

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.

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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. *Minimally*
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, Unit-
2 ed States Code.

3 (4) COVERED LEGISLATIVE BRANCH OFFI-
4 CLAL.—

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 subclause (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 subelause 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.

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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(S) 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 bing 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(c) or (9)(c), 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 (e) 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(e) (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 redesignating
10 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. 791(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(c)) 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.

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ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6218

February 3, 1994

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H.R. 823 TREATS NON-PROFIT ORGANIZATIONS FAIRLY

Dear Colleagues:

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)

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.

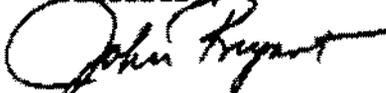
The additional information disclosed under H.R. 823's definition of lobbying activities -- particularly about contacts with high-level executive branch officials -- is crucial to the public's knowledge about policy decisions in Washington. The alternative -- allowing non-profit organizations to avoid 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

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.

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 823
OFFERED BY MR. BRYANT**

Strike out 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
15 is required to register and what they are required to
16 disclose; and

1 (3) the effective public disclosure of the identity
2 and extent of the efforts of paid lobbyists to influ-
3 ence Federal officials in the conduct of Government
4 actions will increase public confidence in the integ-
5 rity of Government.

6 **SEC. 3. DEFINITIONS.**

7 As used in this Act:

8 (1) **AGENCY.**—The term “agency” has the
9 meaning given that term in section 551(1) of title 5,
10 United States Code.

11 (2) **CLIENT.**—The term “client” means any
12 person or entity (including a State or local govern-
13 ment) who employs or retains another person for fi-
14 nancial or other compensation to conduct lobbying
15 activities on the person’s or entity’s behalf. An orga-
16 nization whose employees act as lobbyists on its own
17 behalf is both a client and an employer of such em-
18 ployees. In the case of a coalition or association that
19 employs or retains other persons to conduct lobbying
20 activities on behalf of its membership, the client is
21 the coalition or association and not its individual
22 members.

23 (3) **COVERED EXECUTIVE BRANCH OFFICIAL.**—
24 The term “covered executive branch official”
25 means—

1 (A) the President or the President-elect;

2 (B) the Vice President or the Vice Presi-
3 dent-elect;

4 (C) any officer or employee (other than a
5 clerical or secretarial employee) of the Execu-
6 tive Office of the President or any individual
7 functioning in the capacity of such an officer or
8 employee on an unpaid basis;

9 (D) any officer or employee serving in a
10 position in level I, II, III, IV, or V of the Exec-
11 utive Schedule, as designated by statute or ex-
12 ecutive order;

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

17 (F) any member of the uniformed services
18 whose pay grade is at or above O-7 under sec-
19 tion 201 of title 37, United States Code; and

20 (G) any officer or employee serving in a
21 position of a confidential, policy-determining,
22 policy-making, or policy-advocating character
23 described in section 7511(b)(2) of title 5, Unit-
24 ed States Code.

1 (4) COVERED LEGISLATIVE BRANCH OFFI-
2 CIAL.—

3 (A) IN GENERAL.—The term “covered leg-
4 islative branch official” means—

5 (i) a Member of Congress or a Mem-
6 ber-elect of Congress;

7 (ii) an elected officer of either House
8 of Congress;

9 (iii) any employee of a Member of
10 Congress or of a committee of either
11 House of Congress;

12 (iv) any employee on the leadership
13 staff of the House of Representatives and
14 any employee on the leadership staff of the
15 Senate;

16 (v) any employee of a joint committee
17 of the Congress; and

18 (vi) any employee of a working group
19 or caucus organized to provide legislative
20 services or other assistance to Members of
21 Congress.

22 (B) DEFINITIONS.—For purposes of subpara-
23 graph (A)—

24 (i) the terms “employee on the leadership
25 staff of the House of Representatives” and

1 "employee on the leadership staff of the Sen-
2 ate" have the meanings given these terms in
3 section 207(e)(4) of title 18, United States
4 Code;

5 (ii) the term "employee" includes any indi-
6 vidual functioning in the capacity of an em-
7 ployee described in subparagraph (A) on an un-
8 paid basis but the term does not include a cleri-
9 cal or secretarial employee, and

10 (iii) the term "Member of Congress"
11 means a Senator or a Representative in, or Del-
12 egate or Resident Commissioner, to the Con-
13 gress.

14 (5) DIRECTOR.—The term "Director" means
15 the Director of the Office of Lobbying Registration
16 and Public Disclosure.

17 (6) EMPLOYEE.—Except as provided in para-
18 graph (4)(B)(ii), the term "employee" means any in-
19 dividual who is an officer, employee, partner, direc-
20 tor, or proprietor of an organization, but does not
21 include—

22 (A) independent contractors; or

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

1 (7) FOREIGN ENTITY.—The term “foreign en-
2 tity” means a foreign principal as such term is de-
3 fined in subsection (b) of section 1 of the Foreign
4 Agents Registration Act of 1938 (22 U.S.C. 611
5 (b)).

6 (8) GRASS ROOTS LOBBYING COMMUNICA-
7 TIONS.—The term “grass roots lobbying communica-
8 tions” means—

9 (A) any communication that attempts to
10 influence any legislation through an attempt to
11 affect the opinions of the general public or any
12 segment thereof as described in paragraph
13 (1)(A) of section 4911(d) of the Internal Reve-
14 nue Code of 1986;

15 (B) any communication between an organi-
16 zation and any bona fide member of such orga-
17 nization to directly encourage such member to
18 make a communication as provided in para-
19 graph (1)(B) of such section 4911(d); and

20 (C) any communication between an organi-
21 zation and any bona fide member of such orga-
22 nization to directly encourage such member to
23 urge persons other than members to commu-
24 nicate as provided in either subparagraph (A)

1 include communications that are made to
2 any covered executive branch official—

3 (I) who is serving in a Senior Ex-
4 ecutive Service position described in
5 paragraph (3)(E), or

6 (II) who is a member of the uni-
7 formed services whose pay grade is
8 lower than O-9 under section 201 of
9 title 37, United States Code,

10 in the agency responsible for taking such
11 administrative or executive action; or

12 (iv) the nomination or confirmation of
13 a person for a position subject to con-
14 firmation by the Senate.

15 (B) EXCEPTIONS.—The term “lobbying con-
16 tact” does not include communications that are—

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

19 (ii) made by representatives of a media or-
20 ganization if the purpose of the communication
21 is gathering and disseminating news and infor-
22 mation to the public;

23 (iii) made in a speech, article, publication,
24 or other material which is widely distributed to
25 the public through radio, television, cable tele-

1. vision, or other medium of mass communica-
2. tion;

3. (iv) made on behalf of a government of a
4. foreign country or a foreign political party and
5. disclosed under the Foreign Agents Reg-
6. istration Act of 1938 (22 U.S.C. 611 et seq.);

7. (v) requests for meetings, requests for the
8. status of a Federal action, or other similar con-
9. tacts, if there is no attempt to influence a cov-
10. ered executive branch official or a covered legis-
11. lative branch official;

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

15. (vii) testimony given before a committee,
16. subcommittee, or task force of the Congress, or
17. submitted for inclusion in the public record of
18. a hearing conducted by such committee, sub-
19. committee, or task force;

20. (viii) information provided in writing in re-
21. sponse to a written request for specific informa-
22. tion from a covered executive branch official or
23. a covered legislative branch official;

24. (ix) required by subpoena, civil investiga-
25. tive demand, or otherwise compelled by statute,

1 regulation, or other action of the Congress or
2 an agency;

3 (x) made in response to a notice in the
4 Federal Register, Commerce Business Daily, or
5 other similar publication soliciting communica-
6 tions from the public and directed to the agency
7 official specifically designated in the notice to
8 receive such communications;

9 (xi) not possible to report without disclos-
10 ing information, the unauthorized disclosure of
11 which is prohibited by law;

12 (xii) made to officials in an agency with re-
13 gard to—

14 (I) a judicial proceeding or a criminal
15 or civil law enforcement inquiry, investiga-
16 tion, or proceeding, or

17 (II) a filing or proceeding that the
18 Government is specifically required by stat-
19 ute or regulation to maintain or conduct
20 on a confidential basis,

21 if that agency is charged with responsibility for
22 such proceeding, inquiry, investigation, or filing;

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

1 title 5, United States Code, or substantially
2 similar provisions;

3 (xiv) written comments filed in the course
4 of a public proceeding or other communications
5 that are made on the record in a public pro-
6 ceeding;

7 (xv) a petition for agency action made in
8 writing pursuant to established agency proce-
9 dures;

10 (xvi) made on behalf of an individual with
11 regard to that individual's benefits, employ-
12 ment, or other personal matters involving only
13 that individual, except that this subclause does
14 not apply to any communication with respect to
15 the formulation, modification, or adoption of
16 private legislation for the relief of that individ-
17 ual;

18 (xvii) disclosures by an individual to the
19 appropriate authority on account of which that
20 individual is protected against adverse person-
21 nel actions, or other reprisals, under the
22 amendments made by the Whistleblower Protec-
23 tion Act of 1989, the Inspector General Act of
24 1978, or other provision of law; and

1 (xviii) made on behalf of a church, its inte-
2 grated auxiliary, or convention or association of
3 churches that is exempt from filing a Federal
4 income tax return under paragraph (2)(a)(i) of
5 section 6033(a) of the Internal Revenue Code
6 of 1986 if the communication constitutes the
7 free exercise of religion or is for the purpose of
8 protecting the right to the free exercise of reli-
9 gion.

10 The term "media organization", as used in clause
11 (ii), means an organization engaged in disseminating
12 information to the general public through a news-
13 paper, magazine, other publication, radio, television,
14 cable television, or other medium of mass commu-
15 nication.

16 (11) LOBBYIST.—The term "lobbyist" means
17 any individual who is employed or retained by a cli-
18 ent for financial or other compensation to perform
19 services that include lobbying contacts, other than
20 an individual whose lobbying activities constitute less
21 than 10 percent of the time engaged in the services
22 provided by such individual to that client.

23 (12) ORGANIZATION.—The term "organization"
24 means any corporation, company, foundation, asso-

1 ciation, labor organization, firm, partnership, soci-
2 ety, joint stock company, or group of organizations.

3 (13) PUBLIC OFFICIAL.—The term “public offi-
4 cial” means any elected official, appointed official, or
5 an employee of—

6 (A) a Federal, State, or local unit of gov-
7 ernment in the United States other than—

8 (i) a college or university which is an
9 agency or instrumentality of the govern-
10 ment of any State or of a local unit of gov-
11 ernment thereof, or which is owned or op-
12 erated by such a government or by any
13 agency or instrumentality of one or more
14 such governments;

15 (ii) a government-sponsored enterprise
16 as defined in section 3(8) of the Congres-
17 sional Budget and Impoundment Control
18 Act of 1974; or

19 (iii) a public utility, including any en-
20 tity that provides gas, electricity, water,
21 communications which is an agency or in-
22 strumentality of the government of any
23 State or States or of a local unit of govern-
24 ment of a State or which is owned, con-
25 trolled, or operated by such a government

1 or by any agency or instrumentality of one
2 or more such governments;

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

6 (C) an organization of State or local elect-
7 ed or appointed officials other than officials of
8 an entity described in clause (i), (ii), or (iii) of
9 subparagraph (A);

10 (D) an Indian tribe (as defined in section
11 4(e) of the Indian Self-Determination and Edu-
12 cation Assistance Act (25 U.S.C. 450b(e)),

13 (E) a national or State political party or
14 any organizational unit thereof, or

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

17 (14) The term "State" means each of the sev-
18 eral States, the District of Columbia, and any com-
19 monwealth territory, or possession of the United
20 States.

21 **SEC. 4. REGISTRATION OF LOBBYISTS.**

22 (a) REGISTRATION.—

23 (1) GENERAL RULE.—Not later than 30 days
24 after a lobbyist first makes a lobbying contact or
25 agrees to make a lobbying contact, whichever is ear-

1. lier, such lobbyist (or, as provided under paragraph
2. (2), the organization employing such lobbyist), shall
3. register with the Office of Lobbying Registration
4. and Public Disclosure.

5. (2) ORGANIZATION RULE.—Any organization
6. that has one or more employees who are lobbyists
7. shall make the registration required by paragraph
8. (1) on behalf of such employees.

9. (3) EXEMPTION.—

10. (A) GENERAL RULE.—Notwithstanding
11. paragraph (1), any person whose total income
12. for matters related to lobbying activities on be-
13. half of a particular client (in the case of a per-
14. son making lobbying contacts on behalf of a cli-
15. ent other than that person), or total expenses
16. in connection with lobbying activities (in the
17. case of a person making lobbying contacts on
18. the person's own behalf) do not exceed, or are
19. not expected to exceed \$2,500 (as estimated
20. under section 5) in the semiannual period de-
21. scribed in section 5(a) during which the reg-
22. istration would be made is not required to reg-
23. ister under subsection (a) with respect to such
24. client.

1 (B) ADJUSTMENT.—The \$2.500 figure in
2 subparagraph (A) shall be adjusted—

3 (i) on January 1, 1997, to reflect
4 changes in the Consumer Price Index (as
5 determined by the Secretary of Labor)
6 since the date of the enactment of this Act,
7 and

8 (ii) on January 1 of each fourth year
9 occurring after January 1, 1997, to reflect
10 changes in the Consumer Price Index (as
11 determined by the Secretary of Labor)
12 during the preceding 4-year period,

13 rounded to the nearest \$100.

14 (b) CONTENTS OF REGISTRATION.—Each reg-
15 istration under this section shall be in such form as the
16 Director shall prescribe by regulation and shall contain—

17 (1) the name, address, business telephone num-
18 ber, and principal place of business of the registrant,
19 and a general description of its business or activi-
20 ties;

21 (2) the name, address, and principal place of
22 business of the registrant's client, and a general de-
23 scription of its business or activities (if different
24 from paragraph (1));

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

4 (A) contributes or has agreed to contribute
5 more than \$5,000 toward the lobbying activities
6 of the registrant in the semiannual period de-
7 scribed in section 5(a) in which the registration
8 is made;

9 (B) significantly participates or has agreed
10 to participate significantly in the supervision or
11 control of such lobbying activities; and

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

14 (4) the name, address, principal place of busi-
15 ness, and approximate percentage of equitable own-
16 ership in the client (if any) of any foreign entity
17 that—

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

21 (B) directly or indirectly, in whole or in
22 major part, supervises, controls, directs, fi-
23 nances, or subsidizes the lobbying activities of
24 the registrant; or

1 (C) is an affiliate of the client or any orga-
2 nization identified under paragraph (3) and has
3 a direct interest in the outcome of the lobbying
4 activity;

5 (5) the name, address, and principal place of
6 business of any person or organization retained by
7 the registrant (other than an employee of the reg-
8 istrant) to conduct grass roots lobbying communica-
9 tions on behalf of the registrant or a client of the
10 registrant (other than a person or organization that
11 is separately registered under this Act in connection
12 with such representation);

13 (6) a statement of—

14 (A) the general issue areas in which the
15 registrant expects to engage in lobbying activi-
16 ties on behalf 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 (7) the name of each employee of the registrant
22 who has acted or whom the registrant expects to act
23 as a lobbyist on behalf of the client and, if any such
24 employee has served as a covered executive branch
25 official or a covered legislative branch official in the

1 2 years before the date on which such employee first
2 acted as a lobbyist on behalf of the client, the posi-
3 tion in which such employee served.

4 (c) GUIDELINES FOR REGISTRATION.—

5 (1) MULTIPLE CLIENTS.—In the case of a reg-
6 istrant making lobbying contacts on behalf of more
7 than one client, a separate registration under this
8 section shall be filed for each such client.

9 (2) MULTIPLE LOBBYISTS.—Any organization
10 that has one or more employees who are lobbyists
11 shall file a single registration under this section for
12 each client on whose behalf its employees act as lob-
13 byists covering all lobbying contacts made by such
14 employees on behalf of such client.

15 (3) MULTIPLE CONTACTS.—If a registrant
16 makes another lobbying contact for the same client
17 with a covered executive branch official or covered
18 legislative branch official, such contact will not re-
19 quire another registration under paragraph (1).

20 SEC. 5. REPORTS BY REGISTERED LOBBYISTS.

21 (a) SEMIANNUAL REPORT.—No later than 30 days
22 after the end of the semiannual period beginning on the
23 first day of each January and the first day of July of each
24 year in which a registrant is registered under section 4,
25 each registrant shall file a report with the Office of Lobby-

1. ing Registration and Public Disclosure on its lobbying ac-
2. tivities during such semiannual period. A separate report
3. shall be filed for each client of the registrant.

4. (b) CONTENTS OF REPORT.—Each semiannual re-
5. port filed under subsection (a) shall be in such form as
6. the Director shall prescribe by regulation and shall
7. contain—

8. (1) the name of the registrant, the name of the
9. client, and any changes or updates to the informa-
10. tion provided in the initial registration;

11. (2) for each general issue area in which the reg-
12. istrant engaged in lobbying activities on behalf of
13. the client during the semiannual filing period—

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

20. (B) a statement of the Houses and com-
21. mittees of Congress and the Federal agencies
22. contacted by lobbyists employed by the reg-
23. istrant on behalf of the client during the semi-
24. annual filing period;

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

3 (D) a description of the interest in the spe-
4 cific issues, if any, of any foreign entity identi-
5 fied under section 4(b)(4); and

6 (E) a list of the specific issues on which
7 any person or organization required to be iden-
8 tified under section 4(b)(5) has engaged in
9 grass roots lobbying communications on behalf
10 of the client;

11 (3) in the case of a registrant engaged in lobby-
12 ing activities on behalf of a client other than the
13 registrant, a good faith estimate of the total amount
14 of all income from the client (including any pay-
15 ments to the registrant by any other person for lob-
16 bing activities on behalf of the client) during the
17 semiannual period, other than income for matters
18 that are unrelated to lobbying activities;

19 (4) in the case of a registrant engaged in lobby-
20 ing activities on its own behalf, a good faith estimate
21 of the total expenses that the organization and its
22 employees incurred in connection with lobbying ac-
23 tivities during the semiannual filing period; and

24 (5) a good faith estimate of the total expenses
25 that the registrant and its employees incurred in

1 connection with grass roots lobbying communications
2 (including any amount paid in connection with such
3 communications to a person or organization required
4 to be identified under section 4(b)(5)).

5 (c) ESTIMATES OF INCOME OR EXPENSES.—For pur-
6 poses of this section, estimates of income or expenses shall
7 be made as follows:

8 (1) \$200,000 OR LESS.—Income or expenses of
9 \$200,000 or less shall be estimated in accordance
10 with the following categories:

11 (A) At least \$2,500 but not more than
12 \$10,000.

13 (B) More than \$10,000 but not more than
14 \$20,000.

15 (C) More than \$20,000 but not more than
16 \$50,000.

17 (D) More than \$50,000 but not more than
18 \$100,000.

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

21 (2) MORE THAN \$200,000.—Income or expenses
22 in excess of \$200,000 shall be estimated and round-
23 ed to the nearest \$100,000.

24 (3) EXEMPTION.—

1 (A) INCOME OR EXPENSES OF LESS THAN
2 \$2,500.—Any registrant whose total income for
3 a particular client for matters that are related
4 to lobbying activities on behalf of that client (in
5 the case of a registrant described in subsection
6 (b)(3)) or total expenses in connection with lob-
7 bying activities (in the case of a registrant de-
8 scribed in subsection (b)(4)) are less than
9 \$2,500 in a semiannual period (as estimated
10 under paragraph (3) or (4) of subsection (b), or
11 paragraph (4) of this subsection, as applicable)
12 is deemed to be inactive during such period and
13 may comply with the reporting requirements of
14 this section by so notifying the Director, in
15 such form as the Director may prescribe.

16 (B) ADJUSTMENT.—The \$2,500 figure in sub-
17 paragraph (A) shall be adjusted as provided in sec-
18 tion 4(a)(3)(B).

19 (4) ESTIMATES BASED ON TAX REPORTING SYS-
20 TEM.—In the case of any registrant that reports lob-
21 bying expenditures as required by section 6033 of
22 the Internal Revenue Code of 1986, regulations pre-
23 scribed under section 7 shall provide that the reg-
24 istrant may make a good faith estimate of amounts
25 that would be required to be disclosed under such

1 section for the applicable semiannual period (by cat-
2 egory of dollar value) to meet the requirements of
3 subsection (b) (4), if each time the registrant makes
4 such an estimate, the registrant informs the Office
5 that the registrant is making such an estimate.

6 (5) CONSTRUCTION.—In estimating total in-
7 come or expenses under this section, a registrant is
8 not required to include—

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

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

14 (d) CONTACTS.—

15 (1) CONTACTS CONSIDERED CONTACTS WITH
16 COMMITTEES.—For purposes of subsection (b)(2),
17 any contact with a member of a committee of Con-
18 gress, an employee of a committee of Congress, or
19 an employee of a member of a committee of Con-
20 gress regarding a matter within the jurisdiction of
21 such committee shall be considered a contact with
22 the committee.

23 (2) CONTACTS CONSIDERED CONTACTS WITH
24 HOUSE OF CONGRESS.—For purposes of subsection
25 (b)(2), any contact with a Member of Congress or

1 an employee of a Member of Congress regarding a
2 matter which is not within the jurisdiction of a com-
3 mittee of Congress of which that Member is a mem-
4 ber shall be considered a contact with the House of
5 Congress of that Member.

6 (e) EXTENSION FOR FILING.—The Director may
7 grant an extension of time of not more than 30 days for
8 the filing of any report under this section, upon the re-
9 quest of the registrant, for good cause shown.

10 **SEC. 6. PROHIBITION ON GIFTS, MEALS, TRAVEL, ENTER-**
11 **TAINMENT, REIMBURSEMENTS, AND LOANS;**
12 **ITEMIZATION OF CERTAIN EXPENDITURES**

13 (a) IN GENERAL.—

14 (1) REGISTRANTS AND LOBBYISTS.—In accord-
15 ance with this section, each registrant (including a
16 lobbyist employed by, or a lobbyist who is a member
17 of, a registrant) or any client of a registrant shall
18 be—

19 (A) prohibited from providing, directly or
20 indirectly, gifts, meals, travel, entertainment,
21 reimbursements, and loans described in sub-
22 section (b), and

23 (B) required to make an itemized disclo-
24 sure of expenditures described in subsection (c)
25 and provided, directly or indirectly,

1 to a covered legislative branch official, to an entity
2 that is maintained or controlled by a covered legisla-
3 tive branch official, or to any other person or entity
4 on behalf of a covered legislative branch official (col-
5 lectively referred to in this subsection as a "covered
6 person or entity").

7 (2) FOREIGN LOBBYISTS.—For purposes of this
8 section, a registrant or any client of a registrant
9 shall include a foreign principal (as defined in sec-
10 tion 1(b) of the Foreign Agents Registration Act)
11 and an agent of a foreign principal (as defined in
12 section 1(c) of such Act).

13 (b) PROHIBITION.—A registrant (including a lobby-
14 ist) or any client of a registrant may not provide, directly
15 or indirectly (with funds of a registrant or a client), to
16 or on behalf of or for a covered person or entity:

17 (1) TRAVEL, ENTERTAINMENT, FOOD, AND
18 LODGING.—Payment for local or long-distance trans-
19 portation, entertainment, food, or lodging, whether
20 provided in kind, by purchase of a ticket, by pay-
21 ment in advance or by reimbursement, or otherwise.

22 (2) REIMBURSEMENT.—Reimbursement of an
23 expense.

24 (3) LOAN.—A loan.

25 (4) GIFTS.—Any other item of value.

AMENDMENT TO THE AMENDMENT IN THE NATURE
OF A SUBSTITUTE FOR H.R. 823

OFFERED BY MR. BRYANT

Page 28, line 23 --

After "expenditures" insert "made by a registrant
described in section 5(b)(4) or a client of a
registrant described in section 5(b)(3)".

ADOPTED BY VOICE VOTE

1 (c) DISCLOSURE.—With respect to expenditures de-
2 scribed in this subsection, the prohibitions prescribed by
3 subsection (b) with respect to an expenditure will not
4 apply to a registrant or any client of a registrant if the
5 registrant discloses the expenditure of the registrant or
6 the client, in the registrant's semiannual report under sec-
7 tion 5(a) or in a separate report on itemized expenditures
8 subject to the same filing requirements, as follows:

9 (1) IN GENERAL.—With respect to each ex-
10 penditure described in paragraph (2), the registrant
11 shall disclose—

12 (A) the name and position of the covered
13 legislative branch official or other covered per-
14 son or entity to whom or which or on behalf of
15 whom or which the expenditure was made;

16 (B) the type of the expenditure;

17 (C) the date on which the expenditure was
18 made; and

19 (D) the amount of the expenditure.

20 (2) EXPENDITURES SUBJECT TO DISCLO-
21 SURE.—The following expenditures are subject to
22 disclosure under paragraph (1):

23 (A) Necessary travel-related expenditures
24 for a covered legislative branch official or a per-
25 son on behalf of such an official in connection

*Amendment to
prohibit payment
of travel for
members.*

1 with speaking engagements, fact finding trips,
2 substantial participation in an event sponsored
3 by an entity described in section 170(c) or
4 527(e) of the Internal Revenue Code of 1986,
5 and similar events if the expenditure covers the
6 costs of a trip for a period of not more than—

7 (i) 4 consecutive days in the case of
8 domestic travel and 7 consecutive days (ex-
9 cluding travel days) in the case of inter-
10 national travel, and

11 (ii) 24 hours before or after such per-
12 son's actual participation in the event in
13 the case of domestic travel or 48 hours be-
14 fore or after such person's actual partici-
15 pation in the event in the case of inter-
16 national travel.

17 Necessary travel-related expenditures include
18 reimbursements for necessary transportation
19 whether or not such transportation occurs with-
20 in the periods described in clause (i) or (ii), but
21 does not include expenditures for travel, lodg-
22 ing, or entertainment collateral to the event or
23 meals taken other than in a group setting to
24 which all other attendees are invited.

1 (B) Honorary degrees and associated
2 meals and entertainment provided to a covered
3 person or entity.

4 (C) Food, refreshment, or entertainment
5 provided a covered person or entity while at-
6 tending a meeting or event with persons who
7 are not United States citizens while on official
8 travel to a foreign area.

9 (3) CONFERENCES.—With respect to each fi-
10 nancial contribution or expenditure relating to a
11 conference, retreat, or similar event for or on behalf
12 of covered legislative branch officials which is spon-
13 sored by or affiliated with an official congressional
14 organization, the registrant shall disclose—

15 (A) the nature of the conference, retreat,
16 or similar event;

17 (B) the date or dates on which the con-
18 ference, retreat, or other event occurred;

19 (C) the identity of the organization that
20 sponsored or is affiliated with the event; and

21 (D) a single aggregate figure for the con-
22 tributions or expenditures made by the reg-
23 istrant or client of the registrant in connection
24 with the conference, retreat, or similar event.

1 (4) EVENTS.—With respect to each financial
2 contribution or expenditure that relates to a widely
3 attended event that is hosted or cohosted with, or in
4 honor of, 1 or more covered legislative branch offi-
5 cials, the registrant shall disclose—

6 (A) the name and position of each such
7 covered legislative branch official that hosted,
8 cohosted, or was honored at such event

9 (B) the nature of the event;

10 (C) the date on which the event occurred;
11 and

12 (D) a single aggregate figure for the con-
13 tributions or expenditures made by the reg-
14 istrant in connection with the event.

15 (5) CHARITABLE CONTRIBUTIONS.—With re-
16 spect to each charitable contribution (as defined in
17 section 170(c) of the Internal Revenue Code of
18 1986) made in lieu of an honorarium on the basis
19 of a designation, recommendation, or other specifica-
20 tion made by a covered legislative branch official, the
21 registrant shall disclose—

22 (A) the name and position of each such
23 covered legislative branch official;

1 (B) the name of any covered person or en-
2 tity to whom or which the contribution was
3 made;

4 (C) the date on which the contribution was
5 made; and

6 (D) the value of the contribution.

7 (6) CONTRIBUTIONS TO LEGAL DEFENSE
8 FUND.—With respect to each contribution or other
9 payment made to a legal defense fund established
10 for the benefit of a covered legislative branch offi-
11 cial, the registrant shall disclose—

12 (A) the name and position of each such
13 covered legislative branch official;

14 (B) the name of any other person or entity
15 to whom or which the contribution was made;

16 (C) the date on which the contribution was
17 made; and

18 (D) the value of the contribution.

19 (7) NOTIFICATION.—Not less than 3 weeks
20 after an expenditure required to be reported under
21 this subsection is made, the registrant or any client
22 of a registrant who made or for whom was made
23 such expenditure shall provide, in a standard format
24 determined by the Office of Lobbying Registration
25 and Public Disclosure, to any covered person or en-

1 tity, whose name the registrant or client intends for
2 the registrant to include in either the registrant's
3 semianual report under section 5(a) or a separate
4 report on itemized expenditures under this sub-
5 section, a complete list of the information the reg-
6 istrant intends to disclose relative to that covered
7 person or entity. The registrant shall not list in its
8 report referred to in this paragraph any information
9 relative to a covered person or entity who—

10 (A) was not the subject of the expenditure
11 referred to in the preceding sentence, or

12 (B) reimburses the person making such ex-
13 penditure the full amount of such expenditure
14 within 30 days of the receipt of notification
15 under this paragraph.

16 (d) EXCEPTIONS.—The following are not subject to
17 subsection (b) or (c):

18 (1) Anything for which market value is paid by
19 the recipient.

20 (2) A contribution, as defined in the Federal
21 Election Campaign Act of 1971 (2 U.S.C. 431 et
22 seq.) that is lawfully made under that Act.

23 (3) An item of little intrinsic value such as a
24 greeting card, baseball cap, or a T-shirt or a per-
25 sonalized item such as a plaque, certificate, or tro-

1 phy that is intended solely for recognition of a cov-
2 ered legislative branch official.

3 (4) Food and attendance provided to a covered
4 person or entity at an event sponsored by an organi-
5 zation described in section 170(c) or 527(e) of the
6 Internal Revenue Code of 1986.

7 (5)(A) An item described in subsection (b)
8 (hereafter in this paragraph referred to as an
9 "item") given under circumstances which make it
10 clear that the item is given for a nonbusiness pur-
11 pose and is motivated by a family relationship or
12 personal friendship and not by the position of the re-
13 cipient. In determining if the giving of an item is
14 motivated by a family relationship or personal
15 friendship, at least the following factors shall be con-
16 sidered:

17 (i) The history of the relationship between
18 the individual giving the item and the individual
19 receiving the item, including whether or not
20 items have previously been exchanged by such
21 individuals.

22 (ii) Whether the item was purchased by
23 the individual who gave the item.

24 (iii) Whether the individual who gave the
25 item also at the same time gave the same or

1 similar item to other covered persons or enti-
2 ties.

3 (B) The giving of an item shall not be consid-
4 ered to be motivated by a family relationship or per-
5 sonal friendship if the family member or friend
6 seeks—

7 (i) to deduct the value of such item as a
8 business expense on the family member's or
9 friend's Federal income tax return, or

10 (ii) reimbursement either from a registrant
11 or from a client.

12 (6) Items which are not used and which are
13 promptly returned to the donor.

14 (7) Except with respect to items described in
15 subsection (c)—

16 (A) attendance, food, and refreshments at
17 widely attended gatherings, including conven-
18 tions, conferences, symposiums, retreats, din-
19 ners, receptions, viewings, or similar events if
20 such attendance, food, and refreshments are
21 unsolicited by the recipient and provided by the
22 sponsor of the event,

23 (B) meals or entertainment that are unso-
24 licited by the recipient and not paid for either
25 directly or indirectly (including with funds of a

1 | registrant or client) by a lobbyist or an agent
2 | of a foreign principal (as defined in section 1(c)
3 | of the Foreign Agents Registration Act) and
4 | not paid for either directly or indirectly by a
5 | registrant described in section 5(b)(3), if an
6 | employee (other than a lobbyist) of—

7 | (i) a registrant described in section
8 | 5(b)(4), or

9 | (ii) a client of a registrant described
10 | in section 5(b)(3),

11 | acting in a representational capacity, substan-
12 | tially participates in the meal or entertainment,
13 | and

14 | (C) modest items of food or refreshment
15 | such as soft drinks, coffee, or doughnuts offered
16 | other than as part of a meal.

17 | (8) Rewards and prizes given to competitors in
18 | contests or events, including random drawings open
19 | to the public.

20 | (9) Loans from financial institutions on terms
21 | generally available to the public.

22 | (10) Opportunities and benefits, including fa-
23 | vorable rates and commercial discounts, available to
24 | the public or to a class consisting of all Government

1 employees whether or not restricted on the basis of
2 geographical considerations.

3 (11) Pension and other benefits resulting from
4 continued participation in an employee welfare and
5 benefits plan maintained by a former employer.

6 (12) Anything which is paid for by the Govern-
7 ment or secured by the Government under Govern-
8 ment contract.

9 (13) Any gift accepted under specific statutory
10 authority except section 901 of the Ethics Reform
11 Act of 1989 (2 U.S.C. 31-2).

12 (14) Reduced membership or other fees for par-
13 ticipation in organizational activities offered to all
14 Government employees by professional organizations
15 if the only restrictions on membership relate to pro-
16 fessional qualifications.

17 (15) Opportunities and benefits offered to mem-
18 bers of a group or class in which membership is un-
19 related to congressional employment.

20 (16) Opportunities and benefits offered to mem-
21 bers of an organization, such as credit unions, in
22 which membership is related to congressional em-
23 ployment if similar benefits are broadly available to
24 large segments of the public through organizations
25 of similar size.

1 (17) Gifts resulting from the covered legislative
2 branch official's outside business or employment ac-
3 tivities when it is clear that such benefits have not
4 been offered or enhanced because of the covered leg-
5 islative branch official's official status.

6 (18) Gifts resulting from the business or em-
7 ployment activities of a covered legislative branch of-
8 ficial's spouse when it is clear that such benefits
9 have not been offered or enhanced because of the
10 covered legislative branch official's official position.

11 (19) Informational materials that are sent to a
12 covered legislative branch official's office in the form
13 of books, articles, periodicals, other written mate-
14 rials, audio tapes, videotapes, or other forms of com-
15 munication.

16 (20) Home State products, food, or other items
17 of minimal value used primarily for promotional pur-
18 poses.

19 (e) DEFINITION.—For purposes of this section, the
20 term "market value" when applied to a gift means the
21 retail cost a person would incur to purchase the gift. The
22 market value of a gift of a ticket entitling the holder to
23 food, refreshments, or entertainment is the retail cost of
24 similar food, refreshments, or entertainment.

25 (f) CLIENTS.—

1 (1) OFFICE AND DIRECTOR.—There is estab-
2 lished as an independent agency in the executive
3 branch an Office of Lobbying Registration and Pub-
4 lic Disclosure, which shall be headed by a Director.
5 The Director shall be appointed by the President, by
6 and with the advice and consent of the Senate. The
7 Director shall be an individual who, by demonstrated
8 ability, background, training, and experience, is es-
9 pecially qualified to carry out the functions of the
10 position. The term of service of the Director shall be
11 5 years.

12 (2) COMPENSATION.—Section 5316 of title 5,
13 United States Code, is amended by adding at the
14 end thereof the following:

15 “Director of the Office of Lobbying Reg-
16 istration and Public Disclosure.”

17 (3) EMPLOYEES AND SERVICES.—The Director
18 may—

19 (A) appoint officers and employees, includ-
20 ing attorneys, in accordance with chapter 51
21 and subchapter III of chapter 53 of title 5,
22 United States Code; and

23 (B) contract for financial and administra-
24 tive services (including those related to budget
25 and accounting, financial reporting, personnel,

1 and procurement) with the General Services
2 Administration or such other Federal agency as
3 the Director determines appropriate, for which
4 payment shall be made in advance or by reim-
5 bursement from funds of the Office in such ac-
6 counts as may be agreed upon by the Director
7 and the head of the agency providing such serv-
8 ices.

9 Contract authority under subparagraph (B) shall be
10 effective for any fiscal year only to the extent that
11 appropriations are available for that purpose.

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

14 (1) after notice and a reasonable opportunity
15 for public comment, and consultation with the Sec-
16 retary of the Senate, the Clerk of the House of Rep-
17 resentatives, and the Administrative Conference of
18 the United States, prescribe such regulations, forms,
19 and penalty schedules as are necessary to carry out
20 this Act;

21 (2) provide guidance and assistance on the reg-
22 istration and reporting requirements of this Act, in-
23 cluding, to the extent practicable, the issuance of
24 published decisions and advisory opinions;

1 (3) review the registrations and reports filed
2 under this Act and make such verifications or in-
3 quires as are necessary to ensure the completeness,
4 accuracy, and timeliness of the registrations and re-
5 ports;

6 (4) develop filing, coding, and cross-indexing
7 systems to carry out the purposes of this Act, in-
8 cluding computerized systems designed to minimize
9 the burden of filing and maximize public access to
10 materials filed under this Act;

11 (5) ensure that the computer systems developed
12 pursuant to paragraph (4)—

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

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

20 (6) make copies of each registration and report
21 filed under this Act available to the public, upon the
22 payment of reasonable fees, not to exceed the cost
23 of such copies, as determined by the Director, in
24 electronic and hard copy formats as soon as prac-

1 ticable after the date on which such registration or
2 report 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—

10 (A) the information contained in reg-
11 istrations, and

12 (B) the information contained in reports
13 filed under this Act for not less than 5 years
14 after the date on which such reports are re-
15 ceived;

16 (9) compile and summarize, with respect to
17 each semiannual period, the information contained
18 in registrations and reports filed with respect to
19 such period in a manner which clearly presents the
20 extent and nature of expenditures on lobbying activi-
21 ties during such period;

22 (10) make information compiled and summa-
23 rized under paragraph (9) available to the public in
24 electronic and hard copy formats as soon as prac-

1 ticable after the close of each semiannual filing pe-
2 riod;

3 (11) provide, by computer telecommunication
4 and other means, to the Secretary of the Senate and
5 the Clerk of the House of Representatives copies of
6 all registrations and reports received under sections
7 4 and 5 and all compilations, cross-indexes, and
8 summaries of such registrations and reports, as soon
9 as practicable (but not later than 2 working days)
10 after such material is received or created;

11 (12) make available to the public a list of all
12 persons whom the Director determines, under sec-
13 tion 9(c) or 10(c), to have violated this Act and sub-
14 mit such list to the Congress on a semiannual basis;

15 (13) upon request, indicate if a person is or has
16 been a covered executive branch official or a covered
17 legislative branch official; and

18 (14) transmit to the President and the Con-
19 gress a report, not later than March 31 of each year,
20 describing the activities of the Office and the imple-
21 mentation of this Act, including—

22 (A) a financial statement for the preceding
23 fiscal year;

1 (B) a summary of the registrations and re-
2 ports filed with the Office with respect to the
3 preceding calendar year;

4 (C) a summary of the registrations and re-
5 ports filed on behalf of foreign entities with re-
6 spect to the preceding calendar year; and

7 (D) recommendations for such legislative
8 or other action as the Director considers appro-
9 priate.

10 **SEC. 8. INFORMAL RESOLUTION OF ALLEGED VIOLATIONS.**

11 (a) **ALLEGATION OF A VIOLATION.**—Whenever the
12 Office of Lobbying Registration and Public Disclosure has
13 reason to believe that a person may be in violation of the
14 requirements of this Act, the Director shall notify the per-
15 son in writing of the nature of the alleged violation and
16 provide an opportunity for the person to respond in writ-
17 ing to the allegation within 30 days after the notification
18 is sent or such longer period as the Director may deter-
19 mine appropriate in the circumstances.

20 (b) **INFORMAL RESOLUTION.**—If the person responds
21 within the period described in the notification under sub-
22 section (a), the Director shall—

23 (1) take no further action, if the person pro-
24 vides adequate information or explanation to deter-
25 mine that such person has not violated this Act; or

1 (2) make a determination under section 9. if
2 the information or explanation provided indicates
3 that such person may have violated this Act.

4 (c) FORMAL REQUEST FOR INFORMATION.—If a per-
5 son fails to respond in writing within the period described
6 in the notification under subsection (a) or the response
7 is not adequate to determine whether such person has vio-
8 lated this Act, the Director may make a formal request
9 for specific additional written information (subject to ap-
10 plicable privileges) that is reasonably necessary for the Di-
11 rector to make such determination. Each such request
12 shall be structured to minimize any burden imposed, con-
13 sistent with the need to determine whether the person is
14 in compliance with this Act, and shall—

15 (1) state the nature of the conduct constituting
16 the alleged violation which is the basis for the in-
17 quiry and the provision of law applicable thereto;

18 (2) describe the class or classes of material to
19 be produced pursuant to the request with such defi-
20 niteness and certainty as to permit such material to
21 be readily identified; and

22 (3) prescribe a return date or dates which pro-
23 vide a reasonable period of time within which the
24 person may assemble and make available for inspec-

1 tion and copying or reproduction the material so re-
2 quested.

3 (d) NONDISCLOSURE OF INFORMATION.—Informa-
4 tion provided to the Director under this section shall not
5 be made available to the public without the consent of the
6 person providing the information, except that—

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

12 (2) written decisions issued by the Director
13 under sections 9 and 10 may be published after ap-
14 propriate redaction by the Director to ensure that
15 confidential information is not disclosed.

16 **SEC. 9. DETERMINATIONS OF VIOLATIONS.**

17 (a) NOTIFICATION AND HEARING.—If the informa-
18 tion provided to the Director under section 8 indicates
19 that a person may have violated this Act, the Director
20 shall—

21 (1) notify the person in writing of this finding
22 and, if appropriate, a proposed penalty assessment
23 and provide such person with an opportunity to re-
24 spond in writing within 30 days after the notice is
25 sent;

1 (2) if requested by that person within that 30-
2 day period, afford the person—

3 (A) in the case of a minor violation, an in-
4 formal hearing at which additional evidence
5 may be presented; and

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

10 (b) DETERMINATION.—Upon the receipt of a written
11 response under subsection (a)(1) when no hearing under
12 subsection (a)(2) is requested, upon the completion of a
13 hearing requested under subsection (a)(2), or upon the ex-
14 piration of 30 days in a case in which no such written
15 response is received, the Director shall review the informa-
16 tion received under this section (including evidence pre-
17 sented at any such hearing) and section 8 and make a
18 final determination whether there was a violation and a
19 final determination of the penalty, if any. If no written
20 response or request for a hearing was received under this
21 section within the 30-day period provided, the determina-
22 tion and penalty assessment shall constitute a final order
23 not subject to appeal.

1 (c) WRITTEN DECISION.—If the Director makes a
2 final determination that there was a violation, the Director
3 shall issue a public written decision—

4 (1) directing the person to correct the violation;

5 and

6 (2) assessing a civil monetary penalty in an
7 amount determined as follows:

8 (A) In the case of a minor violation, the
9 amount shall be no more than \$10,000, depend-
10 ing on the nature and extent of the violation.

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

17 (d) CIVIL INJUNCTIVE RELIEF.—If a person fails to
18 comply with a directive to correct a violation under sub-
19 section (c), the Director shall refer the case to the Attor-
20 ney General to seek civil injunctive relief in the appro-
21 priate court of the United States to compel such person
22 to comply with such directive.

23 (e) PENALTY ASSESSMENTS.—

24 (1) GENERAL RULE.—No penalty shall be as-
25 sessed under this section unless the Director finds

1 that the person subject to the penalty knew or
2 should have known that such person was not in com-
3 pliance with the requirements of this Act. In deter-
4 mining the amount of a penalty to be assessed, the
5 Director shall take into account the totality of the
6 circumstances, including the extent and gravity of
7 the violation and such other matters as justice may
8 require.

9 (2) REGULATIONS.—Regulations prescribed by
10 the Director under section 7 shall define minor and
11 significant violations. Significant violations shall be
12 defined to include a failure to register and any other
13 violation that is extensive or repeated if the person
14 who commits such violation knew or should have
15 known that the action constituting the violation was
16 a violation of this Act.

17 (f) LIMITATION.—No proceeding shall be initiated
18 under this section relating to a registration or report filed
19 or required to be filed under this Act unless the Director
20 notifies the person who is to be the subject to the proceed-
21 ing of the alleged violation within 3 years after the date
22 on which such registration or report was filed or was re-
23 quired to be filed.

1 SEC. 10. 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 8(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. 11. JUDICIAL REVIEW.**

5 (a) **FINAL DECISION.**—A written decision issued by
6 the Director under section 9 or 10 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 9 or
12 10 may appeal such decision, except as provided under
13 sections 9(b) or 10(b), to the appropriate United States
14 court of appeals. Such review may be obtained by filing
15 a written notice of appeal in such court no later than 60
16 days after the date on which the Director provides notice
17 of the Director's decision and by simultaneously sending
18 a copy of such notice of appeal to the Director. The Direc-
19 tor shall file in such court the record upon which the deci-
20 sion was issued, as provided under section 2112 of title
21 28, United States Code. The findings of fact of the Direc-
22 tor shall be conclusive, unless found to be unsupported by
23 substantial evidence, as provided under section 706(2)(E)
24 of title 5, United States Code. Any penalty assessed or

1 other action taken in the decision shall be stayed during
2 the pendency 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. 12. RULES OF CONSTRUCTION.

21 (a) CONSTITUTIONAL RIGHTS.—Nothing in this Act
22 shall be construed to prohibit or interfere with—

23 (1) the right to petition the government for the
24 redress of grievances,

25 (2) the right to express a personal opinion, or

1 (3) the right of association,
2 protected by the First Amendment to the Constitution.

3 (b) PROHIBITION OF ACTIVITIES.—Nothing in this
4 Act shall be construed to prohibit, or to authorize the Di-
5 rector or any court to prohibit, lobbying activities or lobby-
6 ing contacts by any person, regardless of whether such
7 person is in compliance with the requirements of this Act.

8 (c) AUDIT AND INVESTIGATIONS.—Nothing in this
9 Act shall be construed to grant general audit or investiga-
10 tive authority to the Director, or to authorize the Director
11 to review the files of a registrant, except in accordance
12 with the requirements of section 8 regarding the informal
13 resolution of alleged noncompliances and formal requests
14 for information.

15 **SEC. 13. AMENDMENTS TO THE FOREIGN AGENTS REG-**
16 **ISTRATION ACT.**

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

19 (1) in section 1—

20 (A) by striking out subsection (j);

21 (B) in subsection (o), by striking out “the
22 dissemination of political propaganda and any
23 other activity which the person engaging therein
24 believes will, or which he intends to, prevail
25 upon, indoctrinate, convert, induce, persuade,

1 er in any other way influence" and inserting in
2 lieu thereof "any activity which the person en-
3 gaging in believes will, or which he intends to,
4 in any way influence";

5 (C) in subsection (p) by striking out the
6 semicolon and inserting in lieu thereof a period;
7 and

8 (D) by striking out subsection (q);

9 (2) in section 3(g) (22 U.S.C. 613(g)), by strik-
10 ing out "established agency proceedings, whether
11 formal or informal." and inserting in lieu thereof
12 "judicial proceedings, criminal or civil law enforce-
13 ment inquiries, investigations or proceedings, or
14 agency proceedings required by statute or regulation
15 to be conducted on the record.";

16 (3) in section 3 (22 U.S.C. 613), by adding at
17 the end the following:

18 "(h) Any agent of a person described in section
19 1(b)(2) or an entity described in section 1(b)(3) of this
20 Act if the agent is required to register and does register
21 under the Lobbying Disclosure Act of 1993 in connection
22 with the agent's representation of such person or entity.".

23 (4) in section 4(a) (22 U.S.C. 614(a))—

1 (A) by striking out "political propaganda"
2 and inserting in lieu thereof "informational ma-
3 terials"; and

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

8 (5) in section 4(b) (22 U.S.C. 614(b))—

9 (A) in the matter preceding clause (i) by
10 striking out "political propaganda" and insert-
11 ing in lieu thereof "informational materials";
12 and

13 (B) by striking out "(i) in the form of
14 prints, or" and all that follows through the end
15 of the subsection and inserting in lieu thereof
16 "without placing in such informational mate-
17 rials a conspicuous statement that the materials
18 are distributed by the agent on behalf of the
19 foreign principal, and that additional informa-
20 tion is on file with the Department of Justice,
21 Washington, District of Columbia. The Attor-
22 ney General may by rule define what con-
23 stitutes a conspicuous statement for the pur-
24 poses of this subsection.";

1 (6) in section 4(c) (22 U.S.C. 614(c)), by strik-
2 ing out "political propaganda" and inserting in lieu
3 thereof "informational materials";

4 (7) in section 6 (22 U.S.C. 616)—

5 (A) in subsection (a), by striking out "and
6 all statements concerning the distribution of po-
7 litical propaganda";

8 (B) in subsection (b), by striking out "
9 and one copy of every item of political propa-
10 ganda"; and

11 (C) in subsection (c), by striking out "cop-
12 ies of political propaganda.";

13 (8) in section 8 (22 U.S.C. 618)—

14 (A) in subsection (a)(2), by striking out
15 "or in any statement under section 4(a) hereof
16 concerning the distribution of political propa-
17 ganda"; and

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

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

22 **SEC. 14. AMENDMENTS TO THE BYRD AMENDMENT.**

23 (a) **REVISED CERTIFICATION REQUIREMENTS.**—Sec-
24 tion 1352(b) of title 31, United States Code, is amended—

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

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

9 “(B) a certification that the person making
10 the declaration has not made, and will not
11 make, any payment prohibited by subsection
12 (a).”;

13 (2) in paragraph (3), by striking out all that
14 follows “loan shall contain” and inserting in lieu
15 thereof “the name of any registrant under the Lob-
16 bing Disclosure Act of 1993 who has made lobbying
17 contacts on behalf of the person in connection with
18 that loan insurance or guarantee.”; and

19 (3) by striking out paragraph (6) and redesign-
20 ating paragraph (7) as paragraph (6).

21 (b) REMOVAL OF OBSOLETE REPORTING REQUIRE-
22 MENT.—Section 1352 of title 31, United States Code, is
23 further amended—

24 (1) by striking subsection (d); and

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

SEC. 15. 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. 16. CONFORMING AMENDMENTS TO OTHER STATUTES.

(a) AMENDMENT TO COMPETITIVENESS POLICY COUNCIL ACT.—Section 5205(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 in section 3 of the Lobbying Disclosure Act of 1993)” after “an agent for a foreign principal”.

1 (b) AMENDMENTS TO TITLE 18, UNITED STATES
2 CODE.—Section 219(a) of title 18, United States Code,
3 is amended (1) by inserting “or a lobbyist required to reg-
4 ister under the Lobbying Disclosure Act of 1993 in con-
5 nection with the representation of a foreign entity, as de-
6 fined in section 3(7) of that Act” after “an agent of a
7 foreign principal required to register under the Foreign
8 Agents Registration Act of 1938”, and (2) by striking out
9 “, as amended.”. Section 201(c)(1) of such title is amend-
10 ed by inserting “or rule or regulation issued pursuant to
11 section 7353(b) by the supervising ethics office as defined
12 in section 7353(d)(1)(A) through (E) of title 5” after “as
13 provided by law”.

14 (c) AMENDMENT TO FOREIGN SERVICE ACT OF
15 1950.—Section 602(c) of the Foreign Service Act of 1980
16 (22 U.S.C. 4002(c)) is amended by inserting “or a lobby-
17 ist for a foreign entity (as defined in section 3(7) of the
18 Lobbying Disclosure Act of 1993)” after “an agent of a
19 foreign principal (as defined by section 1(b) of the Foreign
20 Agents Registration Act of 1938)”.

21 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated for each fis-
23 cal year such sums as may be necessary to carry out this
24 Act.

1 SEC. 18. SEVERABILITY.

2 If any provision of this Act, or the application there-
3 of, is held invalid, the validity of the remainder of this
4 Act and the application of such provision to other persons
5 and circumstances shall not be affected thereby.

6 SEC. 19. EFFECTIVE DATES AND INTERIM RULE.

7 (a) IN GENERAL.—Except as otherwise provided in
8 this section, the provisions of this Act shall take effect
9 1 year after the date of the enactment of this Act.

10 (b) ESTABLISHMENT OF OFFICE.—The provisions of
11 sections 7 and 17 and the amendments made by section
12 16 shall take effect on the date of the enactment of this
13 Act.

14 (c) REPEALS AND AMENDMENTS.—The repeals and
15 amendments made under sections 13, 14, and 15 shall
16 take effect as provided under subsection (a), except that
17 such repeals and amendments—

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

24 (2) shall not affect the requirements of Federal
25 agencies to compile, publish, and retain information

1 filed or received before the effective date of such re-
2 peals and amendments.

3 (d) REGULATIONS.—Proposed regulations required
4 to implement this Act shall be published for public com-
5 ment no later than 270 days after the date of the enact-
6 ment of this Act. No later than 1 year after the date of
7 the enactment of this Act, final regulations required to
8 implement this Act shall be published.

9 (e) PHASE-IN-PERIOD.—No penalty shall be assessed
10 by the Director under section 9(e) for a violation of this
11 Act, other than for a violation of section 6, which occurs
12 during the first semiannual reporting period under section
13 5 after the effective date prescribed by subsection (a).

14 (f) INTERIM REPORTING RULE.—

15 (1) RULE.—For 3 years after the date of the
16 enactment of this Act, any registrant engaged in lob-
17 bying activities on its own behalf that is denied a de-
18 duction for expenditures associated with such lobby-
19 ing activities under section 162(e) of the Internal
20 Revenue Code of 1986, may make a good faith esti-
21 mate (by category of dollar value) of the amount of
22 the deduction denied for the applicable semiannual
23 period to meet the requirements of section 5(b)(4) of
24 this Act. Each time a registrant elects to estimate
25 lobbying expenditures pursuant to this paragraph,

1 the registrant shall inform the Director that it is
2 making such an estimate.

3 (2) STUDY.—Within 120 days of the filing of
4 reports by registrants under section 5 in the second
5 semiannual reporting period, the Comptroller Gen-
6 eral of the United States shall review reporting by
7 registrants under paragraph (1) in such periods and
8 report to the Congress—

9 (A) the differences between the definition
10 of lobbying expenditures in section 3 and the
11 definition in such section 162(e) as each are
12 implemented by regulations;

13 (B) the impact any such differences may
14 have on the amounts reported by the reg-
15 istrants who elect to estimate lobbying expendi-
16 tures pursuant to paragraph (1); and

17 (C) any changes to this Act or to such sec-
18 tion 162(e) which the Comptroller General may
19 recommend to harmonize the two definitions.

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.

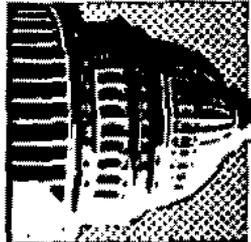
Attest:

Secretary.

Please type desired COMMAND (or MENU)

Mock Statue Lift-On This Week; Real Thing Saturday, p. 12

ROTTEN CAPITAL



THE NEWSPAPER OF CAPITOL HILL

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Stricter Gifts Limit Ahead

Including All Lobbyist-Paid Meals

By Tim Curran

Bowing to pressure from rank-and-file Democrats to adopt stricter rules governing the receipt of gifts from lobbyists, Speaker Tom Foley (D-Wash) said Thursday he will support limiting Members to accepting gifts worth no more than \$20 each for an annual total of \$50 from one source.

And meals paid for by lobbyists — a perennial Congressional perk — would also likely be included in the \$20 limit, Foley said in a concession that could change the way much business is conducted on Capitol Hill.

The House is expected to take up legislation to reform the gift rules at the end of this month in what Foley has billed as a "week of reform." The Speaker's acceptance of the \$20 limit and the

likely inclusion of meals under that limit breaks an impasse that has stalled consideration of the new restrictions.

The Senate put pressure on the House to adopt a strict gift policy

Continued on page 28

*Does not amend House Rules
lobbyist is prohibited from giving
No \$50 limit*

Foley Folds on Tougher Gift Rules, Agrees To New \$20 Limits, Likely Including Meals

Continued from page 1

in May by passing a Sense of the Senate resolution, sponsored by Sen. Frank Lautenberg (D-NJ), calling for a virtual gift ban. The move came during consideration of a bill to force more extensive disclosure of lobbying activities.

The Senate Governmental Affairs Committee has already held hearings on tightening gift rules, but the full Senate will probably not act on the matter until next session.

Several House Members — including Reps. Karen Shepherd (D-Utah), Eric Fingerhut (D-Ohio), and Jill Long (D-Ind) — have offered some form of a gift ban.

"We're pleased," a spokesman for Shepherd said. "We're continuing to push to get this considered by the end of the month, but [the \$20 one-time limit and \$50 cumulative total] is just what we're looking for."

The \$20 per gift and \$50 cumulative annual limit from one source is very similar to the executive branch gift policy. It would apply to both Members and staffers.

Now, there is no limit on the number of gifts valued at less than \$100 that Members can accept, and they can accept no more than \$250 worth of gifts valued at more than \$100 from any one source per year.

The Speaker indicated that the tight new limits would be aimed primarily at professional lobbyists and those with an interest in legislation and predicted exemptions for family members.

In another concession to the will of the House, Foley said that meals would also be included under the limits, something he had resisted until last week.

He said the leadership is "tending toward

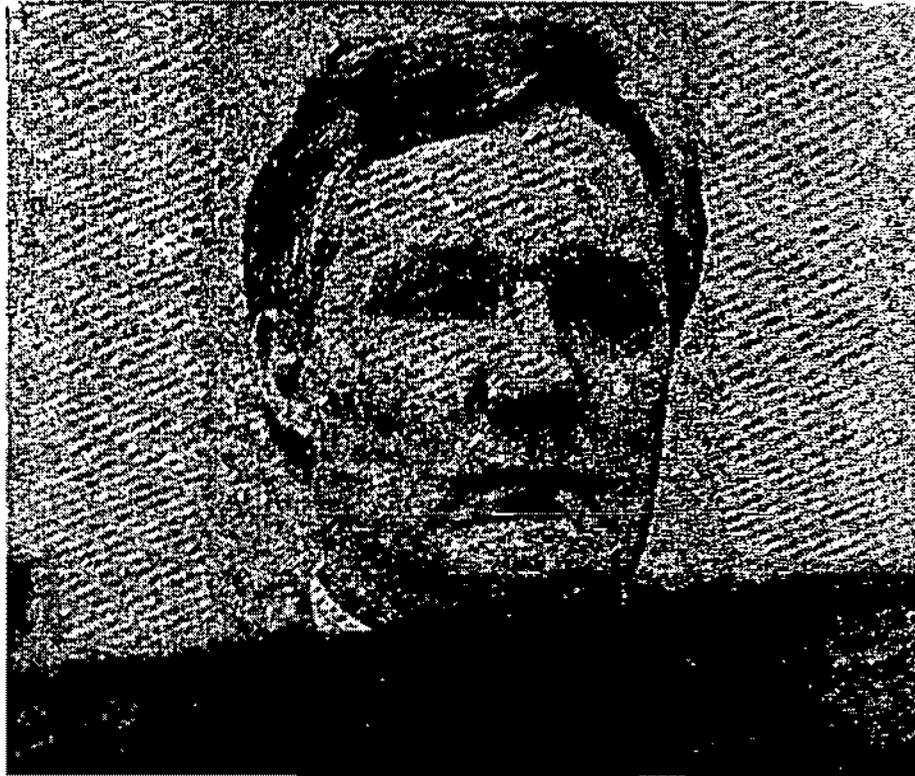


Photo by Maureen Keating

Rep. John Bryant's administrative law and governmental relations panel will have to approve the virtual gift ban. He's been a strong supporter of the move.

that," adding that he had "said a number of times that I don't think it is necessary or even particularly appropriate to limit meals, but my judgment isn't the judgment that is prevailing, I think, on this issue."

According to Foley, the revised gift rule under consideration "will put the burden on the person providing the gift rather than on the Member."

It was unclear from Foley's comments and discussions with aides what, if any, new limits would be placed on reimbursement from private sources for travel by Members.

Until tighter rules on gift-giving have been established, Sen. Paul Wellstone (D-Minn) and like-minded House Members are pushing for legislation that would

require virtually all gifts to be disclosed.

Opposition to the gift bill is expected to be minimal. Despite some doubts about the need for stricter gift rules among some

'I don't think it is necessary or even particularly appropriate to limit meals, but my judgment isn't the judgment that is prevailing.'

Members, it is unlikely there will be much in the way of vocal opposition in a political environment in which voters are seen as hungry for reform.

The lobbyist disclosure and gift legislation is slated to be considered along with campaign finance reform in late October and November.

The Lobbyist Disclosure Act is being considered by Rep. John Bryant's (D-Texas) Judiciary subcommittee on administrative law and governmental relations, and Bryant has been among the primary backers of new gift limits.

But changes to the gift rule may also have to make their way through the House Administration Committee and face scrutiny from the Committee on Standards of Official Conduct before hitting the floor.

P02/02

10:18:53 10:48 AM

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SB-
CC- what happened btwn
last year / this year?
their concern was not
tangential

Wonder whose credibility is
called into question on this issue -

Gekko -
Grassroots connected to a
lobby contact -

CC - truly grassroots shouldn't
be disclosed

Watt -
2 separate sets of books

IS - does not ^{require} ~~disclose~~ 2 sets of books
but must keep track of
contacts & issues

Burdensome -

Aren't we lobbying more? yes
Doesn't that undermine argument for lesser
standard for NP? Particularly if they are lobbying

typical of...
argument for...
disclosure

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Ramstad - concerned about chilling
effect of legislation
Justice Jackson - Harris Case

Levin - existing laws useless; too many
loopholes
executive branch not covered
staff not
must spend mag time of members
lawyers exempted
zero costs; taxi costs
not useful / burdensome
puts those who registered at disadvantage

Critics

NAM; 501(c)(3)'s; Lawyers
Common Cause - criticizes congressional
gift rules - urged Senate Rules
to adopt Exec Rules

Changed from last year - they support
but will oppose Jim for w/o gift language

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Independent Sector Project

Under 76 laws no abuse -

tax laws preclude charities
from certain lobbying -

necessity of learning additional
definition -

CP - secrecy involved
money used to influence
prohibited but until they are
disclosure is necessary
financial benefits provided
should be disclosed

Pub
Citizen delete language of incidental
don't exempt state locals
raise threshold
Coalition language

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ASE - Associations -

Supports current law;

Like 990 exemption -

Like unified statute

Likes DOJ enforcement
previous bad actions w/ OGE

might make sense to keep
Records in H's -

Likes a narrow definition

unclear about def of media

* may be a loophole -

doesn't like exec branch coverage

Bryant - doesn't like the impression that
members are induced to
vote just b/c someone buys them dinner

PC

money has tremendous influence
put public interest at

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Inglis raised campaign finance
issue -

Frank - misperception that public policy
is moved by lobbying

2. doing away w/ PAC accomplishes
nothing - individuals could give

anything that is done via ~~is~~ ^{is} furtherance
of influential legislation

What is chilling effect?

O'Neill - make very clear that some things
are not covered -

Burdens on small lawyers -

Page 23 DoJ - copy files

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Contacts made to make an inquiry
Tax private letter ruling —
(neither of these are made
to influence policy/legislation)

Christies — NAM

Deletes from FOIA —
Certain provision —

wants exemption — Sec 12

DOJ + Clerk/ House/ Senate

ONeill — why not exclude only those
situations where the info
is reg to be kept confidential?
where filings are not reg there
is a problem.

filings or proceedings specifically
authorized by law should be
exempted.

Compare/contrast/ FOIA + Mandatory
disclosure
what should remain deletable?

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Loophole - proposal only reaches
registered
Levin prohibit - other than de minimus gifts
from all
only prohibits some gifts from some
people -

Last year very strong support -
strongly support comprehensive
legislation -
suggested bill would be enhanced
by gift disclosure -
but did not condition their
support on passage of disclosure
of gift info -

Bryant - supports de minimus -
House Leadership is investigating
the issue -

Cannot deal w/ gift issue

Levin -
strengthened
disclose schedule C
cross ref between 30C
disclose past employment

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Glickman - Lawyers exemption
Other than exemptions for litigation
attys who meet threshold amts
would have to register

- non profits -
influence w/ rts to petition
not lobbying on monetary
pecuniary issues -

Levin - want to address concerns w/o
destroying

de minimus test must apply to
everyone

IRS -

Glickman should not set up different
definition

JARA - glad treated

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Berman - be careful of judgments
non profit good - status bad

- farm worker non profits
are true problems of hour
Bill does not require specification
of contacts - does not require
agency

To what extent does
DOJ have subpoena power -

Levin → no audit authority
Bush wanted audit enforcement
authority -
Certain threshold tests -

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Frank

Limitation of outside income

Inghs - cost of the bill - CBO

Is there any expectation
civil penalties will cover costs?

Meads - supports extension to exec branch
support range vs specific expenditures
public still receives benefit of
info

supports civil penalty scheme
note that there are very
high penalties
wants report language discussing
implementing fees

O'Neil - ABA - Tax

- concerned extension to exec -

limited to certain -

only include significant
agency rulings of general
application -

JOTA request already provided for

in law - approach to include
all contacts is to broad

include only specified contacts - not broad
expand interpretation

Lobby Reform

21 March

Nan Aron; Bob Smucker; Tom Reed

1976 Charities started to report according
I.R.S form 990

Want

To encourage ~~more~~ 501(c)(3)'s to elect for
lobbying

① allow non-profit (business) to report using
4911 definition

- will chill grassroots lobbying

- fear of ~~losing~~ losing ~~some~~ tax exempt
status

if they want to talk to NIH

particular conversation is not reportable
frequent conversation

② DOJ agency in charge of disclosure
law is a problem - OGE

③ What is a percentage of time spent

④ Threshold \$10,000