on the counter, pulled a large-caliber pistol and demanded money from the cash registers.

Husband fatally shot in domestic disturbance

PINE BLUFF (AP) — James Parker, 33, of Pine Bluff was shot to death during a domestic disturbance at his home Saturday, the police said.

Parker's wife, Sharrelle Parker, 30, was taken into custody pending an investigation, according to Lt. Sam Coakery of the Pine Bluff Police Department. He said late Saturday that no formal charges had been filed.

NOTICE

The Men's Washed Cotton Sheeting Baggy Pants advertised on page 8 of today's Target sale circular may not be in stock.

Rep

Here are 1 and agency officials under agency Plans Right to Know American graph, 7600 West Eighth Air Prodn 2600 East B Archer D. Ninth and B Borden, B. nue.

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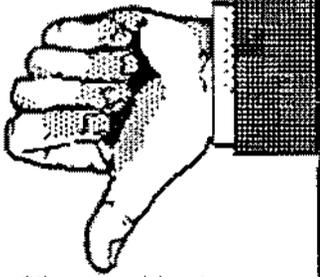
MAGNOLIA Ethel Corpora to his arms rounds of bro pipe he was v plant about 8 spokesman fu pany said.

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Gov. Clinton's objections to the proposed Senate ethics amendment:

ESSENTIAL PROVISIONS NOT IN PROPOSAL:

- √ Major businesses and corporations would not have to report what they spent on lobbying.
- √ Public officials wouldn't have to disclose any more than under current law. Specifically, they wouldn't have to report:
 - Travel, lodging, food reimbursed by third party;
 - Gifts received worth more than \$100;
 - Income, investments or holdings received by or owned by spouses or minor children.
- √ Lobbyists would not have to disclose direct business associations with officials.
- √ It does not require disclosure or limit lobbying of the executive branch for pay by legislators.

OTHER PROBLEMS:

- √ Proposal would require citizens who do not spend or receive any money to register as lobbyists when they communicate with legislators as representatives of any small group.
- √ Proposal does not define "lobbying" or "lobbyist."
- √ Proposal only requires registered lobbyists to disclose expenditures made for the purpose of influencing legislation, i.e. food, lodging, entertainment, etc. not given to an official specifically for the purpose of influencing legislation would not be disclosed.

jms

At a glance

- The state House of Representatives turned back a watered-down Senate ethics bill 86-0 and the 11-day legislative session ended without a new ethics code.
- Gov. Bill Clinton praised House members and said he would seek a public vote on ethics legislation via an initiated act on the November general election ballot.
- The initiated act would require lobbyists to disclose expenses over \$25 to entertain legislators, and state officials would reveal gifts and loans in excess of \$100 as well as all sources of income.
- Clinton wants the attorney general to investigate complaints of ethics violations and to refer them to the local prosecutor if warranted.
- Clinton said key senators, led by President Pro Tempore Nick Wilson of Pocahontas, decided six weeks ago to block ethics reform and push for an ethics law that would keep secret financial ties between legislators and lobbyists.
- Wilson said Clinton's national political ambition was the only reason the session was called.

Ark. Gazette
11/1/88

Clinton, lobbyists squaring off over proposed disclosure law

By Mark Oswald
GAZETTE STAFF

To Gov. Bill Clinton, lobbyists have become "almost a fourth branch of government," operating under a system that allows "whoever has the most money to have the most influence."

But Bob Lamb, lobbyist for and director of the Arkansas State Chamber of Commerce, says lobbyists are "a vital component of

Lobbyists: The fourth branch of government

the democratic process," necessary players in "the marketplace of ideas in which the legislature charts its course."

Clinton and many lobbyists are on opposing sides over proposed

Act 1 on the Nov. 8 election ballot — Clinton's government ethics proposal.

Spending reports

Act 1 would require Arkansas lobbyists, for the first time, to file quarterly reports detailing their expenditures for and gifts and loans to state officials. Also, legislators and other state official-

(See LOBBYISTS on Page 4A.)

Legislators on lobby issues

	Yes	No	Can't remember
Q: Have you ever received free meals, drinks or other entertainment from lobbyists?	A: 96% (56)	2% (1)	2% (1)
Q: Have you ever received gifts from lobbyists?	A: 64% (38)	31% (18)	5% (3)
	Yes	No	Don't know
Q: Do you support the initiated act on ethics and lobbyist disclosure?	A: 74% (45)	25% (15)	1% (1)
	More honest and open	Less honest and open	No different
Q: Would the proposed act on ethics and disclosure make the government:	A: 40% (24)	5% (3)	55% (33)

—Staff Chart

HOW THEY STAND: An Arkansas Gazette survey of state legislators found support, but reservations as well, for the proposed initiated act on public ethics. (Details on Page 4A.)

Lobbyists

Continued from Page 1A.

ers would have to disclose more about their own finances.

Most states — 45 of them — already have lobbyist disclosure laws. Clinton and his supporters say Act 1 is a middle-of-the-road proposal, less stringent than similar statutes in other states. Critics contend it is still too broad and will discourage amateur "citizen lobbyists" from participating in government.

"In the past couple of years, I've seen some of the most powerful and well-organized lobbyists working together on issues," Clinton said. "That's what tipped the scales and made me decide to make an effort at this."

He added: "It reached the point where a lot of them thought that on the critical issues, they could never lose a vote."

Asked to be specific, Clinton said, "They are very strong on utility matters, taxation, environmental regulation. Even with this act, those that employ the lobbyists will continue to be influential, and I don't have any problem with that. They should be. But I just think we need to have some disclosure."

Rep. Bynum Gibson of Dermott supports the act. "It's basically a disclosure bill," he said. "It doesn't really prohibit particular types of behavior. It just requires lobbyists and elected officials to disclose what they're doing, so the electorate can make a more informed judgment at election time."

Have more influence

"What most people must understand is that the lobbyists are out there the entire session," Gibson said. "By sheer number of contacts, they have an advantage over John Q. Citizen."

"John Q. Citizen should know the amount spent and the number of those contacts, and then let the voter decide if there's any problem with the influence that may have been brought to bear."

Sen. Jay Bradford of Pine Bluff said. "It's clear to me that there is not a balance of power as it relates to lobbyists. If we at least let the public know who's spending what on whom, it should have the bottom line effect of leveling out the influence."

"I'm not saying I'm not going to accept a dinner invitation from someone," Bradford said. "But the people I represent should know about it, and if they see an unusual pattern in the time I'm spending with people with special interests, they should react to it."

Not all legislators are happy



WAYNE DOWD

with the proposed new requirements. Sen. Wayne Dowd of Texarkana said he supports lobbyist disclosure, but he isn't excited about more record-keeping for legislators.

Serving in the legislature already takes a lot of time and sacrifice, Dowd said, and "I don't look forward to the record-keeping and the criticism and castigation that's going to come if you don't get it down just right."

He added: "There's more or less a presumption that if someone dines with me or sends me a gift, then you're influenced. At Christmas, banks will send you a ham unsolicited. That sure as hell isn't going to influence me. It sort of casts a pall over the the legislators that we all must be crooked, and I resent that."

Most lobbyists contend they don't have much problem with Act 1 as it applies to them personally. But there are still objections.

Lamb calls the proposal "a paper curtain being created to keep individuals from having access to the government."

"It's going to catch preachers and teachers and businessmen and businesswomen, people who normally wouldn't ever consider themselves to be lobbyists," Lamb said.

With some exceptions, anyone who is paid or spends \$250 or more in a quarter year for lobbying activity would be required to file lobbyist disclosure reports.

Cary Gaines, director of the Arkansas Sheriffs Association, said. "It's going to damage the small people and associations — people like FLAG or Mothers Against Drunk Driving. There are a lot of people who this law doesn't have any business applying to."

State Sen. Nick Wilson of Pochontas, who helped defeat Clinton's ethics legislation in a special session earlier this year, calls the ballot proposal "sort of a wasted



J. BILL BECKER

effort."

"You're just putting something between the people and those elected to represent them," he said. "It's a dampening thing on the average person who might want to contact their legislator."

Clinton dismissed that argument.

"What these guys want to do is keep running the legislative process like they have been," he said. "They want to spend thousands and thousands and keep having contacts with legislators without having to disclose anything."

"If they are all that altruistic and looking out for the little guy, all they would have to say is that we know who the 10 or 12 lobbyists are who are spending all the money and have all the influence, and they can all volunteer to make disclosure. Then you wouldn't have to burden all these poor, innocent little people."

J. Bill Becker, president of the Arkansas State AFL-CIO and an active supporter of Act 1, said "This argument is being made by the big guys to protect the little guys. That should tell you how specious that argument is. If someone spends \$250 on lobbying, they ought to be able to report."

"It would be a minimal requirement," Becker said. "I think it would really help the citizen types play on a more level field with the big shots. It's laughable to use the argument that the ordinary citizen would be hurt. If anything, it's going to encourage citizens to get more active in the process. They'll be appalled at the undue influence of the special interests."

Clinton said, "There is no enormous paperwork burden. That's a smoke screen."

Lamb also maintains that the disclosure provisions would apply to many persons who previously haven't considered themselves to be lobbying at all.

He gave as examples a corporate

personnel manager who deals with state regulators on safety standards enforcement at his firm's plant or a corporate environmental controls manager trying to gain state approval for his firm's pollution abatement measures.

"Those are cases of someone trying to influence an administrative act, and that is defined as lobbying under this proposal," he said.

Gaines and Lamb also object to the fact that the proposed act doesn't require those on the state payroll who lobby the legislature — like governor's aides, college presidents and department heads — to meet the disclosure requirements.

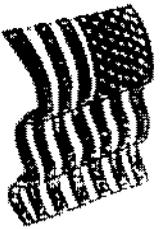
Should include government

"The governor's office doesn't have to disclose what he wants me to," Gaines said. "He'll say what he spends is available from other records, but you can't find them as easily — it's a very difficult and time-consuming process to dig those up."

"The state officials out there lobbying have an extraordinary amount of influence," Gaines said. "The average legislator will say that it's Clinton's department heads and the college people who lobby them harder than anybody else. For them to be left off that bill is ludicrous."

Clinton disagrees. "What I do and the other state people do is much more in the public domain and is observable by the legislature," the governor said. "If a college president invites the legislature to a campus and throws a party, they tell you they're doing that and disclose it."

"Everything we spend already is public record. I mean, you reporters can even see my telephone records," Clinton said. "I can't even do that for Congress. Lobbyist can talk to anyone by without disclosure."



Ethics act big winner for Clinton

BY RON FOURNIER AND PAUL BARTON

Democrat Staff Writers

The early and clear passage of an ethics reform initiative buoyed the spirits of Gov. Bill Clinton who watched his tax reform measure and political ally fall to defeat Tuesday.

"It looks like we've beat them and if we have, I'll be a happy fellow," Clinton said of opponents to his initiated act. "Standards of Conduct and Disclosure Act for Lobbyists and State Officials."

"It's been 10 long years. I first proposed a lobbyist disclosure bill in 1979 so I'm happy to finally get it. This has been my issue for a long time," said Clinton at 10 p.m.

He often has called lobbying the fourth branch of government.

With 79 percent or 2,108 of 2,668 of the precincts reporting, the unofficial totals were:

For 307,180
Against 196,770
That translates to 61 percent for and 39 percent against.

Bob Lamb, executive director of the Arkansas State Chamber of Commerce who personally sued to keep the initiative off the ballot, said he will no longer fight the reform.

"We thought it would pass, but I felt like someone See ETHICS, Page 11A

Ethics

• Continued from Page One

needed to take the lead and explain the issues to the voters," he said.

Lamb said the bill could force citizens to register as lobbyists.

Cary Gaines of the Arkansas Sheriffs Association said his group may offer legislation in January 1989 to require public officials to disclose their lobbying activities. Public officials, including Clinton's cabinet, are exempt from Clinton's bill.

"They (department heads) put more pressure on the Legislature than lobbyists do. We'll ask the sheriffs to include them all," Gaines said.

Clinton said the bill's opponents, including a handful of powerful lobbyists, underestimated public support when they funded an advertising blitzkrieg against the ethics measure. The ads tied ethics and tax reform to Clinton's \$192 million legislative package.

"I know the tax (reform amendment) would be an uphill battle all along. I didn't want to lose ethics and I knew the people who didn't want it wouldn't attack it frontally - they'd attack it through tying it to the package. What they didn't know was how popular it was," he said.

Clinton's so-called Fair Tax Amendment, the governor's attempt at equalizing the tax structure, fell to defeat. Michael Dukakis, the Democratic presidential candidate supported heavily by Clinton, lost his race to Vice President George Bush.

Clinton said the 11th-hour \$80,000-\$100,000 advertising campaign funded by anonymous opponents actually helped the ethics initiative pass.

"It gave me a chance to counter and raise the money to counter. Maybe it was a blessing in disguise," he said. Clinton raised about \$40,000 overnight to counter the ads last weekend.

Scott Trotter, president of Lobby Watch and a major supporter of the act, predicted a victory at 9 p.m.

"I've seen the early numbers and it looks like we're going to win. To me, it looks like a smashing victory on ethics.

"It's a victory for the right of the people to initiate our own laws. It's a victory for the little guy in the legislative process," Trotter said.

The act will, among other things:

• Require those who spend more than \$250 over three months for lobbying activities to register as lobbyists.

• Require lobbyists to file detailed quarterly reports on spending activities, including any expenditure of more than \$25 on or in behalf of a public official.

• Require disclosure by public officials of their income. Gifts worth \$100 or more received by a public official or a spouse would also have to be reported. Real estate holdings would be excluded from disclosure requirements.

• Require disclosure of loans of \$5,000 or more owed by public officials, except those occurring in the ordinary course of business.

• Allow the attorney general's office the power to enforce the law through investigations. Prosecutions, however, would be left up to the prosecuting attorney in the county where the violation occurred.

Clinton made lobbyist disclosure a major priority following the 1987 legislative session, where he saw business lobbyists kill most of his ideas for increasing state revenues so that new programs could be funded.

Two months after the '87 session ended, Clinton appointed a "Code of Ethics Commission" to draft legislation on the subject.

The Legislature asked for a chance to do something itself, and Clinton convened a special session during last week of January and first week of February. The special session broke up without any ethics legislation being passed.

The governor's staff used holidays and special events like the Super Tuesday primary in March to get the 53,800 signatures on petitions for an act approved by Clinton.

Lobbying Reform

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H.R. 823 TREATS NON-PROFIT ORGANIZATIONS FAIRLY

Dear Colleague:

You may soon be contacted concerning the effect of H.R. 823, the Lobbying Disclosure Act, on tax-exempt non-profit organizations. Many of these organizations are lobbying for changes that would permit non-profits to avoid reporting many of their lobbying contacts with the Federal Government. I am writing to explain why it would be unfair to make the changes the non-profit community is seeking.

As you probably know, the Lobbying Disclosure Act is designed to provide for the effective disclosure of efforts to influence Federal legislative or high-ranking executive branch officials in the conduct of government actions. It is premised on the belief that the public has the right to know who is influencing important actions affecting their lives and approximately how much is being spent for that purpose. The bill was reported in November by the Subcommittee on Administrative Law and Governmental Relations on a vote of 10-0.

The bill would require organizations that have a lobbyist and spend more than \$2,500 on lobbying activities during a six month reporting period to file a lobbying disclosure report which contains a good faith estimate (within dollar categories) of the amount spent on such activities, a specific description of the issues lobbied on, and the federal agencies (for contacts only with senior officials) and committees contacted (for contacts with Members and non-clerical staff).

Many non-profit organizations object to the broad disclosures which would be required under H.R. 823. They want to report only the information they now submit to the Internal Revenue Service under regulations that define lobbying much more narrowly than H.R. 823. For example, the IRS definition does not require reporting of contacts with executive branch officials about anything other than legislation, while H.R. 823 would include contacts with the most senior executive branch officials (other than for routine applications or other written comments) about formulation of Federal regulations or policies, or the administration of contracts, grants, or loans. The IRS does not require reporting of non-profits' lobbying concerning their own tax-exempt status, while H.R. 823 would disclose such activities.

(OVER)

CHANGES TO H.R. 823 MADE IN RESPONSE TO NON-PROFITS' CONCERNS

A number of significant changes to H.R. 823 were made at the request of one or more non-profit organizations. As approved by the Subcommittee on Administrative Law and Governmental Relations on November 22, 1993, the Lobbying Disclosure Act:

1. Would establish a new Office of Lobbying Registration and Public Disclosure as an independent executive branch agency, rather than within the Justice Department.
2. Clarifies the definition of "lobbyist" by changing the exclusion of an individual whose lobbying activities "are only incidental to, and are not a significant part of" the services provided by such individual to the client to an individual whose lobbying activities "constitute less than 10 percent" of the time engaged in such services to the client.
3. Raises the dollar threshold for registering under the Act from \$1,000 to \$2,500 for the semiannual reporting period. This amount would be adjusted for inflation on January 1, 1997 and every four years thereafter.
4. Allows non-profit organizations, which under the bill as introduced already could use the IRS definition of "influencing legislation" for estimating their lobbying expenses in their semiannual reports, to opt to use the same IRS definition for determining if they have reached the dollar threshold for reporting if (a) they use the same definition for both purposes, and (b) they indicate to the Office of Lobbying Registration and Public Disclosure that they are using the IRS definition to make such an estimate.
5. Exempts churches and associations of churches from disclosing information about their grass roots lobbying communications, and exempts any communication by a church or association of churches that constitutes the free exercise of religion from being considered a "lobbying contact."
6. Specifies that employees of government-owned utilities do not qualify for the "public officials" exemption to the definition of "lobbying contact" and would be required to register if they otherwise meet the requirements to register under the Act.
7. Establishes a three-year statute of limitations for punishing violations under the Act.
8. Establishes a phase-in period, so that lobbyists are not penalized for most violations during the first semiannual reporting period.
9. Requires the Office of Lobbying Registration and Public Disclosure to respond to inquiries concerning who is or has been a covered legislative branch official or covered executive branch official.

While a narrow definition of lobbying may make sense for the IRS regulations, which non-profit organizations must comply with in order to maintain their tax-exempt status, their reach is too limited for a law designed to disclose all significant efforts to influence government actions.

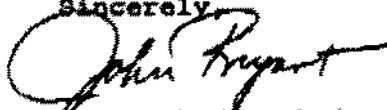
The additional information disclosed under H.R. 823's definition of lobbying activities -- particularly about contacts with high-level executive branch officials -- is crucial to the public's knowledge about policy decisions in Washington. The alternative -- allowing non-profit organizations to avoid disclosing certain lobbying activities while other organizations lobbying the same officials on the same issues must disclose their activities -- would not only be unfair, but also quite misleading. For example, if a non-profit organization and a for-profit organization lobbying the Transportation Department on different sides of a truck safety or fuel economy issue were not required to abide by the same disclosure rules, the public would get a distorted view of the efforts to influence the decision and the for-profit organization would argue justifiably that the lobbying activities of the business community had been singled out for scrutiny.

You should know that the Subcommittee addressed most of the non-profits' stated concerns about H.R. 823's burdens on non-profit organizations that do a small amount of lobbying. For example, we raised the bill's dollar threshold for reporting lobbying activities from \$1,000 to \$2,500 for a six-month period. Thus, any organization that spends less than \$2,500 on lobbying activities during a six-month reporting period would not be required to register at all. Nor would organizations without at least one employee who spends 10 percent or more of his or her time lobbying the Federal Government.

Finally, because H.R. 823 allows non-profit organizations to use the IRS definition of lobbying for determining whether they have reached the \$2,500 threshold and for estimating lobbying expenditures, non-profit organizations will not need to create separate financial accounting systems to comply with the Act.

The Lobbying Disclosure Act allows the public to know which lobbyists are influencing important actions affecting their lives -- regardless of the tax status of the lobbyist's client or employer -- without placing unreasonable administrative burdens on those who register. I urge you to reject the non-profits' plea for special treatment and to support H.R. 823 as reported.

Sincerely,



JOHN BRYANT, Chairman
Subcommittee on Administrative Law
and Governmental Relations

LOBBYING REFORM

AMERICAN LEAGUE OF LOBBYISTS

July 8, 1994

JUL 08 1994

Dear

The American League of Lobbyists (ALL) has written you previously with respect to proposed lobbying disclosure and gift ban legislation -- S. 349 and H.R. 832. As the professional association representing lobbyists, the League has consistently endorsed the need for reform of the present inadequate and inefficient lobbying registration and disclosure laws.

The League has advocated adoption of a statute that properly balances the legitimate public interest in lobbying disclosure with freedom of association and the right to petition government. Thus, the League's comments on disclosure legislation have centered upon the definitions and the civil penalty provision for the purpose of supporting beneficial reforms that do not create overly broad or punitive substantive provisions inhibiting free exercise of first amendment rights.

Further, the League has emphasized its conviction that lobbyists must not be discriminated against with respect to substantive standards governing communications and other interaction with Congress. Although the League does not believe a gift ban is necessary, the League certainly will accept Congress' judgment and seek to assure compliance with any bill that is enacted. The League believes, however, that discrimination in substantive rights cannot pass constitutional scrutiny and, in any event, should be rejected as unsound legislative policy.

For your convenience, we enclose a summary of the League's comments with respect to the pending legislation. Two recent events underscore the League's concerns and demonstrate the need for review of the issues raised by the League.

On June 30, 1994, the Supreme Court unanimously vacated a substantial civil contempt fine that had been imposed upon a union by a state court, International Union, United Mine Workers of America v. Bagwell, No. 92-1265. Under the Court's ruling, if a court seeks to levy a non-petty non-compensatory contempt fine in enforcing a complex injunction, the contempt proceeding requires full due process adjudication, including trial by jury.

The decision was issued in the context of a contempt adjudication and the Court noted that it has upheld legislation imposing civil penalties in remedial legislation. Therefore, we refer to the ruling not as a binding precedent but rather for your consideration of the Court's unanimous concern for due

July 8, 1994

Page Two

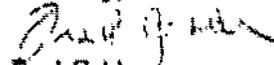
process and for the need for full procedures prior to imposition of fines penalizing failures to adhere to complex regulatory systems. The Court's philosophical and constitutional concern applies with full force to the proposed civil penalty provisions of the lobbying disclosure legislation and supports the League's comments.

The penalties in the proposed legislation are cumulative and potentially severe. As you recognize, the mere "conviction" of violating lobbying regulations is likely to damage a professional lobbyist's career. When public disapprobation is combined with a potentially devastating penalty for matters turning upon complex regulations, the punitive nature of the proposed civil penalty system is manifest. Regardless of the direct applicability of the Bagwell decision, the Court's profound regard for principles of due process should guide and inform Congress' consideration of the lobbying disclosure measure. Adoption of the League's recommendations would accord well with, and would accommodate fully, the principles recently enunciated by the Court.

→ Second, Administration spokespersons have recently announced that contributions from lobbyists will be accepted for the President's legal defense fund. Acceptance of contributions from those who are clients of lobbyists was so clearly acceptable that it was not even noted in the formation of the fund. Given the Administration's aggressive position with respect to lobbying reform matters, it must be presumed that if it had perceived any problems with gifts from lobbyists, such contributions would not have been deemed acceptable. The President simply saw no reason to distinguish between lobbyists and other citizens with respect to gifts. The League concurs with the President's judgment. There is no reason to discriminate against lobbyists with respect to gifts or substantive standards. The League urges Congress to reach the same conclusion as the President and not discriminate against lobbyists in formulating rules of substantive conduct.

If we may provide more detailed comments or assistance, please call me at (202) 637-6703, or ALL's Legal Counsel, William Althen, Smith Hannan & Althen at (202) 887-0800. Thank you for your consideration of this letter.

Sincerely,


Fred Gebler
President

Enclosure

Comments of the American League of Lobbyists

Regarding

Lobbying Reform Legislation

I. Lobbying Disclosure

Repeatedly, ALL has expressed support for lobbying disclosure legislation that would: clarify and consolidate reporting requirements; treat contacts with legislative and executive branch officials evenhandedly; institute a workable enforcement mechanism that does not impose inordinately high penalties; and respect the lobbyists' professional calling as a fundamental First Amendment right. We offer the following comments with respect to pending lobbying disclosure legislation.

* Definition of Lobbyist

The League favors the language of H.R. 823 excluding from the definition of lobbyist persons whose lobbying activities constitute less than 10% of the services performed for the client. At the same time, the League believes that one contact should not be considered sufficient to bring an individual within the definition of a lobbyist. In that respect, the requirement of S. 349 that the individual must make lobbying "contacts" is preferable.

* De Minimis Limitation

The League suggests a \$5,000 de minimis requirement for registration. Such an amount would be better calculated to limit the filing of reports to persons who engage in significant lobbying activities during a reporting period.

* Exceptions

The League urges "lobbying activities" and "lobbying contacts" be defined in a manner consistent with disclosure of activities affecting the public interest in legislative or executive agency actions but without imposing undue or unnecessary reporting requirements. For example, the League suggests that the definition of lobbying contacts not include contacts with respect to the administration of government contracts. Disclosure of such matters could require voluminous recordkeeping, may involve sensitive proprietary information and may impede the development of government contracts best serving the public interest.

In addition, communications with the public, including through public outlets such as speaking engagements, media releases and advertising, involve communications between citizens rather than contacts with public officials. Expenditures for contacts by citizens with other citizens through any media should remain private.

* Paperwork and Recordkeeping

The League supports semiannual reporting and use of good faith estimates to report income and expenditures relating to lobbying activities. In many other respects, the requirements of both S. 349 and H.R. 823 would impose costly, time consuming, and unnecessarily

cumulative recordkeeping and reporting obligations upon lobbyists. Both S. 349 and H.R. 823 would require the filing of separate reports for each client and the reporting of significant detail with respect to lobbying activities. As drafted, these measures would raise difficult and complex issues with respect to reporting lobbying activities on behalf of coalitions or multiple clients. Consideration should be given to easing the burden of multiple registrations and multiple and potentially duplicative reports by lobbyists.

* Administration and Enforcement

The League favors the following resolution of issues pertaining to the administration and enforcement of disclosure requirements:

a. Lobbying Disclosure regulations and civil penalties should be administered by an independent federal agency as described in H.R. 823.

b. Lobbying disclosure legislation should provide an opportunity for correction of minor violations without imposition of a civil penalty as envisioned by S. 349.

c. The maximum penalty of \$200,000 per violation exceeds penalties imposed in other regulatory situations. (E.g., the maximum civil penalty for violations of mine safety laws, even violations causing the death of a miner, is \$50,000.) Maximum fines should be reduced.

d. An administrative hearing before an administrative law judge should be provided for all civil penalty proceedings.

e. Civil penalty provisions should explicitly require the agency to take into account the person's ability to pay and the effect of the fine upon the person's ability to continue in business. Such provisions are included in many federal civil penalty statutes and are appropriate for inclusion in any lobbying disclosure measure.

f. The term "know or should have known" should be defined to require that the person wilfully violated the requirements of the law or regulations or acted with gross or reckless disregard of the provisions of the law or regulations.

g. The limitations period should be reduced to one year.

* Effective Date

Lobbying reform should be effective one year after the date of final adoption of regulations promulgated in accord with the Administrative Procedure Act. This period is necessary to permit dissemination of information with respect to the requirements of the regulations. Such adjustment period is especially appropriate because, as currently drafted, the provisions of either S. 349 or H.R. 823 are likely to cause many persons throughout the nation who are presently unfamiliar with lobbying requirements (especially persons contacting federal executive agencies) to be classified as lobbyists thereby requiring them to comply with lobbying disclosure requirements.

II. Meal and Gift Ban

The League prefers the disclosure requirements of S. 349 to the ban contained in H.R. 823, S.1935 and the Levin Substitute to S.1935. The League believes that Congress must be the final arbiter of standards of conduct likely to assure both the appearance and reality of integrity in the legislative process. Therefore, if Congress concludes that an extensive ban of gifts, including minor meal purchases, is necessary, the League will support Congress' decision and assist in informing lobbyists and the public of the provisions of the ban. Such a ban, however, can fully achieve its purpose only if it is applied uniformly to all citizens. Accordingly, the League urges Congress not to focus a ban upon lobbyists and their clients.

First, professional advocates play a positive and essential role in the legislative process. Any measure selectively barring professionals and their clients from contacts with Members and their staffs that are permitted for other persons runs counter to the purpose of encouraging public respect for the integrity of the legislative process. Congress should affirm the importance of professional advocacy and should view lobbying legislation as an enhancement of the process by which lobbyists practice their profession rather than as a measure fostering an ill-conceived diminishment of the role of professionals or excluding professionals or their clients from activities permitted for others.

Second, the League is not aware of significant evidence that the purchase of meals or other amenities under current law by lobbyists or laymen has presented significant problems. In the absence of data supporting the need either for a ban or for a ban specially applicable to certain individuals on the basis of their status as lobbyists or clients, the League does not believe a ban limited to, or discriminating against, lobbyists and clients is warranted. Certainly, professional lobbyists should be afforded the same treatment as that extended to public officials.

Third, given the chilling effect disparate treatment of lobbyist and their clients would have on the exercise of rights of free speech and association by them, the League does not believe such a status-based ban can pass constitutional muster. Many other persons have similar contacts with Members of Congress or may attempt to influence the Congress exclusively through public contacts without technically falling within the definition of lobbyists, including organizations using volunteers. A rational basis does not exist for carving out lobbyists and clients for disparate treatment which may chill the exercise of their constitutional rights.

If a meal and/or gift ban is to be enacted, it should apply equally to all citizens, regardless of the dollar threshold.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

216
Lobbying Reform

July 1, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-3145

TO: Legislative Liaison Officer -

JUSTICE - Sheila F. Anthony - (202) 514-2141 - 217
TREASURY - Richard S. Carro - (202) 622-1146 - 228
OPM - James N. Woodruff - (202) 606-1424 - 331
STATE - Julia C. Norton - (202) 647-4463 - 225
GSA - William R. Ratchford - (202) 501-0563 - 237

FROM: JAMES J. JUKES (for) *JJC*
Assistant Director for Legislative Reference

OMB CONTACT: Ingrid SCHROEDER (395-3883)
Secretary's line (for simple responses): 395-3454

SUBJECT: OGE Proposed Report RE: S 1935, Congressional
Gifts Reform Act

DEADLINE: July 8, 1994

COMMENTS: Attached is a letter to the conferees (not yet
appointed) on the public financial disclosure provisions in S.
1935. Please note that S. 1935 is the gifts ban provision
passed by the Senate which will be included in the conference
on H.R. 823 - Lobbying Disclosure.
(S. 349)

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

Adrien Silas

Harry Meyers

Ken Schwartz

Chris Edley

Margaret Shaw

Frank Reeder

Bob Rideout

Doug McCormick

Bob Damus

Jennifer Palmieri

Cookie Walden

Bruce Reed

Michael Waldman

Todd Campbell

Beth Nolan

Kathy Whalen

Karen Hancox

Tracey Thornton

Melissa Cook

Barbara Kahlow

Richard Loeb

Jeff Hill

Sally Katzen

Joel Klein

Steve Ricchetti



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3017

June 30, 1994

MEMORANDUM

TO: James J. Jukes (for)
Assistant Director for
Legislative Reference

FROM: Stephen D. Potts
Director *Stephen D. Potts*

SUBJECT: Letter to conferees on H.R. 823, Lobbying
Disclosure Act, regarding the public financial
disclosure amendment in S. 1935.

Attached for clearance is a letter to the conferees on the Lobbying Disclosure Act. The letter deals with an amendment to the Ethics in Government Act in S. 1935 which we understand the Senate conferees are using as a guide in negotiating the gifts provisions in the Lobbying Disclosure Act (H.R. 823). The amendment to the Ethics in Government Act applies to all three branches although it is not clear that the drafters recognized that. Our letter asks that the executive branch not be subject to this new disclosure requirement and provides language that would apply the requirement only to the legislative branch (thus giving the judicial branch the benefit of our request as well).

We would like to assure you that we are carefully watching the use of the post employment provisions in S. 1935 as well, but we believe that it would be unwise at this time to make an issue of them. It is our understanding that the Senate does not intend to insist on post employment changes in the Lobbying Disclosure Act even though they are using the gifts provisions of S. 1935 in their discussions. Further, we understand that the House is not interested in considering a free-standing gifts bill and S. 1935 is being held at the desk. We may, in the future, send a letter for clearance about the post employment provisions to be held for use only if necessary. In the meantime, we are not sure that the supporters of the post employment amendments to S. 1935 know what a possible dead end S. 1935 is for those provisions and we would not like them to decide to insert them in other bills. Thus we believe the less said on that issue for the moment, the better.

Attachment

Letter to the conferees on H.R. 823, Lobbying Disclosure Act or

It is our understanding that the Senate conferees will use the gifts provisions of S. 1935 as guidance in its conference with the House on the Lobbying Disclosure Act, H.R. 823. While the gifts limitations in the S. 1935 do not apply to the executive branch, we note that a change found in Section 4 to the public financial disclosure law would apply to all three branches. This occurs because each branch no longer has a separate title in the Ethics in Government Act for public financial disclosure. All are governed by title 1.

We believe that adding such an additional reporting requirement to an already complicated system is not an effective use of government resources, would not succeed in eliciting information that is related to the gifts rules of the executive branch (which by far has the most public disclosure filers), and is written in a manner that places an untenable burden on all filers regardless of branch. We therefore request that such an amendment to the public financial disclosure provisions of the Ethics in Government Act applicable to the executive branch not be included in the Lobbying Disclosure Act or any other bill.

Section 4 amends section 102(a)(2)(A) of the Ethics in Government Act so that in setting forth the disclosure requirements for gifts it would now read--

(2) (A) The identity and source, a brief description, and the value of -

(i) all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title, 5, United States Code, or \$250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of \$100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph, and

(ii) all gifts, other than food, lodging or entertainment received as personal hospitality of an individual, having a value of \$20 or more that are--

(I) provided by a person required to register under the Federal Regulation of Lobbying Act, the Foreign Agents Registration Act, or any successor Act; and

(II) would be prohibited by section 7352 of title 5, United States Code, but for a personal friendship exception contained in implementing rules and regulations issued pursuant to in [sic] subsection (b) (1) of such section."

The financial disclosure law, as we have noted before, is a very technical, and difficult one to make clear to filers. We make every effort to do so because the result of not filing a complete financial disclosure form can do substantial harm--to one's reputation and/or pocketbook. This particular provision is drafted in a manner to make the disclosure of gifts exponentially more difficult. For instance, "gift" is a term that is defined in title I of the Ethics in Government Act section 109(5) and that definition presently applies to items that must be publicly disclosed. The term "gift" is defined differently in S. 1932 and thus on the same financial disclosure report an individual will have to understand that a gift for public financial disclosure is not always the same as a gift under the Lobbying Disclosure Act. Further, this provision requires a filer to report gifts of a certain value from a person who is "required" to register under certain acts, not one who has registered. This makes the filer responsible for determining if a person or organization should have registered, not whether they did register.

The gifts rules for the executive branch do not focus on those who are "lobbying" the agency. Individuals or organizations carry out a wide variety of activities that involve executive branch action where they are not "lobbying" the agency. Our rules govern gifts from those organizations and individuals as well. Therefore, this disclosure rule sends the wrong signal in the executive branch and has little relationship to an executive branch interest. In addition, filers in the executive branch would have to make the distinction between those gifts prohibited by 5 U.S.C. § 7352 and those that are prohibited pursuant to executive order since the executive branch standards of conduct governing gifts are broader than the statute and do not make that distinction. Thus, a disclosure rule that is based upon legislative branch rules will become expensive and unwieldy for the executive branch.

Finally, on a practical note, we estimate that the executive branch uses over 40,000 copies a year of the public financial disclosure form. This form must be approved by OMB and GSA, and it is printed by GPO and stocked and sold to the agencies for their use by GSA. It is not a simple, quick or inexpensive process for the executive branch to change the form in order to meet new disclosure requirements. For example, the last change to the financial disclosure law was also to the gifts provision. It has taken the executive branch over 12 months to get the necessary clearances to change the form to conform to the law. Fortunately, since the last amendment only changed the threshold amounts of the

gifts that must be disclosed and moved those thresholds up, we made a decision to continue to use the old forms and have agencies attach some notice to filers of the change of threshold amounts. We were able to do that because individuals failing to receive or heed that notification would only be over disclosing rather than violating some statutory requirement. And, in order not to waste Government resources, this new form will not be available for distribution until the stocks of the old form are depleted.

If this provision were to become law, we could not guarantee that this Office could ensure that a correct form was available in time for use after the effective date of these proposed changes, nor do we believe that the information that would be required to be disclosed, and the confusion this change would make in ethics enforcement would justify the expense.

If you believe that some additional disclosure requirement continues to be necessary for the legislative branch alone, we believe that result would occur if section 102(a)(2)(A)(ii) began in the following manner:

"(ii) for individuals who file pursuant to subsection (f)(9) and (10), all gifts. . . ."

We believe, however, that for the sake of those legislative branch individuals who would be required to file under this provision, the requirement should be limited to gifts from those who have registered under the Lobbying Disclosure Act rather than those who are required to file. In that way the recipient can at least check with the office administering the lobbying law to determine if the donor has filed or not rather than making an independent judgment about whether the donor was required to file.

If we can be of any assistance or provide any further information, please feel free to contact my Office.

Sincerely,

Stephen D. Potts
Director

United States
OFFICE OF GOVERNMENT ETHICS
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917
FAX: (202) 523-6325

**FACSIMILE TRANSMISSION
COVER SHEET**

DATE: AS 6/30

TO: Ingrid Schroeder

FAX NO. 395-3109 Phone No.

FROM: Jane Levy ExL

COMMENTS: _____

NUMBER OF PAGES
(INCLUDING COVER SHEET) 5

If you did not receive the total number of pages, please call (202) 523-5767

THE WHITE HOUSE

WASHINGTON

April 29, 1993

MEMORANDUM FOR CIRCULATION

FROM: BRUCE REED, DOMESTIC POLICY COUNCIL
DONSIA STRONG, DOMESTIC POLICY COUNCIL

SUBJECT: LOBBYING DISCLOSURE ACT OF 1993

The Lobbying Disclosure Act of 1993, S.349, is scheduled for Senate floor action Tuesday, May 4. However, since Sen. Stevens of Alaska, is travelling to Russia next week, floor action will probably continue for most of the week to give him enough time to return and offer an amendment.

Senators Lautenberg,¹ Levin and Boren are planning to offer a "sense of the Senate resolution" as an amendment to Sen. Levin's bill. The resolution will suggest that the Senate Rules Committee consider changing Senate gift rules to be substantially similar to those of the Executive Branch. The Administration needs to decide if it will offer positive support for this amendment in the Statement of Administration Policy that is sent down to the Senate floor. We recommend supporting this resolution.

In all likelihood, Sen. Wellstone will offer an amendment to S.349 requiring lobbyists to disclose gift, travel and entertainment benefits to Members and staff. In light of Prime Time Live's expose' of all expense paid trips provided to Members and their spouses, shown last night, we recommend, if asked, that the Administration support the amendment.

Currently, we are involved in negotiations with Sen. Levin's staff to strengthen the bill. Sen. Levin will be offering a floor amendment to increase to \$5,000 semi-annually the threshold amount for triggering a registration requirement, so as not to unduly burden non-profits.

We are discussing the possibility of including four largely noncontroversial amendments in Sen. Levin's manager's amendment.

¹ Sen. Lautenberg also is planning to introduce a bill which follows the Executive Branch rules prohibiting most gifts. Lautenberg's bill will go further and prohibit gift acceptance from anyone except personal friends. The Executive Branch rules prohibit gifts from prohibited sources.

Department of Justice, OMB, agencies and White House staff:

*First, S.349 does not require disclosure of third party individuals or organizations who pay a lobbyist to lobby on behalf of another. We have suggested has offered an amendment which would require disclosure of the third party.

Sen. Stevens will offer an amendment that requires organizations to disclose their contributors. During the Senate committee markup, Sen. Stevens was particularly curious as to whether the Sierra Club would be required to disclose its contributors. Sen. Levin's staff raises the legitimate concern that it will be very difficult for them to beat back an amendment by Sen. Stevens while offering an amendment to disclose other third party payors.

This morning, Sen. Levin's staff offered to work on a compromise which would require third party payor information solely from outside lobbyists.

*Second, we have suggested an amendment to require disclosure of ad hoc coalitions. Ad hoc coalitions occur where lobbyists for different clients strategize and lobby together under an assumed name without ever revealing the name of the client who has an interest in the issue.

So far we have been unable to come up with language that sufficiently satisfies the committee. Moreover, there are many "good government" groups which participate in ad hoc coalitions that would be severely affected by the disclosure.

Now, as a compromise, Sen. Levin has suggested including a requirement that registered lobbyists must disclose their client if a covered official asks for this information. This still will not make the information available to anyone attempting to research through the public record.

*Third, we have suggested a separate-line item disclosure for "grassroots" lobbying. At the moment, Sen. Levin's staff is reluctant to open the door to further kinds of categorical disclosure -- i.e gifts, travel.

Last, we have suggested an amendment (based on existing HUD rules) that would penalize lobbyists who repeatedly fail to comply with penalties "up to the extent to which a noncomplying lobbyist has profited."

Sometime in the near future the Department of Justice will be negotiating on the House side for amendments it would like with respect to enforcement and to build up support for keeping the new office within DOJ. There is some sentiment in the House

to locate the new lobby office somewhere other than DOJ. Webb Hubbell is aware of this effort and may be personally involved.

Calendar No. 54

103D CONGRESS
1ST SESSION**S. 349****[Report No. 103-37]**

To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

 IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 5), 1993

Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. ROTH, Mr. BOREN, Mr. CAMPBELL, Mr. MCCAIN, Mr. STEVENS, Mr. DECONCINI, and Mr. BRYAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

APRIL 1 (legislative day, MARCH 3), 1993

Reported by Mr. GLENN, with amendments

[Omit the part struck through and insert the part printed in *italics*]

A BILL

To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Lobbying Disclosure
5 Act of 1993".

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BILL TEXT Report for S.349
As passed by the Senate (Engrossed)

S.349 As passed by the Senate (Engrossed)

103d CONGRESS
1st Session

S. 349

AN ACT

To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

=====
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lobbying Disclosure Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.--The Congress finds that--

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administration and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

(b) Purpose.--The purposes of this Act are to--

(1) provide for the disclosure of the efforts of paid lobbyists to influence Federal legislative or executive branch officials in the conduct of Government actions; and

(2) afford the fullest opportunity to the people of the United States to exercise their constitutional right to petition their Government for a redress of grievances, to express their opinions freely to their Government, and to provide information to their Government.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "agency" has the same meaning as such term is defined under section 551(1) of title 5, United States Code.

(2) The term "client" means any person who employs or retains another person for financial or other compensation to conduct lobbying activities on its own behalf. An organization whose employees act as lobbyists on its behalf is both a client and an employer of its employee lobbyists. In the case of a coalition or association that employs or retains persons to conduct lobbying activities on behalf of its membership, the client is the coalition or association and not its individual members.

(3) The term "covered executive branch official" means--

(A) the President;

(B) the Vice President;

(C) any officer or employee of the Executive Office of the President other than a clerical or secretarial employee;

(D) any officer or employee serving in an Executive level I, II, III, IV, or V position, as designated in statute or executive order;

(E) any officer or employee serving in a Senior Executive Service position, as defined under section 3132(a)(2) of title 5, United States Code;

(F) any member of the uniformed services whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and

(G) any officer or employee serving in a position of a confidential or policy-determining character under Schedule C of the excepted service pursuant to section 7511 of title 5, United States Code.

(4) The term "covered legislative branch official" means--

(A) a Member of Congress;

(B) an elected officer of Congress;

(C) any employee of a Member of the House of Representatives, of

a committee of the House of Representatives, or on the leadership staff of the House of Representatives, other than a clerical or secretarial employee;

(D) any employee of a Senator, of a Senate Committee, or on the leadership staff of the Senate, other than a clerical or secretarial employee; and

(E) any employee of a joint committee of the Congress, other than a clerical or secretarial employee.

(5) The term "Director" means the Director of the Office of Lobbying Registration and Public Disclosure.

(6) The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of an organization, but does not include--

(A) independent contractors or other agents who are not regular employees; or

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

(7) The term "foreign entity" means--

(A) a government of a foreign country or a foreign political party (as such terms are defined in section 1 (e) and (f) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 (e) and (f)));

(B) a person whose principal place of residence is outside the United States, other than a United States citizen or an organization that is organized under the laws of the United States or any State and has its principal place of business in the United States; or

(C) a partnership, association, corporation, organization, or other combination of persons that is organized under the laws of or has its principal place of business in a foreign country.

(8) The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended for use in contacts, and coordination with the lobbying activities of others. Lobbying activities include grass roots lobbying communications and communications with members, as defined under section 4911 (d)(1)(A) and (d)(3) of the Internal Revenue Code of 1986 and the regulations implementing such provisions, to the extent that such activities are made in direct support of lobbying contacts.

(9)(A) The term "lobbying contact" means any oral or written communication with a covered legislative or executive branch official made on behalf of a client with regard to--

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

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license) except that it does not include communications that are made to covered executive branch officials in the agency responsible for taking such action who serve in the Senior Executive Service, or who are members of the uniformed services whose pay grade is lower than O-9 under section 201 of title 37, United States Code.

(B) The term shall not include communications that are--

(i) made by public officials acting in their official capacity;

(ii) made by representatives of a media organization who are primarily engaged in gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is widely distributed to the public, or through the media;

(iv) made on behalf of a foreign principal and disclosed under the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.);

(v) requests for appointments, requests for the status of a Federal action, or other similar ministerial contacts, if there is no attempt to influence covered legislative or executive branch officials;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

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

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

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

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

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

(xii) made to agency officials with regard to judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or filings required by statute or regulation;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554

of title 5, United States Code, or substantially similar provisions;

(xiv) written comments filed in a public docket and other communications that are made on the record in a public proceeding;

(xv) a formal petition for agency action, made in writing pursuant to established agency procedures; and

(xvi) made on behalf of an individual with regard to such individual's benefits, employment, other personal matters involving only that individual, or disclosures by that individual pursuant to applicable whistleblower statutes.

(10) The term "lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include lobbying contacts, other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services provided by such individual to the client.

(11) The term "organization" means any corporation (excluding a Government corporation), company, foundation, association, labor organization, firm, partnership, society, joint stock company, or group of organizations. Such term shall not include any Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), organization of State or local elected or appointed officials, any Indian tribe, any national or State political party and any organizational unit thereof, or any national, regional, or local unit of any foreign government.

(12) The term "public official" means any elected or appointed official who is a regular employee of a Federal, State, or local unit of government (other than a State college or university as described under section 511(a)(2)(B) of the Internal Revenue Code of 1986), an organization of State or local elected or appointed officials, an Indian tribe, a national or State political party or any organizational unit thereof, or a national, regional, or local unit of any foreign government.

SEC. 4. REGISTRATION OF LOBBYISTS.

(a) Registration.--(1) No later than 30 days after a lobbyist first makes a lobbying contact or agrees to make lobbying contacts, whichever is earlier, such lobbyist (or, as provided under subsection (c)(2), the organization employing such lobbyist), shall register with the Office of Lobbying Registration and Public Disclosure.

(2)(A) Notwithstanding paragraph (1), any person whose total income (in the case of an organization described under section 5(b)(3)) or total expenses (in the case of an organization described under section 5(b)(4)) in connection with lobbying activities do not exceed, or are not expected to exceed--

(i) \$1,000 in a semiannual period on behalf of a particular client, or

(ii) \$5,000 in a semiannual period on behalf of all clients, (as estimated under section 5), is not required to register with respect

to such client or clients.

(B) The registration thresholds established in this paragraph shall be adjusted on January 1 of each year divisible by 5 to the amount equal to \$1,000 and \$5,000, respectively, in constant 1995 dollars (rounded to the nearest \$100).

(b) Contents of Registration.--Each registration under this section shall be in such form as the Director shall prescribe by regulation and shall contain--

(1) the name, address, business telephone number and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that--

(A) contributes more than \$5,000 toward the registrant's lobbying activities in a semiannual period;

(B) significantly participates in the supervision or control of the registrant's lobbying activities; and

(C) has a direct financial interest in the outcome of the registrant's lobbying activities;

(4) the name, address, principal place of business, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that--

(A) holds at least 20 percent equitable ownership in the client or any organization identified under paragraph (3);

(B) directly or indirectly, in whole or in major part, supervises, controls, directs, finances, or subsidizes the registrant's lobbying activities; or

(C) is an affiliate of the client or any organization identified under paragraph (3) that has a direct interest in the outcome of the lobbying activity;

(5) a statement of the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client and, to the extent practicable, a list of specific issues that have already been addressed or are likely to be addressed (as of the date of the registration); and

(6) the name of each employee of the registrant whom the registrant expects to act as a lobbyist on behalf of the client (or who has already acted as a lobbyist on behalf of the client as of the date of the registration) and, if any such employee has served as a covered legislative or executive branch official in the 2-year period before the date on which such employee first acted as a lobbyist on behalf of the client, the position in which such employee served.

(c) Guidelines for Registration.--(1) In the case of a registrant representing more than one client, a separate registration shall be filed for each client represented.

(2) Any organization that has one or more employees who are lobbyists shall file a single registration for each client on behalf of its employees who acted as lobbyists on behalf of such client.

SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

(a) Semiannual Report.--No later than 30 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which it is registered, each registrant shall file a report with the Office of Lobbying Registration and Public Disclosure on its lobbying activities during such semiannual period.

(b) Contents of Report.--Each semiannual report filed under this section shall be in such form as the Director shall prescribe by regulation and shall contain--

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period--

(A) a list of the specific issues upon which the registrant engaged in significant lobbying activities, including a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants and loans, to the maximum extent practicable;

(B) a statement of the Houses and committees of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client during the semiannual filing period;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(D) a description of the interest in the issue, if any, of any foreign entity identified under section 4(b)(4);

(3) in the case of a registrant lobbying on behalf of a client other than the registrant, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person to lobby on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities;

(4) in the case of a registrant lobbying on its own behalf, a good faith estimate of the total expenses that the organization and its employees incurred in connection with lobbying activities during the semiannual filing period; and

(5) in the case of a registrant described under paragraph (3), the name, address, and principal place of business of any person other than the client who paid the registrant to lobby on behalf of the client.

(c) Additional Information on Financial Benefits.--

(1) In general.--In addition to the information described in subsection (b), each registrant shall include in its semiannual reports under subsection (a) or in a separate report on financial benefits, subject to the same filing requirements, a list of each individual financial benefit provided directly or indirectly by a registrant (including a financial benefit provided by a lobbyist employed by or a lobbyist who is a member of a registrant) to a covered legislative branch official, to an entity that is established, maintained, controlled, or financed by a covered legislative branch official, or to any other person or entity on behalf of or in the name of a covered legislative branch official, disclosing--

(A) with respect to each financial benefit other than one described in subparagraph (B), (C), or (D)--

(i) the name and position of the covered legislative branch official or other person or entity to whom or which the financial benefit was provided;

(ii) the nature of the financial benefit;

(iii) the date on which the financial benefit was provided; and

(iv) the value of the financial benefit;

(B) with respect to each financial benefit that is in the form of a conference, retreat, or similar event for or on behalf of covered legislative branch officials that is sponsored by or affiliated with an official congressional organization--

(i) the nature of the conference, retreat, or other event;

(ii) the date or dates on which the conference, retreat, or other event occurred;

(iii) the identity of the organization that sponsored or is affiliated with the event; and

(iv) a single aggregate figure for the expenses incurred by the registrant in connection with the conference, retreat, or similar event;

(C) with respect to each financial benefit that is in the form of an event that is hosted or cohosted with or in honor of 1 or more covered legislative branch officials--

(i) the name and position of each such covered legislative branch official;

(ii) the nature of the event;

(iii) the date on which the event occurred; and

(iv) the expenses incurred by the registrant in connection with the event; and

(D) with respect to each financial benefit that is in the form of election campaign fundraising activity--

(i) the name and position of the covered legislative branch official on behalf of whom the fundraising activity was performed;

(ii) the nature of the fundraising activity;

(iii) the date or dates on which the fundraising activity was performed;

(iv) the expenses incurred by the registrant in connection with the fundraising activity; and

(v) the number of contributions and the aggregate amount of contributions known by the registrant to have been made to the covered legislative branch official as a result of the fundraising activity.

(2) Exemption.--A list described in paragraph (1) need not disclose financial benefits having a value of \$20 or less to the extent that the aggregate value of such financial benefits that are provided to or on behalf of a covered legislative branch official or other person or entity during the calendar year in which the semiannual period covered by the report occurs has not exceeded \$50.

(3) Definition.--As used in this subsection, the term "financial benefit"--

(A) means anything of value given to, on behalf of, or for the benefit of a covered legislative branch official, including--

(i) a gift;

(ii) payment for local or long-distance transportation, entertainment, food, or lodging, whether provided in kind, by purchase of a ticket, by payment in advance or by reimbursement, or otherwise;

(iii) a contribution or other payment made to a third party in lieu of an honorarium on the basis of a designation, recommendation, or other specification made by the covered legislative branch official;

(iv) reimbursement of an expense;

(v) a loan; and

(vi) an expenditure made for a conference, retreat, or other event benefiting a covered person, but

(B) does not include--

(i) a contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), that is required to be reported under that Act, unless the contribution is in the form of participation in a fundraising activity on behalf of a covered legislative branch official, including the solicitation of contributions, hosting or cohosting of a fundraising event, or

service on a campaign steering committee or its equivalent;

(ii) a modest item of food or refreshments, such as a soft drink, coffee, or doughnut, offered other than as part of a meal;

(iii) a greeting card or other item of little intrinsic value, such as a plaque, certificate, or trophy, that is intended solely for presentation;

(iv) financial benefits given under circumstances which make it clear that the benefits are motivated by a family relationship rather than the position of the recipient;

(v) financial benefits which are not used and which are promptly returned to the donor; or

(vi) widely attended receptions to which covered legislative branch officials are invited, other than events described in paragraph (1)(B) of this subsection.

(d) Estimates of Income or Expenses.--For the purpose of this section, estimates of income or expenses shall be made as follows:

(1) Income or expenses of \$200,000 or less shall be estimated by the following categories:

(A) At least \$1,000 but not more than \$10,000.

(B) More than \$10,000 but not more than \$20,000.

(C) More than \$20,000 but not more than \$50,000.

(D) More than \$50,000 but not more than \$100,000.

(E) More than \$100,000 but not more than \$200,000.

(2) Income or expenses in excess of \$200,000 shall be estimated and rounded to the nearest \$100,000.

(3)(A) Any registrant whose total income (in the case of an organization described under subsection (b)(3)) or total expenses (in the case of an organization described under subsection (b)(4)) in connection with lobbying activities do not exceed--

(i) \$1,000 in a semiannual period on behalf of a particular client, or

(ii) \$5,000 in a semiannual period on behalf of all clients,

(as estimated under this section), or who does not make any lobbying contacts on behalf of a particular client, is deemed to be inactive during such period with respect to such client or clients and may comply with the reporting requirements of this section by notifying the Director, in such form as the Director may prescribe.

(B) The reporting thresholds established under this paragraph shall be adjusted on January 1 of each year divisible by 5 to the amount equal to \$1,000 and \$5,000, respectively, in constant 1995 dollars (rounded to the nearest \$100).

(4) In the case of registrants that are required to report or identify lobbying income or expenses under sections 6033 and 6104 of the Internal Revenue Code of 1986, regulations developed under section 6 shall provide that the amounts required to be disclosed under such sections, or a good faith estimate of such amounts, may be reported (by category of dollar value) to meet the requirements of subsection (b) (3) or (4) of this section.

(5) In estimating total income or expenses under this section, a registrant is not required to include--

(A) the value of contributed services for which no payment is made; or

(B) the expenses for services provided by an independent contractor or agent of the registrant who is separately registered under this Act.

(e) Contacts With Congressional Committees.--For purposes of subsection (b) (2), any contact with a member of a congressional committee, an employee of a congressional committee, or an employee of a member of a congressional committee regarding a matter within the jurisdiction of such committee is a contact with the committee.

(f) Extension for Filing.--The Director may grant an extension of time of not more than 30 days for the filing of any report under this section, on the request of the registrant, for good cause shown.

SEC. 6. ADMINISTRATIVE DUTIES OF THE OFFICE OF LOBBYING REGISTRATION AND PUBLIC DISCLOSURE.

(a) Establishment.--(1) There is established within the Department of Justice an Office of Lobbying Registration and Public Disclosure, which shall be headed by a Director. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be an individual who, by demonstrated ability, background, training, and experience, is especially qualified to carry out the functions of the position.

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Office of Lobbying Registration and Public Disclosure, Department of Justice."

(b) Duties.--The Director of the Office of Lobbying Registration and Public Disclosure shall--

(1) after notice and an opportunity for public comment, and consultation with the Secretary of the Senate, the Clerk of the House of Representatives, and the Administrative Conference of the United States, prescribe such rules, forms, penalty schedules, and procedural regulations as are necessary for the implementation of this Act;

(2) provide guidance and assistance on the registration and reporting requirements of this Act, including, to the extent practicable, the issuance of published decisions and advisory opinions;

(3) review and make such supplemental verifications or inquiries as

are necessary to ensure the completeness, accuracy, and timeliness of registrations and reports;

(4) develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this Act;

(5) ensure that the computer systems developed pursuant to paragraph (4)--

(A) allow the materials filed under this Act to be accessed by the name of the client, the lobbyist, and the registrant;

(B) are compatible with computer systems developed and maintained by the Federal Election Commission, and that information filed in the two systems can be readily cross-referenced; and

(C) are compatible with computer systems developed and maintained by the Secretary of the Senate and the Clerk of the House of Representatives;

(6) make copies of each registration and report filed under this Act available to the public in electronic and hard copy formats as soon as practicable after the date on which such registration or report is received;

(7) preserve the originals or accurate reproduction of registrations until such time as they are terminated, and of reports for a period of no less than 2 years from the date on which the report is received;

(8) maintain a computer record of the information contained in registrations and reports for no less than 5 years after the date on which such registrations and reports are received;

(9) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of expenditures on lobbying activities during such period;

(10) make information compiled and summarized under paragraph (9) available to the public in electronic and hard copy formats as soon as practicable after the close of each semiannual filing period;

(11) provide, by computer telecommunication or other transmittal in a form accessible by computer, to the Secretary of the Senate and the Clerk of the House of Representatives copies of all registrations and reports received under this Act and all compilations, cross-indexes, and summaries of such registrations and reports, as soon as practicable (but not later than 3 working days) after such material is received or created; and

(12) transmit to the President and the Congress an annual report describing the activities of the Office and the implementation of this Act, including--

(A) a financial statement for the preceding year;

(B) a summary of the registrations and reports filed with the Office in the preceding year;

(C) a summary of the registrations and reports filed on behalf of foreign entities in the preceding year; and

(D) recommendations for such legislative or other action as the Director considers appropriate.

SEC. 7. INFORMAL RESOLUTION OF ALLEGED NONCOMPLIANCE.

(a) Allegation of Noncompliance.--Whenever the Office of Lobbying Registration and Public Disclosure has reason to believe that a person may be in noncompliance with the requirements of this Act, the Director shall notify the person in writing of the nature of the alleged noncompliance and provide an opportunity for the person to respond in writing to the allegation within 30 days or such longer period as the Director may determine appropriate in the circumstances.

(b) Informal Resolution.--If the person responds within 30 days or other time limit set by the Director, the Director shall--

(1) take no further action, if the person provides adequate information or explanation to determine that it is unlikely that such person is in noncompliance with the requirements of this Act;

(2) if the person admits that there was a noncompliance and corrects such noncompliance--

(A) in the case of a minor noncompliance, take no further action;
or

(B) in the case of a significant noncompliance, treat the matter as a minor noncompliance for the purpose of section 8; or

(3) make a determination under section 8, if the information or explanation provided indicates that such person may be in noncompliance with the requirements of this Act.

(c) Formal Request for Information.--If the person fails to respond in writing within 30 days or other time limit set by the Director, or the response is not adequate to determine whether such person is in noncompliance with the requirements of this Act, the Director may make a formal request for specific additional documentary information (subject to applicable privileges) that is reasonably necessary for the Director to make such determination. Each such request shall be structured to minimize the burden imposed, consistent with the need to determine whether the person is in compliance, and shall--

(1) state the nature of the conduct constituting the alleged noncompliance which is the basis for the inquiry and the provision of law applicable thereto;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be readily identified; and

(3) prescribe a return date or dates which provide a reasonable period of time within which the material so requested may be assembled and made available for inspection and copying or reproduction.

(d) Nondisclosure of Information.--Information provided to the Director under this section shall not be made available to the public, or to any legislative or executive branch official outside the Office of Lobbying Registration and Public Disclosure (except as required for the enforcement of this Act), without the consent of the person providing the information, except that--

(1) any new or amended report or registration filed in connection with an inquiry under this section shall be made available to the public in the same manner as any other registration or report filed under section 4 or 5; and

(2) written decisions issued by the Director under sections 8 and 9 may be published after appropriate redaction by the Director to ensure that confidential information is not disclosed.

SEC. 8. DETERMINATIONS OF NONCOMPLIANCE.

(a) Notification and Hearing.--If the information provided to the Director under section 7 indicates that such person may be in noncompliance with the requirements of this Act, the Director shall--

(1) notify the person in writing of this finding and, if appropriate, a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days; and

(2) if requested by such person within such 30-day period, afford the person--

(A) in the case of a minor noncompliance, an informal hearing at which additional evidence may be presented; and

(B) in the case of a significant noncompliance, an opportunity for a hearing on the record under the provisions of section 556 of title 5, United States Code.

(b) Determination.--The Director shall review the information received under this section and section 7 and make a final determination whether there was a noncompliance and a final determination of the penalty, if any. If no written response or request for a hearing was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final and nonappealable order.

(c) Written Decision.--If the Director makes a final determination that there was a noncompliance, the Director shall issue a public written decision--

(1) requiring that the noncompliance be included in a publicly available list of noncompliances, to be reported to the Congress on a semiannual basis;

(2) directing the person to correct the noncompliance; and

(3) assessing a civil monetary penalty in an amount determined as follows:

(A) In the case of a minor noncompliance, the amount shall be no more than \$10,000, depending on the nature and extent of the noncompliance.

(B) In the case of a significant noncompliance, the amount shall be more than \$10,000, but no more than \$200,000, depending on the nature and extent of the noncompliance and the extent to which the person may have profited from the noncompliance.

(d) Civil Injunctive Relief.--If a person fails to comply with a directive to correct a noncompliance under subsection (c), the Director shall refer the case to the Attorney General to seek civil injunctive relief.

(e) Penalty Assessments.--(1) No penalty shall be assessed under this section unless the Director finds that the person subject to the penalty knew or should have known that such person was not in compliance with the requirements of this Act. In determining the amount of a penalty to be assessed, the Director shall take into account the totality of the circumstances, including the extent and gravity of the noncompliance and such other matters as justice may require. The Director shall not assess a penalty in an amount greater than that recommended by an administrative law judge after a hearing on the record under subsection (a)(3) unless the Director determines that the recommendation of the administrative law judge is arbitrary and capricious or an abuse of discretion.

(2) Regulations prescribed by the Director under section 6 shall define minor and significant noncompliances. Significant noncompliances shall be defined to include a knowing failure to register and any other knowing noncompliance that is extensive or repeated.

(f) Limitation.--No proceeding shall be initiated under this section unless the Director notifies the person who is the subject of the proceeding of the alleged noncompliance, pursuant to section 7, within 3 years after the date on which the registration or report at issue was filed or required to be filed.

SEC. 9. OTHER VIOLATIONS.

(a) Late Registration or Filing; Failure To Provide Information.--If a person registers or files more than 30 days after a registration or filing is required under this Act, or fails to provide information requested by the Director under section 7(c), the Director shall--

(1) notify the person in writing of the noncompliance and a proposed penalty assessment and provide such person with an opportunity to respond in writing within 30 days; and

(2) if requested by such person within such 30-day period, afford the person an informal hearing at which additional evidence may be presented.

(b) Determination.--Unless the Director determines that the late filing or failure to provide information was justified, the Director shall make a final determination of noncompliance and a final determination of the penalty, if any. If no written response or request for a hearing was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final and unappealable order.

(c) Written Decision.--If the Director makes a final determination that there was a noncompliance, the Director shall issue a public written decision--

(1) in the case of a late filing, assessing a civil monetary penalty

of \$200 for each week by which the filing was late, with the total penalty not to exceed \$10,000; or

(2) in the case of a failure to provide information--

(A) directing the person to provide the information within a reasonable period of time; and

(B) except where the noncompliance was the result of a good faith dispute over the validity or appropriate scope of a request for information--

(i) including the noncompliance in a publicly available list of noncompliances, to be reported to the Congress on a semiannual basis; and

(ii) assessing a civil monetary penalty in an amount not to exceed \$10,000.

(d) Civil Injunctive Relief.--In addition to the penalties provided in this section, the Director may refer the noncompliance to the Attorney General to seek civil injunctive relief.

SEC. 10. JUDICIAL REVIEW.

(a) Final Decision.--A written decision issued by the Director under section 8 or 9 shall become final 60 days after the date on which the Director provides notice of the decision, unless such decision is appealed under subsection (b) of this section.

(b) Appeal.--Any person adversely affected by a written decision issued by the Director under section 8 or 9 may appeal such decision, except as provided under sections 8(b) or 9(b), to the appropriate United States court of appeals. Such review may be obtained by filing a written notice of appeal in such court no later than 60 days after the date on which the Director provides notice of the Director's decision and by simultaneously sending a copy of such notice to the Director. The Director shall file in such court the record upon which the decision was issued, as provided under section 2112 of title 28, United States Code. The findings of fact of the Director shall be conclusive, unless found to be unsupported by substantial evidence, as provided under section 706(2)(E) of title 5, United States Code. Any penalty assessed or other action taken in the decision shall be stayed during the pendency of the appeal.

(c) Recovery of Penalty.--Any penalty assessed in a written decision which has become final under this Act may be recovered in a civil action brought by the Attorney General in an appropriate United States district court. In any such action, no matter that was raised or that could have been raised before the Director or pursuant to judicial review under subsection (b) may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

(d) Attorneys' Fees.--In any appeal brought under this section, in which the person who is the subject of such action substantially prevails on the merits, the court may assess against the United States attorneys' fees and other litigation costs reasonably incurred in the administrative proceeding and the appeal.

SEC. 11. RULES OF CONSTRUCTION.

(a) Prohibition of Activities.--Nothing in this Act shall be construed to prohibit, or to authorize the Director or any court to prohibit, lobbying activities or lobbying contacts by any person, regardless of whether such person is in compliance with the requirements of this Act.

(b) Audit and Investigations.--Nothing in this Act shall be construed to grant general audit or investigative authority to the Director, or to authorize the Director to review the files of a registrant, except in accordance with the requirements of section 7 regarding the informal resolution of alleged noncompliances and formal requests for information.

SEC. 12. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

The Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.) is amended--

(1) in section 1--

(A) by amending subsection (b) to read as follows:

"(b) The term 'foreign principal' means a government of a foreign country or a foreign political party.";

(B) by striking out subsection (j);

(C) in subsection (o), by striking out "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting in lieu thereof "any activity which the person engaging in believes will, or which he intends to, in any way influence";

(D) in subsection (p) by striking out the semicolon and inserting in lieu thereof a period; and

(E) by striking out subsection (q);

(2) in section 3(g) (22 U.S.C. 613(g)), by striking out "established agency proceedings, whether formal or informal." and inserting in lieu thereof "judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.";

(3) in section 4(a) (22 U.S.C. 614(a))--

(A) by striking out "political propaganda" and inserting in lieu thereof "informational materials"; and

(B) by striking out "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times and extent of such transmittal";

(4) in section 4(b) (22 U.S.C. 614(b))--

(A) by striking out "political propaganda" and inserting in lieu

thereof "informational materials"; and

(B) by striking out "(i) in the form of prints or" and all that follows through the end of the subsection and inserting in lieu thereof "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.";

(5) in section 4(c) (22 U.S.C. 614(c)), by striking out "political propaganda" and inserting in lieu thereof "informational materials";

(6) in section 6 (22 U.S.C. 616)--

(A) in subsection (a), by striking out "and all statements concerning the distribution of political propaganda";

(B) in subsection (b), by striking out ", and one copy of every item of political propaganda"; and

(C) in subsection (c), by striking out "copies of political propaganda,";

(7) in section 8 (22 U.S.C. 618)--

(A) in subsection (a)(2), by striking out "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking out subsection (d); and

(8) in section 11 (22 U.S.C. 621), by striking out ", including the nature, sources, and content of political propaganda disseminated or distributed.".

SEC. 13. AMENDMENTS TO THE BYRD AMENDMENT.

(a) Revised Certification Requirements.--Section 1352(b) of title 31, United States Code, is amended--

(1) in paragraph (2), by striking out subparagraphs (A), (B), and (C) and inserting in lieu thereof the following:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1993 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3), by striking out all that follows "loan shall contain" and inserting in lieu thereof "the name of any registrant under the Lobbying Disclosure Act of 1993 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee."; and

(3) by striking out paragraph (6) and redesignating paragraph (7) as paragraph (6).

(b) Deletion of Obsolete Reporting Requirement.--Section 1352 of title 31, United States Code, is further amended by--

(1) striking out subsection (d); and

(2) redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 14. REPEAL OF CERTAIN LOBBYING PROVISIONS.

(a) Repeal of the Federal Regulation of Lobbying Act.--The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

(b) Repeal of Provisions Relating to Housing Lobbyist Activities.--(1) Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(2) Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

(c) Repeal of Registration Requirement Relating to Public Utility Lobbying Activities.--Section 12(i) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 791(i)) is repealed.

SEC. 15. CONFORMING AMENDMENTS TO OTHER STATUTES.

(a) Amendment to Competitiveness Policy Council Act.--Section 5206(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e)) is amended by inserting "or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined under section 3 of the Lobbying Disclosure Act of 1993)" after "an agent for a foreign principal".

(b) Amendment to Title 18, United States Code.--Section 219(a) of title 18, United States Code, is amended by inserting "or a lobbyist required to register under the Lobbying Disclosure Act of 1993 in connection with the representation of a foreign entity as defined under section 3(7) of such Act," after "an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended,".

(c) Amendment to Foreign Service Act of 1980.--Section 602(c) of the Foreign Service Act of 1980 (22 U.S.C. 4002(c)) is amended by inserting "or a lobbyist for a foreign entity (as defined in section 3(7) of the Lobbying Disclosure Act of 1993)" after "an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938)".

(d) Amendment to the Federal Election Campaign Act.--Section 319(b) of the Federal Election Campaign Act (2 U.S.C. 441e(b)) is amended--

(1) in paragraph (1) by striking out "or" after the semicolon;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) a foreign entity, as such term is defined by section 3(7) of the Lobbying Disclosure Act of 1993; or".

SEC. 16. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 18. IDENTIFICATION OF CLIENT.

Any person who makes a lobbying contact with a covered legislative branch official or a covered executive branch official shall, on the request of the official at the time of the lobbying contact, state whether such person is registered under this Act and identify the client on whose behalf the lobbying contact is made.

SEC. 19. TRANSITIONAL FILING REQUIREMENT.

(a) Simultaneous Filing.--Subject to the provisions of subsection (b), each registrant shall transmit simultaneously to the Secretary of the Senate and the Clerk of the House of Representatives an identical copy of each registration and report required to be filed under this Act.

(b) Sunset Provision.--The simultaneous filing requirement under subsection (a) shall be effective until such time as the Director, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, determines that the Office of Lobbying Registration is able to provide computer telecommunication or other transmittal of registrations and reports as required under section 6(b)(11).

(c) Implementation.--The Director, the Secretary of the Senate and the Clerk of the House of Representatives shall take such actions as necessary to ensure that the Office of Lobbying Registration is able to provide computer telecommunication or other transmittal of registrations and reports as required under section 6(b)(11) on the effective date of this Act, or as soon thereafter as reasonably practicable.

SEC. 20. GOVERNMENT-SPONSORED ENTERPRISES--REPORT TO CONGRESS.

(a) In General.--A government-sponsored enterprise (hereafter in this section referred to as a "GSE") shall submit an annual report to the Congress containing the following information:

(1) A list including the name and address of each contractor, consultant, agent, or employee hired by the GSE to engage in--

(A) grass roots organizing or campaigning;

(B) public relations, media consulting, or image advertising; or

(C) lobbying, including the direct and indirect lobbying of the Congress.

(2) An itemization of all costs associated with activities described in paragraph (1) whether incurred by the GSE or by any of its contractors, consultants, agents, or employees listed pursuant to such paragraph, including entertainment expenses, travel expenses, advertising costs, salaries, billing rates and the total amount billed for services.

(3) A description of any lobbying of the Congress or the executive branch by employees, board members, or officers of the GSE.

(4) A description of any effort by the GSE or its agents to encourage others to lobby the Congress or the executive branch.

(5) A list of all charitable donations paid by the GSE on behalf of Members of Congress or members of the executive branch.

(6) A list of the salaries and other compensation (including the present value of stock options) and benefits paid to the officers and board members of the GSE.

(7) A list of all GSE employees who have been employed by either the Congress or the Federal Government in the 5 years preceding the report, and such employees' salary prior to being hired by the GSE and their current salary.

(b) Definition of Government-Sponsored Enterprise.--For the purposes of this section, the term "government-sponsored enterprise" means--

(1) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Student Loan Marketing Association, and

(2) a guaranty agency, as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j)).

SEC. 21. LIMITS ON ACCEPTANCE OF GIFTS, MEALS AND TRAVEL.

It is the sense of the Senate that, as soon as possible during this year's session, the Senate should limit the acceptance of gifts, meals and travel by Members and staff in a manner substantially similar to the restrictions applicable to executive branch officials.

SEC. 22. DISCLOSURE OF FOREIGN CONTRIBUTIONS.

It is the sense of the Senate that the conferees on this Act should seek to draft and add to this Act a constitutionally acceptable provision requiring additional disclosure of the contributions of foreign entities to the lobbying activities of registrants, as defined in this Act.

SEC. 23. EFFECTIVE DATES.

(a) In General.--Except as otherwise provided in this section, the provisions of this Act shall take effect 1 year after the date of the enactment of this Act.

(b) Establishment of Office.--The provisions of sections 6 and 17 shall take effect on the date of the enactment of this Act.

(c) Repeals and Amendments.--The repeals and amendments made under sections 12, 13, and 14 of this Act shall take effect as provided under subsection (a), except that such repeals and amendments--

(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

(d) Regulations.--Proposed regulations required to implement this Act shall be published for public comment no later than 270 days after the date of the enactment of this Act. No later than 1 year after the date of the enactment of this Act, final regulations shall be published.

(e) Phase-In Period.--No penalty shall be assessed by the Director for any noncompliance with this Act which occurs during the first semiannual reporting period after the effective date of this Act.

Passed the Senate May 6 (legislative day, April 19), 1993.

Attest:

Secretary.

Please type desired COMMAND (or MENU)



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 20, 1993

The Honorable Jack Brooks
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your letter requesting comment on H.R. 823, the "Lobbying Disclosure Act of 1993."

The Administration strongly supports the purpose of this legislation. We are committed to insuring that all citizens are aware of the influence brought to bear on the development of government policies, regulations, laws and legislation. H.R. 823 establishes uniform disclosure requirements for Executive and Legislative Branch lobbying. It repeals the patchwork of existing lobbying disclosure statutes and streamlines the entire disclosure process for those who must comply.

In addition, the bill establishes a new Office of Lobbying Registration and Public Disclosure within the Department of Justice. We believe that the Department of Justice, with its experience in administering and enforcing the Foreign Agents Registration Act (FARA) since 1942 and its experience in enforcing the Federal Regulation of Lobbying Act, is uniquely qualified for the responsibility of administering and enforcing the provisions of the bill.

As the President stated in his letter to the Subcommittee, dated March 31, 1993, the Administration is anxious to work with you to strengthen and clarify H.R. 823. We do have several significant concerns with the bill as presently drafted, which we hope can be addressed. Accordingly, we strongly recommend, based on the experience of some Executive Branch departments and agencies in implementing, administering and enforcing the various disclosure statutes, that Congress go beyond the language of the present bill and adopt legislation that will be more effective than the provisions of H.R. 823 as introduced, and that will compel disclosure in a timely manner.

Definition of Lobbyist

Our first concern is that the bill's definition of lobbyist in Section 3(10), excluding those whose lobbying activities are "only incidental" and "not . . . significant", is imprecise and, in our view, creates a loophole that will undermine meaningful lobbying disclosure. We recommend use of a bright line test of what constitutes a lobbyist and we look forward to working with you to craft appropriate language. For example, a threshold amount expended for lobbying, e.g., \$5,000 in a six-month period, could trigger the obligation to register, or a test that focuses on the client's overall lobbying efforts rather than the lobbyist might be fashioned (cf. the Federal Election Campaign Act, 2 U.S.C. § 431 et seq.). An alternative approach would be to make any exemption explicit and precise in its scope.

This bill provides for a potentially significant loophole in that it fails to require the disclosure of individuals who pay a lobbyist to lobby on behalf of another. Organizations that participate in coalitions are excluded from disclosure if their payments do not exceed \$5,000 over a six-month period, or they do not significantly participate in the supervision or control of the lobbying activities, or they do not have a direct financial interest in the outcome of the lobbying activities. Terms such as "significantly participate", "supervision or control", "direct financial interest", and the "outcome" are so ambiguous that ensuring that this exception is not abused will be virtually impossible, particularly since all three criteria must be satisfied before disclosure is required. In addition, the bill provides no mechanism for disclosing the existence or participation in ad hoc coalitions where lobbyists for different organizations or clients work in concert on an issue or goal of common concern. Such ad hoc coalitions often take on a deceptive or unassuming name to hide the identity of the real players. This bill should insure that this type of activity is disclosed by requiring each registrant to name any ad hoc coalition and/or participants with which it participates, irrespective of whether the coalition pays any of the participants. The Administration believes it is critical that any reform address all modes and structures by which influence is exercised. As we indicated above, the disclosure of all the principals in all lobbying efforts is essential to public awareness of all factors influencing governmental decisions.

Precision of Financial Disclosures

Second, more accurate and precise financial disclosures than those provided in Section 5 of the proposed bill should be required. Estimates or ranges are valid when disclosure focuses on items of fluctuating value, such as houses, cars, stocks, and bonds, or nebulous concepts like financial net worth, but have no place in disclosures about fees and expenses. Presumably, a paid

lobbyist is capable of maintaining adequate records of receipts to meet his or her obligations to the Internal Revenue Service, and these figures are deprived of their meaning if they are converted to estimates ranging from tens of thousands to hundreds of thousands of dollars. On the other hand, the public benefits by knowing not only exactly how much money lobbyists spend, but also the date and purpose of the expenditures, so that they can evaluate the impact of the lobbyists' expenditures on the legislative process.

In addition, we believe that lobbyists should be required to disclose specific amounts for expenditures in certain crucial areas such as entertainment, travel and advertising. Moreover, H.R. 823 should provide for complete disclosure of grassroots activities. Very often, public servants are faced with a host of artificially generated correspondence and telephone calls. Many lobbyists expend substantial amounts of money in an attempt to suggest to those in public service that their cause or position has substantial public support. There should be separate line item disclosure of sums expended on grassroots activities and the issues advanced.

Civil Monetary Penalties

Third, the bill's provisions for civil monetary penalties for violations of the Act could be substantially strengthened by insuring that violators never profit from their wrongdoing. Lobbyists who knowingly fail to comply with the provisions of the bill should forfeit their fees. This could be accomplished by adopting provisions based on the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101-235), which provide a civil money penalty at the greater of a fixed amount or the amount paid to the lobbyist with respect to the violation.

Contingent Fees

Fourth, we believe this bill would be improved by a prohibition against any fee paid to a lobbyist that is contingent, in whole or in part, on the success of any lobbying activities. Similar provisions are contained in the HUD Reform Act and FARA. Contingent fees for soliciting or obtaining Government contracts have long been considered contrary to public policy because such arrangements may lead to attempted or actual exercise of improper influence. Commissions paid on sales would not be prohibited under this provision.

Registration

We also note possible problems with respect to what constitutes an inactive registration and with the timeliness of the initial registration as provided for in Section 5. Inactive

registrants, in our view, should be defined as those whose total receipts and (not "or") total costs are less than \$5,000 in a semi-annual period. To use the disjunctive is to invite the structuring of payments so as to avoid disclosure.

Enforcement Mechanisms

We urge the Committee to strengthen and clarify the enforcement mechanisms in the bill (e.g., Sections 8(d) and 9(d)). The bill does not afford the Director sufficient investigative authority to insure that all those register who should, and that those who do register make full and accurate disclosure. We favor the informal resolution of disputes whenever possible, but there must also be tools such as administrative fines, civil investigative demands and, as a last resort, criminal sanctions for those who choose to avoid the bill's registration and disclosure requirements. Experience has shown that the informal resolution process is greatly enhanced by the presence of more severe penalties.

Section 7(b)(1) of H.R. 823 requires the Department to close out a possible enforcement action if the party submits information showing a violation was "unlikely". Coupled with the Department's lack of proper tools to investigate, this will allow violators to submit just enough information to meet the "unlikely" test and evade the disclosure required by H.R. 823. Therefore, the Department suggests that the provision be clarified to make plain that the registrant is required to show that he or she is in compliance with the Act.

Both HUD and FARA provisions require registrants to keep and preserve records relating to their activities, the disclosure of which is required by the respective statutes. H.R. 823 should also so provide; otherwise, those seeking to evade the law or enforcement efforts may claim that relevant records of lobbying activities are "nonexistent". To ensure that the Department is able to obtain relevant information and to pursue instances of noncompliance, authority should be given to the Attorney General to issue civil investigative demands where a possible violation is indicated.

Section 7(b)(2) requires the Department to treat a "substantial noncompliance" as a "minor noncompliance" if the person admits there was a noncompliance and corrects it, without any regard as to the egregiousness of the noncompliance. This allows the person to engage in a deliberate course of conduct designed to evade disclosure and, if caught, to say, "I'm sorry, I'll disclose", and pay a smaller penalty. In fact, this provision serves as an incentive to noncompliance. The Administration recommends that the bill be revised to treat significant noncompliance, admitted or not, as provided in Section 8.

The Appointments Clause

Section 8(e)(1) of the bill would prohibit the Director of the Office of Lobbying Registration and Public Disclosure from imposing a civil penalty for violations of the Act:

"in an amount greater than that recommended by an administrative law judge after a hearing on the record under Subsection (a)(3) unless the Director determines that the recommendation of the administrative law judge is arbitrary and capricious or an abuse of discretion."

The Appointments Clause of the Constitution, art. II, sec. 2, cl. 2, authorizes the President, by and with the advice and consent of the Senate, to appoint officers of the United States. The clause further provides that Congress may vest the appointment of "such inferior officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." (Emphasis added.) We believe that giving administrative law judges the authority to make decisions binding on the Director, and thus ultimately on the Attorney General, subject only to review under the arbitrary and capricious or abuse of discretion standards, raises constitutional concerns. Officers who make decisions without being subject to the supervision and control of superiors cannot meaningfully be considered inferior officers.

Since the bill appears to permit the appointment of administrative law judges in a manner reserved for the appointment of inferior officers, while at the same time effectively insulating their decisions from review, we believe that the limitation on the reviewability of their decisions raises a substantial question under the Appointments Clause.

We do not believe that the limited review available to the Director is sufficient to obviate this constitutional problem. The arbitrary and capricious and abuse of discretion standards, devices with long histories in administrative law, do not permit the Director (nor, by extension, the Attorney General) to substitute his or her judgments for those of the administrative law judge. Review under the arbitrary and capricious standard, for example, is limited to only "whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment. Although this inquiry into the facts is to be searching and careful, the ultimate standard of review is a narrow one. The (Director) is not empowered to substitute [his] judgment for that of the [ALJ]" Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 416 (1971) (citations omitted). Because the ALJs' judgments would therefore still be beyond the Director's supervision and control, we are not persuaded that administrative law judges may be appointed in the manner that the Constitution reserves for the appointment of

inferior officers. Cf. Statement on Signing the Omnibus Budget Reconciliation Act of 1989, 25 Weekly Compilation of Presidential Documents 1970, 1971 (December 19, 1989) (objecting to imposition of an arbitrary and capricious standard of review for review of special master decisions by Claims Court judges as inconsistent with the requirements of Article II).

In order to remove the Appointments Clause problem, we recommend that the bill be changed to make the findings of administrative law judges under the Act subject to de novo review by the Director.

Revisions to FARA

Another concern involves the bill's proposed revision of FARA in Section 13. By restricting the definition of foreign principal to foreign governments and foreign political parties, the bill (contrary to current law) would allow foreign individuals, associations and corporations to attempt to influence American public opinion and United States policy without making any disclosure under FARA. Only if they also engaged in lobbying contacts as defined by this bill would they be required to make any disclosure of their activities, and such disclosure would be significantly less than is now required under FARA. This would allow agents of entities supporting terrorist activities to attempt to influence American public opinion and United States policy without making any disclosure under either FARA or the Lobbying Disclosure Act of 1993. Further, this would impose on the Government the burden to prove in any litigation that the agent represents an entity meeting the Act's definition of a foreign government or foreign political party, a difficult, if not insurmountable, obstacle in cases involving covert agents and clandestine foreign organizations. We recommend that the present definition of "foreign principal" in Section 1 of FARA be retained in its entirety, and a provision be added stating that registration and disclosure by commercial entities under the Lobbying Disclosure Act satisfies the reporting obligations of FARA.

We point out that the bill establishes within the Department an "Office of Lobbying Registration and Public Disclosure" to administer and enforce its provisions. The office would require funding, it is estimated, in the range of four to seven million dollars a year, as well as several million dollars in start-up costs for personnel and equipment, including a computer system which is compatible with that of the Federal Election Commission. In this connection, we also think the bill could be improved by an amendment permitting the new office to charge and retain fees for providing documents and research services to the public. The office would use these fees to offset the cost of providing the service and spend them without further action by the Congress. Similar language currently allows the Department of Justice to

establish and collect administrative (as well as registration) fees under the Foreign Agents Registration Act.

Reporting Requirements

Finally, the Byrd Amendment requires yearly reports evaluating the effectiveness and compliance of the existing disclosure program. However, H.R. 823 removes the requirement for agencies to collect and compile the information that is the basis of the report. Therefore, in keeping with the information and streamlining goals of H.R. 823, we suggest striking the remaining provisions of the Byrd Amendment that relate to the yearly disclosure certification report.

Conclusion

In summary, we support the laudable goals of H.R. 823 and believe that the bill should be modified as suggested above so as to meet its stated objectives. We would be pleased to work with Committee staff to achieve that goal.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Please do not hesitate to contact me if we can be of further assistance regarding this or any other matter.

Sincerely,



Robert H. Brink
Deputy Assistant Attorney General

Summarized below are some of the major changes to H.R. 823 that Rep. Bryant expects to include in his substitute:

1. Would establish a new Office of Lobbying Registration and Public Disclosure as an independent executive branch agency, rather than within the Justice Department.
2. Clarifies the definition of "lobbyist" by changing the exclusion of an individual whose lobbying activities "are only incidental to, and are not a significant part of" the services provided by such individual to the client to an individual whose lobbying activities "constitute less than 10 percent" of the time engaged in such services to the client.
3. Raises the dollar threshold for registering under the Act from \$1,000 to \$2,500 for the semiannual reporting period. This amount would be adjusted for inflation on January 1, 1997 and every four years thereafter.
4. Allows non-profit organizations, which under the bill already can use the IRS definition of "influencing legislation" for estimating their lobbying expenses in their semiannual reports, to opt to use the same IRS definition for determining if they have reached the dollar threshold for reporting if (a) they use the same definition for both purposes, and (b) they indicate to the Office that they are using the IRS definition to make such an estimate.
5. Allows for-profit companies to use the new IRS definition of lobbying expenses (adopted because of the changes in the rules for deducting lobbying expenses as business expenses) for dollar reporting purposes under the Lobbying Disclosure Act as an interim rule for three years after the date of enactment of the Act. Requires GAO to report on the differences between the two definitions, and suggest changes to harmonize the two provisions.
6. Amends the definition of "lobbying activities" by (a) clarifying that research and background work is included only if it was intended "at the time of its preparation" for use in lobbying contacts; (b) including a definition of "grass roots lobbying communications" in the bill (as it is defined in the Internal Revenue Code), and (c) specifying that certain activities that are not considered "lobbying contacts" (and thus would not trigger a requirement to register) are still considered "lobbying activities" (and thus still would be relevant to whether someone fits the definition of "lobbyist" and to estimates of income or expenses).
7. Exempts churches and associations of churches from disclosing information about their grass roots lobbying communications, and exempts any communication by a church or association of churches that constitutes the free exercise of religion from being considered a "lobbying contact."

8. Specifies that employees of state colleges, government-sponsored enterprises (such as Fannie Mae, Freddie Mac, and Sallie Mae), and government-owned utilities do not qualify for the "public officials" exemption to the definition of "lobbying contact" and would be required to register if they otherwise meet the requirements to register under the Act.

9. Clarifies that communications relating to a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis is not considered a "lobbying contact."

10. Establishes a three-year statute of limitations for punishing violations under the Act.

11. Raises the maximum fine for a significant violation from \$100,000 to \$200,000, with a factor in the penalty being the extent to which the violator profited from the violation.

12. Establishes a phase-in period, so that lobbyists are not penalized for violations during the first semiannual reporting period.

13. Changes the word "noncompliance" to "violation" everywhere it appears in the bill.

14. Requires the new Office to respond to inquiries concerning who is or has been a covered legislative branch official or covered executive branch official.

15. Adds to the definition of a covered employee in either the executive or legislative branch an unpaid staff person who functions in the capacity of a regular employee.

16. Adds the President-elect, Vice President-elect, and Members-elect of Congress to the definitions of covered officials.

17. Requires a registrant to indicate that it lobbied a particular House of Congress on an issue if it lobbies a covered legislative official where the relevant member of the House or Senate is not on the committee of jurisdiction over the issue.

[DISCUSSION DRAFT]**OCTOBER 27****AMENDMENT IN THE NATURE OF A SUBSTITUTE****To H.R. 823**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Lobbying Disclosure
3 Act of 1993".

4 SEC. 2. FINDINGS.

5 The Congress finds that---

6 (1) responsible representative Government re-
7 quires public awareness of the efforts of paid lobby-
8 ists to influence the public decision making process
9 in both the legislative and executive branches of the
10 Federal Government;

11 (2) existing lobbying disclosure statutes have
12 been ineffective because of unclear statutory lan-
13 guage, weak administrative and enforcement provi-
14 sions, and an absence of clear guidance as to who

1 is required to register and what they are required to
2 disclose; and

3 (3) the effective public disclosure of the identity
4 and extent of the efforts of paid lobbyists to influ-
5 ence Federal officials in the conduct of Government
6 actions will increase public confidence in the integ-
7 rity of Government.

8 **SEC. 3. DEFINITIONS.**

9 As used in this Act:

10 (1) **AGENCY.**—The term “agency” has the
11 meaning given that term in section 551(1) of title 5,
12 United States Code.

13 (2) **CLIENT.**—The term “client” means any
14 person or entity (including a State or local govern-
15 ment) who employs or retains another person for fi-
16 nancial or other compensation to conduct lobbying
17 activities on the person's or entity's behalf. An orga-
18 nization whose employees act as lobbyists on its own
19 behalf is both a client and an employer of such em-
20 ployees. In the case of a coalition or association that
21 employs or retains other persons to conduct lobbying
22 activities on behalf of its membership, the client is
23 the coalition or association and not its individual
24 members.

1 (3) COVERED EXECUTIVE BRANCH OFFICIAL.—

2 The term "covered executive branch official"
3 means—

4 (A) the President or the President-elect;

5 (B) the Vice President or the Vice Presi-
6 dent-elect;

7 (C) any officer or employee (other than a
8 clerical or secretarial employee) of the Execu-
9 tive Office of the President or any individual
10 functioning in the capacity of such an officer or
11 employee on an unpaid basis;

12 (D) any officer or employee serving in a
13 position in level I, II, III, IV, or V of the Exec-
14 utive Schedule, as designated by statute or ex-
15 ecutive order;

16 (E) any officer or employee serving in a
17 Senior Executive Service position, as defined in
18 section 3132 (a)(2) of title 5, United States
19 Code;

20 (F) any member of the uniformed services
21 whose pay grade is at or above O-7 under sec-
22 tion 201 of title 37, United States Code; and

23 (G) any officer or employee serving in a
24 position of a confidential, policy-determining,
25 policy-making, or policy-advocating character

1 described in section 7511(b)(2) of title 5, United
2 States Code.

3 (4) COVERED LEGISLATIVE BRANCH OFFI-
4 CIAL.—

5 (A) IN GENERAL.—The term “covered leg-
6 islative branch official” means—

7 (i) a Member of Congress or a Mem-
8 ber-elect of Congress;

9 (ii) an elected officer of either House
10 of Congress;

11 (iii) any employee of a Member of
12 Congress or of a committee of either
13 House of Congress;

14 (iv) any employee on the leadership
15 staff of the House of Representatives and
16 any employee on the leadership staff of the
17 Senate; and

18 (v) any employee of a joint committee
19 of the Congress.

20 (B) DEFINITIONS.—For purposes of subpara-
21 graph (A)—

22 (i) the terms “employee on the leadership
23 staff of the House of Representatives” and
24 “employee on the leadership staff of the Sen-
25 ate” have the meanings given these terms in

1 section 207(e)(4) of title 18, United States
2 Code;

3 (ii) the term "employee" includes any indi-
4 vidual functioning in the capacity of an em-
5 ployee described in subparagraph (A) on an un-
6 paid basis but the term does not include a cleri-
7 cal or secretarial employee, and

8 (iii) the term "Member of Congress"
9 means a Senator or a Representative in, or Del-
10 egate or Resident Commissioner, to the Con-
11 gress.

12 (5) DIRECTOR.—The term "Director" means
13 the Director of the Office of Lobbying Registration
14 and Public Disclosure.

15 (6) EMPLOYEE.—The term "employee" means
16 any individual who is an officer, employee, partner,
17 director, or proprietor of an organization, but does
18 not include—

19 (A) independent contractors; or

20 (B) volunteers who receive no financial or
21 other compensation from the organization for
22 their services.

23 (7) FOREIGN ENTITY.—The term "foreign en-
24 tity" means—

1 (A) a government of a foreign country or
2 a foreign political party (as such terms are de-
3 fined in subsections (e) and (f) of section 1 of
4 the Foreign Agents Registration Act of 1938
5 (22 U.S.C. 611 (e) and (f)));

6 (B) a person whose principal place of resi-
7 dence is outside the United States, other than
8 a United States citizen or an organization that
9 is organized under the laws of the United
10 States or any State and has its principal place
11 of business in the United States; and

12 (C) a partnership, association, corporation,
13 organization, or other combination of persons
14 that is organized under the laws of or has its
15 principal place of business in a foreign country.

16 (8) LOBBYING ACTIVITIES.—

17 (A) DEFINITION.—The term “lobbying ac-
18 tivities” means lobbying contacts and efforts in
19 support of such contacts, including preparation
20 and planning activities, research and other
21 background work that is intended, at the time
22 of its preparation, for use in contacts, and co-
23 ordination with the lobbying activities of others.
24 Except as provided in subparagraph (C), lobby-
25 ing activities also include—

1 (i) grass roots lobbying communica-
2 tions, and

3 (ii) any communication described in
4 subelause (III), (V), (VII), (VIII), and
5 (XVI) of paragraph 9(B),

6 to the extent that such activities or communica-
7 tions are made in direct support of a lobbying
8 contact.

9 (B) GRASS ROOTS LOBBYING COMMUNICA-
10 TIONS.—For purposes of subparagraph (A), the
11 term “grass roots lobbying communications”
12 means—

13 (i) any communication that attempts
14 to influence any legislation through an at-
15 tempt to affect the opinions of the general
16 public or any segment thereof as described
17 in paragraph (1)(A) of section 4911(d) of
18 the Internal Revenue Code of 1986;

19 (ii) any communication between an or-
20 ganization and any bona fide member of
21 such organization to directly encourage
22 such member to make a communication as
23 provided in paragraph (1)(B) of such sec-
24 tion 4911(d); and

1 (iii) any communication between an
2 organization and any bona fide member of
3 such organization to directly encourage
4 such member to urge persons other than
5 members to communicate as provided in ei-
6 ther clause (i) of this subparagraph or
7 paragraph (1)(B) of such section 4911(d).

8 (C) RELIGIOUS ORGANIZATIONS.—Lobby-
9 ing activities do not include grass roots lobby-
10 ing communications for churches, their inte-
11 grated auxiliaries, and conventions or associa-
12 tions of churches that are exempt from filing
13 Federal income tax returns under paragraph
14 (2)(A)(i) of section 6033(a) of the Internal
15 Revenue Code of 1986.

16 (9) LOBBYING CONTACT.—

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

23 (i) the formulation, modification, or
24 adoption of Federal legislation (including
25 legislative proposals);

1 (ii) the formulation, modification, or
2 adoption of a Federal regulation, Executive
3 order, or any other program, policy, or po-
4 sition of the United States Government;

5 (iii) the administration or execution of
6 a Federal program or policy (including the
7 negotiation, award, or administration of a
8 Federal contract, grant, loan, permit, or li-
9 cense), except that this clause does not in-
10 clude communications that are made to
11 any covered executive branch official—

12 (I) who is serving in a Senior Ex-
13 ecutive Service position described in
14 paragraph (3)(E), or

15 (II) who is a member of the uni-
16 formed services whose pay grade is
17 lower than O-9 under section 201 of
18 title 37, United States Code,
19 in the agency responsible for taking such
20 administrative or executive action; or

21 (iv) the nomination or confirmation of
22 a person for a position subject to con-
23 firmation by the Senate.

24 (B) EXCEPTIONS.—The term "lobbying con-
25 tact" does not include communications that are—

1 (i) made by public officials acting in their
2 official capacity;

3 (ii) made by representatives of a media or-
4 ganization if the purpose of the communication
5 is gathering and disseminating news and infor-
6 mation to the public;

7 (iii) made in a speech, article, publication,
8 or other material which is widely distributed to
9 the public through radio, television, cable tele-
10 vision, or other medium of mass communica-
11 tion;

12 (iv) made on behalf of a foreign principal
13 and disclosed under the Foreign Agents Reg-
14 istration Act of 1938 (22 U.S.C. 611 et seq.);

15 (v) requests for meetings, requests for the
16 status of a Federal action, or other similar con-
17 tacts, if there is no attempt to influence a cov-
18 ered executive branch official or a covered legis-
19 lative branch official;

20 (vi) made in the course of participation in
21 an advisory committee subject to the Federal
22 Advisory Committee Act;

23 (vii) testimony given before a committee,
24 subcommittee, or task force of the Congress, or
25 submitted for inclusion in the public record of

1 a hearing conducted by such committee, sub-
2 committee, or task force;

3 (viii) information provided in writing in re-
4 sponse to a written request for specific informa-
5 tion from a covered executive branch official or
6 a covered legislative branch official;

7 (ix) required by subpoena, civil investiga-
8 tive demand, or otherwise compelled by statute,
9 regulation, or other action of the Congress or
10 an agency;

11 (x) made in response to a notice in the
12 Federal Register, Commerce Business Daily, or
13 other similar publication soliciting communica-
14 tions from the public and directed to the agency
15 official specifically designated in the notice to
16 receive such communications;

17 (xi) not possible to report without disclos-
18 ing information, the unauthorized disclosure of
19 which is prohibited by law;

20 (xii) made to officials in an agency with re-
21 gard to—

22 (I) a judicial proceeding or a criminal
23 or civil law enforcement inquiry, investiga-
24 tion, or proceeding, or

1 (II) a filing or proceeding that the
2 Government is specifically required by stat-
3 ute or regulation to maintain or conduct
4 on a confidential basis,

5 if that agency is charged with responsibility for
6 such proceeding, inquiry, investigation, or filing;

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

12 (xiv) written comments filed in the course
13 of a public proceeding or other communications
14 that are made on the record in a public pro-
15 ceeding;

16 (xv) a petition for agency action made in
17 writing pursuant to established agency proce-
18 dures;

19 (xvi) made on behalf of an individual with
20 regard to that individual's benefits, employ-
21 ment, or other personal matters involving only
22 that individual, except that this subclause does
23 not apply to any communication with respect to
24 the formulation, modification, or adoption of

1 private legislation for the relief of that individ-
2 ual;

3 (xvii) disclosures by an individual to the
4 appropriate authority on account of which that
5 individual is protected against adverse person-
6 nel actions, or other reprisals, under the
7 amendments made by the Whistleblower Protec-
8 tion Act of 1989, the Inspector General Act of
9 1978, or other provision of law; and

10 (xviii) made on behalf of a church, its inte-
11 grated auxiliary, or convention or association of
12 churches that is exempt from filing a Federal
13 income tax return under paragraph (2)(a)(i) of
14 section 6033(a) of the Internal Revenue Code
15 of 1986 if the communication constitutes the
16 free exercise of religion or is for the purpose of
17 protecting the right to the free exercise of reli-
18 gion.

19 The term "media organization", as used in clause
20 (ii), means an organization engaged in disseminating
21 information to the general public through a news-
22 paper, magazine, other publication, radio, television,
23 cable television, or other medium of mass commu-
24 nication.

1 (10) LOBBYIST.—The term “lobbyist” means
2 any individual who is employed or retained by a cli-
3 ent for financial or other compensation to perform
4 services that include lobbying contacts, other than
5 an individual whose lobbying activities constitute less
6 than 10 percent of the time engaged in the services
7 provided by such individual to that client.

8 (11) ORGANIZATION.—The term “organization”
9 means any corporation, company, foundation, asso-
10 ciation, labor organization, firm, partnership, soci-
11 ety, joint stock company, or group of organizations.

12 (12) PUBLIC OFFICIAL.—The term “public offi-
13 cial” means any elected or appointed official who is
14 an employee of—

15 (A) a Federal, State, or local unit of gov-
16 ernment in the United States other than—

17 (i) a college or university which is an
18 agency or instrumentality of the govern-
19 ment of any State or of a local unit of gov-
20 ernment thereof, or which is owned or op-
21 erated by such a government or by any
22 agency or instrumentality of one or more
23 such governments;

24 (ii) a government-sponsored enterprise
25 as defined in section 3(8) of the Congres-

1 sional Budget and Impoundment Control
2 Act of 1974; or

3 (iii) a public utility or transportation
4 authority, including any entity that pro-
5 vides gas, electricity, water, communica-
6 tions, or transportation which is an agency
7 or instrumentality of the government of
8 any State or States or of a local unit of
9 government of a State or which is owned,
10 controlled, or operated by such a govern-
11 ment or by any agency or instrumentality
12 of one or more such governments;

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

16 (C) an Indian tribe (as defined in section
17 4(e) of the Indian Self-Determination and Edu-
18 cation Assistance Act (25 U.S.C. 450b(e)),

19 (D) a national or State political party or
20 any organizational unit thereof, or

21 (E) a national, regional, or local unit of
22 any foreign government.

23 (13) The term "State" means each of the sev-
24 eral States, the District of Columbia, and any com-

1 monwealth territory, or possession of the United
2 States.

3 **SEC. 4. REGISTRATION OF LOBBYISTS.**

4 (a) **REGISTRATION.—**

5 (1) **GENERAL RULE.—**Not later than 30 days
6 after a lobbyist first makes a lobbying contact or
7 agrees to make a lobbying contact, whichever is ear-
8 lier, such lobbyist (or, as provided under paragraph
9 (2), the organization employing such lobbyist), shall
10 register with the Office of Lobbying Registration
11 and Public Disclosure.

12 (2) **ORGANIZATION RULE.—**Any organization
13 that has one or more employees who are lobbyists
14 shall make the registration required by paragraph
15 (1) on behalf of such employees.

16 (3) **EXEMPTION.—**

17 (A) **GENERAL RULE.—**Notwithstanding
18 paragraph (1), any person whose total income
19 for matters related to lobbying activities on be-
20 half of a particular client (in the case of a per-
21 son making lobbying contacts on behalf of a cli-
22 ent other than that person), or total expenses
23 in connection with lobbying activities (in the
24 case of a person making lobbying contacts on
25 the person's own behalf) do not exceed, or are

1 not expected to exceed \$2,500 (as estimated
2 under section 5) in the semiannual period de-
3 scribed in section 5(a) during which the reg-
4 istration would be made is not required to reg-
5 ister under subsection (a) with respect to such
6 client.

7 (B) ADJUSTMENT.—The \$2,500 figure in
8 subparagraph (A) shall be adjusted—

9 (i) on January 1, 1997, to reflect
10 changes in the Consumer Price Index (as
11 determined by the Secretary of Labor)
12 since the date of the enactment of this Act,
13 and

14 (ii) on January 1 of each fourth year
15 occurring after January 1, 1997, to reflect
16 changes in the Consumer Price Index (as
17 determined by the Secretary of Labor)
18 during the preceding 4-year period,

19 rounded to the nearest \$100.

20 (b) CONTENTS OF REGISTRATION.—Each reg-
21 istration under this section shall be in such form as the
22 Director shall prescribe by regulation and shall contain—

23 (1) the name, address, business telephone num-
24 ber, and principal place of business of the registrant,

1 and a general description of its business or activi-
2 ties;

3 (2) the name, address, and principal place of
4 business of the registrant's client, and a general de-
5 scription of its business or activities (if different
6 from paragraph (1));

7 (3) the name, address, and principal place of
8 business of any organization, other than the client,
9 that—

10 (A) contributes or is expected to contribute
11 more than \$5,000 toward the lobbying activities
12 of the registrant in the semiannual period de-
13 scribed in section 5(a) in which the registration
14 is made;

15 (B) significantly participates or is expected
16 to participate significantly in the supervision or
17 control of such lobbying activities; and

18 (C) has a direct financial interest in the
19 outcome of such lobbying activities;

20 (4) the name, address, principal place of busi-
21 ness, and approximate percentage of equitable own-
22 ership in the client (if any) of any foreign entity
23 that—

1 (A) holds at least 20 percent equitable
2 ownership in the client or any organization
3 identified under paragraph (3);

4 (B) directly or indirectly, in whole or in
5 major part, supervises, controls, directs, fi-
6 nances, or subsidizes the lobbying activities of
7 the registrant; or

8 (C) is an affiliate of the client or any orga-
9 nization identified under paragraph (3) and has
10 a direct interest in the outcome of the lobbying
11 activity;

12 (5) a statement of—

13 (A) the general issue areas in which the
14 registrant expects (as of the date of the reg-
15 istration) to engage in lobbying activities on be-
16 half of the client, and

17 (B) to the extent practicable, specific is-
18 sues that have (as of the date of the reg-
19 istration) already been addressed or are likely
20 to be addressed in lobbying activities; and

21 (6) the name of each employee of the registrant
22 who has acted or whom the registrant expects (as of
23 the date of the registrant's registration) to act as a
24 lobbyist on behalf of the client and, if any such em-
25 ployee has served as a covered executive branch offi-

1 cial or a covered legislative branch official in the 2
2 years before the date on which such employee first
3 acted as a lobbyist on behalf of the client, the posi-
4 tion in which such employee served.

5 (c) GUIDELINES FOR REGISTRATION.—

6 (1) MULTIPLE CLIENTS.—In the case of a reg-
7 istrant making lobbying contacts on behalf of more
8 than one client, a separate registration under this
9 section shall be filed for each such client.

10 (2) MULTIPLE LOBBYISTS.—Any organization
11 that has one or more employees who are lobbyists
12 shall file a single registration under this section for
13 each client on whose behalf its employees act as lob-
14 byists covering all lobbying contacts made by such
15 employees on behalf of such client.

16 (3) MULTIPLE CONTACTS.—If a registrant
17 makes another lobbying contact for the same client
18 with a covered executive branch official or covered
19 legislative branch official, such contact will not re-
20 quire another registration under paragraph (1).

21 **SEC. 5. REPORTS BY REGISTERED LOBBYISTS.**

22 (a) SEMIANNUAL REPORT.—No later than 30 days
23 after the end of the semiannual period beginning on the
24 first day of each January and the first day of July of each
25 year in which a registrant is registered under section 4,

1 each registrant shall file a report with the Office of Lobby-
2 ing Registration and Public Disclosure on its lobbying ac-
3 tivities during such semiannual period. A separate report
4 shall be filed for each client of the registrant.

5 (b) CONTENTS OF REPORT.—Each semiannual re-
6 port filed under subsection (a) shall be in such form as
7 the Director shall prescribe by regulation and shall
8 contain—

9 (1) the name of the registrant, the name of the
10 client, and any changes or updates to the informa-
11 tion provided in the initial registration;

12 (2) for each general issue area in which the reg-
13 istrant engaged in lobbying activities on behalf of
14 the client during the semiannual filing period—

15 (A) a list of the specific issues upon which
16 the registrant engaged in significant lobbying
17 activities, including, to the maximum extent
18 practicable, a list of bill numbers and references
19 to specific regulatory actions, programs,
20 projects, contracts, grants, and loans;

21 (B) a statement of the Houses and com-
22 mittees of Congress and the Federal agencies
23 contacted by lobbyists employed by the reg-
24 istrant on behalf of the client during the semi-
25 annual filing period;

1 (C) a list of the employees of the registrant
2 who acted as lobbyists on behalf of the client;
3 and

4 (D) a description of the interest in the spe-
5 cific issues, if any, of any foreign entity identi-
6 fied under section 4(b)(4);

7 (3) in the case of a registrant engaged in lobby-
8 ing activities on behalf of a client other than the
9 registrant, a good faith estimate of the total amount
10 of all income from the client (including any pay-
11 ments to the registrant by any other person for lob-
12 bying activities on behalf of the client) during the
13 semiannual period, other than income for matters
14 that are unrelated to lobbying activities; and

15 (4) in the case of a registrant engaged in lobby-
16 ing activities on its own behalf, a good faith estimate
17 of the total expenses that the organization and its
18 employees incurred in connection with lobbying ac-
19 tivities during the semiannual filing period.

20 (c) ESTIMATES OF INCOME OR EXPENSES.—For pur-
21 poses of this section, estimates of income or expenses shall
22 be made as follows:

23 (1) \$200,000 OR LESS.—Income or expenses of
24 \$200,000 or less shall be estimated in accordance
25 with the following categories:

1 (A) At least \$2,500 but not more than
2 \$10,000.

3 (B) More than \$10,000 but not more than
4 \$20,000.

5 (C) More than \$20,000 but not more than
6 \$50,000.

7 (D) More than \$50,000 but not more than
8 \$100,000.

9 (E) More than \$100,000 but not more
10 than \$200,000.

11 (2) MORE THAN \$200,000.—Income or expenses
12 in excess of \$200,000 shall be estimated and round-
13 ed to the nearest \$100,000.

14 (3) EXEMPTION.—

15 (A) INCOME OR EXPENSES OF LESS THAN
16 \$2,500.—Any registrant whose total income for
17 a particular client for matters that are related
18 to lobbying activities on behalf of that client (in
19 the case of a registrant described in subsection
20 (b)(3)) or total expenses in connection with lob-
21 bying activities (in the case of a registrant de-
22 scribed in subsection (b)(4)) are less than
23 \$2,500 in a semiannual period (as estimated
24 under paragraph (3) or (4) of subsection (b), or
25 paragraph (4) of this subsection, as applicable)

1 is deemed to be inactive during such period and
2 may comply with the reporting requirements of
3 this section by so notifying the Director, in
4 such form as the Director may prescribe.

5 (B) ADJUSTMENT.—The \$2,500 figure in sub-
6 paragraph (A) shall be adjusted as provided in sec-
7 tion 4(a)(3)(B).

8 (4) ESTIMATES BASED ON TAX REPORTING SYS-
9 TEM.—In the case of any registrant that reports lob-
10 bying expenditures as required by section 6033 of
11 the Internal Revenue Code of 1986, regulations pre-
12 scribed under section 6 shall provide that the reg-
13 istrant may make a good faith estimate of amounts
14 that would be required to be disclosed under such
15 section for the applicable semiannual period (by cat-
16 egory of dollar value) to meet the requirements of
17 subsection (b) (4), if each time the registrant makes
18 such an estimate, the registrant informs the Office
19 that the registrant is making such an estimate.

20 (5) CONSTRUCTION.—In estimating total in-
21 come or expenses under this section, a registrant is
22 not required to include—

23 (A) the value of contributed services for
24 which no payment is made; or

1 (B) the expenses for services provided by
2 an independent contractor of the registrant who
3 is separately registered under this Act.

4 (d) CONTACTS.—

5 (1) CONTACTS CONSIDERED CONTACTS WITH
6 COMMITTEES.—For purposes of subsection (b)(2),
7 any contact with a member of a committee of Con-
8 gress, an employee of a committee of Congress, or
9 an employee of a member of a committee of Con-
10 gress regarding a matter within the jurisdiction of
11 such committee shall be considered a contact with
12 the committee.

13 (2) CONTACTS CONSIDERED CONTACTS WITH
14 HOUSE OF CONGRESS.—For purposes of subsection
15 (b)(2), any contact with a Member of Congress or
16 an employee of a Member of Congress regarding a
17 matter which is not within the jurisdiction of a com-
18 mittee of Congress of which that Member is a mem-
19 ber shall be considered a contact with the House of
20 Congress of that Member.

21 (e) EXTENSION FOR FILING.—The Director may
22 grant an extension of time of not more than 30 days for
23 the filing of any report under this section, upon the re-
24 quest of the registrant, for good cause shown.

1 **SEC. 6. ESTABLISHMENT AND DUTIES OF OFFICE OF LOB-**
2 **BYING REGISTRATION AND PUBLIC DISCLO-**
3 **SURE.**

4 (a) **ESTABLISHMENT.**—

5 (1) **OFFICE AND DIRECTOR.**—There is estab-
6 lished as an independent agency in the executive
7 branch an Office of Lobbying Registration and Pub-
8 lic Disclosure, which shall be headed by a Director.
9 The Director shall be appointed by the President, by
10 and with the advice and consent of the Senate. The
11 Director shall be an individual who, by demonstrated
12 ability, background, training, and experience, is es-
13 pecially qualified to carry out the functions of the
14 position. The term of service of the Director shall be
15 5 years.

16 (2) **COMPENSATION.**—Section 5316 of title 5,
17 United States Code, is amended by adding at the
18 end thereof the following:

19 “Director of the Office of Lobbying Reg-
20 istration and Public Disclosure.”.

21 (3) **EMPLOYEES AND SERVICES.**—The Director
22 may—

23 (A) appoint officers and employees, includ-
24 ing attorneys, in accordance with chapter 51
25 and subchapter III of chapter 53 of title 5,
26 United States Code; and

1 (B) contract for financial and administra-
2 tive services (including those related to budget
3 and accounting, financial reporting, personnel,
4 and procurement) with the General Services
5 Administration or such other Federal agency as
6 the Director determines appropriate, for which
7 payment shall be made in advance or by reim-
8 bursement from funds of the Office in such ac-
9 counts as may be agreed upon by the Director
10 and the head of the agency providing such serv-
11 ices.

12 Contract authority under subparagraph (B) shall be
13 effective for any fiscal year only to the extent that
14 appropriations are available for that purpose.

15 (b) DUTIES.—The Director of the Office of Lobbying
16 Registration and Public Disclosure shall—

17 (1) after notice and a reasonable opportunity
18 for public comment, and consultation with the Sec-
19 retary of the Senate, the Clerk of the House of Rep-
20 resentatives, and the Administrative Conference of
21 the United States, prescribe such regulations, forms,
22 and penalty schedules as are necessary to carry out
23 this Act;

24 (2) provide guidance and assistance on the reg-
25 istration and reporting requirements of this Act, in-

1 including, to the extent practicable, the issuance of
2 published decisions and advisory opinions;

3 (3) review the registrations and reports filed
4 under this Act and make such verifications or in-
5 quires as are necessary to ensure the completeness,
6 accuracy, and timeliness of the registrations and re-
7 ports;

8 (4) develop filing, coding, and cross-indexing
9 systems to carry out the purposes of this Act, in-
10 cluding computerized systems designed to minimize
11 the burden of filing and maximize public access to
12 materials filed under this Act;

13 (5) ensure that the computer systems developed
14 pursuant to paragraph (4)—

15 (A) allow the materials filed under this Act
16 to be accessed by client name, lobbyist name,
17 and registrant name; and

18 (B) are compatible with computer systems
19 developed and maintained by the Federal Elec-
20 tion Commission, and that information filed in
21 the two systems can be readily cross-referenced;

22 (6) make copies of each registration and report
23 filed under this Act available to the public in elec-
24 tronic and hard copy formats as soon as practicable

1 after the date on which such registration or report
2 is received;

3 (7) preserve the originals or accurate reproduc-
4 tion of—

5 (A) registrations filed under this Act, and

6 (B) of reports filed under this Act,

7 for a period of not less than 3 years from the date
8 on which the registration or report is received;

9 (8) maintain a computer record of the informa-
10 tion contained in registrations and maintain a com-
11 puter record of the information contained in reports
12 filed under this Act for not less than 5 years after
13 the date on which such reports are received;

14 (9) compile and summarize, with respect to
15 each semiannual period, the information contained
16 in registrations and reports filed with respect to
17 such period in a manner which clearly presents the
18 extent and nature of expenditures on lobbying activi-
19 ties during such period;

20 (10) make information compiled and summa-
21 rized under paragraph (9) available to the public in
22 electronic and hard copy formats as soon as prac-
23 ticable after the close of each semiannual filing pe-
24 riod;

1 (11) provide, by computer telecommunication
2 and other means, to the Secretary of the Senate and
3 the Clerk of the House of Representatives copies of
4 all registrations and reports received under sections
5 4 and 5 and all compilations, cross-indexes, and
6 summaries of such registrations and reports, as soon
7 as practicable (but not later than 2 working days)
8 after such material is received or created;

9 (12) make available to the public a list of all
10 persons whom the Director determines, under sec-
11 tion 8(e) or (9)(e), to have violated this Act and sub-
12 mit such list to the Congress on a semiannual basis;

13 (13) upon request, indicate if a person is or has
14 been a covered executive branch official or a covered
15 legislative branch official; and

16 (14) transmit to the President and the Con-
17 gress a report, not later than March 31 of each year,
18 describing the activities of the Office and the imple-
19 mentation of this Act, including—

20 (A) a financial statement for the preceding
21 fiscal year;

22 (B) a summary of the registrations and re-
23 ports filed with the Office with respect to the
24 preceding calendar year;

1 (C) a summary of the registrations and re-
2 ports filed on behalf of foreign entities with re-
3 spect to the preceding calendar year; and

4 (D) recommendations for such legislative
5 or other action as the Director considers appro-
6 priate.

7 **SEC. 7. INFORMAL RESOLUTION OF ALLEGED VIOLATIONS.**

8 (a) **ALLEGATION OF A VIOLATION.**—Whenever the
9 Office of Lobbying Registration and Public Disclosure has
10 reason to believe that a person may be in violation of the
11 requirements of this Act, the Director shall notify the per-
12 son in writing of the nature of the alleged violation and
13 provide an opportunity for the person to respond in writ-
14 ing to the allegation within 30 days after the notification
15 is sent or such longer period as the Director may deter-
16 mine appropriate in the circumstances.

17 (b) **INFORMAL RESOLUTION.**—If the person responds
18 within the period described in the notification under sub-
19 section (a), the Director shall—

20 (1) take no further action, if the person pro-
21 vides adequate information or explanation to deter-
22 mine that such person has not violated this Act; or

23 (2) make a determination under section 8, if
24 the information or explanation provided indicates
25 that such person may have violated this Act.

1 (c) FORMAL REQUEST FOR INFORMATION.—If a per-
2 son fails to respond in writing within the period described
3 in the notification under subsection (a) or the response
4 is not adequate to determine whether such person has vio-
5 lated this Act, the Director may make a formal request
6 for specific additional written information (subject to ap-
7 plicable privileges) that is reasonably necessary for the Di-
8 rector to make such determination. Each such request
9 shall be structured to minimize any burden imposed, con-
10 sistent with the need to determine whether the person is
11 in compliance with this Act, and shall—

12 (1) state the nature of the conduct constituting
13 the alleged violation which is the basis for the in-
14 quiry and the provision of law applicable thereto;

15 (2) describe the class or classes of material to
16 be produced pursuant to the request with such defi-
17 niteness and certainty as to permit such material to
18 be readily identified; and

19 (3) prescribe a return date or dates which pro-
20 vide a reasonable period of time within which the
21 person may assemble and make available for inspec-
22 tion and copying or reproduction the material so re-
23 quested.

24 (d) NONDISCLOSURE OF INFORMATION.—Informa-
25 tion provided to the Director under this section shall not

1 be made available to the public without the consent of the
2 person providing the information, except that—

3 (1) any new or amended report or registration
4 filed in connection with an inquiry under this section
5 shall be made available to the public in the same
6 manner as any other registration or report filed
7 under section 4 or 5; and

8 (2) written decisions issued by the Director
9 under sections 8 and 9 may be published after ap-
10 propriate redaction by the Director to ensure that
11 confidential information is not disclosed.

12 **SEC. 8. DETERMINATIONS OF VIOLATIONS.**

13 (a) **NOTIFICATION AND HEARING.**—If the informa-
14 tion provided to the Director under section 7 indicates
15 that a person may have violated this Act, the Director
16 shall—

17 (1) notify the person in writing of this finding
18 and, if appropriate, a proposed penalty assessment
19 and provide such person with an opportunity to re-
20 spond in writing within 30 days after the notice is
21 sent;

22 (2) if requested by that person within that 30-
23 day period, afford the person—

1 (A) in the case of a minor violation, an in-
2 formal hearing at which additional evidence
3 may be presented; and

4 (B) in the case of a significant violation,
5 an opportunity for a hearing on the record
6 under the provisions of section 556 of title 5,
7 United States Code.

8 (b) DETERMINATION.—Upon the receipt of a written
9 response under subsection (a)(1) when no hearing under
10 subsection (a)(2) is requested, upon the completion of a
11 hearing requested under subsection (a)(2), or upon the ex-
12 piration of 30 days in a case in which no such written
13 response is received, the Director shall review the informa-
14 tion received under this section (including evidence pre-
15 sented at any such hearing) and section 7 and make a
16 final determination whether there was a violation and a
17 final determination of the penalty, if any. If no written
18 response or request for a hearing was received under this
19 section within the 30-day period provided, the determina-
20 tion and penalty assessment shall constitute a final order
21 not subject to appeal.

22 (c) WRITTEN DECISION.—If the Director makes a
23 final determination that there was a violation, the Director
24 shall issue a public written decision—

1 (1) directing the person to correct the violation;
2 and

3 (2) assessing a civil monetary penalty in an
4 amount determined as follows:

5 (A) In the case of a minor violation, the
6 amount shall be no more than \$10,000, depend-
7 ing on the nature and extent of the violation.

8 (B) In the case of a significant violation,
9 the amount shall be more than \$10,000, but no
10 more than \$200,000, depending on the nature
11 and extent of the violation and the extent to
12 which the person may have profited from the
13 violation.

14 (d) CIVIL INJUNCTIVE RELIEF.—If a person fails to
15 comply with a directive to correct a violation under sub-
16 section (c), the Director shall refer the case to the Attor-
17 ney General to seek civil injunctive relief in the appro-
18 priate court of the United States to compel such person
19 to comply with such directive.

20 (e) PENALTY ASSESSMENTS.—

21 (1) GENERAL RULE.—No penalty shall be as-
22 sessed under this section unless the Director finds
23 that the person subject to the penalty knew or
24 should have known that such person was not in com-
25 pliance with the requirements of this Act. In deter-

1 mining the amount of a penalty to be assessed, the
2 Director shall take into account the totality of the
3 circumstances, including the extent and gravity of
4 the violation and such other matters as justice may
5 require. The Director shall not assess a penalty in
6 an amount greater than that recommended by an
7 administrative law judge after a hearing on the
8 record under subsection (a)(2) unless the Director
9 determines that the recommendation of the adminis-
10 trative law judge is arbitrary and capricious or an
11 abuse of discretion.

12 (2) REGULATIONS.—Regulations prescribed by
13 the Director under section 6 shall define minor and
14 significant violations. Significant violations shall be
15 defined to include a failure to register and any other
16 violation that is extensive or repeated if the person
17 who commits such violation knew or should have
18 known that the action constituting the violation was
19 a violation of this Act.

20 (f) LIMITATION.—No proceeding shall be initiated
21 under this section unless the Director notifies the person
22 who is to be the subject to the proceeding of the alleged
23 violation relating to a required registration or report with-
24 in 3 years after the date on which such registration or
25 report was filed or was required to be filed.

1 SEC. 9. OTHER VIOLATIONS.

2 (a) LATE REGISTRATION OR FILING; FAILURE TO
3 PROVIDE INFORMATION.—If a person registers or files a
4 report after a registration or filing is required under this
5 Act, or fails to provide information requested by the Direc-
6 tor under section 7(c), the Director shall—

7 (1) notify the person in writing of the violation
8 and a proposed penalty assessment and provide such
9 person with an opportunity to respond in writing
10 within 30 days after the notice is sent; and

11 (2) if requested by that person within that 30-
12 day period, afford the person an informal hearing at
13 which additional evidence may be presented.

14 (b) DETERMINATION.—Upon the receipt of a written
15 response under subsection (a)(1) when no hearing under
16 subsection (a)(2) is requested, upon the completion of a
17 hearing requested under subsection (a)(2), or upon the ex-
18 piration of 30 days in a case in which no such written
19 response is received, the Director shall review the informa-
20 tion received under subsection (a) (including evidence pre-
21 sented at any such hearing) and, unless the Director de-
22 termines, on the basis of such information, that the late
23 filing or failure to provide information was justified, the
24 Director shall make a final determination of a violation
25 and a final determination of the penalty, if any. If no writ-
26 ten response or request for a hearing was received under

1 subsection (a) within the 30-day period provided, the de-
2 termination and penalty assessment shall constitute a final
3 order not subject to appeal.

4 (c) WRITTEN DECISION.—If the Director makes a
5 final determination under subsection (b) that there was
6 a violation, the Director shall issue a public written
7 decision—

8 (1) in the case of a late filing, assessing a civil
9 monetary penalty of \$200 for each week by which
10 the filing was late, with the total penalty not to ex-
11 ceed \$10,000; or

12 (2) in the case of a failure to provide
13 information—

14 (A) directing the person to provide the in-
15 formation within a reasonable period of time;
16 and

17 (B) except where the Director determines
18 that the violation was the result of a good faith
19 dispute over the validity or appropriate scope of
20 a request for information, assessing a civil mon-
21 etary penalty in an amount not to exceed
22 \$10,000.

23 (d) CIVIL INJUNCTIVE RELIEF.—In addition to the
24 penalties provided in this section, the Director may refer
25 a violation by a person under this section to the Attorney

1 General to seek civil injunctive relief in the appropriate
2 court of the United States to compel such person to cor-
3 rect the violation.

4 **SEC. 10. JUDICIAL REVIEW.**

5 (a) **FINAL DECISION.**—A written decision issued by
6 the Director under section 8 or 9 shall become final 60
7 days after the date on which the Director provides notice
8 of the decision, unless such decision is appealed under sub-
9 section (b) of this section.

10 (b) **APPEAL.**—Any person adversely affected by a
11 written decision issued by the Director under section 8 or
12 9 may appeal such decision, except as provided under sec-
13 tions 8(b) or 9(b), to the appropriate United States court
14 of appeals. Such review may be obtained by filing a written
15 notice of appeal in such court no later than 60 days after
16 the date on which the Director provides notice of the Di-
17 rector's decision and by simultaneously sending a copy of
18 such notice of appeal to the Director. The Director shall
19 file in such court the record upon which the decision was
20 issued, as provided under section 2112 of title 28, United
21 States Code. The findings of fact of the Director shall be
22 conclusive, unless found to be unsupported by substantial
23 evidence, as provided under section 706(2)(E) of title 5,
24 United States Code. Any penalty assessed or other action

1 taken in the decision shall be stayed during the pendency
2 of the appeal.

3 (c) RECOVERY OF PENALTY.—Any penalty assessed
4 in a written decision which has become final under this
5 Act may be recovered in a civil action brought by the At-
6 torney General in an appropriate United States district
7 court. In any such action, no matter that was raised or
8 that could have been raised before the Director or pursu-
9 ant to judicial review under subsection (b) may be raised
10 as a defense, and the determination of liability and the
11 determination of amounts of penalties and assessments
12 shall not be subject to review.

13 (d) ATTORNEYS' FEES.—In any appeal brought
14 under this section in which the person who is the subject
15 of such action substantially prevails on the merits, the
16 court may assess against the United States attorneys' fees
17 and other litigation costs reasonably incurred in the ap-
18 peal and the administrative proceeding on which the ap-
19 peal was based.

20 **SEC. 11. RULES OF CONSTRUCTION.**

21 (a) PROHIBITION OF ACTIVITIES.—Nothing in this
22 Act shall be construed to prohibit, or to authorize the Di-
23 rector or any court to prohibit, lobbying activities or lobby-
24 ing contacts by any person, regardless of whether such
25 person is in compliance with the requirements of this Act.

1 (b) AUDIT AND INVESTIGATIONS.—Nothing in this
2 Act shall be construed to grant general audit or investiga-
3 tive authority to the Director, or to authorize the Director
4 to review the files of a registrant, except in accordance
5 with the requirements of section 7 regarding the informal
6 resolution of alleged noncompliances and formal requests
7 for information.

8 **SEC. 12. AMENDMENTS TO THE FOREIGN AGENTS REG-**
9 **ISTRATION ACT.**

10 The Foreign Agents Registration Act of 1938 (22
11 U.S.C. 611 et seq.), is amended—

12 (1) in section 1—

13 (A) by amending subsection (b) to read as
14 follows:

15 “(b) The term ‘foreign principal’ means a government
16 of a foreign country or a foreign political party.”;

17 (B) by striking out subsection (j);

18 (C) in subsection (o), by striking out “the
19 dissemination of political propaganda and any
20 other activity which the person engaging therein
21 believes will, or which he intends to, prevail
22 upon, indoctrinate, convert, induce, persuade,
23 or in any other way influence” and inserting in
24 lieu thereof “any activity which the person en-

1 gaging in believes will, or which he intends to,
2 in any way influence”;

3 (D) in subsection (p) by striking out the
4 semicolon and inserting in lieu thereof a period;
5 and

6 (E) by striking out subsection (q);

7 (2) in section 3(g) (22 U.S.C. 613(g)), by strik-
8 ing out “established agency proceedings, whether
9 formal or informal.” and inserting in lieu thereof
10 “judicial proceedings, criminal or civil law enforce-
11 ment inquiries, investigations or proceedings, or
12 agency proceedings required by statute or regulation
13 to be conducted on the record.”;

14 (3) in section 4(a) (22 U.S.C. 614(a))—

15 (A) by striking out “political propaganda”
16 and inserting in lieu thereof “informational ma-
17 terials”; and

18 (B) by striking out “and a statement, duly
19 signed by or on behalf of such an agent, setting
20 forth full information as to the places, times,
21 and extent of such transmittal”;

22 (4) in section 4(b) (22 U.S.C. 614(b))—

23 (A) in the matter preceding clause (i) by
24 striking out “political propaganda” and insert-

1 ing in lieu thereof "informational materials";
2 and

3 (B) by striking out "(i) in the form of
4 prints, or" and all that follows through the end
5 of the subsection and inserting in lieu thereof
6 "without placing in such informational mate-
7 rials a conspicuous statement that the materials
8 are distributed by the agent on behalf of the
9 foreign principal, and that additional informa-
10 tion is on file with the Department of Justice,
11 Washington, District of Columbia. The Attor-
12 ney General may by rule define what con-
13 stitutes a conspicuous statement for the pur-
14 poses of this subsection.";

15 (5) in section 4(c) (22 U.S.C. 614(c)), by strik-
16 ing out "political propaganda" and inserting in lieu
17 thereof "informational materials";

18 (6) in section 6 (22 U.S.C. 616)—

19 (A) in subsection (a), by striking out "and
20 all statements concerning the distribution of po-
21 litical propaganda";

22 (B) in subsection (b), by striking out "
23 and one copy of every item of political propa-
24 ganda"; and

1 (C) in subsection (c), by striking out “cop-
2 ies of political propaganda,”;

3 (7) in section 8 (22 U.S.C. 618)—

4 (A) in subsection (a)(2), by striking out
5 “or in any statement under section 4(a) hereof
6 concerning the distribution of political propa-
7 ganda”; and

8 (B) by striking out subsection (d); and

9 (8) in section 11 (22 U.S.C. 621), by striking
10 out “, including the nature, sources, and content of
11 political propaganda disseminated or distributed”.

12 **SEC. 13. AMENDMENTS TO THE BYRD AMENDMENT.**

13 (a) **REVISED CERTIFICATION REQUIREMENTS.**—Sec-
14 tion 1352(b) of title 31, United States Code, is amended—

15 (1) in paragraph (2), by striking out sub-
16 paragraphs (A), (B), and (C) and inserting in lieu
17 thereof the following:

18 “(A) the name of any registrant under the
19 Lobbying Disclosure Act of 1993 who has made
20 lobbying contacts on behalf of the person with
21 respect to that Federal contract, grant, loan, or
22 cooperative agreement; and

23 “(B) a certification that the person making
24 the declaration has not made, and will not

1 make, any payment prohibited by subsection
2 (a).”;

3 (2) in paragraph (3), by striking out all that
4 follows “loan shall contain” and inserting in lieu
5 thereof “the name of any registrant under the Lob-
6 bying Disclosure Act of 1993 who has made lobbying
7 contacts on behalf of the person in connection with
8 that loan insurance or guarantee.”; and

9 (3) by striking out paragraph (6) and redesignig-
10 nating paragraph (7) as paragraph (6).

11 (b) **REMOVAL OF OBSOLETE REPORTING REQUIRE-**
12 **MENT.**—Section 1352 of title 31, United States Code, is
13 further amended—

14 (1) by striking subsection (d); and

15 (2) by redesignating subsections (e), (f), (g),
16 and (h) as subsections (d), (e), (f), and (g), respec-
17 tively.

18 **SEC. 14. REPEAL OF CERTAIN LOBBYING PROVISIONS.**

19 (a) **REPEAL OF THE FEDERAL REGULATION OF LOB-**
20 **BYING ACT.**—The Federal Regulation of Lobbying Act (2
21 U.S.C. 261 et seq.) is repealed.

22 (b) **REPEAL OF PROVISIONS RELATING TO HOUSING**
23 **LOBBYIST ACTIVITIES.**—(1) Section 13 of the Depart-
24 ment of Housing and Urban Development Act (42 U.S.C.
25 3537b) is repealed.

1 (2) Section 536(d) of the Housing Act of 1949 (42
2 U.S.C. 1490p(d)) is repealed.

3 (c) REPEAL OF REGISTRATION REQUIREMENT RE-
4 LATING TO PUBLIC UTILITY LOBBYING ACTIVITIES.—
5 Section 12(i) of the Public Utility Holding Company Act
6 of 1935 (15 U.S.C. 79l(i)) is repealed.

7 SEC. 15. CONFORMING AMENDMENTS TO OTHER STATUTES.

8 (a) AMENDMENT TO COMPETITIVENESS POLICY
9 COUNCIL ACT.—Section 5206(e) of the Competitiveness
10 Policy Council Act (15 U.S.C. 4804(e)) is amended by in-
11 serting “or a lobbyist for a foreign entity (as the terms
12 ‘lobbyist’ and ‘foreign entity’ are defined in section 3 of
13 the Lobbying Disclosure Act of 1993)” after “an agent
14 for a foreign principal”.

15 (b) AMENDMENTS TO TITLE 18, UNITED STATES
16 CODE.—Section 219(a) of title 18, United States Code,
17 is amended (1) by inserting “or a lobbyist required to reg-
18 ister under the Lobbying Disclosure Act of 1993 in con-
19 nection with the representation of a foreign entity, as de-
20 fined in section 3(7) of that Act” after “an agent of a
21 foreign principal required to register under the Foreign
22 Agents Registration Act of 1938”, and (2) by striking out
23 “, as amended,”.

24 (c) AMENDMENT TO FOREIGN SERVICE ACT OF
25 1980.—Section 602(c) of the Foreign Service Act of 1980

1 (22 U.S.C. 4002(e)) is amended by inserting "or a lobby-
2 ist for a foreign entity (as defined in section 3(7) of the
3 Lobbying Disclosure Act of 1993)" after "an agent of a
4 foreign principal (as defined by section 1(b) of the Foreign
5 Agents Registration Act of 1938)".

6 (d) AMENDMENT TO THE FEDERAL ELECTION CAM-
7 PAIGN ACT.—Section 319(b) of the Federal Election Cam-
8 paign Act of 1971 (2 U.S.C. 441e(b)) is amended—

9 (1) in paragraph (1) by striking out "or" after
10 the semicolon;

11 (2) by redesignating paragraph (2) as para-
12 graph (3); and

13 (3) by inserting after paragraph (1) the fol-
14 lowing:

15 "(2) a foreign entity, as such term is defined by
16 section 3(7) of the Lobbying Disclosure Act of 1993;
17 or".

18 SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

19 There are authorized to be appropriated for each fis-
20 cal year such sums as may be necessary to carry out this
21 Act.

22 SEC. 17. EFFECTIVE DATES AND INTERIM RULE.

23 (a) IN GENERAL.—Except as otherwise provided in
24 this section, the provisions of this Act shall take effect
25 1 year after the date of the enactment of this Act.

1 (b) ESTABLISHMENT OF OFFICE.—The provisions of
2 sections 6 and 16 shall take effect on the date of the en-
3 actment of this Act.

4 (c) REPEALS AND AMENDMENTS.—The repeals and
5 amendments made under sections 12, 13, and 14 shall
6 take effect as provided under subsection (a), except that
7 such repeals and amendments—

8 (1) shall not affect any proceeding or suit com-
9 menced before the effective date under subsection
10 (a), and in all such proceedings or suits, proceedings
11 shall be had, appeals taken, and judgments rendered
12 in the same manner and with the same effect as if
13 this Act had not been enacted; and

14 (2) shall not affect the requirements of Federal
15 agencies to compile, publish, and retain information
16 filed or received before the effective date of such re-
17 peals and amendments.

18 (d) REGULATIONS.—Proposed regulations required
19 to implement this Act shall be published for public com-
20 ment no later than 270 days after the date of the enact-
21 ment of this Act. No later than 1 year after the date of
22 the enactment of this Act, final regulations required to
23 implement this Act shall be published.

24 (e) PHASE-IN-PERIOD.—No penalty shall be assessed
25 by the Director under section 8(e) or 9(c) for any violation

1 of this Act which occurs during the first semiannual re-
2 porting period under section 5 after the effective date pre-
3 scribed by subsection (a).

4 (f) INTERIM REPORTING RULE.—

5 (1) RULE.—For 3 years after the date of the
6 enactment of this Act, any registrant engaged in lob-
7 bying activities on its own behalf that is denied a de-
8 duction for expenditures associated with such lobby-
9 ing activities under section 162(e) of the Internal
10 Revenue Code of 1986, may make a good faith esti-
11 mate (by category of dollar value) of the amount of
12 the deduction denied for the applicable semiannual
13 period to meet the requirements of section 5(b)(4) of
14 this Act. Each time a registrant elects to estimate
15 lobbying expenditures pursuant to this paragraph,
16 the registrant shall inform the Director that it is
17 making such an estimate.

18 (2) STUDY.—Within 120 days of the filing of
19 reports by registrants under section 5 in the first 2
20 semiannual reporting periods, the Comptroller Gen-
21 eral of the United States shall review reporting by
22 registrants under paragraph (1) in such periods and
23 report to the Congress—

24 (A) the differences between the definition
25 of lobbying expenditures in section 3 and the

1 definition in such section 162(e) as each are
2 implemented by regulations;

3 (B) the impact any such differences may
4 have on the amounts reported by the reg-
5 istrants who elect to estimate lobbying expendi-
6 tures pursuant to paragraph (1); and

7 (C) any changes to this Act or to such sec-
8 tion 162(e) which the Comptroller General may
9 recommend to harmonize the two definitions.



U. S. Department of Justice

Office of Legislative Affairs

*Lobby
Reform*

Office of the Assistant Attorney General

Washington, D.C. 20530

*Good -
Still no
fee forfeiture!
I say do push for
that*

DM

The Honorable Jack Brooks
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I want to thank you and your staff, particularly those on the Subcommittee on Administrative Law and Governmental Relations, for working with us on H.R. 823, the Lobbying Disclosure Act of 1993 (LDA).

Since we furnished views to the Committee by letter, dated October 20, 1993, we have met with Subcommittee staff and reviewed a proposed amendment in the nature of a substitute for H.R. 823. The substitute addresses our most significant concerns and we believe that it will more effectively serve the goals of this important legislation. We endorse it without reservation.

We note that under the substitute, the Office of Lobbying Registration and Public Disclosure would become an independent entity within the Executive Branch rather than a part of this Department. While we continue to believe that the Department of Justice would make an appropriate home for the Office, we do not oppose making the Office separate and independent.

We also note with approval that the substitute drops the original bill language that would have restricted the Foreign Agents Registration Act, 22 U.S.C. § 611 et seq. (FARA), to agents of a foreign government or a foreign political party. The substitute provides an exemption from registration under FARA if the agent has registered under the LDA for the foreign principal in question. This approach would provide for the public disclosure of certain activities of the agent/lobbyist while avoiding both a duplication of registrations and creating a serious impediment to the enforcement of FARA.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Please do not hesitate to contact me if we can be of further assistance regarding this matter.

Sincerely,

~~Sheila F. Anthony~~
Assistant Attorney General

cc: Honorable Hamilton Fish, Jr.
Ranking Minority Member

Honorable John Bryant
Chairman
Subcommittee on Administrative Law
and Governmental Relations

Honorable George W. Gekas
Ranking Minority Member
Subcommittee on Administrative Law
and Governmental Relations

RUB
DAAG

Foley Floats Gift Compromise, But Outcome Still Uncertain

House Speaker Foley has floated a possible compromise to end the impasse over new rules regarding gift-giving

CONGRESSIONAL REFORM

to House members that would ban many so-called hard gifts, but exempt meals and only require disclosure of entertainment, according to sources.

Foley made the proposal in recent days after extensive consultation within the Democratic Caucus, a top leadership aide said. "He thinks that would be workable," a leadership aide said.

Built into the proposal would be important exemptions to accommodate members' concerns, several sources

said. Under the plan, for example, a Boy Scout troop would not be precluded from providing T-shirts, nor would a local Rotary Club be barred from giving a plaque, one leadership aide noted.

However, sources close to the bipartisan panel studying the gift issue said Foley's proposal is one of several under consideration — and noted consensus is still a way off.

Rep. John Bryant, D-Texas, is said to be "reluctant" about backing off from his proposal to limit lobbyist gift-giving to \$20 per member with a \$50 annual limit, which the Democratic leadership initially appeared to embrace.

"[Bryant] has made it clear to the powers that be that he would not feel comfortable leading a retreat to what he has proposed," one source said. "He is still hoping that the leadership will come around."

Rep. Vic Fazio, D-Calif., said considerable differences of opinion continue. And at least one Republican member of the bipartisan panel predicted action on legislation would be put off until next year. "I doubt we'll take it up this year," Rep. Bob Livingston, R-La., said.

One source said of the Democratic leadership: "There isn't a resolution yet. They want to satisfy everyone."

Baucus Striving For White House Attention On Superfund

Senate Environment and Public Works Chairman Baucus is pressing the White House to make Superfund

ENVIRONMENT

reauthorization a top priority, saying top-level attention is needed if a bill is to pass this Congress.

In a letter Tuesday to President Clinton, Baucus warned that failing to complete the reauthorization next year "would likely trigger a ramping down of the program as early as the spring of 1995" because the law's funding mechanism expires at the end of 1995.

To illustrate his point, Baucus pointed to strong White House involvement that was critical in passing the Clean Air Act amendments of 1990. And a Baucus aide noted the contentious nature of the Superfund issue makes White House leadership especially important.

Baucus' move comes as the administration's interagency group on Superfund is near consensus on some areas, but is largely undecided on other critical issues — such as how to address the act's retroactive liability scheme, on which various agencies or departments are backing competing plans.

The administration is now beginning the process of meeting with House and Senate committee staff to craft language in areas where the administration has arrived at a position.

Numerous House and Senate aides met with administration officials Mon-

day to discuss the process for addressing the Superfund reauthorization. While much remains unclear about how that process will proceed, the administration

is characterizing it as a "negotiation" with Congress. One House aide noted it may be difficult to begin talks in earnest, when few members have focused on the issue.

Fed Opposes Clinton Financial Trade Bill

Federal Reserve Governor John LaWare Tuesday told a House Banking

BANKING

subcommittee that the central bank opposes legislation that Treasury Secretary Bentsen recently identified as one of three bills the Clinton administration wants Congress to pass in coming months.

The bill — called the Fair Trade in Financial Services Act — would allow the Treasury secretary to retaliate against foreign financial firms operating in the United States if the firm's home country fails to accord equal regulatory treatment to U.S. firms. Under the bill, Treasury could block a foreign firm from expanding its U.S. operations.

While claiming the Fed supports the bill's objectives, LaWare told the International Development Subcommittee that he is not sure the measure would work in practice and contended it might have unintended consequences.

"Some might think that having a reciprocity provision on the books is merely a bargaining tool, not to be used. But once on the books, the temptation to impose sanctions becomes real, creating the potential for retaliation and for close-

ing, rather than opening, markets," LaWare said in prepared testimony.

In a recent speech, Bentsen said the administration wants Congress to pass the FTFS bill, as well as the community development banking bill and the Resolution Trust Corp. refinancing bill. The Senate Banking Committee is planning to mark up the FTFS bill Nov. 18.

At Tuesday's House hearing, the FTFS bill earned the backing of Boston-based Fidelity Investments, the world's largest mutual fund company with \$225 billion in assets under management. Fidelity General Counsel Robert Pozen said in prepared testimony that credible threats of modest retaliation have a proven track record of success.

"Historically, the [United States] has won such concessions in the Asian financial markets only by threatening the success of Asian firms to the U.S. markets. In the 1980s, for example, the Tokyo Stock Exchange admired U.S. firms as members only after Congress directed the Federal Reserve to reconsider the status of Japanese firms as primary dealers in U.S. Treasury securities," Pozen said.

File:
Lobby
reform

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

May 8, 1993

RADIO ADDRESS
BY THE PRESIDENT
TO THE NATION

10:06 A.M. EDT

THE PRESIDENT: Good morning. In the early days of our administration we've moved quickly to deal with the problems that concern you most. Our endeavors are ambitious, and none will be accomplished easily. Some will require time and repeated struggle. But all of them relate directly to improving our economy, to creating more jobs and better incomes and opportunity for hard-pressed working families.

Many of the efforts we're making are opposed by lobbyists, defenders of the status quo and special interests. We're fighting, after all, to do something that no generation of Americans has had to do before: to make dramatic reductions in the federal deficit, even as we ask for new, very targeted investments in the education and training of our people, in incentives for our industries, in new technologies for new jobs in the 21st century.

Many special interests are trying to stop our every move. They don't believe in a program which cuts spending in areas they don't want to have spending cuts, or which raises most of the tax burden from wealthy people whose incomes went up and taxes went down in the '80s, while the middle class paid more in taxes while their incomes went down. We want to reverse that; but most working people don't have lobbyists here to help them.

We're fighting hard to reform our health care system. And soon we'll put forward a plan to provide real security and health care for every American family. And, already, special interests are trying to carve the plan to bits.

We're trying to make it possible for every young person to go to college, to borrow the money that he or she needs and then to pay it back as a small portion of their incomes after they go to work. And already, banks and their allies are out in force, since they make enormous profits from the current student loan system, even though it imposes great burdens on many students.

Well, this is what always happens in Washington. Narrow interests exercise powerful influence. They try to stop reform, delay change, deny progress -- simply because they profit from the status quo. Because big money and the special access it buys are the problem, we have to reform the political system even as we try to improve the economy and open opportunities to all our people.

Unless we change fundamentally the way campaigns are financed, everything else we seek to do to improve the lives of our people will be much harder to achieve. Economic reform and reform of the political system go hand-in-hand. It's time to curb the role of special interest and to empower our citizens in the way our country is governed.

Yesterday I announced a comprehensive campaign finance reform proposal, a proposal to reform the political process, restore faith in our democracy, and insure once again that the voice of the people is heard over the voices of special interests. The plan will

MORE

change the way Washington works, the way campaigns are financed and the way the game of politics is played.

Here's how it will work: First, it will impose strict spending limits on congressional campaigns. Spending has gone up too far and too fast. When spending is out of control, candidates who lack access to big money simply can't compete. In the last two-year election cycle, spending on congressional campaigns increased by 50 percent over the previous two years. Second, this plan will rein in the special interests by restricting the role of lobbyists and PACs, political action committees.

For the very first time, our plan will ban contributions from lobbyists to the lawmakers they lobby. It will bar lobbyists from raising money for the lawmakers that they lobby. If adopted -- believe me -- this proposal will change the culture of Washington. And it will curb the role of political action committees. We want to cap the amount of money any candidate can receive from PACs. And we'll limit PAC contributions to \$1,000 for presidential candidates and \$2,500 for Senate candidates.

Third, our political reform plan will open the airwaves and level the playing field between incumbents and challengers by providing access to the broad airwaves for candidates who agree to the spending limits.

Let me make this clear: This broadcast time will not be paid for by middle-class taxpayers, it will be funded by repealing a major tax loophole that allows many businesses to deduct the cost of their lobbyists. Corporate lobbying has only been deductible since 1962. We can close that loophole and use that money to open the airwaves to all candidates.

This proposal will change the status quo. And, believe me, the special interests will mobilize against it. They don't want to see their ability to give or to raise campaign contributions curbed. They don't want to see the influence of PAC curbed. They don't want to see limits on election spending.

But government will work only for middle-class America if Washington works in the national interest and not just for narrow interests. And that won't happen unless we change the way we finance campaigns in this country.

This political reform bill is for real. It goes hand-in-hand with another bill we're supporting which has already passed the United States Senate. That bill requires all lobbyists to register, and now requires them to report all the money they spend on particular members of Congress to try to influence or support their causes.

And even if the special interests object to these efforts, even if they try to filibuster this campaign finance reform legislation or delay, I believe we will pass it. And I'll sign it because I think you will support it.

When all is said and done, this issue is really about our liberty. It's a matter of preserving our personal freedoms and expanding our opportunity by revitalizing the political freedoms on which they rest. To create jobs, as we must, to increased incomes, to make our health care system better, to open more educational opportunities, we need a democracy where more -- not fewer -- Americans play a role and have a real say in the decisions that powerfully affect their lives.

Last November, we had a huge increase in turnout, especially among our young people. Since then, I have received more letters in the first three and a half months of my first year than my

predecessor did in the entire year on 1992. The American people want to be heard in their political system. If you want to do it, we've got to pass the lobbying bill and we've got to pass this campaign finance reform bill which will pay for equal access through lobbying contributions, control the influence of lobbyists, limit PACs, and limit campaign spending.

These are changes I'm fighting for. But they won't happen unless you'll fight for them, too. If you'll help we can win this battle and we can keep turning American around.

Thanks for listening.

END

10:11 A.M. EDT

To: Bruce Reed
From: Liz Bernstein
Subject: Clinton record on lobby reform since inauguration

These are some things I came up with on the fly this morning. I would be happy to do a more extensive sweep if you think it would be helpful.

Let's hope this isn't a done deal.

President Clinton

Public statements on lobby reform and lobby disclosure

Newsweek interview, January 25, 1993

Q. What about concern over the role of lobbyists?

"I've tried to make it clear that I intend to present early to Congress campaign reform and lobby reform, which I talked about all during the campaign...The problem with Washington is that we've become paralyzed because of the dominance of lobbying and organized interest groups. What I'm going to try to do is restrain the things I think are excessive..."

Q. Will you expend political capital (on reform issues)?

"Yes. Political reform is important. I have to come early with these bills and try hard to pass them, and I intend to do that."

Remarks on the introduction of campaign finance reform plan, May 5, 1993

"When I ran for President, I said I wanted to have lobby reform and campaign finance reform and motor-voter registration, and alot of those things which will all fit together to open the system to the people."

"Economic reform, health care reform and political reform must go hand-in hand."

"At the beginning of my term, I imposed the strictest ethics restriction ever on my top officials...Earlier this week, the United States Senate passed an historic lobby disclosure bill -- a bill which opens the activities of lobbyists to the sunshine of public scrutiny...this is the kind of thing we ought to be doing...I hope the House will act quickly on the lobby registration and disclosure measure that the Senate passed yesterday."

Remarks to League of Women Voters, June 7, 1993

"(A) bill long overdue is now in the House. It will require all people who lobby the U.S. Congress to register and report and will require the reporting of virtually all funds expended on members of Congress by lobbyists. It is a very important bill and I urge you to support that."

Clip shown on CNN Crossfire, June 10, 1993

I believe lobby reform and campaign-finance reform are a sure path to increased popularity for Republicans and Democrats alike, because it says to the voters back home, 'This is your House, this is your Senate.'

Press statement, June 16, 1993

"I urge the Congress to move forward on lobby disclosure legislation, that brings the activities of lobbyists into the sunlight of public scrutiny." --

Press Accounts of the President's public support:

Senator Carl Levin in a letter to the NYT, 2/26/93

"Thanks in part to the strong support of President Clinton, we have pressed forward with a (lobby reform) bill even stronger than the one endorsed last year by Common Cause."

Political Finance & Lobby Reporter, 5/28/93

President Clinton cited a few days ago... the need for enacting a stricter lobby disclosure law that will force lobbyists to register and report their activities.

Daily Report For Executives, 5/5/93

The Levin bill, backed strongly by the Clinton administration, will provide the momentum to pass the other bills, Boren said.

The Dallas Morning News, April 4, 1993

Last week, President Clinton endorsed the lobby reforms. "It's a high priority for the president," Mr. Bryant said. "It's part of his overall goal of making government more responsive. But I don't think he believes that this place is full of corruption. I think he believes the public should be able to understand what is going on."

The Washington Times, March 4, 1993

"(Motor-voter) is a big part of my political reform package, along with campaign finance reform and lobby reform, Mr. Clinton said in an interview Monday night on MTV.

Poll results discussed at July 7, 1993 DLC News conference:

Stan Greenberg: "One of the more important tables in this survey is on page 19 of the poll report section, when it becomes evident that Democrats and Republicans -- that is, the Bush voters and Clinton voters -- have almost identical views on the various initiatives on reinventing government, starting at radically changing government to make government more efficient, on cutting waste, on lobby reform and a whole range of other measures..." DLC News conference -- Federal News, 7/7/93